



### Mark F. Radcliffe

#### Partner

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#### Silicon Valley

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Mark Radcliffe's practice is split evenly between corporate securities (particularly venture capital transactions) and intellectual property licensing and strategy. He works with technology companies and companies that use technology throughout the world. Currently, he is particularly focused on the use of blockchain technology and the use of tokens for capital formation and implementing new business models.

Mark has been working in Silicon Valley for over 30 years and has worked on over 1,000 venture capital transactions. He has significant experience in applying the law to the issues raised by new technologies, such as open source software, blockchain, IoT and domain names. For example, in 1994, he assisted Network Solutions, Inc. in developing the first domain dispute resolution system which is still the basis for the system in use today. His clients range from Fortune 500 such as Oracle Corporation and Sony Corporation to unknown startups. Currently, he and his team work with over 50 startups. He has worked across a wide variety of industries, including software (in particular open source software), blockchain, IoT, semiconductor, consumer electronics, content licensing (from music to characters), and medical devices.

### LANGUAGES SPOKEN

- French

### RECENT MATTERS

- Assisted several large companies in developing open source strategies
- Started and manage the corporate venture capital practice at DLA Piper
- General counsel to OSI and serve on Apache Software Foundation Legal Committee on a pro bono basis

- Corporate
- Trademark and Copyright
- Mergers and Acquisitions
- Emerging Growth and Venture Capital
- Litigation, Arbitration and Investigations
- Intellectual Property and Technology
- Regulatory and Government Affairs
- Projects, Energy and Infrastructure
- Technology Transactions and Strategic Sourcing

- Media, Sport and Entertainment
- Life Sciences
- Energy and Natural Resources
- Technology

French

- General counsel to the OpenStack Foundation (open source cloud computing project)
- Assisted the Navajo Nation in adopting a modified version of Article II of the UCC
- Assisted blockchain startup in its licensing strategy
- Assisted several blockchain startups in financing
- Assisted on ICOs
- Assisted Network Solutions in developing the first domain dispute resolution policy in 1994 (still used in current ICANN Dispute Resolution Policy)
- Assisted Dr. Suess Estate in determining what words, characters and symbols to register as trademarks
- Assisted major corporation in obtaining a license from a financially troubled company with a \$40M prepaid royalty and ensured that the license would survive bankruptcy
- Assisted large Asian company in developing IP asset management strategy for its 50,000 patents

## REPRESENTATIVE CLIENTS

- Anaconda, Inc.
- Lightbend, Inc.
- Munich Re
- AIG
- Sun Microsystems, Inc. (former)
- Sony Corporation
- NEC
- Siemens Corporation

## CREDENTIALS

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### Admissions

- California

### Recognitions

Leading international legal publishers consistently rank Mark among the top lawyers in his profession. *Chambers USA* has repeatedly recognized him as "outstanding" and "a leader in open source-related matters." Chambers & Partners has commented that Mark "has a wealth of experience in the technology sector. Clients particularly value the proactive approach he takes to understanding their needs and the strategic advice that follows." He is also well known for his specialist expertise on open source matters." The directory stated that Mark "draws praise from peers for his work on the other side of the table in complex outsourcing transactions," and "also has significant expertise in cutting-edge cloud services agreements." He is "hailed for his 'effectiveness in the commercial requirements of fast-moving and complex situations.'" "Sources praise his 'excellent technical knowledge and business savvy.'"

*The Legal 500 United States* has recommended Mark for "his experience in software matters, including open-source and cloud computing." "His expertise in providing strategic IP advice, with particular specialism in open-source matters, has won him plaudits. Indeed, one client describes him as 'probably the best lawyer in his field.'" The directory has also stated that he "has particular knowledge of cloud platforms and marketplaces" and "provides strategic IP advice and expertise in cloud computing and social media."

Mark was named the 2019 Lawyer of the Year by *Best Lawyers*, and he is the only attorney to receive this award in his practice area in his metro region. He is also listed as a "highly recommended expert" for his transactional experience in the *IAM Patent 1000, The World's Leading Patent Professionals 2018*.

