Neutral Citation Number: [2024] EWHC 3135 (Ch)

Case Nos: IL-2021-000019
BL-2024-001495

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

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

Date: 6 December 2024

Before :

MR JUSTICE MELLOR

- -

Between (in IL-2021-000019) :

CRYPTO OPEN PATENT ALLIANCE	**Claimant**
- and -	
DR. CRAIG STEVEN WRIGHT	**Defendant**

And between (in BL-2024-001495) :

DR. CRAIG STEVEN WRIGHT	**Claimant**
- and -	
(1) BTC CORE (a partnership)	**Defendants**
(2) SQUARE UP EUROPE LIMITED (a partner)	

- -
- -

Jonathan Hough KC and Jonathan Moss (instructed by **Bird & Bird LLP**) for **COPA**
Dr Wright appeared in person (by remote link)

Hearing date: 27 November 2024

- -

APPROVED JUDGMENT

This judgment was handed down remotely by circulation to the parties' representatives by email. It will also be released for publication on the National Archives and other websites. The date and time for hand-down is deemed to be 10.30am on Friday 6 December 2024.

THE HON MR JUSTICE MELLOR

Mr Justice Mellor:

1. This Judgment is concerned with issues which arose at a CMC in advance of a hearing of COPA's application that Dr Wright is in contempt of court for commencing a new action BL-2024-001495 Dr Craig Steven Wright v (1) 'BTC Core' (2) 'Square up Europe Ltd' ('the New Claim'). The principal allegation of contempt is that the threatening of this new action and its commencement are in breach of the injunctive relief I granted in the Order dated 16 July 2024 made following the Identity Trial.

2. The Identity Trial was the trial of COPA's claim against Dr Wright in IL-2019-000019 and the trial of a preliminary issue in IL-2022-000069, a claim brought by Dr Wright and two of his companies against (1) 'BTC Core', (2) numerous individual developers of certain versions of the Bitcoin software and (3) a number of companies operating cryptocurrency exchanges, including Squareup Europe Limited. The issue I decided at the Identity Trial was whether Dr Craig Wright was Satoshi Nakamoto, the creator of Bitcoin. At the conclusion of argument at the Identity Trial I ruled that he was not and gave my reasons later in my Main Judgment [2024] EWHC 1198 (Ch). That ruling also bound the parties in two other actions brought by Dr Wright and associated companies in passing off – the Kraken and Coinbase claims – and led to the discontinuance or dismissal of those claims.

3. The Contempt Application is due to be heard in the near future, but, for reasons I discuss later, I do not propose to publicise the date of the hearing in this judgment.

4. The issues for decision at this CMC concerned:

    i) Dr Wright's application that he should be permitted to attend the hearing of the Contempt Application remotely (from Indonesia) on various grounds.

    ii) Other directions for the Contempt Hearing, including a direction for cross-examination of Dr Wright on certain limited topics.

    iii) Dr Wright's allegation of apparent bias.

5. I announced my decisions on each of the issues during the hearing. This Judgment contains my reasons for each of those decisions.

The New Claim

6. As appears from the title page, the New Claim is brought by Dr Wright against two named Defendants, (1) 'BTC Core' and (2) 'Squareup Europe Limited'. Although Dr Wright named BTC Core as a defendant in one of the earlier actions, COPA (and others) say there is no such entity and it is an invention of Dr Wright's in his attempt to designate those who are or who have been involved in the development of the software used in various manifestations of Bitcoin as a partnership.

7. In his claim form in the New Claim, under the brief details of the claim, Dr Wright says:

> 'This claim addresses the wrongful passing off of BTC as Bitcoin. The defendants have, without authorisation, altered the original Bitcoin protocol—introducing modifications such as SegWit and Taproot—that fundamentally deviate from the original system as defined by Satoshi Nakamoto in the Bitcoin White Paper.
>
> These modifications have led to a misrepresentation of BTC as the original Bitcoin, resulting in confusion within the market. The true version of Bitcoin, represented by BSV, adheres strictly to the original protocol and vision of a peer-to-peer electronic cash system. The defendants' actions have misled the public into believing that BTC retains the attributes of the original.'

8. Dr Wright has specified his damages claim in the New Claim is £911billion.

9. It is clear from certain passages in Dr Wright's lengthy Particulars of Claim and accompanying documents that Dr Wright seeks to assert this claim against a large number of defendants, including many who were the subject of his previous claims in the earlier BTC Core claim, the Kraken and Coinbase claims and the associated Tulip Trading claim i.e. a large number of individual software developers as well as cryptocurrency exchanges. Many of those entities are situate outside this jurisdiction, yet Dr Wright has not sought permission to serve out.

