IN THE HIGH COURT OF JUSTICE **CLAIM NO. IL-2022-000069**

BUSINESS AND PROPERTY COURTS OF ENGLAND AND WALES

INTELLECTUAL PROPERTY LIST (CHD)

BEFORE: Mellor J

ON: 15 December 2023

BETWEEN

DR CRAIG STEVEN WRIGHT & Ors

Claimants

—and—

BTC CORE & Ors

Defendants

SKELETON ARGUMENT OF THE DEVELOPERS FOR PRE-TRIAL REVIEW 15 DECEMBER 2023

A. OVERVIEW **2**

B. THE CLAIMS AGAINST THE DEVELOPERS **2**

C. RELEVANT PROCEDURAL BACKGROUND **3**

D. THE CLAIMANTS' APPLICATION **5**

1. THE APPLICABLE PRINCIPLES 5
2. THE SUBSTANCE OF THE APPLICATION 6

a. No logical basis for an adjournment *7*

b. No justification for escape from the consequences of forgery *8*

c. No or no sufficient explanation for delay in disclosure *8*

d. Further obfuscation and forgery *10*

e. Prejudice *16*

f. Summary *17*

E. SPECIFIC DISCLOSURE APPLICATION **18**

F. SECURITY FOR COSTS **21**

G. REMAINING PROCEDURAL MATTERS **25**

A. Overview

1. This is the PTR for the combined trial of the Identity Issue in the COPA/BTC Core Claims. There are two broad topics to be addressed at the PTR. First, the Claimants' last-minute application to adjourn the trial and to rely on newly disclosed documents. Second, typical PTR matters, namely outstanding procedural issues and proposals as to how the case should be tried.

2. The Claimants' application for an adjournment and consequential orders should be dismissed. Dr Wright has been provided with ample opportunity to identify the documents upon which he primarily relies in relation to the factual issue of whether he is author of the Bitcoin White Paper. That many of Dr Wright's "Reliance Documents" have been revealed to be forgeries provides no basis for the Claimants to adjourn the proceedings, still less in circumstances where the purpose of the adjournment appears to be to permit Dr Wright to adduce yet further forgeries. The substantial adjournment that would result from the Claimants' application will cause intolerable prejudice to the Developers.

3. The Developers instead invite the Court to make an order for specific disclosure in relation to Mr Andresen's emails, to top up the security for costs ordered on 17 October 2023 and to set the arrangements for trial.

B. The claims against the Developers

4. The hearing scheduled for 15 January 2024 is the Joint Trial in two claims, namely:
   a) the Identity Issue in IL-2022-000069(the "**BTC Core Claim**"); and
   b) IL-2021-000019 (the "**COPA Claim**").

5. The BTC Core Claim is brought by Dr Wright and two of his companies (the "**Claimants**") against 26 Defendants. Dr Wright and/or his companies claim to be the owner of database rights in three separate databases; (i) the Bitcoin Blockchain, (ii) the Bitcoin Blockchain as it stood on 1 August 2017 at 14.11 – up to and including block 478, 558, and (iii) another part of the Bitcoin Blockchain made in a particular

period. The claim also includes a claim for copyright infringement both in the White Paper and in the Bitcoin File Format.[1]

6. The Claimants seek various remedies, including injunctions against each of the Defendants and substantial damages.[2] In their Claim Form, the Claimants estimated the value of the claim "*could be in the hundreds of billions of pounds*".[3]

7. References in this skeleton to the "**Developers**" are references to the Second to Twelfth, Fourteenth and Fifteenth Defendants in the BTC Core Claim. The Second to Twelfth Defendants are also defendants to related proceedings brought by Dr Wright through an entity known as Tulip Trading Limited in claim BL-2021-000313 (the "**Tulip Trading Claim**").

C. Relevant Procedural Background

8. A CCMC was heard in the COPA Claim before Master Clark on 2 September 2022.[4] At that CCMC, directions were given for the conduct of those proceedings, including for disclosure, witness statements and expert reports leading to a trial in a trial window commencing on 29 January 2024.

9. By paragraph 8 of the Order of Master Clark, Dr Wright was required to provide "*a list of documents upon which he primarily relies in relation to the factual issue of whether or not he is the author of the Bitcoin White Paper*".[5] Dr Wright produced that list on 4 April 2023. It was comprised of 109 documents.[6] Although paragraph 8 of the Order of Master Clark gave Dr Wright leeway to update the list from time to time, Dr Wright has not in fact updated the list – and did not make any suggestion that he might until the end of November 2023.

---

1 {A1/2/31}.
2 BTC Core SoC prayer at {A1/2/31}
3 {A1/1/2}.
4 {B/7/1}.
5 {B/7/2}.
6 There are 149 individual document IDs, including 3 runs of photographs of handwritten notes.

10. A joint case management conference (the "**Joint CMC**") was held in the COPA and BTC Core Claims on 15 June 2023. By that date Defences had been served in the BTC Core Claims, but no progress had been made on other directions for trial. The Joint CMC was the point from which the Developers became able to get to grips with Dr Wright's case on the Identity Issue. Ever since, the Developers have been working extremely hard to catch up with the head-start afforded to COPA and Dr Wright.

11. The Developers were first provided with access to Dr Wright's disclosure on 19 June 2023. There has been a slow drip-feeding of further disclosure from Dr Wright ever since: see paragraph 49 below. Partly that has been a consequence of the identification of documents over which privilege had wrongly been claimed by Dr Wright[7] or which had been held back from disclosure by Dr Wright following a mistaken view of relevance.[8] Nevertheless there remains outstanding disclosure queries and one application for disclosure that is addressed below. However, those matters pale into insignificance with the circumstances leading to the Claimants' application to adjourn the trial and to rely on further disclosure.