### Education

- J.D., Harvard University 1981

1998 Distinguished Alumni Award

- B.S., Chemistry, University of Michigan 1974  
*magna cum laude*
- Université Paris Panthéon-Sorbonne I 1972  
Certificate of Completion

## Memberships

- International Trademark Association
- South Bay Trademark Lawyer's Association, Founder
- Bar Association of San Francisco, former Chairman of the Computer Law Section
- American Bar Association
- AIPLA

## Civic and Charitable

- Computer Law Association, former Board of Directors
- *Journal of Internet Law*, Editor in Chief
- *BNA Electronic Commerce & Law Report*, Advisory Board
- *Computer Lawyer*, Editorial Board
- *Cyberspace Lawyer*, Editorial Board
- *Electronic Commerce and Law Report*, Advisory Board
- *Global Intellectual Property Asset Management Report*, Advisory Board
- General Counsel, Open Source Initiative

## INSIGHTS

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### Publications

#### Blockchain and Digital Assets News and Trends

19 April 2022

Blockchain and Digital Assets News and Trends

Treasury report on money laundering and terrorist finance in the art trade looks at NFT marketplaces; FDIC issues new crypto-asset guidance and notification requirements.

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#### Exploring the metaverse: What laws will apply?

22 February 2022

Like any new foundational technology, the metaverse remains confusing and unknown to many. Writing for *Chambers TMT 2022*, we explore key questions.

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#### Blockchain and Digital Assets News and Trends

18 February 2022

Blockchain and Digital Assets News and Trends

Lawsuit tackles tax treatment of staking rewards; SEC settles with crypto lending platform; emergency measures in Canada affect

financial services entities.

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### **Blockchain and Digital Assets News and Trends**

21 December 2021

Blockchain and Digital Assets News and Trends

Breaking legal news on cryptoassets and cryptocurrency, plus: Google sues to disrupt massive botnet

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### **Blockchain and Digital Assets News and Trends**

22 November 2021

Blockchain and Digital Assets News and Trends

Infrastructure bill, including crypto "broker" rules, becomes law.

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### **Blockchain and Digital Assets News and Trends**

18 October 2021

Blockchain and Digital Assets News and Trends

Non-fungible tokens: What are the legal risks?

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### **Blockchain and Digital Assets News and Trends**

17 September 2021

Blockchain and Digital Assets News and Trends

Proposed infrastructure bill would subject cryptocurrencies to wash sale and constructive sale rules.

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### **Blockchain and Digital Assets News and Trends**

23 August 2021

Blockchain and Digital Assets News and Trends

New information reporting requirements for cryptocurrency transactions; CFPB involvement in cryptocurrency oversight; NCUA seeks comments on use of DLT and DeFi by credit unions.

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### **Blockchain and Digital Assets News and Trends**

19 July 2021

Blockchain and Digital Assets News and Trends

IRS says tax-deferred like-kind exchange is not available for cryptocurrency trades; copyright issues plague NFTs; crypto venture investments continue to accelerate.

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## **Blockchain and Digital Assets News and Trends**

21 June 2021

Blockchain and Digital Assets News and Trends

Biden tax plan spotlights cryptocurrency transactions; FTC announces spike in cryptocurrency investment scams; El Salvador is first country to adopt bitcoin as legal tender.

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## **Blockchain and Digital Assets News and Trends**

20 May 2021

Blockchain and Digital Assets News and Trends

SEC issues Staff Statement on investments in the bitcoin futures market, plus latest legal developments governing the use and acceptance of blockchain technology, smart contracts and digital assets.

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## **Blockchain and Digital Assets News and Trends**

23 April 2021

Blockchain and Digital Assets News and Trends

SEC revises token safe harbor proposal; UK updates tax treatment of cryptoassets.

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## **Blockchain and Digital Assets News and Trends**

22 March 2021

Blockchain and Digital Assets News and Trends

Wyoming moves to clarify legal status of DAOs; court dismisses class action against a cryptocurrency exchange.

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## **Blockchain and Digital Assets News and Trends**

25 February 2021

Blockchain and Digital Assets News and Trends

Canada's AML regime amendments: is your interactive entertainment service or platform operating a "money service business"?

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## **Blockchain and Digital Assets News and Trends**

23 November 2020

Blockchain and Digital Assets News and Trends

IMF issues report on regulatory framework for CBDs and GSCs, SEC invites feedback on application of custody rule to digital assets.

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## **Blockchain and Digital Assets News and Trends**

21 October 2020

Blockchain and Digital Assets News and Trends

SDNY finds Kin token is a security; unpacking the DOJ's cryptocurrency guidance – plus latest legal, regulatory and case law

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developments.

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## Blockchain and Digital Assets News and Trends

21 August 2020

Blockchain and Digital Assets News and Trends

California appellate court affirms judgment for Coinbase in lawsuit over Bitcoin Gold – plus latest legal, regulatory and case law developments.

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## Blockchain and Digital Assets News and Trends June 2020

18 June 2020

Blockchain and Digital Assets News and Trends

World Economic Forum announces Presidio Principles as a foundation of blockchain ecosystem design – plus latest legal, regulatory and case law developments.

