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

Claim Nos. IL-2021-000019
IL-2022-000069

B E T W E E N:

CRYPTO OPEN PATENT ALLIANCE

Claimant in IL-2021-000019
(the "COPA Claim")

- and -

DR CRAIG STEVEN WRIGHT

Defendant in the COPA Claim

AND BETWEEN:

(1) DR CRAIG STEVEN WRIGHT
(2) WRIGHT INTERNATIONAL INVESTMENTS LIMITED
(3) WRIGHT INTERNATIONAL INVESTMENTS UK LIMITED

Claimants in IL-2022-000069
(the "BTC Core Claim")

- and -

(1) BTC CORE
(2) [redacted]
(3) [redacted]
(4) [redacted]
(5) [redacted]
(6) [redacted]
(7) [redacted]
(8) [redacted]
(9) [redacted]
(10) [redacted]
(11) [redacted]
(12) [redacted]
(13) [redacted]
(14) [redacted]
(15) [redacted]
(16) BLOCK, INC.
(17) SPIRAL BTC, INC.
(18) SQUAREUP EUROPE LTD
(19) BLOCKSTREAM CORPORATION INC.

(20) CHAINCODE LABS, INC
(21) COINBASE GLOBAL INC.
(22) CB PAYMENTS, LTD
(23) COINBASE EUROPE LIMITED
(24) COINBASE INC.
(25) CRYPTO OPEN PATENT ALLIANCE
(26) SQUAREUP INTERNATIONAL LIMITED

Defendants in the BTC Core Claim

SKELETON ARGUMENT FOR DR WRIGHT

For the PTR in the window 13 to 15 December 2023

References to the hearing bundles are to Opus2 in the form: {volume / tab / page}

Volumes in the Trial Bundle are referred to in the form {A/…}, etc…

Volumes in the PTR Bundle are referred to in the form {PTR-A/…}, etc…

Reading List:

If time permits, the Court is invited to pre-read the parties' skeleton arguments and the following parts of the following documents. Dr Wright reserves his position as to the admissibility of the items marked with an (*), which comprise expert evidence served by COPA without permission contrary to Chancery Guide §§9.51-9.53.

Pre-reading time-estimate: 1 day.

Dr Wright's Application

(1) *Field 1 (including Schedule 1 but excluding exhibits) {PTR-A/5/1}*

(2) *Wright 5 (excluding exhibits) {PTR-A/3/1}*

(3) *Wright 6 (excluding exhibits) {PTR-A/4/1}*

(4) *Sherrell 18 (excluding exhibits) {PTR-B/1/1}*

(5) *Hinnant 1 (excluding exhibits) {C/18/1} (*)*

(6) *Macfarlane 1 (excluding exhibits) {C/19/1} (*)*

(7) *Loretan 1 (excluding exhibits) {C/20/1} (*)*

(8) *Madden 3 (excluding exhibits) {PTR-B/2/1} (*)*

(9) *Horne 1 (excluding exhibits) {PTR-C/1/1}*

Other PTR Matters

(10) *Fazel / Craig joint statement {Q/1/1}*

(11) *Gao 1 (paras 65-89, 102-154, 180-197 and 217-225) {I/2/1/16-47}*

(12) *Draft trial timetable {PTR-E/1/1}*

I. INTRODUCTION

1. This skeleton argument is served on behalf of Dr Craig Steven Wright ("**Dr Wright**") for the pre-trial review ("**PTR**") of (i) the main trial of the claim by Crypto Open Patent Alliance ("**COPA**") against Dr Wright (the "**COPA Claim**") and (ii) the trial of a preliminary issue (the "**Identity Issue**") in the claim by Dr Wright and two of his companies against BTC Core (a partnership consisting of entities and individuals including the 2nd to 26th defendants in those proceedings) (the "**BTC Core Claim**") as to whether:[1]

> "***Dr Wright is the pseudonymous "Satoshi Nakamoto", i.e. the person who created Bitcoin in 2009***".

The main trial in the COPA Claim and the trial of the Identity Issue in the BTC Core Claim are referred to collectively below as the "**Joint Trial**".

2. The court will be familiar with the background to the Joint Trial. The relevant background has been addressed in the previous judgments of Mellor J (the "**Judge**") in this matter, including: [2023] EWHC 1894 (Ch), defining the Identity Issue and setting directions for trial; [2023] EWHC 2408 (Ch), dealing with various applications including Dr Wright's application to adduce expert evidence on autism spectrum disorder ("**ASD**"); and [2023] EWHC 2642 (Ch), granting COPA permission to make an additional 50 allegations of forgery.

3. Given the Court's familiarity with this matter, Dr Wright does not propose to address the background to the Joint Trial (save to the extent it is relevant to the particular issues addressed below). Instead, this skeleton proceeds directly to address the issues for consideration at the PTR.

4. These have been agreed by the parties as follows:

   (1) The application by Dr Wright for (i) permission to rely upon additional documents, (ii) adjournment of the trial and revised directions to an adjourned

[1] As defined in para 1 of Mellor J's Order dated 15 June 2023 {B/12/4}.

trial, and (iii) confidentiality restrictions to be placed on disclosure and inspection of certain LaTeX files (the "**Application**").

(2) Update on the expert evidence relating to autism spectrum disorder ("**ASD**"), including the reasonable adjustments required to be made at trial to accommodate Dr Wright's (now agreed) diagnosis of ASD. These adjustments are now substantially common ground but there is an issue about the costs of this expert evidence.

(3) A dispute between the parties concerning the digital currency technology expert evidence.

(4) The conduct of the joint trial, i.e. the scope/extent of involvement of Ds2-12, 14 and 15 in the BTC Core Claim (the "**Developers**"), including any limitations on written/oral submissions and cross-examination.

(5) Other PTR matters, including: (i) trial bundles; (ii) trial timetable; (iii) remote evidence; (iv) hearsay evidence; (v) IT at trial; and (vi) court set-up.

5. The Developers have sought to raise two further issues at the PTR: a specific disclosure application made late on the afternoon of Friday 8 December 2023 and security for costs in the BTC Core Claim. Both matters have been raised very late and Dr Wright reserves his position as to whether they can fairly be dealt with at the PTR. He is considering the specific disclosure request. If and insofar as security for costs in the BTC Core Claim properly falls for consideration at the PTR, it will be addressed by the legal team instructed in that claim (who are not representing Dr Wright at the trial of the Identity Issue).

6. Dr Wright invites the Court to address the Application first.

II. THE APPLICATION

Introduction / Overview

7. The Application seeks an order for:

(1) An adjournment of the trial listed to begin on 15 January 2024 until 19 February 2024, until 19 February 2024 or such other nearby date as the Court can accommodate, and an order for directions (the "**Adjournment Issue**").

(2) Permission to rely on certain additional documents (the "**Additional Documents**") pursuant to CPR PD 57AD, §12.5 because they are being disclosed after the date for Extended Disclosure and the other parties have refused to consent to such reliance (the "**Reliance Issue**").

(3) Confidentiality restrictions to be placed on disclosure and inspection of certain of the Additional Documents (the "**Confidentiality Issue**").

8. A late adjournment of this trial is regrettable, and Dr Wright accepts that it will cause disruption to the parties and the Court. A short adjournment is nevertheless necessary in order to conduct the trial fairly, in particular to give Dr Wright the opportunity properly to present his case and defend himself against the allegations of serious wrongdoing recently advanced by COPA. Without an adjournment, Dr Wright faces the prospect of a trial where he will be required to deal *inter alia* with many allegations of forgery, including deliberate fraud on the Court, without having had an opportunity to address those allegations in factual or expert evidence, or properly to prepare his response with his legal team.

9. The Reliance Issue is also significant because it concerns documents which may be determinative of the Identity Issue or otherwise provide a direct response to allegations of forgery. The Additional Documents are so fundamental to Dr Wright's case on the Identity Issue that it is difficult to see how the trial could be conducted – and Dr Wright cross-examined – if he is barred from relying on them.

10. The Reliance and the Adjournment Issues are related. A short adjournment is required in order for Dr Wright to be able properly to advance his case on the Additional Documents. A short adjournment will also give the other parties an opportunity properly to deal with the Additional Documents at trial, which would in turn mitigate any prejudice to them from late disclosure of the Additional Documents.

11. As for the Confidentiality Issue, the other parties do not appear to dispute the need for additional safeguards. The debate is instead about the terms of the appropriate

confidentiality regime, and in particular whether certain sensitive documents should be stored only on secure IT systems, as Dr Wright contends. There is no good reason not to take such a precaution and it is difficult to understand why this should be controversial.

12. In its response to the Application, COPA has served a 48 page witness statement from Mr Sherrell of Bird & Bird ("**B&B**"), a 69 page further expert report from Mr Madden and three other witness statements raising technical issues of an expert nature. These materials were accompanied by voluminous exhibits running to over 1,000 pages. In the available time it has obviously not been possible to examine/digest and answer this material. The thrust of COPA's argument is summarised by Mr Sherrell in his paragraph 24:

> "*I would stress that the work done by my team and by Mr Madden, which I will describe, has been conducted at high speed and on the basis of very incomplete information. Even with those limitations, however, it is clear that the Additional Reliance Documents are of no evidential value, and therefore provide no proper basis for the trial to be adjourned.*"

13. Bearing in mind that this is a PTR, the approach being adopted by COPA is misconceived. The object of the exercise appears to be to persuade the Court on the basis of this material that the Additional Documents are forged and Dr Wright's explanation about them and their discovery is untrue. These would no doubt be suitable matters to be addressed at the trial in the usual way through expert testimony and cross-examination but they are entirely inappropriate at this stage. They cannot be determined without a trial.

