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NFT Purchasers Sue Nike Over Alleged Crypto Scam

"In the Nike case, the plaintiffs' allegations of an unregistered securities violation and deceptive practices might not have had the same outcome had the lawsuit been filed before this shift in policy," said Nicolle Lafosse, a digital asset attorney at the international law firm Diaz Reus.

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[By Michael A. Mora](#)

What You Need to Know

- Nike's NFT case spotlights the unresolved question of whether digital assets are securities under shifting SEC interpretations.
- Plaintiffs increasingly leverage state consumer protection laws to challenge crypto asset losses, sidestepping federal securities law uncertainties.
- "Rug pull" accusations now target major corporations, signaling new litigation risks for brands venturing into digital assets.

Nike is facing a class action complaint in New York federal court by non-fungible token purchasers who claimed the corporation hyped a project with recently acquired RTFKT to attract investor money, only to see the NFT subsidiary shut down, leaving buyers "decimated" with worthless crypto assets.

And the allegations over the sale of unregistered securities and deceptive practices would carry more authority if the Securities and Exchange Commission had not shifted its regulatory stance under the Trump administration on what constitutes a security, according to Nicolle Lafosse, a digital asset attorney at the international law firm Diaz Reus in Miami.

"Given the trend of dismissed cases in the crypto space, it is likely that the claims against Nike regarding unregistered securities may not

hold,” Lafosse said. “These dismissals mark a significant change in the SEC’s approach, potentially signaling a move away from ‘regulation by enforcement’ under former Chair Gary Gensler, with the current leadership focusing on establishing clearer regulatory guidelines for digital assets.”

Laurence M. Rosen and Phillip Kim of the Rosen Law Firm in New York, who represent the plaintiff, did not respond to a request for comment sent on Friday. Neither did Nike’s media department, and the corporation did not have counsel listed in the federal docket by press time.

Now, with the consent of both parties, the case is pending before U.S. Magistrate Judge James R. Cho of the Eastern District of New York, pursuant to diversity jurisdiction. The plaintiff seeks in excess of \$5 million for alleged violations of Oregon, Florida, New York and California consumer protection laws.

'Nike's Brazen Rug Pull'

The case dates back to Dec. 13, 2021, when Nike announced that it had purchased the Delaware NFT corporation RTFKT (pronounced “artifact”), which would accelerate the Fortune 500 company’s “digital transformation” to “serve athletes and creators at the intersection of sport, creativity, gaming and culture.”

And April 2022 marked a milestone for the duo with RTFKT's debut of its Nike collaboration, the “Nike Cryptokicks.” The launch featured 20,000 NFTs, some of which fetched up to six-figure sums. However, customers paid between \$4,000 and \$9,500 in cryptocurrency for most of the NFT shoes, which could be “worn” on the feet of avatars in the metaverse.

These NFTs were designed to be traded, peer-to-peer, on the secondary market, with Nike taking a cut of each sale, per the complaint. The Oregon corporation drove the product’s value by creating a gamified ecosystem in which the Nike NFT could be used to complete challenges and quests to reveal rewards and earn prizes, including limited edition, real-life Nike merchandise.

“Because the Nike NFTs derived their value from the success of a given promoter and project—here, Nike and its marketing efforts—investors purchased this digital asset with the hope that its value would increase in the future as the project grows in popularity based on the Nike brand,” the plaintiff alleged in the complaint.

The Australian-based plaintiff asserted in the complaint that this type of digital asset is properly classified as a security under relevant law. As a result, Nike and RTFKT, as the issuers of this token, failed to register it and file relevant statements with the authorities, including the SEC.

However, legal experts have stated that whether NFTs are legally considered securities depends on who is occupying the White House. The SEC under the Biden administration indicated through litigation that NFTs were securities, while the agency has had the opposite stance under the Trump administration.

Meanwhile, after “capitalizing on the boom in crypto assets,” Nike allegedly “caused the rug to be pulled out from under the Nike NFT,” when RTFKT announced in December on X that it was “winding down operations.” Nike also ended its promotional initiatives.

“Predictably, prices plunged and did not recover. Investors—some of whom are cited in this complaint—and the crypto community at large lamented Nike’s brazen rug pull,” the plaintiff alleged. “Plaintiff and others would never have purchased the Nike NFTs at the prices they did, or at all, had they known that the Nike NFTs were unregistered securities or that Nike would cause the rug to be pulled out from under them.”