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Case Nos: IL-2021-000019

IL-2021-000035

IL-2021-000036

IL-2022-000069

BL-2021-000313

IN THE HIGH COURT OF JUSTICE
CHANCERY DIVISION
BUSINESS AND PROPERTY COURTS OF ENGLAND AND WALES
INTELLECTUAL PROPERTY

Royal Courts of Justice, Rolls Building
Fetter Lane, London, EC4A 1NL

Date: 16th July 2024

Before :

MR JUSTICE MELLOR

Between:

CRYPTO OPEN PATENT ALLIANCE

Claimant in IL-2021-000019

(the “COPA Claim”)

and

CRAIG STEVEN WRIGHT

Defendant in the COPA Claim

And Between:

(1) DR CRAIG STEVEN WRIGHT

(2) WRIGHT INTERNATIONAL INVESTMENTS LIMITED

Claimants in IL-2021-000035

(the “Coinbase Claim”)

and

(1) COINBASE GLOBAL INC.

(2) CB PAYMENTS, LTD

(3) COINBASE EUROPE LIMITED

(4) COINBASE INC.

Defendants in the Coinbase Claim

And Between:

- (1) DR CRAIG STEVEN WRIGHT**
 - (2) WRIGHT INTERNATIONAL INVESTMENTS LIMITED**
- Claimants in IL-2021-000036**
(the “Kraken Claim”)

and

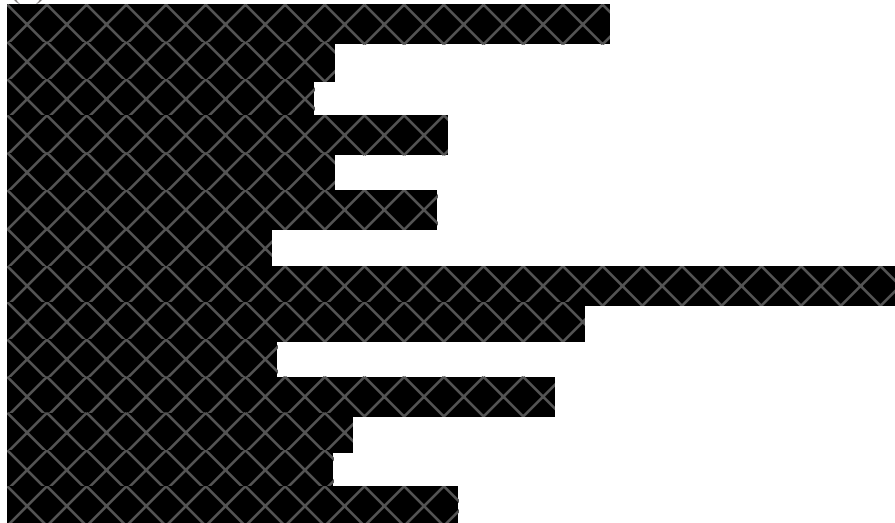
- (1) PAYWARD, INC.**
 - (2) PAYWARD LTD**
 - (3) PAYWARD VENTURES, INC.**
- Defendants in the Kraken Claim**

And Between:

- (1) DR CRAIG STEVEN WRIGHT**
 - (2) WRIGHT INTERNATIONAL INVESTMENTS LIMITED**
 - (3) WRIGHT INTERNATIONAL INVESTMENTS UK LIMITED**
- Claimants in IL-2022-000069 (the “BTC Core Claim”)**

and

- (1) BTC CORE**



- (16) BLOCK, INC.**
- (17) SPIRAL BTC, INC.**
- (18) SQUAREUP EUROPE LTD**
- (19) BLOCKSTREAM CORPORATION INC.**
- (20) CHAINCODE LABS, INC**
- (21) COINBASE GLOBAL INC.**
- (22) CB PAYMENTS, LTD**
- (23) COINBASE EUROPE LIMITED**
- (24) COINBASE INC.**
- (25) CRYPTO OPEN PATENT ALLIANCE**
- (26) SQUAREUP INTERNATIONAL LIMITED**

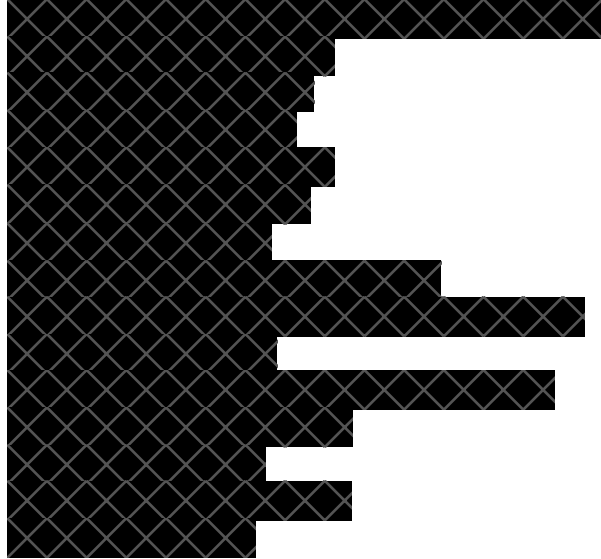
Defendants in the BTC Core Claim

And Between:

- TULIP TRADING LIMITED**
- Claimant in BL-2021-000313 (the “Tulip Trading Claim”)**

and

(1) BITCOIN ASSOCIATION FOR BSV



Defendants in the Tulip Trading Claim

JONATHAN HOUGH KC and JONATHAN MOSS (instructed by Bird & Bird LLP) for COPA.

CRAIG ORR KC and TIMOTHY GOLDFARB (instructed by Shoosmiths LLP) for Dr Wright in the COPA Claim

ALEX GUNNING KC and PHILIP AHLQUIST (instructed by Macfarlanes LLP) appeared for the Developers in the BTC Core Claim (Defendants 2-12, 14 & 15) and (instructed by Enyo Law LLP) for the Developers (Defendants 2-12 in the Tulip Trading Claim).

ADAM BARADON KC (instructed by Shoosmiths LLP) for the Claimant Tulip Trading Ltd and for Dr Wright as a third party in the Tulip Trading Claim for the purposes of costs

IMRAN BENSON and JACK CASTLE (instructed by Harcus Parker Limited) for Dr Wright and his companies in the BTC and Coinbase Claims.

PHILIP AHLQUIST (instructed by EIP Europe) for Blockstream (Defendant 19), (instructed by Enyo LawLLP) for Chaincode (Defendant 20)and (instructed by Osborne Clarke LLP) for the Cash App Defendants (Defendants 16, 18, and 26) in the BTC Core Claim

KATHRYN PICKARD (instructed by A&O Shearman LLP) for Coinbase

REBECCA KEATING (instructed by Cooke, Young & Keidan LLP) for Defendants 15 & 16 in the Tulip Trading Claim

Hearing Dates: 7th & 14th June 2024

APPROVED JUDGMENT

Remote hand-down: This judgment will be handed down remotely by circulation to the parties or their representatives by email and release to The National Archives. A copy of the judgment in final form as handed down should be available on The National Archives website shortly thereafter but can otherwise be obtained on request by email to the Judicial Office (press.enquiries@judiciary.uk).

Mr Justice Mellor : This Judgment is organised as follows:

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INTRODUCTION

1. This is my judgment from the Form of Order hearing in the five actions indicated in the heading. Most of the issues were argued at a long hearing on 7 June 2024 which lasted until just before 6pm, which meant that the issues involving Defendants 15 and 16 in the Tulip Trading Claim had to be argued a week later. It was perhaps just as well that those issues were put over, because the argument lasted another ½ day.
2. The present position arises for the following reasons. At the conclusion of argument on 14 March 2024 in the **Joint Trial** of the Identity Issue in the COPA and BTC Core Claims, I announced the result – that Dr Craig Wright was not Satoshi Nakamoto, contrary to his claim. I handed down the reasons for that result on 20 May 2024: see [2024] EWHC 1198 (Ch) (my ‘**Main COPA Judgment**’).
3. Meanwhile, no doubt due to my announcement of the result on 14 March 2024, but also, so far as the Tulip Trading Claim was concerned, an impending deadline for the provision of disclosure, Dr Wright and his relevant companies, including Tulip Trading Limited, gave notice of discontinuance of the Tulip Trading Claim on 16 April 2024 and of the Coinbase and Kraken Claims on 23 April 2024. Pursuant to CPR38.6(1), the claimants in all those claims became liable for the defendants’ costs, to be assessed on the standard basis unless the Court orders otherwise. Perhaps not surprisingly, all the defendants to claims brought by Dr Wright or his companies sought costs on the indemnity basis, as did COPA.

The outstanding issues

4. Hence, it was convenient to deal with all the outstanding issues in all five actions together. Prior to the hearing on 7 June 2024, Consent Orders were agreed which covered the costs of the Kraken/Payward Defendants in IL-2022-000036, and of Mr Roger Ver, D14 in the Tulip Trading Claim. At the start of the hearing, in summary, the outstanding issues were:
 - i) COPA’s application for wide-ranging injunctive relief against Dr Wright and his companies.
 - ii) COPA’s application for a dissemination order.
 - iii) COPA’s application for its costs of the COPA and BTC Core Claims.
 - iv) COPA’s application for a general permission to use the disclosed documents in other proceedings.
 - v) COPA’s request that I should refer the papers to the CPS.
 - vi) The Developers supported those five applications by COPA and, in addition, they sought the dismissal of the BTC Core Claim.
 - vii) The Developers’ application for their costs of the BTC Core and Tulip Trading Claims.

- viii) The Developers also raised the issues of what should happen in the *i* and *McCormack* claims.
 - ix) The application for costs by Coinbase.
 - x) The application for costs by the Blockstream, Chaincode and Cash App Defendants (i.e. Defendants (Ds 16, 18, 19, 20 and 26) in the BTC Core Claim).
 - xi) The application for costs by D15 & D16 in the Tulip Trading Claim.
5. Certain issues were agreed during and after the hearing on 7 June 2024, so (a) the application for costs by the Blockstream, Chaincode and Cash App Defendants was agreed during the morning of the hearing; (b) on 19 June 2024 I made a consent order in the Tulip Trading Claim in favour of Ds2-12, and (c) on 21 June 2024 I made a consent order in the BTC Core Claim in favour of the Developers (namely Ds2-12, 14 & 15). This judgment deals with the matters remaining in dispute.
6. I should add that the issues over the injunctive relief took up most of the time on 7 June 2024 but, even then, the arguments were compressed.

An outline of Dr Wright's position.

7. Dr Wright's primary position was that COPA was not entitled to any injunction/dissemination orders for the reasons developed in his closing submissions at trial.
8. Nonetheless, Dr Wright also indicated that he did not oppose an Order restraining him from pursuing or threatening to pursue legal proceedings based on the assertion that he is Satoshi Nakamoto because, it was said, he and his companies have no intention of threatening or bringing such proceedings.
9. He made it clear he did object to the wider injunctive orders sought by COPA on the basis they would be an unjustifiable interference with his right to freedom of expression, including under Art. 10 ECHR.
10. He also objected to the dissemination orders sought by COPA.
11. Dr Wright agreed to pay costs on the indemnity basis, but had a series of points on the amounts sought on account. The common point made on his behalf was that any interim payment on account of costs should be limited to 70%, in reliance on the approach taken by Zacaroli J. in *Farol Holdings Ltd v Clydesdale Bank plc* [2024] EWHC 1044 (Ch).

Permission to Appeal?

12. Although Dr Wright announced his intention to appeal the outcome of the COPA Joint Trial on social media, no application for permission to appeal was made to me. That does not, of course, preclude him from making an application to the Court of Appeal. I simply observe that in a case of this complexity, the

judge at first instance is often able to shed light on any proposed grounds of appeal.

THE INJUNCTIONS SOUGHT AGAINST DR WRIGHT

13. COPA seeks (a) an anti-suit injunction preventing Dr Wright or the other Claimants in the related claims from pursuing further proceedings in this or other jurisdictions to re-litigate his claim to be Satoshi; (b) a related order preventing him from threatening such proceedings; (c) an order preventing him from asserting legal rights as Satoshi; (d) an order of the kind often made following defamation trials, preventing him from re-publishing his fraudulent claim to be Satoshi; and (e) an order requiring him to delete published statements of that fraudulent claim.
14. COPA has added to its draft order a qualifying paragraph to ensure that none of these orders inhibits Dr Wright in pursuing any appeal in these proceedings or in the *Kleiman* proceedings in the USA, or from contesting any civil contempt application or criminal prosecution.
15. Finally, COPA asks the Court to dispense with personal service of the injunctive order and allow service by email on Dr Wright and his solicitors, since Dr Wright is said to be travelling out of the country but he is plainly contactable through his solicitors and by email.
16. The aim of the injunctions sought by COPA is evident. They seek to prevent Dr Wright or any of his companies pursuing or threatening any of the claims the subject of any of the five actions. Subject to some disputes over the wording which I resolve below, as I just indicated, Dr Wright does not object to injunctions in those terms. What he does object to are the more extensive injunctions sought by COPA and the Developers which seek to prevent him making any assertion of the underlying rights or publishing any statement of the claims which underpinned the five actions and to require him to delete all such statements made in the past.
17. Although I have described the injunctions thus far as seeking to prevent Dr Wright or his companies from certain acts, COPA and the Developers also request that they prevent them from *causing, encouraging or permitting* any third party from doing any of the relevant acts.
18. I should add that (a) all the injunctions sought are subject to the same qualifications which I summarised in [14] above and (b) the Developers fully support COPA's application.

The subject-matter of the injunctions

19. The injunctions sought by COPA seem to me to be based, more or less, on an accumulation of the subject-matter of each of the five actions.
20. I start with the subject-matter of the declarations I made at the conclusion of closing submissions in the Joint Trial (of the COPA Claim and of the preliminary issue in the BTC Core Claim) namely claims concerning:

- i) Authorship of the Bitcoin White Paper.
 - ii) The identity of the person who adopted or operated under the pseudonym "Satoshi Nakamoto" in the period 2008 to 2011.
 - iii) The creator of the Bitcoin System.
 - iv) Authorship of the initial versions of the Bitcoin software (i.e. 2008-2011).
21. That subject-matter also covers the rights asserted in the Tulip Trading action.
22. Then I must add the actual claims brought against the Developers in the BTC Core Claim, to the extent not covered by those declarations:
- i) Ownership of copyright in the Bitcoin White Paper.
 - ii) Ownership of copyright in the initial versions of the Bitcoin software.
 - iii) Ownership of copyright in the Bitcoin File Format.
 - iv) Ownership of database right in the Bitcoin Blockchain.
23. I must also add the rights claimed by Dr Wright and his companies in the Coinbase and Kraken actions, namely, ownership of goodwill in the term 'Bitcoin', which was said to give rise to a cause of action in passing off by which those exchanges could be prevented from using the term 'Bitcoin' without Dr Wright's permission. This type of right can also be (somewhat loosely) characterised as a claim to unregistered trade mark rights in the term 'Bitcoin'.

Applicable Principles

24. In his submissions, Mr Hough KC for COPA acknowledged that they were seeking a suite of injunctions to deal with an unprecedented situation and, for that reason, he addressed me on some basic principles applicable to the grant of injunctive relief. For his part, Mr Orr KC for Dr Wright drew attention to certain limitations. I did not detect that there was any real dispute about the principles or what the case law says, rather the disputes here concerned the application of the relevant principles to the unusual facts here. Much of what I set out in this section is familiar territory in the IP field but, in the unusual circumstances of this case, it is helpful to be reminded of these principles and in particular those applicable to the right of freedom of expression.
25. I can group the applicable principles under the following nine headings.
- i) The modern approach to injunctive relief.
 - ii) The expansion of the categories of injunction.
 - iii) The principles governing injunctions to protect IP rights.
 - iv) The underlying rationale for the protection of IP rights.

- v) Injunctions following a finding of non-infringement.
- vi) Freedom of expression and Article 10 case law.
- vii) Anti-suit injunctions.
- viii) Injunctions to prevent republication of dishonest statements.
- ix) The importance of deterring frauds upon the Court.

The modern approach to injunctive relief.

26. It was common ground that an injunction is an equitable remedy albeit it has a statutory basis in s.37(1) of the Senior Courts Act.
27. It was also common ground that the relevant basic principles governing the modern approach to injunctions were recently reviewed and enunciated by the Supreme Court in *Wolverhampton City Council v London Gypsies and Travellers* [2024] 2 WLR 45) and that in that case, the Supreme Court adopted key aspects from the Privy Council decision in *Convoy Collateral Ltd v Broad Idea International Ltd* [2023] AC 389.
- i) The power to grant injunctions stated in s.37(1) merely confirms and restates the power of the courts to grant injunctions which existed before the Supreme Court of Judicature Act 1873 and still exists (*Wolverhampton*, [17]).
 - ii) It is necessary to distinguish between two senses of the word “jurisdiction”: the power to grant an injunction and the principles and practice governing the exercise of that power. The former is the only really correct sense of the expression (*Wolverhampton*, [16]). The power of the courts with equitable jurisdiction to grant injunctions is, subject to any relevant statutory restrictions, unlimited (*Wolverhampton*, [17]). As a court of inherent jurisdiction, the High Court possesses the power, and bears the responsibility, to act so as to maintain the rule of law (*Wolverhampton*, [18]).
 - iii) Like any judicial power, the power to grant an injunction must be exercised in accordance with principle and any restrictions established by judicial precedent and rules of court (*Wolverhampton*, [19]). Nevertheless, the principles and practice governing the exercise of the power to grant injunctions need to and do evolve over time as circumstances change (*Wolverhampton*, [19]-[20]).
 - iv) The width and flexibility of the equitable jurisdiction to issue injunctions are not to be cut down by categorisations based on previous practice (*Wolverhampton*, [21]). That is not to undermine the importance of precedent, or to suggest that established categories of injunction are unimportant. However, injunctions may be issued in new circumstances when the principles underlying the existing law so require (*Wolverhampton*, [22]).

