

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

Claim No: IL-2021-000019

B E T W E E N :

CRYPTO OPEN PATENT ALLIANCE

Claimant

-and-

DR CRAIG STEVEN WRIGHT

Defendant

FIRST JOINT STATEMENT
OF PATRICK MADDEN AND SPENCER LYNCH

Structure of this Report

1. This report is separated into three sections,
 - a. Scope of expert discussion
 - b. General areas of agreement and disagreement with discussion on specific digital artefacts
 - c. The specific documents analysed by both experts

Scope of expert discussion

2. This joint report is limited to a review of
 - a. The Fourth Madden Report
 - b. The First Lynch Report
 - c. Technical explanations from various witness statements of Dr Wright
 - d. specific review of 97 Documents, identified as the “97 New Reliance Documents” in the fourth Madden Report) or the “97 Documents” in the First Lynch Report

Areas of Agreement and Disagreement

Digital artefacts

3. Both experts agree that most metadata timestamps are reliant on the accuracy of the clock setting on the device used to record them, and that can be changed by various means.
4. We agree that while each document requires individual analysis, we agree that some digital artefacts are clear indicators of back dating. In the context of this case, this includes, but may not be limited to, the following indicators:
 - a. Where documents are recorded as being created by, or using, hardware, software or versions of software that were not released at the time of the recorded internal metadata timestamps.
 - b. When documents are recorded in system logs like transaction logs, or in Recycle Bin records, where those system logs did not exist or would not have existed at the time of the documents purported creation.
5. We agree that the Serial Identifier (SID) is used by Windows operating systems to uniquely identify accounts on a computer in a persistent manner.

6. In addition to the above table regarding the 97 New Reliance documents the experts have discussed several aspects of the BDO Image (BDOPC.raw), and the Samsung Drive. The experts agree that:
 - a. The content of the BDO Image as a whole is not authentic and it has been actively edited in the period 17 to 19 September 2023. The edits made to the BDO Image are not consistent with automated software or background processes, but are consistent with editing by a user.
 - b. The content of both the Samsung drive, and the BDO Image have been significantly manipulated and subjected to multiple clock and timestamp manipulation actions.
 - i. It is not possible to determine the full extent of the manipulations from the available information;
 - ii. If a copy of the Original 2007 BDO Image (i.e. the copy prior to any manipulation) exists and it was made available for analysis the experts could be more definitive regarding the extent of the manipulation to the BDO Image
 - c. The Recycle Bin on the Samsung Drive was emptied on or after 17 September 2023
 - d. The experts agree that a forensic examination of the computer / virtual machine / device / other that was used to interact with the BDO Image and assigned the SID “S-1-5-21-67634994-2544886514-713616940-1002” could also assist in determining the extent and nature of the manipulation.
7. Mr Madden’s opinion is that the two Raw images “Image.raw” and Infodef09.raw” must have been deleted after 17 September 2023, on account of both raw images containing TXFlogs baring this date. Both of these raw images also exhibit indications of clock and timestamp manipulation
8. Mr Lynch acknowledges Mr. Madden’s analysis of the Image.raw and Infodef09.raw files, but did not perform that analysis in drafting his report, and the time allowed for joint expert discussions is not sufficient to perform that analysis. He has no reason to doubt the analysis, but is not in a position agree with it.
9. The experts have also discussed the content of the witness statements of Dr Wright in relation to aspects of his technical infrastructure. The experts agree that:
 - a. Neither the Samsung drive, or the BDO image relate to SAN hardware;
 - b. The BDO Image itself does not include any of the drivers or hallmark indications of being configured to boot in VM Ware or Citrix;

- c. The VMWare records specified in Dr Wright's 12th statement indicate connections to "Image.raw" and "Prior PC" both of which exist as deleted items on the Samsung drive, and those records do not refer to BDOPC.raw;
 - d. The VMWare records referred to in Dr Wright's 12th statement specifically indicate a setting to alter the clock from the real time to a date that is associated with many of the manipulated documents and activities recorded;
 - e. Recovery software does not account for the various anomalies identified on the Samsung drive or the BDO image;
 - f. The use of Xcopy, or other similar tools to copy data does not account for the manipulation and backdating artefacts identified;
 - g. The information supplied in the witness statements of Dr Wright does not change any of our conclusions.
10. Both experts have analysed the 97 documents and categorised them as being **Manipulated**, being **Unreliable**, or having **No reason to doubt the authenticity**. These categories can be described as:
- a. **Manipulated**– the document or its metadata contains sufficient anomalies, irregularities and/or post-dated timestamps to conclude that the timestamps recording when the document (or the records contained therein) were created, last modified, saved or accessed are likely to have been manipulated by a user such that they record non-contemporaneous values.
 - b. **Unreliable** – the document or its metadata contain sufficient anomalies or irregularities to doubt whether document timestamps are contemporaneous, but not sufficiently to firmly conclude them as being manipulated;
 - c. **No reason to doubt the authenticity** – the document bears no indications of tampering, manipulation, or backdating. Inauthenticity cannot be ruled out based on the digital evidence alone, but no such indications were found.
11. The discussion mainly focused on:
- a. The activity identified on the Samsung Drive and BDO Image in September 2023, and
 - b. whether the 97 Document timestamps are reliably authentic to their purported dates, or whether they show signs of being backdated;

12. We agree on the categorisation of 71 of the 97 Documents as Manipulated. Where Mr. Lynch had previously categorised some of these files as Unreliable, he had not performed an analysis of the SIDs associated with the files. Taking the SIDs into account as discussed in the Joint Experts meeting, he agrees that the evidence from the SIDs together with the evidence described in his report means these documents should be categorised as Manipulated, and not as Unreliable as was in his Report. Those 71 of the 97 Documents are listed below..

