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FILED
SAN MATEO COUNTY

JUN 27 2018
Clerk of the Superior Court
By [Signature]
DEPUTY CLERK

8 SUPERIOR COURT OF THE STATE OF CALIFORNIA
9 COUNTY OF SAN MATEO

10 DAVID OCONER, Individually and on Behalf)
of All Others Similarly Situated,)

11 Plaintiff,)

12 v.)

13 RIPPLE LABS, INC.,)
14 XRP II, LLC,)
BRADLEY GARLINGHOUSE, and)
15 DOES 1-25, Inclusive,)

16 Defendants.)

Case No. **18CIV03332**


CLASS ACTION

COMPLAINT FOR VIOLATIONS OF CALIFORNIA LAW

DEMAND FOR JURY TRIAL

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18 - CIV - 03332
CMP
Complaint
1232943



FILE BY FAX

1 Plaintiff David Oconer, individually and on behalf of all others similarly situated, by his
2 undersigned attorneys, alleges the following, based upon personal knowledge as to plaintiff and
3 plaintiff's own acts, and upon information and belief as to all other matters based on the investigation
4 conducted by and through plaintiff's attorneys, which included, among other things, a review of filings
5 and press releases by Ripple Labs, Inc. ("Ripple" or the "Company"), its wholly owned subsidiary XRP
6 II, LLC ("XRP II"), and analyst and media reports and other publicly disclosed reports and information
7 about the Company and XRP II. Plaintiff believes that substantial additional evidentiary support will
8 exist for the allegations set forth herein, after a reasonable opportunity for discovery.

9 SUMMARY OF ACTION

10 1. This is a securities class action on behalf of all California purchasers of Ripple tokens
11 ("XRP"), brought against Ripple, XRP II and the Chief Executive Officer ("CEO") of the Company,
12 Bradley Garlinghouse ("Garlinghouse"), who promoted, sold and solicited the sale of XRP. Defendants
13 raised hundreds of millions of dollars through the unregistered sale of XRP, including selling to retail
14 investors, in violation of the law.

15 2. Under California law, offers and sales of securities must be qualified with the
16 Commissioner of Corporations, unless exempt. These laws are designed to protect the public, by
17 requiring various disclosures so that investors can better understand the security and the risks associated
18 with investing in that security. The regime of registration and disclosure is the primary means by which
19 regulators prohibit deceit, misrepresentations, and fraud in the sale of securities, and promote the fair
20 and orderly functioning of the securities markets.

21 3. Here, the XRP offered and sold by defendants had all the traditional hallmarks of a
22 security, yet defendants failed to register them as such. The purchase of XRP constitutes an investment
23 contract, as XRP purchasers, including plaintiff, provided consideration (in the form of fiat, such as
24 U.S. dollars, or other cryptocurrencies) in exchange for XRP. XRP purchasers reasonably expected to
25 derive profits from their ownership of XRP, and defendants themselves have frequently highlighted this
26 profit motive. Moreover, the development of the XRP Ledger and other facets of the XRP network, and
27 the return that investors expected to derive therefrom, were, and are, based entirely on the technical,
28 managerial, and entrepreneurial efforts of defendants, and other third parties employed by defendants.

1 Indeed, a feature of XRP that differentiates the cryptocurrency from others such as Bitcoin, is that the
2 security is highly centralized in Ripple. The Company created the XRP token and then used sales of the
3 tokens in order to fund its operations and the development of the XRP ecosystem, which in turn,
4 increased the value of XRP and the potential returns to XRP investors.

5 4. Despite the status of XRP as a security, defendants failed to register XRP and the sale of
6 XRP did not qualify for an exemption from registration. Nevertheless, many of the representations
7 defendants made regarding XRP were designed to drive demand for XRP, allowing defendants to obtain
8 greater returns on their XRP sales. Defendants have since generated hundreds of millions of dollars in
9 gross proceeds by selling XRP to the general public, in what is essentially a series of initial coin
10 offerings ("ICO"). Much like the better-known term, initial public offering ("IPO"), in an ICO, digital
11 assets are sold to consumers in exchange for legal tender or cryptocurrencies (most often Bitcoin and
12 Ethereum). These tokens generally give the purchaser various rights on the blockchain network and
13 resemble the shares of a company sold to investors in an IPO. Unfortunately, ICOs have become a
14 magnet for unscrupulous practices and fraud.

