Defendants
L Horne
First
"LEH1"
7 December 2023

IN THE HIGH COURT OF JUSTICE **CLAIM NO. IL-2022-000069**
BUSINESS AND PROPERTY COURTS OF ENGLAND AND WALES
INTELLECTUAL PROPERTY LIST (CHD)

BETWEEN

DR CRAIG STEVEN WRIGHT & Ors

Claimants

—and—

BTC CORE & Ors

Defendants

FIRST WITNESS STATEMENT OF
LOIS EVELYN HORNE

I, **LOIS EVELYN HORNE**, of 20 Cursitor Street, London EC4A 1LT WILL SAY as follows:

1 **Introduction**

1.1 I am a solicitor and a partner in the firm Macfarlanes LLP. Macfarlanes acts for the Second to Twelfth, Fourteenth and Fifteenth Defendants in these proceedings (the "**Developers**"). I have conduct of this matter together with my partner Christopher Charlton. This is my first witness statement in these proceedings.

1.2 I am duly authorised to make this statement on behalf of the Developers who resist Dr Craig Wright's application for an order to *inter alia* treat certain documents as confidential (on terms set out in their draft order) and adjourn the trial listed to begin on 15 January 2024. For the avoidance of doubt, where I refer to the Claimant in this statement I am referring to Dr Wright, given this is his position as against the Developers.

1.3 Unless otherwise stated, the facts and matters set out in this witness statement are within my personal knowledge, and I believe them to be true. Where the facts and matters are not within my knowledge, I have given the source of my belief and I believe them to be true.

1.4 There is now produced and shown to me a bundle of copy documents marked "**LEH1**". I refer in this statement to the pages of **LEH1** in the format **[LEH1/Page Number]**. In order to avoid repetition, where documents are referred to in Shoosmiths' proposed PTR bundle, I do not refer to them here. At the time of writing this statement, the PTR bundle has not been finalised

(or indeed its form agreed) and so where these documents are referred to, this has been done in the form **[PTR/Tab Number]**, with the tab number being that given in the index enclosed with Shoosmiths' second letter to Bird & Bird dated 6 December 2023. Should it assist the Court, I can serve a revised statement including finalised cross references when the bundle has been agreed.

1.5 In the balance of this statement, I: (1) set out the current status of the proceedings; (2) describe the background to the applications; (3) address the prejudice which would be caused to the Developers in the event the Claimant's application for adjournment is granted; and (4) address the proposal made by Dr Wright to rely upon a number of LaTeX documents in Dr Wright's control, but subject to a strict confidentiality undertaking. To note, this statement is up to date as at 10am on 7 December 2023, which is when it was finalised. I do not therefore refer to any correspondence that may have been sent after this time.

2 The status of the proceedings

2.1 This claim was commenced by way of an Amended Claim Form and Particulars of Claim dated 28 November 2022 (the "**BTC Core Claim**") [**LEH1/3-49**].[1] By way of the BTC Core Claim, the Claimants seek injunctions to prevent the Developers from infringing certain database rights and copyrights related to the cryptocurrency Bitcoin, declaratory relief, and an inquiry as to damages.

2.2 The Developers deny that the Claimants are the owners of the intellectual property rights claimed, or that there have been any actionable infringements, for the reasons set out in their Defence dated 16 March 2023 [**LEH1/50-87**].

2.3 A number of the parties to the BTC Core Claim are also involved in a number of other cases currently pending before the English Courts. Those include IL-2021-000019 (the "**COPA Claim**"), IL-2022-000035 (the "**Coinbase Claim**") and IL-2022-000036 (the "**Kraken Claim**"). A common issue which has arisen in all of those cases is whether the First Claimant in the BTC Core Claim, Dr Craig Wright, is the person who created Bitcoin and released it publicly in 2009 under the pseudonym "Satoshi Nakamoto". The parties have referred to this as the "**Identity Issue**".

2.4 By paragraph 6 of the Directions Order of Master Clark dated 2 September 2022, the Parties to the COPA Claim, Coinbase Claim and the Kraken Claim were ordered to complete extended disclosure by 31 January 2023 [**PTR/22**].

[1] The Claim Form was re-amended on 14 February 2023; those further amendments are immaterial for the purposes of this application.

