

IN THE HIGH COURT OF JUSTICE
BUSINESS AND PROPERTY COURTS
OF ENGLAND AND WALES
INTELLECTUAL PROPERTY LIST (CHD)

Before: Mr Justice Mellor

CRYPTO OPEN PATENT ALLIANCE v WRIGHT (IL-2021-000019)
(“the COPA Claim”)

WRIGHT AND ORS. v BTC CORE and ors. (IL-2022-000069)
(“the BTC Core Claim”)

SKELETON ARGUMENT OF THE CLAIMANT IN THE COPA CLAIM
FOR PTR FLOATING 13-15 DECEMBER 2023

*Note: Opus2 references take the form: {**Bundle / Tab / Page**} for documents in the main OPUS bundles and {**PTR / Tab / Page**} for PTR documents also located in OPUS*

A suggested pre-reading list is at Appendix 1

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11 December 2023

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Introduction

1. The COPA Claim concerns whether Dr Wright is the pseudonymous inventor of Bitcoin, Satoshi Nakamoto. The main trial in the COPA claim, which will serve as the trial of the “Identity Issue” in the BTC Core, Coinbase and Kraken claims is due to commence on 15 January 2024 and run to 8 March 2024. The January 2024 listing was first set after the CCMC of September 2022. This and related actions have been docketed to Mellor J since January 2023. A carefully structured timetable was set at the CCMC, and since June 2023 Mellor J has made a series of decisions with the clear objective of maintaining that trial date.¹
2. This PTR hearing is to address: (1) Dr Wright’s application of 1 December 2023 (a) to adjourn the trial, (b) to rely on ‘newly disclosed’ documents and (c) for various additional directions, including an extension of time for reply fact evidence and new expert directions; and (2) a number of conventional, and relatively uncontentious PTR matters.
3. Dr Wright’s Application: This seeks a full adjournment of the trial, as was made clear by Shoosmiths’ letter of 5 December 2023 to the Court. Although the application originally sought a deferral of one month, it is now accepted that that would be infeasible.² While Dr Wright suggests that the trial might be put back by three months, it is understood that the Court could not relist such a trial before late January 2025. Dr Wright also seeks permission to rely upon documents from three sources which he has disclosed very late. He seeks to defer reply fact evidence by six weeks; to introduce a new expert discipline (Latex software); and to provide for further reports of forensic documents experts.
4. Dr Wright’s application is answered by Sherrell 18 {PTR/B1/1} and by a third report of Mr Madden {PTR/B2/1},³ COPA’s forensic documents expert. In short, this application should be refused for the following reasons:
 - 4.1. The trial date has been set for over a year and there are powerful reasons of justice for the date to be retained and the Identity Issue to be resolved for the four conjoined

¹ In the Coinbase Claim CMC of 25 May 2023, Mellor J opened with a preliminary indication that “*the issue of whether Dr Wright is Satoshi Nakamoto is only going to be tried once in this set of four actions, and that trial is going to take place in January in the slot already allocated to the COPA trial. It is going to take something to move that*” (transcript, p1, lines 5-9). So, nobody could have doubted the importance of keeping the trial date.

² A one-month deferral would have required COPA to recruit a new counsel team, and Shoosmiths in their letter accept that that should not be required. It is also doubtful that the Court could have accommodated such a deferral.

³ COPA seeks permission to rely upon this report in answer to Dr Wright’s application.

actions (as well as the UK and Norwegian Granath cases which are stayed pending the decision in this case).

- 4.2. The principal basis for the application is that Dr Wright and his lawyers have persistently failed to give proper disclosure, such that new stores of documents have purportedly been discovered and Dr Wright wishes to rely on selected documents from those stores. Even taking the reasons at face value, they are bad reasons. Dr Wright seeks to blame COPA, but that is hopeless.
 - 4.3. Dr Wright's account of why the new documents were not disclosed earlier, as well as how and when they were discovered, is highly suspect. There is strong evidence (set out in Sherrell 18) that he has lied about the discovery, apart from other implausible features of his story.
 - 4.4. As may be seen from Mr Madden's third report and Sherrell 18, there is powerful evidence that the "newly discovered" documents and the key new document source (the BDO Drive) have been manipulated very recently, including by backdating metadata timestamps. This is part of a pattern which Dr Wright had followed since the service of Mr Madden's first report, whereby he has distanced himself from his original Reliance Documents and put forward "newly discovered" material. Mr Madden's second report has already debunked such new material and accounts of Dr Wright. The yet further new documents now relied on in this application (addressed in Madden 3) also, would not, on any view have the special evidential weight Dr Wright seeks to give them.
 - 4.5. The extensions of time and additional expert evidence are not justified. As a result of his application, Dr Wright has already obtained a de facto extension of two weeks for reply fact evidence. That evidence must now be served. The experts have finished their work, and further expert evidence is not warranted. In particular, the forensic documents experts have signed their joint statement {Q/2/1}, in which Dr Placks agrees with Mr Madden's findings on most of the documents Mr Madden considered (to the effect that metadata timestamps have been manipulated in 22 Reliance Documents – with 9 other Reliance Documents agreed to be unreliable in some way).
5. Other PTR topics: These are as follows:

- 5.1. Adjustments for trial (ASD): The experts on ASD have agreed on the adjustments required at trial. Dr Wright's expert, after seeing footage of Dr Wright being cross-examined, no longer proposes the extreme measures which COPA resisted. COPA seeks its costs of ASD evidence, noting a WPSATC offer made while the September 2023 hearing was ongoing, which, if anything, was more generous than the adjustments now agreed.
- 5.2. Directions for cryptocurrency technology evidence: COPA maintains that a significant portion of the report of Dr Wright' expert addresses an issue that is outside the scope of the expert permission and irrelevant to the trial. COPA asks for a direction that this issue be excluded from consideration. Dr Wright agrees that there should be an exclusion direction, but the terms are not agreed.
- 5.3. Trial timetable: The Court is asked to consider and determine the trial timetable. There is not much distance between the parties on this topic.
- 5.4. Trial logistics: It will be necessary to consider arrangements for a hybrid hearing (allowing for remote attendance by parties), use of IT at trial and use of a super-court and/or spill-over court.
- 5.5. Length of opening skeletons: COPA proposes that opening skeletons be subject to a limit of 100 pages.⁴

Dr Wright's Application: Background

6. The three elements of Dr Wright's application notice are related to each other but are distinct. Tellingly, the application was held back and served at the very last possible moment, 3.58pm on 1 December 2023, the deadline for reply fact evidence. This application had been on the cards since 25 September when Dr Wright first revealed the "new drives" as set out below. This bears the hallmarks of an application consciously delayed until the eleventh hour.
7. The background is important because it shows how Dr Wright's current position is unjustified in relation to all elements of the application. This skeleton therefore summarises

⁴ There are a few other matters raised by the Developers that also need to be addressed and those are contained in their skeleton.

the common procedural history before addressing each element in turn. This history is set out in full in a letter from Bird & Bird of 27 November 2023 {M/2/525} and in summary in Sherrell 18 at paragraph 20 {PTR/B1/6}. What follows is a summary of those more detailed accounts.

