A Guide for Lawyers on Assisting Clients in Valuing Cryptocurrency



Speakers:

Daniel B. Garrie, Esq., Co-founder, Law & Forensics; Mediator, Arbitrator, and eDiscovery Special Master, JAMS

Bradford Newman, Chair of North America Trade Secret Practice, Baker McKenzie

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Speakers



Daniel B. Garrie, Esq.
Co-Founder, Law & Forensics
Mediator, Arbitrator,
and Special Master, JAMS



Bradford Newman
Chair of North America
Trade Secret Practice –
Baker McKenzie

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Agenda

- What is Money?
- Digital Currencies – Was BTC the first?
- How to Value Cryptocurrency?

What is Money?





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What is Money?

- Notes and Coins
- Collective consensus
- Legal frameworks
- Does money have a required form?

Philosophical View

	Gold	Silver	Fiat Money	Livestock	Business	Oil	REIT	Oil ETF	S&P 500 ETF
Durable	Yes	Yes	Yes	No	Yes & No	Yes & No	Yes	Yes	Yes
Portable	Yes	Yes	Yes	Yes & No	No	No	Yes & No	Yes & No	Yes & No
Divisible	Yes	Yes	Yes	No	Yes	Yes	Yes	Yes	Yes
Intrinsic Value	Yes	Yes	No	Yes	Yes	Yes	Yes	Yes	Yes

- Source: https://seekingalpha.com/article/295877-aristotles-money-criteria-support-gold-precious-metals



Digital Currencies - Was BTC the first?

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The Role of Money

Medium of Exchange

- Crypto is seen of exchange because it is a store of value

Store of value

- Crypto is seen by most as a store of value, based on the individual perspective.

Unit of Account

- Crypto is not widely of used and you can widely see prices in crypto, most people do not believe crypto is a unit of account. Some countries do recognize crypto as unit of account because seen as a currency.


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Six Characteristics of Money

Durable

- A chicken is fairly durable, but a long trip to market runs the risk of sickness or death for the chicken and lower its value.
- Fifty-dollar bills are fairly durable and replaced if worn.
- A long trip to market does not threaten the health or value of the bill.

Portable

- While the chicken is difficult to transport to the store, the currency is not.

Divisible

- A 20-dollar bill can be exchanged for other denominations, say a 10, a 5, four 1s, and 4 quarters. A chicken is not divisible, living atleast.



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Six Characteristics of Money

Uniformity.

- Chickens come in all shpes and sizes with differing value.
- Ten-dollar bills all have same size, shape, value

Limited supply.

- Money must have a limited supply.
- While the supply of chickens is limited, if used for money we likely see increase in number of chickens, lowring their value.
- The supply of 10-dollar bills—and money is regulated by the Federal Reserve ensure money retains value, among other things.

Acceptability.

- Chickens have intrinsic value, most people will not accept chicken as money.
- People will accept 10-dollar bills and the right to use currency to pay bill is protected by the U.S. government.


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What Determines the Success of Money?

Economic Theory

- Determines how successful the currency

Characteristics

- It is scarce, durable, portable, divisible, verifiable, storable, relatively fungible, salable, and recognized across borders == money.

Network Effects

- Is it decentralized, meaning its existence and value is not tied to any agency, government, corporation, or bank (i.e., no third party can prevent but can make it illegal).



How to value Cryptocurrency?