14. Mr Sherrell fairly acknowledges that the information currently available is incomplete. Mr Madden similarly acknowledges that his examination is incomplete because in the time available he has only been able to conduct a limited process. The need for further time on both sides to carry out a proper investigation is clear.

Background

15. Dr Wright is the principal witness of fact and the only person able to give instructions to his legal team. These proceedings impose an extraordinary burden on his time. As an individual, he cannot work on two things at the same time.

16. It is common ground that Dr Wright suffers from ASD and that this requires reasonable adjustments for trial.[2] The agreed features of Dr Wright's ASD[3] – intermittent emotional dysregulation, particularly under stress or questioning involving allegations of wrongdoing, and a tendency to be overly pedantic and argumentative – also increase the time needed for Dr Wright to prepare his evidence and case for trial.

17. It follows that a timetable, which might be appropriate for a corporate party with representatives able to divide work between them, is unrealistic for Dr Wright.

The new forgery allegations

18. At the 12 October 2023 hearing, Dr Wright opposed COPA's application to amend its particulars of claim to plead new forgery allegations on the basis that there was insufficient time until trial for him to be given a fair opportunity to respond to the vast number of new serious allegations raised by the proposed amendments.

19. The Court accepted that the proposed amendments were "*late*", but concluded that a limited subset of 50 of the forgery allegations should be permitted to go to trial, and that limiting the number of additional allegations in that way should avoid prejudicing the trial date.[4] Nevertheless, the inevitable effect was to add to the burden of what the Court recognised was already a "*compressed*" timetable to trial in which there was "*much for both sides to do to meet the outstanding deadlines*".[5] The Court foresaw there might be difficulties in meeting the existing deadlines and gave both sides a general permission to apply on short notice, whilst indicating that the Court would seek to maintain the January 2024 trial listing "*so far as is possible*".[6]

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[2] Fazel/Craig Joint Statement {Q/1/1}.
[3] Fazel/Craig Joint Statement, §§5-7 {Q/1/2}.
[4] Judgment of Mellor J dated 24 October 2023 ([2023] EWHC 2642 (Ch)) (the "**October Judgment**") [70] {B/26/19-20}.
[5] October Judgment, [31] {B/26/11}.
[6] October Judgment, [73] {B/26/20}.

20. In the event, COPA served its Re-Re-Re-Amended Particulars of Claim making the forgery allegations on 31 October 2023. The substance of the allegations is set out in a schedule to the Re-Re-Re-Amended Particulars of Claim, which runs to 100 pages (excluding a 2-page appendix) (the "**Forgery Schedule**").[7]

21. It is notable that the Forgery Schedule is 2.5x longer than the 40-page limit for statements of case prescribed by the Chancery Guide ("save in exceptional circumstances")[8], and nearly 5x longer than the Re-Re-Re-Amended Particulars of Claim itself. Notwithstanding its length, the Forgery Schedule cannot be read as a stand-alone document because it cross refers extensively to the expert report of Mr Madden, COPA's expert on forensic document analysis, which was served on 1 September 2023 and which itself runs to 968 pages with appendices (the "**Madden Report**")[9].

22. Each of the forgery allegations is a matter of the utmost gravity for Dr Wright, both for the outcome of the instant proceedings but also for his reputation, and because of the legal consequences that might follow a finding of forgery. Each allegation requires careful consideration, investigation and a fair opportunity to respond.

23. At the 12 October 2023 hearing, the Court envisaged that the exercise of responding to these allegations would be limited because they would concern Dr Wright's own documents, such that "*If any alterations to the metadata have occurred through the process of disclosure, Dr Wright should be able to explain what happened*".[10] This has not been borne out in practice.

24. Consistently with his case that he did not deliberately or knowingly modify the metadata of any of the documents, his response to these allegations has been painstaking. In relation to each document, it is necessary for Dr Wright to consider and understand the detail of the forgery allegation made by COPA; to consider, understand and examine the technical issues raised by Mr Madden and Dr Placks' response to those issues; and then to address the factual circumstances of each document, including the nature of the document, the work Dr Wright was carrying out

[7] {A/2/24}.
[8] Chancery Guide, §4.4.
[9] {G/1/1}.
[10] October Judgment, [62].

at the time, the software and computer environment within which he was then working and how those matters may have impacted the metadata and other issues alighted upon by COPA. The nature of the allegations means that Dr Wright cannot simply "explain what happened".

Expert reports on forensic document analysis

25. As noted above, COPA served the Madden Report on 1 September 2023. The main body of the report is 97 pages, but that deals only with introductory topics, background and methodology.[11] Mr Madden set outs his detailed analysis of each document in the appendices which, together with the main report, runs to 968 pages. This addresses the authenticity of 389 documents in Dr Wright's disclosure, including 50 of Dr Wright's 100 Reliance Documents, and it is not surprising that it took Mr Madden five months to produce it.[12]

26. In contrast, Dr Placks (Dr Wright's expert on forensic document analysis) had only 7 weeks to respond, serving his report on 23 October 2023 (the "**Placks Report**")[13]. This was an impossible task, which forced Dr Placks to focus on only 48 of the Reliance Documents addressed in the Madden Report,[14] leaving Mr Madden's assertions of inauthenticity on hundreds of other documents unanswered, including the 21 non-Reliance Documents alleged by COPA to be forgeries. COPA has recently sought to shift the blame for this state of affairs from their own late and disproportionate approach to alleging forgery and inauthenticity to Dr Wright, asserting that Dr Placks' difficulties are the result of him not being instructed earlier.[15] This makes no sense. Dr Placks has been able to address issues relating to the Reliance Documents, but neither Dr Wright nor Dr Placks knew which of the many non-Reliance Documents in disclosure Mr Madden might focus on until Mr Madden served his report. There was no way for Dr Placks to anticipate the work required to address those documents.

27. On 17 November 2023, Mr Madden served his reply report (the "**Madden Reply Report**")[16]. It runs to 172 pages (with appendices), and makes new forgery allegations

[11] Madden Report, §12.a {G/1/7}.
[12] Madden Report, §18.a {G/1/9}.
[13] {I/1/6}.
[14] Placks Report, §§3.01-3.03 {I/1/6}.
[15] Bird & Bird's second letter of 29 November 2023, §11.b {M/2/569}.
[16] {G/3/1}.

arising out of: (1) accounting records from the accounting software MYOB[17]; (2) the Chain of Custody table provided by Dr Wright (the "**CoC Table**")[18]; (3) Dr Wright's documents related to the Bitcoin White Paper;[19] and (4) videos showing Dr Wright accessing his Anonymous Speech account through which he established the satoshi@anonymopusspeech.com and satoshi@vistomail.com email accounts, which were exhibited to Dr Wright's Fourth Witness Statement.[20] Whilst Dr Placks has been able to consider some of these points, he has not been able to address all of them in the time available.

Additional Disclosure

28. Dr Wright recently discovered two hard drives in his home office that were not previously included in searches for disclosure (the "**Additional Drives**"). Dr Wright's Fifth Witness Statement gives his account of why the Additional Drives were not previously included in his disclosure and how he came to discover them. He says the hard drives were among the devices made available to AlixPartners when they attended his home to harvest documents for disclosure, he does not know why they were not then imaged, and he only realised in mid-September, when he found the Additional Drives in a drawer without AlixPartners stickers, that they may not have been imaged by AlixPartners.

29. The discovery of the Additional Drives has required much extra work:

    (1) First, a further major disclosure exercise: the Additional Drives contained 268,947 documents, which were narrowed to 12,007 documents through keyword searches, of which 838 were disclosed following a manual review.[21]

    (2) Second, Dr Wright has (understandably) been required to give an account of the history of the Additional Drives, and their discovery has prompted an

[17] Madden Reply Report, Appendix PM42 {H/209/1}.
[18] Madden Reply Report, Appendix PM43 {H/219/1}.
[19] Madden Reply Report, Appendix PM44 {H/238/1}.
[20] Madden Reply Report, Appendix PM45 {H/241/1}.
[21] See Field 1, §§10-17. The 12,007 keyword-responsive documents include the initial set of 7,123 described at §13 and a second set of 4,884 described at §17; the 838 disclosed documents include 486 from the first set and 352 from the second set.

extraordinary volume of questions in correspondence (see, by way of example, B&B's 13-page letter of 27 November).[22]

(3) Third, and as explained below, a disk-image file (the "**BDO Image**") on one of the Additional Drives (the "**Samsung Drive**") contains documents that are of the highest possible relevance to the Identity Issue, and Dr Wright wishes to rely on them. This has required Dr Wright's legal team to produce an explanation of the relevance of the documents and the provenance of the BDO Image and Samsung Drive, initially for an unsuccessful attempt to obtain the other parties' consent for reliance, and latterly to prepare this Application. Given the nature of the allegations already made, and the pre-existing demands on Dr Placks, Dr Wright also engaged forensic consultants to analyse the metadata of the BDO Image and the Samsung Drive, as described in Field 1, §26.[23]

30. Other issues with Dr Wright's previous disclosure have also recently come to light, as explained in Field 1, §19. Most significantly, Dr Wright has in his possession what he says is in effect the unique source code for the Bitcoin White Paper that could only be held by the person who authored that document (the "**White Paper LaTeX Files**"). The significance of these documents is explained in detail below, but for present purposes the key point is that the discovery of these documents has generated further work that was not contemplated in the existing directions.

Change of legal team

31. The Court will be aware that Dr Wright replaced his then solicitors with Shoosmiths with effect from 6 October 2023, and has also replaced members of his counsel team. While this was of course Dr Wright's decision, it has exacerbated the pressures on Dr Wright's ability to prepare for trial. The Court may consider this a problem of Dr Wright's own making, but it is a fact relevant to the question of whether it is possible to hold a fair trial in January 2024.