Dr Wright’s disclosure before service of Mr Madden’s first report

8. The starting point for disclosure is what was ordered. At the CCMC, the Court ordered the parties to give disclosure according to the DRD. Section 1A of the DRD is at {K/1/1}, and the first two issues for disclosure are: (1) Whether the Defendant is the author of the Bitcoin White Paper; and (2) Whether the Defendant is the person who used the pseudonym “Satoshi Nakamoto.” The remaining issues are more granular, but these two catch-all issues were specifically included because COPA was not in a position to know what documents might exist to support or undermine Dr Wright’s claim. The Court also ordered Dr Wright to nominate the documents on which he principally relied in support of his claim to be Satoshi Nakamoto (his “**Reliance Documents**”).
9. Dr Wright had previously given disclosure in relation to his claim to be Satoshi in the *Kleiman v Wright* litigation in Florida and in the *Wright v Granath* litigation in Oslo. He had nominated principal reliance documents in that *Granath* case and also in the defamation case of *Wright v McCormack* in England. His failures of disclosure need to be considered against a background where he had searched for documents to support his claim on these occasions even before he came to give disclosure in this case.
10. Disclosure was originally ordered for 31 January 2023, but the deadline was extended to 7 March 2023. Disclosure was also ordered against a wide range of keywords – see DRD Section 2 Annex 2 {K/2/15}. After the CCMC, Bird & Bird wrote to Ontier (Dr Wright’s then solicitors) on 5 January 2023 {M/1/572} reminding them of the search parameters and that disclosure was not limited to keyword searches but required active involvement by Dr Wright.
11. On 7 March 2023, Dr Wright disclosed 4,090 docs (in the tranche known as “VOL001”): see Certificate at {K/4/1}.⁵ A further 423 documents were disclosed on 25 March 2023 (“VOL002”), and disclosure has since then been drip-fed up to VOL016. Of these, VOL008

⁵ Note that Field 1, para. 7 {PTR/A5/4}, states that extended disclosure was given from 31 January 2023; that is incorrect.

(93 documents; 25 October 2023) and VOL012 (300 documents; 8 November 2023) are said to originate from the New Drives (addressed below).

12. On 18 May 2023 {M/1/805}, Bird & Bird raised a series of enquiries in respect of the VOL001 and VOL002 disclosure and its shortcomings, including requests to assist COPA’s expert review of the documents by putting them in their proper forensic context (e.g. by provision of forensic images). The requests went unanswered by Ontier and by Travers Smith (who replaced Ontier in early June 2023) until 12 July 2023 {M/1/951}. The answers given were limited and avoided many of the questions. Since then, Dr Wright has repeatedly refused to grant COPA and Mr Madden access to the underlying forensic images or computing equipment used to interact with documents. His own expert, Dr Placks, has in general been subject to the same limitations, although he has had a greater degree of access in some respects.
13. Meanwhile, Dr Wright nominated his Reliance Documents, identifying a total of 107 by early June 2023. He has not updated his list since then, although he has cast doubt on the authenticity of many of these documents. COPA considers it revealing that Dr Wright has not formally identified any of the “new” documents as further Reliance Documents in his application. It appears they may be meant to be such, but the lack of formal nomination suggests that he is being careful not to nominate documents which may then be debunked.
14. The CCMC order had required Dr Wright to give chain of custody information in relation to his Reliance Documents. He purported to comply with that direction on 11 May 2023, but only by identifying the custodians (in most cases, himself). After being pressed for proper compliance, Travers Smith on 8 July 2023 gave a schedule of metadata which still failed to give the full chain of custody for each document. COPA had to make an application, which was ultimately conceded by letter of 11 September 2023 {M/2/169}.

Events since the service of Mr Madden’s first report

15. Mr Madden’s first report was served on 1 September 2023. As the Court is aware, it made extensive findings of document manipulation, and Mr Madden’s analysis was rightly described in the judgment of October 2023 (para. 30) as “*painstaking and detailed*” {B/26/11}. Since then, Dr Wright’s expert (Dr Placks) has considered the Reliance Documents addressed by Mr Madden and, in their joint statement {Q/2/1}, the experts have in most cases agreed that the metadata timestamps of the documents have been manipulated.

16. After receiving the report, Dr Wright accepted Mr Madden’s finding that one important document (ID003455) was inauthentic. This was an email with a screenshot of Dr Wright’s NAB bank records apparently showing him having purchased Satoshi’s Vistomail email account in 2008. On 27 September 2023, he disclosed bank statements which contradicted the document and did not include any transaction supporting his claim to be Satoshi {M/2/205}.
17. In late September 2023, more than two months before applying to this Court, Dr Wright claimed to have discovered two “new” USB drives containing relevant material (“**the New Drives**”). These were first alluded to by Travers Smith, in a letter to the Court dated 25 September 2023 {PTR/B3/1}, which stated in vague terms that “*Dr Wright has recently discovered some additional documentation that has not been disclosed.*” Dr Wright has since explained that he discovered the New Drives in a drawer on 15 September 2023 and that arrangements were then made to take forensic images of them on 20 September 2023.⁶ As set out below, there is strong evidence that this account is false and that Dr Wright was discussing the content of these New Drives with Christen Ager-Hanssen (then CEO of nChain) on 5 September 2023.
18. On 2 October 2023, Travers Smith gave a very brief account of the discovery of the New Drives, saying that Dr Wright had found a Samsung USB drive and a MyDigital USB which he claimed contained relevant documents {M/2/210}. The following day, Bird & Bird wrote pointing out that no reliance could be placed on new documents without the Court’s permission; asking for an explanation of the discovery of the drives and technical details; and requesting access to full forensic images {M/2/216}. Three days after receiving that letter, Travers Smith came off the record.
19. On 11 October 2023, Shoosmiths wrote with an account of the discovery of the New Drives, which was convoluted but again incomplete {M/2/245}. They explained that the Samsung USB drive contained an image of a drive which Dr Wright had used when he worked at BDO (2004-2009) (“**the BDO Drive**”), although the USB stick itself had been bought in 2015/16. They said that they would not review material on these New Drives against the keywords ordered at the CCMC but would instead apply a much smaller range of keywords selected by Dr Wright, and which have never been explained. Since then, Dr Wright has

⁶ Wright 5, para. 18 {PTR/A3/6}.

never reviewed the documents against the ordered keywords. He has never sought to be released from that obligation but has simply ignored it.