- v) The exercise of the jurisdiction must be principled, but the criterion is injustice. Injustice is to be viewed and decided in the light of today's conditions and standards, not those of yester-year (*Wolverhampton*, [21], quoting the "*illuminating albeit dissenting*" judgment of Lord Nicholls in *Mercedes Benz AG v Leiduck* [1996] AC 284, at 308).
28. Accordingly, the Court does have the jurisdiction (in the true sense of the word) to grant the relief COPA seeks. As explained below, the decision of HHJ Birss QC in *Samsung v Apple* [2012] EWHC 2049 showed that he regarded injunctive relief sought by Samsung, which was in some ways similar to that sought in the present case and was also ancillary to a declaration of non-infringement, to be capable of being granted (though on the facts he did not do so).
29. Returning to *Wolverhampton*, the Supreme Court also discussed the wide range of forms of injunctive relief the English courts had previously developed, all in pursuit of the overriding goal of doing justice: see in particular [20]. These are relevant to this case, as the injunctive relief now sought by COPA bears similarities to a number of existing types of injunction which are routinely granted by English Courts.
30. The Supreme Court identified some novel categories of injunction that have been developed by the courts. Those include:
- i) Injunctions against non-parties, including injunctions *contra mundum* to protect human rights (*Wolverhampton*, [23]-[42]).
 - ii) Injunctions in the absence of a cause of action ("*It is now well established that the grant of injunctive relief is not always conditional on the existence of a cause of action.*" (*Wolverhampton*, [43]-[49])). Examples of these include: relator and ex officio actions by the Attorney General; the freezing injunction; the *Norwich Pharmacal* order; the *Banker's Trust* order; internet blocking orders. One might also add cases in which local authorities obtain injunctions to preclude criminal conduct such as unlawful trading where the criminal sanctions are insufficient to deter the (usually profitable) conduct.
31. The question before the Supreme Court in *Wolverhampton* was whether the court should grant a so-called "newcomer" injunction, restraining not only present, unidentified travellers who were acting or threatening to act unlawfully, but also unknown persons who might (or might not) form that intention, or so act, in the future. The Supreme Court described this as "*a wholly new type of injunction with no very closely related ancestor from which it might be described as evolutionary offspring*", although analogies could be drawn with some established forms of order (*Wolverhampton* [144]).
32. The Supreme Court held that such an injunction could be granted based upon first principles. In summary, it reasoned as follows:
- i) The principles upon which injunctions are granted or withheld remain equitable. Those principles also generally provide the answer to the question whether settled principles or practice about the general limits

or conditions within which injunctions are granted may properly be adjusted over time (*Wolverhampton* [146]).

- ii) A well-known passage in *Spry on Equitable Remedies* regarding the readiness of equity to change and adapt its principles for the grant of equitable relief “*has come to be embedded in English law*” (*Wolverhampton* [147], [148]).
 - iii) The basic general principle by reference to which equity provides a discretionary remedy is that it intervenes to put right defects or inadequacies in the common law. One example is where available common law remedies are inadequate to protect or enforce the claimant’s rights (*Wolverhampton* [149], [150]). The other example given by the Supreme Court was that of conscience-based remedies, such as rectification, undue influence and equitable estoppel.
 - iv) Equity looks to the substance rather than the form. In *Wolverhampton*, that meant not being confined by the twin silos of interim and final injunctions, and being able to assess the most suitable means of enabling newcomers to have a proper opportunity to be heard (*Wolverhampton* [151]).
 - v) Equity is flexible, thus enabling the precise form of injunctions and their terms and conditions to be developed over time and to meet the justice of particular cases (*Wolverhampton* [52]).
 - vi) There is no sacrosanct limiting rule or principle apart from justice and convenience. The best illustration of this is the supposed *Siskina* limiting principle that an injunction could only be granted in, or as ancillary to, proceedings for substantive relief in respect of a cause of action in the same jurisdiction – now expressly rejected in *Broad Idea* (see below) (*Wolverhampton* [153]).
 - vii) There was therefore no immovable obstacle in the way of granting newcomer injunctions.
33. The Privy Council in *Convoy Collateral* held that the granting of injunctive relief extends beyond the protection of legal or equitable rights of the applicant, referring instead to the protection of legitimate “*interests*”:

“The proposition asserted by Lord Diplock in *The Siskina* and *Bremer Vulkan* on the authority of *North London Railway* was that an injunction may only be granted to protect a legal or equitable right. There can be no objection to this proposition in so far as it signifies the need to identify an interest of the claimant which merits protection and a legal or equitable principle which justifies exercising the power to grant an injunction to protect that interest by ordering the defendant to do or refrain from doing something. ... within a very short time after *The Siskina* was decided, it had already become clear that the proposition cannot be maintained if it is taken to mean that an injunction may only

be granted to protect a right which can be identified independently of the reasons which justify the grant of an injunction.” (*Convoy Collateral* at [52].)

34. That view was endorsed by the Court of Appeal in *Re G (Court of Protection: Injunction)* [2022] EWCA Civ 1312 at [61], [69] and [71]. The Court of Appeal expressly endorsed the “*interest of the claimant*” formulation, and indeed expanded it to “*the interest of the person protected by the injunction*” so as to include a third party for whose benefit the original orders were made and which the defendant sought to frustrate.

Dr Wright’s position in outline

35. As COPA submitted, Dr Wright took two threshold points. First, he argued that COPA does not have “standing” to claim the injunctions it seeks because it cannot point to a legal or equitable interest which it possesses that would be vindicated by the relief it seeks. He places reliance on the cases of *Day v Brownrigg* (1878) 10 Ch D 294 and *Cowley (Earl) v Cowley (Countess)* [1901] AC 450.
36. COPA’s response was to point to *Convoy Collateral* and the cases confirming its application in English law. COPA also contended that the *Day* and *Cowley* cases were decided long before the law developed to its current state. In *Day*, the passage relied upon by Dr Wright from the judgment of James LJ is to the effect that the Court could only intervene if there had been an ‘*invasion of a legal or equitable right*’, which, as COPA submitted, is not compatible with the modern law.
37. As for *Cowley*, COPA submitted that the refusal of the Court to prohibit the former Countess from continuing to use her title can only be justified in modern terms on the basis that the Earl had no interest which the Court considered sufficient to protect.
38. The second threshold point was his contention that the Court cannot or should not grant the particular injunctions sought. As for injunctive relief against Dr Wright republishing his false claims, Dr Wright argues that this would be an inherently lawful act and so one which cannot or should not be restrained (citing *Bradford Corp v Pickles* [1895] AC 587). As for injunctive relief against Dr Wright reviving his claims to IP rights based on his claim to be Satoshi, Dr Wright argues that this would be analogous to the relief refused by Judge Birss in *Apple v Samsung* and that it should be refused on similar grounds.
39. COPA submitted that *Bradford v Pickles* does not advance Dr Wright’s position, contending that that case simply established the proposition that diversion of water, which was an inherently lawful act, did not become unlawful and a nuisance by virtue of it having been done with malice. It does not establish that an act which would not of itself infringe a legal right or a criminal prohibition cannot be restrained by injunction. COPA submitted there is no legal principle to that effect, as already explained. Anti-suit injunctions granted to prevent vexatious or oppressive action (rather than breach of an exclusive jurisdiction or arbitration clause) are an example of injunctions granted to

restrain what would otherwise be lawful conduct. Injunctions can restrain potentially harmful or otherwise undesirable conduct even if it might not give rise to a criminal sanction or civil right of action. The key criterion is what the interests of justice require. Here, so COPA submitted, it is plainly in the interests of justice that Dr Wright should not be able to sue others based on his dishonest claims, threaten such legal action or re-publish those claims.

40. COPA also pointed out that any attempt by Dr Wright to re-litigate his claim to be Satoshi would involve unlawful conduct (i.e. perjury and probably conspiracy to pervert the course of justice). Meanwhile, threats by Dr Wright to bring claims against Bitcoin developers might well amount to the tort of harassment and/or contravention of s.179 (false communications offence) or s.181 (threatening communications offence) of the Online Safety Act 2023. Dr Wright's publications of his claims have been used dishonestly to influence investment in BSV (which he promotes and in which Mr Ayre invests), as may be seen from the price spikes described in Mr Granath's statement (see [11] and the exhibited FT.com and Asia Times articles).
41. As for Dr Wright's reliance on the decision in *Samsung v Apple*, COPA submitted it again does not assist his argument, making the following points. Judge Birss did not suggest that the Court could not grant a restrictive injunction in this type of case (i.e. to prevent a person who had not infringed IP rights of others from claiming IP rights in future). He refused to grant such an injunction on the facts of the *Samsung* case, but those facts were far removed from the present situation. As already submitted, the reasons he gave for refusing injunctive relief in that case do not apply here. That was a genuine commercial dispute, with none of the fraud, harassment and oppression we see in this case.
42. I did not find the two threshold arguments persuasive, so I turn to Dr Wright's other arguments.
43. Having made those threshold submissions, Dr Wright then argued that, even if COPA can establish an in-principle entitlement to the relief it seeks, the relief should be refused because it would constitute an unjustifiable interference with his Article 10 rights. On the issue of whether the alleged interference would be justifiable, he contends that (a) COPA's objective of ending Dr Wright's campaign of litigation is not a legitimate aim for an injunction and should be pursued (if at all) through an application for a CRO (Civil Restraint Order); (b) while an injunction against relitigation would be connected to COPA's objective, an injunction against republication of Dr Wright's claims would not; (c) COPA's objectives could be achieved by the declarations it sought (now granted), and in any case do not require an injunction against republication of false claims; and (d) the relief sought would not strike a fair balance between any rights of COPA and Dr Wright's entitlement to free expression of "a core part of his beliefs and identity".
44. All these points turn on the facts and so I address them below, but first I must set out some further principles relied on by COPA.

The expansion of the categories of injunction.

45. Judicial comment over the years has repeatedly recognised that new situations may call for new forms of injunction. The overarching principle is that stated by Kitchin LJ in *Cartier International AG v British Sky Broadcasting Ltd* [2017] Bus LR 1 at [46], echoing Lord Goff in *South Carolina Insurance Co* [1987] AC 24 at 44. The courts will “*adapt to new circumstances by developing their practice in relation to the grant of injunctions where it is necessary and appropriate to do so to avoid injustice.*” This view was endorsed by the Privy Council in *Convoy Collateral* at [56], then by the Supreme Court in *Wolverhampton* at [21] and [22].¹ Changing circumstances include those resulting from developments in information technology and globalisation. (*Convoy Collateral* [59], [60]).
46. In *Cartier* itself, the Court upheld the decision to make website blocking injunctions to prevent infringement of intellectual property rights, starting from the domestic law propositions that (i) injunctions could be granted against those who had not themselves infringed rights, if they would protect such rights; (ii) an analogy could be drawn with the equitable protective principle underlying *Norwich Pharmacal* orders; and (iii) the Court’s jurisdiction under s.37(1) was very broad and could “*be exercised in new ways*”: see [55]-[56].

The principles governing injunctions to protect IP rights

47. The following principles apply to the discretion to grant injunctive relief in the context of the protection of intellectual property rights. They should be taken into account in relation to the grant of an injunction restraining someone from claiming or seeking to enforce rights in circumstances where a declaration of non-infringement has been granted on the basis of the person having no relevant right.
48. Any relief should be fair, equitable and not unnecessarily complicated or costly. It should be effective, proportionate and dissuasive, and applied in such a manner so as to avoid the creation of barriers to legitimate trade and to provide for safeguards against their abuse: *Merck v Merck Sharp & Dohme Corp* [2017] EWCA Civ 1834 at [307]. The granting of any injunction must be proportionate and have regard to any other competing considerations, including any Article 10 rights of the other party under the European Convention on Human Rights: see *Merck v Merck Sharp & Dohme Corp* at [310].
49. In deciding whether to grant injunctive relief, the Court will balance the competing interests. These will include any effects of refusal of the injunction on activity which would harm legitimate business activities. See *Heythrop Zoological Gardens v Captive Animals Protection Society* [2017] FSR 242 at [56]-[60] (a case addressing the balancing exercise on an interim injunction basis, where the threshold for an order impinging on Article 10 rights is higher).

¹ Although Dr Wright’s written closings discussed *Wolverhampton* at para 249, they omitted the overarching flexible *Cartier* principle endorsed in that case and *Broad Idea*.

50. The time at which the question of granting a final injunction is to be determined is after the Court has determined the matter on the merits (i.e. at the form of order hearing).² The likelihood of repetition is an important factor in determining whether a final injunction should be granted.³
51. The normal position in IP cases is that, where there has been an infringement, an injunction usually follows, absent clear undertakings or some other reason why that is not going to happen: see *Cantor Gaming v Gameaccount Global Limited* [2007] ECC 24 at [101]-[106]. That conclusion was based on a consideration of the cases cited below.
52. The approach in copyright cases was set out by the Master of the Rolls, Lord Woolf, giving the judgment of the Court of Appeal in *Phonographic Performance Ltd v Maitra* [1998] FSR 749 at 771:
- “... where a person establishes infringement of copyright and a threat to continue infringement, an injunction will in the ordinary case be granted without restriction. ... But the court, when granting an injunction, is still required to exercise a discretion and in so doing there could be circumstances where restriction or refusal of an injunction would be warranted.”
53. In relation to patents, the Court of Appeal in *Coflexip SA v Stolt Comex Seaway MS Ltd* [2001] RPC 182 put the position as follows at §6-7:
- “... whenever a court at the end of a trial grants permanent injunctive relief, the purpose should be to give effect to its judgment on liability ... The injunction granted should protect the plaintiff from a continuation of the infringements of his rights by the threatened activities of the defendant. But the injunction must also be fair to the defendant.”
- “... Normally, when a defendant has infringed, the court will assume it is not a one-off activity and will grant an injunction to stop repetition. This course is not inevitable. In a few cases courts have concluded that even though infringement has occurred, no future threat exists. In such cases, injunctive relief has been refused ...”
54. In *Cantor Gaming*, Daniel Alexander QC (sitting as a Deputy High Court Judge) said that the same principles of injunctions (set out in *PPL v Maitra* and *Coflexip*) must apply where a person establishes that there has been a breach of contract which prohibits an act akin to an infringement of an IP right: [104].
55. The Court may grant injunctive relief in support of a declaration of non-infringement, as was decided in *Samsung Electronics (UK) Ltd v Apple Inc* [2013] FSR 134 at [70]-[75]. There, the Court of Appeal upheld the granting of a publicity injunction requiring Apple to publish on its website and in the press

² See *Copinger & Skone James on Copyright (18th ed.)* at [21-236].

³ *Ibid* at [21.238].

an order that there had been no infringement. As to both jurisdiction and the applicable test, Sir Robin Jacob said this at [75]:

“I have no doubt that the court has jurisdiction to grant a publicity order in favour of a non-infringer who has been granted a declaration of non-infringement. A declaration is a discretionary, equitable, remedy. The injunction is an adjunct to the declaration. It will not always be appropriate to grant it. Whether or not it is depends on all the circumstances of the case – as I said earlier where there is a real need to dispel commercial uncertainty. It is that test I propose to apply here.”

56. In *Fay Evans v John Lewis Plc* [2023] EWHC 766 (IPEC) the Court said (at [124]-[125]) that the claimant had been “entitled to publicise her claim” but that “*the quid pro quo is that, her claims having been rejected by the Court, the Court will require her to publicise the judgment and order made against her in order to endeavour to redress the balance.*” In that case, publicity orders were made for notices to be posted on the claimant’s home page of her website, her Facebook page and on her Twitter account, all for a period of six months.

The underlying rationale for the protection of IP rights

57. When granting any form of relief in relation to IP, it is important to consider the underlying rationale for a system which protects IP rights. The system requires public trust and that measures be taken to prevent it being abused.
58. The IP Enforcement Directive (Parliament and Council Directive 2004/48/EC), which was considered in detail in *Cartier*, makes good this point. Recital 27 records that to “*act as a supplementary deterrent to future infringers and to contribute to the awareness of the public at large, it is useful to publicise decisions in intellectual property infringement cases.*” Article 3 lays down a “*General Obligation*” to provide for “*measures, procedures and remedies necessary to ensure the enforcement of the intellectual property rights*” covered by the Directive, which must be “*fair and equitable*” as well as “*not unnecessarily complicated or costly*”. Article 3(2) requires measures taken by member states to “*be applied in such a manner as to avoid the creation of barriers to legitimate trade and to provide for safeguards against their abuse.*”
59. While the IP Enforcement Directive does not provide for publicity orders to be made where IP rights have been found *not* to be infringed, that did not prevent the Court of Appeal in *Samsung* granting such an order in that situation. Such an order serves the purpose of the legal system for enforcing IP rights, by ensuring that a party who has made and widely publicised an unjustified claim of infringement must publicise the outcome of its claim. The order prevents abuse of the system and dispels commercial uncertainty.
60. The justification for the protection of IP rights is rooted in the public interest. In the case of patents, the interest is in the public benefit of full disclosure of new inventions in return for a statutory monopoly encouraging innovation. For copyright, it is the public knowing that the work derives from the author as well as the work ultimately entering the public domain. For trade marks, it is the

protection of consumers by ensuring that they know the origin of the products and services they buy.

