

Claimant/Respondent
P N Sherrell
Eighteenth
Exhibits PNS-116 – PNS-154
7 December 2023

Claim No. IL-2021-000019

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

B E T W E E N:

CRYPTO OPEN PATENT ALLIANCE

**(for itself and as Representative Claimant on behalf of Square, Inc., Payward Ventures,
Inc. (DBA Kraken), Microstrategy, Inc., and Coinbase, Inc.)**

Claimant

- and -

CRAIG STEVEN WRIGHT

Defendant

EIGHTEENTH WITNESS STATEMENT OF PHILIP NATHAN SHERRELL

I, PHILIP NATHAN SHERRELL of Bird & Bird LLP, 12 New Fetter Lane, London EC4A 1JP, say
as follows:

1. I am the same Phillip Nathan Sherrell who has made 17 previous statements in these proceedings. I am the partner at Bird & Bird with conduct of this matter on behalf of COPA and I am authorised to make this statement on COPA's behalf. The facts and matters to which I refer in this witness statement are true, where they are within my knowledge. Otherwise, they are true to the best of my knowledge, information and belief and I state the source of my knowledge. In providing the evidence in this statement, I have not been authorised to waive any privilege of COPA and I do not do so.

Summary

2. This statement addresses a number of matters which relate to the issues to be determined at the Pre-Trial Review in this claim, as follows:
 - 2.1. Dr Wright's application to adjourn the trial.
 - 2.2. Dr Wright's related application for permission to rely on a large number of new documents.
 - 2.3. The ASD expert process, in respect of which COPA seeks an order for its costs.

Adjournment application

3. For the reasons set out in this statement, COPA strongly resists Dr Wright's application to adjourn the trial. This is based on a number of factors:
 - 3.1. Any adjournment will delay the trial for at least a year, and possibly longer;
 - 3.2. That delay will cause serious prejudice to COPA, the Represented Parties and a large number of other individuals and businesses who are impacted by this claim.
 - 3.3. The adjournment is sought solely on the basis of disclosure failings on Dr Wright's part.

Length of adjournment sought

4. Pursuant to the Judgment of Mellor J dated 3 October 2023, the trial of these proceedings is currently scheduled to start on 15 January 2024. In its first letter dated 27 November 2023¹, Shoosmiths proposed moving the start date of trial by just over one month, to 19 February 2024, in order for the parties to address, *inter alia*, the various new documents on which Dr Wright now proposes to rely (the "**Additional Reliance Documents**"). The Additional Reliance Documents comprise 3 tranches of documents, referred to by Dr Wright as the "97 Documents", "White Paper LaTeX Files" and "Documentary Credits Assignment Documents". I will address these documents in further detail below.
5. COPA explained in its second letter of 29 November 2023² and first letter of 4 December 2023³ that COPA's counsel are unavailable on the revised trial dates suggested by Dr Wright.

¹ A copy of which can be found in the correspondence clip at Exhibit PNS-116, page 85

² Exhibit PNS-116, page 108

³ Exhibit PNS-116, page 124

6. In Dr Wright’s letter to the Court dated 5 December 2023⁴, he has acknowledged the unavailability of COPA’s counsel, and has now stated that he will ask the Court to “*re-list the trial at the earliest possible date convenient to the parties that the Court can accommodate*”.
7. In Dr Wright’s second letter of 5 December 2023⁵, he suggests that, if an adjournment is granted, COPA “*may seek a re-listing in or after the week commencing 22 April 2024 (the date which your counsel team’s unavailability appears to end)*”. This latter point is incorrect. The dates that were provided to Dr Wright related to COPA’s counsel team’s availability during his proposed adjourned trial dates, rather than as an indication of their availability after those dates. COPA’s counsel have various hearings listed in the period May-July 2024.
8. In any event, I understand that it is very unlikely that the Court would be able to accommodate a 5-6 week trial before the docketed Judge on 4 months’ notice. If the trial is fully adjourned, the current window for a trial of over 10 days in the Chancery Division is from 31 March 2025 (<https://www.gov.uk/guidance/trial-date-windows-for-chancery-division>, last updated 4 December 2023). The parties have made enquiries of the Court in relation to availability and were informed by the clerk to Mr Justice Mellor on 6 December that the earliest listing before the Judge would be from January 2025 onwards. Therefore, in practice the parties would be looking at a further delay of at least one year.

Impact on the parties and other claims

9. COPA purpose in bringing these proceedings against Dr Wright is to resolve the issue of whether he is Satoshi Nakamoto. If the claim succeeds, it will put an end to Dr Wright’s multiple proceedings based on alleged ownership of IP rights associated with Satoshi and/or his claims to be Satoshi, as well preventing him continuing to issue other threats of litigation.
10. Bitcoin is maintained by a community of open source developers, and as discussed in the trial Witness Statement of Steve Lee dated 27 July 2023 (Exhibit PNS-117) Dr Wright’s behaviour has caused a “*chilling effect*”⁶ in this community, which is “*hampering the free exchange of ideas and development in cryptocurrency*”⁷. Dr Wright has made “*direct threats*” in public forums against developers in the Bitcoin community “*to ruin them financially and encourage criminal proceedings against them, and even mentioned threats to make them “lose their families”*”⁸ (paragraph 17). Mr Lee is personally aware that the aggressive behaviour of Dr Wright has scared people away from Bitcoin development and provides a non-exhaustive list of 5 named individuals

⁴ Exhibit PNS-116, page 128

⁵ Exhibit PNS-116, page 130

⁶ Para 19(b), Lee 1

⁷ Para 24, *ibid*

⁸ Para 17, *ibid*

who have been impacted in this way at paragraph 20 of this statement. That they should react in that number is, I would suggest, unsurprising. Dr Wright is a serial litigant who has brought multiple sets of proceedings against individuals, and who is publicly known to be backed by an aggressive billionaire⁹

11.

12. This chilling effect exerted by Dr Wright will remain as long as this claim remains unresolved.

13. Furthermore, multiple sets of proceedings are stayed pending the outcome of this trial, so any delay to this case will have a knock-on effect on these other proceedings. The proceedings that are stayed pending the outcome of this trial are:

13.1. As set out in the Order of Mellor J dated 15 June 2023 (Core Bundle B/12/1):

13.1.1. The “Coinbase Claim”;

13.1.2. The “Kraken Claim”; and

13.1.3. Proceedings against the 16th, 18th and 21st-26th Defendants in the “BTC Core Claim”.

13.2. Craig Wright vs Magnus Granath (QB-2019-002311), as set out in the Order of Master McCloud dated 7 July 2023 (Exhibit PNS-118). This case has been stayed pending the appeal judgment in parallel litigation involving Dr Wright and Mr Granath in Norway (see next bullet point), which has in turn been stayed pending the present proceedings.

13.3. Parallel litigation involving Craig Wright and Magnus Granath in Norway at the Borgarting Court of Appeal under case no. 22-180499ASD-BORG/03. These are proceedings brought by Mr Granath against Dr Wright seeking a declaration of non-liability for libel, in response to a letter of claim alleging libel sent by Dr Wright (in respect of a tweet posted by Mr Granath). Mr Granath was successful at first instance and Dr Wright appealed this decision. The appeal is currently stayed by agreement of the parties, pursuant to a formal request from Dr Wright to the Borgarting Court of Appeal that it stay the proceedings pending the resolution of the present trial. In making that request, Dr Wright asked Mr Granath to agree to this stay (see the machine translation of Section 4 of Dr Wright’s Process Letter dated 26 July 2023, pages 4-7, and page 7 in particular, shown at **Exhibit PNS-119** together with the original document). Mr Granath agreed to this stay in his reply petition (machine translation of

⁹ See for example Paragraph 56-57 of Wright v McCormack [2022] EWHC 3343 (KB), and Mr Justice Chamberlain’s finding that “that Dr Wright seems to have intended to use the costs of this litigation as a means of preventing others from denying that he is Satoshi” and reference to “crushing” his enemies with litigation costs. (**Exhibit PNS-154**).

Granath's Process Letter dated 7 August 2023, shown at **Exhibit PNS-120** together with the original document). The stay commenced on 7 August 2023: it lasts for at least 6 months and up to a maximum of 2 years. Also exhibited to this statement are copies of the parties' joint brief confirming agreement of the stay, and the Court's letter notifying both parties of the suspension, together with machine translations (**Exhibit PNS-121**).

14. Mr Granath is likely to suffer particular harm if the present proceedings are adjourned as he is an individual, and any delay and associated increased legal costs would be expected to have a greater impact on him as an individual, both mentally and financially. It is unfair on Mr Granath to have a claim which he considers to be oppressive, issued over 4 years ago (in 2019) and with potentially very serious consequences for him, being extended yet further by Dr Wright (the Claimant in the UK action). I also understand from Mr Granath's counsel in the Norwegian proceedings, Ørjan Salvesen Haukaas of DLA Piper Norway DA, that it is an important principle in Norwegian procedural law that cases shall be carried out both rapidly and efficiently, and that is an important consideration when the Court considers any request to stay proceedings. I note, in that regard, that Dr Wright relied on his request being only for a stay of "short duration", in his Process Letter (page 7, Exhibit PNS-119). Although not explicitly stated in Mr Granath's reply petition, we understand from Mr Haukaas that this was an important consideration in his decision to accept Dr Wright's stay application. Dr Wright's behaviour in these present proceedings runs counter to his behaviour in the Norwegian proceedings.
15. It is noteworthy that the Coinbase and Kraken Claims were stayed in the knowledge that this claim was coming to trial in January 2024, and that the parties to the BTC Core Claim who agreed to that claim being stayed against them did so on the same basis. Indeed, Mr Justice Mellor at the Joint CMC on 15 June 2023 strongly indicated that the COPA trial must proceed in January.
16. Therefore, there is a clear and pressing need for this claim to come to trial in the allocated window as a matter of fairness to all of the other parties who have a stake in the outcome of this case (without even taking into account COPA's interests), and a strong public interest in Dr Wright's claim to be Satoshi being resolved, speedily.

Additional disclosure as the basis for the adjournment request

17. Dr Wright's sole basis for requesting that the trial be adjourned is to accommodate a large number of documents said to have been recently discovered. Before turning to those documents, it is relevant to set out some aspects of Dr Wright's approach to disclosure to date.
18. As the Court may recall, Dr Wright first signalled the alleged discovery of significant new material in late September. By late November, COPA had become extremely concerned about Dr Wright's

approach to that material, as well as disclosure more generally. We therefore wrote a letter on 27 November which sought to summarise the historic approach to disclosure in this case, as well as addressing the new material.

19. Given the limited time which COPA has had to respond to Dr Wright’s application to adjourn the trial, it has focussed on carrying out forensic analysis of the new material, as far as possible. I will therefore not seek to restate all of the matters set out in our 27 November letter¹⁰ and would ask that the Court read it in full in advance of the Pre-Trial Review, if time permits.

20. In brief summary of the disclosure history set out in that letter:

20.1. After his original disclosure of 4090 documents on 7 March 2023 (Vol001) and a subsequent set of EITC documents (ordered by the Court) (Vol002), Dr Wright has since “drip-fed” disclosure documents in a further 14 tranches (Vol003-Vol016). These documents are said to derive from numerous sources, including:

20.1.1. a re-review of Ontier’s original disclosure exercise (Vol003, Vol014)

20.1.2. various allegedly newly-discovered sources (e.g. Vol008, Vol012 and Vol015), and

20.1.3. the belated provision of documents which appear to have always been in Dr Wright’s possession (e.g. Vol013, Vol016)I

20.2. Dr Wright and his solicitors have consistently failed to engage promptly or comprehensively with questions raised from May 2023 onwards about evident failings in the original disclosure exercise¹¹.

20.3. Dr Wright failed to engage properly with the Chain of Custody process, leading to COPA having to seek a Court order compelling him to do so. Having seen the expert report of Patrick Madden, Dr Wright fundamentally altered his position, moving from a position whereby he had contended that he was the sole custodian of all of his Reliance Documents, to a position whereby he contended that numerous people had had the opportunity to handle and/or alter his Reliance Documents and, indeed, that the copies of those documents which he had previously relied on should be replaced by supposedly better

¹⁰ Exhibit PNS-116, page 72.

¹¹ The following correspondence also refers: Bird & Bird’s letter of 5 January 2023 (to Ontier re disclosure searches) available at Exhibit PNS-151; Bird & Bird’s long disclosure letter to Ontier of 18 May 2023 raising disclosure enquiries available at Exhibit PNS-152; and (c) Travers Smith’s partial response on behalf of Dr Wright, in their letter of 12 July 2023 available at Exhibit PNS-153.

versions. Those versions were to be found on the new hard drives said to have been discovered in September (again, after service of the Madden report).

21. Turning to the new documents, in paragraphs 6 to 20 of Field 1, Ms Field sets out what is said to be the history of interaction between the parties in respect of the alleged discovery and proposed disclosure of the New Drives (defined as the “Hard Drives” in Field 1) and/or materials contained therein. However, Ms Field’s statement is incomplete.

22. In reality, the approach taken by Dr Wright (and his team) since discovering the Hard Drives has been in keeping with his approach to disclosure more generally. Again, that approach is set out in detail in COPA’s letter dated 27 November 2023, starting at paragraph 19¹², but by way of a very brief summary:

22.1. Dr Wright first made vague reference to the discovery of new material in a letter to the Court on 25 September 2023¹³.