10. Thus, there are problems with the way in which this New Claim is constituted and service of it on the numerous intended defendants not named in the heading, but those problems can be addressed later.

11. I do not propose to discuss in detail in this judgment the causes of action asserted by Dr Wright in the New Claim, since those will be the subject of some intense scrutiny at the Contempt Hearing. However, one of the possible consequences if the New Claim were to succeed would be to give Dr Wright significant if not total control over BTC. That was also one of the possible consequences of the previous actions brought by Dr Wright in the BTC Core, Kraken and Coinbase claims.

Remote Attendance

12. Dr Wright's Application (by Notice dated 22 November 2024) was for permission to attend the forthcoming Contempt Hearing remotely, although in his document 'Sub. 22.11.24', it was clear that Dr Wright sought permission to participate remotely via video link in both actions listed in the heading from this point onwards.

13. I made it clear that Dr Wright would not, at this hearing, be given a blanket permission to participate in both actions remotely, so I addressed his Application Notice, as issued.

Applicable principles

14. The decision whether to require an in-person hearing of the contempt application or to allow Dr Wright to attend remotely by video link from outside the jurisdiction required consideration of a number of legal and procedural factors which included (i) the strong presumption in favour of personal attendance at a contempt hearing; (ii) principles governing remote hearings, including restrictions on the court's ability to receive evidence from foreign jurisdictions; and (iii) principles relating to adjustments for vulnerable witnesses.

The presumption for personal attendance in person at committal hearings

15. The strong presumption in favour of personal attendance was explained recently by Miles J in *Business Mortgage Finance 4 plc v Hussain* [2022] EWHC 353 (Ch) at para. 33:

> "I ordered the trial [of the contempt application] to take place in person. There are compelling reasons for that: a committal application concerns a public administration of justice and the applicants are contending that the respondent has breached the order of the court; the hearing should therefore take place with the alleged contemnor present to answer the charges. It may be possible to contemplate unusual cases where remote appearance may be justified for reasons of health or vulnerability or otherwise. But that requires evidence and is not this case."

16. Likewise, in the recent case of *Mex Group Worldwide Ltd v Ford* [2024] EWHC 1486 (KB) at para. 13, Ellenbogen J directed a fully in-person hearing of a contempt application, explaining that "it is not appropriate to attend a committal application remotely". CPR 81.7(2) specifically empowers the Court to issue a bench warrant for the attendance of the defendant at a substantive contempt hearing.

17. COPA also submitted that it has been repeatedly recognised that it is particularly unsatisfactory to have cross-examination by video link of a person who has previously been found to be dishonest: see *JSC BTA Bank v Zharimbetov* [2014] EWHC 116 (Comm) at para. 33 and *Deutsche Bank AG v Sebastian Holdings, Inc and Vik* [2023] EWHC 2234 (Comm) at paras. 79-81. As well as the importance of the Court assessing the witness carefully in such a case, the Court will also be astute to the prospect of a dishonest person taking improper advantage of giving evidence remotely (e.g. by taking cues from someone behind the camera or using hidden notes during evidence).

Arrangements for remote hearings and taking evidence remotely

18. The Court's power to order hearings to take place remotely is subject to guidance in Appendix Z to the Chancery Guide (Remote and Hybrid Hearings Protocol), which (at para. 8) encourages the question of hearing format to be raised in good time before the hearing.

19. Annex 3 to CPR PD 32 (Video Conferencing Guidance) acknowledges at the outset (at para. 2) that video link evidence is "*inevitably not as ideal as having the witness physically present in court*", adding: "*Its convenience should not therefore be allowed to dictate its use*". In particular, Courts normally prefer to take the evidence of important witnesses in person.

20. The Court should only take evidence by videolink from a person in a foreign jurisdiction if that is permitted by the legal authorities in that jurisdiction, either under a standing arrangement or by a specific permission. Annex 3 to CPR PD32 states (at para. 4) that a party who wishes to call witness evidence remotely must check with the Foreign, Commonwealth and Development Office ("**FCDO**") and confirm to the Court that the country where the witness is located is permitted by the local authorities to give evidence by video link from there. Such permission should not be presumed.