12. On 8 December 2023 the Joint Statement between Mr Madden and Dr Placks was served.[9] It addresses 47 of his 109 Reliance Documents and concludes that 32 of those have had their metadata manipulated to record non-contemporaneous date/time values or are unreliable on other bases. There is disagreement between Mr Madden and Dr Placks as to the remaining 15 documents. All 28 of the Reliance Documents on COPA's list of 50 forgeries are agreed to be manipulated or unreliable. 17 of the Reliance Documents referred to in Dr Wright's own witness statement are agreed to have been manipulated or to be unreliable. In addition, Mr Madden and Dr Placks conclude that (a) one of the sets of MYOB data purporting to show entries in 2009-2011 disclosed by Dr Wright was created in 2020; and (b) the other set of MYOB data (which was provided to Dr Placks as a reaction to the problems with the earlier data) was created in 2023 – and then backdated.

---

7 See for example {PTR-D/2/49}.
8 See for example {PTR-D/2/38}.
9 {Q/2/1}.

D. The Claimants' Application

13. In his application, the Claimants seek the following:

a) An adjournment of the trial, originally by 4 weeks, and now "*to the earliest possible date that can be accommodated after 19 February 2024*"[10], which will be at the earliest January 2025[11] ("the **Adjournment Application"**).

b) An order that the Claimants have permission to rely on the "*97 Documents*", the "*White Paper LaTeX Files*" and the "*Documentary Credits Assignment Documents*" ("the **Proposed Documents**").

c) An order that once disclosed, the White Paper LaTeX Files are subject to the proposed confidentiality restrictions.

d) Subsequent directions following the adjournment.

1. The applicable principles

14. The principles to be considered when proposing an adjournment to a trial date are well established. The Court's case management powers arise pursuant to CPR 3.1(2)(b). The relevant factors to consider were recently conveniently summarised by O'Farrell J on 29 November 2023, in IBM United Kingdom Limited v LZLABS GmbH et Ors [2023] EWHC 3015 (TCC): (emphasis added)

> "*18. When considering the exercise of such powers, the court must have regard to the overriding objective set out in CPR 1.1 , namely, that the court should deal with cases justly and at proportionate cost. That includes, so far as practicable: (a) ensuring that the parties are on an equal footing and can participate fully in proceedings and that parties and witnesses can give their best evidence; (b) saving expense; (c) dealing with the case in ways which are proportionate to the amount of money involved, the importance of the case, the complexity of the issues and the financial position of each party; (d) ensuring the case is dealt with expeditiously and fairly; (e) allotting to it an appropriate share of the court's resources while taking into account the need to allot resources to other cases; and (f) enforcing compliance with rules, practice directions and orders.*
> *19. No authority is needed for the proposition that there must be a fair hearing. The court must give the parties a reasonable opportunity to prepare and present their case. But that does not entitle a party to unlimited preparation and hearing time, particularly where that would result in unacceptable delay to resolution of the dispute or loss of a fixed trial date.*

[10] Letter from Shoosmiths' dated 5 December 2023 {M/2/614}
[11] Email from Mellor J's clerk dated 6 December 2023 {PTR-C/2/117}.

> *When considering an application to adjourn a trial, the court must carry out a balancing exercise, endeavouring to manage the case so as to hold the trial date to which everyone has been working, whilst ensuring the least risk of irremediable prejudice to any party in all the circumstances of the case, which may necessitate revising the timetable or adjourning the trial.*" (emphasis added)

15. The Judge went on at [24] as follows:

> "*24. Having decided that there is sufficient time between now and April 2024 to give the parties a fair and reasonable opportunity to prepare their respective cases, the court must balance the desire of the claimant to adjourn the trial against the consequences of any adjournment for the parties, the court and other court users. Mr. Stewart is correct that there are hidden costs to any adjournment which would only serve to increase the vast legal resources deployed on both sides in this case. Further, the court is always reluctant to adjourn a trial date that has been fixed for many months in circumstances where other court users have been deprived of the opportunity to have their cases heard at such earlier date. Of greatest significance, the allegations against the defendants are very serious, with potentially far reaching consequences; it is unfair to keep them, and in particular the individual defendants, in jeopardy for any longer than is absolutely necessary for a fair disposal of the case.*"

16. In the IBM case an adjournment of the trial was sought 6 months prior to the scheduled trial date (and a short delay to its start was achievable). The Claimants seek an adjournment a little over a month before the trial is due to start, which would have the result of delaying the conclusion of the proceedings by a year. Late applications for an adjournment give rise to further considerations. An application for an adjournment should never, unless unavoidable, be made immediately before trial.[12]

2. The substance of the application

17. The basis upon which the Claimants seek an adjournment seems to be that directions consequential upon the Claimants being permitted to adduce further documentary evidence would require a postponement of the existing procedural steps until "*at least 12 January 2024*".[13]

---

12 Chancery Guide ¶12.27.

13 Field1¶39-47 {PTR-A/5/12-15}.

18. The application for an adjournment is accordingly centrally dependent upon the proposition that Dr Wright should be permitted to rely on all the Proposed Documents.