2.5 At a joint costs and case management conference in the BTC Core Claim, the COPA Claim, the Kraken Claim and the Coinbase Claim heard before Mr Justice Mellor on 15 June 2023, the Court ordered that the Identity Issue be tried as a preliminary issue in these proceedings following an application for the same by the Claimants. The Court ordered that the trial set down for the COPA Claim would hear the preliminary issue [**PTR/27**].

2.6 Since the joint costs and case management conference, the Developers have been participating in the proceedings to resolve the Identity Issue in accordance with the Order of Mellor J. That Order sets out a framework for the Developers to participate in the Identity Issue in a reasonable and proportionate way, recognising that the COPA Claim was substantially more advanced than these proceedings. It therefore envisages that the Developers have the right to participate in the trial of the Identity Issue (they are, after all, Defendants in these proceedings) albeit their participation will be necessarily more limited than COPA's.

2.7 The Identity Issue trial is due to take place in January 2024. Document disclosure has taken place, and factual witness statements and the majority of COPA's reply witness evidence have been served. The parties are currently engaged in the expert evidence phase of the proceedings, with the Claimant asking for an extension to his reply witness evidence. There is also a PTR which is listed to start between 13 and 15 December 2023, before the trial takes place.

3 The background to the application

3.1 By paragraph 6 of the Directions Order of Master Clark dated 2 September 2022, the Parties to the COPA Claim, Coinbase Claim and the Kraken Claim were ordered to complete extended disclosure by 31 January 2023 [**PTR/27**].

3.2 The Claimants' have failed to meet their disclosure obligations in various and substantial respects[2]. For the purposes of the application, however, the background to the relevant failure on the part of the Claimants' is as follows:

3.2.1 On 25 September 2023, Travers Smith – the Claimants' former solicitors – wrote to Mr Justice Mellor to say, amongst other things, that Dr Wright had "*recently discovered some additional documentation that has not been disclosed*." [**LEH1/90**].

3.2.2 On 2 October 2023, Travers Smith wrote to the parties to explain that the "*additional documentation*" was contained on two hard drives (one containing "*roughly 1TB*" of data and the second containing "*500GB of data*") and were

[2] See the letter from Macfarlanes to Shoosmiths dated 4 August 2023, as well as related correspondence.

likely to include documents such as "*notes Dr Wright wrote between 2005 and 2009*." [**LEH1/91**].

3.2.3 On 3 October 2023, Bird & Bird responded, explaining that these documents must be disclosed and requesting explanations in the form of a witness statement from Dr Wright in respect of his failure to disclose the hard drives in the proper course [**LEH1/93-97**].

3.2.4 On 11 October 2023, Dr Wright's new solicitors, Shoosmiths, sought to explain Dr Wright's failure to disclose the hard drives (and ignored the request for a witness statement by Dr Wright). In short, they put the blame with Dr Wright's initial digital forensics and / or e-Disclosure providers, AlixPartners LLP [**LEH1/98-114**].

3.2.5 Correspondence vis-à-vis the adequacy of Dr Wright's explanations as to the disclosure failure continued throughout October and November. On 31 October 2023, Dr Wright was ordered to give a witness statement on – amongst other things – the hard drives. This was served on 1 December 2023 [**PTR/143**].

3.2.6 On 27 November 2023, Shoosmiths wrote to the parties to say that 97 documents from the hard drives "*are of the highest possible relevance to these proceedings*", and which "*are of such importance that the Identity Issue could not be determined fairly unless they are put before the Court and our client is entitled to rely on them.*" This letter also flagged further documents Dr Wright had failed to disclose (this time his former solicitors were at fault) but which he nonetheless intended to disclose and rely upon [**PTR/151**].

Shoosmiths said these documents would only be produced to those signed up to their suggested onerous terms for a confidentiality club on the basis that a third party could use the LaTeX files to create an "*exact replica*" of the White Paper (without explanation as to the meaning of "*exact replica*"). Shoosmiths' initial proposal excluded the Developers and their legal advisers from having access.

The letter concluded by saying "*In the light of the developments set out above, our client cannot realistically meet the current deadlines for service of his reply witness statements of fact or completion of expert evidence on forensic document analysis*." For the first time, the prospect of an adjournment was raised, and Shoosmiths requested the parties' consent to an adjournment to 19 February 2024.

