

On behalf of

Witness: H Pearson
Exhibits: HP-1 to HP-7
2023

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
(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

WITNESS STATEMENT OF
HILARY E PEARSON

I, **Hilary E Pearson**, of [REDACTED] will say as follows:

1. I am a retired solicitor, a member of Middle Temple, emeritus member of the State Bars of California and Texas, and a historical researcher. I am also the UK Patents editor for Thomson Reuters' Practical Law.
2. This written statement has been prepared by Bird & Bird to record my own evidence and answers given to Bird & Bird during a face-to-face interview. The evidence given in this statement is written in my own words as far as practicable. 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.

3. 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. Prior to being contacted by Bird & Bird, I was not aware of the case at all, although as I now understand it relates the claim of Dr Craig Wright to be the anonymous or pseudo anonymous creator of a cryptocurrency, which I've been told by Bird & Bird is Bitcoin.

My background and career

4. I started life as a physicist, getting a degree in Physics from the University of Oxford in 1965. Later, I got an LLB from the University of London, then took Bar Finals. I was called to the Bar in 1976. Following pupillage I became the first woman to get a tenancy at the patent bar.
5. I went to the United States in 1980, where I got a job in the Silicon Valley office of a smallish San Francisco firm. I was there when the whole IT thing was kicking off, and wrote a book on computer contracts called "*Computer Contracts: An International Guide to Agreements and Software Protection*", published in the UK in 1984. My legal career since then has been heavily IT law based.
6. I came back to the UK from the United States in 1990, joining Simmons & Simmons, who made me head of IT law, although I wasn't a partner. I joined Bird & Bird as a partner in July 1995, originally as part of the IT group and then moved to the IP group. My practice at Bird & Bird was a mixture of IT contract work and IP litigation. I retired from the Bird & Bird partnership in 2006 in order to go back to Oxford to do a DPhil in Medieval History. I remained of counsel to Bird & Bird until I finally retired on 30 June 2015.
7. Bird & Bird has asked me whether I have any interest in the current case. I do not. I have no enduring financial interest with Bird & Bird, and have never had anything to do with cryptocurrencies.

My work on intermediary liability

8. I wrote and published articles and spoke at conferences relating to IP and IT law a great deal throughout my career, including on the issue of intermediary liability. In my research, everything I write is my own work. I do not (and did not) copy from other sources. Where I have included a quotation to the extent permitted under copyright law, I have always been careful indicate that it is a quotation and to provide

an express attribution. This is partly because as an IP lawyer, I am aware of copyright. Also, IT law was a pretty new area and I was one of the pioneers on the subject, so my work was often covering new ground and there wouldn't have been anywhere to copy from. However, I have always believed in "recycling" my own work, and publishing my research in different formats for different publications.

- {C00003179}
- {C00003174}
9. I was asked by Bird & Bird to locate copies of two articles that I wrote in the area of IT law, and was able to do so. The two articles are "*Liability of Bulletin Board Operators*" published in the Computer and Telecommunications Law Review in 1995 (a scanned copy of which is at **Exhibit HP-1**) and "*Internet Service Provider Liability for Online Content*", published in the Computer Litigation Journal in April 1999 (a scanned copy of which is at **Exhibit HP-2**). Both articles were published in hard copy journals.
10. It has been many years since I wrote them, but I believe them to be my own work and I think my memory is accurate. This is not only because of the general approach that I mentioned above, but I have also read the articles to check this and recognise my writing style in both of them. Especially in the Bulletin Board article there is a little joke about publishers seeing operators as pirates, while some operators would see themselves as Robin Hood, which is exactly the type of joke I tend to make. Indeed I remember writing and publishing the Bulletin Board paper, as it was one of the first things on the topic. Although I don't remember specifically writing the later article, I was writing so much at the time, so this is not surprising, and I also recognise my style in that one.
11. I have been asked whether I might have copied anything in writing either of these articles from any other source. Other than quotations expressly identified as such, I am certain that I did not. Both are my original work.

The 1996 Paper

- {C00003180}
- {C00003178}
12. I have been shown a copy of an article published online referring to my work published on Medium (**Exhibit HP-3**). That article refers to a paper of mine titled "*Liability of Internet Service Providers*" (**Exhibit HP-4**). That paper is, again, definitely my something that I prepared, and is in my style. There are similarities between this paper and both of the articles referred to at paragraph 9 above, which shows the sort of recycling of my own research that I do.
13. I believe that the paper is something that I would have written and presented at a conference in 1996. I was speaking at a lot of conferences at the time, and the way it is written and the reference in it to it being a "paper" confirms my view. Having

looked and thought carefully about which conference it was, I think it is most likely that it was the IBC “Law of the Internet” conference on 13 November 1996. The source of my belief of this is the entry in my diary for the relevant time, which confirms that I was at that conference. (**Exhibit HP-5**).

{C00003175}

14. The Medium article compares passages of my paper to another document which is described as being the LLM thesis of Dr Wright (**Exhibit HP-6**). I had not seen that document before and had no knowledge of it. Having been shown the Medium article, I considered again each of the passages paper highlighted there and whether each was my own work or whether it might have been copied from any other source. I am certain that they were not copied. The passages are my own work, as was my paper as a whole.

{C00003176}

The Journal of World Intellectual Property Article

15. I have also been asked about another of my articles, “*Intellectual Property and the Internet: A Comparison of U.K. and U.S. Law*”, which was published in the Journal of World Intellectual Property in 1998 (**Exhibit HP-7**) and is also referred to in the Medium article at **Exhibit HP-3**. I have not been able to locate a copy of the article in my archive.

{C00003177}

{C00003180}

16. While I do not specifically recall writing the article, I can confirm that in keeping with my general approach I would not have copied anything from a third-party source. It is possible that some of the material in this article was written by other members of Bird & Bird for the book ‘Internet Law and Regulation’ 2nd edition, edited by my colleague Graham J.H. Smith (as acknowledged at the end of the article). I believe that the specific section referred to in the Medium article was my own work, but if it was not it was written by one of my Bird & Bird colleagues from that time, and in any event the copyright was owned by Bird & Bird, as is shown by the copyright notice on the article.

Declaration of Hilary E Pearson

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 by Hilary E Pearson:*Hilary E Pearson*.....

Date:*30th June 2023*.....

Certificate of Compliance

I hereby certify that:

1. I am the relevant legal representative within the meaning of Practice Direction 57AC.
2. I am satisfied that the purpose and proper content of trial witness statements, and proper practice in relation to their preparation, including the witness confirmation required by paragraph 4.1 of Practice Direction 57AC, have been discussed with and explained to Hilary E Pearson.
3. I believe this trial witness statement complies with Practice Direction 57AC and paragraphs 18.1 and 18.2 of Practice Direction 32, and that it has been prepared in accordance with the Statement of Best Practice contained in the Appendix to Practice Direction 57AC.

Signed:

Name: Philip Nathan Sherrell

Position: Partner, Bird & Bird LLP

Date:

