

February 8, 2023

VIA CERTIFIED MAIL and EMAIL

Ozone Networks, Inc. d/b/a OpenSea
Attn: Legal Department,
228 Park Avenue South, #22014,
New York, NY 10003
contact@opensea.io
legal@opensea.io

RE: Notice Regarding Violation and Infringement of Robert Acres' Rights

To Whom It May Concern:

We represent the interest of Robert Acres, an NFT and crypto enthusiast who has been an active collector and trader since 2021. Traverse Legal is a leading law firm in the blockchain and NFT space, representing platforms, projects, and buyers/sellers of NFTs. We currently have hundreds of cases on behalf of Airbnb hosts against Airbnb, Inc., litigating their Terms of Service and other policies. As you can see online, we represent and litigate against platforms as part of our core business. We see both sides and objectively review the merits of these cases. We handle platform cases for clients throughout the United States. We are very familiar with the New York law on issues such as browser wraps, clickwraps, change notices, and enforceability. We also handle platform cases for clients with our sister firm in the UK. We are versed in English law, which is typically more favorable to claimants on issues such as arbitration mandates, venue, and enforceability of adhesion terms. While we believe there is a path for clients such as Mr. Acres to sue in state court in New York or the UK under English law, we are equally comfortable litigating in arbitration. We see significant exposure for Ozone Networks, Inc. d/b/a OpenSea ("OpenSea").

Due to a phishing scam, Mr. Acres had two NFTs stolen from his account on or about July 12, 2022, at 01:28:22 UTC. The two NFTs are located at the following links:

<https://opensea.io/assets/ethereum/0xd2f668a8461d6761115daf8aeb3cdf5f40c532c6/2299>

<https://opensea.io/assets/ethereum/0x4db1f25d3d98600140dfc18deb7515be5bd293af/5297>

Mr. Acres contacted OpenSea customer support on July 12, 2022, at 14:11 UTC identifying the stolen NFTs and asking for support. (*Exhibit A*). OpenSea support bot responded to Mr. Acres at 15:11 on July 12, 2022, stating, “We've received your message and will respond as soon as possible. Your ticket number is: 631600.” *Id.* Mr. Acres emailed support again on July 12, 2022, at 15:40 UTC asking for OpenSea to mediate the matter between himself and the owner of the wallet which stole his NFTs. *Id.* At 16:33 UTC, Adam from OpenSea support asked by email, “Can you please re-submit your ticket using the email address associated with your account?” Adam did not call Mr. Acres or provide immediate assistance despite the emergency. At 17:37 UTC, Mr. Acres provided an updated email address and noted that the NFTs had now been sold during the delay in support. Mr. Acres notified OpenSea immediately upon theft and before them being listed by the thief for sale. If OpenSea had not waited over three hours to actively engage, the NFT could have been locked and potentially returned to his wallet. Given OpenSea’s promises of security and customer service, the apparent reason for its delay in implementing a three-hour waiting period before the next sale is its thirst for transaction fees. Mr. Acres emailed OpenSea yet again at 18:03 UTC, restating the evidence of theft and attaching a court decision that he believed made OpenSea liable under its fiduciary duty to users:

Pursuant to *D’Aloia v. Persons Unknown & Binance Holdings LTD* court proceedings ruled in favour of the plaintiff (attached) "exchanges have a duty of care to act upon fraudulent matters" and if they don't they are in breach of trust. I will give OpenSea enough time to investigate the matter but I would like either of two outcomes to happen:

- a) purchase price that I paid for the items returned to me 8.89ETH credited to my wallet on file:
- b) the items returned to me as they were sold after a theft had occurred.

I appreciate your help in this matter and expect an expedited resolution to the problem if not I will have to seek remuneration via legal means.

At this point, Mr. Acres made it clear that he believed that OpenSea was potentially legally liable for its failure to act promptly. Again, OpenSea did not respond to either of the preceding emails.

On July 13, 2022, at 09:34 UTC, Mr. Acres emailed OpenSea yet again, stating: “I am still waiting on an update on the following again, all of the information was provided as soon as the fraud occurred, providing OpenSea ample time to halt any further transactions on the aforementioned NFT's and yet they were sold by the person/s that committed the theft.”

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On July 14, 2022, at 10:33 UTC, Mr. Acres attempted for the fifth time to get support from OpenSea. It was now two days after Mr. Acres first contacted OpenSea support and was still waiting for a substantive response or assistance from OpenSea. Mr. Acres indicated that ‘I am not letting the issue go you knowingly allowed the sale of stolen assets. Again I will be giving OpenSea till the end of the week, 15.07.2022 at 19:00 UTC to respond to these threads of emails with a resolution.’ Mr. Acres, at this point, realized that OpenSea financially benefits from every sale of stolen assets by taking a 2.5% transaction fee and again demands monetary damages.

