



UNIDROIT

International Institute for the Unification of Private Law
Institut International pour l'Unification du Droit Privé

Workshop on Issues Related to Enforcement in Digital Assets

Side event to the 101st Session of the UNIDROIT Governing Council

Friday, 10 June 2022, 11:00 – 16:00 CET

Rome & Zoom ([Zoom Link](#): Meeting ID: 861 2656 8004, Passcode: 503719)

Workshop by invitation only. Invitations sent to:

- Members of the UNIDROIT Governing Council
- Members of the UNIDROIT Working Group on Digital Assets and Private Law
- Members of the UNIDROIT Working Group on Best Practices for Effective Enforcement
- Members of the Steering Committee of the UNIDROIT Working Group on Digital Assets and Private Law
- Experts and advisors invited by the UNIDROIT Secretariat, or the Chairs of the aforementioned groups

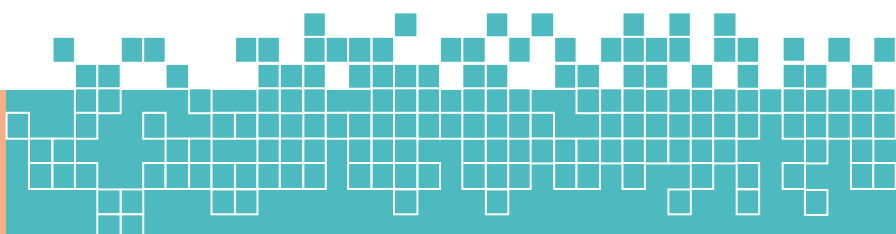
Organised jointly by the Working Group on Digital Assets and Private Law, and the Working Group on Best Practices for Effective Enforcement.

Workshop Co-Chairs:

- **Hideki Kanda**, UNIDROIT Governing Council Member and Chair of the Working Group on Digital Assets and Private Law
- **Kathryn Sabo**, UNIDROIT Governing Council Member and Chair of the Working Group on Best Practices for Effective Enforcement

Abstract: This joint workshop will examine issues related to judicial and extra judicial enforcement where the subject matter relates to digital assets or rights in digital assets held by parties. The discussion will include, but not be limited to, setting out the baseline for where both UNIDROIT Working Groups stand in respect of the treatment of digital assets; the types of rights which can be recognised in digital assets, whether proprietary or contractual; remedies available to the parties in disputes involving digital assets, post-default and generally; and mechanisms which can be deployed by judicial officers in enforcement involving digital assets.

The workshop will conclude with guidance for both Working Groups, as to the types of principles and best practices which could be included in the final instruments with a view to ensuring that governments and private parties which will use these instruments are able to derive benefits from them.





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Draft Agenda

➤ Opening of the Workshop

11:00 – 11:05

- **Ignacio Tirado**, *Secretary-General of UNIDROIT*

➤ **Introduction of the projects by Chairs of the Working Groups.**

11:05 – 11:30

- **Hideki Kanda**, *UNIDROIT Governing Council Member and Chair of the Working Group on Digital Assets and Private Law*
- **Kathryn Sabo**, *UNIDROIT Governing Council Member and Chair of the Working Group on Best Practices for Effective Enforcement*

➤ **Roundtable 1: Remedies**

11:30 – 12:30

This panel will be designed to invite technical experts to describe the types of remedies generally available in relation to digital assets. These remedies could be built into the assets and/or smart contracts relating to the assets or could be allowed to be easily exercisable upon evidence being provided. The panel would also welcome a description of some of these remedies being triggered with examples.

Roundtable leader: **Carla Reyes**, Assistant Professor of Law at SMU Dedman School of Law

Participants:

- **Hin Liu**, Lecturer of Law at St Hugh's College, Oxford University and a Legal and Business Consultant at Fusang
- **Jason Grant Allen**, Senior Research Fellow, Humboldt University of Berlin
- **Andrew M. Hinkes**, Partner at K&L Gates and Associate Professor at Leonard N. Stern School of Business

Open Discussion

Lunch Break: 12:30 – 13:30

➤ **Roundtable 2: Enforcement of creditor rights**

13:30 – 14:30

This panel will discuss how existing international standards for secured transactions affect the enforcement of rights of creditors in digital assets. It will include discussion of the practical elements of enforcement of security rights in digital assets, primarily through extra-judicial mechanisms and how that enforcement might affect third parties, particularly custodians.



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- Roundtable leader: **Louise Gullifer**, QC (Hon) FBA, Rouse Ball Professor of English Law at the University of Cambridge

Participants:

- **Marek Dubovec** – University of Arizona, James E. Rogers College of Law
- **Neil Cohen** – Jeffrey D. Forchelli Professor of Law, Brooklyn
- **Andrea Tosato** – Associate Professor at the University of Nottingham and the University of Pennsylvania Law School

Open Discussion

➤ **Panel 3: Judicial enforcement on digital assets**

14:30 – 15:30

This will explore how existing enforcement mechanisms, procedures, and practices apply to digital assets and to which extent they need to be adapted or new mechanisms should be introduced. On the basis of recent judicial decisions involving digital assets, the panel will discuss the extent to which the characteristics of digital assets represent a challenge for judicial enforcement of various creditors' rights and how such challenges can be effectively faced. In this context, the panel will explore how technology-enabled solutions may play a relevant role in enhancing the effectiveness of enforcement.

Roundtable leader: **Geneviève Saumier**. Peter M. Laing Q.C. Professor of Law, Faculty of Law, McGill University

Participants:

- **Rolf Stürner** – Emeritus Professor, University of Freiburg
- **Patrick Gielen**, Secretary International Union of Judicial Officers
- **Teresa Rodriguez de las Heras Ballell** – Professor of Commercial Law at the Carlos III University of Madrid and Sir Roy Goode Scholar at UNIDROIT

Open Discussion

➤ **Final Discussion**

15:30 – 16:00

Coordinated by:

- **Hideki Kanda**, UNIDROIT Governing Council Member and Chair of the Working Group on Digital Assets and Private Law
- **Kathryn Sabo**, UNIDROIT Governing Council Member and Chair of the Working Group on Best Practices for Effective Enforcement