61. Even in fields adjacent to IP, such as restraint of trade, the Court considers not only the employer / employee relationship but also the interests of the public at large: *Dranez Anstalt v Zamir Hayek* [2002] EWCA Civ 1729 at [21]. In that case, the Court of Appeal held that the first instance judge had erred in failing to give sufficient weight to the interest of the public at large of Dr Hayek being allowed to apply his inventive skills in medical science, in which there was ‘*an obvious public benefit*’ (at [23]). The Court based that public interest analysis on the Patents Act 1977 and the underlying statutory intent to promote innovation (at [25]).
62. The importance of a functioning IP legal landscape for the public benefit is also seen in Recital 4 of the InfoSoc Directive (Parliament and Council Directive 2001/29/EC):

“A harmonised legal framework on copyright and related rights, through increased legal certainty and while providing for a high level of protection of intellectual property, will foster substantial investment in creativity and innovation, including network infrastructure, and lead in turn to growth and increased competitiveness of European industry, both in the area of content provision and information technology and more generally across a wide range of industrial and cultural sectors. This will safeguard employment and encourage new job creation.”

63. IP rights, being monopolies of various sorts, are therefore justified in that their net benefit is in the public interest, with a view to fostering creativity and innovation. By corollary, where IP rights are abused to stifle creativity and innovation, the legal system ought to have the means to respond effectively.

Injunctions following a finding of non-infringement

64. COPA contended that injunctions of the kinds now sought have been discussed in cases before. The subject was discussed in the abstract in *Point Solutions Ltd v Focus Business Solutions Ltd* [2007] EWCA Civ 14. That was also a copyright case in which Chadwick LJ considered (obiter) the attraction of a party being ordered to “*put up or shut up*” in a case where it had been spreading the suggestion that another party was infringing its copyright. At [34], he said:

“It might (or might not) have been open to the judge to put Focus to an election: to require Focus either to make a positive case as to copying or to accept that the court would try only the single issue whether Focus had made an assertion of infringement, with the consequence that (if Point were successful on that issue) Focus would be required to withdraw (and not repeat) that assertion. Without deciding whether that course would have been open to the judge in this case, I can see some attraction in a ‘put up or shut up’ order in circumstances where one party seeks to spread it around the market by innuendo that another party (a

competitor) is infringing its copyright, with the obvious purpose of putting that other party at a commercial disadvantage. And, in that context, I would respectfully endorse Mr Justice Lightman's observation, in *L'Oreal (UK) v Johnson & Johnson* ([2000] FSR 686, 696), that: 'where a person in the position of the defendants sets out to write a clever letter designed to be close to the line between what is and what is not a threat or adverse claim, he should not be surprised if the Court holds that it is at least arguable that there is a threat or adverse claim'. Although *L'Oreal* was a trademark case – so that there was a statutory power to grant a declaration under section 21 of the Trade Marks Act 1994 – the principle seems to me equally apposite in a copyright case where the court's inherent jurisdiction is invoked."

65. Those observations regarding a “put up or shut up” order were made in the context of a defendant to a claim for a declaration of non-infringement of copyright who did not respond with a positive case of infringement, but merely argued (successfully) that the claimant had not discharged its burden of proof. No such problem exists for COPA in this case.
66. In *Samsung v Apple* (cited above), Samsung sought an injunction of a kind similar to that now sought by COPA, ancillary to a declaration of non-infringement. It argued that there was a need for an injunction to be granted in order that the Court's grant of declaratory relief should not be frustrated. Judge Birss (as he then was) accepted that he had the power to grant such an injunction and he observed that the above obiter comments in *Point Solutions* offered some support to Samsung's submission.
67. In response, Apple argued that Chadwick LJ had not focused upon the point that the assertion was not in itself unlawful. Judge Birss considered that Chadwick LJ had seen exactly that point when referring (at [20]) to the distinction between copyright and the statutory threats in a trade mark case. Judge Birss noted that *Point Solutions* had provided no detailed guidance to consider whether an injunction would be appropriate in another case. He considered whether an injunction should be granted in the case before him, deciding against doing so on the following grounds:
 - i) It would interfere with Apple's right to take proceedings in other Community courts ([23] to [25]).
 - ii) It would impair Apple's ability to appeal the judgment, although this could be addressed by a proviso (“Apple wish to appeal this ruling and I have given them permission to do that. To do that they need to assert that the Samsung tablet infringes. I suppose a proviso could be put into the injunction”) [26].
 - iii) It would interfere with Apple's Article 10 rights, although the arguments relating to such rights had not been fully developed (“*Finally, and most importantly in my judgment, Article 10 [ECHR] and freedom of speech would be engaged. An injunction of this kind, it seems to me, risks*

engaging the right to free speech. No development of these principles was made before me. All I will say is that I foresee serious difficulties in relation to freedom of speech arising from an injunction of this kind.” [27] (emphasis added)).

68. COPA submitted that the first point carries no weight in the present case, and the second is addressed by the proviso COPA has added to its draft order. As to the third and last point, COPA submit that Judge Birss clearly did not have the benefit of full submissions on the Article 10 case law. The key point which COPA developed on Article 10, as explained below, was that the authorities make clear that Article 10 either does not protect at all or gives very little weight to the protection of the freedom to publish falsehoods. They suggested that is a particularly strong consideration in the present case, where the Court has found Dr Wright’s claim to be founded on a lie, pure and simple.

Freedom of expression and Article 10 case law

69. Article 10 of the European Convention on Human Rights (“Freedom of Expression”) provides:

“1. Everyone has the right to freedom of expression. This right shall include freedom to hold opinions and to receive and impart information and ideas without interference by public authority and regardless of frontiers. This Article shall not prevent States from requiring the licensing of broadcasting, television or cinema enterprises.

2. The exercise of these freedoms, since it carries with it duties and responsibilities, may be subject to such formalities, conditions, restrictions or penalties as are prescribed by law and are necessary in a democratic society, in the interests of national security, territorial disorder or crime, for the protection of health or morals, for the protection of the reputation or rights of others, for preventing the disclosure of information received in confidence, or for maintaining the authority and impartiality of the judiciary.”

70. As Dr Wright submitted, section 6(1) of the Human Rights Act 1998 (“**HRA**”), which implements Article 10, makes it unlawful for the Court to act in a way which is incompatible with a Convention Right. The Court may grant an injunction interfering with Dr Wright’s right to freedom of expression only if satisfied that the infringement is permitted under the exceptions specified in Article 10(2) of the ECHR, including that the infringement is “*necessary in a democratic society*” in pursuit of defined aims, namely: “*the interests of national security, territorial integrity or public safety, for the prevention of disorder or crime, for the protection of health or morals, for the protection of the reputation or rights of others, for preventing the disclosure of information received in confidence, or for maintaining the authority and impartiality of the judiciary.*”

71. Since the right to freedom of expression is one of the “*core rights*” protected by the ECHR, the exceptions in Article 10(2) must be “*construed strictly and the need for any restrictions must be established convincingly*”: *Sürek and Özdemir v Turkey* (1999) 7 BHRC 339, [57 (i)], cited in *Lord Carlile* at [13] (Lord Sumption JSC) and [165] (Lord Kerr JSC). It must also be shown that any proposed interference with Article 10 is **proportionate** to the pursuit of one of the legitimate aims identified in Article 10(2). As Lord Sumption JSC explained in *Lord Carlile* at [19], where he repeated his summary of the effect of the authorities from *Bank Mellat v HM Treasury (No 2)* [2014] AC 700:

“the question depends on an exacting analysis of the factual case advanced in defence of the measure, in order to determine (i) whether its objective is sufficiently important to justify the limitation of a fundamental right; (ii) whether it is rationally connected to the objective; (iii) whether a less intrusive measure could have been used; and (iv) whether, having regard to these matters and to the severity of the consequences, a fair balance has been struck between the rights of the individual and the interests of the community. These four requirements are logically separate, but in practice they inevitably overlap because the same facts are likely to be relevant to more than one of them.”

72. Whilst accepting those points, COPA nonetheless submit that the case law is consistent that Article 10 provides either no or very limited protection to the right to publish or otherwise communicate false claims. Their starting point is the speech of Lord Hobhouse in the important defamation case of *Reynolds v Times Newspapers Ltd and Others* [2001] 2 AC 127 where he stated (at 237-8):

“This case is concerned with the problems which arise from the publication of factual statements which are not correct – i.e. do not conform to the truth. This case is not concerned with freedom of expression and opinion. The citizen is at liberty to comment and take part in free discussion. It is of fundamental importance to a free society that this liberty be recognised and protected by the law.

The liberty to communicate (and receive) information has a similar place in a free society but it is important always to remember that it is the communication of information not misinformation which is the subject of this liberty. There is no human right to disseminate information that is not true. No public interest is served by publishing or communicating misinformation. The working of a democratic society depends on the members of that society being informed not misinformed. Misleading people and the purveying as facts statements which are not true is destructive of the democratic society and should form no part of such a society. There is no duty to publish what is not true: there is no interest in being misinformed. These are general propositions going far beyond the mere protection of reputations.” (Emphasis added.)

73. COPA submit that it is clear from this passage not only that human rights do not protect a freedom to spread falsehoods, but that the principle extends beyond cases concerning reputation, given Lord Hobhouse’s broader references to the interests of the public in a democratic society.
74. COPA also submitted that Lord Hobhouse’s speech has been relied on in a number of subsequent cases, including: in *WXY v Gewanter & Ors* [2012] EWHC 496 (Slade J), where it was noted at [62] that: “*It is uncontroversial that there can be no public interest in the publication of false information*”; and by Tugendhat J in *Tesla Motors Ltd & Anor v BBC* [2012] EWHC 310 (QB) at [43], where he stated: “*There is no public interest in the dissemination of malicious falsehoods, and so Art 10 is not engaged.*”
75. In *ZAM v CFW* [2013] EWHC 662, Tugendhat J dealt with the subject at greater length in the context of a claim for a final injunction in a defamation case, under the heading “*Injunctions and Freedom of Expression*” at [19]-[23]:
- “19. The principle of freedom of expression, recognised by English law for centuries, provides that there shall be no interim injunction granted to restrain a threatened publication, if there is any basis upon which a court might decide at a trial that the threatened publication may be lawful. So if it is arguable that the threatened publication may not be defamatory, or if there is material before the court which could form the basis of a defence of any kind, no injunction will be granted before a final judgment is entered. This principle is commonly known in England as the rule in *Bonnard v Perryman* [1891] 2 Ch 269 (a nineteenth century case in which this much older principle was re-affirmed).
- ...
22. On the other hand, once a final judgment has been entered, whether after a trial, or summarily, a defendant's right to freedom of expression does not preclude the grant of an injunction. On the contrary, a claimant who succeeds in obtaining a final judgment is normally entitled to a permanent injunction to vindicate the right that he has proved that he has.
23. Freedom of expression is valued, amongst other reasons, because it tends to lead to discovery of the truth: *R v Secretary of State for the Home Department ex parte Simms* [2000] AC 115, 126E-G. So where a defamatory allegation has been proved to be false (as has happened in the present case) there is no public interest in allowing it to be republished, and a strong public interest in preventing the public from being further misinformed. Final or permanent injunctions have been routinely granted after final judgments.”
76. COPA also submitted that it is well-established by the jurisprudence of the European Court of Human Rights that the grant of final injunctions in defamation proceedings is compatible with Article 10. Even where Article 10

rights are engaged and such an order impinges upon journalistic freedom of expression, such an order may be justified as being necessary to protect the rights and freedoms of the person who has been defamed: see *McVicar v United Kingdom* (2002) 35 EHRR at [72] and [82]. Likewise, injunctions prohibiting publication of material obtained in circumstances of commercial confidence are capable of being justified under Article 10(2) even where they impact on a debate on matters of public interest: see *Tierbefreier EV v Germany* (16.1.14, App. No. 45192/09), at [47]-[60].

77. In his oral submissions, Mr Orr KC developed a full response to COPA's submissions, in part based on what had been set out in Dr Wright's written closing at trial. I can summarise his points as follows.
78. First, that Article 10(1) is stated in unqualified terms, and is not limited to opinions, information or ideas that are true and correct and that the Strasbourg jurisprudence makes clear that the right applies not only to expressions which are favourably received but also to those which offend, shock or disturb.
79. Second, Article 10(2) provides for derogations, but only in limited and defined circumstances. On derogation, Mr Orr KC made the five points already summarised above, but worth developing somewhat:
 - i) First, any derogation must be prescribed by law, but Mr Orr KC accepted that was not an issue here due to s.37 of the Senior Courts Act.
 - ii) Second, any derogation must be made pursuant to and in accordance with one of the interests or aims specified in Article 10(2). Mr Orr KC accepted that COPA's arguments engaged '*the protection of the reputation or the rights of others*', but contended that is why the defamation cases are distinguishable.
 - iii) Third, any derogation must be necessary in a democratic society. He submitted that the Strasbourg jurisprudence establishes that this requires the existence of a pressing social need for the derogation in question – see e.g. *Lord Carlile* at [165], quoting from *Sürek* at [57].
 - iv) Fourth, that freedom of expression is one of the core rights in the Convention so that any exceptions must be construed strictly.
 - v) Fifth, any interference with the right must be proportionate and that requires the application of the four stage test set out by Lord Sumption in *Carlile* at [19].
80. On this basis, Mr Orr KC submitted that the requirements of Article 10(2) are not met in this case and therefore it would be unlawful for the Court to grant the further injunctive relief sought by COPA. He relied on the following points:
 - i) First, he submitted that COPA has no legal right or interest in gagging Dr Wright or expunging the entire history of his claims. COPA's reputation has not been damaged and it has no claim in defamation.

- ii) Second, he submitted that any legitimate interest which COPA has in preventing re-litigation of Dr Wright's claims is met by the first two injunctions.
 - iii) Third, he submitted that the derogation from Dr Wright's freedom of expression sought by the further injunctive relief is not necessary and not required for some pressing social need.
 - iv) Fourth, the further injunctive relief is not proportionate for three reasons:
 - a) Even if prevention of re-litigation were a legitimate objective, he contended that there is no rational connection between that objective and the further relief sought, since it is not directed to preventing re-litigation but simply to gagging Dr Wright and erasing history.
 - b) Second, it follows that the further injunctive relief is not necessary.
 - c) Third, because it would not strike a fair balance between Dr Wright's freedom of expression and the interests of the community.
81. In this part of his argument, it was noticeable that Mr Orr KC referred to Dr Wright's *belief* that he is Satoshi which raises the beguiling prospect that it could be a belief genuinely held. If Dr Wright does really hold that belief, he is deluding himself.
82. Mr Orr KC then turned to address COPA's submissions based on *Reynolds*, submitting they were a gross oversimplification and wrong, in the circumstances of this case. His points were relatively simple, since they were very much based on the submissions he had already made (see [78]-[81] above). His principal point on *Reynolds* was that it was a decision made before the introduction of the Human Rights Act, his suggestion being that the analysis has to be different in the light of it.
83. In view of the relatively limited argument I heard on this point, this judgment is not the occasion either to doubt the consistent approach taken in defamation cases (based, as I understand it, on *Reynolds*) or to break any new ground on freedom of expression. I consider much the safer course is to conduct an Article 10(2) analysis to see whether these are circumstances in which a derogation is appropriate.

Anti-suit injunctions

84. The jurisdiction to grant anti-suit injunctions is one which has developed over time, protecting contractual rights laid down in exclusive jurisdiction and arbitration clauses and preventing parties from pursuing proceedings which would be vexatious or oppressive: see the general statement of principles in *Deutsche Bank AG v Highland Crusader Offshore Partners LP* [2010] 1 WLR 1023 at [50].

85. One of the types of case in which anti-suit injunctions have been granted is where there is a prospect of the respondent seeking to re-litigate matters which have been decided in proceedings here. See *The Anti-Suit Injunction (Raphael, 2nd ed.)*, at [5.17] to [5.20]; *Gee on Commercial Injunctions (7th ed.)* at [14-094]. This was made clear in *Masri v Consolidated Contractors (No. 3)* [2009] QB 503, where the Court of Appeal decided that there was no obstacle to the English Courts granting anti-suit injunctions to prevent relitigation abroad of matters decided in the instant proceedings, holding that “*the protection of the jurisdiction of the English court and its judgments by injunction has a long lineage*”: see [83]-[96].
86. In *Elektrim SA v Vivendi Holdings 1 Corp* [2009] 2 All ER (Comm) at [85], Lawrence Collins LJ explained that the principle extends to issues which should have been raised in litigation here but were not (by analogy with the *Henderson v Henderson* principle): “*an injunction may be granted to protect the process of the English court, and in particular to prevent the re-litigation abroad of issues which have been (or should have been) the subject of decision in England.*”
87. The jurisdiction is not limited to precluding relitigation of matters which are truly *res judicata*, but can extend to preventing any future proceedings which would be vexatious or oppressive. See for example *Michael Wilson & Partners Ltd v Emmott* [2018] 1 CLC 77 at [53]-[58].
88. An anti-suit injunction may be granted to prevent future proceedings being brought in England and Wales. As with such injunctions concerned with foreign proceedings, the primary consideration is whether the relevant proceedings would be vexatious or oppressive, and one category of case where the Court may grant such an injunction is to restrain vexatious relitigation: see *Raphael (cited above)* at [6.10]; *Thames Launches Ltd v Trinity House Corporation* [1961] Ch 197.
89. In *Essex Electric v IPC Computers* [1991] FSR 690, the Court granted an anti-suit injunction to prevent a party commencing passing-off claims against resellers, the effect of which would be to apply leverage to the other party in the proceedings before the Court. Importantly, the Court accepted that it necessarily also had jurisdiction to issue injunctions preventing the party from threatening such proceedings, where that too would be just, and it granted such an injunction as well. Ferris J said at p701: “*there is jurisdiction in the court to restrain, either completely or partially, the commencement of proceedings which the court would regard as an abuse of its process*” and “*there must likewise be jurisdiction to restrain the making of threats to commence proceedings*”.
90. In *Fujifilm Kyowa Kirin Biologics Co Ltd v Abbvie Biotechnology Ltd* [2017] Bus LR 333, Arnold J cited *Essex Electric* with approval in a review of authority and agreed that the Court could grant a domestic anti-suit injunction on the ground that the potential proceedings would be “*vexatious or oppressive or an abuse of process*”: see [61]. He acknowledged that the power must be exercised with caution.