3.2.7 On 29 November 2023, Bird & Bird rejected the requests for the proposed confidentiality club and for an adjournment [**PTR/153**].

As for the former request, Bird & Bird reflected that Shoosmiths' stated concern was not comprehensible in circumstances where the Bitcoin White Paper has been in the public domain since 2008 (such that it is simple to recreate its terms).

As for the latter request, Bird & Bird wrote "*there is no basis for the trial to be adjourned. The only matters relied on arise from delays and/or defaults in compliance with Court orders on your client's part*."

3.2.8 Also on 29 November 2023, we rejected the requests for the proposed confidentiality club as well as the request for an adjournment [**PTR/155**].

Our letter explained there was no basis for confidentiality protection above the usual collateral undertaking, and Shoosmiths' stated concern appeared incoherent and contrived in circumstances where Dr Wright had already disclosed documents (without additional confidentiality protection) which are intended to be drafts of the White Paper. Our letter offered a pragmatic solution, but this was ignored.

Our letter said that there was no good reason to extend time to allow Dr Wright and his expert to address in evidence documents on which they are not presently permitted to rely. We added:

"*We suspect that [the Claimants'] motive in proposing a supposedly short adjournment, is in fact to procure a general adjournment of the whole trial. The Developers have incurred substantial costs in preparing for the trial of the Identity Issue on a short timetable following your client's request that it be dealt with as a preliminary issue in the BTC Core claim, on the existing timetable. Any significant adjournment of the trial would entail a very significant waste of costs. Moreover, it is profoundly unfair to our clients for this misconceived claim to hang over them any longer than absolutely necessary. The speedy resolution of the preliminary issue was designed to avoid that happening*."

3.3 By an application dated 1 December 2023, the Claimants sought the Court's permission to adjourn the trial of the Identity Issue until at least 19 February 2024 [**PTR/126**]. As set out below, Shoosmiths now acknowledge any adjournment would be to 22 April 2024, at the earliest, in light of the availability of COPA's counsel team – which Bird & Bird had confirmed on 29 November 2023 [**PTR/153**].

3.4 My understanding is that the Claimant's application was made without first checking the Court's availability (either by contacting the Court's Listing Office or Ms Susan Woolley, Mellor J's clerk), and without reference to the availability of counsel for the Developers or the Claimant in the COPA Claim ("**COPA**"). In our letter of 1 December 2023, we sought confirmation that the Claimant had made enquiries to the Court to seek to accommodate their proposed adjournment on 1 December 2023 [**PTR/159**]. At the time of writing, our letter has been ignored, as has our letter following up on 6 December 2023 [**PTR/174**].

3.5 On 4 December 2023, amongst other matters, Bird & Bird asked the Claimant's solicitors, as COPA's counsel team is not available for a trial adjourned to 19 February 2024, "*whether it is [the Claimant's] position that (a) COPA should instruct a new counsel team for the adjourned trial, or (b) the trial should be fully adjourned and relisted (ie in the next trial window available, which we understand is likely to be mid-2025 at the earliest)*" [**PTR/161**]. The Claimant's solicitors themselves acknowledged "*that it may not be possible for the Court to accommodate the revised listing [the Claimant] proposed*" and – when faced with their failure to refer to counsels' availability in seeking an adjournment – proposed COPA "*seek a re-listing in or after the week commencing 22 April 2024 (the date which [COPA's] counsel team's unavailability appears to end)*". [**PTR/171**].

3.6 The Claimant's solicitors subsequently wrote to the Court to reflect availability of counsel for the COPA [**LEH1/115-116**]. At no stage did Shoosmiths indicate they had made any enquiries of the Court as to whether either of their proposed adjournments could be accommodated. When expressly asked by both this firm and Bird & Bird, Shoosmiths ignored the obvious difficulty with their proposal which a simple check of the Court website would have confirmed.

3.7 Having made enquiries, together with COPA, with both the Court's Listing Office and Ms Woolley, it is clear that a short adjournment cannot be accommodated. Instead, Ms Wooley confirmed that adjournment would necessitate the Identity Issue trial be re-listed for January 2025 at the earliest, whereas the Chancery Division's website suggests March 2025 is the earliest available date for relisting. [**LEH1/121-122**].