15 5. Plaintiff brings this suit for declaratory relief that XRP is, in fact, a security under
16 applicable laws, and for damages, rescission and other relief as detailed herein.

17 JURISDICTION AND VENUE

18 6. The claims alleged herein arise under §§25110, 25503 and 25504 of the California
19 Corporations Code (the "Corporations Code"). Jurisdiction is conferred by Art. VI, §10 of the
20 California Constitution. Venue is proper pursuant to the California Code of Civil Procedure.

21 7. The violations of law complained of herein occurred in San Mateo County, including the
22 unlawful sale of unregistered securities into this County. In addition, defendants are located and/or
23 conduct business in this County, significant events that led to the sale of unregistered securities
24 occurred in this County, and documents and witnesses are located in this County, or can be found in this
25 County. For example, Ripple raised proceeds from, and is backed by venture capital firms, such as
26 Andreessen Horowitz, which is located in this County, has solicited and sold XRP to investors located
27 in this County, and is run by defendant Garlinghouse, who lives in this County.

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1 with the expectation that these investments will increase the tokens' value) and as a means of exchange
2 promoted by Ripple. The Ripple system is based around the XRP Ledger. The XRP Ledger consists of
3 many servers, called nodes, which accept and process transactions. Client applications sign and send
4 transactions to nodes, which then relay these candidate transactions throughout the network for
5 processing. Transactions are then verified and become part of the XRP Ledger history through a
6 consensus process. Every transaction in XRP must be made by and through the XRP Ledger, which is
7 maintained by defendants. In order to open an account on the XRP Ledger, a user is required by
8 defendants to maintain a minimum account balance of 20 XRP. Furthermore, each time a transaction in
9 XRP is made, defendants require a transaction cost from the transacting parties.¹

10 15. Unlike cryptocurrencies such as Bitcoin and Ethereum, which are mined by those
11 validating transactions on their networks, Ripple created the 100 billion XRP supply itself. Twenty
12 billion XRP, or 20% of the total XRP supply, were given to the individual founders of Ripple,² with the
13 remaining 80 billion being retained by the Company. As for the 80 billion XRP held by Ripple, the
14 Company periodically sells XRP from its supply and uses the proceeds from these sales to fund
15 Company operations and improve the XRP ecosystem. Ripple's founders and other Company insiders
16 have also enriched themselves with their personal XRP fortunes. In January 2018, Ripple co-founder
17 Chris Larsen was named one of the richest people in the United States, with an estimated net worth of
18 \$59.9 billion, primarily due to the increase in value of XRP and his personal ownership of billions of
19 XRP tokens and a significant ownership stake in the Company.³

20 16. Ripple has been criticized because of the centralized nature of its network for XRP,
21 especially when compared to the networks for other truly distributed cryptocurrencies such as Bitcoin.
22 Ripple demonstrated its control over the XRP ecosystem when, in 2015, it froze the balance of Ripple

23 ¹ The current minimum transaction cost is 0.00001 XRP, although this cost can be increased by
24 defendants. This feature of XRP transactions benefits defendants because it makes their stockpile of
XRP more valuable over time.

25 ² Chris Larsen and Jed McCaleb ("McCaleb") each received 9.5 billion XRP, with Arthur Britto
26 receiving 1 billion.

27 ³ <https://www.cnbc.com/2018/01/04/ripple-co-founder-is-now-richer-than-the-google-founders-on-paper.html>.

1 co-founder McCaleb following an internal dispute. The ability of Ripple to control the flow of XRP
2 undermines any pretense that the security is not centralized in the Company. Similarly, in February
3 2018, a report by BitMEX Research stated that a test of the Ripple system revealed that all five public
4 keys used to validate transactions came directly from Ripple, meaning that Ripple was "essentially in
5 complete control of moving the ledger forward."⁴ The report concluded that Ripple's claims that the
6 system was "distributed" could be misleading, as Ripple essentially controlled the XRP Ledger process.
7 As the stewards of the XRP ecosystem, defendants' success in developing, promoting, and maintaining
8 the XRP Ledger and other exchange infrastructure is directly related to the value of XRP. Furthermore,
9 because Ripple maintains, controls and stewards the XRP Ledger, and because defendants have the
10 ability to add conditions to transactions in XRP, and can unilaterally modify elements of the XRP
11 ecosystem, each transaction in XRP involves a transaction directly with defendants.