20. Then, on 13 October 2023, another development occurred. Shoosmiths served a long schedule of further chain of custody information {K/11/1}. This is a striking document, which (in summary) casts doubt on most of Dr Wright's Reliance Documents by saying that they could have been or were altered by many people over the years.⁷ The schedule suggests in numerous places that "newly discovered" documents are more authentic copies of the Reliance Documents listed. Likewise, with his fourth witness statement of 23 October 2023 (answering COPA's Consolidated RFI), Dr Wright exhibited a schedule of drafts of the Bitcoin White Paper in his disclosure, stating in many cases that the document could have been altered by unnamed "*research staff and consultants*" (CSW5) {F/148/1}. Pausing there, the position is that he has cast doubt on most of his Reliance Documents and has not since nominated any more.
21. After a further exchange of correspondence in which COPA pressed for further information and for access to the forensic images of the New Drives, Bird & Bird wrote on 23 October 2023 explaining in detail why the information and images were important and insisting that Dr Wright's selected keywords were inadequate {M/2/309}. On 25 October 2023, Dr Wright gave disclosure of VOL008, containing 93 documents which had been obtained from the New Drives after searches against Dr Wright's self-selected keywords.
22. On 31 October 2023, Bird & Bird wrote again asking for access to the raw image of the BDO Drive, pointing out that the image itself was a disclosable document since it had been referred to repeatedly in Wright 4 {M/2/372}. They offered to enter into confidentiality terms to address concerns previously raised. Dr Wright did not agree to that proposal. On 8 November 2023, he gave disclosure of VOL012 containing 300 documents (again, identified on the basis of Dr Wright's self-selected keywords).
23. On 10 November 2023, in response to a Court order, Shoosmiths wrote to answer questions about the New Drives and their discovery {M/2/449}. This letter stated (para. 8) that the BDO Drive had been captured on 31 October 2007 and that the Samsung USB stick contained another encrypted drive of which Dr Wright did not have the password. It stated that documents on the New Drives may have been edited while in use, but that Dr Wright

⁷ In many cases, the information given for a document is also hopelessly contradictory and confusing.

had not since then manipulated any of them. Some correspondence followed, in which Bird & Bird reiterated COPA's request for access to the forensic raw image of the BDO Drive and maintained the position previously set out.

24. On 27 November 2023, Bird & Bird sent a letter detailing the disclosure history and the unsatisfactory position with Dr Wright's disclosure, pressing requests for information and access to the forensic raw image {M/2/525}. Later that day, Shoosmiths wrote to say that Dr Wright would be disclosing yet more material, namely (a) 352 documents from the MyDigital USB drive omitted from previous disclosure; (b) some documents concerning his dispute with the Australian Tax Office also omitted before; (c) a few "newly discovered" documents concerning an LLM assignment from 2007; and (d) Latex files hosted on a web-based document editor known as Overleaf {M/2/540}. Shoosmiths said that it was critical that Dr Wright should be permitted to rely upon the BDO Drive documents and the Overleaf Latex files in particular. In this letter, they raised for the first time their request for an adjournment of the trial and the further directions Dr Wright is now seeking.
25. Dr Wright set his face firmly against provision of the BDO Drive image to COPA until 6 December 2023 {PTR/B3/133}, when Shoosmiths finally wrote suggesting that they might agree to inspection subject to confidentiality terms. By this time, COPA's evidence for this hearing, including Mr Madden's third report, was being finalised.
26. Before leaving the procedural history, another incident should be mentioned which illustrates a further notable disregard of disclosure obligations. On 25 October 2023, Shoosmiths wrote to Macfarlanes (acting for the Developers in the BTC Core Claim), saying Dr Wright could not disclose his social media posts as he "*no longer has access*" to them. However, Dr Wright has repeatedly tweeted over the recent months, which demonstrated that the statement was incorrect.⁸ Later, Dr Wright belatedly did provide some disclosure from his Slack channels. There is no plausible reason for the original failure of disclosure.

The New Documents

The New Drives: Dr Wright's Account

27. As noted above, the New Drives are Samsung and MyDigital USB drives. Field 1 (paras. 9-13) {PTR/A5/4} sets out what they contain. In his fifth statement, Dr Wright repeats the

⁸ See Sherrell 18 {PTR/B1}

account that the BDO Drive (on the Samsung USB drive) was used to store material while he was working at BDO and that the image was captured on 31 October 2007. He does not say how it came to be transferred to the USB stick (bought in 2015/16). His sworn evidence is that, while he used the Samsung USB drive up until February 2019 when it was imaged by AlixPartners, he “*did not edit or amend any documents in the BDO Drive after it was captured in October 2007*”.⁹ If that is right, then proof that any one document on the BDO drive had been deliberately edited after 31 October 2007 should undermine the entirety of his story. Dr Wright also says that the Samsung USB drive also contains an image from 2009 that is encrypted that he cannot access.¹⁰

28. Dr Wright’s story about the Samsung USB drive and its discovery is as follows.¹¹ In February 2019, his US and UK lawyers (Rivero Mestre and Ontier) conducted a document retention exercise in connection with the Kleiman Proceedings in Florida. AlixPartners were engaged by Ontier to image all his drives and they did so, attending his premises in February 2019. He was present for the visit. The drives imaged in February 2019 were then used by Ontier for disclosure in these proceedings.
29. Dr Wright then says that, in September 2023, having been ordered to provide chain of custody information for his Reliance Documents, he decided to search his house to check what drives had been imaged. On 15 September 2023, while carrying out that search he found the New Drives in a drawer. Unlike other drives in the drawer, they did not bear stickers indicating that they had been imaged by Alix Partners, which led him to think that they might not have been. He speculates that Alix Partners might not have imaged the contents of the Samsung USB drive because they might not have been able to see an encrypted partition containing the BDO Drive. Dr Wright claims that he plugged each of the New Drives into his laptop, found what they contained (but without accessing the BDO Drive) and notified both Travers Smith and Zafar Ali KC (a barrister instructed by nChain). The New Drives were then imaged by KLD Discovery for these proceedings.
30. This is a bizarre story. Dr Wright claims that, throughout the *Granath* and *McCormack* proceedings and this litigation, he and his lawyers did not properly check his home for data sources. He says that he first decided to check document sources at his home when

⁹ Wright 5, para. 9 {PTR/A3/4}

¹⁰ Wright 5, para. 8 {PTR/A3/4}

¹¹ Wright 5, paras. 11-15 and 16-23 {PTR/A3/5}

(belatedly) providing chain of custody information, but he has not explained why it was that exercise that caused him to embark on this search and find new documents which (as it happened) would conveniently replace his previous Reliance Documents. This all happened after the service of the Madden Report. It is not clear whether any enquiries have been made of Alix Partners to check if they would support Dr Wright's account or indeed if they imaged the New Drives.