4 **Prejudice - Adjournment**

4.1 It is therefore evident that Shoosmiths' application for a short adjournment is not viable (whether it be an adjournment to 19 February 2024, as set out in their draft order, or to a date in April, as set out in their subsequent correspondence). It would be surprising if Shoosmiths had not appreciated this when they sought the adjournment given the ease with which it can be checked. Shoosmiths' refusal to confirm if they had made any enquiries gives the Developers real cause for concern that this is a design to obtain a substantial adjournment of at least 12 months, dressed up as a short adjournment, to accommodate the Claimant's disclosure failings.

4.2 The Developers will suffer considerable prejudice in the event the application for adjournment is granted, given the likelihood a short adjournment cannot be accommodated, and that any adjournment will necessitate re-listing of the Identity Issue trial to 2025. I set out below examples of the prejudice they believe they will suffer.

4.3 First, the Developers are fourteen individuals against whom the Claimants have issued proceedings in the BTC Core Claim. The Developers did not choose to be sued and they certainly do not wish the proceedings issued against them to be extended due to Dr Wright's failures to conduct disclosure within the Court's timetable. In their Re-Amended Claim Form dated 14 February 2023, the Claimants in the BTC Core Claim estimate the financial value of the claim to be in the hundreds of billions of pounds [**LEH1/124**]. The Claimants seek various injunctions against each of the Defendants to the BTC Core Claim as well as damages and/or an account of profits. Dr Wright is well versed in using social media to make clear his views regarding those he perceives as opposing his claim to be Satoshi Nakamoto and the Developers (and others in the Bitcoin community) have not been immune to that, as explained in Mr Lee's witness statement dated 27 July 2025 at paragraphs 17 to 25 [**PTR/51**].

4.4 The consequences of these proceedings, if successful, are therefore a heavy burden to bear. A substantial adjournment to the preliminary issue trial only exacerbates this burden. Dr Wuille is both a Developer and a witness for the Developers. The Claimant has confirmed he intends to cross-examine Dr Wuille [**LEH1/133**]. Dr Wuille approaches the giving of evidence with great care and accountability and he will have to carry this burden for considerably longer than anticipated if the trial of the Identity Issue is adjourned for over 12 months.

4.5 Second, in the interim there are various practical implications for each of the Developers. I am informed that:

4.5.1 each of the Developers need to disclose this litigation to actual and potential business partners and employers, insurers, prospective romantic partners and friends;

4.5.2 the Developers are subject to rules around document retention and in light of Dr Wright's public statements about disclosure, and the tone of his public statements about Bitcoin, I am instructed that this has had the effect of interrupting persons in the Bitcoin community maintaining contact and relationships with the Developers; and

4.5.3 the ongoing litigation deters the Developers from involvement (or further or increased involvement) in Bitcoin, which the Claimants in the BTC Core Claim have alleged would amount to infringement of database rights (as to which we refer to the Developers' Defence).

4.6 Third, the Court will be aware that certain of the Developers are also defendants in the Tulip Trading proceedings (BL-2021-000313) (Tulip Trading Limited – the claimant in those proceedings – being a Seychelles holding company which was created by Dr Wright). The sequencing of the Identity Issue trial *vis-à-vis* the progress of the Tulip Trading proceedings is crucially important to the Developers as much as it is to the procedural efficiency of the Tulip Trading proceedings. There is good reason to suppose that should Dr Wright's case in the BTC Core Claim be dismissed, so too will his claim in Tulip Trading, in which similar issues of forgery are made. The current timetable for the Identity Issue and Tulip Trading allows time for the Court to hand down judgment on the Identity Issue ahead of the commencement of the preliminary issue as to ownership/forgery/abuse of process in Tulip Trading. Even if the present proceedings were to commence in January 2025 (as to which see below), there would likely not be time for the Court to have delivered judgment ahead of the commencement of the trial of the ownership issue in Tulip Trading.

4.7 Fourth, an adjournment at this stage will result in a significant wastage of costs. In particular, the Developers' leading counsel has been under brief since 23 October 2023, with fees to date of £465,000 (excluding VAT). Much of his time to date has been spent reading in, getting up to speed and dealing with interlocutory matters (including for the PTR). Were the case to be adjourned a significant amount of that time (he estimates 40-50%) is likely to have to be repeated. Junior counsel has been under brief since 13 November 2023, with fees to date of £15,000 (excluding VAT), and another tranche of £15,000 (excluding VAT) falling due ahead of the PTR. I would expect 100% of her fees to have to be incurred again.