19. There are a number of reasons why that cannot be a sufficient basis for an adjournment. They can be summarised under the following headings:

a) No logical basis for an adjournment.

b) No justification for escape from the consequences of forgery.

c) No or no sufficient explanation for delay in disclosure.

d) Further obfuscation and forgery.

e) Prejudice.

a. No logical basis for an adjournment

20. First, the Claimants' application faces the (probably insuperable) block that there is no logical reason why Dr Wright should be entitled to rely on further documents at all.

a) The CCMC Order afforded him ample time to identify his Reliance Documents, i.e. the documents upon which he relies to show he is Satoshi Nakamoto.

b) Indeed, he has had further time since 4 April 2023 to update that list without affecting the trial date if he wanted to do so.

c) If Dr Wright cannot prove that he is Satoshi Nakamoto by reference to his 109 Reliance Documents, there is no reason to suppose that he could do so (let alone that he should be permitted to do so) by reference to any further documents. It is fanciful to suppose that Satoshi Nakamoto would not know which would be his best documents to prove his/her identity by the time of the CCMC.

d) Put another way, there is no good reason to permit Dr Wright to move the goalposts in the Joint Trial, though it is characteristic of Dr Wright's approach to legal proceedings that when things are not going his way, he seeks to do precisely that.[14]

[14] That was vividly illustrated in the Tulip Trading Claim when faced with evidence that the Purchase Order upon which he relied to prove his ownership of the 1Feex Address was a forgery, he sought to

b. No justification for escape from the consequences of forgery

21. Second, if (as the joint statement between the forensic document analysis experts shows to be the case) Dr Wright has adduced forged and/or falsified documents as his Reliance Documents to show that he was Satoshi Nakamoto, then he should not be permitted to rely on further documents to dig himself out of that hole.

22. At the very least he should be required to provide a full and candid explanation of the forgery, its extent and how and why the Court can and should exceptionally rely on further evidence or documents from him and not strike out his case against the Developers.[15] Anything less than that would be a "*flagrant and continuing affront to the Court*".[16] The attempted perversion of justice involved in forgery is "*the very antithesis of the parties coming before the court on an equal footing*".[17]

c. No or no sufficient explanation for delay in disclosure

23. Third, Dr Wright has given no, no coherent or false reasons for his late disclosure of the Proposed Documents – and has prevented COPA and the Developers from exploring the veracity of his explanations.

i. "White Paper LaTeX Files"

24. Dr Wright has given no coherent reason for his late disclosure of the "White Paper LaTeX Files", which are held by Dr Wright on his account at an online LaTeX editor called Overleaf.

---

pretend (contrary to his own witness statements) that he had never said it was contemporaneous and sought to rely on alternative documents.

15 *per* Chadwick LJ in Arrow Nominees Inc v Blackledge [2000] C.P.Rep 59 at [61].

16 *per* Ward LJ in Arrow Nominees Inc v Blackledge [2000] C.P.Rep 59 at [74].

17 *per* Ward LJ in Arrow Nominees Inc at [73].

25. That account has been available to Dr Wright since whenever it was opened (which he has not identified but which would substantially post-date the authorship of the Bitcoin White Paper since Overleaf did not exist at the time of its publication).[18]

26. Dr Wright has informed Ms Field that the files on his Overleaf account "*were not reviewed for disclosure by his former solicitors, Ontier, because they were considered to fall outside the date ranges for searches specified in his Disclosure Review Document*".

27. That explanation is incoherent because Dr Wright was never constrained in identifying his Reliance Documents by reference to his Disclosure Review Document. If he thought there was something relevant on his Overleaf account, he would have included it.

28. Moreover, Dr Wright has shut down the attempt by COPA to explore with Ontier the veracity of Dr Wright's explanation of the position to Shoosmiths by asserting privilege,[19] although it is difficult to understand how any privilege can survive Ms Field's witness statement.

ii. The "97 Documents"

29. Dr Wright's account of events is that (a) he began to search his home for additional documents on 11 September 2023,[20] (b) on 14 September he was told by his then solicitors that AlixPartners had been unable to image certain drives[21] and then (c) he "*found the Hard Drives*" on 15 September 2023.[22]

---

18 Horne1¶5.13.4 {PTR-C/1/12} and Sherrell18¶92 {PTR-B/1/29}.

19 See letter from Bird & Bird to Shoosmiths and Ontier of 5 December 2023 {M/2/605-606} and response from Shoosmiths of 5 December 2023 {M/2/609}.

20 Wright5¶17 {PTR-/3/6}.

21 Wright5¶17 {PTR-/3/6}.

22 Wright5¶17 {PTR-/3/6}.

30. Macfarlanes have attempted to explore the veracity of Dr Wright's account of events with AlixPartners. That attempt was shut down by Dr Wright asserting privilege,[23] although it again is difficult to understand how any such privilege could subsist.

iii. "Documentary Credits Assignment Documents"

31. Dr Wright has given no explanation at all for his late disclosure of the "*Documentary Credits Assignment Documents*", which seem in any event to be of trifling significance as they have nothing to do with the Bitcoin White Paper.

d. Further obfuscation and forgery

32. Dr Wright has taken a deliberately obfuscatory approach to the "*White Paper Latex Files*" and there is compelling evidence that his account of the content of the BDO Image from which all bar two of the 97 Documents have been taken is false and that the 97 Documents contain further forgeries. Given the seriousness of the latter point, the Developers take it first.

i. Evidence of falsification and forgery in Dr Wright's new disclosure

33. The two Hard Drives that Dr Wright contends that he found on 15 September 2023 were a Samsung and a MyDigital drive.[24] Dr Wright has stated that the Samsung Drive contains an image of a drive from when he worked at BDO (the "**BDO Drive**") and that the BDO Drive was captured on or around 31 October 2007.[25] He states that the BDO Drive was in a password-protected hidden encrypted partition of the Samsung drive,[26] and that he did not edit or amend any documents in the BDO Drive after it was captured in October 2007.[27]

---

23 Letter from Macfarlanes to AlixPartners (cc Shoosmiths) dated 5 December 2023 {M1/1/1151} and letter from Shoosmiths to Macfarlanes dated 7 December 2023 {M1/1/1168}.
24 Wright5¶3 {PTR-A/3/3}.
25 Wright5¶9 {PTR-A/3/4}.
26 Wright5¶20 {PTR-A/3/7}.
27 Wright5¶8 {PTR-A/3/4}.

34. Dr Wright has applied apparently cherry-picked search parameters to the Hard Drives, rather than applying the search terms in his DRD[28] or further search terms suggested by the Developers.[29] He has refused to provide full forensic access to the Hard Drives.[30] He now seeks to rely on 95 documents that come from the BDO Drive which are said to be relevant "*on the basis that the documents were not modified since 31 October 2007*".[31] The 95 documents are accordingly a cherry-picked subset of a cherry-picked group of documents.

35. Moreover, it is striking that almost all of the filetypes in those documents were not present in the original Reliance Documents, and most of them have no internal metadata.[32] It is reasonable to infer that Dr Wright, having been unable to conceal the indicia of forgery in the filetypes of his Reliance Documents, has set about trying to introduce documents in new filetypes, including documents more resistant to forensic analysis.

36. That can be illustrated by his approach to the drafts of the White Paper itself. In his Reliance Documents he sought to produce OpenOffice drafts (for example, ID_000254).[33] That was the software which the metadata from the Bitcoin White Paper shows had been used to produce the Bitcoin White Paper pdf file.[34] Dr Wright's OpenOffice draft at ID_000254 is accepted by the experts to be manipulated or unreliable – and so now Dr Wright puts forward drafts in LaTeX file format lacking metadata and bypassing the relatively metadata-rich OpenOffice format altogether.

37. In her evidence in support of the application to rely on the 97 Documents, Ms Field correctly recognised that consultants from Stroz Friedberg (presumably instructed by Shoosmiths to check whether Dr Wright was telling the truth) had identified artifacts

---

28 Sherrell18¶22.3 {PTR-B/1/7}. One can see the cherry picking from the inclusion of search terms that had never appeared previously in Annex 1 to Shoosmiths' letter dated 23 October 2023 {PTR-A/7/25}. Apparently, applying the required search terms to the new Hard Drives would have resulted in Shoosmiths having to review 55,000 document – and so they declined to apply those terms: see Shoosmiths' letter of 11 October 2023 at paras14-15 {M/2/247}. It will now never be known what those responsive documents might have been, even if they were adverse to Dr Wright.

29 {M1/1/710}.

30 Sherrell18¶22.4 {PTR-B/1/7-8}.

31 Field1¶25 {PTR-A/5/9}.

32 Madden3¶15 {PTR-B/2/9}.

33 Horne1¶5.13.3 {PTR-C/1/11}.

34 Horne1¶5.13.2 {PTR-C/1/11} and Madden3¶167-170 {PTR-B/2/56-57}.

on the BDO Drive indicating more recent activity than Dr Wright has admitted.[35] Dr Wright purports to provide a (tentative) explanation for those artifacts,[36] but his explanation is void of any real content, speculative and inconsistent with his expertise as a data security consultant.[37]

38. Unfortunately for Dr Wright, analysis of the Stroz Friedberg report, the 97 Documents and other materials has revealed that:

a) The system-controlled folder that stores the components of the log files used by the NTFS file system on the BDO Image (the purpose of which is to record information about changes to files and folders within that drive) has a creation date of 17 September 2023, indicating that the BDO Image was created on that date.[38]

b) A 20.6GB .rar file (i.e. a compressed file archive with a size of 20.6GB) is recorded as having been moved to the recycle bin on the BDO Image in 2017 (i.e. 10 years later than the supposed cut-off for the BDO Image) and deleted in 2007. The inconsistency in dates shows clock manipulation was used.[39] Moreover the files have subsequently been overwritten.

c) Amongst the 97 Documents supposed to come from the BDO Image:

i) is a C++ file with a last modified date of 31 October 2007. It contains reference to a library that according to its author was not incorporated into C++ until 2011, and was not even contemplated until 2008;[40]

ii) are LaTeX files supposedly pre-dating October 2007 invoking a software package that according to its author was only uploaded to the Comprehensive TeX Archive in May 2013 and which could not have run successfully on versions of LuaLaTeX that existed before 2011;[41]

---

35 HLF13 {PTR-A/7/183-187}.
36 Wright5¶30 {PTR-A/3/9}.
37 As Mr Madden indicates it is basic procedure in forensic imaging that drives should not be handled in the way that Dr Wright describes: Madden3¶158 {PTR-B/2/52}.
38 Madden3¶146-148 {PTR-B/2/50}.
39 Madden3¶134-137 {PTR-B/2/47-48}.
40 Hinnant1¶3-8 {C/18/1-2}
41 Loretan1¶4-7 {C/20/1-2}.

iii) is a LaTeX file supposedly pre-dating October 2007 created using pandoc, a universal document converter, and containing preamble from a default LaTeX template from March 2022;[42]

iv) are seven .rtf/.doc files generated using Windows 10 v. 10.0.19041 which was issued in May 2020;[43]

v) is a PNG image from September 2017;[44]

vi) is an MS Word document with a timestamp earlier than the MS Word version used to create it.

d) Photographs that appear to show internet searches undertaken after 1 September 2023 are timestamped to a date in 2004 on the BDO Image.[45]