On July 14, 2022, at 19:45 UTC, two days after first being provided notice, Adam from the OpenSea Customer Experience Associate team finally responded to Mr. Acres, acknowledging the long delay and suggesting that there were so many support tickets that it simply took two days for his support ticket to get to the top of the pile. Adam stated that OpenSea had “banned the bad actor’s account and frozen the items...” and took punitive action against Mr. Acres by locking his account without authorization or permission. Locking a customer account without request or authorization was a clear violation of OpenSea’s policies. Adam indicated that the only way that his account would be unlocked by OpenSea is if Mr. Acres would confirm that “I confirm my wallet is not compromised.”

Mr. Acres responded on July 18, 2022, stating (emphasis added):

More to the point I notified OpenSea immediately when the items were stolen and this should be an automatic action taken. In no other marketplace are you able to list stolen goods? I am requesting that OpenSea cover the losses for the stolen items at the cost price (8.89ETH) if this is not done so by EOD Friday 22nd July I will start legal proceedings to recoup my funds in both the UK & US where there is legal precedent that clearly states the aforementioned action is illegal for a marketplace to conduct.

The wallet for the fund transfer is

0x198245020540F70814eCab6E4b9d54bD52ebE99e just so you have it on file.

I do not wish my account to be locked as I still have to sell out of a lot of positions so please remove any lock on my account immediately.

OpenSea did not respond to Mr. Acres email or his demand to unlock his account, so he could start trading.

On July 21, 2022, Mr. Acres again demanded that his account be unlocked ‘immediately’ to begin trading.

OpenSea did not respond to this email for two months until September 22, 2022, when a new support person Nor A. stated: “Since you reported an item as stolen or sold without your permission, your account has been locked as a precaution.” Nor. A. did not explain why the account had been locked against OpenSea’s policy in the first instance or why OpenSea demanded that Mr. Acres make a statement that he could not verify as true “I confirm my wallet is not compromised.” Because Mr. Acres had threatened litigation, Mr. Acres believed that this was both punitive and an attempt by OpenSea to absolve itself of liability for failing to act on his initial reports of theft.

On September 29, 2022, Mr. Acres again demanded that his account be unlocked under threat of legal action.

On September 29, 2022, Timothy from OpenSea from an unidentified department of OpenSea (a) erroneously accused Mr. Acres of locking his own account, (b) demanded yet again that Mr. Acres verify his identity, and (c) demanded that Mr. Acres provide a false statement under oath stating that “I certify under penalty of perjury that I have learned additional information and would like to withdraw my report that my wallet [insert wallet address] was compromised.” Of course, OpenSea knew for a fact that Mr. Acres wallet had been compromised.

On September 29, 2022, and on October 2, 2022, Mr. Acres sent emails again demanding that his wallet be unlocked, threatening litigation, and asking for the matter to be escalated. On October 3, four days after again confirming his identity, Mr. Acres demanded that his account be unlocked and made additional legal threats.

On October 3, 2022, Timothy from OpenSea again demanded that Mr. Acres perjure himself to unlock his wallet: “Please provide the following statement: I certify under penalty of perjury that I have learned additional information and would like to withdraw my report that my wallet [insert wallet address] was compromised. I would like for OpenSea to re-enable buying, selling, and transferring of the item(s) in this wallet using OpenSea. I understand that this action is not reversible.” At this point, it was clear that OpenSea was seeking a de facto release of liability for his assets, which were effectively stolen by OpenSea, to be returned. On October 3, 2022, Mr. Acres responded to OpenSea’s extortion: “I refuse to issue that statement back as my wallet was compromised, and I need to transfer my NFTs to a new wallet this is the full premise of my suit against OpenSea.” Additional emails from Mr. Acres on October 5, October 14, October 24, and October 28 all went without a response from OpenSea.

On October 28, 2022, Timothy from OpenSea, in a two-sentence email, apologized for the delay but offered no explanation and unlocked Mr. Acres Account.

While Mr. Acres may bear some responsibility for clicking on a phishing link, OpenSea's acts and omissions allowed his NFTs to be sold by the thief and thereafter converted all of Mr. Acres' remaining NFTs to OpenSea's control. Both reckless and intentional acts caused significant damage. As a preliminary issue, please provide all versions of the terms and policies you believe control this matter.

OpenSea has actively marketed trust and safety to bring users onto the platform.¹ When Mr. Acres had his wallet compromised, OpenSea's policies made it clear that Mr. Acres' best course of action was to move his remaining NFTs to another wallet.

What happens if my items are stolen? If you believe your wallet is compromised, the best action is to immediately move your items in your wallet to a non-compromised wallet. Some of our users do this directly by using tools and apps like Etherscan and wallets like MetaMask. You can also mark your OpenSea account as Compromised, this disables your account from further buying, selling, and transferring via OpenSea. For instructions on how to use this tool, please read this guide. Once affected items have been identified, our Trust & Safety team will assist with disabling the ability to buy, sell, or transfer the items via OpenSea.

OpenSea also provides a path for account owners to lock and unlock their accounts as an added safety measure.

If you're unable to quickly move your items to a new wallet, we've rolled out a feature on OpenSea to help users who believe their wallets have been compromised. We'll walk you step-by-step on how to use the feature below.