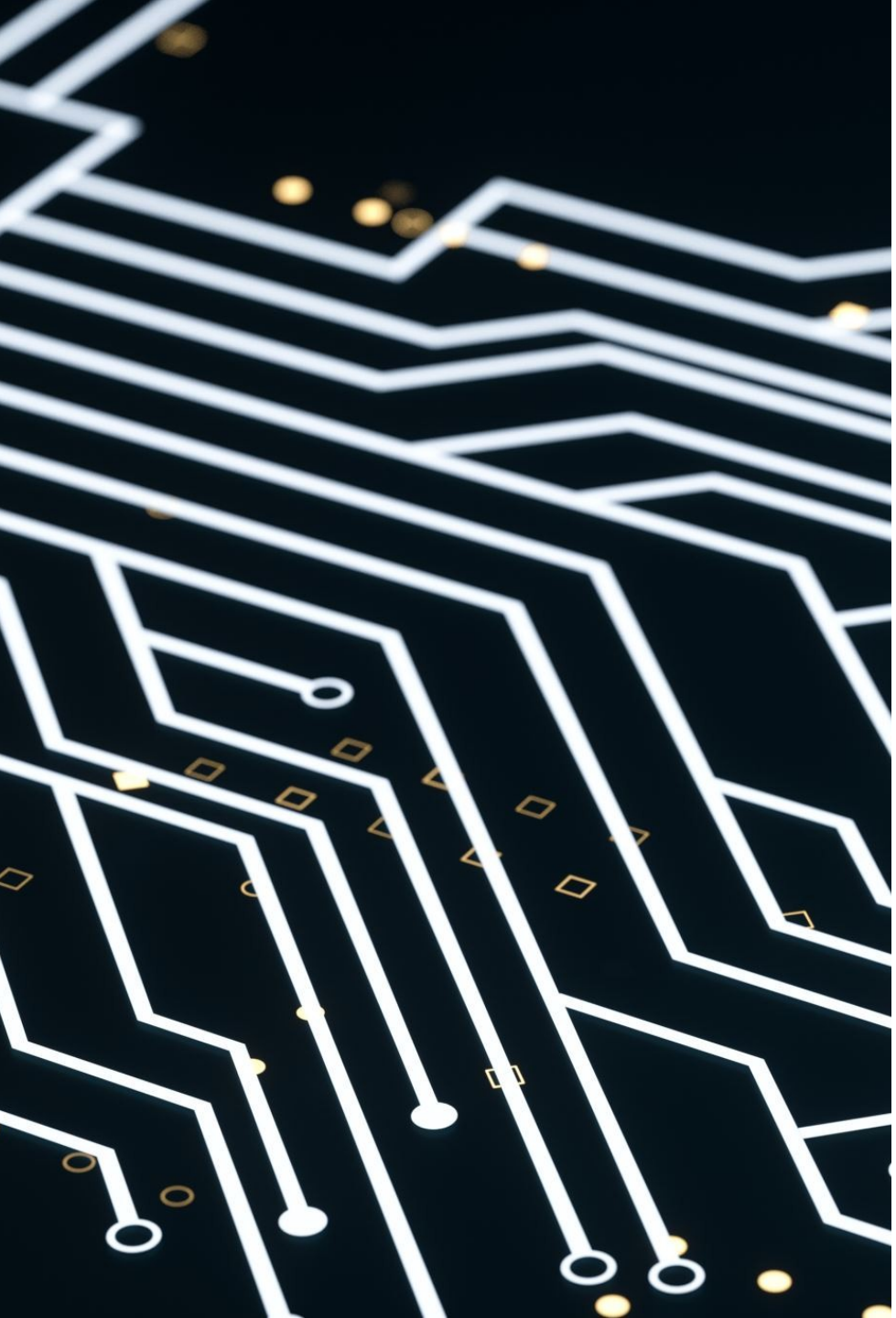
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How to value Bitcoin and other cryptocurrency?

- Is it a bubble like the Dotcom era or tulip mania? Or is this just the start of something bigger, or even revolutionary?
- Price is what an investor pays, but value is what an investor gets.
- It's easy to look up the current price of Bitcoin, but harder to value.



How to value Crypto?
What's the value of the underlying platform?

Evaluate the technology:

- Security
- Protocols
- Controls
- Policies
- Design



How to value Crypto?
What's the value of the underlying platform?

Evaluate as a "company"

- Agreements
- Rights
- People
- Reputation
- Governance
- Finances



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How to value Crypto?
Technology and platform underlying the asset

Adoption of the platform in the marketplace

- Use of the platform
- User of the platform
- Support of the platform
- Developers on platform
- History of platform