[22] {M/2/525}.
[23] {PTR-A/5/9}.

The correspondence

32. It is necessary to say something about the other parties' – in particular COPA's – approach to correspondence. COPA is aware of all of the background matters set out above, including the agreed implications of Dr Wright's ASD. It must appreciate that on any view Dr Wright is under considerable time pressure, and that the very fact of that pressure will exacerbate the difficulties caused by his disability.

33. On 19 October 2023, Shoosmiths wrote to B&B to express concerns about COPA's approach to these proceedings (including having sent 23 letters/emails in the last 8 working days making substantial demands with tight timescales).[24] The letter explained that "*As a result of your conduct, our client has been obliged to work 18 hours a day, seven days a week*" and reminded B&B of their professional duty to take care when dealing with a vulnerable opponent. It is regrettable that COPA's oppressive approach to correspondence has continued.

34. In November alone, B&B sent 31 letters to Shoosmiths. While some of these were straightforward, many made entirely unrealistic demands for substantive responses on complex issues within less than a day. Macfarlanes have recently decided to adopt a similar approach. For example, their 2nd letter of 6 December 2023 complained about a letter from Shoosmiths having been received "*some 50 minutes after the deadline set in our letter of 4 December 2023*".[25] On 7 December 2023, Shoosmiths received no less than 7 letters from B&B, as well as correspondence from Macfarlanes. Dealing with these letters has occupied much of Dr Wright's time and a substantial proportion of his legal team over the last weeks.

The present position

35. The position on the remaining steps to trial is as follows:

[24] {M/2/281}.
[25] {M1/1/1164}.

(1) Dr Wright was unable to prepare his factual evidence in response to the Forgery Schedule by the deadline of 1 December 2023,[26] and he is not in a position to do so before 12 January 2024; and

(2) Dr Placks has not addressed hundreds of allegations, including specific allegations of forgery, advanced in the Forgery Schedule and in Mr Madden's reports, and he too is not in a position to do so before 12 January 2024 at the earliest.

36. In addition, the parties and their experts have not made any real progress in addressing the substance of the additional disclosure, as further explained below.

Applicable Legal Principles

Adjournment

37. The principles relevant to an application to adjourn a trial are well-settled.

38. The Court may adjourn a trial under its general powers of case management: CPR r. 3.1(b). Although the question whether to adjourn is generally a matter of discretion, the Court must grant an adjournment if not to do so amounts to a denial of justice; and where the consequences of refusal of an adjournment are severe, the court "*must be particularly careful not to cause an injustice to the litigant seeking an adjournment*": **Teinaz v London Borough of Wandsworth** [2002] IRLR 721 CA, Peter Gibson LJ at [20]. As Henshaw J said in **Barclays Bank v Shetty** [2022] EWHC 19 (Comm), Henshaw J at [45]: "*If the Court concludes that it is necessary to adjourn a hearing in the interest of fairness, then it must be adjourned, for the court cannot countenance an unfair hearing*".

39. In **Solanki v Intercity Telecom Ltd** [2018] EWCA Civ 101 the Court of Appeal, reversing the judge, also emphasised that the key issue was whether it would be fair to hold the hearing. In that case, the appellant had sought a last-minute adjournment on a number of grounds, and the Court of Appeal concluded that it was a case in which an adjournment "*had to be granted, because not to do so amounted to a denial of justice*", Gloster LJ at [44]. The Court of Appeal considered the most important reason why an adjournment ought to have been granted was that in the absence of an

[26] Which is subject to Dr Wright's in-time application to extend the deadline.

adjournment the trial had proceeded without the benefit of witnesses who "*were, **or might have been**, of critical importance to the determination of not only issues of liability but also of quantum*." (emphasis added).

40. The primacy given in an application for adjournment to the question of whether it is fair to hold the trial is unsurprising given that this question engages a litigant's right to a fair trial under Article 6 of the ECHR: **Terluk v Berezovsky** [2010] EWCA Civ 1345, Sedley LJ at [18].

Permission to rely on documents

41. CPR PD 57AD, §12.5 provides "*A party may not without the permission of the court or agreement of the parties rely on any document in its control that it has not disclosed at the time required for Extended Disclosure […]*".

42. The principles applicable to relief from sanctions are relevant but not determinative of an application for permission to rely under §12.5, which instead requires a more flexible consideration of all relevant circumstances: **McTear v Engelhard** [2016] 4 WLR 108 (CA), Vos LJ at [48].[27] The most important considerations are, on the one hand, the importance of the documents, and on the other, whether the other parties can properly deal with the documents at trial: **McTear**, [48]-[49].

43. If the documents are so important that it is not possible to hold a fair trial without them permission will invariably be given; in such a case similar considerations about fairness arise as in relation to adjournment. Thus, in **Tibbs v Tibbs** [2020] EWHC 1853 (Ch) the Court gave permission during a trial for the claimant to rely on an undisclosed signed version of a facility agreement where the absence of a signed version was a key issue in the case and had been the basis on which the claimant had been cross-examined. It was accepted that there had been a serious breach of the disclosure order ("*it is difficult to think of a breach more serious*", [11]) and that there was no proper explanation for the breach ([12]). However, the importance of the documents made permission to rely necessary to do justice in the case: "*these*

[27] A decision which concerned CPR r. 31.21, which is in similar terms to §12.5: "*A party may not rely on any document which he fails to disclose or in respect of which he fails to permit inspection unless the court gives permission*".

documents in their signed form may be fundamental in establishing what happened" ([15]).

Adjournment generally

44. Dr Wright cannot be ready for trial on time irrespective of the Court's conclusions on permission to rely on the Additional Documents. There is no realistic prospect of him being in a position to respond to the forgery allegations in time. Dr Wright's legal team has been assiduously working to produce his reply statement but more time is required. There is also no realistic possibility for Dr Placks meaningfully to engage with the breadth of allegations advanced through Mr Madden's evidence in the available time. He has not yet been able to address the 21 non-Reliance Documents alleged to be forgeries or most of the new forgery allegations made in the Madden Reply Report, let alone the totality of the inauthenticity allegations advanced by COPA.

45. It will take an extraordinary effort for Dr Wright and his legal team and Dr Placks to be in a position to serve even the most essential outstanding evidence by 12 January 2024, and that would leave no time to prepare for trial starting a few days later.

46. The case for an adjournment is *a fortiori* if the Court grants permission for Dr Wright to rely on the Additional Documents. As explained below, this would require substantial further factual and expert evidence, which is a process that has not even begun.

47. If the current trial listing stands, the reality is that Dr Wright will be unable properly to present his case, let alone respond to the numerous very serious allegations made against him. Such a trial would not be fair. This is a case where an adjournment should be granted.

The Reliance Issue: permission to rely under CPR PD 57AD, §12.5

48. There are three categories of Additional Documents on which Dr Wright seeks permission to rely: (1) the "**97 Documents**", which are files taken from the newly discovered Samsung Drive and the BDO Image on it; (2) the White Paper LaTeX Files, which are the source code for the Bitcoin White Paper; and (3) the "**Documentary**

Credits Assignment Documents", which are authentic versions of other documents alleged to be forgeries.

49. Dr Wright accepts that failing previously to disclose the Additional Documents involves a significant failure to comply with the order for Extended Disclosure. Dr Wright has explained why those failures occurred (see Wright 5 in relation to the 97 Documents, Field 1, §19.2.4 in relation to the White Paper LaTeX Files and Field 1, §19.1 in relation to the Documentary Credits Assignment Documents). In short, Dr Wright points to shortcomings in the collection and processing of his documents for disclosure.

50. Ultimately, however, the Reliance Issue is likely to turn on the importance of the Additional Documents to the proceedings. This is because the other key factor identified in the authorities – the ability of the other parties to deal with the documents at trial – is bound-up with the question of adjournment. If permission to rely is granted, an adjournment is required, and that adjournment would need to give the other parties sufficient time properly to deal with these documents. Similarly, if the Court is minded to grant an adjournment in any event, then that will allow time to deal with the Additional Documents. This is therefore a case where there should be no scope for substantive prejudice to the other parties as a result of the late disclosure.

51. For reasons that have been set out in Field 1 and Schedule 1, each of the three categories of Additional Documents are of central importance to Dr Wright's case and to the resolution of the Identity Issue. For that reason, Dr Wright should be permitted to rely on them at trial.

52. This section of the skeleton argument addresses (1) the importance of each of the three categories of the Additional Documents to the Identity Issue; (2) the need for further factual and expert evidence as a result of Dr Wright's reliance on those documents; and (3) why the trial should be adjourned.

The 97 Documents

53. The 97 Documents are of the utmost importance. They all bear metadata from before the publication of the Bitcoin White Paper and all but two of them come from the BDO

Image, which, on its face, dates from 31 October 2007 and, as Dr Wright explains,[28] an image of a drive that he used when he worked at BDO. Dr Wright has also explained that he has not edited or amended any documents in the BDO Image since 31 October 2007.[29] Whether that is the case will need to be investigated thoroughly, but if those dates are accurate, these documents are likely to be determinative of the Identity Issue.

54. The 97 Documents are also important in light of COPA's allegations that Dr Wright has forged dozens of his existing Reliance Documents (including by backdating and manipulating them electronically), such that there is a real dispute over the authenticity of the other key documentary evidence in the case. Further, the fact that some of the 97 Documents are earlier copies of documents allegedly forged makes them indispensable to a fair trial. Indeed, it is difficult to understand how it would even be possible to conduct a trial at which Dr Wright, if cross-examined on the basis that he forged a particular document, could not refer to what are, on his case, authentic versions of the same document.