12 **Ripple Updates XRP**

13 17. Ripple is constantly changing and seeking to improve the XRP network. These changes
14 have decreased transaction times and improved system security, compatibility, use cases and other
15 features of XRP. At the same time, Ripple has released new "white papers" touting these upgrades and
16 proposed upgrades to the cryptocurrency and its exchange network. For example, Ripple released a
17 white paper in February 2016 following a series of upgrades with the subtitle "The ROI of Using Ripple
18 and XRP for Global Interbank Settlements."⁵ "ROI" stands for "return on investment," and the paper
19 discussed at length the purported value of using XRP, compared to other systems.

20 18. One of the most significant changes to the XRP ecosystem occurred in the latter half of
21 2015. In May 2015, regulatory authorities in the United States fined Ripple and XRP II \$700,000 for
22 "willfully" violating the Bank Secrecy Act by selling XRP without obtaining the required authorization.
23 The failure to properly register as a money services business, or "MSB," exposed XRP for use by
24 money launderers, criminals and other suspicious actors. As part of the settlement, defendants agreed to
25 a number of remedial measures, including registration with FinCEN within 30 days of the agreement

26 ⁴ *The Ripple Story*, BitMEX Research (Feb. 6, 2018), <https://blog.bitmex.com/the-ripple-story/>.

27 ⁵ https://ripple.com/files/xrp_cost_model_paper.pdf.

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1 and to secure customer identification information within 180 days of the agreement. In the subsequent
2 months, Ripple updated the XRP network and ecosystem to comply with the settlement agreement. In
3 October 2015, Ripple underwent a rebranding after which it purported to fulfill its obligations under the
4 settlement agreement.

5 19. Another key development occurred in May 2017, when Ripple announced that it would
6 limit distribution of the remaining 61.68 billion XRP owned by the Company, from its original 80
7 billion XRP allotment. Ripple stated that it would place 55 billion XRP into a cryptographically
8 secured escrow account, and only offer and sell limited amounts of XRP at defined intervals. The
9 Company established 55 contracts of 1 billion XRP that allowed it to sell up to 1 billion XRP per month,
10 with any unsold XRP returned to escrow for use in subsequent offerings. The Company stated that it
11 expected the distribution strategy "will result in a strengthening XRP exchange rate against other
12 currencies," and that Ripple's "self-interest is aligned with building and maintaining a healthy XRP
13 market."⁶ The fact that the vast amount of existing XRP resides in the control of defendants further
14 demonstrates the high degree of centralization and control defendants maintain over XRP, as they can
15 determine the supply of XRP, which will, in turn impact the price of the security.

16 20. Indeed, a primary motivation for limiting the available supply of XRP was to drive price
17 appreciation and allow defendants to maximize profits from XRP sales. The price of XRP increased
18 rapidly following the announcement of the escrow decision, increasing 1,159% during the second
19 quarter of 2017. Ripple's "Q2 2017 XRP Markets Report" listed the escrow announcement as
20 "instrumental in helping to drive XRP interest and volume," and noted the "market responded favorably
21 to the escrow" announcement.⁷

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26 ⁶ <https://ripple.com/insights/ripple-to-place-55-billion-xrp-in-escrow-to-ensure-certainty-into-total-xrp-supply/>.

27 ⁷ <https://ripple.com/insights/q2-2017-xrp-markets-report/>.

1 21. On or about December 7, 2017, Ripple announced that it had followed through with its
2 promise and placed "55 billion XRP in a cryptographically-secured escrow account to create certainty
3 of XRP supply at any given time."⁸ The announcement stated:

4 By securing the lion's share of XRP in escrow, people can now mathematically verify
5 the maximum supply that can enter the market. While Ripple has proved to be a
6 responsible steward of XRP supply for almost five years – and has clearly
7 demonstrated a tremendous track record of investing in and supporting the XRP
ecosystem – this lockup eliminates any concern that Ripple could flood the market,
which we've pointed out before is a scenario that would be bad for Ripple.⁹

8 22. The article contained a button to allow readers to share it on Twitter with the caption
9 "Game changer for \$XRP! 55 billion XRP now in escrow."¹⁰ Ripple also promoted this article through
10 its own tweet, which proclaimed: "55B \$XRP is now in escrow. Interested in what this means for
11 \$XRP markets?"¹¹ Garlinghouse was even more enthusiastic, tweeting: "Boom! 55B \$XRP now in
12 escrow. Good for supply predictability and trusted, healthy \$XRP markets. Glad to finally let this
13 #cryptokitty out of the bag!"¹²