This action will mark your account (which is associated with your wallet address) as compromised and disable NFTs in your wallet from being bought, sold, or transferred using OpenSea.

<https://support.opensea.io/hc/en-us/articles/4407895526163>

¹ "As we continue to scale, our focus will remain on our customers, and providing the best user experience and entry point into NFTs." Devin Finzer, Co-founder & CEO of OpenSea" <https://prn.to/3ZvSRdP>. "We're building the world's most trusted and inclusive NFT marketplace with the best selection – making minting, purchasing and selling NFTs frictionless and friendly, and offering unmatched selection and multi-chain options for creators and collectors of all kinds." <https://prn.to/3GCXV7v>. See Exhibit B for additional representations.

Unfortunately, OpenSea did not follow its own policies in Mr. Acres' case, causing severe consequences. Mr. Acres requested that OpenSea mark the NFTs as 'compromised' as instructed. Mr. Acres then attempted to move his remaining NFTs to a new wallet (as advised by OpenSea) and was surprised he could not do so. Mr. Acres never took any action to lock his account or requested OpenSea to lock his account and never authorized the locking of his account. Instead, OpenSea took control of Mr. Acres remaining NFTs by locking his account without authorization and then refused to unlock his account despite repeated demands, as more fully set forth below.

OpenSea is aware of the vulnerabilities of its platform to hackers and others. Hundreds of millions of dollars' worth of NFTs have been stolen from users of OpenSea. While OpenSea account owners must show vigilance in protecting their wallets from malicious actors, most OpenSea user owners need more information about how NFT theft can and does occur. OpenSea has access to the information necessary to protect its users but needs to do more to implement technology solutions to reduce risk. OpenSea customer support is a lynchpin in minimizing losses. Yet, Mr. Acres' experience shows that OpenSea is unresponsive or, worse, opportunistic in dealing with its NFT customers who need OpenSea assistance after a hack or theft. The current OpenSea security system has no preventive measures in place to protect users in advance. All the safety measures are implemented only after the hack and are ineffective. Time is of the essence, Yet, OpenSea does not back the promises of support it makes to users. Some of the obvious policies that should have been implemented long ago (even though they may hurt OpenSea's bottom line) have been widely reported. <<https://cointelegraph.com/news/here-s-how-opensea-nft-hacks-hurt-owners-buyers-and-even-entire-collections>>

In Mr. Acres' case, OpenSea took over two days to respond to his report of a theft of several high-value NFTs. Frustrated and believing that OpenSea bore some responsibility for what had occurred, Mr. Acres noted that OpenSea should be liable for monetary damages. In response, OpenSea locked Mr. Acres account without notice, request, or permission. Mr. Acres repeatedly requested that his account be unlocked. OpenSea refused to unlock Mr. Acres account for three months, making it impossible to trade Mr. Acres NFTs, transfer the NFTs to another wallet, or otherwise manage his assets. OpenSea demanded that Mr. Acres swear under oath that his wallet has not been compromised (meaning OpenSea would not be liable) to unlock Mr. Acres NFTs.

OpenSea held 58 of Mr. Acres NFTs ransom for 3.5 months. Mr. Acres is an active NFT trader, having processed 722 trades from January 2022 until OpenSea surreptitiously and fraudulently locked Mr. Acres account. Nullifying Mr. Acres' ability to trade 58 NFTs for almost four months has resulted in substantial losses.

OpenSea represents that its users' NFTs are not in the custody of OpenSea. Yet, most OpenSea members are unaware that OpenSea can seize your NFT assets and preclude you from moving or trading your NFTs for days, weeks, months, or presumably forever, even if you did nothing wrong. Despite holding itself out as part of the Web3 ecosystem, OpenSea has proven it operates with the classic Web2 ethos of profits over people. OpenSea refuses to accept any accountability or provide transparency in its dealings with its users.

Even though blockchains and the technology associated with them may be decentralized in theory, OpenSea and its platform is a centralized entity that uses its account owners for their own purposes. OpenSea does not share governance with its community. OpenSea portrays itself as a platform for all levels of NFT buyers and sellers. Much like the rug pull, which has been the unfortunate hallmark of NFTs in 2022, OpenSea is nowhere to be found when you need them most.

As a result of OpenSea's failure to provide support, Mr. Acres' stolen NFTs were sold to (presumably) an innocent third-party purchaser. As a result of OpenSea's unauthorized locking of Mr. Acres' account and refusal to unlock that account, OpenSea took control of Mr. Acres NFTs for 3.5 months, making it impossible for Mr. Acres to trade those NFTs in a falling market.

As you know, OpenSea makes it impossible to see relevant versions of its Terms and overwrites the terms and policies as part of its approach. This is one of several reasons why some more restrictive terms may not be enforceable in court.