Injunctions to prevent republication of dishonest statements

91. COPA contended that in defamation cases it is common for injunctions to be granted following final judgments to prevent republication of statements where there is a real risk that that will happen, and such injunctions may extend to publication internationally. In deciding whether to grant an injunction, the Court will have regard to any countervailing considerations, including effects on freedom of expression (but bearing in mind the case-law on that subject addressed above). For recent examples, see for instance *Sloutsker v Romanova* [2015] EMLR 27 at [93]-[97]; *Oyston v Reed* [2016] EWHC 1067 (QB) at [34]. The form of words used in COPA's draft order (which prohibits publication of specific statements or statements with similar meaning) is one “*of long and hallowed usage*” in the context of defamation claims: see *Bentinck v Associated Newspapers Ltd* [1999] EMLR 556 at 568.

The importance of deterring frauds upon the Court.

92. COPA drew attention to *Flitcraft Limited v Price* [2024] EWCA Civ 136, where the Court of Appeal recently emphasised how serious it is to abuse the court process by advancing false claims. The Master of the Rolls commented as follows:

“85. I agree with both judgments. I would only add one point, just in case the heinous nature of what Mr Price and Mr Middleton have done is lost in the meticulous detail of the two main judgments above. It appears from what the judge found that (a) Mr Price deliberately instigated a false claim in the High Court founded on an allegation that he was the proprietor of the patents, when he was not, and (b) Mr Middleton deliberately supported that false claim. The court takes a very serious view of dishonest conduct of this kind. It undermines the integrity of the justice system.

86. Whilst *Summers* was a different kind of case on the facts as has been pointed out, the following part of what Lord Clarke said in *Summers* at [53] was relevant here:

As to costs, in the ordinary way one would expect the judge to penalise the dishonest and fraudulent claimant in costs. It is entirely appropriate ... to order the claimant to pay the costs of any part of the process which have been caused by his fraud or dishonesty and moreover to do so by making orders for costs on an indemnity basis. Such cost orders may often be in substantial sums perhaps leaving the claimant out of pocket. It seems to the court that the prospect of such orders is likely to be a real deterrent.

87. That was why the judge was right to order Mr Price to pay Flitcraft's costs on the indemnity basis, and to penalise Supawall in costs for Mr Middleton's false evidence. The court will take

every appropriate step to deter those who contemplate bringing false claims, and thereby practising an intolerable deception on the court itself.”

93. In *Flitcraft*, the “*intolerable deception on the court*” was a claim to be the proprietor of a patent. In that case, it was Mr Price who advanced this deception, but he was in fact the original proprietor (having subsequently lost his right through bankruptcy). COPA contended that Dr Wright’s dishonest conduct is of a much more serious kind. While the issue in *Flitcraft* was whether indemnity costs orders were justified, the remarks of the Court were in more general terms and did not suggest that the only response to deceit is a costs sanction.

Application to the facts here

94. As the Master of the Rolls pointed out in *Flitcraft*, there is a risk that the overall character of what Dr Wright attempted to perpetrate in these cases can be lost in the detail, particularly all the detail set out in my Main COPA Judgment: [2024] EWHC 1198 (Ch). This was one reason why I started that judgment with a summary of the position, which I have well in mind for the purposes of this judgment.

The Main COPA Judgment

95. In their Skeleton Argument, COPA placed particular reliance on the following findings in my Main COPA Judgment:
- i) In [2], my findings that Dr Wright lied to the Court repeatedly and extensively; that most of his lies related to the documents he forged which purported to support his claim; that all his lies and forged documents were in support of his biggest lie: his claim to be Satoshi Nakamoto.
 - ii) In [5], that the evidence in support of his claim was based on fabrications and/or based on documents which I found to have been forged by Dr Wright on a grand scale.
 - iii) The examples taken from [131]-[165], demonstrating that Dr Wright’s lies were both brazen and elaborate.
 - iv) In [944], that COPA’s rebuttal evidence took considerable effort and cost to assemble and present.
 - v) In [920] & [924], that Dr Wright’s forgeries were numerous, produced over a significant period of time, including *during* the Trial.
 - vi) That overall, as COPA exposed forgeries, the more forgeries Dr Wright produced, and the more additional work was required to expose them.
 - vii) That the overall exercise which COPA had to undertake could not have been done by an individual of ordinary means, both because of the work involved and because of the extensive financial backing Dr Wright had

from Mr Calvin Ayre and nChain, a point exemplified by the witness statement from Mr McCormack filed for the FOO hearing.

96. To which I add some more of the concluding paragraphs at [926], [929] & [937].

Further relevant facts and evidence

97. The evidence at trial was supplemented by some further evidence filed for this FOO hearing, which I mention below. In support of their claims for injunctive relief, COPA relied on the following further points from the evidence:

- i) Dr Wright has made highly aggressive threats, including to bankrupt Bitcoin developers, have them imprisoned and (in one vitriolic post accompanied with a photograph) to have them “*defenestrated*”: Lee 1, [17]-[18].
- ii) Dr Wright and Mr Ayre have repeatedly telegraphed their intention to pursue a crusade against those who dispute Dr Wright’s claims. See for example: the evidence of their Twitter posts from the *McCormack* trial; the posts from Dr Wright which breached the embargo in *McCormack* (saying that he would “*spend 4 million to make an enemy pay 1*”); and Mr Ayre’s “*troll hunting*” posts. Furthermore, they pressed the defamation actions to try to force Mr Granath, Mr McCormack and others to make public statements that Dr Wright is Satoshi.
- iii) Since 2015, Dr Wright has been able to find huge financial resources to support his claim, despite supposedly having a salary of about £160,000. At least some of this financial support has come from Mr Ayre, who participated in Dr Wright’s bailout in 2015 and provided funding for the *McCormack* action, as well as investing a very large sum in nChain. The funds paid into Court to discharge the WFO appear also to have come from Mr Ayre (as explained in COPA’s Skeleton Argument from the WFO return date). As Mr Ayre’s leaked email of September 2023 shows, he has also been happy to use his CoinGeek website as a megaphone for Dr Wright’s claims.
- iv) Dr Wright’s threats of legal action and his actual legal actions have (predictably) impaired legitimate activities of cryptocurrency development: Lee 1, [19]-[24]. His claim against COBRA led to the Bitcoin White Paper being inaccessible from the bitcoin.org site and resulted in the Bitcoin software on that site being outdated (as explained in *Horne 2*, concerning the COBRA claim).
- v) Dr Wright’s litigation based on his false claims has occupied vast Court resources, including at least 54 days of UK Court time before the Identity Issue trial and the 24 days of that trial, plus all the judicial time on top of days spent in the courtroom.

98. In his 22nd witness statement, Mr Sherrell of Bird & Bird provided further evidence relevant to the grant of injunctive relief. He made the following points, all of which I have taken into account to the extent appropriate:

- i) Fuller details than I had at trial about the large number of legal actions resulting from Dr Wright pressing his false claim to be Satoshi and other claims which Dr Wright has threatened over the years. See Sherrell 22, [9]-[15].
- ii) He detailed the huge scale of Dr Wright's public postings and other communications, mainly in support of his false claim to be Satoshi. Since early 2022 he has been making about 800 posts per month on Twitter / X (with over 34,000 followers). Until recently, his Twitter / X feed described him as the creator of Bitcoin and had as the top (pinned) post one which stated with characteristic grandiosity "*I conceived Bitcoin, and I unveiled it to the world...*", and he only removed this after COPA drew attention to it in its evidence for this hearing. Dr Wright reacted to the judgment with a post declaring his intention to appeal. His supporters responded with a string of posts, including some suggesting that the Court was biased or corrupt. See Sherrell 22, [18]-[33].
- iii) Shortly before trial, Dr Wright used Twitter / X to post quotations from Satoshi emails which he indicated were unpublished communications, apparently intending to support his false claim by suggesting special knowledge of Satoshi's emails. In fact, these were emails exhibited to Mr Malmi's witness statement. So, he was using material obtained through the litigation process to give further dishonest support to his claims. See Sherrell 22, [34]-[40].
- iv) Since trial, Dr Wright has engaged with supporters over his Slack channel, with his supporters again disputing the Court's independence and ability. Even on 22 May 2024, after the handing-down of the judgment, Dr Wright posted a paper which had a link to his SSRN upload of the doctored Bitcoin White Paper. This was the version uploaded by Dr Wright in August 2019, bearing a false creation date of 24 January 2008, and which the Court found to be a forgery. Dr Wright recently told his Slack followers that: "*What matters is not to give up.*" See Sherrell 22, [45]-[53].
- v) Although Dr Wright's website is currently suspended, it was active at least as late as 17 March 2024, including a series of the articles promoting his claim to be Satoshi. An altered copy of the Bitcoin White Paper was available via that website as late as 26 March 2024. See Sherrell 22, [57]-[62].
- vi) In the run-up to and during the trial, Mr Ayre's CoinGeek website ran a series of articles promoting Dr Wright's claims and presenting a highly slanted account of the trial. Even at the end of trial when the Court gave its declarations, Dr Wright's online supporters sought to question whether the Court had really made a decision. See Sherrell 22, [63]-[71].
- vii) On 20 May 2024 (the day the Court handed down its judgment and two months after the Court's declarations), a book was published entitled "*Hero / Villain – Satoshi: The Man Who Built Bitcoin*". Mr Ayre made

arrangements for the author, Mark Eglinton, to write the book, which promotes Dr Wright's claim to be Satoshi and which presents Dr Wright as a figure of astounding abilities. It is evident from the book that Dr Wright provided extensive co-operation, intending it to advance his claims irrespective of the Court's decision. Mr Matthews also gave accounts for the author, including his dishonest account about receiving a pre-issue copy of the Bitcoin White Paper. The offices of nChain were used for interviews. See Sherrell 22, [72]-[82].

- viii) On 30 January 2024, shortly before trial, Dr Wright posted a half-page advertisement in the Times newspaper publicising an open offer he was making to settle these proceedings. The proposal, which would have entailed COPA recognising his claim to be Satoshi, was quickly rejected. In reality, the offer and the publication of it were a publicity stunt. They show how far Dr Wright was prepared to go to fight a publicity campaign alongside the litigation.
99. In addition to Sherrell 22, COPA served witness statements from Mr Granath and Mr McCormack recounting their experiences of being targeted and sued by Dr Wright. They make sobering reading. As COPA submitted, each man suffered five years of personal hell. Mr Granath was hunted down, with a bounty for his identification. He received threats from a private investigator while he was with his six year-old daughter, and was subject to physical surveillance. Mr McCormack was hospitalised twice due to a cardiac condition (SVT) resulting from stress. Mr Granath had to give up his job as a primary school teacher, and both missed out on business opportunities. Both incurred massive costs and had to sell assets, and Mr McCormack was, until recently, facing a costs claim of £3.4 million from Dr Wright because he had to abandon the truth defence, even though it is clear that his tweets were true. Each suffered online abuse from Dr Wright, Mr Ayre and their supporters, with Dr Wright threatening financial ruin and prison. Each was put under heavy pressure to sign statements acknowledging Dr Wright as Satoshi. As noted above, the defamation action in each case sought a public finding to the same effect. This was all part of a deliberate strategy whereby Dr Wright and his backers sought to establish the claim by unequal contests. As Mr Ayre put it: "*judge only needs one troll to pass judgment... just waiting for a volunteer to bankrupt themselves trying to prove a negative.*"
100. As one would expect, Dr Wright's forgeries appear to have played a significant role in both the *McCormack* and *Granath* cases. In *Granath*, at least 10 documents analysed by KPMG I found to have been forged by Dr Wright, as COPA established by comparing the MD5 hashes given for each document in COPA's pleadings to those given in the KPMG Report from *Granath*.
101. In *McCormack*, Dr Wright provided 1,618 documents in support of his defamation claim at a time when truth was in issue. As I recorded in a recent judgment [2024] EWHC 1735 (KB) at [23], Mr McCormack's team revealed that I found in my COPA judgment that 32 of the documents relied on by Dr Wright in *McCormack* were forged. I have no doubt that those 32 documents were the tip of the iceberg, since the entire premise for Dr Wright's defamation claim was his claim to be Satoshi.

102. Throughout the litigation, Dr Wright mocked Mr Granath and Mr McCormack with vitriolic comments, while Mr Ayre's vehicle CoinGeek pumped out articles: see McCormack 1 at [18]-[20] and Granath 1 at [49]. The examples shown include dozens of pages of critical CoinGeek articles presented as "reporting". The sample social media posts by Dr Wright feature a range of crude threats against these men and others: threats of sexual assault, prison, and social ruin. One significant set of comments, which was met with no less than 109 supportive reactions from Dr Wright's followers, holds out Dr Wright's conduct towards Mr McCormack as an example to the world at large:

*"We crush McCormick
Then, take a few more
Then a few more..."
"And, they hide in fear"
"They run"
"They find that being an ass online has a cost"*

COPA's summary of key points

103. COPA summarised the position in the following sub-paragraphs:
- i) Dr Wright put an enormous amount of effort into making his dishonest claim and backing it up with forged documents and other unreliable evidence. When he has faced setbacks in the past (such as the debacle of the Sartre Message and the later failure to move Bitcoin from early blocks in mid-2016), he has sought to revive his claim later by other means.
 - ii) Over the last 8-9 years, Dr Wright's activities in promoting his claim have been backed with very substantial financial resources. Furthermore, it would have been impossible to take apart his dishonest claim in litigation as COPA has done without also committing very substantial money, time and expertise. To use Mr Ayre's phrase from his email of 23 September 2023, COPA had to "*spend toe to toe*" with him.
 - iii) He has been highly litigious in many jurisdictions, at first bringing claims against individuals like Peter McCormack and Magnus Granath who had limited means to fight him in Court. As Mr Ayre's tweets reveal, this was a deliberate strategy of trying to make good his claim to be Satoshi against opponents who could not match his resources.
 - iv) The effect of Dr Wright's litigation and threats of litigation has been to deter Bitcoin and cryptocurrency development. Furthermore, he has used litigation as a platform to make unfounded allegations against individuals, while shielded from defamation claims by absolute privilege attaching to court proceedings.
 - v) Quite apart from the effect of Dr Wright's campaign of unfounded litigation on its targets, it has occupied vast Court resources.

104. Accordingly, COPA submit that there are powerful reasons to ensure that Dr Wright should not be able to refight this trial, relaunch his litigation campaign or to pound cryptocurrency developers, bloggers and others with new threats in the future. COPA suggest this must be the last act of the play.

The first two injunctions

105. It will be recalled that the first two injunctions restrain the pursuit or the threat of some ‘Precluded Proceedings’. There was no real dispute as to what should comprise the Precluded Proceedings. These are:

- (a) ‘Proceedings in which rights are claimed or asserted (whether legal or equitable, whether founded on common law, statute or other basis and whether or not the rights are known to English law) based wholly or partly on any one or more of the following grounds:
 - (i) that Dr Wright is the or an author of the Bitcoin White Paper (i.e. the paper entitled “Bitcoin: a Peer-to-Peer Electronic Cash System”, which was released on or about 31 October 2008 under the name “Satoshi Nakamoto” and subsequently published in a revised version on or about 24 March 2009);
 - (ii) that Dr Wright, WII and/or WII UK is the or an owner of the copyright and/or moral rights in the Bitcoin White Paper (as defined above);
 - (iii) that Dr Wright is the person or one of the persons who adopted or operated under the pseudonym “Satoshi Nakamoto” in particular in the period 2008 to 2011;
 - (iv) that Dr Wright is the person or one of the persons who devised and/or created the Bitcoin System (i.e. the peer-to-peer electronic cash system implemented from around January 2009 which originated from the Bitcoin White Paper);
 - (v) that Dr Wright is the or an author of any of the versions of the Bitcoin software created or issued in the period up to 2011 (including the executable file and related source code issued under the name Satoshi Nakamoto on or about 8 January 2009);
 - (vi) that Dr Wright, WII and/or WII UK is the or an owner of database rights in the Bitcoin Blockchain (i.e. the blockchain which was made available for transmission between nodes from January 2009 and later extended by the addition of blocks up to the present day) or in any part of it;
 - (vii) that Dr Wright is the or an author of the Bitcoin File Format (i.e. the structure of blocks within the Bitcoin Blockchain (as defined above)) or the Bitcoin software referred to at (v) above;
 - (viii) that Dr Wright, WII and/or WII UK is the or an owner of copyright and/or moral rights in the Bitcoin File Format (as defined above) or the Bitcoin software referred to at (v) above;

- (ix) that Dr Wright devised the name “Bitcoin”;
 - (x) that Dr Wright, WII and/or WII UK owns goodwill and/or unregistered trade mark rights in the name “Bitcoin” and/or in the Bitcoin System (as defined above); and/or
- (b) Proceedings in which it is otherwise asserted that Dr Wright is the person or one of the persons who adopted or operated under the pseudonym “Satoshi Nakamoto” or that Dr Wright is responsible for acts done by such person or persons.’
106. However, two issues arose as to precisely what aspects of such proceedings should be restrained. Both issues arose from COPA’s wording that Dr Wright and his companies ‘*shall not pursue and shall not cause, encourage or permit any other person to pursue*’ any of the Precluded Proceedings anywhere in the world.
107. Counsel for Dr Wright objected to ‘pursue’ and suggested that ‘commence’ or ‘procure’ should be substituted because Dr Wright must be able to defend any proceedings brought against him on the bases set out above.
108. In response, COPA pointed to the common exceptions to all the injunctions sought. I should point out that in the course of oral submissions, COPA agreed to an addition to this paragraph based on a submission made by Dr Wright, which I have shown underlined:

‘Notwithstanding the orders made above, it shall not in any event be a breach of any of those orders for the Defendant to take any of the following steps:

(a) to pursue any appeals process or processes in respect of orders made in the present proceedings;

(b) to defend any civil contempt application or civil contempt proceedings in connection with the subject-matter of the present proceedings;

(c) to defend any criminal prosecution which might be brought against him in connection with the subject-matter of the present proceedings;

(d) to pursue any appeals process or processes in the case of *Ira Kleiman and W&K Info Defense Research LLC v Craig Wright* (Case No. 18-CV-80176 – US District Court, Southern District of Florida); or

(e) to take any preparatory or ancillary action relating to the steps set out at (a) to (d) above (including, without limitation, seeking legal advice, litigation funding, evidence or other assistance in such matters).