Manipulated Documents

ID_004644	ID_004688	ID_004706	ID_004724
ID_004645	ID_004689	ID_004707	ID_004725
ID_004646	ID_004690	ID_004708	ID_004726
ID_004647	ID_004691	ID_004709	ID_004727
ID_004648	ID_004692	ID_004710	ID_004728
ID_004653	ID_004693	ID_004711	ID_004729
ID_004654	ID_004694	ID_004712	ID_004730
ID_004655	ID_004695	ID_004713	ID_004731
ID_004656	ID_004696	ID_004714	ID_004732
ID_004657	ID_004697	ID_004715	ID_004733
ID_004658	ID_004698	ID_004716	ID_004734
ID_004659	ID_004699	ID_004717	ID_004735
ID_004681	ID_004700	ID_004718	ID_004736
ID_004682	ID_004701	ID_004719	ID_005567
ID_004684	ID_004702	ID_004720	ID_005568
ID_004685	ID_004703	ID_004721	ID_005569
ID_004686	ID_004704	ID_004722	ID_005570
ID_004687	ID_004705	ID_004723	

13. For the remaining 26 of the 97 New Reliance Documents, listed below, the experts express a difference of opinion.
- Mr Madden considers that taken individually and out of context of the BDO image, these documents would present as NRTD. They are however provided in the context of the BDO Image, which exhibits clear indications of manipulation to the content thereon. PM therefore concludes that the content of these documents cannot be relied upon as authentic without inspection of the Original 2007 BDO Image.
 - Mr Lynch considers that from the analysis to date, there is no evidence from which to conclude these documents are either manipulated or unreliable. From the available

evidence, he does not think it is appropriate to draw inferences from conclusions, and then form further conclusions from those inferences.

- c. Those documents, which Mr. Madden categories as Unreliable, and Mr. Lynch categorises as NRTD are:

Other 26 Documents

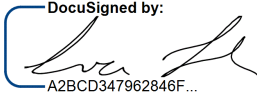
ID_004649	ID_004663	ID_004670	ID_004677
ID_004650	ID_004664	ID_004671	ID_004678
ID_004651	ID_004665	ID_004672	ID_004679
ID_004652	ID_004666	ID_004673	ID_004680
ID_004660	ID_004667	ID_004674	ID_004683
ID_004661	ID_004668	ID_004675	
ID_004662	ID_004669	ID_004676	

DECLARATION

1. I understand that my duty is to help the Court to achieve the overriding objective by giving independent assistance by way of objective, unbiased opinion on matters within my expertise, both in preparing reports and giving oral evidence. I understand that this duty overrides any obligation to the party by whom I am engaged or the person who has paid or is liable to pay me. I confirm that I have complied with and will continue to comply with that duty.
2. I confirm that I have not entered into any arrangement where the amount or payment of my fees is in any way dependent on the outcome of the case.
3. I know of no conflict of interest of any kind, other than any which I have disclosed in my report. I do not consider that any interest affects my suitability as an expert witness on any issues on which I have given evidence.
4. I will advise the party by whom I am instructed if, between the date of my report and the trial, there is any change in circumstances which affects this.
5. I have shown the sources of all information I have used.
6. I have exercised reasonable care and skill in order to be accurate and complete in preparing this report.
7. I have endeavoured to include in my report those matters, of which I have knowledge or of which I have been made aware, that might adversely affect the validity of my opinion. I have clearly stated any qualifications to my opinion.
8. I have not, without forming an independent view, included or excluded anything which has been suggested to me by others including my instructing lawyers.
9. I will notify those instructing me immediately and confirm in writing if for any reason my existing report requires any correction or qualification or my opinion changes.
10. I understand that:
 - a. my report will form the evidence to be given under oath or affirmation;
 - b. the court may at any stage direct a discussion to take place between experts and has done in this case;

- c. the court may direct that, following a discussion between the experts, a statement should be prepared showing those issues which are agreed and those issues which are not agreed;
 - d. I may be required to attend Court to be cross-examined on my report; and
 - e. I am likely to be the subject of public adverse criticism by the judge if the Court concludes that I have not taken reasonable care in trying to meet the standards set out above.
11. I have read Part 35 of the Civil Procedure Rules and I have complied with its requirements. I am aware of the requirements of Practice Direction 35 and the Guidance for the Instruction of Experts in Civil Claims 2014.
12. I confirm that I have acted in accordance with the Code of Practice for Experts.
13. I confirm that I have made clear which facts and matters referred to in this report are within my own knowledge and which are not. Those that are within my own knowledge I confirm to be true. The opinions I have expressed represent my true and complete professional opinions on the matters to which they refer.

Signed: 5943D537458F4C0...

Signed: A2BCD347962846F...