22.2. It was not until a week later that his solicitors wrote to us to provide any detail of the Hard Drives¹⁴.

22.3. It is now over two months since the alleged discovery of this material, yet Dr Wright has to date only disclosed a narrow subset of material hand selected by him (contained in VOLO08 and VOLO12). These are cherry-picked documents from the Hard Drives which are the product of searches conducted using a set of keywords chosen by Dr Wright and which are much narrower than the set agreed between the parties for the purposes of Extended Disclosure under the CCMC Order (Schedule 2 of the Disclosure Review Document can be found at Core Bundle K/10/1-26). The only justification that has been provided for the limited searches conducted is that the application of the wider, agreed set of keywords would be disproportionate¹⁵. This is a surprising suggestion given the evidential importance which Dr Wright ascribes to the material he has selected from the Hard Drives.

22.4. Dr Wright has refused to provide full forensic access to the Hard Drives, despite repeated requested, and despite an offer to enter into confidentiality terms on 31 October 2023¹⁶, to which no response was given. (Although I note that COPA considers it highly unlikely that

¹² Exhibit PNS-116, page 75

¹³ Exhibit PNS-116, page 1

¹⁴ Exhibit PNS-116, page 4

¹⁵ For example, in the letter from Shoosmiths to Bird & Bird dated 11 October 2023 (Exhibit PNS-117, page 13), Shoosmiths state: “Our client considers a review of approximately 54,794 documents to be disproportionate. In particular, assuming one fee earner can review 800 documents a day, this will necessitate approximately 68 fee earner days. This is before any second review. Our client, therefore, proposes a narrower set of keyword searches”.

¹⁶ Exhibit PNS-116, page 54.

the new material can in fact be genuinely confidential). I note that at 18.22 on 6 December, at a point when this statement was nearly finalised, we received a letter from Shoosmiths offering inspection of the hard drives on the basis of confidentiality undertakings¹⁷. We are considering the terms proposed, as well as the rest of the letter, but the offer comes too late for us to take account of it in this evidence and does not appear to engage fully with the points that we had raised with Shoosmiths.

23. In any application for a long adjournment of the kind sought by Dr Wright it is incumbent on the party seeking the adjournment to demonstrate that they have done all that they reasonably could have to avoid the adjournment being necessary. In contrast, in this case, I would suggest that Dr Wright's conduct in relation to disclosure is the only cause of the alleged need for an adjournment.
24. In any event, as I will set out in the following section of this statement, COPA's initial forensic analysis of some of the Additional Reliance Documents indicates that a number of these are forgeries, and that Dr Wright's explanations given in relation to the Hard Drives, and in particular the BDO Drive, are untrue. 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.

Application to rely on the Additional Reliance Documents

25. I note that Dr Wright has been engaged in litigation to which his claimed identity as Satoshi Nakamoto was central since at least April 2019 (when he issued proceedings in the McCormack case). His suggestion, therefore, that he has only recently remembered and/or discovered documents which he and Ms Field claim to be of the greatest evidential value to prove his claims, calls to be treated with the greatest of scepticism.
26. In the following paragraphs I set out the present position as it concerns the BDO Drive (from which the 97 Documents derive) and the White Paper Latex Files.
27. Summarising, as we now understand Dr Wright's account of the BDO Image and his Samsung Drive, he states:

27.1. that the Samsung Drive was purchased in around 2015-2016 and has been in his possession since then. It was provided to Alix Partners in 2019, but contained an encrypted

¹⁷ Exhibit PNS-116, page 134

partition which could not be accessed without a password. No password was provided to Alix Partners, so that encrypted partition was not captured;

27.2. that the BDO Image was taken in 2007 and has not been edited since;

27.3. that the BDO Image transferred to the encrypted partition of the Samsung USB Drive after the Samsung Drive was purchased (although the reason for this transfer and the date are not provided),

27.4. that the Samsung Drive was forgotten about when Dr Wright provided his initial disclosure review documents (mid 2022), amended disclosure review documents (late 2022), disclosure statement (March 2023), first chain of custody table (May 2023), second chain of custody table (July 2023), Response to Further Information about Disclosure (August 2023), and during the preparation for hearing of COPA's Application for Further Information to be provided (through August 2023). However, he states that it was remembered following the order to provide further information, from 2 September onwards,

27.5. that he began to search his home in the week commencing 11 September 2023, and found the Samsung Drive that week.

27.6. Dr Wright's solicitors and Dr Wright have also emphasised that he did not access the drive at all until after it was imaged by Alix Partners.

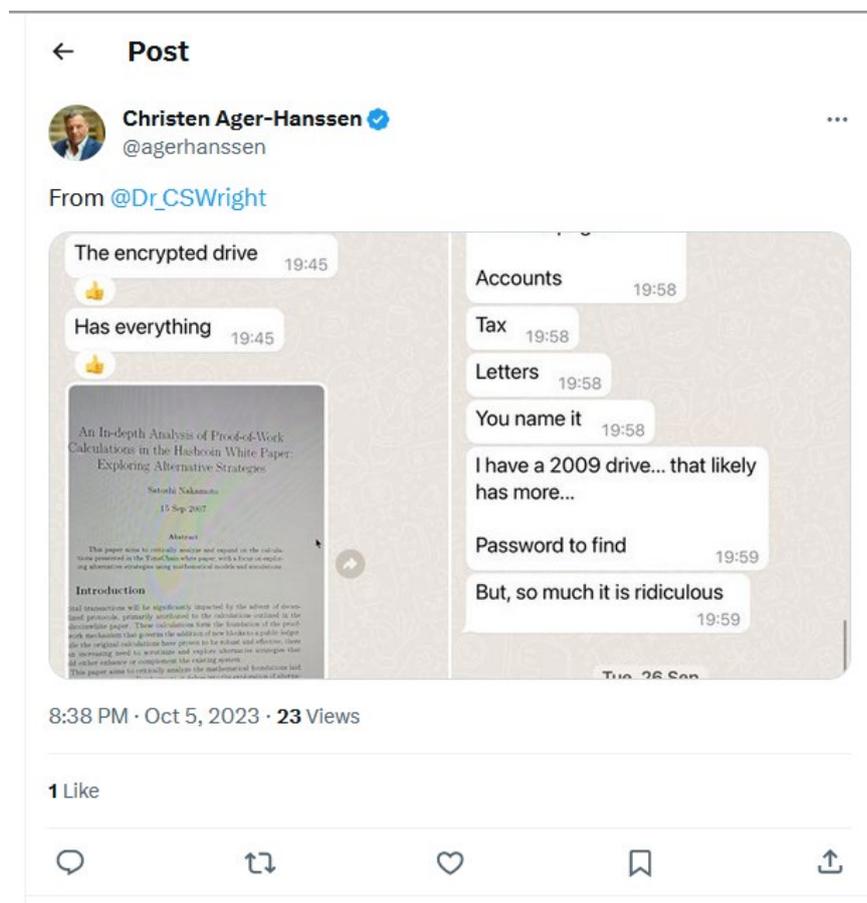
28. However, this is not consistent with other information he has stated, and/or which is publicly available, about these drives and the documents on them.

29. The first that we heard about the BDO Drive was not in fact from Dr Wright or his solicitors, but from a tweet published on X (formerly Twitter). There are three tweets (with attachments) that were posted and are relevant to the BDO Drives and the issue of Latex, posted on 5 October 2023 (2 tweets) and 30 September 2023 (1 tweet), by Christen Ager-Hanssen (who I understand from his tweets and from NChain's public comments had been CEO of Dr Wright's employer NChain until a few days previously).

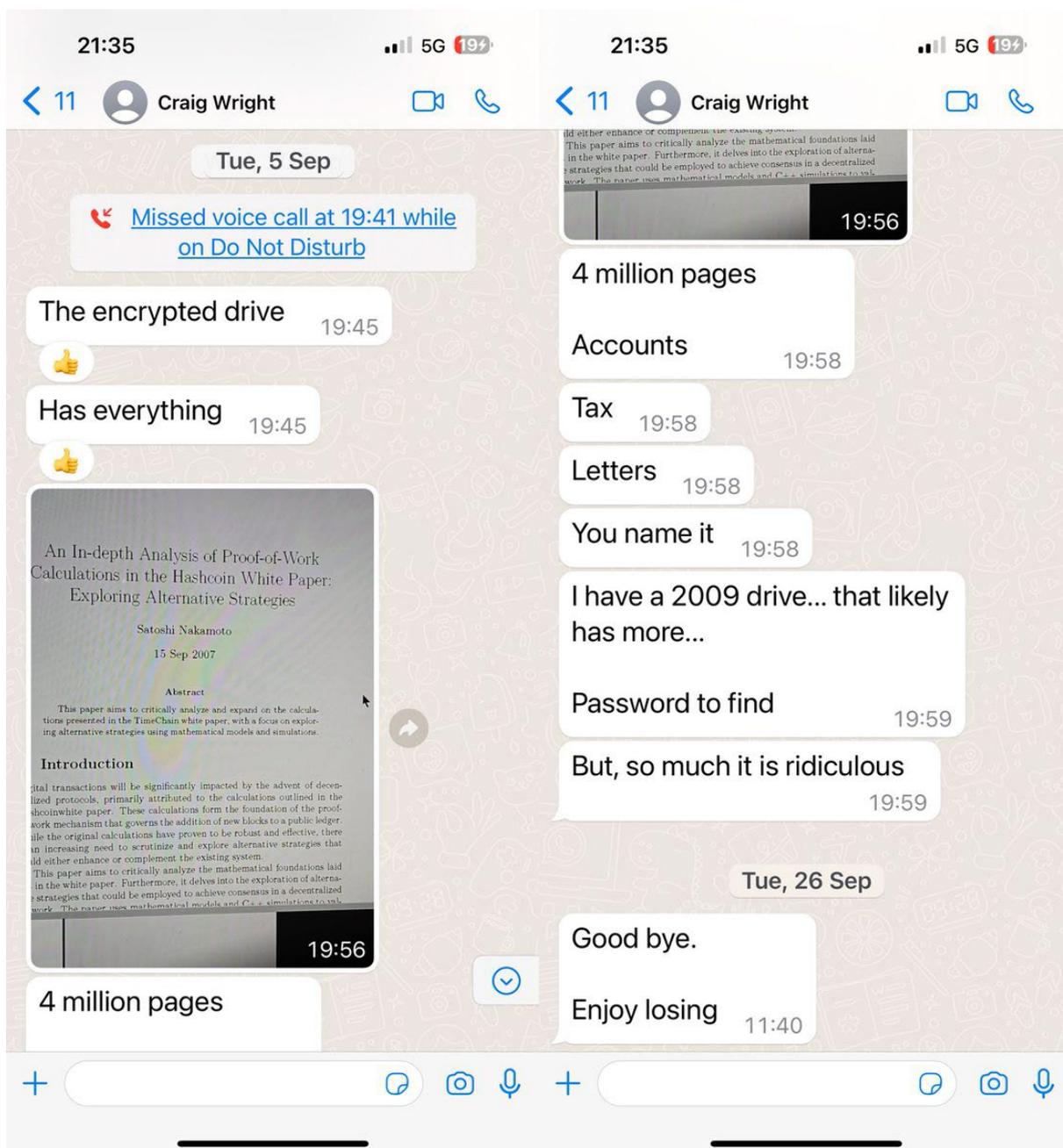
30. The tweets contained attachments, and the attachments were released in reverse chronological order, uncovering the relevant information in reverse. I therefore take the tweets in chronological order according to the content of their attachments rather than the dates of the posts themselves:

The "4 million pages" Tweet

31. The third tweet was Mr Ager-Hanssen’s 5 October Tweet posted at <https://twitter.com/agerhanssen/status/1710031786145669512> and an archived version is available at <https://archive.fo/LQv2d> and a copy is at **Exhibit PNS-122**. The content of the Tweet was to identify Dr Wright as the sender of some messages, and post two screenshots of WhatsApp messages, the images of which are **Exhibit PNS-123** and **Exhibit PNS-124**. The “4 million pages” tweet is as follows:



32. The two images are WhatsApp images which are shown overleaf. As can be seen, they show messages in a conversation with “Craig Wright” on two dates. The first date is 5 September 2023 and the second date is 26 September 2023. It can be seen that the conversation on 5 September begins with a call from Dr Wright to Mr Ager-Hanssen at 19.41. There then follow a stream of 9 messages between 19.45 and 19.59 that evening in which Dr Wright states: “*The encrypted drive / Has everything / [photograph of computer screen] / 4 million pages / Accounts / Tax / Letters / You name it / I have a 2009 drive... that likely has more... Password to find / But, so much it is ridiculous. :*



33. As can be seen from the overlapping messages between the two screenshots, it is a continuous but one-sided stream. It can also be seen that while Mr Ager-Hanssen has not replied to the messages, he has acknowledged the first two (“*The encrypted drive / Has everything*”) with a thumbs-up emoji.

34. At this point, my colleagues and I conducted a search of the disclosure dataset, and established that the document shown in the image was not in Dr Wright’s disclosure. A version of the document was however provided considerably later, on 25 October 2023 in the form of a Latex document with number ID_004715, a Latex document.