(f) any step for which Dr Wright has obtained the prior permission of this Court in an Order following an application supported by evidence made with at least 14 days written notice to COPA and the represented parties.'

109. Counsel's second point was that the expression 'cause, encourage or permit' was both too vague and too broad. It was submitted that it is not clear what would amount to **causation** or **encouragement** for these purposes and that it would plainly be unjust for Dr Wright to be exposed to contempt proceedings by reason of proceedings brought by unconnected third parties which COPA claimed were precipitated by something done or said by Dr Wright, even if unintentionally. The prohibition on **permitting** Precluded Proceedings was said to be particularly objectionable: it suggests that Dr Wright might need to take some unspecified positive steps to prevent anyone in the world commencing Precluded Proceedings, or face the risk of prison.
110. Dr Wright made a very similar point on the second injunction. It was submitted that the reference to "*shall not cause, encourage or permit any other person to threaten*" is objectionable for the same reasons.
111. For COPA, Mr Hough KC responded by saying that each of the words 'cause, encourage or permit' had a clear meaning, and furthermore, that this relief was necessary in the light of two particular features of Dr Wright's past conduct:
- i) The first was Dr Wright's previous use of complex claimed assignments and re-assignments of IP rights, but all these were to and from entities owned and/or controlled by him.
 - ii) The second was Dr Wright's previous use of what one might call 'staged' actions in which he sues or is sued by a 'friendly' party to set up proceedings as a vehicle to establish his claimed rights. The examples cited by COPA were (a) the claim against W&K Info Defense to engineer a settlement which gave rise to supposed assets, and the Australian Tax Office decided, in effect, this was a claim and outcome staged by Dr Wright; (b) the claim against the first defendant, BTC Core, the point being that there was no real dispute between the claimant and the first defendant.

Discussion

112. Leaving aside for the moment the disputes over the precise wording, I have no doubt that the first two injunctions are necessary. In so finding I should mention three points made by Mr Hough KC for COPA. His first point was that it would be vexatious and oppressive for Dr Wright or any of his companies to seek to re-litigate any of the matters set out in the first injunction. I entirely agree. His second point was a response to the suggestion from Dr Wright's side that some form of Civil Restraint Order would provide sufficient protection. I agree that this would be an insufficient response which would have force only in this jurisdiction and for a limited period. His third point was to address the suggestion that COPA do not have standing to seek injunctive relief. If this point was to be made, it should have been made in response to the declarations sought

by COPA and at the Joint Trial. In any event, I reject the argument that COPA do not have a relevant interest to protect.

113. Moving to the disputes over the wording, the resolution of issues of this type is often facilitated by real-life examples and one presents itself based on the recent hearing I conducted on Mr McCormack's application for a Worldwide Freezing Order against Dr Wright in respect of an alleged costs entitlement of £1.548m, now that Dr Wright has dropped his entitlement to costs against Mr McCormack: see [2024] EWHC 1735 (KB).
114. I heard substantial argument on the routes by which Mr McCormack might be able to recover all or parts of that total sum in costs. One route (which I happened to favour) was via an action for fraud, to set aside the Judgment and Order of Chamberlain J. following the trial of the defamation claim. On Mr McCormack bringing such a claim, I envisaged that Dr Wright would plead by way of defence that he was Satoshi Nakamoto, whereupon Mr McCormack would apply to strike out that defence on the ground that it would be an abuse of process for Dr Wright to seek to re-litigate the issue in the light of my Main COPA Judgment. Although I did not decide that was what would happen and I do not decide that here, that example shows that (a) the decision as to whether Dr Wright's defence would be an abuse of process ought to be decided in the circumstances of that particular case and not in the abstract in this FOO hearing which also demonstrates (b) that Dr Wright must be free to plead such a defence.
115. It will also be noted that COPA's carve out does not cover the conduct by Dr Wright of a defence to proceedings brought against him, where his defence is that he is or believed himself to be Satoshi.
116. In view of these considerations, I have concluded that the operative part of the first injunction should read as follows, so that Dr Wright is able to plead by way of a defence any of the grounds which are the subject of this first injunction (set out in [105] above), but not pursue a counterclaim:

'Subject to the provisions of [the qualifications paragraph], each of Dr Wright and any of his companies including Wright International Investments Limited ('WII'), Wright International Investments UK Limited ('WIIUK') and Tulip Trading Limited shall not commence or procure the commencement by any other person of any proceedings (whether by claim or counterclaim) in the Courts of England & Wales, the Courts of any foreign jurisdiction or in any arbitral tribunal (wherever seated) any proceedings of any of the following kinds (**'Precluded Proceedings'**):'

117. And the second injunction will read as follows:

'Subject to the provisions of [the qualifications paragraph], each of Dr Wright and any of his companies including Wright International Investments Limited ('WII'), Wright International Investments UK Limited ('WIIUK') and Tulip Trading Limited shall not threaten (explicitly or implicitly) or procure any other

person to threaten (explicitly or implicitly) that any Precluded Proceedings will be pursued against any person in the Courts of England & Wales, the Courts of any foreign jurisdiction or in any arbitral tribunal (wherever seated).’

118. In that second injunction I have deliberately inserted the words ‘explicitly or implicitly’ to make it clear that there are many ways in which a threat of proceedings can be communicated, as the extensive caselaw on threats in IP and particularly patent proceedings makes clear. Each case depends on its own circumstances, but the case law is clear that, in certain circumstances, the mere assertion that a right is possessed may well constitute a threat of proceedings. This aspect of the second injunction is relevant to my consideration of whether I should grant the third injunction sought by COPA.
119. I agree that the expression ‘cause, encourage or permit’ is somewhat unsatisfactory in this scenario because it would introduce some uncertainty as to precisely what is restrained and what is not. For that reason, I have inserted ‘procure’ which requires more positive action on the part of Dr Wright and which, in my judgment, provides sufficient protection.

The further injunctive relief sought.

120. It is under this heading that the arguments over freedom of expression come to the fore.
121. As with all injunctions, their precise terms matter but, in the broadest outline:
- i) The third injunction seeks to restrain Dr Wright or his companies from *asserting* that they or any of them possess rights based on any of the grounds set out in the first injunction.
 - ii) The fourth injunction prevents Dr Wright or his companies from *publishing* or causing to be published any statements to the effect that he is Satoshi, or the or an author of the Bitcoin White Paper or the Bitcoin source code etc.
 - iii) The fifth injunction is a mandatory order requiring Dr Wright and his companies to delete all such published statements.

Dr Wright’s position on the further injunctions sought

122. For his part, Mr Orr KC for Dr Wright, emphasised the background against which I was invited to grant the *additional* relief sought:
- i) First, that I have declared that Dr Wright is not the author of the Bitcoin White Paper nor the owner of copyright in it, is not Satoshi Nakamoto and is not the person who created Bitcoin and not the author of the initial versions of the Bitcoin Source Code.
 - ii) Second, that those declarations stand as formal binding and public statements of the Court’s conclusion on those matters.

- iii) Third, the declarations have now been supported by my detailed written Judgment.
- iv) Fourth, that the declarations and Judgment have been widely publicised, not only by the mainstream media outlets such as the Financial Times and the New York Times, but also on social media channels and on COPA's website.
- v) Fifth, the declarations will now be supplemented by Orders preventing Dr Wright and his companies from bringing or threatening to bring legal proceedings based on the assertion that Dr Wright is Satoshi Nakamoto, as per the first two injunctions sought by COPA. Those Orders extend to England & Wales, the courts of any foreign jurisdiction and any arbitral tribunal, wherever seated.
- vi) Sixth, Dr Wright's disavowal of any intention to bring or threaten to bring legal proceedings based on the assertion that he is the creator of Bitcoin etc, is corroborated by his discontinuance of the claims previously brought, including the BTC Core Claim, the Coinbase and Kraken claims, the Tulip Trading Claim and the *Granath* proceedings.
- vii) Seventh, that it is important to note that COPA has not established any infringement of any of their IP rights, and COPA has no case in defamation against Dr Wright by his claim to be Satoshi, and that the same points apply to the Developers, Coinbase, Kraken and all the other defendants to the claims brought by Dr Wright or his companies, including Tulip Trading Ltd.
- viii) Eighth, Mr Orr KC acknowledged that Dr Wright has publicly criticised the Developers and the other defendants to his claims, arising from his different views as to how Bitcoin should be operated, but he contends that those criticisms have nothing to do with the Identity Issue which has been determined by the Court, and are irrelevant to the additional relief now sought.

123. Against that background, Mr Orr KC submitted as follows:

- i) The additional relief sought by COPA is wrong in principle, and would constitute an unjustifiable interference with Dr Wright's freedom of expression.
- ii) It is also unnecessary on the basis that any legitimate interest of COPA has been fully vindicated by the Court's declarations and the restrictions which Dr Wright is prepared to concede.
- iii) That point, he submitted, is confirmed by COPA's own submissions. COPA justify the injunctions it seeks on the basis that they are needed to prevent Dr Wright from re-litigating or threatening the claims which have now been decided in the COPA Main Judgment. However, that justification is met by the injunctions to which Dr Wright does not

object. Preventing re-litigation cannot justify the additional injunctions sought.

- iv) On that basis, (so Dr Wright's submission goes) the additional relief sought by COPA is motivated by a desire for revenge and to punish and humiliate Dr Wright and that is not a legitimate exercise of the Court's equitable jurisdiction.

COPA's position

124. In his response, Mr Hough KC made clear it is not COPA's objective to extract revenge or humiliate Dr Wright. He submitted that the evidence shows that it is Dr Wright alone amongst all the parties who has the capacity for vindictiveness, albeit that Dr Wright's vindictiveness, particularly towards the Developers, was reinforced by that demonstrated in Mr Ayre's social media posts. Mr Hough KC made it clear that the orders sought are aimed at bringing an end to a campaign of dishonesty which has been pursued for a decade for the purpose of advancing false claims, threatening and suing others with a view to significant financial and commercial gain.

Discussion

125. It can be seen that the injunctions sought by COPA descend a scale. The first injunction restrains the commencement of proceedings based on one of the grounds. The second injunction restrains threats of such proceedings. The third injunction is designed to restrain the assertion of the underlying rights and claims. The fourth injunction restrains the publication of statements of the underlying rights and claims. There is undoubtedly overlap between the second to fourth injunctions.
126. The third to fifth injunctions require me to focus on what relevant right or interest COPA and the Developers have in this situation and, specifically, whether that right or interest is satisfied by the first two injunctions I grant, or whether any part of the further relief sought by COPA is necessary.
127. I must also focus on any countervailing right or interest held by Dr Wright, and in particular, the claim made forcefully by his Counsel of his right to freedom of expression.
128. As I have mentioned previously, COPA is an organisation representing corporate entities in the Bitcoin industry and although individuals are permitted to join, I understand that none have. However, I can take the individual Developers, as defendants to the BTC Core and TTL claims, as the prime examples of individuals affected by Dr Wright's claims, particularly in the light of the unpleasant personal threats he has made against them on social media.
129. On its website, COPA describes itself in the following way:

'COPA is a non-profit community of people and companies formed to encourage the adoption and advancement of cryptocurrency technologies and to remove patents as a barrier

to growth and innovation. The success of cryptocurrency depends on the community coming together to build and develop upon existing technologies to innovate, which is not possible when parties tie up the technologies in patents and litigation.’

130. In its Particulars of Claim, COPA pleaded that ‘It was formed to encourage the adoption and advancement of cryptocurrency technologies and to remove barriers to growth and innovation in the cryptocurrency space.’ It also pleaded a series of paragraphs under the heading ‘Claimant’s need for declaratory relief’ – see [48]-[55] – in which reference is made to the ‘chilling effect’ of Dr Wright’s claims and threats on parties wishing to publish and utilise the insights of the Bitcoin White Paper.
131. Mr Hough KC emphasised the various aspects of COPA’s interests. Although COPA brought its own claim, it (and many of its members) were sued in the BTC Core Claim. So one relevant interest is the right of COPA and its members not to be sued on false grounds. That interest is protected by the first two injunctions. However, their interests go wider.
132. COPA and its members have a legitimate interest in free development and innovation in the cryptocurrency field. They have an interest in Bitcoin development being promoted rather than inhibited. That interest coincides with the interests of the Developers being able to carry out their work without any further harassment or intimidation from Dr Wright or any of his followers. It also embraces the position of commentators, like Mr Granath and Mr McCormack, who should not be intimidated any further from stating the truth.
133. In this regard COPA pointed to Dr Wright’s practice of bringing claims in chosen forums (particularly those with strong laws of defamation) against individuals of limited means – Mr Granath and Mr McCormack. Once again, the first and second injunctions should bring an end to that.
134. The financial gain sought in the Tulip Trading Claim was gaining possession over Bitcoin worth over £4bn, but that might well have just been a staging post. If he had proved he was Satoshi, Dr Wright would then have been able to lay claim to all the Bitcoin owned by Satoshi worth very considerably more than that. Arguably however, the commercial and competitive gain would have been more significant because the IP rights which Dr Wright was asserting in the guise of Satoshi were aimed at giving him control over the Bitcoin ecosystem.
135. The COPA Claim is undoubtedly unusual, and brought to address a very unusual situation created by Dr Wright’s lies. There was a hint in Mr Orr KC’s submissions on injunctive relief that Dr Wright could have taken a point that COPA had no right or interest sufficient to justify the declarations sought. To the extent that there was a potential issue there (since the point was not taken), it was rendered moot by the presence of the BTC Core Claim (this being one of the reasons for ordering the Joint Trial in the first place). Mr Orr KC’s other point was that the COPA Claim was not a defamation claim, undoubtedly true.
136. However, Mr Orr KC’s submissions were, in my view, dependent on taking far too narrow a view of this overall situation. With the point made by the Master

of the Rolls in *Flitcraft* in mind, I consider I must take account of what has occurred in all the claims which featured Dr Wright's claim to be Satoshi, each of which has been part of his mendacious campaign to prove he is Satoshi:

- i) Although whether Dr Wright was Satoshi was not in issue in the *Kleiman* action, it would not have occurred without his assertion that he was.
 - ii) That was followed by his defamation claims against Mr McCormack and Mr Granath in the UK, even though his claim against Mr Granath was tried in Mr Granath's domicile in Norway.
 - iii) Becoming bolder, Dr Wright then asserted his claim to copyright in the Bitcoin White Paper, bringing his claim against COBRA over the content of the website bitcoin.org. His claim to copyright also seems to have been the trigger for COPA's claim, which was followed by Dr Wright initiating his claims in passing off against Coinbase and Kraken, the TTL claim and finally, the BTC Core Claim.
 - iv) As Dr Wright became bolder in his claims, we now know that he was busy creating a wide variety of forged documents to back up his campaign.
137. All these claims were related by Dr Wright's claim to be Satoshi. In one sense, the COPA Claim comprised, in part, the truth defence to Dr Wright's defamation claims, and the cost and effort on the part of COPA and the Developers at the Joint Trial to establish that demonstrates the very considerable momentum which Dr Wright's claim had built up.
138. This analysis serves to show that it is misleading to characterise the issue merely as Dr Wright's freedom to express his claim to be Satoshi or his belief that he is. Any expression of that claim in the future has to be gauged in the light of his overall campaign and the result of the Joint Trial.
139. In bringing its claim COPA was, in effect, representing the interests of all those in the crypto industry who were affected, to varying degrees, by Dr Wright's lies that he was Satoshi and, founded on that lie, his claims to have control, via copyright, database right and the law of passing off, over the activities of those in the industry who did not agree with him and his views of Bitcoin, particularly BSV. Accordingly, in my judgment, the claim decided at the Joint Trial had some of the attributes of a defamation claim, in that the claim was brought to demonstrate that Dr Wright's claims were false, so that his claims and threats had no merit, thereby ameliorating the chilling effect of his claims on the very substantial part of the industry which did not agree with him.
140. Whilst it would be tempting to think that the result of the Joint Trial, together with the first and second injunctions, would be enough to rob Dr Wright's claim to be Satoshi of all its momentum, that appears to be wishful thinking. Although Dr Wright has gone quiet (particularly via his website), that is likely to be temporary. Furthermore, he clearly has a number of disciples who will not accept that he is not Satoshi. So it remains to assess what residual momentum his claim still has, both now and in the future.

