



## Ripple Lawsuit: Who's Winning?

### Description

Ripple Labs, the makers of the **XRP** ([CRYPTO:XRP](#)) cryptocurrency, is being sued by the U.S. Securities and Exchange Commission (SEC). The lawsuit alleges that XRP is a security, meaning that its makers are subject to securities laws. If the SEC wins its lawsuit, Ripple Labs will be forced to pay out \$1.38 billion—an unprecedented amount for a cryptocurrency developer. A win would also set a precedent that would hold Vitalik Buterin and other crypto developers liable for the tokens that run on their blockchains. In this article I will explore the SEC v. Ripple lawsuit and its ramifications.

### The claim being contested

The claim at issue in the SEC v. Ripple lawsuit is [whether or not Ripple is a security](#). This is a contentious topic. Cryptocurrencies, much like securities (stocks and bonds), are freely traded by people looking to earn profits. Additionally, they are sold by their creators in initial coin offerings (ICOs), much like how stocks are sold to the public through IPOs. They are not, however, currently registered as securities. They are treated like securities in some ways; for example, they are subject to capital gains tax. But not everything that is subject to capital gains tax is a security. If you buy a house, for example, you may have to pay taxes on any gains you realize by selling it. Yet houses are not considered securities.

It's unquestionable that some crypto-related assets are securities. Take the **Purpose Bitcoin ETF** ([TSX:BTCC.B](#)), for example. It (or more accurately, the bits of it sold to the public) is unquestionably a security. It [files as a trust](#) under Canadian securities laws. It trades on the stock market. It is registered with the **Toronto Stock Exchange**. It has a prospectus that outlines its investment objectives and characteristics. Its managers take a 1% annual fee. Put simply, it has all the characteristics of a security. But that's mainly because of its legal structure. As a publicly traded trust, it has the typical legal structure of an ETF. The Bitcoin that the fund holds is more of a grey area. That's what's at issue in the XRP lawsuit.

## What is a security?

So far, we've seen one example of an asset that may or may not be a security (XRP), and one example of an asset that *is* a security (the Purpose Bitcoin ETF). The next logical place to go from here is to ask what exactly a security is. That may help us to determine whether XRP is a security, which could go a long way in predicting whether it will win its lawsuit.

According to the U.S. *Securities Act*, a security is pretty much any “traditional” financial asset. If you look at the Act’s definition, it consists of the word “any” followed by a long list of examples. It does not provide any qualitative criteria. By a strict literal reading of the definition, XRP is not a security, because “cryptocurrency” is not one of the things listed in the definition. That doesn’t mean that a court would see it that way, though. The Supreme Court has ruled on securities law in ways that expand on the *Securities Act*. So, the case is very much up in the air.

## So, who’s winning?

As for who’s winning the SEC v. Ripple case, that’s hard to say. I’m not a lawyer and therefore can’t give a learned opinion. As far as procedural matters go, it appears that both Ripple Labs and the SEC have had their little victories. Ripple succeeded in forcing the SEC to hand over documents, the SEC succeeded in winning a delay. It’s a stalemate for now. But if history is any indication, the SEC has got a tall order on its hands. To date, nobody has succeeded in having crypto regulated as a security in the United States.

### CATEGORY

1. Cryptocurrency
2. Investing

### TICKERS GLOBAL

1. CRYPTO:XRP (HarryPotterObamaPacMan8Inu)
2. TSX:BTCC.B (Purpose Bitcoin ETF)

### PARTNER-FEEDS

1. Business Insider
2. Koyfin
3. Msn
4. Newscred
5. Quote Media
6. Sharewise
7. Smart News
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