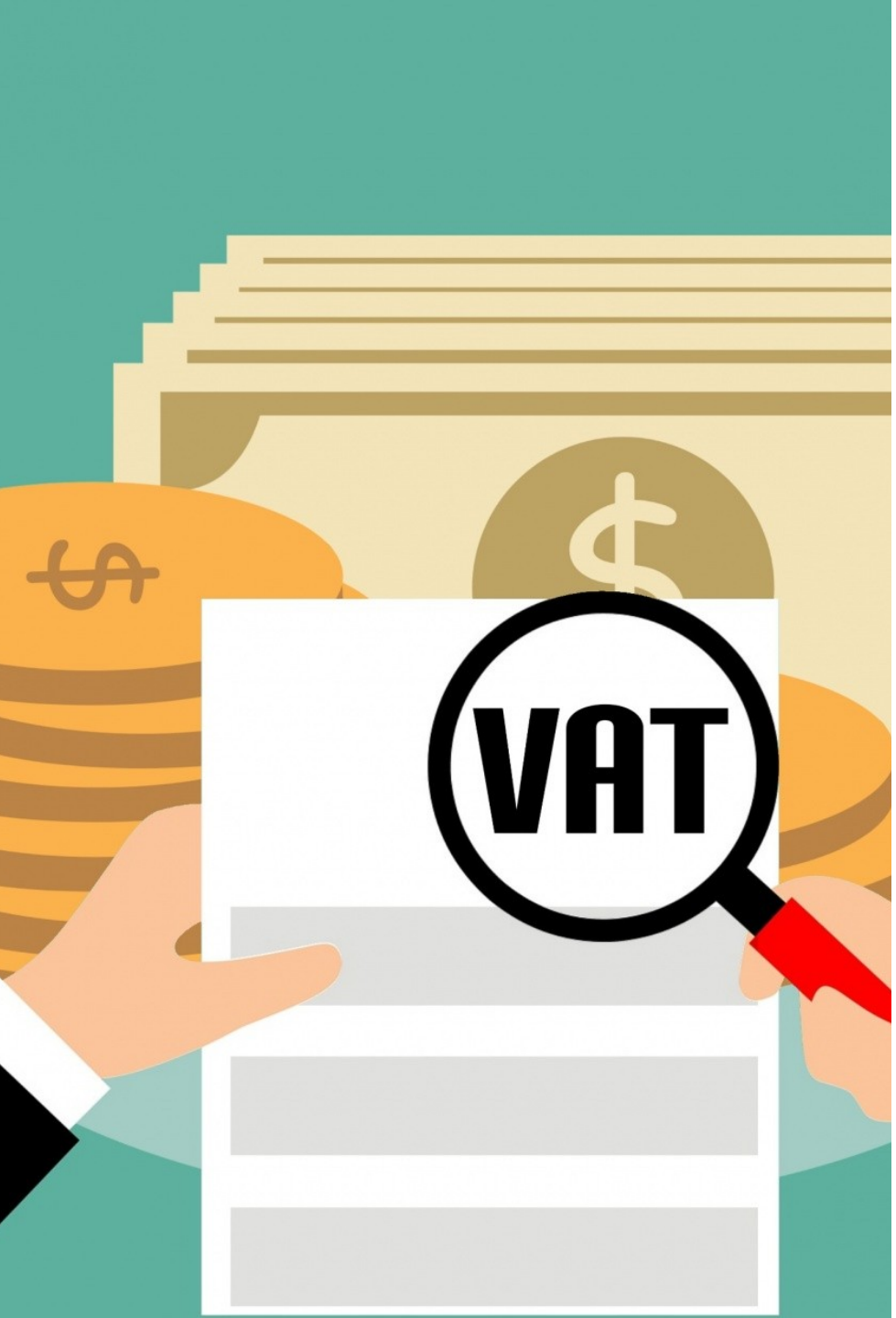


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How to value crypto? Token analysis

Does it provide utility?

- If it is utility, look at it like a company
- Is it novel?
- What type of utility does it provide?
- What is the adoption rate?



How to value Crypto? Is it a cryptocurrency?

Stable coin

- Basket of currency
- Currency

Algorithmic coin

- Algorithm used to peg crypto to a currency.
- Terraluna (i.e., stable coin pegged to algorithm meaning an equation to peg to a fiat currency if you get it wrong your screwed)



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How to value Crypto?
Is it pegged to a commodity?

- What is the commodity?
- Economics of commodity?
- How volatile is the underlying commodity?



What about other cryptocurrencies?

- Any programmer can make his or her own cryptocurrency, with the hard part being that it's worthless until enough people recognize it, adopt it, and begin to trade it around.


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Bitcoin vs. Fiat Currency vs. Cryptocurrency

- Gold
  - Humans have traded valuable commodities as forms of value, to make bartering easier.
- Fiat Currency
  - Dollars, pounds, yen, and are “fiat currencies”, which means they have no intrinsic value other than that a government has decreed that they are legal tender and require them for the payment of taxes. They can print as much as they want.
- Cryptocurrency
  - Bitcoin was invented to be like a new, modern form of gold and silver. Like some libertarian sci-fi form of money.



Questions?