55. As to their relevance to the Identity Issue, the 97 Documents can conveniently be grouped into 7 sub-categories, as shown in Schedule 1 to Field 1. Taking each sub-category in turn:

    (1) **LaTeX files which, when compiled, generate images from the Bitcoin White Paper (5 documents)**: The central relevance of these documents is obvious. If Dr Wright possessed images from the Bitcoin White Paper on a drive he used at BDO prior to 31 October 2007, that is powerful evidence that he is Satoshi Nakamoto.

    (2) **Dragon "NaturallySpeaking" files (7 documents)**: these record Dr Wright's dictations of draft sections of the Bitcoin White Paper or referencing the drafting of the White Paper, as well as transcribed text files of those dictated notes. The relevance of these files is similarly obvious.

    (3) **Versions of Dr Wright's LLM Proposal (3 documents)**: Each of these documents is an early version/draft of Dr Wright's LLM proposal on "*Payment Providers and Trusted Third Parties as Defined in the Law of the Internet*",

[28] Wright 5, §7 {PTR-A/3/4}.
[29] Wright 5, §9 {PTR-A/3/4}.

which uses language similar to that found in the Bitcoin White Paper. COPA alleges that previously disclosed versions of the LLM Proposal[30] are forgeries on the basis that they were was allegedly backdated to before the publication of the Bitcoin White Paper.[31] The fact that versions of the proposal are contained in the BDO Image is therefore significant.

(4) **LaTeX files which, when compiled, generate sections of the "Timecoin" white paper (6 documents)**: The Timecoin White Paper is one of Dr Wright's Reliance Documents[32] because it is an early version of the Bitcoin White Paper that uses similar language.[33] COPA alleges that it is a forgery on the basis that it was produced by modifying the Bitcoin White Paper (and therefore post-dates it).[34] The 6 LaTeX files within this category are all located within the BDO Image and therefore allow Dr Wright directly to refute COPA's forgery allegations, as well as being independently compelling evidence that he is Satoshi Nakamoto.

(5) **LaTeX files which, when compiled, generate draft articles under the pseudonym "Satoshi" or "Satoshi Nakamoto", relating to concepts later used in the Bitcoin White Paper (2 documents)**: Each of these code files produces an article which refers to concepts similar to the concepts in the Bitcoin White Paper, authored by "Satoshi" or "Satoshi Nakamoto", bearing the dates 15 September 2007 and 30 August 2006. These are again self-evidently relevant to the Identity Issue.

(6) **Notes, drafts and articles addressing technical concepts that underpin the concepts developed in the Bitcoin White Paper (48 documents)**: Each of these documents is described at row 6 of Schedule 1 to Field 1, which the Court is invited to read. They include papers and articles, and LaTeX files coding for papers and articles, that include many of the concepts later found in the Bitcoin

[30] ID_000199, ID_000217 and ID_003702.
[31] {A/2/31}, {A/2/34} and {A/2/110}.
[32] ID_000254.
[33] Dr Wright has explained, at Wright 1 [26], that he referred to what became Bitcoin as Timecoin during its initial stages of development {E/1/7}.
[34] {A/2/39}.

White Paper (as well as precursors of the same). All of them are relevant to the Identity Issue and all but one are located in the BDO Image.[35]

(7) **Notes, drafts and articles produced by Dr Wright during his LLM at Northumbria University (26 documents)**: These are described in some detail in row 7 of Schedule 1 to Field 1 and are said by Dr Wright to show his interest in legal issues that are foundational to the principles reflected in the Bitcoin White Paper, for example the law on electronic contracting, electronic signatures and electronic commerce[36] and principles of fair competition and consumer welfare.[37]

The White Paper LaTeX Files

56. The relevance of these documents is explained in Field 1, §§19.2, 27. LaTeX is a document preparation system which, in essence, allows a person to write coded instructions in plain text that can be compiled using appropriate software into an output document, such as a PDF. Dr Wright says that this is the way that he produced the Bitcoin White Paper (see his Fourth Witness Statement at §6(c)(i))[38], and that these files, when compiled, produce a copy of the Bitcoin White Paper in materially identical form as the version published by Satoshi Nakamoto.

57. These files are potentially determinative of the Identity Issue for two reasons (set out in Field 1 §§27-31):

(1) First, Dr Wright contends that these files contain code that when compiled produce the published form of the Bitcoin White Paper, including non-standard formatting that Dr Wright included (for example, differences in the size of the spaces between words), in effect as a form of digital watermark. In this regard, Dr Wright has explained that in the 15 years since the Bitcoin White Paper was published, many people have tried to replicate it precisely, without success.[39]

[35] The exception being ID_004736.
[36] ID_004649 to ID_004652, ID_004664 to ID_004673, ID_004676, ID_004677 and ID_004683.
[37] ID_004660 to ID_004663, ID_004674, ID_004675 and ID_004678 to ID_004680.
[38] {E/4/5}.
[39] Field 1, §31 {PTR-A/5/10}.

(2) Second, Dr Wright contends that it is practically infeasible for a person to "*reverse-engineer*" the LaTeX code for the Bitcoin White Paper from its published form. For example, software that uses text recognition to convert a PDF of the White Paper into LaTeX code would, Dr Wright believes, produce code for text with standard spacing between words, rather than the variable and bespoke spacing in fact present in the published form of the Bitcoin White Paper. Further, Dr Wright has stated that it would be particularly difficult to reverse engineer the LaTeX code for the images in the Bitcoin White Paper, because such code would produce images that did not match the exact parameters of the images in the White Paper (for example, as to the precise location and angle of lines and arrows).

(3) In other words, Dr Wright contends that his LaTeX files uniquely code for the published form of the Bitcoin White Paper, and if that is right then it is powerful evidence that he is the author of the Bitcoin White Paper.

(4) This is significant because Dr Wright's case on these documents does not depend on dating the documents to the period prior to the publication of the Bitcoin White Paper (and therefore does not depend on contested evidence on their metadata). Instead, Dr Wright relies on the fact of possession of this unique code.

58. Dr Wright's case in relation to the White Paper LaTeX Files will need to be addressed in expert evidence (as explained further below), but they are documents that are potentially dispositive of the Identity Issue, which cannot fairly be determined unless Dr Wright is entitled to rely on them.

Documentary Credits Assignment Documents

59. The nature of these two additional documents is summarised at Field 1 § 19.1. They are versions of Dr Wright's already disclosed[40] assignment on "*Documentary Credits under the UCP 500*", which COPA alleges to have been backdated.[41] They appear, on their face, to date from 31 August 2007 and 12 October 2007, respectively. According to Dr Wright, the latter version of this assignment was submitted by him

[40] ID_000395.
[41] {A/2/48}.

for evaluation as to inclusion in the Web Journal of Current Legal Issues. Given the seriousness of the forgery allegation made by COPA in relation to the already disclosed version of this assignment, and the potential for these documents to answer that allegation, fairness requires that Dr Wright be permitted to rely on them.

60. As with the 97 Documents, it is difficult to see how any trial, let alone a fair trial, could be conducted involving cross-examination on the basis that Dr Wright had forged the already-disclosed versions of this assignment, if Dr Wright is barred from answering the allegation by reference to an authentic version of the assignment in his possession.

COPA's response

61. COPA has adduced voluminous further factual and expert evidence designed to undermine the authenticity of the Additional Documents. It alleges that at least some of the Additional Documents are forged and that Dr Wright's explanations about their provenance and significance are untrue. These matters cannot be resolved at this hearing. They require a trial.

62. COPA did not seek permission to serve further expert evidence from Mr Madden, although permission is required even on an interlocutory application: **Soriano v Forensic News LLC** [2021] EWHC 873 (QB), Johnson J at [57] and Chancery Guide at §§9.51-9.53. The same applies to the witness statements served by COPA from Mr Hinnant, Dr Loretan and Professor Macfarlane. Although expressed in factual terms, their evidence requires expertise for them to be able to state those facts and therefore comprises expert evidence.[42] Further, each of them purports to comment on the authenticity, and various technical aspects, of some of the 97 Documents. This commentary is inadmissible and/or expert opinion for which no permission has been granted.[43]

63. Dr Wright must be given a fair opportunity to respond to this material. He acknowledges that reliance on the Additional Documents would entail further

[42] **Glaxo Wellcome v Sandoz** [2019] R.P.C. 26, at [5] to [15] and [19] to [20], Arnold J.
[43] **Glaxo Wellcome v Sandoz**, ibid, at e.g. [28], [42] and [45] ruling that purportedly factual evidence from health professionals expressing opinions on documents was inadmissible commentary and/or expert evidence for which no permission had been granted.

investigation of their authenticity and provenance by the parties on both sides of this litigation; that is why he applies for an adjournment. COPA's evidence does not obviate the need for an adjournment, rather it reinforces the need for one.

64. The Court cannot determine without an adjournment that the Additional Documents are of "*no evidential value*", as COPA suggest.[44] The Court should not engage in a mini trial. The Courts have repeatedly emphasised the need for particular caution before summarily determining on paper allegations of serious wrongdoing. For example, in **Allied Fort Insurance Services Ltd v Ahmed** [2015] EWCA Civ 841, the Court of Appeal allowed an appeal where the Judge had conducted a mini trial to resolve conflicts of evidence against a background of complex facts which would ordinarily be given and tested by cross-examination at trial. At [81], Sir Terence Etherton C emphasised that "*particular caution should be exercised before depriving a party of the opportunity of rebutting allegations of dishonest conduct*", citing with approval Sir Igor Judge P in **Wrexham Association Football Club Ltd v Crucialmove Ltd** [2007] BCC 139, at [57]:

> "*I do not underestimate the importance of a finding adverse to the integrity to one of the parties. In itself, the risk of such a finding may provide a compelling reason for allowing a case to proceed to full oral hearing, notwithstanding the apparent strength of the claim on paper, and the confident expectation, based on the papers, that the defendant lacks any real prospect of success. Experience teaches us that on occasion apparently overwhelming cases of fraud and dishonesty somehow inexplicably disintegrate. In short, oral testimony may show that some such cases are only tissue paper strong.*"

65. In this case the Additional Documents are critical to Dr Wright's case, including his rebuttal of the serious allegations of fraud made against him. COPA does not and cannot deny the importance of these documents; to the contrary, the volume of evidence it has produced even for the purposes of the PTR demonstrates how important they are. The short point is that if the Additional Documents are authentic, they are likely determinative of the Identity Issue in Dr Wright's favour.