141. In the course of submissions I was shown a series of recent social media posts reacting variously to the declarations I made at the conclusion of closing submissions in the Joint Trial and to the handing down of my Main COPA Judgment. It is clear that some commentators agree with the outcome and some remain unpersuaded by it.
142. In the light of the evidence, I explored with Counsel for Dr Wright three points which had occurred to me:
- i) The first was that Dr Wright’s sinister and mendacious campaign to establish himself as Satoshi over many years and involving wholesale lies and forgery requires an extraordinary response. I understood Mr Orr KC to respond by repeating his point that it is not the Court’s function to punish or exact revenge, a point I entirely accept but one which does not really meet the gravamen of Dr Wright’s long running campaign.
 - ii) The second point concerned the consequences of the different outcomes of the COPA Trial. If Dr Wright had won, he would have then been able to sue anyone voicing a contrary opinion for defamation and would thereby be able to silence all contrary voices (at least in the UK). Yet the converse is not true. Mr Orr KC accepted this, but suggested the first two injunctions would meet the gravamen of the situation and that even in a defamation case, the Court does not restrain the loser from criticising its decision – again I entirely accept the latter point.
 - iii) The third point relates to the publicity which the outcome of the Trial has already attracted, yet COPA’s evidence showed that people are still questioning the result and still propounding the notion that Dr Wright is Satoshi. Although I accept that the Court is not here to silence all discussion of this issue, I understood one of COPA’s points was that I should cut off the source i.e. Dr Wright. On this point, I found Mr Orr KC’s response compelling. He submitted that it is not the function of the Court to silence public discussion. I can only agree. Furthermore, it is no part of the role of the Court to persuade everyone that its decision is correct.
143. In the light of these considerations, I can turn to consider the further injunctions sought and I must attend to their precise terms.
144. The third injunction sought is worded as follows:
- ‘3. Subject to the provisions of [the qualification paragraph] below, each of Dr Wright, WII and WII UK shall not assert, and shall not cause, encourage or permit any other person to assert that Dr Wright, WII and/or WII UK possesses rights (whether legal or equitable, whether founded on common law, statute or other basis and whether or not the rights are known to English law) based wholly or partly on any one or more of grounds set out in any of sub-paragraphs 1(a)(i) to 1(a)(x) above.’

145. Although the fourth injunction is long, the fifth injunction cross-refers to its individual sub-paragraphs, so it is necessary to set it out:

'4. Subject to the provisions of [the qualification paragraph] below, each of Dr Wright, WII and WII UK shall not, whether by himself/ itself or through others, howsoever publish, or cause to be published (whether in any written form or any other form, including oral), or authorise or procure the publication of the following statement or statements with the same or similar meaning:

(a) that Dr Wright is the or an author of the Bitcoin White Paper (as defined above);

(b) that Dr Wright, WII and/or WII UK is the or an owner of the copyright and/or moral rights in the Bitcoin White Paper (as defined above);

(c) that Dr Wright is the person or one of the persons who adopted or operated under the pseudonym "Satoshi Nakamoto" in particular in the period 2008 to 2011;

(d) that Dr Wright is the person or one of the persons who devised and/or created the Bitcoin System (as defined above);

(e) that Dr Wright is the or an author of any of the versions of the Bitcoin software created or issued in the period up to 2011 (including the executable file and related source code issued under the name Satoshi Nakamoto on or about 8 January 2009);

(f) that Dr Wright, WII and/or WII UK is the or an owner of database rights in the Bitcoin Blockchain (as defined above) or in any part of it;

(g) that Dr Wright is the or an author of the Bitcoin File Format (i.e. the structure of blocks within the Bitcoin Blockchain (as defined above));

(h) that Dr Wright, WII and/or WII UK is the or an owner of copyright and/or moral rights in the Bitcoin File Format (as defined above) or the Bitcoin software referred to at (e) above;

(i) that Dr Wright devised the name "Bitcoin";

(j) that Dr Wright, WII and/or WII UK owns goodwill and/or unregistered trade mark rights in the name "Bitcoin" and/or in the Bitcoin System (as defined above); and/or

(k) that Dr Wright is the person or one of the persons who adopted or operated under the pseudonym "Satoshi Nakamoto" or that Dr Wright is responsible for acts done by such person or persons.'

146. I will call these the ‘Precluded Statements’.
147. So far as the fifth injunction sought is concerned, it is worded as follows:
- ‘Dr Wright, WII and WII UK shall at their own expense delete, remove or obscure all published statements bearing the meanings set out in paragraph 4(a) to (k) above, to the extent that they are able to do so, by [date – 14 days from the date of order]. For the avoidance of doubt, this shall include (without limitation) removing such statements from websites, blog posts and social media accounts to the extent possible. By [date – 28 days from the date of order], Dr Wright, WII and WII UK shall serve a witness statement on the other parties confirming compliance with this provision.’
148. The evidence before me demonstrated that this obligation would be a very onerous undertaking, even if its scope was otherwise clear, bearing in mind Mr Sherrell’s evidence that since March 2020 Dr Wright has made around 18,500 posts on just one of his X / Twitter accounts and each one would have to be reviewed. The injunction is also inherently vague, in view of the obligation ‘to the extent that they are able to do so’. The subject of this type of mandatory order must know what they have to do. Furthermore, there could be significant difficulties in deciding whether a particular post was a Precluded Statement or not.
149. Consequently, I am in no doubt that an Order in terms of the fifth injunction or anything close to it would be disproportionate. Furthermore, it is simply unnecessary to erase all such statements, let alone those made by Dr Wright or any of his associates. As Mr Orr KC submitted, anyone with an interest in Bitcoin will have been aware of the COPA Trial and know of the outcome.
150. So far as the third injunction is concerned, I consider that much of its scope is already covered by the second injunction because most assertions of these rights will constitute a threat (explicit or implicit) of proceedings. They are legal rights enforceable through legal proceedings, so the whole point of asserting such a right is that it can be backed up by the commencement of proceedings.
151. However, Mr Hough KC sought to provide examples where he submitted the third injunction would have utility over the second:
- i) The first two injunctions would not prevent Dr Wright issuing a notice demanding for example that an internet site must take down the Bitcoin White Paper, due to an assertion of his ownership of copyright. His submission was that as long as the notice didn’t contain an explicit threat to issue proceedings, it wouldn’t be prevented by the second injunction (my emphasis). Takedown notices issued to substantial websites are very very rarely backed up by proceedings (largely because the notice has the required effect), but the implicit threat remains in many cases.

- ii) His second example cited Dr Wright's registration in the US of copyright in the Bitcoin White Paper as an example of how Dr Wright has sought to assert his claims by means other than litigation or its threat.
 - iii) His third example cited a 'staged' action brought against him by a friendly party (such as nChain or another of Mr Ayre's companies) in which it was necessary for him to assert his claim to be Satoshi as part of his defence. However, the terms of the first injunction would prevent any counterclaim being brought. Although the friendly claimant would not take the point, the Court might well of its own motion rule that the running of that defence was an abuse of process in the light of my Main COPA Judgment, especially so if the Court suspected that it was a staged dispute.
152. I did not find these examples particularly compelling. The first might well be restrained by the second injunction. The second and third fall outside the first and second injunctions but lie in the margin. The US copyright office can look after its own register. Furthermore, I find it difficult to see why those examples would cause any real concern to COPA or any of the Developers or anyone who they represent.
153. So far as the fourth injunction is concerned, COPA stressed that this type of relief is frequently granted in defamation cases. Their point was not that this is a defamation case *per se* – because it clearly is not. Instead, I understood COPA's point to be that this was an unusual situation requiring a novel solution, and the fact that injunctions of that type are granted in defamation cases should give the Court comfort that it is an appropriate form of relief.
154. Dr Wright's principal point on the third and fourth injunctions is freedom of expression. The point was put in a variety of ways in Dr Wright's Skeleton Argument. I have already addressed his two threshold points (see [35]-[41] above), but I must now return to the points on the facts, as summarised in [42] above.
155. Those points correctly recognise there is a balance to be struck between the interests of COPA and the Developers (and those whose interests they represent) and Dr Wright's right to freedom of expression. However, Counsel for Dr Wright submitted that the interference posed by the fourth injunction with Dr Wright's freedom of expression is at the extreme end of the scale because it involves '*total suppression*' of Dr Wright's belief that he is Satoshi Nakamoto, to be '*enforced with criminal sanctions [through the risk of contempt]*' (cf Lord Sumption at [40] of *Lord Carlile*). Furthermore, Counsel submitted that it is irrelevant that the Court has concluded that Dr Wright's professed belief is false, relying on *City of London v Samede* [2012] HRLR 14, per Lord Neuberger MR at [41] and submitting that the courts cannot accord '*greater protection to views...with which they agree*'.
156. COPA's response was that *Samede* does not say that Article 10 protects the right to spread lies and that the quote was taken out of context (The case concerned the activities of the Occupy Movement in its camp at St Paul's Cathedral and

the propagation of its views). A fuller context is shown in this larger quote from [41]:

‘...we accept that it can be appropriate to take into account the general character of the views whose expression the Convention is being invoked to protect. For instance, political and economic views are at the top end of the scale, and pornography and vapid tittle-tattle is towards the bottom. In this case, the Judge accepted that the topics of concern to the Occupy Movement were “of very great political importance”—[2012] EWHC 34 (QB) at [155]. In our view, that was something which could fairly be taken into account. However, it cannot be a factor which trumps all others, and indeed it is unlikely to be a particularly weighty factor: otherwise judges would find themselves according greater protection to views which they think important, or with which they agree.’

157. As COPA submitted, those sentiments do not have application here. This is not a case where the Court may find political views stronger or weaker. COPA submitted that the Court has had to decide the Identity Issue, has made a finding of fact and is now considering injunctive orders to back up that finding. I agree.
158. That takes me back to consider the weight to be given to Dr Wright’s right of freedom of expression. In my judgment, the effect of the principles and case law I discussed above at [6972]-[83] is that Dr Wright’s right of freedom to assert the (false) claims the subject of the third injunction or to publish any of the (false) Precluded Statements carries little weight.
159. Mr Orr KC sought to deflect the point that his claims are lies by relying on Dr Wright’s *belief* that he is Satoshi, even if he has unreasonably persuaded himself of that, and his right to state his *belief*.
160. Another example used by Mr Orr KC in submissions was the position of a convicted defendant in a criminal case. Notwithstanding the conviction, the Court does not stop that person protesting their innocence, whatever findings the Court has made about their honesty or otherwise of their stated belief. I agree. However, Mr Orr KC went on to submit that the fact of conviction means the defendant cannot have any honest belief in his innocence, but that does not follow at all.
161. I found this example helpful but perhaps not in the way that Mr Orr KC intended. Various well-known miscarriages of justice have highlighted the need for convicted defendants to be able to continue to protest their innocence, because their protestations can build momentum leading to a review of their conviction and, in appropriate cases, exoneration. The fact that many others may protest their innocence without any ground to do so does not detract from this important example of the right to freedom of expression. Furthermore, a protestation of innocence has limited impact on the public, apart, of course, from the victim of the crime or his or her family and friends.

162. That example is, however, not analogous at all and very far from the factual situation here, where Dr Wright has spent over a decade not only publicising his false claim to be Satoshi, but has conducted a campaign of threats and litigation based on that falsehood, backed by serious financial muscle. His campaign has had a damaging impact on the continued development of Bitcoin, by deterring those involved or considering joining the community of developers. His campaign has had a real and unwelcome effect on people's lives.
163. The position as regards the third and fourth injunctions is more finely balanced and the considerations on either side of the balance do not appear to me to be particularly weighty.
164. I return to Lord Sumption's four stage test from *Lord Carlile*, which I set out at [71] above. In the present circumstances, there appears to be considerable overlap in the facts applicable to each of the four requirements. Whether the objective of the measures (i.e. the third and fourth injunctions) is sufficiently important to justify the limitation of a fundamental right, engages the balance I have just mentioned. It is clear that the measures are rationally connected to the objective. Both of the third and fourth requirements again engage that balance.
165. In order to make a realistic assessment, I consider it is necessary to envisage situations which are some way in the future when my Main COPA Judgment or the outcome of the COPA Trial might well have faded in the memories even of those with an interest in Bitcoin. It is also necessary to consider the possible range of views amongst such people. Rational people will have accepted the outcome of the COPA Trial, not least because of the scale of the COPA Trial, in which Dr Wright was given every opportunity to provide proof that he was the person who adopted the pseudonym, and the way in which his supposed proof was comprehensively dismantled by the efforts of COPA and the Developers, as recorded in my Main COPA Judgment. However, I must accept that there may well be a not insignificant number (hopefully a minority) of disciples who continue to believe that Dr Wright is Satoshi Nakamoto and refuse to accept any contrary view. If those people were not persuaded by my Main COPA Judgment or the outcome of the COPA Trial, they are not going to change their minds if either the third or fourth injunctions are granted. As Mr Orr KC submitted, my role is not to persuade everyone that Dr Wright is not Satoshi.
166. I suppose there is a slight risk that if the assertions the subject of the third injunction and/or the Precluded Statements continue to be made, certain people may start to change their minds or begin to believe that Dr Wright is Satoshi, but even if that occurs, the big question is what would be the effect, in the light of my Main COPA Judgment, and the first and second injunctions. I am inclined to the view that the effect would be small. Right-thinking people are likely to regard those assertions as hot air or empty rhetoric, even faintly ridiculous.
167. On the other side of the balance, as I have said, I consider that Dr Wright's interest in making the assertions the subject of the third injunction or any of the Precluded Statements have little weight since they are untrue.

168. So far as the third injunction is concerned, in my view, it only matters in so far as any of the assertions fall outside the second injunction. An assertion within the third injunction which does not constitute an explicit or implicit threat within the second is, as I have said, likely to be seen as empty rhetoric following my Main COPA Judgment. Similarly, as regards any of the Precluded Statements.
169. In these circumstances, I consider it is prudent to err on the side of caution and give Dr Wright the benefit of the doubt. So I refuse to grant either of the third or fourth injunctions.
170. I accept that my assessment may turn out to be off the mark. Furthermore, the evidence shows that whilst Dr Wright has modified his public statements following the outcome of the COPA Trial, that may well turn out to be temporary. Dr Wright is perfectly capable, once the dust has settled, of ramping up his public pronouncements again.
171. So I consider it is also prudent to give COPA permission to apply, for a period of 2 years, for any further injunctive relief they consider they can establish to be required to protect the interests of the corporate entities they represent as well as the individuals in the Bitcoin community who have suffered due to Dr Wright's false claim to be Satoshi. By including that permission to apply, I do not decide that I will have the power to grant any further injunctive relief. That will remain to be argued if any such application is made.
172. This permission to apply can be considered a counterweight to the permission to apply for which Counsel for Dr Wright contended, as added as sub-paragraph (f) to the qualifying paragraph (see [108] above).

THE REMAINING ISSUES

The dissemination order sought by COPA

173. I need not set out all the detail of the order sought by COPA. In summary, COPA says that Dr Wright should display a notice with a particular wording for six months in three channels:
- i) First, on the home page of his website at www.craigwright.net, so that it is immediately visible to all those visiting the website.
 - ii) Second, by way of a pinned message at the top of all thread of messages on all of his X / Twitter accounts.
 - iii) Third, in all Slack channels in which he is a participant.
174. In addition, COPA sought an order that Dr Wright must display, in a half-page advertisement in The Times, a notice in prescribed form. This was said to be necessary to counter the effect of the half-page notice published by Dr Wright of his open offer just before the Joint Trial commenced.
175. The submissions recognised that this topic is closely related to the grant of injunctive relief.

176. Mr Orr KC for Dr Wright submitted that the dissemination orders sought by COPA were oppressive, disproportionate and unnecessary. He drew three points of principle from the judgment of the Court of Appeal in *Samsung v Apple*:
- i) First, that dissemination orders should not be the norm, but made only where necessary to dispel uncertainty.
 - ii) Second, such orders should only be made where proportionate.
 - iii) Third, the purpose of such orders is not to punish or humiliate the losing party.
177. He also submitted that, on the facts there, the Court of Appeal would not have made a dissemination order given the massive publicity generated by the decision of Judge Birss and in particular his ‘not as cool’ comment but for the fact that Apple subsequently sought to enforce an inconsistent judgment in Germany, and it was that which created the commercial uncertainty which required to be addressed by a dissemination order.
178. On the facts here, Mr Orr KC submitted that anyone with the slightest interest in Bitcoin, Satoshi Nakamoto or Dr Wright will now be well aware of the outcome of the COPA Trial. He also addressed the complaint made in COPA’s evidence that some BSV supporters are still not yet convinced that Dr Wright is not Satoshi, submitting that it is fanciful to suggest that the dissemination orders sought by COPA will somehow persuade them any further.
179. Having made those submissions, Mr Orr indicated that Dr Wright did not object to posting a notice on his website for six months, but the notice should not be required to be in a font no smaller than 12 point in size and immediately visible to all those visiting.