39. In short, the 97 Documents suffer from equally serious indicia of forgery to the other documents relied upon by Dr Wright in this case, but this time overlaid with a nakedly untrue description of their provenance. It is little wonder that the reaction of Mr Ager-Hanssen and Mr Stefan Matthews to Dr Wright's supposed discovery of the Hard Drives was to express disbelief in imprecatory terms.[46]

ii. Obfuscation as to LaTeX

40. As at the date of writing this skeleton, Dr Wright has still not produced the "*White Paper LaTeX Files*" that he has apparently told Shoosmiths are of particular relevance because (when compiled in Overleaf) they produce a copy of the Bitcoin White Paper that is "*materially identical*" to the actual Bitcoin White Paper,[47] which it would be "*practically infeasible*" to reverse engineer.[48]

41. Instead, Dr Wright has sought to impose unworkable confidentiality terms on the Developers, which would leave the Developers looking at strings of LaTeX code only

---

42 MacFarlane1¶6-9 {C/19/2}.
43 Madden3¶89-91 {PTR-B/2/36-37}.
44 Madden3¶46-48 {PTR-B/2/20-21}. Mr Madden notes that this image is called up by two documents which are said to sit outside the BDO Image, so that either it cannot come from the BDO Image or is a serious indication of tampering: Madden3¶49-53 {PTR-B/2/21-23}.
45 Sherrell18¶56-61 {PTR-B/1/21-23}.
46 Sherrell18¶48 {PTR-B/1/17}.
47 Field1¶19.2.6 {PTR-A/5/8}.
48 Field1¶27-28 {PTR-A/5/10}.

and preclude them from assessing whether the output of the LaTeX code when compiled does produce a materially identical version of the Bitcoin White Paper.[49]

42. There is no coherent basis for these documents to be subject to any special confidentiality regime. The basis upon which the claim for confidentiality is advanced is that their evidential value might be impeded by their disclosure.[50] That contention is unsupportable:[51]

a) The files will be subject to the usual rules on collateral use, so they ought not to be disseminated.

b) The files should already have been preserved by Shoosmiths following the very late disclosure of their existence by Dr Wright. Assuming that to be so, the Court ought to know which files are held by Dr Wright and will be able to determine their evidential value accordingly.

c) There is no reason to suppose that the Court's approach would be affected by anyone else's ability to "*compile an exact replica of the Bitcoin White Paper*" using them. Indeed, the only situation in which that possibility might arise is if a third party came forward to state that they had produced the LaTeX files for Dr Wright.

d) If Dr Wright was concerned to establish the priority of his claim to possession of these files outside of the present proceedings, he could publish a hash of the documents which would prove to anyone later that he possessed the files at this time. Moreover, in addition to traditional publication there are various tools to timestamp documents on bitcoin and bitcoin-like blockchains for timestamping purposes which have no risk of disclosing the document.

43. Moreover, no explanation has been provided at all for Dr Wright's failure to produce the compiled output of the White Paper LaTeX Files to the Developers or COPA.[52] There can be no basis for that output being withheld.[53] The Developers are inclined to suppose that Dr Wright has not produced that document because (a) the Bitcoin White

---

49 Horne1¶5.14-5.15 {PTR-C/1/12-13}.
50 Field1¶49 {PTR-A/5/16}.
51 Horne1¶5.16 {PTR-C/1/13}.
52 Horne1¶5.13.6 {PTR-C/1/12}.
53 If Dr Wright is correct, it will be identical to the Bitcoin White Paper. If it is not, the White Paper LaTeX Files are evidentially worthless.

Paper's own metadata reveals that it was produced from OpenOffice,[54] (b) Dr Wright has been unable to compose a coherent explanation as to how his LaTeX files can replicate the Bitcoin White Paper (let alone in Overleaf) with OpenOffice metadata[55] or why LaTeX files would be required for this purpose at all[56] and (c) Dr Wright is uncertain as to how "*identical*" the output of his LaTeX files might really be.

44. It is telling in this context that in describing the supposed significance of the White Paper LaTeX Files, Ms Field places particular emphasis on being told by Dr Wright that in producing LaTeX files for the Bitcoin White Paper he had used "*instructions for non-standard formatting (for example, coding for differences in the size of the spaces between words) in effect as a form of digital watermark*". Yet:

a) So far as the Developers are aware Dr Wright has never previously referred to having included such a "*digital watermark*" in any of his testimony in any proceedings ever before.[57] Neither did he suggest that was the case in his trial witness statement in these proceedings.

b) In 2023 Dr Wright had accessed an online Q&A: "*Was anything in Satoshi Nakamoto's original Bitcoin paper in LaTeX*".[58] That is incomprehensible if the original Bitcoin White Paper files were in fact LaTeX files and had all the time been sitting on Dr Wright's Overleaf account with a "*digital watermark*" to ensure that they could not be replicated.

c) The existence of differing spaces between words and letters is not a "*digital watermark*". It is a common consequence of kerning and justification undertaken by word processing packages such as OpenOffice[59] and a sign that the White Paper LaTeX Files may have been reverse engineered.[60]

45. Moreover, it is striking given the supposed significance that he now attaches to them that Dr Wright did not produce any .tex files (or artifacts of LaTeX use) in his disclosure, let alone amongst his Reliance Disclosure, prior to the allegedly newly

---

54 Horne1¶5.13.2 {PTR-C/1/11} and Madden3¶168-171 {PTR-B/2/56-57}.
55 Horne1¶5.13.3 {PTR-C/1/11}.
56 See Madden3¶172-193 {PTR-B/2/57-67}.
57 Horne1¶5.9 {PTR-C/1/10}.
58 Sherrell1¶65 {PTR-B/1/23-24}.
59 Horne1¶5.10 {PTR-C/1/10}.
60 Horne1¶5.11 {PTR-C/1/11}.

found hard drives.[61] He has not put forward any explanation (let alone a plausible one) for this striking omission on his part.