[44] Sherrell 18, §24 {PTR-B/1/8}.

Factual and Expert Evidence on the Additional Documents

66. If Dr Wright is permitted to rely on the Additional Documents, given the nature of COPA's challenges to the authenticity of Dr Wright's existing Reliance Documents and the evidence it has served in response to the Application, it is clear that further expert evidence will be required on three topics:

    (1) The authenticity of the White Paper LaTeX Files and some at least of the 97 Documents and Documentary Credits Assignment Documents. This should be capable of being addressed by the parties' existing experts on forensic document analysis.

    (2) The provenance of the Hard Drives, including the date(s) on which the BDO image on the Samsung hard drive was captured and accessed prior to Dr Wright's discovery of the Hard Drives during September 2023. This should also be capable of being addressed by the parties' existing experts on forensic document analysis.

    (3) The significance of the White Paper LaTeX files, how precisely they reproduce the Bitcoin White Paper and the extent to which (if at all) source code capable of compiling a precise replica of the published version of the Bitcoin White Paper can be reverse-engineered. This is not, on its face, a matter of forensic document analysis, and may require evidence from additional experts.[45]

Consequential need for adjournment

67. Even if Dr Wright were not facing the burdens described above, the further expert evidence required in relation to the Additional Documents could not be accommodated in the time remaining before the existing trial start date:

    (1) In relation to the first two categories of evidence described above, the parties' existing forensic document analysis expert will need time to consider the

[45] Dr Placks has confirmed that it is not a matter he is qualified to opine on; Field 1, §41 {PTR-A/5/12}.

issues and prepare reports. Dr Placks could not produce a report on these new matters before 12 January 2024.[46]

(2) As to the third category of expert evidence referred to above, concerning the significance of the White Paper LaTeX Files, any new expert will also need to consider the White Paper LaTeX Files and the Bitcoin White Paper, and produce a report of their findings, which will take time.

68. It follows that, if Dr Wright is permitted to rely on the Additional Documents, that alone would necessitate an adjournment to the start of the trial. This is *a fortiori* in the context of the other burdens currently facing Dr Wright in preparing for trial.

Conclusions on permission to rely/adjournment

69. The Adjournment and Reliance Issues are ultimately concerned with the same question: whether to adjourn the current trial and permit Dr Wright fairly to advance his case on the Identity Issue. If the trial proceeds as listed, Dr Wright will have to face the serious allegations made by COPA without recourse to documentary, factual and expert evidence that is fundamental. That would not be a fair trial.

70. The only viable option is to permit Dr Wright to rely on the Additional Documents and to give directions for an adjourned trial that will enable all parties properly to present their case.

71. The unfairness to Dr Wright in proceeding without an adjournment outweighs any prejudice that might be asserted by COPA and/or the Developers by reason of the trial being delayed. If adjournment is necessary to achieve a fair trial, then "*it must be adjourned for the court cannot countenance an unfair hearing*".[47] Furthermore, postponing determination of Dr Wright's claim to be Satoshi Nakamoto, which has been in dispute for many years, would not cause irremediable prejudice to COPA, the Developers or other litigants.

72. Proposed directions to a trial starting on 19 February 2024 are at {PTR-E/1/1}, together with a draft trial timetable. The directions provide for any further factual

[46] Field 1, §40 {PTR-A/5/12}.
[47] **Teinaz v London Borough of Wandsworth** at [20], Gibson LJ; see paragraph 38 above.

statements and expert reports to be served on 12 January 2024 (which involves granting Dr Wright an extension of time for his reply evidence from 1 December 2023), with expert meetings to follow, culminating with joint statements on 2 February 2024 and the filing of skeleton arguments on 12 February 2024.

73. We have been advised that neither COPA's counsel nor the Judge can accommodate a trial starting on 19 February 2024. In those circumstances, Dr Wright seeks directions for the trial to be relisted before another Judge of this division on the earliest possible date convenient to the parties after 19 February 2024, with a time estimate of 26 days (22 days for openings and evidence, and 4 days for oral closings). Minimising the length of any adjournment is in all parties' interests.

Confidentiality Club

74. Dr Wright seeks an order that the White Paper LaTeX Files be subject to additional confidentiality protection. COPA and the BTC Developers have refused to agree to the confidentiality terms proposed by Dr Wright, and instead offered only to enter into a temporary arrangement on the standard form confidentiality undertaking in the Patents Courts Guide pending the determination of the Application.[48]

75. Additional confidentiality safeguards are required in relation to the White Paper LaTeX Files because, as explained above, their evidential value is based on the proposition that Dr Wright is the only person who has possession of LaTeX code that can be compiled into the Bitcoin White Paper. That proposition would be undermined if the White Paper LaTeX Files were disseminated for two reasons:

    (1) First, even if Dr Wright proves that the White Paper LaTeX Files do code for the Bitcoin White Paper, it would be necessary for him to establish that he did not obtain them from another source (which, following any dissemination, would exist). That may not be possible, certainly in the time available, not least because Dr Wright's copy of the White Paper LaTeX Files do not have date-specific metadata.[49] The BTC Developers' suggestion that Dr Wright could overcome this difficulty by now publishing a "hash" of the Files makes no sense: all that would establish is that Dr Wright has possession of the Files on the date of the

[48] Sherrell 18, §90 {PTR-B/1/29}; Horne 1, §§5.14-5.16 {PTR-C/1/12-14}.
[49] Field 1, 19.2.3 {PTR-A/5/7}.

hash, which is not in doubt since he is the one disclosing them. It would not prove that he had possession of the Files before any other person who gained access following any dissemination.

(2) Second, a person with access to the White Paper LaTeX Files may be able to use them to explain how to reverse-engineer the Bitcoin White Paper into LaTeX, even if that explanation would not have been possible without those files.

76. It is now common practice for highly confidential documents to be subject to more restrictive measures going beyond the collateral undertaking and designed to prevent the documents from entering the public domain or being used for collateral purposes: **Oneplus Technology (Shenzhen) Co Ltd v Mitsubishi Electric Corp** [2021] F.S.R. 13, Floyd LJ at [1]. There is a real risk that Dr Wright's concerns about the dissemination of the White Paper LaTeX Files are justified, and in those circumstances the balance of convenience favours ordering confidentiality restrictions, which can be drafted so as to ensure there is no substantive prejudice to COPA or the BTC Developers. The only question is (or should be) as to the terms of those restrictions.

77. COPA and the BTC Core Developers appear to be content with the form of confidentiality undertaking set out in the Patent Courts Guide. The only material difference between that regime and the one proposed by Dr Wright is that Dr Wright's proposal requires the White Paper LaTeX Files to be stored only on "*Secure Systems*", as defined in Part C to the draft Order enclosed with the Application.

78. The definition of Secure Systems includes 4 categories: (1) a secure e-disclosure platform; (2) encrypted email communications; (3) oral communications in a private place; and (4) "*Any other system agreed in writing between the Parties to be sufficient for protecting confidentiality for the purposes of this Agreement*". COPA and the BTC Developers appear to have ignored the fourth category,[50] complaining that the first three categories are too restrictive without having suggested any different secure system they would wish to use. There should be no controversy about keeping the White Paper LaTeX Files on secure electronic systems; that is good practice in any event and is particularly important in the instant case given the public interest in the

[50] See Horne 1, §5.14.1, which wrongly asserts that "*the proposed confidentiality terms seeks to restrict the receiving party from accessing the relevant Confidential Information otherwise than via a single secure e-disclosure platform or in hard copy*" {PTR-C/1/12}.

Identity Issue and the corresponding increase in the risk of unauthorised access to relevant documents.

79. Dr Wright wishes to disclose and allow inspection of the White Paper LaTeX Files as promptly as possible. It is unfortunate that this continues to be delayed due to the failure to agree reasonable confidentiality provisions.

III. ASD EXPERT EVIDENCE

Reasonable Adjustments

80. Pursuant to CPR PD 1A and the overriding objective, the Court is required to "*take all proportionate measures*" to accommodate Dr Wright's diagnosis of ASD.

81. In accordance with the Court's Order of 3 October 2023,[51] the parties served expert evidence addressing (a) whether Dr Wright has ASD; (b) if so, how that diagnosis may affect his interaction with others and his presentation in court proceedings; and (c) what, if any, reasonable adjustments may be required at trial in order to accommodate any diagnosis. Their respective experts are as follows:

    (1) Dr Wright's expert is Professor Seena Fazel ("**Prof Fazel**"), Professor of Forensic Psychiatry, University of Oxford.

    (2) COPA's expert is Professor Michael Craig ("**Prof Craig**"), Consultant Psychiatrist to the South London and Maudsley NHS Foundation Trust and Clinical Lead of the National Autism Unit (2008-2023).

82. The experts have produced a joint statement (the "**Fazel/Craig JS**") {Q/1/1-3}. They are effectively agreed on all issues. In summary:

    (1) The experts agree that Dr Wright has ASD that impacts his presentation in court and that negative inferences should not be drawn from certain aspects of his presentation during any cross-examination (Fazel/Craig JS at [3] and [5]).[52]

    (2) As for reasonable adjustments:[53]

[51] {B/14/4}.
[52] {Q/1/1-2}.
[53] Fazel/Craig JS at [4]-[8] {Q/1/2-3}.