4.8 In addition, the Developers' leading counsel (who is also leading counsel to the Developers involved in the Tulip Trading proceedings) is currently booked for a two-week Commercial Court trial starting on 5 March 2025, with a reserve booking for a 7-day ICC arbitration starting on 17 March 2025. That being so, were the Court to re-list this matter for a period spanning those dates, as matters currently stand he would be unavailable and the costs incurred to date might be wholly wasted.

4.9 Notwithstanding the late stage at which the Developers were joined to the trial of the Identity Issue, the Developers have worked hard to engage properly with these proceedings and have devoted considerable time and expense in doing so. At the same time, they have had to contend with the Claimant's apparent unwillingness to recognise that they are parties to the proceedings ranging from initial failings to copy this firm into correspondence, to confidentiality proposals which (initially) were not extended to this firm or our clients at all. As set out in part above, our correspondence has often not received a response either at all or in a timely fashion and the Developers have had to persistently correspond with the Claimant's various solicitors to extract specific disclosure (which ought to have been disclosed in the first instance). The Developers were put to the time and expense of having to make an application

for a short extension of time for their one witness statement, resulting in a hearing which ought never to have been necessary (and pails into insignificance in light of the Claimant's extension and adjournment requests). The Claimant's approach has driven up costs for the Developers and a long adjournment would lead to further unnecessary costs being incurred. Whilst the Claimant has sought to minimise the Developers' role in the proceedings (and indeed the Developers have taken careful steps to avoid duplication with COPA's work), quite evidently the outcome of the Identity Issue is of considerable importance to the Developers and they take their participation in the trial of the Identity Issue seriously.

4.10 I should finally mention that, in addition to inflicting considerable prejudice on the Developers, an adjournment of the trial of the Identity Issue would prejudice parties to other claims which are stayed pending the outcome of the Identity Issue. One such party is Magnus Granath. In 2019 Mr Granath applied for Non-Declaratory Relief against Dr Wright in the Oslo District Court. The Court gave judgment in October 2022, finding that Mr Granath was not liable for defamation against Dr Wright and ordering Dr Wright to pay Mr Granath's costs (the "**Norwegian Proceedings**") (a translated version of this judgment can be found here [**LEH1/134-160**]). Dr Wright is appealing this decision, however, the appeal trial is stayed pending the outcome of the trial of the Identity Issue. Dr Wright has separately brought proceedings against Mr Granath in the UK, which were initially dismissed by the High Court (QB-2019-002311) [**LEH1/161-181**], but this decision has since been overturned by the Court of Appeal (A2/2020/0367) [**LEH1/182-236**]. I understand that the resolution of those UK proceedings is stayed pending determination of the appeal in the Norwegian proceedings.

5 Confidentiality

5.1 In this section of my witness statement, I address the proposal made by Dr Wright to rely upon a number of LaTeX documents in Dr Wright's control, but subject to a strict confidentiality undertaking. I do not address the question of whether Dr Wright should now be permitted to rely on the LaTeX documents. I understand that issue is being addressed in the evidence filed by COPA. Suffice it to say, that the Developers have made clear to Dr Wright that they do not agree to his being entitled to rely on those documents at this stage, still less to his being entitled to an adjournment of the trial to permit that.

LaTeX

5.2 At paragraph 19.2 of her witness statement, Hannah Field refers to LaTeX documents that Dr Wright is said to control on an online LaTeX editor called Overleaf [**PTR/128**].

5.3 As the passage from the LaTeX Project website to which Ms Field refers at paragraph 19.2.2 confirms, LaTeX is "*a document preparation system for high-quality typesetting*". It is "*based on the idea that it is better to leave document design to document designers, and to let authors*

get on with writing documents". For convenience, a screenshot of this webpage can be found at **[LEH1/237]**. I base the following on instructions from the Developers.

5.4 Ms Field's description of LaTeX at paragraph 19.2.2 is broadly accurate, though the plain text to which she refers in the penultimate sentence would produce the words "words in bold" in bold. The command \textbf{} is a command requiring the text in the curly braces to be rendered in boldface.

