

Are You Being Served? Court Authorizes Service of Process Via Airdrop

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In what may be the first of its kind, a New York state court has authorized service via token airdrop in a case regarding allegedly stolen cryptocurrency assets. This form of alternative service is novel but could become a more routine practice in an industry where the identities of potential parties to litigation may be difficult to ascertain using blockchain data alone.

Background on the Dispute

According to the [Complaint](#) in the case, the plaintiff LCX AG (“LCX”) is a Liechtenstein based virtual currency exchange. As alleged in the Complaint, on or about January 8, 2022, the unknown defendants (named in the Complaint as John Does 1-25) illegitimately gained access to LCX’s cryptocurrency wallet and transferred \$7.94 million worth of digital assets out of LCX’s control. Cryptocurrency wallets are similar in many ways to bank accounts, in that they can be used to hold and transfer assets. In the same way a thief can transfer funds from a bank account if they gain access to that account, thieves can also transfer cryptocurrency assets if they gain access to the keys to the wallet holding digital assets.

Following the alleged theft, LCX and its third-party consulting firm determined that the suspected thieves used “[Tornado Cash](#),” which is a “mixing” service designed to hide transactions on an otherwise publicly available blockchain ledger by using complicated transfers between unrelated wallets. While Tornado Cash and other mixing services have legal purposes such as preserving the anonymity of parties to legitimate transactions, they are also utilized by criminals to launder digital funds in an illicit manner.

Even the use of these mixing services, however, [can often also be unwound](#). This is especially true in transactions of large amounts of cryptocurrency, similar to how transactions utilizing complex money laundering schemes in the international banking system can be unwound. According to the blockchain data platform Chainalysis, although illicit crypto transactions reached an all-time high of \$14 billion in 2021, these suspected nefarious transactions accounted for [0.15% of crypto volume last](#)

[year](#), down from 0.62% in 2020.

While the Complaint alleges the suspected thieves used Tornado Cash, LCX believes its hired consultants were able to unwind those mixing services to identify a wallet which is alleged to still hold \$1.274 million of the allegedly stolen assets.

Unlike bank accounts which have associated identifying information, there are often no registered addresses or other identifying information connected to digital wallets. This makes it difficult to provide the actual proof of service required to institute an action or obtain a judgement against an individual where the only known information is their digital wallet addresses. Service via token airdrop into those wallet addresses solves that issue.

Service Via Airdrop

Service of lawsuits is traditionally made on the defendant personally at a home or business address via special process servers. In cases where service on the individual is not possible for some reason, many states authorize alternative means of service if the plaintiff can show that the alternative means of service likely to provide actual notice of the litigation to the defendant. For example, courts have historically allowed notice via newspaper publication as an alternative means of service where the defendant cannot be serviced personally.

Here, the Court permitted service via “airdrop” in which a digital token is placed in a specific cryptocurrency wallet, similar to how a direct deposit can place funds in a traditional bank account. This particular token contained a hyperlink to the associated court filings in the case, and a mechanism which allowed the data of any individual who clicked on the hyperlink to be tracked. While this is a novel way to serve notice of a lawsuit, similar airdrops have been used to communicate with the owners of otherwise anonymous cryptocurrency wallet owners. [Such was the case recently](#) when actor Seth Green had his Bored Ape non-fungible token (“NFT”) stolen and the unknowing buyer of the stolen NFT was otherwise difficult to locate.

While this type of digital service is new, it could be implemented in many disputes in the future regarding digital assets. Similar to the authorization of service that was [seen recently](#) in the Facebook Biometric Information Privacy Act litigation (where notice was served on potential class members via email and directly on the Facebook platform), service via airdrop may be the most efficient way to inform potential lawsuit participants of the pending dispute and how they can protect their rights in that dispute.

This type of airdropped service is not without issues, though. First, transactions on the blockchain are largely publicly available, meaning any individual with the wallet address would also be able to see service of the lawsuit notice. Additionally, many users are hesitant to click on unknown links (such as the one in the airdropped LCX) due to legitimate cybersecurity concerns.

While service via airdropped token is unlikely to replace traditional methods of service, it may be a useful means of serving process on unknown persons where there is a digital wallet linked to the acts which the applicable lawsuit relates.

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