

Claimant/Respondent  
P N Sherrell  
Nineteenth  
Exhibits PNS-161 – PNS-164  
12 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**

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**NINETEENTH WITNESS STATEMENT OF PHILIP NATHAN SHERRELL**

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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 18 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.

2. Since my Eighteenth statement, Dr Wright has provided two additional pieces of evidence:
  - 2.1. A file listing, listing the file content of the BDO Drives (the “**BDO File Listing**”).
  - 2.2. Dr Wright’s Seventh Witness Statement.
3. This statement addresses, as briefly as I can, some points arising out of those new documents.

## **The BDO File Listing**

### Timing of the BDO File Listing

4. The Court will have seen from the correspondence that we have been requesting access to the BDO Drive since October, and a listing of files and metadata from the BDO Drive since 27 November 2023. The list of files (the “BDO File Listing”) was requested as an interim measure when it became clear that Dr Wright was not willing to provide access to the BDO Drive itself.
5. The agreed deadline for us to file COPA’s evidence on this application was 4.30pm on 7 December 2023, which we met. The BDO File Listing was not provided before that deadline. Instead:
  - 5.1. 20 minutes before service, Shoosmiths wrote an email to us that they would be “providing documents” responsive to our request (i.e. the request for the BDO File Listing, first made on 27 November 2023 and repeated in follow up correspondence); and then,
  - 5.2. Shortly after service of our evidence, the BDO File Listing was sent to us in the form of an Excel document. I note that the metadata of the Excel document shows that it was created more than a day earlier than it was provided.
6. Had the BDO File Listing been provided sooner, the information set out in this witness statement could have been provided to the Court as part of my Eighteenth Witness Statement and would have informed COPA’s skeleton argument.
7. The BDO File Listing contains a list of the directories and files on the BDO Drive, including their basic metadata.

### Factual points on the BDO File Listing

8. Mr Madden has not yet been able to review the BDO File Listing in time to provide further evidence for this hearing, although we understand he is well advanced with his review of it. However, our own review over the weekend has identified several points of fact (as opposed to expert evidence) which seem to further call into question the validity of the drive.

9. One in particular may be of relevance, which is the following file information (highlighting added):

<b>File Name</b>	<b>HSC00883.efx</b>
<b>Full path</b>	\Backup 05072007\Data\5\d25\HSC00883.efx
<b>Size</b>	295772
<b>Created</b>	06 July 2007
<b>Created<sup>2</sup></b>	
<b>Modified</b>	21 November 2006
<b>Modified<sup>2</sup></b>	
<b>Record changed</b>	21 November 2006
<b>Record changed<sup>2</sup></b>	
<b>Accessed</b>	06 July 2007
<b>Deleted</b>	
<b>SHA-256</b>	776FB12DC989796B8A42CEAoA10AC85Do88D665A68796387937BAC7F2841B15D
<b>MD5</b>	B12164B556B2CF2E78E08087D1EC42EB
<b>Additional Metadata</b>	Pixel dimension: 1638×2171;Density: 200025/1000×200025/1000 DPI;Thumbnail: 1646×2169;Orientation: Horizontal;●Software: Microsoft Windows Photo Viewer 10.0.14393.0; Equipment make: Xerox; <b>Model: Xerox DocuMate 5540;</b> Interpretation: BlackIsZero; Compression: LZW; Content modified: 2018:03:17 14:58:46 (LT); XMP: (12695 bytes); xmp:CreatorTool: <b>Microsoft Windows Photo Viewer 10.0.14393.0</b>
<b>Device type</b>	
<b>Existent</b>	No
<b>Ext.</b>	efx
<b>Evidence object</b>	BDOPC

10. We do not know the content of this file, as it has not been provided to us, but the information provided about it indicates that document HSC00883.efx was created with a scanner, “Xerox DocuMate 5540”.