The Latex documents

31. Dr Wright also claims that he has recently discovered Latex files which will produce the Bitcoin White Paper and/or parts of it. He says that these are stored on Overleaf, an online Latex editor tool. Overleaf did not exist before 2012, so the files themselves cannot date from the time of the Bitcoin White Paper.¹² However, Dr Wright says that these documents are important because it is "*practically infeasible*" for a person to create the Latex files by "*reverse engineering*" from copies of the White Paper itself and that any attempt to do so would create Latex files that did not provide as good a replica of the White Paper.¹³ All these statements are pure assertion by Dr Wright, unsupported by any other evidence. As explained below, Dr Wright's account that the White Paper was drafted in Latex is wrong, as is his claim that production of a good replica from PDF to Latex is impossible.
32. Dr Wright has refused to disclose the Latex files to COPA, insisting on highly unusual confidentiality terms which go well beyond the norm (e.g. requiring recording of the opening and deletion of documents). COPA has offered to agree *pro tem* confidentiality terms in line with those of the Patents Court Guide. Dr Wright has refused. His reason for demanding confidentiality terms is that a person with the Latex files could produce a good copy of the White Paper, which makes no sense given that the White Paper is a public document. It is also distinctly odd that he has never sought confidentiality for any of his other supposed precursor work which prove his claim to be Satoshi. The natural inference is that he has been trying to delay provision of the files.

Evidence undermining Dr Wright's Account of the New Hard Drives

33. As set out in Sherrell 18, a number of documents released on X by Mr Ager-Hanssen have provided clear evidence that Dr Wright's account is a fabrication. First, on 5 October 2023,

¹² Sherrell 18, paras. 91-92 {PTR/B1/29}

¹³ Field 1, paras. 27-33 {PTR/A5/10}

Mr Ager-Hanssen released WhatsApp messages from Dr Wright dated 5 September 2023 in which he wrote: “*The encrypted drive*” “*Has everything*”; “*4 million pages*”; “*Accounts*”; “*Tax*”; “*Letters*”; “*You name it*”; “*I have a 2009 drive... that likely has more... Password to find*”; “*But, so much it is ridiculous*” Exhibits PNS-122 – 124 {PTR/B9-B11}. Among these, Dr Wright had sent a screenshot of a supposed paper about the “*Hashcoin White Paper*”. This is the PDF output of a Latex file at ID004715, one of the documents from the BDO Drive on which Dr Wright is now seeking to rely. It is not elsewhere in his disclosure.

34. The obvious meaning of these messages is that Dr Wright was claiming on 5 September to have found the BDO Drive. There is no other important new “*encrypted drive*” which he could be describing, and the reference to a 2009 drive with a password to find must be a reference to the other drive mentioned in his statement. The screenshot ties his messages clearly to the BDO Drive. The reason why he has had to date his discovery of the New Drives later is not hard to find: Travers Smith only offered to provide additional chain of custody information by letter of 11 September 2023, so his account of that exercise prompting the search of his house could only explain a later discovery.
35. Secondly, in responding to another of Mr Ager-Hanssen’s releases through his third statement, Dr Wright has exhibited images of his computer screen (CSW4), which show his September 2023 search history saved within the BDO Drive, but apparently with a timestamp dating to 2004: see Sherrell 18, paras. 56 to 64 {PTR/B1/21-23}
36. Thirdly, another of Mr Ager-Hanssen’s releases was an extract from an nChain report confirming that the BDO Drive contained websites from 2023, and adding that Dr Wright had been researching backdating of files. The extract added that Dr Wright had accessed an online Q&A, asking if anything in the Bitcoin White Paper was compiled in Latex. See Sherrell 18, paras. 65-68 {PTR/B1/24-25}

Evidence undermining the new documents

37. In the brief time that Mr Madden has with the new documents, he has already established serious problems with them. His third report is at {PTR/B2/1} and it concludes:
 - 37.1. BDO Drive image content manipulated: Based on information in a short memorandum of Stroz Friedberg (digital forensics consultants) (“**the SF Report**”) which has been provided by Shoosmiths, coupled with information from Dr Wright,

the internal content of the BDO Drive image is not authentic and has been manipulated. The most likely date of creation is 17 September 2023. The BDO Drive image could be based on an image created in October 2007, but it must have been subsequently altered.

- 37.2. BDO Drive and image modified and data deleted in September 2023: As the SF Report makes clear, the Recycle Bin of the Samsung USB drive was emptied in September 2023. Data from the drive were deleted, including two documents: one probably a PDF export of one of the 97 new documents on which Dr Wright now seeks to rely; the other possibly a compressed copy of the BDO Drive itself.
- 37.3. Clock manipulation / metadata editing in relation to the BDO Drive: The information in the SF Report reveals impossible metadata records (e.g. records of files being deleted before their creation), which indicate the use of clock manipulation as well as direct editing of metadata timestamps.
- 37.4. Low-metadata documents: The great bulk of the 97 documents on which Dr Wright now seeks to rely are in formats with little or no metadata for forensic analysis. Eight are in a proprietary format which Mr Madden cannot analyse.
- 37.5. Documents in the BDO Drive post-dating 2020 / metadata tampering and backdating: Despite most of the 97 documents not being susceptible of proper forensic analysis, Mr Madden has found that (a) eight were created in the period 2020-23; (b) one is inauthentic to its June 2007 timestamp because it was created and modified using a version of MS Word not released at the time; (c) two Latex documents have references to software packages released years after 2007; and (d) metadata timestamps for a PNG image and two related Latex files indicate the use of tools which edit metadata directly.
38. Dr Wright has tried to explain the findings of the SF Report concerning emptying of the Recycle Bin by saying that it may have been automatically emptied when he plugged the Samsung Drive into his computer in September 2023.¹⁴ He identifies a number of software systems and processes which he says could have this effect. Mr Madden has rejected this explanation. The software systems and processes identified would not explain the findings

¹⁴ Wright 5, para. 30 {PTR/A3/30}..

made. The BDO Drive image could only have been edited as he found if the image had been mounted, and a series of active user interactions taken place between 16 and 20 September 2023. See Madden 3 at para. 162 {PTR/B2/54}.