Discussion

180. I have no doubt that I should not order Dr Wright to publish the half-page notice in The Times. That does appear to be a somewhat vindictive response to his half-page publication of his offer.
181. As for the other forms of dissemination sought by COPA, although the submissions made by Mr Orr KC which I recorded above have force, in the highly unusual circumstances of this case, I consider that I should require Dr Wright *himself* to disseminate details of the findings made against him in order further to dispel residual uncertainty about the position.
182. I do not consider a notice on his website on its own to be adequate, since his primary mode of communication to those interested appears to be via X / Twitter or via his Slack channels. So I will order the publication of an amended version of the notice sought by COPA (to reflect the injunctions I am granting) on the homepage of his website (i.e. not merely by way of a link) for a period of six months and of the same amended notice pinned on his X / Twitter feed and on all Slack channels for a period of 3 months.

COPA's application to dispense with personal service

183. COPA seek to dispense with personal service of the final Order on Dr Wright, and an Order for service on him at his solicitors. Orders to this effect became a common feature of various WFOs I have granted against Dr Wright in the recent past. See e.g. my comments in *Wright v McCormack* [2024] EWHC 1735 (KB) at [70] & [83]. The evidence shows that Dr Wright has left his previous residence in Wimbledon, appears to have left the UK, has been said to be travelling and was last established to be in the time zone of UTC +7. COPA's submission that '*Dr Wright may either be deliberately evading service or at least is peripatetic and is very difficult to locate*' seems to me to be fully justified and warrants the order which COPA seeks as to service of my final Order on Dr Wright at his solicitors.

COPA's application for its costs for the COPA and BTC Core Claims.

184. It was agreed that Dr Wright should pay (a) all of COPA's costs on the indemnity basis; (b) interest on costs from the date they were paid. The points in dispute were (a) the rate of interest and (b) the amount of the interim payment on account of costs.
185. COPA sought a rate of 8% on the basis it reflects a rough balance between Bank of England base rate +2% and the US prime rate +2%. The submission made for Dr Wright was that the usual rate of base rate +1% should apply. Since interest rates were high for much of the relevant period and COPA essentially represents US entities, I will order interest at 8% from the dates the costs in question were paid.
186. COPA sought a payment on account of 85% of their costs, amounting to £5.928m in the COPA Claim and £115k in the BTC Core Claim. The submission made for Dr Wright was that it should be 70%, yielding an interim payment in the sum of £4.977m.
187. The first point taken by Counsel for Dr Wright was to draw attention to the judgment of Zacaroli J in *Farol* for the proposition that, when indemnity costs are awarded, the appropriate % by way of interim payment on account is 70%. It is true that Zacaroli J. appears to refer in [38] to the obverse of the 70%, i.e. 30% as 'the normal level of discount' but also as 'well within the normal range for cases of this type'.
188. Each case turns on its own facts. The facts here are truly exceptional and I do not regard *Farol* as providing any benchmark applicable to this particular case.
189. Counsel's second point was an accusation that the costs information provided by COPA was too superficial to justify the higher rate of interim payment sought, relying on the decision of Laddie J. in *Dyson v Hoover* [2004] 1 WLR 1264. In that case, Laddie J. had not conducted either the liability trial or any case management of the quantum phase. Having originally claimed £21m, the claimant accepted a payment in of £4m, whereupon the defendant was ordered to pay the costs of the inquiry. The claimant submitted a bill totalling some £2.5m. The application which came before Laddie J. was the claimant's

application for an interim payment in advance of the costs assessment. Laddie J. declined to order any interim payment, in essence because the information he had was too limited to enable him to exercise the discretion to order an interim payment.

190. I am in a wholly different position, having conducted extensive case management of the COPA and BTC Core Claims as well as the Joint Trial. I consider I am in an excellent position to gauge the appropriate level of the interim payment. For the reasons identified by COPA, I consider that 85% is the appropriate level for the interim payment due to COPA.

COPA’s application for a general permission to use the disclosed documents in other proceedings.

191. COPA applies for permission under CPR 31.22(1)(b) for documents disclosed in these proceedings that have not been read to or by the Court or referenced in a public hearing to be used for certain purposes other than the purposes of the instant proceedings, namely (a) enforcing any injunctions the Court may grant; (b) for any civil contempt applications arising from the subject-matter of these proceedings; (c) for any criminal investigation or prosecution arising from the subject-matter of these proceedings; (d) for any civil restraint order application in which reliance is placed on these proceedings; and (e) for any disciplinary or regulatory complaint, investigation or proceeding (e.g. relating to the conduct of Zafar Ali KC, Ted Loveday and/or the so-far-unidentified judge in the “mock trial” of September 2023). I refer to these five categories of proceedings as the ‘mooted proceedings’.
192. As COPA submitted, I have a discretion to permit future use of disclosed documents, which is to be exercised judicially taking account of the interest which underlies the collateral undertaking embodied in CPR 31.22 and any justifications for permitting future use of material. This permission is required for any form of future “use”, which is a concept of broad scope. See generally *Lakatamia Shipping Co Ltd v Su* [2020] EWHC 3201 (Comm) at [44]-[66], Cockerill J. In her review of the authorities, at [56] Cockerill J. drew attention to the point that it is not only use, but even review which can be collateral use.
193. As COPA acknowledged, a very large number of documents fall within the category of documents ‘*read to or by the Court or referred to, at a hearing which has been held in public*’ including all the documents mentioned in various expert reports, witness statements and the skeleton arguments, albeit there are many more documents which do not. A large number of the key documents are analysed in my Main COPA Judgment (which includes the Appendix). In view of that fact, I am left somewhat puzzled as to what use could be made in any of the mooted proceedings of disclosed documents which fall outside that category. Assume, for example, that a document is identified from Dr Wright’s disclosure in respect of which (a) I did not make a finding of forgery or inauthenticity in my judgment and (b) Mr Madden did not refer to or analyse or suggest was forged or inauthentic. Even if there is a strong suspicion that the document so identified is a further forgery by Dr Wright, two questions arise: (a) how is that going to be established? and (b) what does that add over and above the findings already made?

194. Although COPA made a series of general submissions to the effect that it should be able to refer to ‘the full documentary record’ for the purposes of any of the mooted applications, I found these generalities unconvincing, particularly in the light of the burden on the party applying to demonstrate cogent and persuasive reasons for allowing the collateral use sought: see *Lakatamia*, per Cockerill J. at [53]
195. In oral submissions, I discussed a possible alternative route with Mr Hough KC along the lines that if COPA identified specific documents which they required to mount any of the mooted applications, they could apply for a more specific permission. His answer was that CPR 31.22 would prevent even that preliminary identification use in the light of the express wording of CPR 31.22 which allows use of a disclosed document ‘only for the purpose of the proceedings in which it is disclosed’. In the light of the analysis in *Lakatamia* at [56], that is a good point in respect of the mooted proceedings in (c) or (e) above, but not for (a), (b) or (d). Even if I am wrong about that, and even in the very unusual circumstances of this case, I consider it would be wrong to give the blanket permission sought by COPA.
196. However, I will give a general permission to COPA and the Developers to review all disclosed documents for the collateral purpose of bringing any of the mooted proceedings. This will enable COPA and/or the Developers, if they so choose, to apply for permission to use the documents in any of the mooted proceedings.

COPA’s request that I should refer the papers to the CPS

197. As COPA submitted, if what happened in this case does not warrant referral to the CPS, it is difficult to envisage a case which would.
198. As COPA’s notice correctly summarises, I found that Dr Wright “lied to the Court extensively and repeatedly” in his evidence and that he attempted to create a false narrative by forging documents “on a grand scale” and presenting them in evidence. Overall, “all his lies and forged documents were in support of his biggest lie: his claim to be Satoshi Nakamoto.” In advancing his false claim to be Satoshi through multiple legal actions, Dr Wright committed “a most serious abuse” of the process of the courts of the UK, Norway and the USA.
199. In these circumstances, as set out in the whole of my Main COPA Judgment, I have no doubt that I should refer the relevant papers in this case to the CPS for consideration of whether a prosecution should be commenced against Dr Wright for his wholesale perjury and forgery of documents and/or whether a warrant for his arrest should be issued and/or whether his extradition should be sought from wherever he now is. All those matters are to be decided by the CPS.
200. COPA also sought a referral to the CPS with respect to Mr Stefan Matthews and Mr Robert Jenkins, for the reasons set out in my Main COPA Judgment. So far as Mr Jenkins is concerned, I decline so to order because he is resident in Australia and because he played a small part overall.

201. So far as Mr Matthews is concerned, it is true, as COPA submitted, that he has been a major player in Dr Wright's campaign to establish himself as Satoshi for many years, and in that capacity, has been a significant supporter and purveyor of that lie. However, I am concerned with the lies he made in his written witness statements but most importantly, made in his oral evidence in the witness box. His most significant lie was that he received a version of the Bitcoin White Paper from Dr Wright in August 2008, one which he sought to maintain in cross-examination. This was a very important prop for Dr Wright's claim to be Satoshi. It was a barefaced lie but also a highly cynical lie in view of the prospective financial gain which Dr Wright and those supporting him (including Mr Matthews) stood to gain if Dr Wright's claim to be Satoshi had been upheld. For these reasons, I consider I should refer Mr Matthews' evidence to the CPS, so that they can consider whether he should also be prosecuted for perjury.

The Developers application for dismissal of the BTC Core Claim.

202. I did not understand Dr Wright to oppose dismissal of the BTC Core Claim. The remaining dispute was the Developers submission that I should certify the claim as totally without merit.
203. For the Developers, Mr Gunning KC submitted it was bizarre that this was in dispute, in view of the fact that Mr Orr KC's submissions acknowledged that Dr Wright's conduct is such as to engage the civil restraint order regime, which is engaged only after a litigant has pursued applications or claims which are totally without merit.
204. I certify that the BTC Core Claim was totally without merit. I will also certify that the Coinbase, Kraken and TTL claims were totally without merit, as was Dr Wright's defence to the COPA Claim.

The Developers' application for their costs of the BTC Core and TTL claims.

205. Agreement was reached as to the Developers' costs of the BTC Core Claim, so I need not say anything further.

What should happen in the COBRA and *McCormack* claims.

206. I do not think it is appropriate for me to say anything about the *McCormack* claim, not least because steps are being taken by Mr McCormack in the light of my Main COPA Judgment.
207. I do think it is appropriate to address the COBRA claim, where the situation differs in one important respect from that in *McCormack*. I drew attention to the COBRA claim in my Main COPA Judgment at [917] and I received further evidence about it in the witness statements served for this FOO hearing. Furthermore, the claim against COBRA was also raised by COPA in their Particulars of Claim as an example of Dr Wright seeking to enforce his (false) claim to IP rights related to Bitcoin.
208. In the relevant part of [917] I said:

‘There is one other claim which has been brought to my attention: the COBRA claim (IL-2021-000008) in which Dr Wright sued unnamed defendants as ‘The person or persons responsible for the operation and publication of the website www.bitcoin.org (including the person or persons using the pseudonym ‘CØBRA’). The claim was for infringement of copyright in the Bitcoin White Paper. Dr Wright secured Judgment in default of acknowledgement of service and defence by the Order of HHJ Hodge QC dated 28 June 2021, which includes an injunction preventing the defendants from infringing copyright in the Bitcoin White Paper, whether by making the Paper available for download or in any other way.’

209. Mr Gunning KC made it very clear that he is not instructed by COBRA, but he demonstrated how his clients, the Developers, had been indirectly adversely affected by the claim which Dr Wright brought against COBRA.

210. I can start with some of the extremely unpleasant threats which have been made against COBRA on social media which are very similar to the sort of treatment which individual developers have also received. By way of example, in early 2021, COBRA posted on Twitter:

‘I’ve received a death threat from someone associated with the BSV community. This person somehow discovered one of my business numbers, called me up, and made clear they would "shoot me point-blank" once they find my personal information.’

211. Then he addressed a tweet specifically to Jimmy Nguyen and Calvin Ayre:

‘@JimmyWinSV @CalvinAyre: Shame on you for not speaking up against this behaviour.

Shame on you for putting "bounties" on people's personal information as you have done in the past.

This is unacceptable. This is crypto, not fucking mafia, are you people sick in the head?’

212. Jimmy Nyugen responded by saying he did not know what he was talking about and encouraged COBRA to ‘report this to the appropriate authorities’. His response is to be contrasted with how Calvin Ayre responded (see below).

213. COBRA then responded to say:

‘Authorities have been informed

CSW has said some very scary things, he has described his actions as “Jihad”, and has said he will hire private investigators to find dirt on his enemies, this was said last week in Slack channels.

I hope this stops now. Enough.’

214. Calvin Ayre’s response was as follows, and revealing:
- ‘and this will stop as soon as you stop attacking Satoshi, the father of this industry Dr Craig Wright.’
215. The claim form against COBRA was issued at around the same time, on 24 February 2021, claiming infringement of copyright in the Bitcoin White Paper, after notices of infringement were sent by Dr Wright on 20 January 2021 to both bitcoin.org {L17/79} and bitcoincore.org {L17/78}, which stated that “Dr Wright has decided that it is time to enforce his copyright in the White Paper”.
216. I need not detail every stage of the COBRA action (which was clearly set out in the Developers’ Skeleton Argument), but it appears that COBRA’s attempts to participate were blocked or hindered by their refusal to identify themselves, even though one of COBRA’s sensible suggestions was a stay of the action pending the outcome of the COPA Claim. Dr Wright consistently sought to make it a condition of their participation that they identified themselves. This continued into the detailed assessment of the costs allegedly incurred by Dr Wright, who served a bill of costs in the sum of over £568k, an astonishing sum for a case in which judgment was secured in default of acknowledgement of service and defence. In view of what is now known about the threats made against Dr Wright’s opponents, COBRA’s extreme reluctance to reveal their identity is entirely understandable.
217. In her witness statements, Ms Horne described how the effect of the Orders made against COBRA have been to preclude COBRA giving access to the Bitcoin Core software to UK users or to the Bitcoin White Paper. This has had a direct impact on the activities of the Developers because it has led to a slowdown in the Bitcoin network adopting new versions of the Bitcoin Core software and the continuing use of obsolete and vulnerable versions. These were the reasons why Mr Gunning KC submitted that the Developers had an interest in seeing the injunction against COBRA overturned.
218. In their Skeleton Argument, the Developers addressed the mechanics of how the orders made against COBRA could be set aside. Three bases were identified and I have recently had to consider aspects of some of these in greater detail in the context of Mr McCormack’s application for a Worldwide Freezing Order against Dr Wright: see [2024] EWHC 1735 (KB):
- i) First, the power under CPR 3.1(7) to vary or revoke an Order. As discussed in *Tibbles v SIG plc* [2012] EWCA Civ 518 by Rix LJ at [39], the power can be invoked ‘*where the facts on which the original decision was made were (innocently or otherwise) misstated.*’
 - ii) Second, CPR 13.3(1)(b) permits a judgment entered in default to be set aside where it appears to the Court that there is ‘*some good reason*’ for doing so. To the extent that CPR Part 13.3(1) applies, the Court should use this approach and cannot reach an inconsistent outcome by reference to either CPR 3.1(7) or its inherent jurisdiction: see *Terry v BCS Corporate Acceptances* [2018] EWCA Civ 2422.

- iii) Third, under the Court's inherent jurisdiction. As to this, the Developers made the following submissions:
- a) The High Court has inherent powers to control its own procedures and prevent them from being used to cause injustice. In *Bremer Vulkan Schiffbau und Maschinenfabrik v South India Shipping Corp Ltd* [1981] AC 909, Lord Diplock explained (albeit obiter) at p977 (in the context of an application within an arbitration to dismiss for want of prosecution) that the High Court has:
- “...a general power to control its own procedure so as to prevent its being used to achieve injustice. Such a power is inherent in its constitutional function as a court of justice... it would stultify the constitutional role of the High Court as a court of justice if it were not armed with power to prevent its process being misused in such a way as to diminish its capability of arriving at a just decision of the dispute.”
- b) The specific type of situation currently before the court is, unsurprisingly, rare, and the authorities on how the Court should approach them are therefore few and far between. The Developers identified two key cases in which the court's inherent jurisdiction has been exercised to set aside previous orders in analogous circumstances:
- c) *Marsh v Joseph* [1897] 1 Ch 213. This case concerned misconduct by a solicitor which caused loss to a party, and is principally cited in modern cases as authority for the proposition that a solicitor may be ordered to pay compensation for losses caused by any breach of undertaking. In the judgment of Kekewich J. at first instance (overturned in part on appeal on causation issues, but not on this issue of jurisdiction), the court relied (at p.230) on a decision of Lord Romilly M.R. recalled by the judge, in which a solicitor, not acting for any party, came before the Master of the Rolls with information indicating that an order of the court had been wrongly made. The Master of the Rolls, exercising an equitable jurisdiction, set aside the court's order. The central ratio of that decision is that solicitors, as officers of the court, have a right and duty to bring such matters before the court and that, if they fail to comply with their duties, they are liable to compensate anyone who suffers loss as a result, but it is essential to that analysis that, if such matters are brought before the court, the court's inherent jurisdiction to regulate the conduct of proceedings before it enables the court to make orders to deal with the issues raised before it.
- d) *British Columbia Telephone Co v Shaw Cable Solutions* [1995] 2 SCR 739, in which the Supreme Court of Canada considered two allegedly conflicting decisions of inferior tribunals (which

were not open to appellate review). The Supreme Court accepted that where there was a sufficient conflict between the two orders, then the court could exercise its inherent jurisdiction to decide which of the two decisions should be given effect, even where that meant negating a decision which it would not have been open to the Court to overturn on appeal: see the judgment of L'Heureux-Dubé J. at [49]. The orders must be operationally contradictory, i.e. have conflicting effects which cannot both be complied with, not merely logically inconsistent: see the judgment of McLachlin J. at [78].

