

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-

DR CRAIG STEVEN WRIGHT

Defendant

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WITNESS STATEMENT OF  
BEN FORD

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I BEN FORD of [REDACTED] will say as follows:

1. I am the director of DATA STATION PTY LTD, which trades as DataStation and have been since it was founded in 2007. I have been shown by Bird & Bird a reference image of a notepad: See {C00002874} **Exhibit BF1**. I have been asked whether I know the date of creation of that notepad.
2. This written statement has been prepared by me with assistance from Bird & Bird, to record my evidence in response to that question above, in my own words. I understand from Bird & Bird that my exchanges with them are subject to privilege, and nothing I say in this statement is intended to waive any such privilege. The facts and matters set out in this statement are within my own knowledge unless otherwise stated. Where I refer to facts within my own knowledge, I believe them to be true. Where I refer to information from other sources, those facts and matters are true to the best of my knowledge and belief and I have identified my sources. Bird & Bird has pointed out the declaration at the bottom of this statement to me and asked me in particular to bear in mind that on points that I understand to be important in the case, I have stated honestly (a) how well I recall matters and (b) whether my memory has been refreshed by considering documents, and if so, how and when.

**Immediate impression**

3. I immediately recognised the stationery in Exhibit BF1 and was able to confirm that this is one of our (DataStation's) old notepads. It has a logo that I remember was in use in the approximate

period 2005 to 2015 and it has an email address that began to be used in around the same period. The notepad would have been printed to our order. I took a photo of a notepad I still have, which is at **Exhibit BF2**.

#### Detailed investigation

4. Bird & Bird asked me whether I could confirm the origin of the notepad in Exhibit BF1 more accurately. I spent several hours going through old records to identify relevant paperwork and photos and have established the following timeline of events.

##### Early history and new phone number

- a. DATA STATION PTY LTD was first setup as a company on 15/02/2007 (which I confirmed by checking Australian company records): Exhibit BF3 is a summary downloaded from [https://connectonline.asic.gov.au/RegistrySearch/faces/landing/panelSearch.jspx?searchText=123959651&searchType=OrgAndBusNm&adf.ctrl-state=b3rfur1aw\\_15](https://connectonline.asic.gov.au/RegistrySearch/faces/landing/panelSearch.jspx?searchText=123959651&searchType=OrgAndBusNm&adf.ctrl-state=b3rfur1aw_15). I was a founding director of the company and have been, and worked here, ever since.
- b. It was originally part of a larger group of companies operating under an umbrella company called Integrated Compliance Solutions Group Pty Ltd (ICSG). **Exhibit BF4** shows an archive of their homepage that I found at <https://web.archive.org/web/20080718163432/http://ics-group.com.au/home.php>. DataStation software was offered under service contracts via ICS Group in Australia from offices in Subiaco, WA.
- c. At that time DataStation's contact email address for Australia was designated as my own email address [ben.ford@ics-group.com.au](mailto:ben.ford@ics-group.com.au) and the telephone number was 08 9489 5111.
- d. Printing for ICSG group companies including DataStation was outsourced to a company called Midnight Printing, which I did remember and also confirmed by checking an old invoice from 2008 that I found, seen in a photograph at **Exhibit BF5**. I did not believe they printed the notepad but if the notepad was printed before 2009 it would have been them that did it, so I double checked that and confirmed my memory:
  - i. After looking online, I couldn't find a website for Midnight Printing but did manage to find the name of the person I worked with there. I searched him up in

my phone contacts, and found an old mobile number. I had no idea whether it was still his number or whether he'd answer but I called him and he was still using the same number.

- ii. I asked him whether he had printed the notepad and whether he had the original artwork still. He asked whether I had a photo and I sent him the one from Exhibit BF2, and he said he would check.
- iii. After about 4 hours he called me back and said he couldn't locate any artwork, and he thought it definitely wasn't him or Midnight Printing that created the notepad in that photo. He said he was 100% on this because he had never had a printer which could support the number of colours that would be required to print the logo on the notepad, which he said would require a 4-colour printer (and he and Midnight Printing had never had a 4-colour printer).
- iv. This confirmed what I thought originally which is that Midnight Printing couldn't have printed the notepad in Exhibit BF2.

- e. ICS Group was wound up on 30 June 2009 and clients using DataStation software (by contract via ICS Group) were transferred/novated across to DataStation. We also updated our website at <http://www.datastation.com.au>, rebranded, and produced new letterheads and business cards: **See Exhibit BF6**, a letter to a client at the time, which is a scanned letter to Sodexo. The footer of that letter includes our logo, and our old phone number 08 9489 5111, confirming them to be current as at 22 June 2009. (I also checked my records to confirm that client did novate the agreement following that letter, and confirmed that they did so: see **Exhibit BF7**.)

