

## The US District Court for the Southern District of Florida receives an antitrust claim against bitcoin companies concerning alleged coordination for price

### The First Blockchain Antitrust Case. Or Is It?\*

Legal professionals paying close attention to the still nascent world of blockchains and cryptocurrencies are following what is considered to be the 2<sup>nd</sup> antitrust case involving cryptocurrencies. For enthusiasts, *United American Corp. v. Bitmain, Inc.* involves the self-described inventor of bitcoin on one side, the operator of bitcoin.com on the other side, the world's largest mining pools, and the Bitcoin Cash blockchain over whose future these recognizable blockchain pioneers wrestle. The case, awaiting a Florida federal district Judge Kathleen Williams's ruling on the motions to dismiss, presents a truly fascinating fact pattern but perhaps a less compelling antitrust argument.

#### The Hash War

The relevant facts stem from a disagreement over the rules governing the Bitcoin Cash cryptocurrency (BCH), which were to be decided by vote at a November 2018 scheduled update. On one side of the disagreement was a faction known as Bitcoin Cash ABC, consisting of key bitcoin players like Roger Ver, an early bitcoin entrepreneur and CEO of bitcoin.com; Kraken, a prominent U.S.-based cryptocurrency exchange; Bitmain, a manufacturer of bitcoin mining chips and operator of the largest mining pools in the world; and others. This group strongly believed that the Bitcoin Cash blockchain should consist of larger blocks which in theory would make it cheaper to process transactions, a step for scaling blockchain networks to handle a growing number of everyday transactions.

On the other side of the disagreement was the Bitcoin Cash SV faction, consisting of United American Corp., a company that develops deployable technology and services for efficiently mining Bitcoin Cash. Joining it was billionaire Calvin Ayre and self-proclaimed bitcoin inventor Craig Wright, who was recently *awarded registration*



That possibility is ultimately what makes legal cryptocurrency aficionados salivate, for any judicial direction will help provide advice to clients on how blockchain-based endeavors will be treated under the antitrust laws. For example, should this case be treated akin to a run-of-the-mill shareholder proxy war, where an activist investor can easily bulk up on shares and agree with other shareholders to vote a certain way and take control of a company's governance without running afoul of laws, much less antitrust laws? Or will the case be compared to bid rigging, which is what United American Corp. argues in its opposition to the motions to dismiss? Moreover, in the wake of a U.S. District Court's recent ruling in *FTC v. Qualcomm Inc.*, could a court find that defendants had an anticompetitive intent in increasing hashing power and losing money in the short term only to recoup it in the longer term after removing the competition? Or, given the Supreme Court's clarification of the Illinois Brick doctrine in its recent holding in *Apple, Inc. v. Pepper*, will there be an opportunity for the court to provide guidance on who is a "direct purchaser" in blockchain contexts? Thus far, however, the parties have not, in their pleadings and briefings, explored the many unique and challenging arguments the case would appear to present.

There are many more questions than answers at this point, but to the extent that the court provides guidance, that guidance will reverberate throughout the cryptocurrency industry and through any industry that is exploring blockchain-based solutions (which are sprouting ever more frequently). If we get guidance from the court, we will be sure to report it here and explain what it means for all the stakeholders (hint you will probably be affected in one way or another). Stay tuned.

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