(a) The experts agree that Dr Wright would benefit from clear timetabling, access to the LiveNote screen, and pen and paper to write down questions during cross-examination;

(b) They agree on the approach to follow-up questions during cross-examination. If Dr Wright becomes emotionally dysregulated (e.g. by appearing angry), then follow-up questions should be shorter and he should be given the opportunity to write down answers and read them to the court;

(c) They agree that there should be a lower threshold for breaks, particularly if Dr Wright becomes visibly emotionally dysregulated. However, a rigid and prespecified timetable for breaks could be counterproductive; and

(d) They agree that Dr Wright does not need to be provided with written questions in advance of trial.

83. There is a suggestion in para 8 of the Fazel/Craig JS that there may be a minor difference between the experts on the issue of breaks (i.e. Prof Fazel may take a slightly different view in suggesting consideration of breaks every 50-70 minutes).[54] If this is a difference, it is slight. The key point is that the experts agree that there should be a lower threshold for breaks, particularly if Dr Wright appears emotionally dysregulated; and they agree that rigid and prespecified breaks could be counterproductive. It follows that the parties and the Court will need to keep the issue of breaks under review as Dr Wright's cross-examination proceeds. The timing of breaks will be a matter for the Court's judgment, taking the expert evidence into account.

84. In light of the agreement between the experts, there is no longer any need for them to be cross-examined at the PTR (or at trial). This is common ground.

85. Dr Wright invites the court to endorse the views and recommendations of the experts outlined above. In circumstances where it is common ground that Dr Wright has ASD, it is appropriate for the court to (i) take into account how his ASD impacts his presentation in court and (ii) make the reasonable adjustments suggested by the

[54] {Q/1/2-3}.

experts. Taking these steps will be consistent with the overriding objective, PD 1A and Dr Wright's entitlement under Article 6 of the European Convention on Human Rights to participate effectively in the trial.[55]

ASD Costs

86. COPA argues that it should recover now, in advance of the outcome of the trial, all of its ASD-related costs on the indemnity basis. This is an unfounded and misconceived contention. The parties have already been warned by HHJ Paul Matthews about taking an "*ultra-aggressive and uncooperative*" approach, including in relation to costs: see [2022] EWHC 242 (Ch) at paras 11-16 and 25-33 {B/23/3-4 and 7-8}. COPA appears not to have taken any notice.

87. The costs of the ASD expect evidence should await the outcome of the trial, along with the other costs of and occasioned by the trial. In any event:

    (1) COPA lost the application to adduce expert evidence on ASD.[56] There is an argument that Dr Wright should recover his costs of that successful application. However, Dr Wright reasonably accepts that costs in the case is the appropriate order, given that the ASD expert evidence is essentially a matter of proper case management.

    (2) If there has been any unreasonable conduct in relation to this expert evidence, it was COPA's unreasonable objection to permission being granted in respect of the evidence, despite the Court and the parties being obliged to give properly informed consideration to the fair treatment of a vulnerable person with a disability at trial.

88. Insofar as necessary, Dr Wright addresses below the four points on which COPA relies.

[55] **SC v United Kingdom (60958/00)** (2005) 40 EHRR 10.
[56] Order dated 3 October 2023 (para 4) {B/14/4}; and 3 October judgment {B/24/34-39}.

89. First, COPA argues that Dr Wright should have accepted COPA's WPSATC offer on ASD adjustments dated 21 September 2023: paras 126-129 of Sherrell 18.[57] This is wrong:

(1) The offer was an attempt by COPA, after it had lost Dr Wright's application to adduce expert evidence on ASD, to reduce the scope of the adjustments being proposed by Prof Fazel, in the absence of any contrary expert evidence. Dr Wright was not in a position to agree to limit the recommendations of his expert in the absence of any contrary expert evidence.

(2) Moreover, it was not for the parties to impose their own ideas as to what reasonable adjustments were suitable; that was not an assessment the parties were in a position to make.

(3) Following the grant of permission, the proper course was for COPA to file its expert evidence on ASD; the experts to have their joint meeting; and the issue to be considered properly on the basis of all of the evidence, including the expert joint statement. That is the approach that has been followed in this case (and Dr Wright cannot be criticised for following it).

(4) It was moreover essential for the Court to be fully informed through the joint expert process about the adjustments required to enable Dr Wright to participate effectively in the trial of these proceedings in accordance with his rights under Article 6 of the ECHR. Paragraph 9 of PD 1A requires the Court, when considering special measures at a hearing to accommodate a party's vulnerability, to "*consider views expressed by a party … about participating in the proceedings or giving evidence*". Those views have been expressed on Dr Wright's behalf by Prof Fazel, not only in his report but also the joint report produced by him and Prof Craig.

90. Second, COPA argues that Prof Fazel was instructed on an "*incomplete and improper basis*", allegedly because he was not provided with Dr Wright's previous cross-examinations in other cases: paras 130-138 of Sherrell 18.[58] This is also wrong:

[57] {PTR-B/1/41-42}. COPA's WPSATC offer is at {PTR-B/33/82-83}.
[58] {PTR-B/1/42-44}.

(1) It was not improper for Professor Fazel to not have been provided with Dr Wright's previous cross-examinations in other proceedings. It was for Professor Fazel to conduct his own diagnosis on the basis of his own assessments. That was an entirely proper approach.

(2) The fact that Prof Fazel later revised his view after considering Prof Craig's report and further material relating to Dr Wright's previous cross-examinations does not render Prof Fazel's instructions or the process followed in relation to his report improper. The purpose of an expert meeting and joint statement is for experts to find common ground, which is what happened. Prof Fazel's partial revision of his view is a consequence of the expert process working as it should. It is not a ground for criticism.

91. Third, COPA revives an allegation previously made about expert shopping: Sherrell 18, paras 139-145.[59] However, Dr Wright has not engaged in expert shopping:

(1) COPA misrepresents Prof Baron-Cohen's evidence. Mr Sherrell quotes (selectively) the following statement from his report, "*In my opinion, Craig is fit to plead. He has the ability to effectively participate in a trial,*" while choosing to ignore the very next sentence: "*His autism means he would need some adaptations of the trial*" {PTR-B/34/6}. Notwithstanding that sentence, COPA alleges that Dr Wright discarded Prof Baron-Cohen because he "*did not recommend any of the adjustments subsequently proposed by Professor Fazel*" (para 142 of Sherrell 18 {PTR-B/1/44}). That is unfounded. The true position is that Prof Baron-Cohen's report did not engage with the question of what adjustments were needed. There is no conflict between Prof Baron-Cohen's evidence and that of Prof Fazel; and no basis for an allegation of expert shopping arising out of Prof Baron-Cohen's report.

(2) Dr Klin (who gave evidence on behalf of Dr Wright in the Kleiman proceedings) was proposed by Dr Wright because COPA itself disclosed Dr Klin's original expert report. Dr Wright reasonably hoped that relying on a report that COPA had disclosed might decrease rather than increase the issues in dispute. As it turned out, however, Dr Klin's evidence proved to be extremely controversial

[59] {PTR-B/1/44-45}.

and was repeatedly criticised by COPA. Dr Wright moved to Prof Fazel in order to narrow the issues between the parties, in the context of an application to adduce expert evidence that ought to have been uncontroversial: see Lee 1 at paras 6(e) and 8.[60] This had nothing to do with expert shopping.

(3) It is notable moreover that B&B contacted 42 potential ASD experts before settling on Professor Craig. There is simply no valid basis for criticising Dr Wright's decision to use Dr Fazel to resolve the question over what adjustments should reasonably be made at trial to accommodate his ASD.

92. Fourth, COPA seeks to rely on "*COPA's historical position on ASD evidence*", suggesting that if Dr Wright had proferred Prof Baron-Cohen's report around the time of the CCMC in September 2022, all subsequent debate/dispute on this issue would have been avoided: Sherrell 18, paras 146-150.[61] This is wrong:

(1) Professor Baron-Cohen's report did not address the main issue, i.e. reasonable adjustments. The suggestion that provision of a report that did not address the main issue would have avoided "*almost the entirety of all ASD-related costs incurred by COPA*" makes no sense.

(2) COPA's argument is divorced from reality. Whenever COPA has been presented with expert evidence relating to ASD (whether from Dr Klin or Professor Fazel), its reaction has invariably involved vigorous opposition. Provision of Prof Baron-Cohen's report would have had no different effect.

(3) COPA's suggestion that Dr Wright advanced a false position at the CCMC (Sherrell 18, para 149) is also wrong. At the time of the CCMC Dr Wright did not have the report that would be needed in these proceedings, i.e. a report dealing with the question of reasonable adjustments (which Prof Baron-Cohen's report was not).

[60] {Not yet in bundle}.
[61] {PTR-B/1/45-46}.

93. For all of these reasons, COPA is not entitled to an order for its costs of the ASD expert evidence (let alone on the indemnity basis). If the Court is minded to make any order for costs at this stage, it should be costs in the case.

IV. DIGITAL CURRENCY EXPERT EVIDENCE

94. The parties' respective experts on digital currency technology are:

    (1) Dr Wright's expert is Mr ZeMing Gao ("**Mr Gao**"), a blockchain consultant whose current roles include Chief Advisor at Caapable Consulting and Chief Strategy Officer at Toolots Inc..

    (2) COPA's expert is Professor Sarah Meiklejohn ("**Prof Meiklejohn**"), Professor in Cryptography and Security, University College London.