14 23. Ripple's public commitment to limit the supply of XRP had its intended effect. In the
15 weeks that followed, the price of XRP rapidly increased, from approximately \$0.22 per token on
16 December 7, 2017 to \$3.38 per token on January 7, 2018.¹³

17 **Defendants Market XRP to Drive Demand and Increase Price**

18 24. While publicly touting its xCurrent, xRapid and xVia enterprise solutions (collectively,
19 "Enterprise Solutions"), Ripple's primary source of income is, and has been, the sale of XRP. Ripple

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22 ⁸ <https://ripple.com/insights/ripple-escrows-55-billion-xrp-for-supply-predictability/>.

23 ⁹ *Id.*

24 ¹⁰ *Id.*

25 ¹¹ <https://twitter.com/Ripple/status/938933967956389889>.

26 ¹² <https://twitter.com/bgarlinghouse/status/938933791145336832?lang=en>.

27 ¹³ XRP would subsequently lose nearly all its value in just over three months, falling to a low of
28 approximately \$0.48 per token on April 6, 2018.

1 generated over \$180 million in gross proceeds through XRP sales in 2017 alone.¹⁴ Defendants sell XRP
2 on a wholesale basis to larger investors, and also sell significant quantities of XRP directly to retail
3 investors on cryptocurrency exchanges. According to Ripple, in the first quarter of 2018, "market
4 participants purchased \$16.6 million [of XRP] directly from XRP II," and XRP II also "sold \$151.1
5 million worth of XRP" on exchanges.¹⁵

6 25. Given its reliance on sales of XRP, it is unsurprising that Ripple aggressively markets
7 XRP to drive demand, increase the price of XRP, and, consequently, its own profits. For example,
8 Ripple has an entire section of its website dedicated to providing advice on "How to Buy XRP." This
9 section provides links to exchanges and instructions on "how to buy XRP" on those exchanges.¹⁶ It also
10 has a section titled "Market Performance" which proclaims that Ripple is "committed to the long term
11 health and stability of XRP markets."¹⁷

12 26. Ripple also regularly promotes the availability of XRP on exchanges. For example, on
13 May 18, 2017, Ripple's Senior Vice-President for Business Development, Patrick Griffin, tweeted a link
14 to the Kraken exchange with the caption: "Kraken Introduces New Fiat Pairs for XRP Trading! USD,
15 JPY, CAD, EUR @Ripple."¹⁸

16 27. Similarly, on or about December 21, 2017, Ripple tweeted that XRP was now available
17 on over 50 exchanges.¹⁹ That tweet linked to an article on Ripple's website which described XRP as
18 "the fastest and most scalable [digital] asset on the market."²⁰ The article continued: "The market is
19 taking notice of XRP's speed, reliability and scalability – which has strengthened the demand for XRP

20 ¹⁴ [https://www.cnbc.com/2018/01/24/ripple-sold-91-point-6-million-of-digital-currency-xrp-last-](https://www.cnbc.com/2018/01/24/ripple-sold-91-point-6-million-of-digital-currency-xrp-last-quarter.html)
21 [quarter.html](https://www.cnbc.com/2018/01/24/ripple-sold-91-point-6-million-of-digital-currency-xrp-last-quarter.html).

22 ¹⁵ Q1 2018 XRP Markets Report, <https://ripple.com/insights/q1-2018-xrp-markets-report/>.

23 ¹⁶ XRP Buying Guide, <https://ripple.com/xrp/buy-xrp/>.

24 ¹⁷ Market Performance, <https://ripple.com/xrp/market-performance/>.

25 ¹⁸ @patgriffin9, <https://twitter.com/patgriffin9/status/865251321867231233>.

26 ¹⁹ @Ripple, <https://twitter.com/Ripple/status/943999526783905792>.

27 ²⁰ XRP Now Available on 50 Exchanges Worldwide, [https://ripple.com/insights/xrp-now-available-](https://ripple.com/insights/xrp-now-available-on-50-exchanges-worldwide/)
28 [on-50-exchanges-worldwide/](https://ripple.com/insights/xrp-now-available-on-50-exchanges-worldwide/).