e. Prejudice

46. The consequences of an adjournment would be grave and unacceptable:

a) First, the present proceedings weigh heavily on the Developers. On any view the BTC Core Claim has a massive financial value. It has been used by Dr Wright to make explicit and unpleasant threats against the Developers individually.[62]

b) Second, there is a significant factual overlap between the BTC Core Claim and the Tulip Trading Claim. Should the BTC Core Claim fail, particularly on grounds of forgery in respect of documents in common (such as the now uncontestably back-dated MYOB data), it is difficult to see how the Tulip Trading Action can proceed. It is plainly desirable for the outcome of the Identity Issue in the BTC Core Claim to be known in good time ahead of the commencement of the ownership/abuse of process phase of the Tulip Trading Claim (which is currently expected to be in late Spring 2025). Adjournment of the present proceedings would either preclude that or lead to further untenable delay in the trial of the Tulip Trading Claim with consequent increase in costs.

c) Third, adjournment of the present proceedings will have knock-on consequences for the proceedings between Dr Wright and Magnus Granath in Norway and in England[63] and subvert the basis on which a stay was granted in the Coinbase and Kraken proceedings. [64]

d) Fourth, this litigation, and in particular the haphazard method of conducting it which Dr Wright seems intent on pursuing, has resulted in considerable cost exposure (in the case of junior counsel the entire brief will be re-incurred, and at least 40% of leading counsel's brief).[65] Moreover, there is a very real risk that leading counsel will no longer be available for this trial if

61 Horne1¶5.9 {PTR-C/1/10}.
62 Horne1¶4.3-4.5 {PTR-C/1/7}.
63 Horne1¶4.10 {PTR-C/1/9} and Sherrell18¶13-14 {PTR-B/1/4-5}.
64 Sherrell18¶15 {PTR-B/1/5-6}.
65 §4.7 Horne1 {PTR-C/1/8}.

re-listed, which result in an entirely wasted costs bill, and may have knock on effects on the Tulip Trading proceedings.[66]

e) Finally, the Court and Dr Wright must consider the effect of the adjournment on the administration of justice more generally and the availability of the Court's resources to other litigants. There is no question that Dr Wright's various claims have consumed a disproportionate level of the Court's resources. Dr Wright should now be required to put up or shut up.

f. Summary

47. In summary:

a) No good reason has been advanced for the late disclosure of the documents that Dr Wright now seeks to adduce. To the limited extent that excuses have been made, they are based on Dr Wright's word and the Claimants have obstructed any attempt to validate them with third parties.

b) No explanation has been given as to why Dr Wright should be permitted to rely on those documents in addition to his Reliance Documents. If he is seeking to escape the consequences of his earlier forgery, that is not a good reason.

c) False and misleading accounts have been given as to the circumstances in which the documents were found and their characteristics.

d) The consequences of an adjournment would be grave and unacceptable to the Developers and other Court users. By contrast, if the trial proceeds, Dr Wright remains entitled to proceed on the basis of his Reliance Documents.

48. That being so, the Court should refuse the adjournment and its associated applications. Dr Wright should produce his reply witness statements forthwith and the trial should proceed as envisaged.

---

66 §4.8 Horne1 {PTR-C/1/8}.

E. Specific Disclosure Application

49. Dr Wright has drip-fed disclosure in these proceedings. Since access to disclosure was first granted to the Developers on 19 June 2023, further disclosure has emerged episodically from Dr Wright as follows:

a) VOL003: 12 July 2023: 13 documents
b) VOL004: 27 July 2023: 16 documents
c) VOL005: 11 August 2023: 3 documents
d) VOL006: 14 September 2023: 92 documents
e) VOL007: 25 September 2023: 8 documents
f) VOL008: 25 October 2023: 93 documents
g) VOL009: 27 October 2023: 180 documents
h) VOLO10: 27 October 2023: 3 documents
i) VOL011: 01 November 2023: 579 documents
j) VOL012: 08 November 2023: 393 documents
k) VOL013: 17 November 2023: 5 documents
l) VOL014: 21 November 2023: 20 documents
m) VOL015: 28 November 2023: 352 documents
n) VOL016: 28 November 2023: 10 documents

50. The Developers have sought to raise questions regarding documents that seem obviously to be missing from the documents that Dr Wright would be expected to produce. The responses to those requests have been non-existent or perfunctory. By way of example, no good reason has been provided by Dr Wright for his failure to search his nChain (formerly nCrypt) emails. Dr Wright has failed to disclose posts from Twitter and Slack, which he appears to have been purging – and refused to give a straight answer to his involvement with the @Dr_Craig_Wright twitter handle. In due course, it will be necessary to consider whether adverse inferences should be drawn from those shortcomings.

51. There is, however, one key limb of disclosure that should now be provided, namely the emails disclosed by Gavin Andresen in the Kleiman Litigation. The background to that request is set out in the evidence in the Developers' application notice {PTR-

D/1/1-6}, which the Court is invited to read. The Developers sought to resolve this matter in good time ahead of the PTR, but the Claimants finally refused to produce the documents on 5 December 2023.[67]

52. In short:

a) Gavin Andresen was one of the early developers of Bitcoin, who worked on Bitcoin from around July 2010 and communicated with the real Satoshi Nakamoto.

b) Mr Andresen was a witness in proceedings between Dr Wright and the estate of David Kleiman in the US. Dr Wright has served a Civil Evidence Act notice in relation to the transcripts of Mr Andresen's deposition in those proceedings.[68]

c) Mr Andresen referred to a small number of specific emails in that evidence. All of those emails ought to have been picked up by the search terms proposed by Dr Wright in Section 2 of his DRD.[69] But those documents were not produced until specifically requested by the Developers – and even then only after a delay of 6 weeks.[70]

d) Mr Andresen also confirmed under oath that he had disclosed all his emails with Satoshi Nakamoto, Dr Wright and David Kleiman.[71] The Developers accordingly asked that all those emails be produced.[72]

e) Shoosmiths belatedly responded to that request refusing to produce the documents on grounds that they had conducted manual searches, concluded that there were no new relevant documents and that a significant number of communications had already been provided.[73]

f) The latter point was simply not accurate. Just 16 emails passing between Satoshi Nakamoto and Gavin Andresen have been disclosed by the Claimants in relation to the c. 9 months in which Mr Andresen was cooperating with Mr

---

67 {PTR/D/2/63-64}.