219. Based on those principles, the Developers submitted that I should use those powers to set aside the Orders made in the COBRA claim, for the following reasons:
- i) First, Dr Wright's claim to be Satoshi and the author of the Bitcoin White Paper was a lie. The COBRA claim was fraudulent. The Developers submitted that it is profoundly important for the administration of justice that the Court should be able to correct for the misuse of its jurisdiction and procedures. I agree.
 - ii) Second, Dr Wright's dishonest COBRA claim was pleaded by COPA as a specific example of Dr Wright's wrongful use of threats, and responded to by Dr Wright on the footing that the claim was justified. Hence the status of the COBRA claim is in issue in the COPA Claim.
 - iii) Third, because COPA and the Developers both drew attention to the injustice achieved in the COBRA proceedings in their opening and closing submissions. The Developers submit that Dr Wright has therefore had significant advance notice of the potential consequences for the COBRA claim of the outcome of the Identity Issue.
 - iv) Fourth, the Developers point to my [917] and suggest that consideration of the COBRA claim at this FOO hearing will save expense and the unnecessary allocation of Court resources to the commencement of fresh proceedings against Dr Wright.
 - v) Finally, the Developers point out that, depending on the precise terms of the first injunction, Dr Wright may thereby be restrained from pursuing his claim for costs, should he seek to do so. The point was not that he was likely to do so, but to highlight the conflicting effects between the orders in the COBRA claim and the outcome of the COPA Joint Trial.
220. Of course, the unspoken point is that COBRA would not bring any fresh proceedings so as to avoid revealing their identity. As I have said, it is entirely understandable why COBRA has declined to reveal their identity and, in my judgment, that point should not stand in the way of my setting aside Orders in the COBRA claim since, as the Developers submitted, the Court has its own interest in correcting for the misuse of its jurisdiction and procedures. I also agree with the Developers that it is not merely appropriate but essential to do so, to correct the misuse which has been perpetrated.

221. For all these reasons:
- i) I set aside the default judgment (in the Order of HHJ Hodge KC dated 28 June 2021) against COBRA pursuant to CPR13.3(1)(b), the good reason being that the judgment was obtained in a claim which was fraudulent.
 - ii) I set aside the other Orders in the COBRA claim (the Order of Mann J. giving permission to serve out dated 21 April 2021, the Orders of Costs Judge Rowley dated 10 June 2022 and 24 November 2022, the Orders of Richard Smith J. dated 25 September and 31 October 2023) under CPR 3.1(7) and/or the inherent jurisdiction, again because they were obtained in a claim whose basis was entirely fraudulent.
222. That leads me to the difference between the situations in McCormack and COBRA. Mr McCormack is seeking to recover the costs he incurred in fighting the defamation claim brought against him, but that may require the commencement of a fresh action. There has been no indication that COBRA seeks to recover any costs they incurred.

Disclosure of Dr Wright's funding arrangements

223. Mr Ahlquist undertook the submissions on this issue, which did not arise so far as the Developers in the BTC Core Claim were concerned (because, as I understand matters, the monies in Court are sufficient to cover their costs) but did arise for the Developer defendants to the Tulip Trading Claim, and for the Chaincode, Blockstream and Cash App defendants, precisely because any monies in court are not sufficient to meet their costs.
224. Mr Elliss in his first Affidavit at [49]-[56] sets out the factual background of the various indications that Mr Calvin Ayre has been responsible for funding Dr Wright's litigation, notwithstanding Dr Wright's denial in cross-examination. What remains unclear is precisely how the funding has been supplied i.e. the identity of the legal person which is or has been the ultimate source of the funding (cf the reminder in the NOx emissions litigation, that the Court looks to the substance and not the form: [2024] EWHC 695 (KB) at [51]). The evidence points to a number of possibilities: nChain, Mr Ayre's family office in Switzerland, nChain Licensing AG, the Ayre Group etc. The point here is that, if a s.51 claim is to be brought, it must be brought against the correct legal entity or entities.
225. Mr Ahlquist drew my attention to the judgment of Constable J. in *Topalsson GmbH v Rolls Royce Motor Cars Limited* [2024] EWHC 297 (TCC), where the Judge was dealing with an application by the defendant for funding information in support of its non-party costs application under s.51 of the Senior Courts Act against the individual, Mr Kubilay Topal, the founder, managing director and majority shareholder of the claimant. My attention was directed to [14]-[15] of his judgment for the propositions that (a) this is not the occasion to consider in detail the merits of any third-party costs application and (b) an order for disclosure should be made once the Court is satisfied that there is a realistic possibility of such an order being made.

226. At present, I do not know whether a third-party costs application will ever be made because, in this instance, it depends entirely on whether all the orders for costs are met. The issue is really about sequencing i.e. whether I should make an Order now for disclosure of his funding arrangements in the event that costs which I have ordered to be paid are not paid within the period specified or whether I should give permission to apply (e.g. on paper) for an Order for disclosure if it should transpire that orders for costs have not been paid within the specified period.
227. It seems to me that the coercive effect is about the same, whether I make an Order for disclosure now or in the event of default of payment of costs. On this point, in view of the substantial sums which have been paid into Court in the last few weeks and in view of the fact that Dr Wright's funder(s) seems to be continuing to fund substantial costs on his side, I am prepared to give Dr Wright and his funder(s) the benefit of the doubt, so I decline to order disclosure of Dr Wright's funding arrangements now, but I give all the parties opposing him or one of his companies permission to apply on paper to renew the application for disclosure in the event that an Order for costs remains unpaid after the time for payment has fallen due.

The application for costs by Coinbase.

228. Ms Kathryn Pickard made the application for the costs incurred by Coinbase. The main dispute concerned the costs of Coinbase's application for their WFO (which I granted in the sum of £900k).
229. For Dr Wright (as a shorthand for the Coinbase claimants), the point taken was that the application was unnecessary and therefore there should be no order as to costs. This submission was based on an offer made by Dr Wright to pay £300k by way of security.
230. As Ms Pickard submitted, the WFO application achieved considerably more than Dr Wright's offer in numerous respects. First, because the WFO was in the sum of £900k and ultimately secured a payment into court of that amount. Second, because the offer of £300k related only to costs incurred in the BTC Core Claim and nothing was offered in respect of the higher level of costs incurred in the Coinbase action. Third, because the offer of the £300k was not that it would be paid into court, just to Dr Wright's solicitors, with no undertaking as to how that sum would be held by Marcus Parker in their account. Fourth, because when the application was issued, Dr Wright had not yet conceded costs should be paid on the indemnity basis. Fifth, because Coinbase gave notice of their application on Friday 26 April 2024 and I heard the application at 2pm on Wednesday 1 May 2024, on which occasion there was argument not least about what sum the WFO should cover. For all those reasons, I agree that Coinbase succeeded in a necessary application and should have their costs.
231. The other issue is whether the interim payment on account of Coinbase's costs should amount to 85% of those costs or the 70% level contended for by Dr Wright.

232. Counsel for Dr Wright took the *Farol* point I have discussed above. Again I consider it inapplicable to the circumstances in the Coinbase Claim.
233. Counsel for Dr Wright made various suggestions that the costs sought by Coinbase were too high due to duplication of work and use of rates higher than the guideline hourly rates. Ms Pickard's response to that was that Coinbase took the lead in drafting the full defence and there was no evidence of work being duplicated, but, even if there was, that was the product of Dr Wright initiating claims for enormous sums against multiple defendants who were required to defend themselves. Furthermore, the complexity and importance of the claim justified the hourly rates charged. I agree on both points.
234. In the very unusual circumstances of these claims, I consider it is appropriate for the interim payment to Coinbase to be set at 85% of their costs.

The application for costs by D15 & D16 in the Tulip Trading Claim.

235. As I mentioned, this was argued on 14 June 2024 under much less time pressure than the applications argued on the 7 June 2024, after much time had been spent on the issues relating to injunctive relief. Ms Rebecca Keating argued the applications and Mr Baradon KC responded on behalf of TTL and Dr Wright. Both counsel descended to a level of detail which is only appropriate for consideration during a detailed assessment.
236. The issues for decision were familiar, after (a) it was agreed (see my Consent Order dated 3 May 2024) that the sum paid into court by way of security should be paid out to the CYK Defendants and (b) TTL/Dr Wright conceded that the CYK Defendants should have their costs on the indemnity basis:
- i) The amount of the interim payment on account of costs: whether it should be 70% or 90%.
 - ii) What sum should be awarded on a summary assessment of the CYK Defendants' costs of their WFO application and their Costs application.
237. I should also record the parties agreed the applicable interest rate at Bank of England base rate + 1%, but there remained an issue over when the Judgment Act interest rate of 8% should commence: from the date of discontinuance, from 28 days after service of the bill of costs or from three months after the date of my order.

Background

238. Defendants 15&16 to the Tulip Trading Claim were referred to as the CYK Defendants, a reference to their instructed solicitors. They are two private individuals resident outside the UK who, prior to the TTL claim, had never had any contact with Dr Wright. As Counsel submitted, they have now had to spend nearly 3 years of their lives defending complex and costly litigation here on the basis that, in their roles as developers, they were said to have control of software on the eCash blockchain. However, the cryptocurrency which was relevant to the claim against the CYK Defendants (XEC) had not even come into existence by the

time of the hack by which TTL alleged that it lost control, as pleaded in the CYK Defendants' Defence. Although the value of the claim against them fluctuated over time, I am told it reached a high of approximately £30m.

239. Dr Wright pursued his claims against the developers, including the CYK Defendants in an unpleasant and aggressive manner. As the CYK Defendants pleaded in their Defence, he tweeted, "I will personally hunt every dev until they are broke, bankrupt and alone before I lost".
240. Although the TTL claim did not directly involve the issue as to whether Dr Wright was Satoshi Nakamoto, it was very closely bound up with his claim. Furthermore, the supposed history of the hack which led to TTL losing control of the Bitcoin the subject of the claim is closely bound up with the history (a) of Dr Wright's claim to be Satoshi and (b) his ongoing forgery of documents designed to support his claim. Indeed, the CYK Defendants pleaded that the purchase order relied on by TTL was a forgery. They also drew attention to competing claims to the Bitcoin in issue, which TTL had taken no steps to resolve.
241. As Mr Roberts stated in his First Affidavit, the evidence said to establish TTL's ownership of the digital assets the subject of the claim is now admitted by TTL/Dr Wright not to be in fact the contemporaneous evidence of ownership it was said to be (see Wright5, [21]). Further, TTL did not acquire the digital assets in 2011, because I found in the Main COPA Judgment that Dr Wright did not acquire TTL until 2014 as an aged shelf company (see Appendix at [741]). I also found that documents relating to the establishment of the Tulip Trust itself were inauthentic (Main Judgment at [341]). Furthermore, I found that Dr Wright had forged certain MYOB accounting records which purported to evidence a series of transactions by Dr Wright, dating back to 2009, connected to mining of Bitcoin and transfers of Bitcoin to Wright International Investments Limited, incorporated in the Seychelles (see Appendix at [26] and section 36). I also have in mind [924] of the Main COPA Judgment where I summarized the startling period of time over which Dr Wright forged documents. The facts I found in the Main COPA Judgment and Appendix indicate that Dr Wright hatched his plan to prove himself as Satoshi around late 2013 or early 2014, there being nothing (other than his forgeries) to indicate he was involved with Bitcoin prior to that, let alone mining or acquiring any Bitcoin, let alone the Bitcoin the subject of the TTL claim. In this regard, I entirely discount any 'evidence' from Dr Wright himself or any of his friends, for the reasons set out in the Main COPA Judgment.
242. The net result is as follows. Although the TTL claim has not been tried, and in particular there has been no trial of the preliminary issue I ordered as to whether TTL owned the Bitcoin the subject of the claim, in the light of my extensive involvement in deciding the Identity Issue in the COPA trial and my extensive involvement in the case management of the TTL claim since it was docketed to me, in the circumstances it is highly likely that the TTL claim would have been found to be another fraudulent claim perpetrated by Dr Wright.
243. It is not without significance that the TTL claim was discontinued just a few days before the deadline for disclosure. If TTL had been required to give

disclosure, it is highly likely that it would have contained some documents which I found to be forged in my Main COPA Judgment, and likely to have included yet further forgeries, as pleaded.

The interim payment on account of costs

244. Ms Keating developed a series of points as to why the interim payment should be set at 90% of the CYK Defendant's total costs, as opposed to the 70% proposed by Mr Baradon KC for TTL. Both Counsel set out in their skeletons detailed points to support their positions and emphasised them in their oral submissions as well. I do not propose to lengthen this judgment further by discussing all the details (although I have reviewed them again during the preparation of this judgment), since the details are for the costs judge to consider in the course of any detailed assessment which may take place.

245. I have concluded that the interim payment which the CYK Defendants should receive should be calculated at 80% of their total costs, having reached the clear view that neither 90% nor 70% would be appropriate. I acknowledge that interim payments for other defendants have been set at 85%, but I consider it is right to set the interim payment for the CYK Defendants at the slightly lower rate of 80% for the following reasons. In summary:

- i) I have less visibility of the costs incurred by the CYK Defendants in contrast to the costs incurred by COPA and the Developers in the BTC Core Claim.
- ii) There are indications that the costs incurred by the CYK Defendants are on the high side compared to those incurred by the Enyo Defendants, in part due to higher hourly rates. I have no doubt that the complexity and significance of the TTL claim justified hourly rates at higher than the guideline rates, but the CYK rates were higher than Enyo's and higher than Bird & Bird (for COPA). Furthermore, there were some indications that the hours spent by CYK were high on applications where Enyo appeared to have taken the lead, perhaps indicating a degree of duplication of work. I acknowledge that CYK took the lead on certain hearings (in particular the disclosure guidance hearing). Furthermore, I accept that it would have been unwise for separate groups of defendants simply to rubber stamp work done by another set. The complexity and size of the claim required each firm to satisfy themselves that the approach taken was correct.
- iii) Mr Baradon KC also developed some points about the way CYK conducted the litigation to the effect that accusations which should have been directed at TTL/Dr Wright were made more personally against Shoosmiths. Whether any of this had any real impact on costs is best left to the costs judge to consider, but it may need to be balanced against some of the unpleasant threats made by Dr Wright against the developers. By contrast, Ms Keating complained about the lack of engagement from TTL's side in the lead up to various applications, which, she submitted, caused an increase in costs.

- iv) Mr Baradon KC also contended that the CYK costs of particular applications were very high. Accusations of this type must be taken with a pinch of salt, however. On the very few occasions where the costs incurred on TTL/Dr Wright's side were revealed, my recollection is that they were higher than on the opposing side. Furthermore, and notwithstanding the amount of work which had to be undertaken in opposition to TTL or Dr Wright, there is reason to believe that overall, the costs incurred by TTL/Dr Wright in these 5 actions were higher than those incurred by their opponents for equivalent steps.
- v) Notwithstanding all the numerous points taken by Mr Baradon KC, I remain of the view that the costs recovery by the CYK Defendants will be high, such that an interim payment of 80% of their total costs is amply justified. The CYK Defendants may well recover more than this on any detailed assessment, bearing in mind the overall consideration that they faced a fraudulent claim for many millions (despite themselves not having incurred any benefit at all) pursued with the backing of Mr Calvin Ayre, a Canadian gambling billionaire. Overall, the Tulip Trading Claim was to recover Bitcoin worth over \$4bn, alternatively equitable compensation apparently for a like amount. I have little doubt that on TTL's side, the potential gain was well worth the risk of exposure to several million in costs, but also that that type of gamble is not open to ordinary individuals such as the CYK Defendants.

The costs of the three applications.

- 246. It was agreed by the parties that the CYK Defendants should have their costs of the WFO application and the Costs application, the dispute between the parties being as to the sum to be awarded on summary assessment. Mr Baradon KC submitted that each set of costs should be significantly reduced on any summary assessment.
- 247. On the WFO application, Mr Baradon KC's principal point was that there was very little work for CYK to do, since they were adopting what had been prepared by Enyo for the preceding WFO application, itself based on the Macfarlanes' application for the Developers in BTC Core and on the COPA WFO application. This submission belittles the responsibility which CYK had to undertake in mounting the application, and the significance of ensuring these individuals recovered their costs. Mr Baradon KC also drew attention to a series of very minor points on the wording of the Order, which have very little significance. He also complained about the claimed costs of enforcement, but those complaints belittle the importance of the CYK Defendants recovering their costs.
- 248. On the service application, Mr Baradon KC suggested that the CYK Defendants should bear those costs. I disagree. At the time, Dr Wright had fled the jurisdiction and was continuing to resist all requests to accept alternative service on his solicitors, so Mr Baradon KC's point that CYK did not request agreement to such an order before making their application carries no weight, in my judgment.

249. I summarily assess the relevant costs at 90% of the total amounts certified on each schedule of costs, rounded down to the nearest thousand. In this regard, the 'costs of enforcement' are costs of the WFO, so those should be added before the 90% and rounding steps take place.

250. Finally, I rule that Judgment Act interest at 8% should begin 28 days after service of the bill of costs.

DISPOSAL

251. In the light of this Judgment, I ask the relevant parties to seek to agree the Orders necessary to give effect to my findings. Any outstanding disputes on the wording I will resolve on the papers.