35. The disclosed document itself does not appear identical to the pictured image, but appears as follows (with the following being an excerpt of the content that relates to the picture above:

```
documentclass[12pt]{article}
\usepackage{amsmath}
\usepackage{graphicx}
\usepackage{verbatim}

\title{An In-depth Analysis of Proof-of-Work Calculations in the Hashcoin White Paper: Exploring Alternative Strategies}
\author{Satoshi Nakamoto}
\date{15 Sep 2007}

\begin{document}

\maketitle

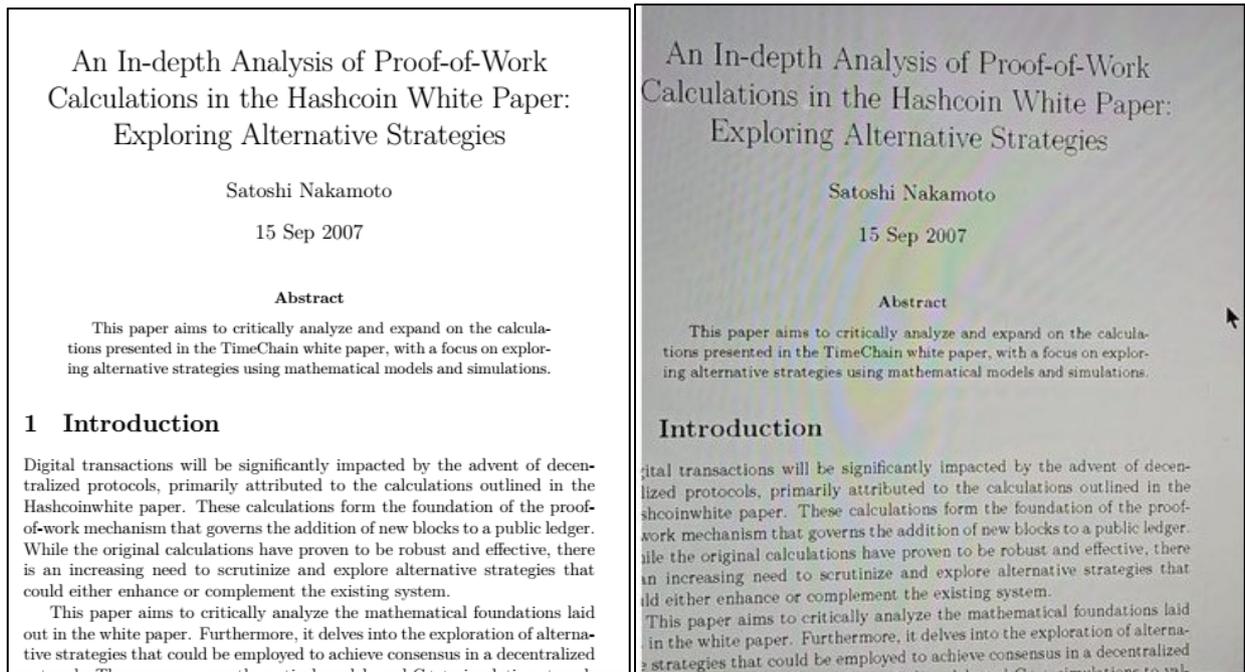
\begin{abstract}
This paper aims to critically analyze and expand on the calculations presented in the TimeChain white paper, with a focus on exploring alternative strategies using mathematical models and simulations.
\end{abstract}

\section{Introduction}

Digital transactions will be significantly impacted by the advent of decentralized protocols, primarily attributed to the calculations outlined in the Hashcoinwhite paper. These calculations form the foundation of the proof-of-work mechanism that governs the addition of new blocks to a public ledger. While the original calculations have proven to be robust and effective, there is an increasing need to scrutinize and explore alternative strategies that could either enhance or complement the existing system.

This paper aims to critically analyze the mathematical foundations laid out in the white paper. Furthermore, it delves into the exploration of alternative strategies that could be employed to achieve consensus in a decentralized network.
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36. As it happens, a member of the Bird & Bird team has some familiarity with the Latex language (albeit from 5-10 years ago), and was able to export that document to PDF. The result is the PDF which is at Exhibit PNS-125. A screenshot of the front page is below. As can be seen, it is identical to Dr Wright's Whatsapp image:



Left: PDF export from ID_004715. **Right:** Dr Wright's photograph of an undisclosed PDF which matches precisely, dated 5 September 2023.

37. The photographed PDF from the WhatsApp exchange above is therefore clearly generated from the document which was (weeks later) disclosed as ID_004715. On 25 October 2023, Shoosmiths identified (in their chain of custody list relating to 93 of the 97 Documents, see Exhibit HLF4) that ID_004715 was sourced from the BDO Drive and that the BDO Drive had been in Dr Wright's possession since it was created. Dr Wright's account as to the dates of key events relating to the BDO Drive cannot, therefore, be true. Specifically:

37.1. Dr Wright claims not to have had access to the BDO Drive on 5 September, yet he was apparently able to produce PDFs of documents from it on that date for discussion with his colleagues. Dr Wright claims, instead, not to have started searching his home until the following week.

37.2. Dr Wright also claims not to have had access to the documents within the BDO Drive as an explanation for why they were not previously disclosed.

37.3. Dr Wright has also not disclosed the PDF pictured in his photograph. He has only disclosed the underlying Latex file, and no PDFs have been disclosed at all from the BDO Drive.

38. Clearly, the pictured PDF document should have been disclosed:

38.1. First, it is a known adverse document. It is *adverse* to Dr Wright's current case on this application. He plainly did have access to the BDO Drive on 5 September 2023, and was generating PDF documents from those images at that time. It is also a *known* document: Dr Wright is here pictured presenting it to Mr Ager Hanssen apparently as evidence to further his claim. It ought therefore to have been disclosed.

38.2. Second, the PDF is disclosable in any event because it contains the name "Satoshi Nakamoto" and the date "15 Sep 2007". Even if it was generated on 5 September 2023 for the purpose of showing Mr Ager-Hanssen (which we consider likely to be the case, but cannot tell without the ability to inspect it), it nevertheless falls within Dr Wright's ongoing duty of disclosure.

39. The Whatsapp conversations also should have been disclosed. They clearly show Dr Wright talking about the "Encrypted Drive" over a week before he says he remembered and found it. Not only does he show off one document from the drive over any others, but he also describes its contents in detail including the number of documents he states are within it.

40. The fact that on 5 September 2023 Dr Wright (A) had access to the BDO Drive, (B) knew of its contents, (C) had access to document ID_004517 sufficient to export it to PDF (D) was offering it as proof of his claim and yet (E) has not disclosed the PDF shown, is a strong indication that Dr Wright is not being truthful in his account of the drives.

41. I pause to note that these events took place just 4 days after the Madden Report was served on Dr Wright via his (then) solicitors, Travers Smith.

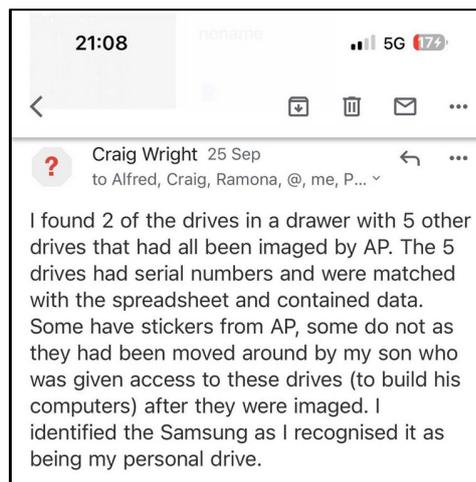
42. Dr Wright's final message in the screenshots above, "*Good bye. / Enjoy losing*" is dated 26 September 2023, which I understand to be shortly after the date that Mr Ager-Hanssen left NChain.

The "Biggest Fake Ever" Tweet

43. Shortly before the "4 Million Pages" tweet, Mr Ager-Hanssen posted another tweet with content related to the first, again showing two images. The Tweet was posted at <https://twitter.com/agerhanssen/status/1710026384326734324> and an archive is available at <https://archive.md/RjmLH>. A copy of it is at Exhibit PNS-126, and the two images it attached are at Exhibits PNS-127 and Exhibit PNS-128. The Biggest Fake Ever tweet reads as follows:



44. The first image is a picture of an email sent by Dr Wright, shown below. The content of the email appears to describe Dr Wright’s account of finding the two new hard drives in a series of short sentences (Exhibit PNS-127)

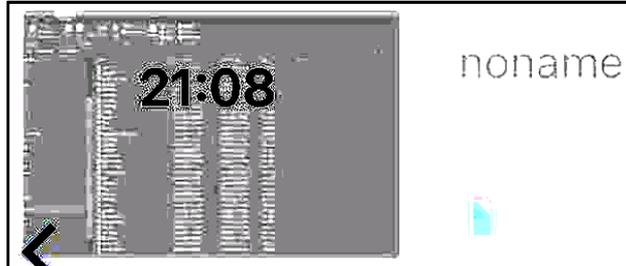


45. We saw that there were some shaded boxes at the top of this image, visible behind the time and heading (see in particular in the screenshot above, the box clearly visible behind the time “21:08”). Below, I show that part of the image again, cropped, and then in a series of steps with the contrast and colour levels enhanced, and zoomed:

Crop of the image above:



Same image, contrast/brightness enhanced:



Same image, colour levels enhanced:



Same image, left side only, zoomed to show apparent screenshot of computer folder:



46. The images revealed above appear to be part of the bottom section of the previous email in the chain, visible within the mail application (and showing the attachments to the previous email).

Apparently one of the attachments to the previous email is a screenshot of a folder directory of files. This indicates that Dr Wright’s email beginning “*I found 2 of the drives in a drawer*” follows on from a previous email in which the contents of a file directory were being discussed. The email, and the screenshot, have not been disclosed.

47. I note that although Dr Wright refers to finding “*2 of the drives*”, apparently indicating the presence of other drives, no other drives have been disclosed since.

48. The second image in the “Biggest Fake Ever” tweet is the following WhatsApp conversation (Exhibit PNS-129). The conversation is between Mr Ager-Hanssen and Mr Stefan Matthews, a director of NChain and a witness in this case. Mr Ager-Hanssen posts two screenshots followed by three messages “*Biggest fake ever / I’m in chock / What an retarded idiot*” followed by a third screenshot. Mr Matthews replies “*Fuck / WTF is wrong with him / Well, we have NCH to focus on, that’s not fake*”.



49. The screenshots are images of a computer screen. Several of the same screenshots have later been provided by Dr Wright, exhibited to his Third Witness Statement in these proceedings as Exhibit CSW4 (dated 23 October 2019). From paragraph 18 of that statement, Dr Wright provides the following information:

- 49.1. that the screenshots were also sent from Mr Ager-Hanssen to Dr Wright's wife Ramona,
- 49.2. that the screenshots show images of Dr Wright's own browsing history,
- 49.3. that the images are screenshots taken from Dr Wright's Wright International Investments UK Ltd laptop and were taken without his authorisation and that he has reported it to the Surrey police, and
- 49.4. that the internet searches shown in those images were conducted after service of the Madden Report (i.e. after 1 September 2023) "*to understand the allegations made therein*" and were "*necessary and directly associated with responding to the COPA (Madden) forensic report*".

50. The explanation given by Dr Wright in his Third Witness Statement, and set out above, is very important for reasons that follow.

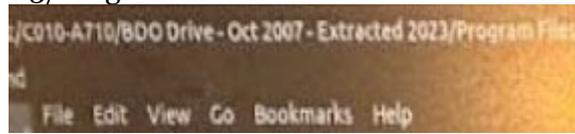
51. The images exhibited to Dr Wright's Third Witness Statement are PDF conversions of the photographs referred to, and are set out again at **Exhibit PNS-130** for ease of reference. As can be seen from those images:

51.1. They are not "screenshots" in the normal sense, but are actually camera-taken photographs of a laptop computer, including the frame and surrounding context (for example, the desk and a mobile phone are visible in the third photo).

51.2. The screenshots do not just display any files on the computer, but specifically they appear to display files being accessed from within the BDO Drive itself. This is clear from the title bars of the windows visible, including the extracts shown below:

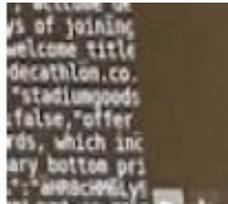
52. In the first screenshot of CSW4 (Exhibit PNS-130):

A file is open in the directory “C010-A710/BDO Drive – Oct 2007 – Extracted 2023/Program files:

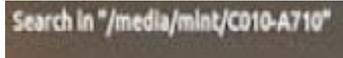


Part of the internet history is visible in that window, apparently including the website name “decathlon.co[...]”.

:



A search is conducted within /C010-A710, the same parent folder as shown above which contains the BDO Drive files:

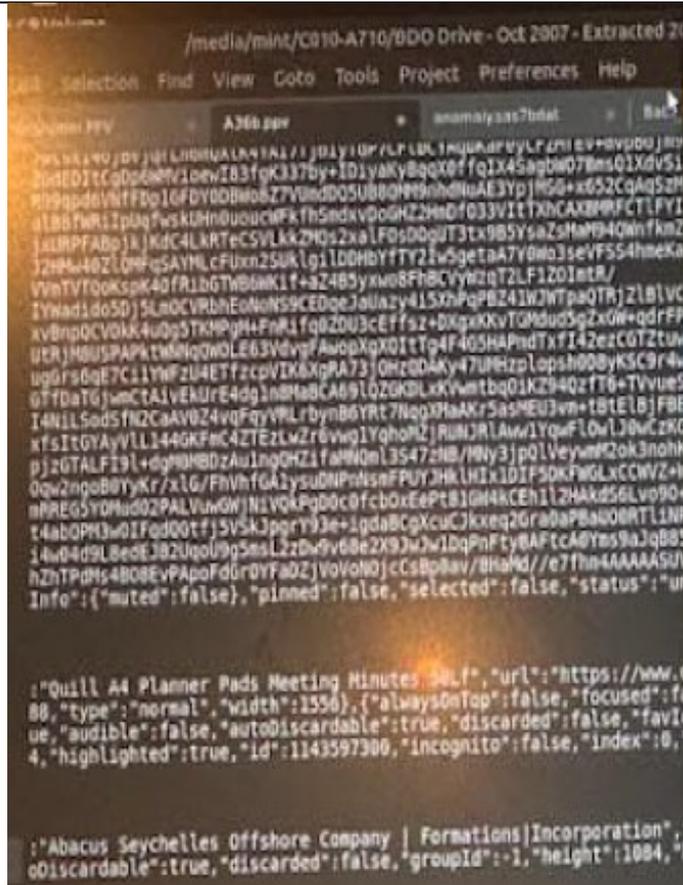


The search term is “bitcoin”:



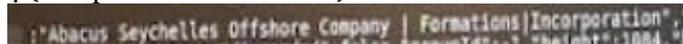
53. In the second screenshot of CSW4 (Exhibit PNS-130):

The internet history is pictured from within the BDO Drive (the title bar lists the same “/C010-A710/BDO Drive -Oct 2007 – Extracted 2023” folder name):



Within that image are internet history records relating to:

“Abacus Seychelles Offshore Company | Formations | Incorporation”, an apparent reference to the current webpage shown at **Exhibit PNS-131**, which has the same title as can be seen in the top left hand corner of that exhibit. I note that Abacus Seychelles is addressed in the Madden Report at Appendix PM4 (Touchup_Textedit flags) and PM14 (Tulip Trust documents).

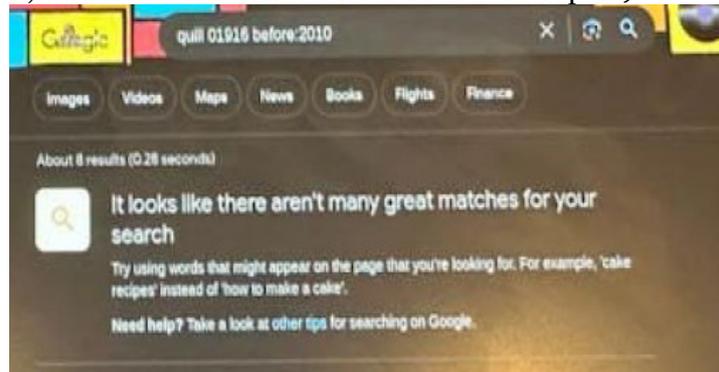


“Quill A4 Planner Pads Meeting Minutes, 50Lf”, an apparent reference to the current webpage shown at **Exhibit PNS-132**, which has the same title as can be seen in the top left hand corner of that exhibit. The same web page is also shown in the screenshot in CSW4. The Quill A4 Planner Pad shown there is the same pad as is addressed in the Madden Report at Appendix PM5:

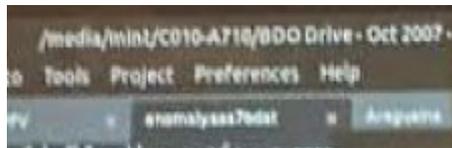


54. In the fourth screenshot of CSW4 (Exhibit PNS-130):

A google search for “Quill 01916 before:2010” (showing that the term did not result in any matches, which is consistent with Mr Madden’s report):



A file is open which is located within the BDO Drive:



And a search for “quill 01916 before:2010”: is included within that data file:



The excerpt above shows that other searches were conducted listed alongside it, including “blockchain network” as well as “bitcoin”:



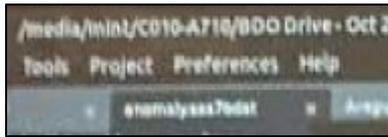
And the phrase, also visible above, “the timestamp proves that the data must”. I note that the last phrase is found within the Bitcoin White Paper, and is not contemporaneous for 2007:

3. Timestamp Server

The solution we propose begins with a timestamp server. A timestamp server works by taking a hash of a block of items to be timestamped and widely publishing the hash, such as in a newspaper or Usenet post [2-5]. The timestamp proves that the data must have existed at the time, obviously, in order to get into the hash. Each timestamp includes the previous timestamp in its hash, forming a chain, with each additional timestamp reinforcing the ones before it.

55. These photographs therefore indicate that Dr Wright’s internet history, which he admits reflects searches conducted after 1 September 2023 following the Madden report (and in response to the Madden Report) was saved within the BDO Drive itself.

56. There is also an indication that Dr Wright’s September 2023 search history is saved within the BDO Drive with a timestamp dating to 2004. The filename of the internet history file (located within the BDO Drive) is given towards the top of the window visible in the fourth screenshot:



57. While the full filename is not legible, it appears very similar in appearance to the filename of a file listed as within the drive in the previous screenshot, the third listed file:



58. The timestamp given for that file is clearly visible in the third screenshot as “Wed 12 May 2004”:



59. Dr Wright has not however included the screenshot shown prominently in the “Biggest Fake Ever” tweet. Despite that, it is possible to gather some partial information about that tweet by zooming in. As can be seen from the excerpt below, it refers to the same file path “BDO Drive – Oct 2007 – Extracted 2023” but provides additional information about the subfolders and file name of the file:



60. Zooming in further it is possible to make out the filename from Mr Ager-Hanssen’s tweeted picture (which is not visible in Dr Wright’s exhibit), which appears to read, roughly, “anom[.]y.sas7bdat”:



61. This seems to match the filename visible in the internet history records which are dated to 2004 in Dr Wright’s screenshots:

	Internet history filename in Dr Wright's exhibit
	"Wed 12 May 2004" file in Dr Wright's exhibit
	Internet history filename in the Ager-Hanssen image, "anom[.]y.sas7bdat"

62. The image included within the "Biggest Fake Ever" conversation (a screenshot which is not included in Dr Wright's exhibit), appears to contain greater information about the content of the search history, including for example an excerpt which precisely matches the extract cited above from the Bitcoin White Paper: "*the timestamp proves that the data must have existed at the time, obviously, in order*" :



3. Timestamp Server

The solution we propose begins with a timestamp server. A timestamp server works by taking a hash of a block of items to be timestamped and widely publishing the hash, such as in a newspaper or Usenet post [2-5]. The timestamp proves that the data must have existed at the time, obviously, in order to get into the hash. Each timestamp includes the previous timestamp in its hash, forming a chain, with each additional timestamp reinforcing the ones before it.



63. As is clear from the content of the "Biggest Fake Ever" conversation – including Mr Ager-Hanssen's general language ('choked', 'idiot'), Mr Matthews' forceful reaction, and both Mr Ager-Hanssen and Mr Matthews referring to the "fake" – the purpose of Mr Ager-Hanssen's sharing of the image appears to have been to indicate that the BDO Drive was "fake" as a result of the content of the internet history encoded within it.

64. This therefore appears to strongly indicate that Dr Wright's internet search history dating from after the Madden Report was served (1 September 2023) is saved within the BDO Image with a date corresponding to May 2004. This is of course entirely inconsistent with Dr Wright's explanation of the BDO Drive.

The "faketoshi" Tweet

65. Before the two tweets above, Mr Ager-Hanssen had posted a tweet on 30 September 2023. A copy of that tweet has been added to COPA's disclosure as document C00003484, a copy of which is at **Exhibit PNS-133**. The content of the tweet is below:

Christen Ager-Hanssen 
@agerhanssen

Part of a report #faketoshi

13. Therefore, the "Last Modified" date has been deliberately backdated.

14. This also shows that Dr Wright was clearly lying when he said that the drive was preserved unused since 2007 - as it contains websites from 2023!

Incriminating contents of browsing history

15. The contents of the browsing history file show that Dr Wright has researched topics relating to backdating files and manipulating metadata.

16. Here are some examples.

LaTeX software

17. Dr Wright accessed an online Q&A asking what software Satoshi Nakamoto used to prepare the White Paper: "Was anything in Satoshi Nakamoto's original Bitcoin paper compiled in LaTeX?"¹⁸



18. The obvious question is: if Dr Wright is Satoshi Nakamoto, why would he ask what software he had used when he wrote the White Paper?

66. Mr Ager-Hanssen here appears to quote findings about Dr Wright from a report which concluded that,

66.1. "the last modified date has been deliberately backdated",

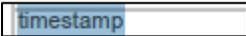
66.2. "this also shows that Dr Wright was clearly lying when he said that the drive was preserved unused since 2007 – as it contains websites from 2023!"

66.3. "The contents of the browsing history file show that Dr Wright has researched topics relating to backdating files and manipulating metadata"

66.4. "Dr Wright accessed a Q&A online asking what software Satoshi Nakamoto used"... "Was anything in Satoshi Nakamoto's original Bitcoin Paper compiled in LaTeX?"

67. Although the full report has not been disclosed, and so the full context is not known, I assume that this report was commissioned by Dr Wright's camp to double-check his story about the BDO Drive. The conclusions speak for themselves. It is also noteworthy that the browsing history files are contained on the BDO Drive itself (ie the drive which Dr Wright's team has reviewed for disclosure); that the browsing history files contain material directly adverse to Dr Wright's case at trial and his case on the present application; and that this is known (having been posted publicly).
68. However, the browsing history files have not been disclosed. This appears to indicate, again, that Dr Wright is not being frank about his interaction with the BDO Drive. Further, it appears to indicate that known adverse documents have not been disclosed.

The keyword searches

69. As explained below in relation to disclosure, the disclosure process conducted on behalf of Dr Wright by Shoosmiths appears to have been based on the keywords selected by Dr Wright, which are listed at Annex 2 to Shoosmiths' letter of 11 October 2023 (see Field 1, Exhibit HLF2 at the page numbered 35).
70. I note that the keywords included the words "Satoshi" and "Nakamoto", both of which appear to be contained within the title of the Q&A website pictured above ("*Was anything in Satoshi Nakamoto's original Bitcoin Paper compiled in LaTeX?*").
71. The list of keywords in Shoosmiths' Annex also included the word "Timestamp",  (see Field 1 exhibit HLF2 at page 41). That keyword is clearly visible in Dr Wright's screenshot within Exhibit CS4: 
72. Therefore as well as being a known adverse document, it is also to be expected that the relevant internet browsing history file or files would have been responsive to the limited keywords against which Dr Wright has searched the Drive, and disclosed as relevant to the action.

73. However, they have not been disclosed.

Witness evidence in relation to documents on the BDO Drive.

74. As well as the public information referred to above, my firm has conducted its own investigations of some of the 93 documents originally provided by Dr Wright on 25 October 2023 (Dr Wright's

8th volume of extended disclosure, “VOL008”). The results of that investigation have led us to take evidence from the following three witnesses¹⁸:

74.1. **Howard Hinnant**, a computer scientist who has been involved in the standardisation of the programming language C++ and who wrote certain libraries used in that language. Mr Hinnant confirms that certain files in Dr Wright’s 97 New Documents (which are listed as C++ files) contain references to a library that was not incorporated into the C++ standard until 2011, and was not even contemplated until 2008. The 2007 timestamps on those files within the BDO Drive must, therefore, be false, as they could not have referred to Mr Hinnant’s work years before it was created.

74.2. **Dr Mico Loretan**, a Doctor of Economics who developed a package for use with the Latex language called “Selnolig”. Dr Loretan provided an eloquent description of his inspiration and development process for Selnolig from his first query in mid-2011, leading to the publication of Selnolig in 2013. As with C++, certain of Dr Wright’s Latex files from the “2007” BDO Image however refer to the use of Selnolig in their creation. As before, the timestamps on those files must be false, as the package in question was not released until a further 6 years later. (I note that Mr Madden also independently established this fact, without knowledge that Bird & Bird had also been investigating it.)

74.3. **Professor John Macfarlane**, a professor of Philosophy who developed a very widely used piece of software for document conversion called Pandoc. One of Dr Wright’s Latex documents, from within the “2007” BDO Drive, specifically refers to being created in “Latex via Pandoc”. Prof Macfarlane has identified the header of the Latex file as being his work, creating by using a Latex template in his Pandoc software. However, the relevant template did not yet exist in 2007 and was not in fact created in that form until March 2022. This therefore indicates that at least that Latex document on the BDO Drive was created using software downloaded during the course of these proceedings, at some point after March 2022.

75. The evidence of these witnesses, who provide evidence of their own work, directly contradict the account of Dr Wright in respect of the “2007” BDO Drive.

Mr Madden’s Third Report

76. In the short time since the 97 Documents were nominated and since Dr Wright’s evidence was served a few days ago, Mr Madden has worked extremely hard to assess the documents and the

¹⁸ COPA relies upon these statements as further statements in answer to Dr Wright’s present application.

information provided and to produce an expert report, which is served together with this statement as the Third Madden Report. I exhibit that report here as **Exhibit PNS-134**.

77. In summary, Mr Madden explains that,

77.1. Almost all of the 97 documents have been provided with little or no metadata, or in a form which does not carry metadata.

77.2. Of the minority of documents which can be analysed, there are several significant indications of tampering, including evidence of document manipulation using a version of Windows Rich Text Editing software that was not released until 2020, i.e, further evidence of the recent creation of falsified documents by Dr Wright.

77.3. There is also evidence of the use of specialised metadata-editing tools to manipulate metadata timestamps of the 97 New Documents directly.

77.4. Mr Madden also agrees with Dr Wright's experts, Stroz Friedberg, that

77.4.1. the recycle bin of the Samsung Drive was emptied in September 2023, and

77.4.2. that the BDO Image contains logs associated with editing files internal to the drive during September 2023.