39. In addition, COPA has obtained witness statements from three distinguished factual witnesses to establish that documents on the BDO Drive contain features which cannot date to 2007. Mr Hinnant, lead author of the <chrono> library used for the C++ programming language, says that it was released in 2011, so that code featuring in the BDO Drive which refers to that library cannot be authentic to 2007 {C/18/1}. Dr Loretan, the developer of the Selnolig software package which is referenced in two Latex documents in the BDO Drive, says that it was not released until 2013 {C/20/1}. Prof Macfarlane, inventor of the Pandoc document converter which is referenced in a Latex document in the BDO Drive, says that the reference dates the document to 2022 {C/19/1}.
40. Mr Madden has also considered the way in which the Bitcoin White Paper was produced, to address the account now given by Dr Wright that he originally wrote it in Latex, before converting it to PDF format.¹⁵ He concludes that the content of the Bitcoin White Paper is indicative of it having been authored using the OpenOffice version 2.4 Writer application, as in fact is stated in the metadata of reliable “control copies”.
41. As also explained in Sherrell 18, Dr Wright’s claim that it is impossible to produce a good Latex “version” of the White Paper from its public PDF version is wrong. Bird & Bird have been able to achieve this by (a) hand coding by a lawyer with a little experience; (b) automatic conversion with the Aspose tool; and (c) paying an online “gig economy” contractor £20 to do the job (Sherrell 18 at para. 118 {PTR/B1/37}). Moreover, Mr Madden took one of Dr Wright’s Latex documents on the BDO Drive which supposedly contained diagrams from the White Paper and converted it to PDF, finding that the diagrams were not a good match (with notably thicker lines around boxes): Madden 3 at paras. 69-76 {PTR/B2/28-31}.
42. It should be noted that Mr Madden has already debunked material which Dr Wright has produced after receiving the Mr Madden’s first report. In particular:

¹⁵ To COPA’s knowledge, this account of Dr Wright creating the Bitcoin White Paper in Latex is a new one. He did not mention it in his main first witness statement. Even in Wright 4, he only spoke vaguely of writing the White Paper in a “complex workflow” using various formats, including Latex (para. 6(c)(i) {E/4/5}).

- 42.1. In appendix PM42 to his second report {H/209/1}, Mr Madden addresses new MYOB database files which Dr Wright provided to his expert (Dr Placks) after his original MYOB files had been shown to be inauthentic. His findings are that these were created artificially in May 2023 and backdated, with signs in the log attributing this activity to Dr Wright. In the joint expert report statements {Q/2/9}, Dr Placks agrees (these are the documents ending 4077, 4078 and 4079).
- 42.2. In appendix PM45 to his second report {H/241/1}, he addresses videos exhibited to Wright 4 which Dr Wright says show him accessing Satoshi's Vistomail account in 2019. His findings are that the web page shown has been artificially created, including because the footer on the page is not what would have appeared in 2019.
- 42.3. In appendices PM43 and PM44 to his second report ({H/219/1}, {H/238/1}) Mr Madden demonstrates that a series of statements in Dr Wright's chain of custody information schedule are wrong. In particular, documents which he claimed not to have accessed personally for some time were posted by him on Slack at times which aligned with Mr Madden's earlier findings of document alteration.

Adjournment Application

Relevant legal principles

43. The starting-point is that a trial date, once fixed, will be adjourned only if there is a material change of circumstances. The application should be made as soon as possible and never, unless avoidable, immediately before the trial (see Chancery Guide, para. 12.27). Where an adjournment is due to the fault of one party, a costs sanction will usually follow: para. 12.30.
44. The adjournment of a trial whose date has already been fixed is a "*last resort*" (White Book notes, para. 29.5.1). In *Boyd and Hutchinson v Foenander* [2003] EWCA Civ 1516 at para. 9, Chadwick LJ said that, in an adjournment application, the focus should be on the overriding objective, which "*requires the court to deal with a case, so far as practicable, in a manner which saves expense, is proportionate to the amount of money involved and allocates to it an appropriate share – but no more than an appropriate share – of the court's limited resources*". In *Fitzroy Robinson Limited v Mentmore Towers Limited* [2009] EWHC 3070 (TCC), paras. 8 to 9, Coulson J agreed and added:

“More particularly, as it seems to me, a court when considering a contested application at the 11th hour to adjourn the trial, should have specific regard to:

- (a) the parties’ conduct and the reason for the delays;
- (b) the extent to which the consequences of the delays can be overcome before the trial;
- (c) the extent to which a fair trial may have been jeopardised by the delays;
- (d) specific matters affecting the trial, such as illness of a critical witness and the like;
- (e) the consequences of an adjournment for the claimant, the defendant, and the court.”

Submissions

45. This application has been made at the eleventh hour and there are clear signs that the timing (just before the reply evidence deadline) was tactical. It could, and should, have been made immediately after the discovery of the New Drives given what Dr Wright says about those drives. That was, of course, in September. Based on the reasoning given in Dr Wright’s evidence, this is therefore an application made seriously late. In any event, the application is without merit and should be rejected.
46. First: Even taking Dr Wright’s account at face value, this application is being made because he has persistently failed to carry out disclosure properly and has now suddenly discovered new documents. This is despite the fact that he has had years and multiple legal actions during which to consider what documents he needed to prove his claim to be Satoshi. It is also despite Dr Wright having substantial financial backing to fund large legal teams in numerous heavy actions. He claims that the New Drives were not properly imaged by Alix Partners in 2019, and that neither he nor his solicitors thought to check his home properly for document storage devices in the disclosure searches for this case. As regards the Overleaf material, he claims that Ontier took the bizarre view that this was not disclosable since the documents would only be exported from the document now, after the disclosure search date ranges.¹⁶ Meanwhile, there is no explanation at all for the late disclosure of all the other material referred to in the letter of 27 November 2023.
47. Secondly: Dr Wright’s attempt to say that an adjournment is needed because of COPA’s conduct is quite hopeless. He seeks to criticise the timing or scale of COPA’s expert evidence and/or the timing of its pleaded allegations of forgery. However, COPA has acted properly throughout. It served all the relevant expert evidence by dates set or agreed. As explained at the hearing in October 2023 (and as accepted in the judgment), COPA made

¹⁶ Field 1, para. 19.2.4 {PTR/A5/7}, endorsed in Wright 6{PTR/A4}.

its forgery amendment application as soon as possible. It then provided particulars of the allegations on time as directed. Dr Wright is in truth criticising the Court's decisions, without having challenged any of them.