Mr. Acres has suffered significant damages as a result of OpenSea's conversion of his assets, reckless disregard for its customer support and safety promises, its violation of its own policies, and extortion. These damages include:

- \$26,046.95 USD: [HAPE #5297](#) (Purchased for 4ETH / 14th February 2022 - [\\$11,724.48](#) USD) & [Kiba #2299](#) (Purchased for 4.89ETH / 11th February 2022 - [\\$14,322.47](#)) with a combined total purchase value of \$26,046.95 USD.
- \$500,000.00 USD: In trading damages and consequential losses resulting from the frozen account since July 12, 2022.

Consider this letter notice of intent to file and request for dispute resolution under paragraph 16 of the TOS. We are still considering whether to file this matter in state court or in arbitration. It is unclear to us which terms, if any, are enforceable. Under the basic principles of New York contract law, several courts have previously found arbitration clauses within terms of service to be unenforceable for numerous reasons. See *Applebaum v. Lyft, Inc.*, 263 F. Supp. 3d 454, 465 (S.D.N.Y. 2017) (arbitration clause held unenforceable where there was

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no requirement for plaintiff to view the terms of service); *Specht v. Netscape Communications Corp.*, 306 F.3d 17, 23 (2d. Cir. 2002) (refusing to enforce terms of use that “would have become visible to plaintiffs only if they had scrolled down to the next screen”); *Scotti v. Tough Mudder Inc.*, 97 N.Y.S.3d 825 (2019) (finding both the arbitration clause and waiver of liability provision to be unenforceable due to improper notice).

Understand that this letter is not intended to be a complete statement of the facts or law, and our client reserves any and all rights, including the right to initiate a lawsuit for relief, or other action, at any time and without notice to you, remedies and defense available under law.

Please schedule a call to discuss mediation or other dispute-resolution issues. My Calendar link is <https://bit.ly/enrico30minute>. We look forward to your prompt attention to this matter.

Sincerely,

TRAVERSE LEGAL, PLC

A handwritten signature in black ink, appearing to be 'ES' with a stylized flourish.

Enrico Schaefer

enrico@traverselegal.com

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Exhibit A

Timeline of the sequence of events pertaining to the communications between Robert Acres and OpenSea.

Case I.D's = #631600 / #717583 / #643576



Robert R Acres

Jul 12, 2022, 2:11 PM UTC

2 NFT where stolen from my account:

<https://opensea.io/assets/ethereum/0xd2f668a8461d6761115daf8aeb3cdf5f40c532c6/2299>

<https://opensea.io/assets/ethereum/0x4db1f25d3d98600140dfc18deb7515be5bd293af/5297>

I request that they are returned to my wallet immediately and that they scammer is stopped.

My wallet address is above and it's where the items where stolen from

(0x198245020540F70814eCab6E4b9d54bD52ebE99e)

Please help



OpenSea Support <support@openseahelp.zendesk.com>
to me ▾

12 Jul 2022, 15:11 ☆ ↶ ⋮

Thanks for contacting **OpenSea**

We've received your message and will respond as soon as possible.

Your ticket number is: 631600

Our customer support team is working around the clock to provide the best service possible, but due to our current support ticket volume, our responses can take up to a week. We appreciate your patience while we look into your issue.

In the meantime, we recommend checking out our Help Center here: <https://support.opensea.io/hc/>

As a reminder, we will never ask for your wallet seed phrase, recovery phrase, or private key. There are many sites and users on the internet pretending to be **OpenSea** support, so please keep this information secure and don't share it with anyone.

- The **OpenSea** Support Team

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Robbie Acres <robert.r.acres@gmail.com>
to antifraud ▾

12 Jul 2022, 15:40 ☆ ↶ ⋮

I have raised a ticket directly after two NFTs were stolen from my account.

<https://opensea.io/assets/ethereum/0x4db1f25d3d98600140dfc18deb7515be5bd293af/5297>

<https://opensea.io/assets/ethereum/0xd2f668a8461d6761115daf8aeb3cdf5f40c532c6/2299>

I have flagged both NFT's and reported them both. The wallet that they were transferred from illegally was 0x198245020540F70814eCab6E4b9d54bD52ebE99e to the scam account 0x1C83B73a52a29F31542C04a50d63dF9D8950649a

I have noted this and have done all relevant steps to ensure that the NFTs are returned to me correctly. I have notified all communities of this but there is nothing that they can do from their end.

I, therefore, request that **OpenSea** step in immediately and mediate if this is not the case I will be starting legal proceedings as selling stolen goods on **OpenSea** should not be allowed

Thanks,

Robbie Acres

+44 7730869455

✓ Sender notified by
[Mailtrack](#)



Adam (OpenSea)

Jul 12, 2022, 4:33 PM UTC

Hi there,

Thanks for reaching out with this report.

After checking our internal records, it looks like [the email address associated with your **OpenSea** account is different from the one you used to create this ticket] OR [you don't have an email address associated with your account].

In order to make sure you're the owner of the account associated with your wallet address:

- Can you please re-submit your ticket using the email address associated with your account?
- OR can you please link the email you used to create this ticket to your **OpenSea** account? You can do so by navigating to your Profile Settings, and adding your email address under "Profile Details." Please reply to this ticket once you've updated your email address.