11. There is also another document listed in the BDO File Listing which is recorded as created with the same model of scanner, which purports to have been created in 2006 (line 35791).

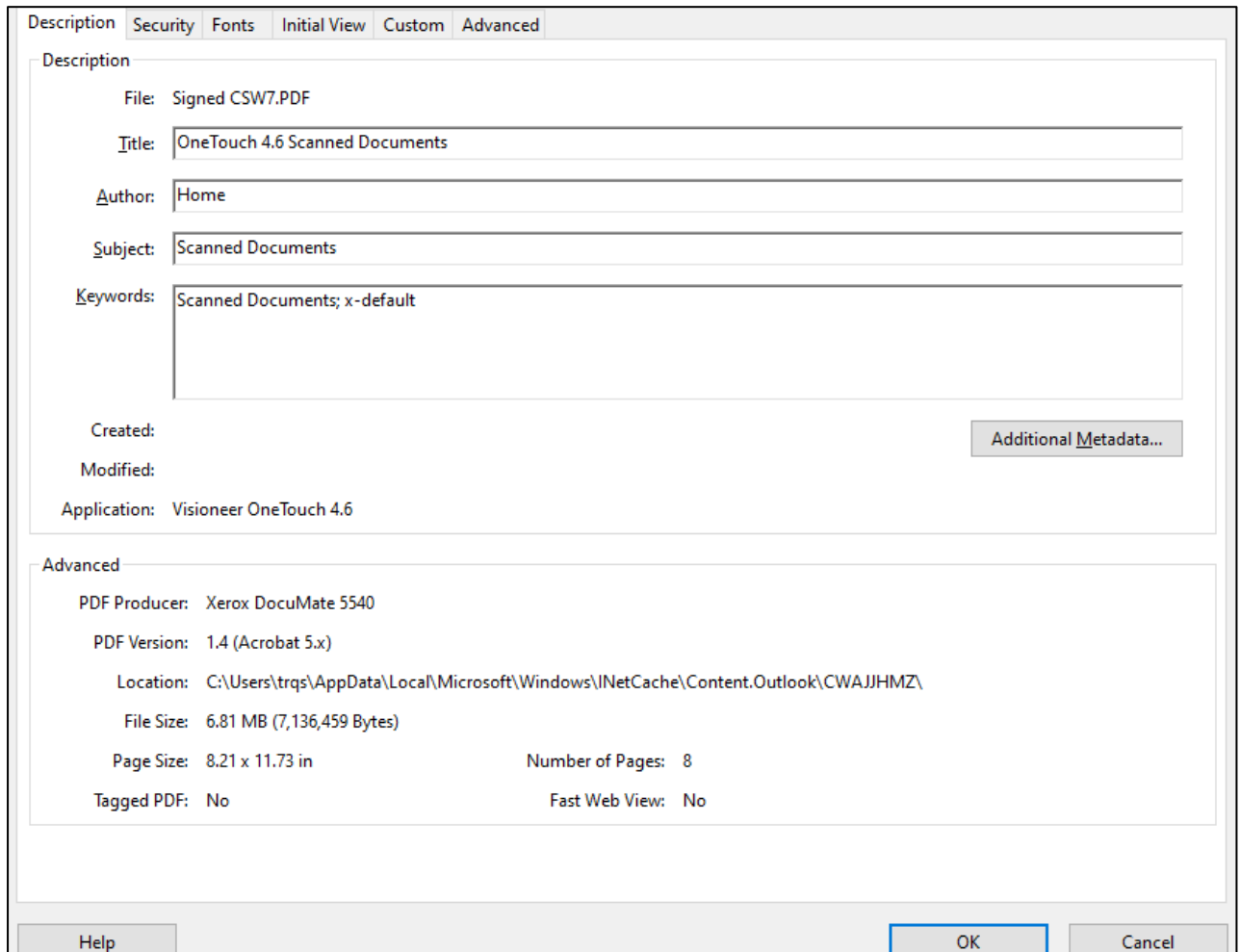
12. As can easily be seen by searching online, the Xerox DocuMate 5540 model scanner was announced by Xerox on 18 February 2015: See **Exhibit PNS-161**, which is a copy of the Xerox press release stating that “Xerox today announced the Xerox DocuMate® 5540” and is dated to 18 Feb 2015:



13. The document therefore cannot date from 2006-2007 as is listed for both documents, because the “uniquely designed” scanner did not exist yet.
14. There are also other indications (even from the very limited information provided) that the “HSCoo883.efx” document on the BDO Drive has inconsistent and/or irregular metadata. These include:
  - 14.1. The “Content modified” date, which is 2018:03:17 (17 March 2018), and
  - 14.2. The reference to the creator tool “Microsoft Windows Photo Viewer 10.0.14393.0” (highlighted above). The version of Windows which this refers to is Version 14393 of Windows 10. A Google search indicates that Windows 10 Version 14393 was announced in July 2016. At **Exhibit PNS-162** I include a capture of Microsoft’s web page announcing the “new” changes in that “July 2016” version (from <https://learn.microsoft.com/en-us/windows/uwp/whats-new/windows-10-build-14393>).
15. This casts further doubt on the explanation advanced by Dr Wright, which appears to be that the BDO Drive is a ‘time capsule’ from 2007.

The same model of scanner used for Dr Wright's Seventh Witness Statement (December 2023)

16. I also note that Dr Wright Seventh Witness Statement, served on 11 December, was scanned as a PDF using what appears to be the same scanner. The properties for that Witness Statement list the same model of scanner, Xerox DocuMate 5540. The metadata shows that it was used to scan the statement (which has clearly been signed in pen):



Other documents with the same scanner

17. I am informed by my colleagues that several of Dr Wright's other disclosure documents (i.e. those previously disclosed) also used the same DocuMate 5540 scanner model (i.e. the model released after February 2015) including for example,

17.1. Various TIF files without dates, including undated scanned handwritten documents such as ID\_003917 (see **Exhibit PNS-163**), and

17.2. Four PDF files dating to 2020.

Other factual indications from the BDO File Listing

18. In addition to the above, my team has observed the following information in the BDO File Listing:

18.1. **12 September modification** - A file “HSC00759.efx” is listed as being created and last modified on 12 September 2023<sup>1</sup> - a date which is not consistent with Dr Wright’s description of how he says he discovered the BDO Drive:

<b>File Name</b>	HSC00759.efx
<b>Full path</b>	\Backup 05072007\Data\5\d9\HSC00759.efx
<b>Size</b>	108084
<b>Created</b>	06/07/2007 06:44:34
<b>Created<sup>2</sup></b>	
<b>Modified</b>	20/11/2006 20:54:21
<b>Modified<sup>2</sup></b>	
<b>Record changed</b>	20/11/2006 20:54:21
<b>Record changed<sup>2</sup></b>	
<b>Accessed</b>	06/07/2007 06:44:34
<b>Deleted</b>	
<b>SHA-256</b>	03DA2C547C1E70AE019E3432E98184A85A0ED6CF136B91F532F1ECF375664DD3
<b>MD5</b>	EAC242F53814059A0F45987A97C9A962
<b>Additional Metadata</b>	Code page: 1252; Author: Craig S Wright; Creation: 09/12/2023 08:38:00 +0; Last saved: 09/12/2023 18:48:00 +0
<b>Device type</b>	
<b>Existent</b>	No
<b>Ext.</b>	efx
<b>Evidence object</b>	BDOPC

18.2. **Directory listing consistent with Ager-Hanssen images:** The BDO File Listing does contain file names which are dated and named consistently with those observed in the Ager-Hanssen screenshots shown in my Eighteenth Witness Statement<sup>2</sup>;

18.3. **More documents created with 2020 software:** The BDO File Listing contains additional documents listed as being created with “Riched20” Version 10.0.1.19041 (being the same software that is explained by Mr Madden in his Third Report as dating from no earlier than 2020), but which have not been disclosed. For example:

<sup>1</sup> Noting that it cannot be 9 December 2023, because that was in the future when the BDO Drive was imaged on 20 September 2023. I am also informed by my colleague that the other “Creation:” dates in the excel file are also in MM/DD/YYYY format.