48. Thirdly: As explained above, there is strong evidence that Dr Wright has lied about his discovery of the New Drives; principally, the WhatsApp message to Mr Ager-Hanssen which indicates that he had the supposedly new encrypted drive which “*had everything*” by 5 September 2023 and that he did not discover it on 15 September 2023, as stated in his evidence. Dr Wright's account of his discovery of the New Drives is the factual lynchpin of the adjournment application. Once it is removed, the application has no proper basis (though the application fails for many reasons beyond just this).
49. Fourthly: There is also strong evidence that the BDO Drive has been manipulated and that documents on the BDO Drive have been forged (Madden 3, the statements of Hinnant *et al* and the search history images from CSW4). Furthermore, the SF Report, obtained and provided by Dr Wright's own legal team, supplies the basis for the findings that the BDO Drive was manipulated in September 2023, at precisely the time Dr Wright claims to have discovered it. His attempt to explain away those findings as artefacts of automatic software processes is unconvincing, as Mr Madden has shown.
50. Fifthly: The documents now discovered are simply more tranches of material found by Dr Wright after the disclosure deadline. They have no special status or additional evidential weight. As explained above, Dr Wright has given numerous late tranches of disclosure and has discovered one set of new material after another in this case. No doubt the process would continue *ad infinitum* if the trial were to be delayed (maybe with discovery of the password for the mysterious 2009 drive), but it must be brought to an end and a trial must take place.
51. Sixthly, an adjournment would be both late (three working weeks before trial) and lengthy. COPA understands that the case could not be relisted before late January 2025 at the earliest. It would be disruptive to the parties and the Court, and would have knock-on effects for other court users. As well as delaying the resolution of the COPA Claim and the BTC Core Claim by a year or more, it would delay the Coinbase and Kraken Claims to the same extent, leaving large civil claims hanging over the parties to those actions for at least a year longer than necessary. It would also delay the UK and Norwegian Granath cases. All parties to

these actions have been working on the basis that this trial would take place in early 2024 and resolve the Identity Issue.

52. Seventhly: there would be serious prejudice to COPA, the Represented Parties, the Developers and all the parties who agreed to a stay of the action if this trial was held back by a year or more. All those parties would suffer serious disruption and cost thrown away. For instance, COPA's counsel have been under brief since 23 October 2023 and substantial proportions of the brief fees incurred would be wasted. Further, the COPA claim was issued to end Dr Wright's persistent threats of litigation and ruination against those properly hosting the White Paper and developing Bitcoin technology. If COPA's claim is justified, then delaying its resolution is a denial of justice.
53. If, contrary to all those submissions, an adjournment were ordered, it should only be on the strict condition that Dr Wright pays the costs thrown away (or at least an interim payment on account of the bulk of those costs) within two days, with the adjournment only taking effect on payment. However, COPA should stress that this is very much a fall-back submission.

Application to Rely on New Documents

Relevant legal principles

54. If a party does not disclose documents by the time ordered for extended disclosure, the rules impose a sanction under CPR 57AD, para. 12.5, which states that a party may not rely upon such further documents without the permission of the Court or agreement of the parties. In *La Micro Group (UK) v La Micro Group Inc* [2022] EWHC 588 (Ch), the Court was faced with late disclosure of documents and an application to rely upon them. Refusing the application, HHJ Jarman KC said (at para. 6):

“[On] such an application for permission, the matter does not proceed simply on a consideration of relief from sanctions. Wider issues have to be considered, such as why there was a failure to produce these documents in accordance with the disclosure regime, whether they can properly be dealt with, and whether it affects any trial that is listed.”

He went on to consider these factors, noting as to the third that “*the risk that the trial will not proceed as listed or will not finish when envisaged is an important factor*” (para. 17).

Submissions

The 97 documents on the BDO Drive

55. First: As submitted above, there is no good reason for Dr Wright's failure to identify the BDO Drive earlier. His own case is based on a failure of proper disclosure in the Kleiman proceedings, followed by a failure by him and his legal team to review document sources properly for this litigation until (oddly) he chose to do so when preparing the chain of custody information (in response to a Court order itself made due to his failure of compliance with the CCMC Order). On his own telling, he did so only after receiving the first Madden Report which thoroughly debunked his Reliance Documents and showed widespread date manipulation (a point agreed by his own expert Dr Placks).
56. Secondly: As explained, there is strong evidence that Dr Wright has fabricated his account of the discovery of the New Drives. On that basis, the Court can have no confidence that this material has any value at all.
57. Thirdly: Since identifying the BDO Drive, Dr Wright has not had its contents searched properly by reference to the search terms ordered for his disclosure. Instead, he has applied search terms chosen by him which have never been explained and has selected 97 documents to deploy. He refused access to the forensic raw image until 6 December 2023, by which time it could not be reviewed so as to inform COPA's evidence on this application (as Dr Wright would have appreciated). COPA is continuing review work on the BDO file listing now provided, but so far there are further signs of anomalies and yet more potentially anachronistic content.
58. Fourthly: There is strong evidence that the BDO Drive and the material it contains have been manipulated and subject to backdating. The material has no special evidential value setting it apart from the Reliance Documents which Dr Wright nominated in March to May 2023 and which he is now abandoning. It is only another late tranche of Dr Wright's disclosure which bears clear signs of tampering.
59. Fifthly: On Dr Wright's case, the admission of this material would cause the trial date to be lost. Even if he were allowed to rely upon the material (or a limited amount of it) without the trial being adjourned, he would have secured the unfair advantage of being able

selectively to rely on material and making it more difficult for COPA to investigate and challenge the authenticity of that material.

The Latex documents

60. First: There is also no good reason for the late discovery and provision of the White Paper files on Overleaf. It appears to be Dr Wright's case that Ontier expressed the view that this material was not disclosable because, even if the files had been created within the search date ranges, they would necessarily be extracted at a later date.¹⁷ If that advice was given at all (which COPA doubts), then it was plainly wrong and does not provide a good reason for late disclosure of material. It is also odd that Dr Wright did not challenge the view, if he really thought that the files on Overleaf would provide a special and convincing way to demonstrate his authorship of the White Paper.
61. Secondly: Since supposedly remembering about this material, Dr Wright has been obstructive and unhelpful about allowing it to be reviewed. He made a baseless claim that the files were highly confidential and then insisted on confidentiality terms which were unusually and unjustifiably strict. When he was asked to supply at least the PDF outputs of his Latex files (which could not possibly be confidential, even on his case), he failed to do so. Dr Wright has also sought to deter review of the material by claiming that it has no metadata,¹⁸ when in fact Overleaf is understood to have significant metadata.
62. Thirdly: This material too has no special evidential value. There is powerful evidence that Latex files on the BDO Drive are inauthentic. The fact that these files were hosted on Overleaf does not give them special weight, since that tool did not exist before 2012. Dr Wright's claim that the Bitcoin White Paper was drafted in Latex and his documents show that he must have written it (because reverse-engineering is impossible) is wrong on two counts. As Mr Madden has shown, the White Paper was drafted in Open Office, as its metadata say. Furthermore, it is easily possible to reverse-engineer a Latex version from the publicly available White Paper.
63. Fourthly: On Dr Wright's case, the admission of this evidence would require the instruction of experts in a new discipline (concerning Latex) and the adjournment of the trial. All this would be in order to accommodate his failures of disclosure and to test propositions based

¹⁷ Field 1, para. 19.2.3 {PTR/A5/7}

¹⁸ Field 1, para. 19.2.3 {PTR/A5/7}

entirely on his baseless assertions (namely, that (a) the Bitcoin White Paper was drafted in Latex and (b) it is infeasible to produce a sufficiently good Latex version from a public copy of the White Paper). That course cannot be justified.