I sincerely appreciate your patience. Please let me know if you have any other questions - I'm happy to help.

Kind regards,

OpenSea Customer Experience Associate

Adam

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Robbie Acres <robert.r.acres@gmail.com>
to OpenSea ▾

Tue, 12 Jul, 17:37 ☆ ↶ ⋮

Hi Adam,

The email has been updated and is correlated to the one that I am emailing from now, can you please resolve the issue.

Both items have already been resold since the issue was raised.

Thanks,

Robbie Acres

+44 7730869455



Robbie Acres <robert.r.acres@gmail.com>
to OpenSea ▾

12 Jul 2022, 18:03 ☆ ↶ ⋮

Hi Adam,

By way of evidence, both NFTs again were stolen from my account. I notified **Opensea** immediately prior to them being listed by the scammer at this point they should have been removed from sale and returned to my wallet. This has not been the case and both were sold as shown below:

<https://opensea.io/assets/ethereum/0xd2f668a8461d6761115daf8aeb3cdf5f40c532c6/2299>

<https://opensea.io/assets/ethereum/0x4db1f25d3d98600140dfc18deb7515be5bd293af/5297>

Pursuant to D'Aloia v. Persons Unknown & Binance Holdings LTD court proceedings ruled in favour of the plaintiff (attached) "exchanges have a duty of care to act upon fraudulent matters" and if they don't they are in breach of trust. I will give **Opensea** enough time to investigate the matter but I would like either of two outcomes to happen:

- a) purchase price that I paid for the items returned to me 8.89ETH credited to my wallet on file:
- b) the items returned to me as they were sold after a theft had occurred.

I appreciate your help in this matter and expect an expedited resolution to the problem if not I will have to seek remuneration via legal means.

Thanks,

Robbie Acres

+44 7730869455



One attachment • Scanned by Gmail ⓘ



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Robbie Acres <robert.r.acres@gmail.com>
to antifraud, OpenSea ▾

Wed, 13 Jul, 09:34 ☆ ↶ ⋮

Hi Adam / AntiFraud Team,

I am still waiting on an update on the following again all of the information was provided as soon as the fraud occurred providing **Opensea** ample time to halt any further transactions on the aforementioned NFT's and yet they were sold by the person/s that committed the theft.

This is in breach of recent rulings in the UK that have set a precedent for this issue. I need this problem resolved as soon as possible, I appreciate that your teams are presumably busy but none the less all steps were taken to ensure that this didn't happen and yet it did.

As previously explained there are 2 outcomes from this:

- a) The NFT's are returned to me as they were sold after a theft had occurred
- b) The purchase price that I paid for the items returned to me 8.89ETH credited to my wallet on file

I would really appreciate a swift resolution to this problem.

Thanks,

Robbie Acres

+44 7730869455



Robbie Acres <robert.r.acres@gmail.com>
to OpenSea, antifraud ▾

14 Jul 2022, 10:03 ☆ ↶ ⋮

Hi **OpenSea** Team,

I am not letting the issue go you knowingly allowed the sale of stolen assets. Again I will be giving **Opensea** till the end of the week 15.07.2022 at 18:00 BST to respond to these threads of emails with a resolution.

8.89ETH (\$9634.80 USD as of the time of sending this email is a significant amount to me).

Thanks,

Robbie Acres

+44 7730869455



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Adam (OpenSea)

Jul 14, 2022, 7:45 PM UTC

Hi there,

Thanks for your patience with this delayed response. We're working through tickets in the order in which they were received – I understand this is frustrating, and I apologize.

I'm a specialist on the User Safety team, and I'm here to clarify what happens next and where I can take action to help mitigate the situation.

It's important to note that actions on the blockchain are not reversible, and as a result, we will not be able to recover lost funds or NFTs that have been transferred out of your wallet. I know this is disappointing, and it's not the answer you were hoping for.

To mitigate the situation, I've banned the bad actor's account and frozen the items below:

<https://opensea.io/assets/ethereum/0xd2f668a8461d6761115daf8aeb3cdf5f40c532c6/2299>

<https://opensea.io/assets/ethereum/0x4db1f25d3d98600140dfc18deb7515be5bd293af/5297>

Please note we are unable to freeze any ERC1155 NFTs with multiple owners at this time.

This will prevent these items from being bought or sold using **OpenSea**, as the sale of stolen items is against our [Terms of Service](#). Please respond to this email and let me know if an item is missing from this list.

I've also locked your account in order to prevent further damage. If you don't believe your wallet is compromised, please reply to this email with "I confirm my wallet is not compromised," and I'll unlock the account. If you wish to unlock your compromised account, later on, you'll need to provide us with a notarized statement.

Next steps:

- Install a new wallet and transfer all remaining valuable assets to that new wallet. Some of our users do this by using wallets like MetaMask (ETH) or Phantom (SOL). Please note that these are third-party products, and we cannot make any guarantees about their service.