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## World Economic Forum announces Presidio Principles as a foundation of blockchain ecosystem design

18 June 2020

WEF's foundational values for a decentralized future.

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## Blockchain and Digital Assets News and Trends

20 May 2020

Blockchain and Digital Assets News and Trends

California may limit application of securities laws to tokens, French court says bitcoins are fungible assets – plus latest legal, regulatory and case law developments.

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## California bill proposes limits on application of securities laws to tokens

20 May 2020

The proposed changes are likely to be well received by those considering issuing tokens.

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- "Consortium blockchain governance: four critical issues for enterprise blockchain projects," *Ledger Insights*, April 24, 2019
- Co-author, "Top 10 FOSS legal developments in 2018," *Synopsys*, January 1, 2019
- Co-author, "The Big Legal Issue Blockchain Developers Rarely Discuss," *CoinDesk*, September 8, 2018
- Co-author, "The Rise of Tokens: Critical Considerations for VC Firms," *PE Hub*, April 20, 2018
- Co-author, "ICOs and hybrid token offerings — a legal perspective" *Brave New Coin*, April 12, 2018
- Co-author, "Hybrid token offerings: the rise of token offerings for venture backed-companies," *Brave New Coin*, February 27, 2018
- Co-author, "Blockchain Regulation in Finance: Recent Developments and Prospects," *The Distributed Ledger*, September 2017
- "Top 10 FOSS legal stories in 2016," *Opensource.com*, February 2017
- "Top 10 Open Source Legal Developments in 2015," *Opensource.com*, January 2016

- "A Platform for IP Lift-Off," *Global Corporate Venturing*, July 2012
- Co-author, "Dealing with potential bankruptcy of a licensor; A bankruptcy remote entity may be one way to avoid risks for licensees," *The National Law Journal*, 4 Dec 2004

## Events

### Previous

#### CVC strategy: Lessons from 2020, strategic considerations for 2021

18 March 2021 | 12:00 – 1:00 ET  
Webinar

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#### 2021 Venture capital in the Middle East: The mini boom

March 2021  
Webinar

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- Speaker, "Non-Fungible Tokens: Understanding the Complex Legal Issues in this Revolution for Copyright Holders," *Practising Law Institute*
- Chair, "The Future of Blockchain: A Silicon Valley Perspective and Beyond," *Practising Law Institute*
- Intellectual Property Owner's Annual Conference, October, 2018, Intersection of IP and Open Source
- Woman's Director Council, September 2018 Blockchain – Digital Ledger Technology
- Chair, State Bar of California Intellectual Property Section Open Source Presentation
- Investing in Open Source: Understanding the Opportunities and Managing the Challenges, SDForum
- Garage Technology Ventures
- Georgetown University Law Center
- National Incubation Association
- National Association of Bankruptcy Trustees
- American Association of Publishers
- Seybold San Francisco Conference
- National Association of Broadcasters' Multimedia World
- Game Developers' Workshop
- Internet World
- American Society of Magazine Editors

## NEWS

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### MEDIA MENTIONS

- "Top Billing for NFTs," *Los Angeles Lawyer*, May 2022
- "As NFTs Spur a Digital Gold Rush, Law Firms Are Getting in on the Action," *Law.com*, July 1, 2021
- "Clear Governance Key for Enterprise Blockchain to Move Forward," *Cointelegraph*, July 26, 2020
- "UK likely ahead of US in setting global agenda for IoT regulation," *LegalTech News*, May 10, 2019

- "Unbeknownst to many, IoT devices (and their cyber risk) are everywhere," *LegalTech News*, April 3, 2019
- "A perfectly imperfect marriage: blockchain and open source," *Above the Law*, February 20, 2019
- "What Dr. Seuss can teach us about bringing cybersecurity onto the blockchain," *Forbes*, November 2, 2018
- "Knowing what you don't know is more important than being brilliant,' with Mark Radcliffe of DLA Piper," *Thrive Global*, November 1, 2018
- "13 things that every blockchain company must understand, with Mark Radcliffe of DLA Piper," *Authority Magazine*, November 1, 2018
- "Davis's Take: Crypto Cowboys Ready to Lay Down the Law," *The Wall Street Journal*, March 8, 2018
- "Linux Foundation Launches Open Data Licensing Agreements," *Linux Insider*, October 23, 2017
- "Open-sourcing data will make big data bigger than ever," *ZDNet*, October 23, 2017
- "Companies Turn Blind Eye to Open Source Security Risks," *Linux Insider*, October 18, 2017
- "The Faces of Open Source Law," June 19, 2017