The Documentary Credits Assignment Documents

64. In his first report, Mr Madden found that one of Dr Wright’s Reliance Documents, a legal essay about documentary credits, bore signs of manipulation. It is not a hugely important document, because it does not advance his claim to be Satoshi, but it appears to be a forgery. In their letter of 27 November 2023, Shoosmiths said (para. 14) that a few further documents from this academic assignment had “*come to our attention*”. No explanation at all has been given for this late disclosure to justify the material being admitted now.

Disclosure of Ontier’s advice about the Overleaf material

65. COPA seeks disclosure and production of Ontier’s supposed advice that the material on Overleaf was not disclosable. As noted above, Dr Wright has made a positive case to explain his failure to disclose this material sooner: “*Ontier took the view that documents compiled and exported from Overleaf after 31 August 2019 (the latest date range for disclosure of documents in this case) were not disclosable*”¹⁹ because they were considered by Ontier to fall outside the date ranges for disclosure searches. COPA says that Dr Wright has clearly waived privilege in Ontier’s advice.
66. The test for waiver of privilege by a party referring to legal advice focuses upon the reliance placed on the advice in the circumstances, in particular whether a party has chosen to put forward a positive case in reliance on legal advice: see *PCP Capital Partners v Barclays Bank plc* [2020] EWHC 1393 (Comm) at paras. 48-49, 60 and 83-86; *PJSC Tatneft v Bogolyubov* [2021] 1 WLR 1612 at para. 47; *Kyla Shipping Co Ltd v Freight Trading Ltd* [2022] EWHC 376 (Comm) at paras. 40-49.²⁰
67. Dr Wright is referring to legal advice from Ontier, in saying that Ontier took a particular view of his disclosure obligations and communicated that view to him. He is relying on the advice to explain why the material was not disclosed as it plainly should have been (if it

¹⁹ Field 1, para. 19.2.4 {PTR/A5/7}, endorsed by Wright 6.

²⁰ As the Deputy Judge (Charles Hollander QC) put it in *Kyla Shipping* at para. 46, “*where one party relies on privileged material, it is only fair to the other party that the latter has an opportunity to satisfy itself that what has been disclosed is not a partial account.*”

existed and was relevant, as he claims). Disclosure of the advice will allow COPA to test if he is telling the truth, since if he is not the factual basis of his application to rely on the Overleaf material (and its relevance to the adjournment application) falls away.

Application for Extension of Deadlines and Other Directions

68. If the adjournment application is not granted, that will still leave the question of when Dr Wright is to serve his reply evidence. On current directions, the deadline was 1 December 2023, which had already been deferred by Dr Wright's request and was part of a compressed timetable to trial. Dr Wright has claimed to need more time to answer Mr Madden's evidence and COPA's allegations of forgery. COPA's position is that, if there is no adjournment, the reply evidence must be served without delay; by 4pm on the day after this PTR.
69. Dr Wright has been aware of Mr Madden's findings of document alteration since 1 September 2023. He has served an expert report of Dr Placks addressing Mr Madden's findings on the Reliance Documents, and there is relatively little in issue between Mr Madden and Dr Placks, as now confirmed by their joint statement. COPA's forgery amendment application was made promptly and granted on 24 October 2023, and the 50 forgeries allowed to be pleaded were particularised as ordered a week later. There was no request for an extension of time for reply fact evidence either at the hearing of 12 October 2023, nor when the reserved judgment was issued, nor at any time until the end of November when the present application was announced, hard up against the deadline. By issuing the Adjournment Application mere hours before his reply evidence was due Dr Wright has had a *de facto* extension of two weeks already.
70. On 4 December 2023 {M/2/598}, COPA put Dr Wright on notice that, if no adjournment was ordered, COPA expected his reply evidence by 4pm the day after the PTR (failing which he should be debarred from relying on it). Dr Wright should not be allowed to delay further the service of his statement responding to COPA's evidence (notably, Mr Madden's reports). It is likely to include yet more technical excuses, which will need to be investigated. There can be no further delay leading into the Christmas / New Year break, which would seriously hamper preparations for trial. Accordingly, COPA seeks a direction for the evidence to be served by no later than 4pm on the day after the PTR, with no reply fact evidence to be permitted after that time.

PTR Matters

Adjustments for trial (ASD)

71. The experts on ASD (Prof Fazel for Dr Wright and Prof Craig for COPA) in their joint statement {Q/1/1} have agreed on the adjustments required for trial, namely (a) clear timetabling of his evidence; (b) access to the LiveNote Screen; and (c) a pen and paper to write questions. They agree that the more extreme measures originally suggested by Prof Fazel, such as provision of questions / topics in advance and avoiding complex or tag questions, are not justified. The experts have been released from attendance at the PTR and it is submitted that the agreed adjustments should be made.

72. COPA seeks its costs relating to ASD evidence in general, or alternatively such costs incurred since 21 September 2023, when it made a WPSATC offer to agree adjustments broadly matching those now agreed by the experts (if anything, a little more extensive than those now agreed). Since the CCMC, COPA's position was that Dr Wright should produce a report proposing adjustments and that it might be able to agree them. After delaying, Dr Wright produced Prof Fazel's report proposing the extreme adjustments. He did so after obtaining for reports from two other experts which did not make such proposals. But Prof Fazel only proposed the extreme measures because he had not been provided with any evidence of Dr Wright's previous performance under cross-examination (an omission pointed out at the September 2023 hearing). After seeing footage of Dr Wright being cross-examined in Oslo, Prof Fazel (quite properly) changed his position. COPA therefore seeks its costs based on (a) Dr Wright's failure to provide Prof Fazel with proper instructions; (b) his expert-shopping; (c) his failure to engage with and accept the WPSATC offer; and (d) allowing the Court to be actively misled at the CCMC about the status of the report.