I'm here to help if you have any other questions or concerns.

Kind regards,

OpenSea Customer Experience Associate

Adam

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Robbie Acres <robert.r.acres@gmail.com>
to OpenSea, antifraud ▾

18 Jul 2022, 11:25 ☆ ↶ ⋮

Hi Adam,

Thanks for getting back to me and understand that the team must be inundated with customer requests.

No requests were authorised and no transactions signed so I have no idea how the thief gained access to the NFT's in question. The only signature was on a listing on [Opensea](#).

Banning the users account does nothing as they can set another one up in a matter of seconds and they had already sold the majority of the stolen items prior to you doing this. Also freezing the items is useless as they can then be sold on other marketplaces so again doesn't solve any of the issues.

More to the point I notified [Opensea](#) immediately when the items were stolen and this should be an automatic action taken. In no other marketplace are you able to list stolen goods? I am requesting that [Opensea](#) cover the losses for the stolen items at the cost price (8.89ETH) if this is not done so by EOD Friday 22nd July I will start legal proceedings to recoup my funds in both the UK & US where there is legal precedent that clearly states the aforementioned action is illegal for a marketplace to conduct.

The wallet for the fund transfer is 0x198245020540F70814eCab6E4b9d54bD52ebE99e just so you have it on file.

I do not wish my account to be locked as I still have to sell out of a lot of positions so please remove any lock on my account immediately.

Thanks,

Robbie Acres

+44 7730869455

...

✓ Sender notified by
[Mailtrack](#)

Robbie Acres <robert.r.acres@gmail.com>
to OpenSea, antifraud ▾

21 Jul 2022, 08:49 ☆ ↶ ⋮

Why am I still waiting for this to be resolved?

You are not only impeding my ability to trade as well as adding to the distress along the process.

Unblock my account IMMEDIATELY. I never asked for this to be actioned and no idea how this is policy to do so.

Thanks,

Robbie Acres

+44 7730869455

✓ Sender notified by
[Mailtrack](#)

...

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Nor A.
OpenSea Customer Experience (OpenSea)

Jul 22, 2022, 3:57 AM UTC

Hi Robbie,

I'm happy to clarify and sorry for any confusion.

Since you reported an item as stolen or sold without your permission, your account has been locked as a precaution.

If you don't believe your account is compromised, you can reply to this email with "I confirm my wallet is not compromised" and I'll unlock your account.

I wouldn't recommend taking this action if your seed phrase was compromised or if you believe the bad actor has access to the contents of your wallet.

Please let me know how you'd like to proceed.

Nor A.

OpenSea Customer Experience

Your **OpenSea** code is 111591 🔍 Inbox x



OpenSea <support@soraid.com>
to me ▾

Thu, 29 Sept, 18:57 ☆ ↶ ⋮



To continue with **OpenSea** enter the verification code below:

111591

If you didn't create an account with **OpenSea**, you can safely delete this email.

Secured by [Sora ID](#) - Update your [email preferences](#)

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Robert R Acres

Sep 29, 2022, 10:46 AM PDT

This is a follow-up to your previous request [#631600](#) "Stolen NFT"

Hi,

My account is still locked and I cannot transfer any of my currently held NFT's to a new wallet to trade.

I am also seeking legal action against [Opensea](#) for the stolen items that you where not able to place a hold on selling even though fraud had been committed and you had ample time to register this and resolve the issue. I will be suing for the full purchase amount of the NFT's themselves.

Actions to be taken immediately. Unlock my wallet so I can safely transfer my NFT's to another wallet address (I would like this actioned within 24hrs) + acknowledge that a suit will be filled.

Thanks,

Robbie Acres

+44 7730869455

Sender notified by

Mailtrack (https://mailtrack.io?utm_source=gmail&utm_medium=signature&utm_campaign=signaturevirality11&) 29/09/22, 18:41:48



Timothy (OpenSea)

Sep 29, 2022, 10:56 AM PDT

Hi there,

Since you previously locked your [OpenSea](#) account, in order to re-enable buying, selling, and transferring of your items using [OpenSea](#), we will need you to withdraw your previous report:

Next steps:

1. We will need to verify your identity. Please use the link below and provide the required information within 10 days of this email, so we can begin our review process to re-enable your account: https://verify.soraid.com/verify/?token=verify_token_AlaVA40jiAZ7RsEgWdEkqeZfy4K7Rfe8
2. Please provide the following statement:

I certify under penalty of perjury that I have learned additional information and would like to withdraw my report that my wallet [insert wallet address] was compromised. I would like for [OpenSea](#) to re-enable buying, selling, and transferring of the item(s) in this wallet using [OpenSea](#). I understand that this action is not reversible.

As soon as I receive this information I'll be able to re-enable your items for buying and selling using [OpenSea](#). Please let me know if you have any questions in the meantime.