95. COPA wishes to raise an issue at the PTR about the scope of Mr Gao's evidence. It contends that certain paragraphs of Mr Gao's report go beyond the proper scope of his expert evidence. Dr Wright understands that COPA intends to invite the Court to declare the paragraphs to be inadmissible and/or exclude an issue from consideration under CPR 3.1(2)(k) and/or seek some other relief.

96. COPA's complaint is unfounded. Before turning to Dr Wright's position, it is necessary to set out the relevant background.

The background

97. At the CCMC, Master Clark ordered that each party had permission to adduce expert evidence in the field of "*digital currency technology, as it relates to (a) Bitcoin technology and (b) the issues described at paragraphs 23 to 25 of the Re-Amended Particulars of Claim*" (paragraph 18).[62]

98. The purpose of this expert evidence is to assist the Court in understanding Bitcoin technology and to address a particular issue about the Sartre Message (as defined in paragraphs 23 to 25 of the Re-Re-Re-Amended PoC).[63]

[62] {B/7/4}.
[63] {A/2/9}.

99. The proper scope of the expert evidence is defined in part by paras 23-27 of the CCMC Order.[64] Master Clark's directions envisaged that the parties would seek to agree a technical primer setting out "*the relevant basic undisputed digital currency technology as it relates to Bitcoin*" (para 23); and, to the extent that such matters could not be agreed, the parties had permission to adduce expert evidence in relation to those matters (para 27).

100. As it turned out, the parties were unable to agree a technical primer on the basic undisputed digital currency technology as it relates to Bitcoin.[65] The issues in dispute therefore fall within the scope of the expert evidence in this discipline.

101. The parties exchanged their expert evidence on 23 October 2023.

102. The experts met on 7 November 2023. There has been some difficulty in finalising the joint statement but that dispute now appears to have been resolved, subject possibly to a question of timing.[66]

103. On 1 December 2023, B&B wrote to Shoosmiths complaining about the scope of Mr Gao's evidence.[67] The paragraphs in dispute are 65-89, 102-154, 180-197 and 217-225.[68] B&B stated that these paragraphs amount to "*argument as to why BSV (Bitcoin Satoshi Vision) is a superior implementation of Bitcoin to others, notably BTC (Bitcoin Core), or is more faithful to ideals or objectives which Mr Gao attributes to Satoshi*". On that basis, they say that Mr Gao has gone beyond the proper bounds of his expert evidence. The paragraphs of Mr Gao's evidence in question, and the reasons why B&B's complaints about those paragraphs are misplaced, are addressed below.

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[64] {B/7/5}.

[65] The disagreement was not complete. Dr Wright's technical primer dated 4 August 2023 accepted parts of COPA's technical primer and amended others (in track changes) {Not yet in bundle}. A number of passages were accepted by Dr Wright without significant changes to COPA's text.

[66] COPA objected to an annex to the joint statement in which Mr Gao sought to explain some of his disagreements with Prof Meiklejohn. COPA's objection to the annex was misplaced, including because it fell within the scope of the relevant directions regarding the joint statement: see para 8(j) of the Judge's Order dated 15 June 2023 {B/12/5}. This dispute appears to have been resolved by COPA accepting Dr Wright's proposal for Prof Meiklejohn to produce her own equivalent annex (see B&B's fourth letter dated 6 December 2023 {M/2/624). The only outstanding debate between the parties on this point is whether the joint statement should be signed before Mr Gao has sight of Prof Meiklejohn's annex. Given that it is a joint statement, it is appropriate for the joint statement to be signed once the document is complete and both experts have had sight of the final draft. A suitable extension to the deadline for the joint statement will need to be agreed (or ordered) in order to accommodate this process.

[67] {M/2/588}.

[68] {I/2/16-25, 27-36, 40-43, and 46-47}

104. In their letter of 1 December 2023, B&B suggested two ways in which this matter might be resolved: "*by (a) declaring inadmissible the relevant parts of Mr Gao's report… or (b) excluding an issue from consideration under CPR 3.1(2)(k) (i.e. the issue whether BSV is a superior implementation of Bitcoin as compared with others and/or the issue whether BTC is an inferior implementation)*". B&B stated that they did not rule out the Court dealing with the matter in some other way.

105. Without accepting the substance of B&B's complaint but in order to be cooperative and avoid an unnecessary dispute at the PTR, Shoosmiths wrote to B&B on 5 December 2023 accepting (subject to appropriate caveats) B&B's second proposal as to how this issue could be resolved, namely for the Court to exclude from consideration the issue of whether BSV is a superior implementation of Bitcoin as compared with others.[69]

106. B&B's response was to shift the goalposts. On 6 December 2023, B&B stated that COPA would only be prepared to agree to its own proposed solution of excluding from evidence the issue of whether BSV is a superior implementation of Bitcoin as compared with others "*only on the strict understanding that (as set out in our letter) the reference to "superior implementation" includes the concept of BSV being more faithful to the ideals or objectives which Mr Gao attributes to Satoshi*".[70] This condition, which was not a feature of the proposed solution in B&B's letter dated 1 December 2023, is unacceptable because in substance it seeks to prevent Mr Gao from expressing his professional opinion on a matter properly falling with the scope of his expert evidence.

Dr Wright's position

107. B&B's complaint is premised on a misunderstanding of Mr Gao's evidence. Mr Gao's purpose in describing some of the similarities and differences between BSV and BTC is not to invite the Court to decide whether BSV is a "*superior implementation of Bitcoin*" to BTC (as Mr Gao expressly acknowledges in para 65 {I/2/16}). Rather, his purpose is to enable the Court to understand in a practical way some of the basic

[69] {M/2/616}. The caveat is that Dr Wright's agreement is without prejudice to his position that (i) Mr Gao has not gone beyond the proper scope of his expert evidence and (ii) Dr Wright is entitled to rely on the entirety of Mr Gao's evidence at trial.
[70] {M/2/623}.

technical concepts in Bitcoin. That is a matter which falls within the proper scope of his expert evidence. See in particular para 65 of Mr Gao's evidence.

108. By way of illustration (and taking the sections of Mr Gao's evidence about which B&B have complained in turn below):

(1) In paras 65-89 {I/2/16-25}, Mr Gao identifies some of the differences between BTC and BSV for the purpose of explaining a number of key features of Bitcoin that are aligned with Satoshi's original design. These paragraphs therefore fall within the proper scope of his evidence.

(2) Mr Gao addresses the concept of decentralisation in paras 102-154 {I/2/27-36}. Decentralisation is "*an important concept to Bitcoin*" (para 94). As Mr Gao explains, there are diverging views as to what this concept really means. Mr Gao's way of explaining the true meaning of the "*decentralized P2P payment function*" envisaged by Satoshi is to explain certain features of BSV that are aligned with Satoshi's vision. Again, this falls within the proper scope of his evidence.

(3) Mr Gao addresses Bitcoin's "*Turing completeness*" at paras 180-197 {I/2/40-43}. He is expressly addressing an important feature of Bitcoin at the time of its release (para 181). There is no proper basis for objecting to these paragraphs.

(4) In paragraphs 217-225 {I/2/46-27}, Mr Gao addresses certain ways in which BTC changed and BSV maintained the original Bitcoin protocol. The purpose of this evidence is to explain the nature of the original Bitcoin protocol, which is a matter falling within the scope of his expert evidence.

109. In the circumstances, it is wrong for B&B to suggest that Mr Gao should be prevented from expressing his professional opinion (in his own words and style) that Satoshi's original design is best explained by reference to certain features of BSV that are closely aligned with that original design. Given that the purpose of this expert evidence is to explain the fundamentals of Bitcoin technology, Mr Gao's approach falls within the proper bounds of his expert evidence.

110. B&B's complaint about the scope of Mr Gao's evidence is particularly unmeritorious in circumstances where, if either of these experts has ventured outside their proper remit, it is Prof Meiklejohn:

(1) Prof Meiklejohn states: "*I was instructed to consider Dr Wright's first witness statement as it relates to technical matters*" (para 18).[71] However, it is not the purpose of this expert evidence to provide a running commentary on Dr Wright's understanding of technical matters (save to the limited extent such evidence goes to the issues raised in paragraphs 23 to 25 of the Re-Re-Re-Amended PoC). That follows from the defined scope of the expert evidence. It also follows from COPA's counsel accepting during the hearing on 19 September 2023, in the context of a discussion about this expert evidence, that COPA had not pleaded a case that Dr Wright misunderstood the technology of Bitcoin and would not be advancing such a case.[72]

(2) Yet providing a commentary on Dr Wright's understanding of technical matters (not limited to the issues raised in paragraphs 23 to 25 of the Re-Re-Re-Amended PoC) is what Prof Meiklejohn has sought to do on a number of occasions: see, for example, paras 55-56, fn.15, fn.17, para 74, and para 75.[73] In some of these cases B&B have encouraged her to do so: several of these instances are prefaced by the phrase, "*Bird & Bird has asked me about…*" What appears to have happened is that B&B have asked Prof Meiklejohn to address these matters, in an attempt to trip up Dr Wright on technical points (for the purpose of advancing COPA's case on the Identity Issue), even though that is not the purpose of this evidence and COPA's counsel has accepted in terms that is not a case that COPA is advancing.

111. Dr Wright has not complained about these aspects of Prof Meiklejohn's evidence because the PTR is not the time for trawling through the expert evidence with a fine toothcomb, which is what COPA is inviting the Court to do in relation to Mr Gao's evidence. It is a fruitless exercise, which distracts from the preparations for trial (which is the proper time for a close examination of this evidence). However, even if the Court

[71] {G/2/8}.
[72] Transcript, p.135, lines 20-23 {O/7/35}.
[73] {G/2/19-20, 23-24, 32-33}.

is persuaded that it is appropriate to engage with the issue raised by B&B at this stage, Dr Wright invites the Court to reject COPA's complaints about Mr Gao's evidence for the reasons given above.