5.5 .tex is the standard file extension for source files written in the LaTeX typesetting language. Accordingly, the .tex extension specifically refers to a LaTeX source file which contains the markup and commands written by the author. It is possible to open and read a LaTeX source file of this kind (using any text editor) and thereby inspect the commands written by the author.

5.6 As Ms Field mentions, there are a number LaTeX source files amongst the 97 documents said to have been stored on the Samsung Drive, an example PDF version of which can be found at ID_004648 which I exhibit [**LEH1/238-246**].

5.7 As Ms Field goes on to say, .tex files go through a process of compilation to create an output file. The output of compiling a LaTeX source file, for example a PDF document, will have a different extension (like .pdf).

The alleged White Paper LaTeX files

5.8 At paragraph 19.2.6 of her witness statement, Ms Field states that she has been informed by Dr Wright that there are certain files in Dr Wright's Bitcoin Folder (as defined) which when uploaded to and compiled in Overleaf (or another LaTeX compiler) produce a copy of the Bitcoin White Paper which is "*materially identical*" to the Bitcoin White Paper published by Satoshi Nakamoto.

5.9 At paragraph 29 of her witness statement, Ms Field states that she has been informed by Dr Wright that in drafting the text of the Bitcoin White Paper he used "*instructions for non-standard formatting (for example, coding for differences in the size of the spaces between words) in effect as a form of digital watermark*". It is striking that (so far as I am aware) Dr Wright has never previously made reference to having included such a watermark in any of his testimony in any proceedings ever before. Nor did Dr Wright produce any .tex files (or artifacts of LaTeX use) in his disclosure prior to the allegedly newly found hard drives.

5.10 Moreover, I understand that there are a wide number of tools available to enable the production of LaTeX code from a PDF document, i.e. that enable the reverse engineering of LaTeX documents from PDF. I understand from the Developers that it is not true that all such tools "*produce code for text with standard spacing between words*". Indeed, I am instructed that the use of "*non-standard formatting*" may be a strong indicator of such reverse-

engineering. Word processing packages like OpenOffice automatically adjust spacing between letters (kerning) and words (justification) as part of standard typesetting for reasons of aesthetics and readability. These adjustments are permanently recorded in PDF documents and can often confuse some conversion software and cause it to output explicit typesetting instructions instead of natural sequences of text.

5.11 Moreover, I understand from the Developers that it is not the case that reverse-engineering need consist merely of running a PDF document through a piece of conversion software. It is perfectly feasible (indeed likely) that, if Dr Wright (or people instructed by him) were to have reverse-engineered the Bitcoin White Paper into a LaTeX file format, they would have made manual adjustments to the output of any existing conversion software – or alternatively input the information from scratch and made manual adjustments so that a pdf output would appear materially the same when overlain on the Bitcoin White Paper.

5.12 At paragraph 48, Ms Field asserts that the evidential value of the LaTeX files lies in the fact that "*on Dr Wright's case*" he is in the "*unique*" position of being able to compile an "*exact replica*" of the Bitcoin White Paper published by Satoshi Nakamoto. Dr Wright is said to be concerned that if the files were disseminated their evidential value would be diminished because anyone that possessed them would also be able to compile an "exact replica" of the Bitcoin White Paper.

5.13 The logic and language of that explanation is difficult to follow.

5.13.1 Ms Field and/or Dr Wright seem to be seeking to compare some output from Dr Wright's files on Overleaf with an original PDF from the Bitcoin White Paper (though it is not clear, whether the comparison is said to be with the version uploaded to bitcoin.org in October 2008 or some later version, e.g. from sourceforge.net).

5.13.2 The metadata of the (various versions of the) Bitcoin White Paper that was published by Satoshi Nakamoto reveals that the PDF was produced from OpenOffice.org 2.4 (with Acrobat reporting an Application of "Writer"). I understand from the Developers that the identification of the Application of Writer means that the OpenOffice word processing tool was used.

5.13.3 There is no reference in Ms Field's statement to OpenOffice at all. That is odd because Dr Wright had included a purported OpenOffice draft of the Bitcoin White Paper amongst his Reliance Documents (ID_000254) [**LEH1/247-254**]. Dr Wright may be seeking to depart from reliance on that document, because COPA have suggested that it is a forgery.