Best,

Timothy



Robert R Acres

Sep 29, 2022, 11:05 AM PDT

Hi Timothy,

1. Identity has been confirmed by Sora.

2. My entire legal case is centred around the fact that my wallet was compromised and [Opensea](#) did absolutely nothing to rectify the situation and act upon a fraudulent member re-selling a stolen item. I legally have a right to my NFT that are held in my wallet 0x198245020540F70814eCab6E4b9d54bD52ebE99e and also have the legal rights to transfer them to a wallet that is not compromised.

Please do so with immediate effect or loop in a relevant person that can do so.

Thanks,

Robbie Acres

+44 7730869455

November 8, 2022

Page 17 of 22



Robert R Acres

Sep 30, 2022, 1:53 AM PDT

Again I have done all relevant task the pertain to the unlocking of my account so I can transfer my NFT's from my compromised wallet (0x198245020540F70814eCab6E4b9d54bD52ebE99e) to a new one.

Please action this immediately or escalate this to a person that can do so. It has been far to long and this only builds into my case of negligence from **Opensea's** end.

Thanks,

Robbie Acres

+44 7730869455



Sender notified by
[Mailtrack](#)



Robert R Acres

Oct 2, 2022, 8:51 AM PDT

Again this is now the 4th email that I have sent in a matter of days requesting that my account be unblocked. I have done all that is requested in terms of identity verification.

At every junctor, OS has been poor UX and the lack of urgency that inquiries are answered is again costing me money as I cannot trade my NFT's as they are still locked.

If this is not facilitated in 24hrs I will be adding this negligence to my claim against **OpenSea** as it's having a negative impact on my portfolio due to the inadequacies exhibited by you company.

Do the right thing.

Robbie Acres

+44 7730869455



Sender notified by
[Mailtrack](#)

[Remove](#)



Robert R Acres

Oct 3, 2022, 2:52 AM PDT

How am I still waiting for this to be resolved? It has been 4 days since ID has been verified and this entire case has been now going on for months.

Please escalate this to the highest means to sort this out, again every misstep from **OpenSeas** part will be included in my legal case against the company for inadequacy and add to the loss of funds.

Thanks,

Robbie Acres

+44 7730869455



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November 8, 2022

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Timothy (OpenSea)

Oct 3, 2022, 7:16 AM PDT

Hi there

Please provide the following statement:

I certify under penalty of perjury that I have learned additional information and would like to withdraw my report that my wallet [insert wallet address] was compromised. I would like for **OpenSea** to re-enable buying, selling, and transferring of the item(s) in this wallet using **OpenSea**. I understand that this action is not reversible.

Best,

Timothy

Robbie Acres <robert.r.acres@gmail.com>
to OpenSea ▾

3 Oct 2022, 15:37 ☆ ↶ ⋮

Again I am repeating myself on this. I refuse to issue that statement back as my wallet was compromised and I need to transfer my NFT's to a new wallet this is the full premise of my suit against **OpenSea**.

"I would like for **OpenSea** to re-enable buying, selling, and transferring of the item(s) in my wallet (0x198245020540F70814eCab6E4b9d54bD52ebE99e) using **OpenSea**. I understand that this action is not reversible."

Please make sure this is action IMMEDIATELY.

Thanks,

Robbie Acres

+44 7730869455



Sender notified by
[Mailtrack](#)

Robbie Acres <robert.r.acres@gmail.com>
to OpenSea ▾

5 Oct 2022, 13:30 ☆ ↶ ⋮

Again to followup the previous 5 emails clearly stating that all relevant and necessary points have been checked and I should have full access to transfer my NFT from 0x198245020540F70814eCab6E4b9d54bD52ebE99e to a secure wallet but still cannot.

I am in awe at the ineptitude of **OpenSea** and the unwillingness to unlock my account and the vagrant violation of my rights trying to get my to contradict my suit against you and holding my wallet ransom. It really is deplorable and I honestly am looking forward to the day when you receive notification from my legal team on this matter as your current format of account security / customer service / customer excellence is horrific.

I request that this be escalated to someone with authority to resolve the problem immediately.

Thanks,

Robbie Acres

+44 7730869455



Sender notified by
[Mailtrack](#)

November 8, 2022

Page 19 of 22

Robbie Acres <robert.r.acres@gmail.com>
to OpenSea ▾

14 Oct 2022, 11:33 ☆ ↶ ⋮

Again this issue has still not been solved, this is now going on for 3 months (initial contact made on July 12th 2022) I will be seeking legal action for a variety of issues.

I request that a full transcript be sent to my of any and all closed and **open** support tickets with **OpenSea**. I am again thoroughly disappointed with the service that you have provided through the entire case.

Thanks,

Robbie Acres

+44 7730869455

Robbie Acres <robert.r.acres@gmail.com>
to OpenSea ▾

24 Oct 2022, 21:03 ☆ ↶ ⋮

This is the last correspondence that I will have without the conduit of my legal counsel. I have engaged the services of a top-tier law firm (Traverse Legal) to represent me in the lawsuit.