68 {E/15/1-3}.

69 The search terms included "Gavin" or "Andresen": {K/2/16}.

70 See the letter from Macfarlanes to Travers Smith dated 4 August 2023 {PTR-D/2/2-4} and Travers Smith's eventual production on 14 September 2023 {PTR-D/2/38-40}.

71 See {E/17/190} in which he confirms having produced everything requested in a subpoena. The subpoena is at {PTR-D/2/109-124}. It was not disclosed until 14 September 2023.

72 {PTR-D/2/126}.

73 {PTR-D/2/63}.

Nakamoto on the development of Bitcoin.[74] 15 of those emails were exhibits in the Kleiman proceedings. The other[75] is an email embedded in a post from Mr Andresen's blog. By contrast Mr Malmi (who gives evidence for COPA and was involved in the development of the Bitcointalk forum) exhibits nearly 200 exchanges that passed between him and Satoshi Nakamoto over a period of about 2 years.

g) No explanation has been provided as to how the document reviewer concluded that the remaining emails from Mr Andresen that have been withheld from disclosure were irrelevant, particularly since they are responsive to the keywords to which Dr Wright agreed.

h) Indeed, it is obvious that the correspondence is relevant, since it will address matters that are explicitly addressed by the Claimant in his witness statement (such as the transfer of the Bitcoin source code to the Github repository - which the Claimant appears to criticise in his witness statement in these proceedings) as well as the development of Bitcoin more generally, which is addressed in both the Claimant's witness statement and in the documents that he has disclosed.

i) Moreover, it is unsatisfactory that Mr Andresen should be tendered to give evidence in circumstances where only fragments of his correspondence with Satoshi Nakamoto is made available.

53. The Developers accordingly invite the Court to order Dr Wright to disclose all the documents produced by Mr Gavin Andresen in Ira Kleiman, et al. v Craig Wright, in their entirety, or at the very least the emails sent by Mr Andresen to, or received by Mr Andresen from, either of the satoshin@gmx.com or satoshi@vistomail.com accounts and produced by Mr Gavin Andresen in those proceedings.

---

74 ID_004562, ID_004607, ID_004608, ID_004609, ID_004610, ID_004611, ID_004613, ID_004614, ID_004615, ID_004616, ID_004617, ID_004624, ID_004625, ID_004626, ID_004627 and ID_004776.

75 ID_004776.

F. Security for Costs

54. At the October Hearing, Mellor J awarded the Developers £650,000 in security for costs, comprising £250,000 for the costs incurred to the date of that hearing, £300,000 for the remaining steps down to and including the PTR, and £100,000 for the cost of junior counsel attending trial ("the **October Judgment**")[76]. In the October Judgment, Mellor J made clear that he was not excluding the Developers from participating in the trial through the presence of leading counsel, and that he was prepared to hear further submissions from the Developers as to the need, level and likely cost of leading counsel's attendance at trial at the PTR[77].

55. Macfarlanes wrote to Harcus Parker to explain that they were renewing this Application on 1 December 2023.[78] The application proceeds on the basis that the Adjournment Application is not granted and that the trial proceeds in January 2024 as envisaged.

56. At the October Hearing, Mellor J indicated that he would need to be persuaded that leading counsel would need to block out the entire trial period and be paid accordingly.[79] The First Claimant's behaviour following the October Hearing alone is sufficient in itself to support the need for leading counsel through until trial.

57. In any event, the Developers are entitled to security for the costs of their leading counsel for the following reasons:

    a) First, the claim against the Developers is massive: see paragraph 6 above. They are entitled to be represented at a hearing which could result in its immediate dismissal. It is appropriate and proportionate that they continue to be represented by leading counsel. Indeed, it is notable that Dr Wright is represented by (at least) 2 leading counsel and 2 juniors. That is unremarkable in a case of this size and complexity – but serves to underscore the appropriate level of the Developers' representation.

---

76 See ¶29 October Judgment {B1/6/8}.
77 See ¶30 October Judgment {B1/6/8}.
78 {M/1/1/1088-1091}.
79 {B1/6/8} [30]-[31].

b) Second, the Claimants knew when they commenced the BTC Core Claim that they would have to prove Dr Wright's claim to be Satoshi Nakamoto against the Developers. The Joint Trial has not changed that obligation and it should not free Dr Wright from facing the Developers' opposition at trial.

c) Third, during the Developers' continued preparation for the joint trial it has become clear that there are relevant parts of the evidence that they are best placed to address in cross-examination of Dr Wright, for example on the technical issues addressed by Mr Wuille relating to documents presented by Dr Wright as contemporaneous.