{C00002875}

{C00002871}

- f. On 1 July 2009, we obtained a new telephone number, which was 08 9446 5501. That is the telephone number shown on the reference image at Exhibit BF1. From then we operated from a new office with a PO box address in Scarborough WA, which is the address shown on Exhibit BF7.

- 5. From the above, I could say categorically that these notepads in the style seen at Exhibit BF1 could certainly not have been printed before at least 1 July 2009, because they have the new telephone number on them which did not exist before then.

Checking the email address

6. By July 2009 we were not yet using the "info@datastation.com.au" email address. That was adopted later. I have checked for further evidence from Web.archive.org enabling me to confirm approximately when the [info@datastation.com.au](mailto:info@datastation.com.au) email address started being used. The snapshot on March 23, 2010 shows that [ben.ford@datastation.com.au](mailto:ben.ford@datastation.com.au) was still being used then as the contact email address, whereas the snapshot on 20 Feb 2011 shows that [info@datastation.com.au](mailto:info@datastation.com.au) was by then being used as the contact email address. See:

{C00002880}

- **Exhibit BF8**, a printout of the 23 March 2010 snapshot at <https://web.archive.org/web/20100323004111/http://www.datastation.com.au/> showing older contact details, and

{C00002873}

- **Exhibit BF9**, a printout of the 20 February 2011 snapshot at <https://web.archive.org/web/20110220175655/http://www.datastation.com.au/> showing updated [info@datastation.com.au](mailto:info@datastation.com.au) contact details.

7. I can remember that we reviewed our contact information prior to organising a new round of letterhead printing around that time, and ensured that all contact information across print and web were changed over and standardised. I can therefore confirm with some certainty that notepads of the form shown in Exhibit BF1 were not printed before at least 23 March 2010.

Checking dates of giving out notepads at conferences

8. The main purpose of our notepads was to give out at conferences in Australia so we would have had them made about the time we started doing conferences. I can confirm that the first time DataStation exhibited at a conference in Australia was at The Marcus Evans Prosafe conference in Brisbane 2012. We exhibited with Marcus Evans again in 2013 and subsequently with The Safety Show which was organised by 'Australian Exhibitions and Conferences' from 2013 onwards, exhibiting in Perth, Sydney and Melbourne, and we did not exhibit with Marcus Evans from 2013 onwards.

9. Initially we were offering a showbag for attendees. This included a notepad of the kind seen at Exhibit BF1, some pens and some printed information about DataStation. We quickly realised that this meant freighting a lot of heavy material from Perth to the conference location which

wasn't practical. We also found that some of the attendees were stand hopping just to obtain freebies and were not necessarily interested in our product (or services). We soon stopped offering the freebies, and **Exhibit BF10** is a photo of our conference stand in 2014 which shows that at least by 2014 we are no longer offering showbags, but instead just a folder containing printed information which can be seen on the table. The photo still has its original metadata and Bird & Bird has produced a printout of that which is at **Exhibit BF11**. I therefore believe that the notepad at Exhibit BF1 very likely dates from 2012-2013, (which further narrowed down the timeframe, in addition to the very certain finding that it must date at least from after 23 March 2010).

#### Establishing the actual print date

10. At first, I couldn't narrow it down more precisely than that, but found that after coming this far I couldn't leave it alone. I spent some more time trawling through my old emails, paper and other electronic records and eventually found some references to a promotions company called "Brandconnect". This name jogged my memory that this was the company that I had used to produce the pens and notepads that I mentioned earlier for the showbags. Although, I couldn't locate the actual invoice itself, I did still have contact details from emails they had sent me so I called them up on the phone to see if they could locate the invoice and artwork on their system.

11. They were very helpful and told me they actually did still have the original invoice and artwork.

They sent a PDF copy of the invoice through to me (which I exhibit at **Exhibit BF12**, and the email they sent is at **Exhibit BF13**). The invoice at Exhibit BF12 is the original print invoice and details the specification of the pens and notepads including the 'full colour' printing and number of pages, as well as the date and price paid. It shows a due date of 22 May 2012 on the invoice. I was pretty happy to see that this confirmed my account about the notepads coming from our time exhibiting at conferences in 2012-2013. Having seen this I'm 100% that 22 May 2012 is the first time these notepads were printed and that they couldn't have been created before then.

I have not referred to any additional documents other than the documents mentioned above.

#### Declaration

I understand that the purpose of this witness statement is to set out matters of fact of which I have personal knowledge. I understand that it is not my function to argue the case, either generally or on particular points, or to take the court through the documents in the case. This witness statement sets out only my personal knowledge and recollection, in my own words.

On points that I understand to be important in the case, I have stated honestly (a) how well I recall matters and (b) whether my memory has been refreshed by considering documents, if so how and when.

I have not been asked or encouraged by anyone to include in this statement anything that is not my own account, to the best of my ability and recollection, of events I witnessed or matters of which I have personal knowledge. I believe the facts stated in this 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:  .....

Date: 24/7/2023