I am giving you the final chance to avoid litigation and will accept reduced damages to expedite proceeds totalling **\$126,046.95** settled immediately which is broken down below :

- **\$26,046.95 USD**: [HAFE #5297](#) (Purchased for 4ETH / 14th February 2022 - [\\$11,724.48](#) USD) & [Kiba #2299](#) (Purchased for 4.89ETH / 11th February 2022 - [\\$14,322.47](#)) with a combined total purchase value of \$26,046.95 USD.
- **\$100,000.00 USD**: In trading damages and consequential losses resulting from the frozen account since July 12th 2022
- Immediate unfreezing of my wallet 0x198245020540F70814eCab6E4b9d54bD52ebE99e with the ability to trade my 58 assets that have been held by **Opensea** illegally for now over 5 months.

I will give you 48hrs to revert back with your decision on the discounted settlement figure aforementioned of **\$126,046.95** & initiate the settlement to wallet address 0x198245020540F70814eCab6E4b9d54bD52ebE99e. After the given time has expired I will instruct my legal team to move forward with the lawsuit at which time the full multiplier of damages will be attributed to the lawsuit.

Thanks,

Robbie Acres

+44 7730869455

✓ Sender notified by
[Mailtrack](#)



Robert R Acres

Oct 28, 2022, 10:29 UTC

This is a follow-up to your previous request [#717583](#) "Re: **OpenSea** Re: Stolen NF..."

I have given the **Opensea** team ample time to resolve this without heading down the legal route you are unwilling to action anything and my wallet still remains locked.

All communication will be via my legal team and I request that all correspondence pertaining to any tickets raised from this email be sent to me immediately.

Robbie Acres

+44 7730869455

Sender notified by
Mailtrack (https://mailtrack.io?utm_source=gmail&utm_medium=signature&utm_campaign=signaturevirality11&) 28/10/22, 11:26:56

November 8, 2022

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Timothy (OpenSea)

Oct 28, 2022, 19:44 UTC

Hi there,

I've unlocked your account as requested. You can now use your account to buy, sell, or transfer NFTs using [OpenSea](#).

Thanks for your patience with this process and please let me know if you have any other questions.

Best,

Timothy

Exhibit B

- Announcing OpenSea’s new funding (04.01.2022) (<https://opensea.io/blog/announcements/announcing-openseas-new-funding/>)
 - “OpenSea’s vision is to become the core destination for these new open digital economies to thrive, building the world’s friendliest and most trusted NFT marketplace with the best selection”
 - OpenSea “have raised \$300 million in Series C funding at a \$13.3 billion post money valuation. We have four goals for this funding: 1) accelerate product development, 2) **significantly improve customer support and customer safety**, 3) meaningfully invest in the wider NFT and Web3 community, and 4) **grow our team.**”
 - “We’re actively expanding our efforts across customer support, trust and safety, and site stability and integrity. This includes both product and technical investments to enable systems that protect and empower our users, as well as significant investments in in-person customer support operations. We’ve already scaled our customer support and trust and safety teams to more than 60 people, and expect to more than double that team by the end of this year.”
- NFT Marketplace OpenSea Valued at \$13.3B in \$300M Funding Round (<https://www.coindesk.com/business/2022/01/05/nft-marketplace-opensea-valued-at-133b-in-300m-funding-round-report/>)
 - OpenSea said in a blog post it plans to use the funding for product development, hiring and startup investments and to “**significantly improve customer support and customer safety.**”
- After Raising Another \$300 Million in Funding, NFT Marketplace OpenSea Is Now Valued at an Extraordinary \$13.3 Billion (<https://news.artnet.com/market/opensea-300-million-funding-2056467>)
 - “Special emphasis will be placed on OpenSea’s customer support and trust and safety teams”, Finzer said, “with a plan to double those departments’ 60-some employees by the end of this year”.
 - Finzer added “OpenSea’s vision “is to become the core destination for these new open digital economies to thrive, **building the world’s friendliest and most trusted NFT marketplace** with the best selection.”
 - Last week, art dealer Todd Kramer of New York’s Ross and Kramer Gallery claimed that 15 NFTs, including several Bored Apes, altogether worth an estimated \$2.2 million, [had been stolen from his Ethereum wallet](#). In a controversial move, OpenSea subsequently “froze” the digital assets, meaning they could no longer be traded on the platform, causing some in the crypto community to question the company’s commitment to decentralization.
- Why OpenSea’s NFT Marketplace Can’t Win (10.02.22) (<https://www.wired.com/story/opensea-nfts-twitter/>)

o Mack, the OpenSea spokesperson, says that the company’s “policies prohibit plagiarism and copyminting, which we regularly enforce in various ways, including delisting and in some instances, banning accounts,” and that OpenSea is developing technology—including automated moderation, image recognition, and enhanced search tools—to better address the problem. **Mack says that the company is aiming to respond to customer reports in less than 72 hours on average** (rather than the week artists claim it takes to get a response) and is **planning to have a team of “nearly 200 people” in customer support by the end of the year, having already added more than 100 in the past two months.**