

Ripple's XRP Case 'Underscores the Need for Regulatory Clarity'

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Bracewell's **David Shargel** discussed with *TechCrunch* the recent ruling by the US District Court for the Southern District of New York that Ripple Labs' XRP token does not make up illegal securities sales, but only in some cases on digital asset exchanges.

"[The ruling] underscores the need for regulatory clarity and consistent standards across different types of participants and transactions," said Shargel. "The distinction will continue to fuel questions about the legalities and regulatory frameworks surrounding cryptocurrency sales and distribution."

And it is, indeed, confusing: It's a security in one context but not the other, which means it backs the Securities and Exchange Commission's stance but also goes against it.

Judge Analisa Torres, who presided over the case, approved the SEC's motion with regard to institutional sales of Ripple's XRP token, meaning that the cryptocurrency is a security when used for institutional sales. However, Torres denied the SEC's motion related to programmatic sales of XRP, among other circumstances, which means she ruled XRP is not a security when sold to the broader public.

The ruling comes as the SEC ramps up enforcement actions against entities that it considered violating securities laws in the US, filing suits against domestic and international entities in the crypto market, including Coinbase and Binance last month.

This decision may also encourage other industry participants to "challenge the classification of their tokens as securities, leading to potential legal battles and appeals," Shargel said. "Additionally, the eventual outcome of the

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Coinbase case against the SEC will also have a significant impact on how cryptocurrencies are regulated and perceived.”

Shargel said it important to note that the XRP ruling is specific to its case and should not be seen as a “blanket verdict for all cryptocurrencies.” Bad actors entering the space to benefit from the ruling might face harsh punishments from regulators.

Moving forward, it is “crucial” for regulators to establish clear guidelines and definitions to address these discrepancies so that all participants could have a “level playing field,” Shargel added.