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Contact Us



Daniel Garrie
Email: daniel@lawandforensics.com
URL: www.lawandforensics.com



Bradford Newman
Email: bradford.newman@bakermckenzie.com
URL: https://www.bakermckenzie.com/en

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Daniel B. Garrie, Esq.
Law & Forensics – Executive Managing Partner
JAMS – Special Master, Neutral, Arbitrator
Contact:
W: (855) 529-2466
E: daniel@lawandforensics.com
URL: www.lawandforensics.com

LAW & FORENSICS
A Global Legal Engineering Firm

B.A., Computer Science, Brandeis Uni.
M.A., Computer Science Brandies Uni.
J.D., Rutgers School of Law

Daniel Garrie is the Co-Founder of Law & Forensics LLC, Head of Computer Forensics and Cyber Security Practice Groups and has been a dominant voice in the computer forensic and cybersecurity space for over 20 years. Prior to Daniel's legal career, he successfully built and sold several technology start-up companies. Since co-founding Law & Forensics LLC in 2008, Daniel has built it into one of the leading boutique cybersecurity forensic engineering firms in the industry. Daniel has both a Bachelor's and a Master's Degree in computer science from Brandeis University, as well as a J.D. degree from Rutgers Law School. Daniel has led forensic teams in some of the most visible and sensitive cyber incidents in the United States. In particular, Daniel recently located and recovered deleted files in both private and public cloud computing environments using his patented software, Forensic Scan. This investigation took less than forty-eight hours to clean and recover the data from the servers of a cloud-hosting provider that was compromised by a malicious cyber-attack. Thanks to the Forensic Scan technology, that Daniel co-invented and patented (US9990498B2 and US9990497B2), and his own expertise, Daniel and his team was able to identify the source of the breach and remediate the problem in record time.

Daniel regularly testifies as an e-discovery, cybersecurity and computer forensic expert witness, authoring forensic expert reports on multi-million-dollar disputes. His ability to perform complex investigations and effectively communicate the results to a jury has made him one of the most sought-after experts in the country. His testimony has been pivotal in a number of cases, including one involving the embezzlement of millions of dollars from a large non-profit. Daniel was able to perform a thorough analysis of the alleged embezzlers' phone and computer, despite the embezzlers' attempts to wipe them, and identify concrete evidence of the embezzlement to a jury. Since 2008, Daniel has served as a Neutral and Special Master and in 2016, he joined JAMS as one of the organization's youngest Neutrals. At JAMS, Daniel serves as an Arbitrator, Forensic Neutral, and technical Special Master with a focus on cybersecurity, cyrptocurrency, and complex software and technology related disputes. Some of the major cases for which he has served as an e-discovery special master, or forensic neutral include: *Hougan vs. City of Newport Beach, No. 30-2012-00582855* (Super. Ct. Cal. 2014)*; Small v. University Medical Center of Southern Nevada, 2014 WL 4079507*(D. Nev. 2014)*; C.D.S. Inc. v. Zelter and Amazon Web Services, Inc.*, (S.D.N.Y. 2016); *Jawbone, Inc. v. Fitbit Inc.* et al (Super. Cal., S.F. County 2018). In addition to his vast litigious experience, Daniel is well-published in the cybersecurity space, Editor-in-Chief of the Journal of Law & Cyberwarfare, author of more than 200 articles and books including, "Understanding Software, the Internet, Mobile Computing, and the Cloud. A guide for Judges", published by the Federal Judicial Center. He has been recognized by several United States Supreme Court Justices for his legal scholarship and is a trusted source and a thought leader for cybersecurity articles and opinions, being cited over 500 times to date.

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Bradford Newman
Chair of North America Trade Secret Practice – Baker McKenzie
Contact:
E: bradford.newman@bakermckenzie.com
URL: https://www.bakermckenzie.com/en

Bradford Newman is a litigation partner resident in Baker McKenzie's Palo Alto Office and Chair of the North America Trade Secrets Practice. According to Chambers USA, Brad is a "recognized authority on trade secrets cases" who "is valued for his tenacious, intelligent and thoughtful approach to trade secrets matters." Bradford regularly serves as lead trial counsel in cases with potential eight and nine-figure liability, and has successfully litigated (both prosecuting and defending) a broad spectrum of trade secrets cases in state and federal courts throughout the country. He routinely advises and represents the world's leading technology, banking, professional service, manufacturing and commerce companies in connection with their most significant data protection and trade secret matters. Bradford is the author of Protecting Intellectual Property in the Age of Employee Mobility: Forms and Analysis, a comprehensive treatise published by ALM that offers authoritative guidance on legal risks and practical steps companies can take to protect their IP and remedy IP theft.

Bradford specializes in matters related to trade secrets, Artificial Intelligence, Decentralized Finance (DeFi), Smart Contracts, Blockchain and Cryptocurrency. He is the Chair of the AI Subcommittee of the ABA. Recognized by the Daily Journal in 2019 as one of the Top 20 AI attorneys in California, Bradford has been instrumental in proposing federal AI workplace and IP legislation that in 2018 was turned into a United States House of Representatives Discussion Draft bill. He has also developed AI oversight and corporate governance best practices designed to ensure algorithmic fairness. Brad also serves as outside general counsel to one of the world's leading DeFi projects.

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