<sup>2</sup> See **Exhibit PNS-164**

<b>File Name</b>	<b>Project 1.rtf</b>
<b>Full path</b>	\\My Files\Uni\LLM\Project\Project 1.rtf
<b>Size</b>	15217
<b>Created</b>	31/10/2007 03:04:38
<b>Created<sup>2</sup></b>	31/10/2007 03:04:38
<b>Modified</b>	31/10/2007 03:08:12
<b>Modified<sup>2</sup></b>	
<b>Record changed</b>	31/10/2007 03:08:12
<b>Record changed<sup>2</sup></b>	
<b>Accessed</b>	31/10/2007 03:14:25
<b>Deleted</b>	
<b>SHA-256</b>	0E524CECB1AA4F07A6F91D67442DD09B22E436CBoAD8C9oAFF8A4488DAEFAAEC
<b>MD5</b>	55A6022E1419C9EC21D33330E6E1F782
<b>Additional Metadata</b>	Code page: 1252;Application: <b>Riched20 10.0.19041</b>
<b>Device type</b>	
<b>Existent</b>	Yes
<b>Ext.</b>	rtf
<b>Evidence object</b>	BDOPC

18.4. **Shared timestamps across swathes of documents:** Large numbers of documents share identical timestamps, and the majority of Dr Wright’s 93 documents all have an identical timestamp “15/10/2007 01:59:25”; and

18.5. **Deleted relevant documents:** The following 3 files, all named “*LLM ProposalA.doc*”. That is the same filename as Dr Wright’s related “LLM Proposal” Reliance Documents which appear to have been manipulated (and Dr Wright’s expert witness agrees were manipulated). These versions of the document apparently were previously on the BDO Drive but now they are listed as “*Existent: No*” in the BDO File Listing. I understand this to mean that they have been deleted from the drive, so that they no longer exist on it:

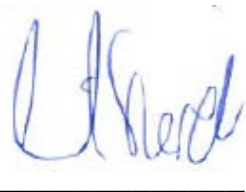
<b>File Name</b>	<b>LLM_ProposalA.doc</b>	<b>LLM_ProposalA.doc</b>	<b>LLM_ProposalA.doc</b>
<b>Full path</b>	\\My Files\Uni\LLM\Project\LLM_ProposalA.doc	\\My Files\Uni\LLM\Project\LLM_ProposalA.doc	\\Path unknown\Directory with ID 178430\LLM_ProposalA.doc
<b>Size</b>	121856		
<b>Created</b>	31/10/2007 16:43:37	31/10/2007 16:43:37	31/10/2007 08:02:33
<b>Created<sup>2</sup></b>			
<b>Modified</b>	15/07/2007 08:34:16	31/10/2007 08:01:12	31/10/2007 08:02:33
<b>Modified<sup>2</sup></b>			
<b>Record changed</b>	31/10/2007 16:48:09	31/10/2007 08:01:12	31/10/2007 08:02:33

<b>Record changed<sup>2</sup></b>			
<b>Accessed</b>	31/10/2007 07:39:14	31/10/2007 08:01:12	31/10/2007 08:02:33
<b>Deleted</b>			
<b>SHA-256</b>			
<b>MD5</b>			
<b>Additional Metadata</b>			
<b>Device type</b>			
<b>Existent</b>	No	No	No
<b>Ext.</b>	doc	doc	doc
<b>Evidence object</b>	BDOPC	BDOPC	BDOPC

### 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: 12 December 2023