d) Fourth, there is a factual overlap between these proceedings and the Tulip Trading Claim to which the D2-D12 are also parties, and in which they have instructed (the same) leading counsel. The circumstances in which Dr Wright began to make outward statements about his interest in Bitcoin (namely his dealings with the Australian Tax Office) are the same circumstances in which he first asserted an interest in the 1Feex and 12ib7 addresses. Accordingly, the Developers are not only exposed to binding determinations as to the Identity Issue, but also as to matters directly linked to the Ownership/Abuse of Process issue at the forthcoming trial. Those are not necessarily matters in which COPA has any equivalent interest.

e) Fifth, the Developers are, in practical terms, the people who were closest to the development of Bitcoin and so they are best placed to give live instructions throughout the trial as to the technical history of Bitcoin. Leading counsel cannot be expected to dip in and out of the trial (save, possibly, in relation to witnesses who are wholly exiguous to anything to do with the Developers).

f) Sixth, the court is well aware that (if Dr Wright loses the identity issue) then the entirety of the BTC court proceedings will fall away. If he is successful however, the Developers face another set of technical proceedings in respect of the subsistence and licencing of various complex intellectual property rights. The impact on the defendants personally, and indeed the Bitcoin community, will be materially impacted should Dr Wright succeed in that latter trial. In the premises, it is appropriate and necessary for the Developers to deploy all resources to best protect them at this stage and throughout.

g) Finally, the reality of the procedural developments in this claim makes the Developers' continuing involvement and representation critically important. Dr Wright continues to act in an erratic and unpredictable manner. It is right and important that the Developers should protect their interests arising from those developments through representation by leading counsel, as recent developments only serve to illustrate.

58. The Claimants have recently suggested that the Developers need to explain why they have not instructed COPA's solicitors and counsel team. The Developers have never been represented by the legal team at Bird & Bird that represent COPA.[80] Nor have they been represented by Mr Hough KC. The reason for that is that the Developers' interests are substantially different to those of COPA. The Developers are individual open-source developers who are being sued personally, whose primary interest in their own wellbeing and whose focus on technology and interest with Bitcoin's early history makes them distinct from COPA. The members of COPA are businesses, including exchanges, whose interests do not (or do not necessarily) align with the Developers.

59. In the Security Judgment, Mellor J found at [83] that "*there exists a considerable risk that*" the Claimants would not be able to pay the Defendants' costs. This risk has not decreased: Dr Wright is on his third legal team; he is currently applying to change his case by introducing new reliance documents and has applied to adjourn the trial. Whilst this risk does not increase the costs to which the Developers are entitled, it is a sign of instability and should continue to give the Court serious cause for concern about his ability to meet those costs.

60. So far as the quantum of costs is concerned:

a) The Developers' estimated costs up to and including the trial total £1.15m.

b) Those costs are comprised of:[81]

---

80 The Developers were once represented by Bird & Bird, but only whilst the COPA and BTC Core claims were distinct - and with a separate solicitor team from Bird & Bird.

81 See letter from Macfarlanes to Harcus Parker dated 11 December 2023 {M1/1/1176-1177}. The costs do not include the costs of the PTR. Macfarlanes will address separately the substantial costs of dealing with the Claimants' application for an adjournment. That development was not anticipated at the time of the October Judgment.

i) An estimate for Macfarlanes' costs of c.£185,900. As to which:

(1) The Developers have assumed for the purposes of this estimate that between the PTR and conclusion of the trial there will be the following hours spent by differing categories of fee earner:

(a) Grade A: Partner: c.80 hours.

(b) Grade C: Associate: c.140 hours.

(c) Grade D: Trainee: c120 hours.

(2) Macfarlanes' rates are as follows:

(a) Partner rates of £895 (Mr Charlton) or £1,025 (Ms Horne) per hour.

(b) Associate rates of £475 per hour.

(c) Trainee rates of £355 per hour.

(3) Were the new Guideline Hourly Rates to be applied[82] the applicable rates would be:

(a) Grade A: £546.

(b) Grade C: £288.

(c) Grade D: £198.

And the estimate would be £107,760.

ii) Leading counsel's estimated costs of £985,000. This latter figure comprises of a full brief fee of £785,000, and 25 daily refresher fees of £8,000 per day.

c) 70% of those costs would total £819,630 (or c. £764,932 at Guideline Hourly Rates). However, should Dr Wright fail to establish that he is Satoshi Nakamoto, it is almost certain that he would be ordered to pay costs on the indemnity basis. Thus, as in the Tulip Trading Action it is appropriate that the Developers should be secured for 85% of their future costs, namely £995,265 (or c. £928,846 at Guideline Hourly Rates).[83]

d) Viewed in the round, that is not an unreasonable sum. Dr Wright was awarded security for costs in the total sum of £2.9 million. It is therefore not

---

82 Strictly speaking these come into effect on 1 January 2024, but most of the costs will be incurred after that date.

83 See Danilina v Chernukhin [2018] EWHC 2503 (Comm) at [14]-[15].

unreasonable for him to pay security in this claim of less than half that amount.

G. Remaining procedural matters

61. It is hoped that an agreed (or largely agreed) timetable will be available ahead of the PTR, although Dr Wright's failure to serve his reply witness statements leaves some uncertainty in that respect. In principle, it is agreed that any time spent by the Developers in making submissions or cross-examination will be taken out of the time afforded to COPA.

62. It is agreed that Opus2 will be used as the applicable electronic document platform at the trial. The Developers' witness, Dr Wuille, has been given permission to give his evidence remotely pursuant to the order made by the Court on 6 December 2023.[84]

ALEX GUNNING KC

BETH COLLETT

Instructed by Macfarlanes LLP
bohanlon@oeclaw.co.uk, jcassell@oeclaw.co.uk, agunning@oeclaw.co.uk
clerks@8newsquare.co.uk

[84] {B1/5/1}.