112. In so far as the Court were minded to do anything in relation to this evidence at this stage, the appropriate course would be to implement the solution originally proposed by B&B and agreed by Dr Wright, namely that Court exclude from consideration the issue of whether BSV is a superior implementation of Bitcoin as compared with others. That is not an issue that the Court needs to decide. However, Mr Gao's evidence should be left as it stands and Dr Wright should be entitled to rely on the entirety of that evidence at trial.

V. CONDUCT OF THE JOINT TRIAL

113. This issue concerns the scope/extent of the participation of the parties other than Dr Wright and COPA at the Joint Trial. By way of background, the Judge's Order of 15 June 2023 provides at [15] that:[74]

> "*Any outstanding issues in dispute relating to the conduct of the Joint Trial shall be considered at the PTR. This may include whether any limitations are to be placed on the non-COPA Defendants in relation to the format and / or extent of (i) any skeleton arguments (ii) oral submissions and / or (iii) cross-examinations of the Claimants' [i.e. Dr Wright's] witnesses.*"

114. The only "*non-COPA Defendants*" participating in the Joint Trial are the Developers.[75]

115. Dr Wright's position is that reasonable and proportionate limitations should be placed on the participation of the Developers, in order to ensure that these proceedings are managed efficiently and in a way that is fair to Dr Wright. In particular:

    (1) Sensible limits should be placed on cross-examination. As the Judge said at the CMC in the Passing Off Claims, "*We are not going to have five counsel all*

[74] {B/12/7}.
[75] The BTC Core Claim has been stayed against a number of other defendants (D16, D18, D19, D20 and Ds21-26): para 4 of the Joint Trial Order {B/12/4}; para 1 of the Order dated 7 November 2023 {B1/3.1/2}; and para 4 of the Order dated 10 November 2023 {B1/4/3}. Three defendants who are not represented will also not be participating in the Joint Trial (D1, D13 and D17): [2023] EWHC 1894 (Ch) at para 3 {B/25/4}.

having a go at Dr. Wright" (Day 1, p.24, lines 3-4).[76] It is difficult to see why Dr Wright should be cross-examined by anyone other than COPA's counsel. Any further cross-examination, if permitted at all, should be strictly limited (in accordance with CPR r.22.1(4)).

(2) Any written and oral submissions made by the Developers should not overlap with the topics covered in COPA's submissions. Instead, such submissions should be confined to the (very limited) respects in which the Developers may have something to contribute on the Identity Issue above and beyond what COPA is able to address.

116. For completeness, it should be noted that Dr Wright does not envisage any active participation at trial from the claimants in the BTC Core Claim.

VI. OTHER PTR MATTERS

117. Dr Wright addresses below: (i) trial bundles; (ii) trial timetable; (iii) remote evidence; (iv) hearsay evidence; (v) IT at trial; and (vi) miscellaneous other matters. For the avoidance of doubt, these matters are addressed at this stage without prejudice to Dr Wright's application to adjourn the start date of the trial.

Trial bundles

118. The trial bundles have been produced and filed with the Court. They are in electronic form on the Opus 2 platform. Dr Wright understands that B&B have been liaising with the court in relation to the Judge's access to the electronic bundle and provision of any hard copy bundles.

119. The bundles will need to be updated in order to take subsequent developments / documents. If the Court requires hard copies of any bundles, suitable arrangements can be made for updates to be provided in a way that is convenient to the Court.

120. A core bundle is likely to be helpful. However, the parties have not yet had the opportunity to discuss the contents of such a bundle. Dr Wright suggests that the parties liaise further in relation to this following the PTR.

[76] {Not yet in bundle}.

Trial timetable

121. The parties have sought to agree a timetable for the trial.

122. The rival positions of the parties are set out in the draft trial timetable at {PTR-E/1/1}, which is in the form required by the Chancery Guide. The differences between the parties are reasonably limited. It may be possible to make further progress on this in advance of the PTR. Dr Wright will update the Court as necessary at the hearing.

123. To the extent necessary, these timetabling matters will be addressed further in oral submissions.

Remote evidence

124. The parties have agreed that the following witnesses will give evidence by videolink: (i) Mr Martti Malmi, who resides in Finland; (ii) Mr Dustin Trammell, who resides in USA; (iii) Mr Bryce (known as Zooko) Wilcox-O'Hearn, who resides in USA; (iv) Mr Joost Andrae, who resides in Germany[77]; (v) Professor Daniel Bernstein, who resides in USA; (vi) Mr John Hudson, who resides in Canada; (vii) Professor Andreas Furche, who resides in Australia; (viii) Mr Nicholas Bohm, who resides in this jurisdiction but is too ill to attend; and (ix) Dr Pieter Wuille, who resides in USA. All of these are COPA's witnesses, apart from Dr Wuille who is the Developers' factual witness.

125. Dr Wright has recently written to COPA in order to seek COPA's consent to Dr Ignatius Pang giving evidence by videolink. Ms Danielle DeMorgan has a preference for giving evidence remotely owing to health concerns. It is hoped that these matters will be resolved in advance of the PTR. At present Dr Wright's understanding is that all of his other witnesses will be giving evidence in person but will provide the Court with an update at the hearing.

[77] This is subject to permission from the German authorities, which Dr Wright understands COPA to be seeking. Dr Wright does not know whether that issue has been resolved.

Hearsay evidence

126. Dr Wright will be relying at trial on hearsay evidence from Mr Donald Joseph Lynam, Mr Gavin Andresen and Mr Neville Sinclair (see the hearsay notice dated 28 July 2023).[78]

127. COPA made an application dated 6 November 2023 for an order pursuant to CPR r.33.4 permitting COPA to call for cross-examination of the makers of the hearsay statements referred to above. That application was resolved by consent; Dr Wright was content to agree that COPA have permission to call Mr Andresen and Mr Sinclair (but not Don Lynam, who is ill).[79]

128. Dr Wright does not understand COPA to have made any progress (at least to date) in persuading Mr Andresen or Mr Sinclair to give evidence at trial.[80] The upshot is that the court will not be hearing live evidence from Don Lynam at trial; and the same is likely to be true in the case of Mr Andresen and Mr Sinclair. This evidence will fall to be assessed as hearsay evidence.

129. The position is similar in relation to the hearsay evidence relied on by COPA. Dr Wright understands that COPA intends to rely on hearsay evidence from Mr Lucas de Groot, Mr Michael Stathakis and Ms Lee Li, and Professor Graham Wrightson (see COPA's amended first hearsay notice dated 28 July 2023).[81]

130. Dr Wright circulated[82] an application dated 20 October 2023 for an order pursuant to CPR r.33.4 permitting Dr Wright to call for cross-examination the makers of the hearsay statements referred to above. That application was resolved by consent, with

[78] {E/15/1-3}.
[79] {B/19/1-2}.
[80] The parties agreed that it would fall to COPA to seek to persuade Dr Wright's hearsay witnesses to attend for cross-examination; and vice-versa in respect of COPA's hearsay witnesses. As far as Dr Wright is aware, Mr Sinclair has confirmed to B&B that he does not wish to participate in their proposed questioning; and Mr Andresen has not responded to B&B.
[81] {C/14/1-2}.
[82] The application was not ultimately filed at court because the matter was dealt with by consent.

COPA agreeing that Dr Wright had permission to call Mr de Groot, Mr Stathakis and Ms Li (but not Professor Wrightson, who is ill).[83]

131. Dr Wright has not made any progress (at least to date) in persuading Mr de Groot, Mr Stathakis and Ms Li to give evidence at trial.[84] The court will therefore not be hearing live evidence from Professor Wrightson at trial; and the same is likely to be true in the case of Mr de Groot, Mr Stathakis and Ms Li. This evidence will fall to be assessed as hearsay evidence.

132. If, however, any of the makers of the hearsay statements referred to above belatedly agree to give live evidence, suitable adjustments will need to be made to the trial timetable.

IT at trial

133. As mentioned above, the hearing bundles will be in electronic form on the Opus 2 platform. Dr Wright understands that arrangements are being made for the Court and legal teams to have screens available during the hearing with access to the trial bundles.

134. In addition, there will be a case manager and team from Opus responsible for hearing room services. Dr Wright understands that this will include document management services (i.e. bringing up documents on screen when referred to during the hearing).

135. A LiveNote transcript (and relevant screens for the Court and the legal teams) will also be available for the court and the parties during the trial. A LiveNote screen should also be made available to Dr Wright during his cross-examination, in accordance with the recommendations of the ASD experts.

136. Appropriate arrangements will need to be put in place (if they are not already) in the hearing room for the witnesses giving evidence by videolink.

[83] {B/20/1}.
[84] Shoosmiths sent letters to these individuals on 24 November 2023. No responses have been received to date.

Court set-up

137. COPA has raised the question of whether a "super court" or spillover court will be needed. Dr Wright has no objection to either of those ideas in principle. There may be many people in attendance during the trial. On Dr Wright's side this is likely to include 5 members of the counsel team and 3 solicitors, as well as Dr Wright himself and any relevant witnesses or experts.

138. Similarly, Dr Wright has no objection to hybrid hearing accessibility, in order to accommodate remote attendance where that is appropriate.

Miscellaneous other matters

139. The general rule under the Chancery Guide is for trial skeleton arguments to be no longer than 50 pages, but this may be exceeded in appropriate circumstances (§12.50). In this case, Dr Wright envisages requiring up to 75 pages, excluding appendices. Such an increase in the page limit is justified because (i) this is a complex matter, going back to 2007 and (ii) the stakes are high, particularly in light of COPA's recent forgery amendments. It is also hoped that a reasonably full account of the procedural and factual background will be of assistance to the court, including when it comes to drafting the judgment in due course.

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