73. As to this last point, we now know that Dr Wright had Sir Simon Baron-Cohen's final draft report dated 5 October 2021. However, at the CCMC, Dr Wright's counsel (in response to a question from Master Clark as to why that expert's report had not yet been sent said that they did not yet have his report). That was in September 2022, almost a year after the date of that report. See further Sherrell 18 at paras 146-150 {PTR/B1/45}.

Directions for cryptocurrency technology evidence

74. The CCMC order (para. 18 {B/7/4}) gave permission for experts in this field to address two topics: (a) digital currency technology relating to Bitcoin and (b) such technology relating to the signing sessions and the Sartre message. The experts were only to address topic (a) if they could not agree “a technical primer setting out the basics of undisputed digital currency technology”: paras. 23-27 {B/7/5}. Their evidence was also to be limited to the issues in the claim: para. 27. It is thus clear that under topic (a) the experts would address “the basics” of the technology, as relevant to the proceedings. That is what COPA’s expert has done.
75. By contrast, much of the report of Dr Wright’s expert (Zeming Gao) addressing topic (a) is taken up with arguing the merits of BSV (Bitcoin Satoshi Vision), a cryptocurrency created in 2018 by a hard fork in the Bitcoin blockchain, over BTC (Bitcoin Core). Mr Gao argues at great length why BSV is a superior implementation of Bitcoin and more faithful to ideas he (Mr Gao) attributes to Satoshi.²¹ This part of the report thus goes into matters which are outside the expert issues and irrelevant to the question whether Dr Wright is Satoshi. So far, in his pleadings and evidence, Dr Wright has placed no reliance on BSV or his involvement with it as supporting his claim to be Satoshi.
76. COPA has proposed that this be addressed either by declaring inadmissible the relevant parts of Mr Gao’s report or by excluding an issue from consideration under CPR 3.1(2)(k), namely the issue of the alleged superiority of BSV. Dr Wright has indicated agreement to the latter course, but he appears only prepared to exclude the issue of whether BSV is technically preferable, not whether it better reflects Satoshi’s ideas or objectives. COPA maintains that the latter aspect should also be excluded. Otherwise, it would have to prepare cross-examination of Mr Gao about the characteristics of BSV which would occupy Court time and be of no help. The Court would have to deal with satellite issues of some technical complexity which it need not resolve and which do arise in the Kraken and Coinbase proceedings.
77. There is another issue concerning the expert evidence which should be capable of agreement. The experts have agreed a succinct joint statement of a few pages, but Mr Gao wishes to add an annex of 11 pages explaining at length his points of disagreement with

²¹ The parts of Mr Gao’s report {I/2/1} at issue are paras. 65-89, 102-154, 180-197 and 217-225.

Prof Meiklejohn (which are actually not very many or very important). Although this goes beyond what is normal in an experts' joint statement, COPA is content to agree provided that Prof Meiklejohn can put in a similar annex by 19 December 2023.

Trial timetable

78. The parties have prepared a Trial Timetable document setting out their respective positions {PTR/E1/1} on the premise that the adjournment is refused.²² It is not in dispute that: (a) there should be a day of oral openings (with COPA going first) followed by 4 reading days; (b) Dr Wright should give evidence first, and for 6 days; (c) of the forensic documents experts, Mr Madden should go first (for 3 days) followed by Dr Placks (for 1 day or a little more); and (d) the ASD experts are not needed. Order and timings for oral closings are also agreed. There are differences on (i) the time for Dr Wright's other witnesses (with Dr Wright's timetable allowing 2.5 days and COPA's 3.5 to 4 days); (ii) the time for COPA's fact witnesses (with Dr Wright's timetable allowing 4.5 days and COPA's no more than 4 days); and (iii) the time for cryptocurrency experts (with Dr Wright's timetable allowing 2 days and COPA's 1.5 days). These relatively modest differences will be addressed in oral submissions.
79. COPA already has permission for the following foreign witnesses to give evidence remotely: Joost Andrae, Martti Malmi, John Hudson, Daniel J Bernstein, Andreas Furche, Zooko Wilcox-O'Hearn and Dustin D. Trammell. It seeks equivalent permission for Ben Ford and for Mr Hinnant, Dr Loretan and Prof MacFarlane (all resident overseas). It seeks the same order for Nicholas Bohm, who is in the UK but seriously unwell (pursuant to PD1A, para. 10(b)) and this is agreed by Dr Wright. It will seek similar permission for two other witnesses whose statements it has served as reply fact evidence.
80. The foreign witnesses may have to be called out of order and at the start or end of the Court day, to accommodate their different time zones. However, COPA hopes that some need not be cross-examined at all, since most simply confirm some piece of technical information (e.g. dating of a font) which ought not to be controversial.

²² From COPA's perspective, its timetable presumes that the expert evidence of the parties remains in broadly the same state as at time of this skeleton and that Dr Wright's reply evidence will not include a material number of new witnesses. Dr Wright has, of course, held back his reply evidence.

Trial logistics

81. The Opus2 system is being used for storing the trial materials and will be used for document presentation at trial. If the Court can indicate what materials it would like in hard copy, then the hard copy files can be prepared. A live transcription service has also been arranged.
82. In addition to making provision for remote cross-examination of some witnesses, it is submitted that the hearing should be in hybrid format so that it may be viewed by interested parties living overseas. That would include COPA's Represented Parties and some of the Developers.
83. Whilst a hybrid hearing allows remote access, there will still be a large physical presence in Court with at least three teams of lawyers and client representatives (for COPA, Dr Wright and the Developers). Others, such as the parties in the stayed cases, may well have a presence in court. There is likely to be media interest, at least at some points in the case. The likely attendance could be accommodated by use of one of the "super-courts" (if available) and/or the use of a spillover courtroom with a video link to the main courtroom.

Skeleton length

84. COPA requests that the normal trial skeleton length of 50 pages²³ is increased to 100 pages for opening skeletons. There is quite a lot of background information that needs to be set out in the opening skeletons. COPA considers that skeletons of this length will set the right balance by containing the necessary information but not being unwieldy.

Postscript

85. At 3.40pm, 20 minutes before skeletons were due, and without any notice it was coming, Shoosmith's served a new witness statement from Dr Wright. From a brief review he belatedly appears to try and explain away the Ager-Hanssen WhatsApp messages – something he had not done before (in spite of giving evidence in relation to the Ager-Hanssen matter in Wright 3). If this evidence is addressed in the skeleton of Dr Wright it will be clear that this witness statement was tactically withheld from COPA. On any view, it should have been served sooner and not held back to the last moment. COPA therefore will have to address this latest change of story orally.

²³ See Chancery Guide, para. 12.50.