77.5. Mr Madden further comments that the metadata associated with various example logs shown by Stroz Friedberg is internally-contradictory and indicative of manipulation; and explains that the excuse provided by Dr Wright (which is a fairly vague reference to various software applications) does not explain the tampering or deletion of files, because the software Dr Wright refers to does not operate like that and in fact is specifically designed to avoid the behaviours that Dr Wright attributes to them.

78. Mr Madden also addresses that there are some proprietary files in "DRA" format in the 97 Documents which apparently require proprietary "Dragon Dictate" software to open. Like Mr Madden, we have not been able to open them. The claimed significance of them has only recently been explained in Ms Fields' evidence. Dr Wright's Disclosure Review Document, which had a section in which specialist software ought to have been declared, did not list "Dragon Dictate".

79. As to the question of whether or not the Bitcoin White Paper was created in Latex, Mr Madden explains that the metadata of the Bitcoin White Paper indicates that it was not created in Latex (but rather in Writer from OpenOffice 2.4). He also goes further, explaining the steps and settings within OpenOffice that lead to the creation of text with an identical layout, and flowchart images with identical characteristics, to those of the Bitcoin White Paper.

Table of evidence

80. I note that Ms Field has provided a schedule to her witness statement listing the evidential value that is said to be placed on each of the 97 New Documents.

81. At **Exhibit PNS-135**, I have listed various documents from the 97 New Documents, listing the evidential value said to be placed on them, alongside a short summary of the indications of forgery that we and Mr Madden have uncovered. This allows the two to be directly compared. There is a strong prima facie case that the documents do not prove what they are said to prove.

Expert agreement on manipulation of documents during these proceedings.

82. As is clear from the table at Exhibit PNS-135, there are indications that documents within the BDO Drive have been manipulated or created during these proceedings.

83. I therefore note that at the time of drafting this evidence, Mr Madden and Mr Placks (Dr Wright's forensic expert) have met and have finalised their joint report. I understand this has been approved for signature by Dr Placks (and it has been signed by Mr Madden). The experts have agreed that many of Dr Wright's reliance documents contain "manipulated timestamps" and thus, they must be inauthentic to their purported date.

84. This is relevant because at the time of preparing his report, Dr Placks was given access to two new MYOB Accounting databases in September 2023. These were dated as if containing records that had been preserved since 2008-2009 and related to Dr Wright's claim to have accounted for Bitcoin ownership in the years from 2008-2010, and therefore to be Satoshi Nakamoto. Dr Placks was apparently instructed on the basis that the New MYOB databases he was given access to were the authentic versions, and that the versions in Dr Wright's Reliance Documents were apparently not the correct versions.

85. These new MYOB databases were provided to Dr Wright's forensic expert as replacement documents, to replace certain of Dr Wright's Reliance Documents which Mr Madden had exposed to be inauthentic in the Madden Report.

86. However, Mr Madden was able to detect that the New MYOB Databases were actually created no earlier than May-June 2023, using software that was not released until mid-May 2023 and was not created until 10 May 2023, and that the databases were backdated so as to seem contemporaneous to Satoshi Nakamoto's time. Dr Placks has agreed with Mr Madden's assessment that these databases were created no earlier than May 2023 and are manipulated documents.

87. Therefore, it is a matter of agreement between the forensic experts that Dr Wright has provided accounting databases that are false and which were created during proceedings. This is extremely serious misconduct, and I would ask the Court to take it into account in considering Dr Wright's application based on the alleged discovery of the BDO Drive.

88. Mr Madden's work in debunking this and other material provided by Dr Wright after service of his First Report, is set out in Appendices PM42 to PM45 to his Second Report. I exhibit Mr Madden's Second Report and Appendices at Exhibits PNS-155-160.

Dr Wright's application about new Latex documents

89. In the present application and evidence, Dr Wright and Shoosmiths now suggest that the Bitcoin White Paper was created in Latex, and that the presence of Latex files in Dr Wright's possession is somehow proof that he is Satoshi Nakamoto.

90. We have not had sight of the new Latex documents from Overleaf, because they are said to be so probative of Dr Wright's claim that they apparently cannot be disclosed on ordinary CPR31.22 terms. Dr Wright has set extraordinary confidentiality terms for access to these documents and has refused our reasonable proposal to agree Patents Court standard terms pro tem (a proposal made even though we regard the material as not confidential). The result is that Dr Wright has given us no access to the Overleaf Latex files at all. He has not even provided PDF outputs, despite repeated requests (and despite the fact that on his case, they should be identical to the public Bitcoin White Paper and hence cannot possibly be confidential). The relevant correspondence is at Exhibit PNS-116: Shoosmiths' first letter of 27 November 2023 at pages 85-105, this firm's first letter of 4 December 2023 at pages 124 – 125, and Shoosmiths' third letter of 6 December 2023 at pages 133 – 136.

Overleaf

91. Very recently, in Shoosmiths' letter of 27 November 2023, it has been said that Dr Wright has found yet another forgotten source of documents, which is an online Latex editing platform known as Overleaf.

92. According to our research, Overleaf was not in existence in 2008-2009. It was launched in 2015 under the name "Overleaf", and was previously developed and first released under the name "WriteLaTeX" in the period 2012-2014. I understand this to be the case based on the archived blog post¹⁹ of the founder of Overleaf dating from December 2014 (which refers to the launch of Latex

¹⁹ A capture of which is available at **Exhibit PNS-136**.

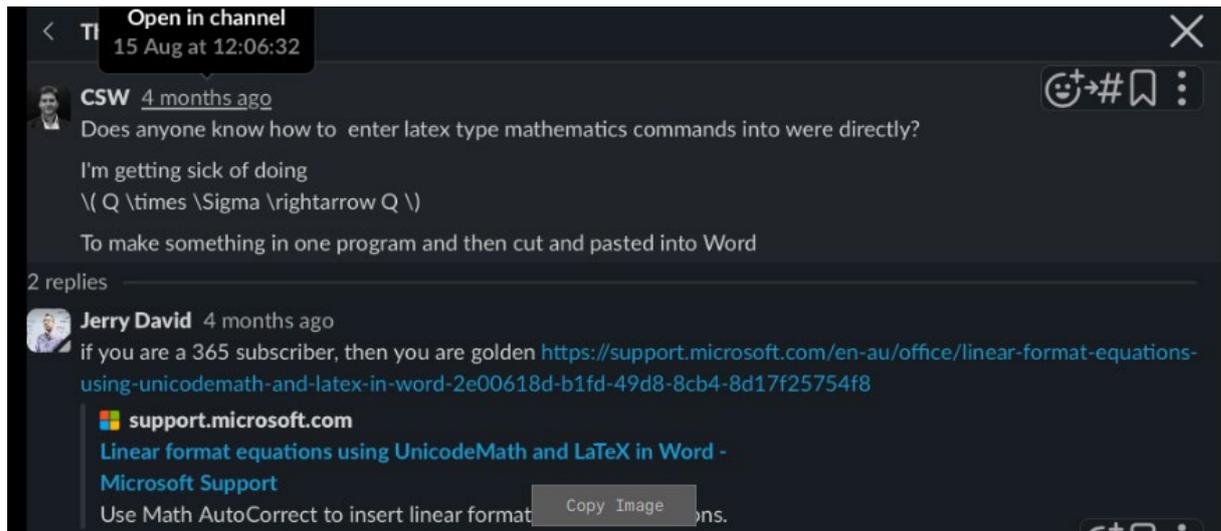
in 2015, and starting the company “a couple of years ago”). It is therefore not clear how documents said to be created in 2007-2008 could have been added to Overleaf at that time, and no explanation has been provided.

Latex and the White Paper?

93. As explained in Mr Madden’s third report, the Bitcoin White Paper was not written in Latex. It was written in ordinary WYSIWYG editing software, OpenOffice Writer.
94. As Mr Madden also explains, the images are exactly characteristic of OpenOffice flowcharts using the default flowchart options in OpenOffice Writer version 2.4.
95. Mr Madden also conducted a comparison of the figures from the Bitcoin White Paper and compared them to the images generated from a Latex image from Dr Wright’s 97 Documents, finding that the Latex versions do not actually match the diagrams in the Bitcoin White Paper very well, having (for example) much thicker lines, different dash styles, and poor alignment as well as behaving differently when zoomed.

Dr Wright and his Latex Research in August-September 2023

96. As with other aspects of Dr Wright’s case, there are indications that he was researching and using Latex in August - September 2023, which is consistent with the apparent date of creation of the BDO Drive in which the documents were found.
97. As mentioned above, Dr Wright’s September 2023 browsing history apparently includes history of searching for Satoshi Nakamoto’s use of Latex, and the question “*Was anything in Satoshi Nakamoto’s original Bitcoin Paper compiled in LaTeX?*”. (I do not know why Dr Wright would need to ask such a question if he really was Satoshi Nakamoto, as he would obviously know.)
98. The page Dr Wright apparently viewed is at <https://tex.stackexchange.com/questions/306754/was-anything-in-satoshi-nakamotos-original-bitcoin-paper-compiled-in-latex>, and a copy is at **Exhibit PNS-137**. (and I note that the answer to the question posed appears to be “No”.)
99. Also, at around the same time, Dr Wright posted on his Slack channel that he was then using Latex in significant volumes, and was asking for information on how to automatically generate Latex code:



100. Similar code to that mentioned by Dr Wright does appear within his 97 Documents, though not the exact code. For example among many others:

100.1. In ID_004654, “ $\frac{dE}{dt} = \beta S I - \sigma E, \backslash$

100.2. In ID_004648, “ $\} \textbackslash \rightarrow$ ”.

101. Both of these indications are consistent with the other indications, referred to above, that the 97 Documents were created during September 2023.

102. This Slack channel is the same Slack channel on which Dr Wright has posted other indications of forgery, including the various documents which were posted on Slack (but were not disclosed) and which are analysed by Mr Madden in his Second Report.

Ease of Latex creation

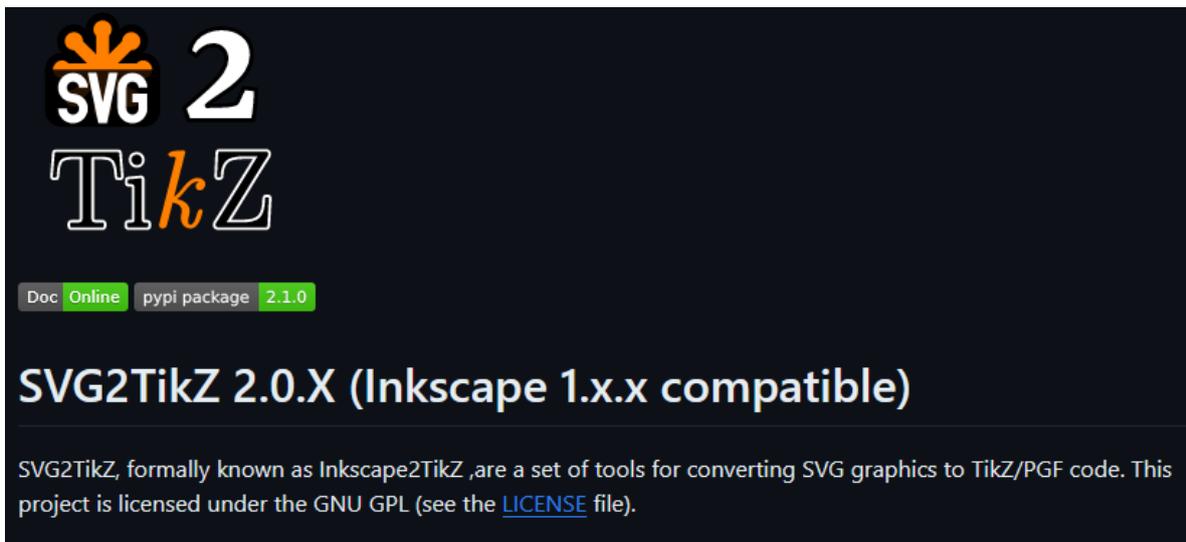
103. When the idea was first raised about Latex being essential to Dr Wright’s claim, we were surprised because by that point Dr Wright had served seven tranches of disclosure in addition to his initial disclosure and exhibits to various witness statements, and no Latex files had been disclosed at all.

104. It was also suggested by Shoosmiths that Dr Wright’s position of the Latex files was definitive proof that he was Satoshi, because attempts had been made to create a Latex version of the Bitcoin White Paper in the past but had failed. The theory seemed to be (a) the Bitcoin White Paper was compiled from Latex, (b) Dr Wright has Latex files which compiled to exactly replicate the Bitcoin White Paper, (c) it was impossible to retro-create Latex files from the Bitcoin White Paper and (d) Dr Wright’s possession of the Latex files was therefore proof of his alleged identity.

105. We therefore tested this assertion over the course of the following two days, and found that not only was it possible to create a version of the Bitcoin White Paper in Latex (and with the diagrams in Latex code), but it was possible to replicate the Bitcoin White Paper almost precisely using simple automatic generation software.

Hand coding / SVG2Tikz

106. We first checked to see whether there were any utilities which would convert images to Latex images, and a member of my team my colleague discovered that there was a converter called “SVG2Tikz” which would convert images to latex code, at <https://github.com/xyz2tex/svg2tikz>



107. Using this utility we were able to easily convert the images in the Bitcoin White Paper to Latex code.

108. This did not convert the text of the White Paper, but it did allow the images to be pasted into a Latex document. My colleague therefore wrote a version of the White Paper by hand in Latex, with image code copied and pasted from those conversions.

109. By hand coding Latex, it was not possible to replicate the Bitcoin White Paper exactly (likely because it is not a Latex document but an OpenOffice document, so it is predictably quite different). It was however possible to get fairly close, so we better understood the limitations of ‘normal’ coding. The code (**Exhibit PNS-138**) is essentially readable in plain text:

```

\setlength{\leftmargin}{15mm}
\setlength{\rightmargin}{\leftmargin}%
}%
\item\relax}
{\endlist}

%Document parameters
\title{\headingfont{\Large{Bitcoin: A Peer-to-Peer Electronic Cash System }}}
\author{{\normalsize Tristan Sherliker}\ \ {\normalsize Bird \& Bird LLP}\ \ {
\normalsize[Ceci n'est pas une pipe.]}
\date{}
%Document main
\begin{document}
\titleformat*{\section}{\large\headingfont}{.}

\maketitle
\vspace{-11mm}
\begin{abstract}
\noindent Abstract. A purely peer-to-peer version of electronic cash would allow online
payments to be sent directly from one party to another without going through a financial
institution. Digital signatures provide part of the solution, but the main benefits are
lost if a trusted third party is still required to prevent double-spending. We propose a
solution to the double-spending problem using a peer-to-peer network. The network
timestamps transactions by hashing them into an ongoing chain of hash-based proof-of-work,
forming a record that cannot be changed without redoing the proof-of-work. The longest
chain not only serves as proof of the sequence of events witnessed, but proof that it came
from the largest pool of CPU power. As long as a majority of CPU power is controlled by
nodes that are not cooperating to attack the network, they'll generate the longest chain
and outpace attackers. The network itself requires minimal structure. Messages are
broadcast on a best effort basis, and nodes can leave and rejoin the network at will,
accepting the longest proof-of-work chain as proof of what happened while they were gone.
\end{abstract}
\vspace{1mm}
\section{Introduction}
Commerce on the Internet has come to rely almost exclusively on financial institutions
serving as trusted third parties to process electronic payments. While the system works
well enough for most transactions, it still suffers from the inherent weaknesses of the
trust based model. Completely non-reversible transactions are not really possible, since

```

110. And the PDF output (**Exhibit PNS-139**) is quite similar to the Bitcoin White Paper, within the limits of being coded by hand within a different format:

Bitcoin: A Peer-to-Peer Electronic Cash System

Tristan Shierliker
Bird & Bird LLP
Ceci n'est pas une pipe.

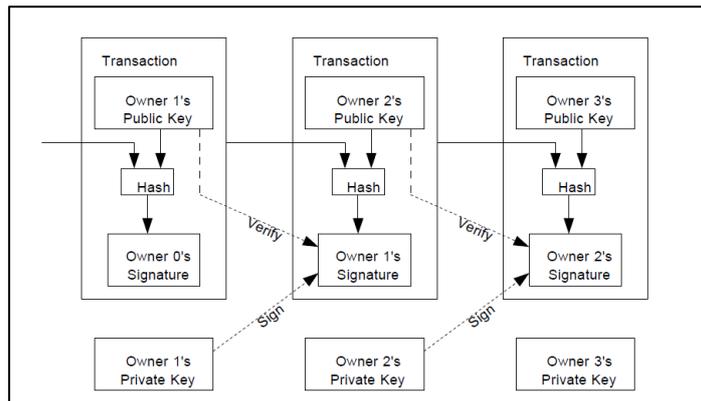
Abstract. A purely peer-to-peer version of electronic cash would allow online payments to be sent directly from one party to another without going through a financial institution. Digital signatures provide part of the solution, but the main benefits are lost if a trusted third party is still required to prevent double-spending. We propose a solution to the double-spending problem using a peer-to-peer network. The network timestamps transactions by hashing them into an ongoing chain of hash-based proof-of-work, forming a record that cannot be changed without redoing the proof-of-work. The longest chain not only serves as proof of the sequence of events witnessed, but proof that it came from the largest pool of CPU power. As long as a majority of CPU power is controlled by nodes that are not cooperating to attack the network, they'll generate the longest chain and outpace attackers. The network itself requires minimal structure. Messages are broadcast on a best effort basis, and nodes can leave and rejoin the network at will, accepting the longest proof-of-work chain as proof of what happened while they were gone.

1. Introduction

Commerce on the Internet has come to rely almost exclusively on financial institutions serving as trusted third parties to process electronic payments. While the system works well enough for most transactions, it still suffers from the inherent weaknesses of the trust based model. Completely non-reversible transactions are not really possible, since financial institutions cannot avoid mediating disputes. The cost of mediation increases transaction costs, limiting the minimum practical transaction size and cutting off the possibility for small casual transactions, and there is a broader cost in the loss of ability to make non-reversible payments for non-reversible services. With the possibility of reversal, the need for trust spreads. Merchants must be wary of their customers, hassling them for more information than they would otherwise need. A certain percentage of fraud is accepted as unavoidable. These costs and payment uncertainties can be avoided in person by using physical currency, but no mechanism exists to make payments over a communications channel without a trusted party.

What is needed is an electronic payment system based on cryptographic proof instead of trust, allowing any two willing parties to transact directly with each other without the need for a trusted third party. Transactions that are computationally impractical to reverse would protect sellers from fraud, and routine escrow mechanisms could easily be implemented to protect buyers. In this paper, we propose a solution to the double-spending problem using a peer-to-peer distributed timestamp server to generate computational proof of the chronological order of transactions. The system is secure as long as honest nodes collectively control more CPU power than any cooperating group of attacker nodes.

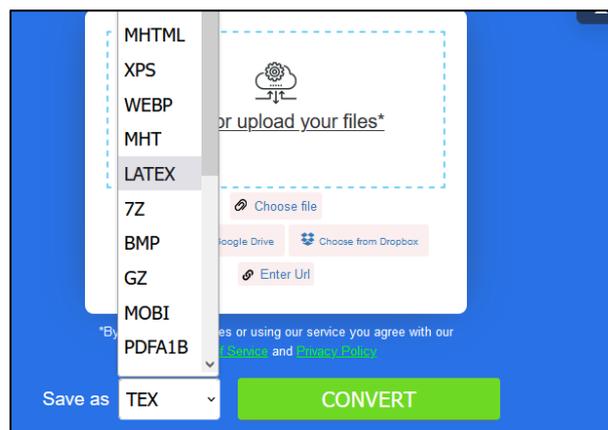
1



111. If a lawyer with a little familiarity with the Latex language from 5-10 years ago could approximate the Bitcoin White Paper within a couple of days, this seemed to indicate that generating a Latex file which converted to the Bitcoin White Paper would not be difficult for someone with more experience of Latex or coding more generally.

Aspose: automatic conversion in a few seconds

112. We also explored whether any whole-document conversion tools exist and immediately found that there was one, by doing a Google search for “PDF to latex converter” and looking at the first few links. This provided an easy to use online tool²⁰ that would perform the conversion automatically, called “PDF to Tex”, at <https://products.aspose.app/pdf/conversion/pdf-to-tex>:



²⁰ Among various others including <https://converter.app/pdf-to-latex/result.php?lang=en> , <https://www.pdfFiller.com/en/functionality/convert-pdf-to-latex-online.htm>, <https://2pdf.com/convert-pdf-to-latex/> , <https://products.conholdate.app/conversion/pdf-to-latex>, <https://cloudconvert.com/tex-to-pdf> and at least several others besides

113. Dropping the Bitcoin White Paper into the Aspose website and pressing the “convert” button generated a Latex version of the Bitcoin White Paper (which I understand from my colleagues took around 7 seconds).
114. The output Latex file (which is a plain text file) is at **Exhibit PNS-140**. However, probably as a result of being computer generated, it is an extremely long file and would take 278 pages to print. The following screenshot (prepared by my colleague) shows the start of the file:

```

\usepackage[utf8x]{inputenc}
\usepackage{pict2e}
\usepackage{wasysym}
\usepackage[english]{babel}
\usepackage{tikz}
\pagesstyle{empty}
\usepackage[margin=0in]{geometry}
\begin{document}
\definecolor{color_29791}{rgb}{0,0,0}
\definecolor{color_283006}{rgb}{1,1,1}
\definecolor{color_105259}{rgb}{0.298039,0.298039,0.298039}
\begin{tikzpicture}[overlay]\path(0pt,0pt);\end{tikzpicture}
\begin{picture}(-5,0)(2.5,0)
\put(119.75,-97.97){\fontsize{14}{1}\Century\selectfont\selectfont\color{color_29791}B}
\put(130.69,-97.97){\fontsize{14}{1}\Century\selectfont\selectfont\color{color_29791}i}
\put(135.91,-97.97){\fontsize{14}{1}\Century\selectfont\selectfont\color{color_29791}t}
\put(141.82,-97.97){\fontsize{14}{1}\Century\selectfont\selectfont\color{color_29791}c}
\put(149.65,-97.97){\fontsize{14}{1}\Century\selectfont\selectfont\color{color_29791}o}
\put(158.28,-97.97){\fontsize{14}{1}\Century\selectfont\selectfont\color{color_29791}i}
\put(163.49,-97.97){\fontsize{14}{1}\Century\selectfont\selectfont\color{color_29791}n}
\put(173.13,-97.97){\fontsize{14}{1}\Century\selectfont\selectfont\color{color_29791}:}
\put(177.05,-97.97){\fontsize{14}{1}\Century\selectfont\selectfont\color{color_29791}}
\put(181.07,-97.97){\fontsize{14}{1}\Century\selectfont\selectfont\color{color_29791}A}
\put(191.71,-97.97){\fontsize{14}{1}\Century\selectfont\selectfont\color{color_29791}}
\put(195.73,-97.97){\fontsize{14}{1}\Century\selectfont\selectfont\color{color_29791}P}
\put(206.37,-97.97){\fontsize{14}{1}\Century\selectfont\selectfont\color{color_29791}e}
\put(214.50,-97.97){\fontsize{14}{1}\Century\selectfont\selectfont\color{color_29791}e}
\put(222.53,-97.97){\fontsize{14}{1}\Century\selectfont\selectfont\color{color_29791}r}
\put(229.85,-97.97){\fontsize{14}{1}\Century\selectfont\selectfont\color{color_29791}e}
\put(234.57,-97.97){\fontsize{14}{1}\Century\selectfont\selectfont\color{color_29791}t}
\put(240.49,-97.97){\fontsize{14}{1}\Century\selectfont\selectfont\color{color_29791}o}
\put(249.11,-97.97){\fontsize{14}{1}\Century\selectfont\selectfont\color{color_29791}r}
\put(253.74,-97.97){\fontsize{14}{1}\Century\selectfont\selectfont\color{color_29791}p}
\put(264.38,-97.97){\fontsize{14}{1}\Century\selectfont\selectfont\color{color_29791}e}
\put(272.51,-97.97){\fontsize{14}{1}\Century\selectfont\selectfont\color{color_29791}e}
\put(280.54,-97.97){\fontsize{14}{1}\Century\selectfont\selectfont\color{color_29791}r}
\put(287.86,-97.97){\fontsize{14}{1}\Century\selectfont\selectfont\color{color_29791}}
\put(291.88,-97.97){\fontsize{14}{1}\Century\selectfont\selectfont\color{color_29791}E}
\put(302.51,-97.97){\fontsize{14}{1}\Century\selectfont\selectfont\color{color_29791}l}
\put(307.53,-97.97){\fontsize{14}{1}\Century\selectfont\selectfont\color{color_29791}e}
\put(315.55,-97.97){\fontsize{14}{1}\Century\selectfont\selectfont\color{color_29791}c}
\put(323.28,-97.97){\fontsize{14}{1}\Century\selectfont\selectfont\color{color_29791}t}
\put(329.31,-97.97){\fontsize{14}{1}\Century\selectfont\selectfont\color{color_29791}r}
\put(336.63,-97.97){\fontsize{14}{1}\Century\selectfont\selectfont\color{color_29791}o}
\put(345.26,-97.97){\fontsize{14}{1}\Century\selectfont\selectfont\color{color_29791}n}
\put(354.80,-97.97){\fontsize{14}{1}\Century\selectfont\selectfont\color{color_29791}i}
\put(360.02,-97.97){\fontsize{14}{1}\Century\selectfont\selectfont\color{color_29791}c}
\put(367.84,-97.97){\fontsize{14}{1}\Century\selectfont\selectfont\color{color_29791}}
\put(371.86,-97.97){\fontsize{14}{1}\Century\selectfont\selectfont\color{color_29791}C}
\put(382.81,-97.97){\fontsize{14}{1}\Century\selectfont\selectfont\color{color_29791}a}
\put(391.44,-97.97){\fontsize{14}{1}\Century\selectfont\selectfont\color{color_29791}sh}
\put(408.10,-97.97){\fontsize{14}{1}\Century\selectfont\selectfont\color{color_29791}}
\put(412.12,-97.97){\fontsize{14}{1}\Century\selectfont\selectfont\color{color_29791}S}
\put(421.45,-97.97){\fontsize{14}{1}\Century\selectfont\selectfont\color{color_29791}y}
\put(430.08,-97.97){\fontsize{14}{1}\Century\selectfont\selectfont\color{color_29791}s}
\put(437.01,-97.97){\fontsize{14}{1}\Century\selectfont\selectfont\color{color_29791}t}
\put(443.04,-97.97){\fontsize{14}{1}\Century\selectfont\selectfont\color{color_29791}e}
\put(451.06,-97.97){\fontsize{14}{1}\Century\selectfont\selectfont\color{color_29791}m}
\put(254.95,-133.90){\fontsize{10}{1}\Times\selectfont\color{color_29791}S}

```

115. I understand from my colleague with familiarity with Latex that,
- 115.1. The file is over 22,000 lines long, and each letter of the document is encoded in a separate line with specific pixel spacing, as a result of automatic conversion, and
- 115.2. That the page has been slightly rescaled (by about 2mm) to match US Letter paper size, as the Aspose page size was slightly smaller than the standard size.²¹

²¹ I understand this is because the Bitcoin White Paper uses a resolution of 72.27 DPI, but the output from Aspose used a slightly smaller resolution of 72DPI. This would result in a page size of 67.714mm wide x 789.041mm tall (very slightly smaller)

115.3. The image parts are also encoded in Latex as shown in the following excerpt and that each picture is also hundreds of lines long:

```

\begin{tikzpicture}[overlay]
\path(0pt,0pt);
\begin{scope}
\clip
(142.7pt, -600.7pt) -- (439.7pt, -600.7pt)
-- (439.7pt, -600.7pt)
-- (439.7pt, -435.7pt)
-- (439.7pt, -435.7pt)
-- (142.7pt, -435.7pt) -- cycle
;
\filldraw[color_283006][even odd rule]
(371pt, -584.1pt) -- (302.6pt, -584.1pt)
-- (302.6pt, -584.1pt)
-- (302.6pt, -435.7pt)
-- (302.6pt, -435.7pt)
-- (439.4pt, -435.7pt)
-- (439.4pt, -435.7pt)
-- (439.4pt, -584.1pt)
-- (439.4pt, -584.1pt)
-- (371pt, -584.1pt) -- cycle
;
\draw[color_29791,line width=0.1pt,line join=round]
(371pt, -584.1pt) -- (302.6pt, -584.1pt)
-- (302.6pt, -584.1pt)
-- (302.6pt, -435.7pt)
-- (302.6pt, -435.7pt)
-- (439.4pt, -435.7pt)
-- (439.4pt, -435.7pt)
-- (439.4pt, -584.1pt)
-- (439.4pt, -584.1pt)
-- (371pt, -584.1pt) -- cycle
;
\end{scope}
\end{tikzpicture}
\begin{picture}(-5,0)(2.5,0)
\put(309.26,-446.97){\fontsize{6.910144}{1}\AriaIMT\selectfont\color{color_29791}B}
\put(313.87,-446.97){\fontsize{6.910144}{1}\AriaIMT\selectfont\color{color_29791}l}
\put(315.48,-446.97){\fontsize{6.910144}{1}\AriaIMT\selectfont\color{color_29791}o}
\put(319.29,-446.97){\fontsize{6.910144}{1}\AriaIMT\selectfont\color{color_29791}c}
\put(322.81,-446.97){\fontsize{6.910144}{1}\AriaIMT\selectfont\color{color_29791}k}
\end{picture}
\begin{tikzpicture}[overlay]
\path(0pt,0pt);

```

- 116. Converting to PDF produces the PDF shown at **Exhibit PNS-141**, which to seems to be identical to the Bitcoin White Paper, including the images.
- 117. In view of the fact that it is possible to generate an apparently identical Latex source file online in seconds (including the file which is exhibited to this witness statement, and so will be made public the hearing), it is difficult to accept that Dr Wright’s file is as confidential as he claims.

Fiverr – hand coding for a few pounds

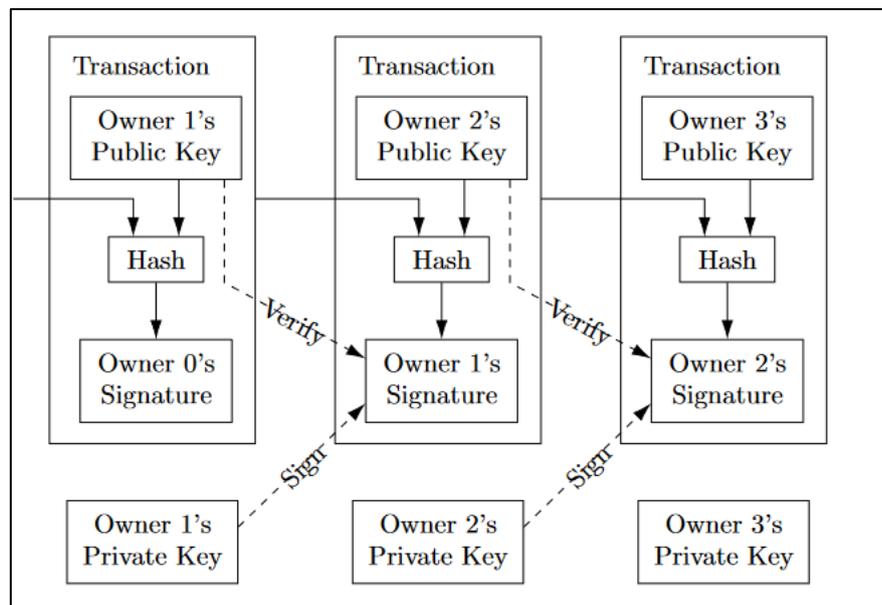
- 118. We also discovered that an online ‘gig economy’ site called Fiverr, which allows freelancers to offer small jobs, included many people who offered to convert documents from PDF or other forms into Latex by hand. Searching for “PDF to Latex” on Fiverr gave 406 results across 9 pages, the first page of which is shown at **Exhibit PNS-142**. Choosing one of the first results at random, **Exhibit PNS-143**, it can be seen that the person there is offering to convert documents of up to 20 pages for £16.65.
- 119. We asked one person to perform a conversion to Latex, including images, at a price of around £20. We did not ask the person to entirely recreate or forge the Bitcoin White Paper, but only to do their normal creation process. This was ready around 2 days later. The result is at **Exhibit PNS-144** (the code) and **Exhibit PNS-145** (the PDF).

120. The image code in this (written by someone with experience) is notably very easy to read even without any coding experience. Instead of being hundreds of lines long, it is just a few lines describing the shapes:

```

\begin{center}
\begin{tikzpicture}
% Block 01
% Nodes
\node[rectangle, draw, align=center, minimum height=1.1cm, minimum width=2.25cm] (own1) at (0,0) {Owner 1's\ Public Key};
\node[align=center, minimum height=0.6cm, minimum width=0.75cm, above = 0.1cm of own1, xshift=-0.2cm] (tran1) {Transaction};
\node[rectangle, draw, align=center, minimum height=0.6cm, minimum width=1.25cm, below = 0.75cm of own1] (hash1) {Hash};
\node[rectangle, draw, align=center, minimum height=1.1cm, minimum width=2.0cm, below = 0.75cm of hash1] (ows1) {Owner 0's\ Signature};
\node[fit=(own2)(tran1)(hash1)(ows1),draw,inner sep=5pt, outer sep=0pt,yshift=-0.1cm] (blk1) {};
\node[rectangle, draw, align=center, minimum height=1.1cm, minimum width=2.25cm, below = 0.75cm of blk1] (ownP1) {Owner 1's\ Private Key};
% Block 02
% Nodes
\node[rectangle, draw, align=center, minimum height=1.1cm, minimum width=2.25cm, right = 1.5cm of own1] (own2) {Owner 2's\ Public Key};
\node[align=center, minimum height=0.6cm, minimum width=0.75cm, above = 0.1cm of own2, xshift=-0.2cm] (tran2) {Transaction};
\node[rectangle, draw, align=center, minimum height=0.6cm, minimum width=1.25cm, below = 0.75cm of own2] (hash2) {Hash};
\node[rectangle, draw, align=center, minimum height=1.1cm, minimum width=2.0cm, below = 0.75cm of hash2] (ows2) {Owner 1's\ Signature};
\node[fit=(own2)(tran2)(hash2)(ows2),draw,inner sep=5pt, outer sep=0pt,yshift=-0.1cm] (blk2) {};
\node[rectangle, draw, align=center, minimum height=1.1cm, minimum width=2.25cm, below = 0.75cm of blk2] (ownP2) {Owner 2's\ Private Key};
% Block 03
% Nodes
\node[rectangle, draw, align=center, minimum height=1.1cm, minimum width=2.25cm, right = 1.5cm of own2] (own3) {Owner 3's\ Public Key};
\node[align=center, minimum height=0.6cm, minimum width=0.75cm, above = 0.1cm of own3, xshift=-0.2cm] (tran3) {Transaction};
\node[rectangle, draw, align=center, minimum height=0.6cm, minimum width=1.25cm, below = 0.75cm of own3] (hash3) {Hash};
\node[rectangle, draw, align=center, minimum height=1.1cm, minimum width=2.0cm, below = 0.75cm of hash3] (ows3) {Owner 2's\ Signature};
\node[fit=(own3)(tran3)(hash3)(ows3),draw,inner sep=5pt, outer sep=0pt,yshift=-0.1cm] (blk3) {};
\node[rectangle, draw, align=center, minimum height=1.1cm, minimum width=2.25cm, below = 0.75cm of blk3] (ownP3) {Owner 3's\ Private Key};
%Arrows
\draw[-{Latex}[length=2.5mm,width=1.5mm]}] (hash1) -- (ows1);
\draw[-{Latex}[length=2.5mm,width=1.5mm]}] (hash2) -- (ows2);
\draw[-{Latex}[length=2.5mm,width=1.5mm]}] (hash3) -- (ows3);
\draw[-{Latex}[length=2.5mm,width=1.5mm]}] ([xshift=0.3cm]own1.south) -- ([xshift=0.3cm]hash1.north);
\draw[-{Latex}[length=2.5mm,width=1.5mm]}] ([xshift=0.3cm]own2.south) -- ([xshift=0.3cm]hash2.north);
\draw[-{Latex}[length=2.5mm,width=1.5mm]}] ([xshift=0.3cm]own3.south) -- ([xshift=0.3cm]hash3.north);
\node[align=center, minimum height=0.6cm, minimum width=1.0cm, left = 1cm of hash1] at
$(own1.west)!0.5!(hash1.west)$
(V) {};
\draw[-{Latex}[length=2.5mm,width=1.5mm]}] (V) -| ([xshift=-0.3cm]hash1.north);
\draw[-{Latex}[length=2.5mm,width=1.5mm]}] ($(V.east)!1!(V.east|blk1.east)$) -| ([xshift=-0.3cm]hash2.north);
\draw[-{Latex}[length=2.5mm,width=1.5mm]}] ($(V.east)!1!(V.east|blk2.east)$) -| ([xshift=-0.3cm]hash3.north);
\draw[-{Latex}[length=2.5mm,width=1.5mm]},dashed] ([yshift=0.2cm]ownP1.east) -- node[midway, below,sloped, anchor=center,yshift=-0.05cm] {Sign} ([xshift=0.2cm]own1.east);
\draw[-{Latex}[length=2.5mm,width=1.5mm]},dashed] ([yshift=0.2cm]ownP2.east) -- node[midway, below,sloped, anchor=center,yshift=-0.05cm] {Sign} ([xshift=0.2cm]own2.east);
\draw[-{Latex}[length=2.5mm,width=1.5mm]},dashed] ([xshift=0.9cm]own1.south) -- ([xshift=0.9cm]hash1.south) -- node[midway, below,sloped, anchor=center,yshift=-0.05cm] {Verify} ([xshift=0.9cm]own2.south);
\draw[-{Latex}[length=2.5mm,width=1.5mm]},dashed] ([xshift=0.9cm]own2.south) -- ([xshift=0.9cm]hash2.south) -- node[midway, below,sloped, anchor=center,yshift=-0.05cm] {Verify} ([xshift=0.9cm]own3.south);

```



Dr Wright's approach to disclosure of the New Drives material

121. Finally, I note that Dr Wright's approach to the disclosure of these documents has included failing to respond to a series of reasonable (and repeated) requests for proper information relating to them. This list still includes at least the following:

Requested information	Information provided by Dr Wright
<i>A clear statement whether each of the hard drives was in fact provided to AlixPartners and whether AlixPartners imaged it (whether wholly or partially)</i>	<i>Dr Wright has stated that the Hard Drives “were imaged by AlixPartners LLP in February 2019” (paragraph 9 of his Fifth Witness Statement) and that “believe[s] that the Hard Drives were amongst those made available to AlixPartners for forensic imaging...in February 2019” (paragraph 10 of his Fifth Witness Statement). Shoosmiths, by letter of 11 October, indicated that the Hard Drives were “Made Available” to AlixPartners</i>
<i>Whether the two hard drives are said to be amongst those listed in Dr Wright’s disclosure certificate.</i>	<i>N/A</i>
<i>A witness statement from AlixPartners explaining the process by which they collected documents and how the New Drives were processed</i>	<i>N/A</i>
<i>To provide an automatically generated file and directory listing of the BDO Drive and metadata listing, to enable at least something about the drive contents to be understood without risk of disclosing anything claimed to be confidential or privileged</i>	<i>N/A</i>
<i>To specify which files or directories on the BDO Drive are said to be confidential and why, to allow for confidentiality terms to be properly targeted</i>	<i>N/A</i>
<i>To provide an automatically generated list of MD5 hashes for each file on the drive, to allow the contents to be checked against existing disclosure</i>	<i>N/A</i>
<i>Whether the New Drives have been searched for documents adverse to Dr Wright’s case, and the process by which this has been done.</i>	<i>N/A</i>

These are examples. There are many other instances in the correspondence about these drives in the months since they were discovered, to which Dr Wright has simply not responded or

has refused to respond. I will not list them all here, but many can be seen in the exhibited correspondence.

ASD Adjustments

Joint Report of ASD Experts

122. Dr Wright was granted permission to adduce expert evidence on autism spectrum disorder (ASD) from Professor Seena Fazel pursuant to the Judgment of Mellor J dated 3 October 2023²² following hearings on 19, 22 and 26 September 2023.
123. COPA served an ASD expert report from Professor Michael Craig on 21 November 2023 (see Core Bundle G/4/1-28). Following court-ordered discussions between the parties' respective ASD experts, they prepared and filed a Joint Statement on 30 November 2023 (Core Bundle Q/1/1-3), in which both experts agreed on the issues of a) whether Dr Wright has autism spectrum disorder; b) how that diagnosis may affect his interaction with others and his presentation in court proceedings; and c) what reasonable adjustments may be required at trial in order to accommodate Dr Wright's ASD diagnosis.
124. As regards adjustments, the following has been agreed between Professor Craig and Professor Fazel in their Joint Statement:
 - 124.1. Clear timetabling i.e., that Dr Wright should be told in advance the days on which he will be questioned and the period each day for which the questioning will take place, and that changes to the timetable should be avoided so far as possible;
 - 124.2. Dr Wright be given access to a LiveNote screen and a pen and paper to write down questions during cross-examination;
 - 124.3. Negative inferences should not be drawn from aspects of Dr Wright's presentation during any cross-examination;
 - 124.4. If Dr Wright becomes emotionally dysregulated, then follow-up questions should be shorter, and he should be provided with the opportunity to write down answers and read them in court; and

²² Core Bundle B/24/1-48

124.5. A lower threshold for breaks should be imposed, particularly if Dr Wright becomes visibly emotionally dysregulated. A rigid timetable of 30-minute breaks is not necessary, and a rigid and prespecified timetable for breaks could be counterproductive.

125. COPA accepts the need for these adjustments in light of the experts' agreement on the above, and it is their position that the Court adopt these adjustments as agreed by the experts.

COPA's WPSATC Offer on ASD Adjustments for Dr Wright

126. Prior to Mellor J's 3 October judgment and during the course of the hearings before the Judge in late September, COPA made a Without Prejudice Save as to Costs offer to Dr Wright on 21 September 2023 with the following proposals regarding adjustments for Dr Wright's ASD (the "**Offer**", which can be seen at tab 33, pages 82 – 83 of **Exhibit PNS-146**²³):

"In the hope of avoiding unnecessary dispute at the pre-trial review, and wasted costs on expert evidence, COPA offers to agree that the following adjustments be provided for when Dr Wright gives evidence:

- 1) He will be given a pen and paper in the witness box, as he was in the proceedings of Wright v McCormack [2022] EWHC 2068 (QB);*
- 2) He will be entitled to a break of between 5 – 10 minutes at least every 60 minutes during cross-examination, and given the opportunity to request more regular breaks if in difficulty;*
- 3) Live transcription of the proceedings will be provided as part of the Opus2 package. A screen will be placed in the witness box during Dr Wright's evidence, which he will be able to view. He will be given the opportunity to read each cross-examination question before answering it; and*
- 4) If the Court detects any sign that Dr Wright has difficulty with a question, or if Dr Wright makes a reasonable request for a question to be rephrased, counsel for COPA will rephrase the question to make it clearer and/or simpler."*

127. Dr Wright did not accept the Offer and indeed did not even respond to it or engage in any way in an attempt to agree appropriate adjustments.

²³ Exhibit PNS-146 contains a clip of the relevant correspondence in relation to ASD adjustments for Dr Wright.

128. The adjustments offered by COPA in the Offer are very similar to those agreed by Professor Craig and Professor Fazel in the Joint Statement as discussed above. In fact, in some respects the Offer goes beyond the ASD experts' recommendations, for example in relation to COPA's proposal to rephrase questions and the frequency of breaks. Dr Wright is certainly in no better position than he would have been had he accepted the Offer.

129. As a result, Dr Wright must as a minimum bear COPA's costs incurred in relation to the ASD evidence since 21 September 2023, as foreshadowed in the Offer and discussed in further detail below.

Limited Scope of Professor Fazel's Instructions

130. At paragraph 2 of the Joint Statement, the ASD experts note the following:

“Both experts have written reports, although Professor Fazel was not provided with Exhibits MC-3 to MC-11 outlined in Professor Craig's report from the instructing lawyers at the time (Travers Smith). In addition, he was not aware that previous cross-examinations had been recorded. For the purposes of this joint report, Professor Fazel has now watched Dr Wright's cross examination in Granath v Wright (MC-3).”

131. Exhibits MC-3 to MC-11 include various videos and transcripts of Dr Wright giving evidence under cross-examination in previous court proceedings, as well as videos of Dr Wright delivering keynote speeches and lectures, conducting interviews with journalists, as well as a blogpost talking about his general experience with public speaking²⁴.

132. It is notable that the ASD experts draw attention to the fact that Professor Fazel was not aware that previous cross-examinations of Dr Wright had been recorded, and that watching Dr Wright's cross-examination in *Granath v Wright* (19-076844TVI-TOSL/04) resulted in Professor Fazel revisiting his position on adjustments from those given in his report of 8 September 2023 (Core Bundle I/3/1-14).

133. As Professor Craig states at paragraph 60 of his report:

“The video of Dr Wright's cross-examination in the Granath v Wright (Exhibit MC-3) proceedings probably has the greatest ecological validity with regards to contemporaneous analysis of Dr Wright's behaviour under cross examination (by 'ecological validity', I mean that it is an example of Dr Wright's past experience which is most similar to the future experience on which I have been asked to opine).”

²⁴ Core Bundle H/247-255.

134. It is therefore clear that both Professor Craig and Professor Fazel agree that analysis of Dr Wright's previous cross-examination in *Granath v Wright* was of the utmost importance to their conclusions on the question of adjustments. However, it is a source of information that was never provided to Professor Fazel.

135. It is difficult to understand why this course was taken by those instructing Professor Fazel, given that COPA had expressly drawn attention to this material in advance of Professor Fazel being instructed. For example, in my Tenth Witness Statement, I noted (in the context of how Dr Wright's condition had been approached in other litigation, as follows (paragraph 27.3, emphasis added):

*“Granath v Wright (19-076844TVI-TOSL/04): These are defamation proceedings taking place in Oslo, Norway, the first instance judgment for which was handed down last year (with Granath being successful). In those proceedings, Dr Wright was permitted to call Dr Klin as a witness, and Dr Klin provided oral evidence. Dr Wright was cross-examined and apparently gave his evidence without difficulty (see: <https://www.youtube.com/watch?v=B1DK4OdaZ-4>). I am not aware of any request for reasonable adjustments being made in that litigation, and none are referred to in the judgment (see **Exhibit PNS-55**).”*

136. That statement also highlighted other occasions on which Dr Wright had spoken publicly.

137. The point was made again, before ASD expert evidence was ordered in this case, in my Fifteenth Witness Statement dated 14 September 2023 (which addressed Professor Fazel's expert report of 8 September 2023):

“I note, however, that in reaching these recommendations, Professor Fazel does not appear to have been instructed to analyse or take into account the multiple proceedings where Dr Wright has previously given evidence and been cross-examined. This is important, since Professor Fazel implies that Dr Wright may have difficulty following and answering complex questions, when in fact all the evidence suggests that he can easily follow and address such questions in oral evidence when he wishes to do so.” (Sherrell 15, paragraph 9)

138. Given the change in position on adjustments that Professor Fazel adopted in the Joint Statement compared to the adjustments initially recommended in paragraphs 6.6 – 6.11 of his 8 September 2023 report, it is apparent that he was instructed on an incomplete and improper basis. Had Professor Fazel been instructed to consider the same material as Professor Craig, it is very likely that he would have suggested adjustments in line with those as set out in the Offer, which would

have been agreed. That would have avoided all of the costs from service of his report onwards being incurred.

ASD Expert Shopping

139. COPA's concerns in relation to this aspect are compounded by Dr Wright's ASD 'expert shopping'. This is a position that has been maintained by COPA since Dr Wright's ASD application was issued on 2 May 2023, so I will limit this statement to new relevant factual matters that have arisen since that date.

140. Dr Wright was ordered to disclose to COPA "*reports or final draft reports or opinions of experts previously instructed on ASD issues*" pursuant to paragraph 147(v) of Mellor J's 3 October Judgment. Two draft reports were provided to COPA, namely those of Professor Simon Baron-Cohen and Dr Ami Klin, on 13 October and 12 October 2023, respectively.

141. In the final draft report of Professor Baron-Cohen dated 5 October 2021 (**Exhibit PNS-147**), in relation to the question of "*adaptations of the trial*", Professor Baron-Cohen states at paragraph I that:

"In my opinion, Craig is fit to plead. He has the ability to effectively participate in a trial."

142. Professor Baron-Cohen is one of the most eminent ASD practitioners in the UK, and he did not recommend any of the adjustments subsequently proposed by Professor Fazel in his expert report. Perhaps for that reason, Professor Baron-Cohen was discarded and Dr Ami Klin was named in Dr Wright's subsequent ASD application on 2 May 2023.

143. The final draft report of Dr Klin indicated further and more serious signs of expert shopping (**Exhibit PNS-148**):

143.1. This report was dated 3 September 2023, only five days before the submission of Professor Fazel's report on 8 September 2023.

143.2. Dr Klin states in his draft report that he was instructed on 9 August 2023.

143.3. Professor Fazel does not state in his report when he was formally instructed by Dr Wright, but he assessed him on 18, 19 and 31 August 2023 (and therefore must have been under instruction prior to those dates).

144. It is therefore evident that both Dr Klin and Professor Fazel were under parallel instruction during August and the beginning of September 2023.

145. The adjustments that Dr Klin suggested in his draft report also did not match those proposed by Professor Fazel. The strong inference is that, having read Dr Klin's draft report, Dr Wright disregarded it in favour of Professor Fazel's recommendations. This is in spite of the fact that Dr Klin was clearly in a better position to opine on ASD adjustments, having had the advantage of reviewing video footage and a transcript of Dr Wright being deposed in *Kleiman v Wright* (Case No. 18-cv-80176-BLOOM/Reinhart), whereas Professor Fazel was not provided with this material. Dr Klin's expert opinion was therefore based on real world exposure to Dr Wright in court proceedings. That was withheld from Professor Fazel and when he was provided it, his opinion changed to lead to the sort of adjustments that COPA proposed in their Offer.

COPA's historical position on ASD evidence

146. It has consistently been COPA's position that, from the date which Dr Wright first raised the issue that he would seek permission to adduce evidence pertaining to ASD, dating back to 14 July 2021 (see tab 1, pages 4-8 of Exhibit PNS-146), Dr Wright should set out the basis upon which any such evidence would be prepared, inclusive of any draft reports that had been prepared for such an issue.

147. This position was summarised in COPA's CCMC skeleton on 27 June 2022 (for the CCMC that was then relisted for 1 – 2 September 2022, see **Exhibit PNS-149**) where at paragraph 71 it was stated that:

“71. COPA's position is not that evidence of this sort is barred per se. The extreme example in R v VJS could clearly arise in a civil case – if, for example, Wright was low functioning, which is not the case. COPA's concern is that the actual purpose and utility of this evidence is not clear and therefore should not be ordered. The proper course for such an unusual expert request would have been to adduce the precise questions posed and the draft report, so that the Court could properly assess the potential value and relevance of novel evidence. This remains open to Wright and COPA will not say that any such application in the future is barred due to a refusal at the CMC. If the Court had the draft report or, at the least, the precise questions to be posed to an expert, then this novel application for expert evidence could be considered properly. COPA could then take an informed position on whether such evidence should be allowed or resisted.”

148. With hindsight, it is now clear that had Dr Wright proffered the draft report of Professor Baron-Cohen, the final draft of which had existed from 5 October 2021, almost the entirety of all ASD-related costs incurred by COPA could have been avoided. Conversely at the CCMC, Mr Hicks, Dr

Wright's counsel at the time, took the opposite approach with respect to the draft report of Professor Baron-Cohen (see page 145 of **Exhibit PNS-150**, emphasis added):

“MR HICKS: Absolutely. So, Master, that's why we say it would be useful evidence to have. We don't know how much of it will be disputed. We're making an assumptions [sic] that some of it might be, but it may well be when they see the report COPA simply accept what Sir Simon Baron-Cohen said.

MASTER CLARK: So why haven't you sent it to them?

MR HICKS: Well, we haven't got his report at the moment. We haven't got the report we would need to put before –”

149. It is clear that this position adopted by Dr Wright at the CCMC was false, as the final draft report of Professor Baron-Cohen had existed at that point for nearly eleven months.
150. Not knowing that the draft report existed, COPA maintained and reiterated its position that it should have sight of any report to be in a better position to evaluate the situation (see pages 145 – 146 of Exhibit PNS-150, emphasis added):

“MASTER CLARK: What I'm minded to do, Mr Hicks, is to push this back until after disclosure.

MASTER CLARK: And also if you want to get a report, you send it to the other side, then I think there they are engine [sic] to be in a better position to the [sic] see evaluate and the court will be in a better position to evaluate.

MR HICKS: Let me take some instructions on that. Master, as long as we're not precluded from making this application after disclosure --

MASTER CLARK: What do you think, Mr Moss?

MR MOSS: As we made in our skeleton, that's the approach that we think is most appropriate.

MASTER CLARK: All right. That's what I'll do then.”

Costs Consequences for Dr Wright

151. In view of the facts that:

151.1. COPA has consistently maintained the position that prior to any ASD evidence being adduced, Dr Wright should set out the basis upon which any evidence should be prepared, including the submission of any draft reports, two things which were persistently ignored by Dr Wright;

151.2. Dr Wright's general conduct on the topic of ASD, including misleading the Court at the CCMC as to the existence of the Baron-Cohen report; and

151.3. had that report been disclosed in advance of the CCMC - as COPA had requested - the matter would very likely have been resolved then, rather than still being in dispute some twenty-nine months after the matter was first raised, with minimal costs on either side,

it is COPA's view that the entirety of their ASD-related costs should be ordered to be paid by Dr Wright from 14 July 2021 (the initial date on which this issue was raised), on the indemnity basis, to be assessed by the Court at the PTR and paid within 14 days.

152. I consider that the position is certainly very clear in relation to the period from 21 September 2023 onwards. As to that period, the following additional factors point in favour of costs being awarded on the indemnity basis:

152.1. Dr Wright's failure to provide Professor Fazel with material of obvious and critical relevance to the question of adjustments (particularly for the preparation of the Joint Statement), namely Dr Wright's prior cross-examination material,

152.2. The clear indications of 'expert shopping'

152.3. Dr Wright's failure to engage with COPA's Offer, which has led to COPA incurring further substantial wasted costs.

153. A costs statement will be provided to Dr Wright and the Judge in advance of the PTR.

Statement of Truth

I believe that the facts stated in this witness statement are true. I understand that proceedings for contempt of court may be brought against anyone who makes, or causes to be made, a false statement in a document verified by a statement of truth without an honest belief in its truth.

Signed:



Philip Nathan Sherrell

Dated: 7 December 2023