5.13.4 There is no description of the compiler said by Dr Wright to have been used by him to produce the Bitcoin White Paper from the .tex files on his Overleaf account. It cannot have been Overleaf, because that company was not founded until 2012: see https://www.overleaf.com/about#who-we-are.

5.13.5 It is difficult then to comprehend what is meant by Dr Wright's LaTeX source files being able to produce an "*exact replica*" or "*materially identical*" output to the Bitcoin White Paper. My firm wrote to Shoosmiths on the same day that we were advised of the existence of these files (1 December 2023) to request an explanation of what this terminology was intended to convey. Shoosmiths have not responded to that request [**PTR/159**].

5.13.6 It is possible that what Ms Field and/or Dr Wright mean is that when the LaTeX files are compiled into a PDF document in Overleaf, the output is visually identical to the Bitcoin White Paper. Both Bird & Bird and my firm have written on a number of occasions now to request such an output. It has not been provided. That being so, it is not possible to tell how similar or exactly similar Dr Wright's new document and the Bitcoin White Paper are, although two PDFs can be visually identical while having little or no similarity internally.

5.13.7 There is no basis to the suggestion that Dr Wright is in a unique position to create a replica (exact or not) of the Bitcoin White Paper. It is a mere assertion by Dr Wright. I understand from the Developers that given the existence of readily available conversion tools it is not that much work for a motivated person to create a functional (if not plausible) whitepaper precursor.

The proposed confidentiality terms

5.14 Dr Wright and Ms Field nevertheless rely on the purported exactness of the replica and the supposed uniqueness of this characteristic to say that there should be some special confidentiality undertaking applied to the underlying LaTeX files held by Dr Wright on Overleaf. However, their proposed confidentiality terms would inhibit the Developers' ability to examine the LaTeX files in question. Leaving aside the fact that the Confidential Information is not described with any degree of precision in the draft order at **[PTR/127**]:

5.14.1 Paragraph 3 of the proposed confidentiality terms seeks to restrict the receiving party from accessing the relevant Confidential Information otherwise than via a single secure e-disclosure platform or in hard copy.

5.14.2 I am not aware that any e-disclosure platform provides the capability to enable the compilation of LaTeX files or overlay them on other PDF files, such as the Bitcoin White Paper.

5.14.3 The process of compilation and comparison would, however, be essential to assessing the similarity of the LaTeX data with the Bitcoin White Paper. The Developers also need to be able to reproduce the compilation process said to have been performed by Dr Wright when analysing the documents. In that context, I note that the Claimant's current description of Dr Wright's compilation process suggests that it has involved uploading certain of the LaTeX files to Overleaf. That would not be permitted under the terms of the Claimant's proposed draft order.

5.14.4 Without the ability to compile that data, the Developers would be restricted to looking only at the raw data in the LaTeX files. That could not be compared with the processed data in the original PDF of the Bitcoin White Paper.

5.15 On 4 December 2023, Bird & Bird on behalf of COPA proposed alternative terms upon which the LaTeX files might be disclosed *pro tem* pending determination of the present application on the basis of the specimen confidentiality undertaking in the Patent Courts Guide [**PTR/161**]. The following day, my firm confirmed that would be acceptable to the Developers for the time being too [**PTR/167**]. That specimen undertaking would not inhibit the Developers' ability to assess the LaTeX files.

5.16 However, there is no reason to suppose that any dissemination of the LaTeX files would diminish their evidential value as suggested by Ms Field anyway.

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

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

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

5.16.4 If Dr Wright was concerned to establish the priority of his claim to possession of these files outside of the present proceedings, he could publish a hash of the documents which would prove to anyone later that he possessed the files at this time. Moreover, in addition to traditional publication there are various tools to timestamp documents on bitcoin and bitcoin-like blockchains for timestamping

purposes which have no risk of disclosing the document, such as https://opentimestamps.org/. and timestamping on BSV is something nChain promotes: https://nchain.com/is-bitcoin-the-future-of-compliance-and-audits/.

6 Conclusion

6.1 The Developers respectfully request that the Court consider the above in making its determination on the Claimants' applications.

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: 

Dated: 7 December 2023