21. Over recent months, it seems that Dr Wright has spent significant time in Thailand, a country with which the FCDO has not been able to reach agreement on the giving of remote evidence. Dr Wright has also spent time recently in China and the UAE (Dubai), both of which are also jurisdictions with which the FCDO has not reached such agreement. At the time of the last hearing, he claimed that he was in Singapore and would be there at the time of the hearing of the contempt application. The FCDO guidance indicates that individual permission is required for evidence to be given from Singapore. He now claims that he will be in Indonesia on "*the specified date, as part of work related requirements involving engagements with Internet casinos*" and travelling to Singapore "*the following day*".

22. For reasons which I will not go into, COPA suggested that Dr Wright's statements about where he plans to be on the relevant dates and his work commitments (not previously mentioned) were shifting and unreliable. COPA strongly suspected that Dr Wright has said that he will be in Indonesia because it is a country which permits evidence by videolink to UK courts.

Adjustments for vulnerable witnesses / litigants

23. I addressed the principles governing adjustments for vulnerable witnesses and litigants in some detail in my judgment of 3 October 2023 in the COPA claim: see *Crypto Open Patent Alliance v Wright* [2023] EWHC 2408 (Ch) at paras. 136-144. In summary, the Court should take appropriate and proportionate measures to enable vulnerable litigants to participate fairly in proceedings and to allow vulnerable witnesses to give their best evidence. It should consider appropriate measures, including ground rules, at pre-trial hearings. It is legitimate, and may be valuable, for the Court to receive expert evidence on a litigant's or witness's condition and its effects. However, such evidence should not extend to "*oath-helping*", namely experts seeking to attest to the credibility or truthfulness of the witness.

24. Dr Wright's submission referred to a series of authorities in support of arguments that reasonable adjustments should be made to enable a vulnerable litigant or witness to participate fairly in court proceedings. As COPA pointed

out by reference to a series of examples, most of the authorities he has cited do not contain the passages attributed to them (or anything like those passages), and indeed most have nothing to do with adjustments for vulnerable witnesses. COPA suggested that it seems likely that they are AI "hallucinations" by ChatGPT (i.e. made-up references) rather than deliberately misleading inventions by Dr Wright. However, since the principles are clear and not in doubt, as set out above, it is not necessary to engage with his false citations any further.

25. I agree with COPA that it is for Dr Wright to justify remote participation at the hearing of the contempt application, so I turn to consider the grounds he put forward in support of his application that he be permitted to attend remotely.

26. In the materials which Dr Wright served for this hearing, he put forward three main grounds to justify his remote attendance. These were, and I quote:

    i) 'the severe threats to Dr Wright's safety';

    ii) 'the challenges posed by his Autism Spectrum Disorder (ASD)';

    iii) 'and the procedural fairness obligations imposed under statutory and case law'.

27. Dr Wright developed each of these grounds at length in his documents with reference to a number of statutes including the Equality Act 2010 and the Protection from Harassment Act 1997, also citing considerable 'caselaw'. His third ground is not an independent ground but merely an appeal to the applicable principles, as to which there was no real dispute, since Dr Wright must be afforded access to justice – the fundamental Article 6 right.

28. I also kept in mind that Dr Wright is now representing himself, so CPR 3.1A applies.

29. However, the issue turned on an assessment of the facts. I discuss his two grounds in turn.

'Threats to Personal and Family Safety'

30. Dr Wright submitted that he and his family have been subjected to 'severe and credible threats directly linked to his involvement in this litigation' – by which I understood him to mean principally the litigation prior to the New Claim. As I understand matters, Dr Wright himself is responsible for any publicity attaching to the New Claim. He alleged these threats included:

    i) 'Online harassment, such as defamatory posts and targeted character attacks';

    ii) 'Doxing, involving the public dissemination of his home address and private family details';

iii) 'Threats of physical violence, including specific references to harm directed at his family, such as the public sharing of images of private family spaces'.

31. Dr Wright submitted that 'Remote participation ensures Dr Wright can contribute effectively to the proceedings without exacerbating safety risks'.

32. In the myriad materials which Dr Wright served in advance of this hearing was a document entitled 'Threats'. The first 16 pages were extracts from X and the like of online threats made against him and others connected with BSV, some threatening death. These were typical of the unrestrained comments found in online forums from so-called 'keyboard warriors' and much of it was similar to the sort of threats which Dr Wright himself has made in the past against some of the Developers, to which my attention was drawn in the COPA trial.

33. Nonetheless I reviewed Dr Wright's 'Threats' document with care. It contains various unpleasant comments about him and his supporters by individuals on social media. As COPA readily accepted, online abuse of Dr Wright and his family is to be deplored.

34. However, I must also bear in mind that his Threats document contained a relatively small number of comments spread over a considerable number of years and the great majority of them pre-date the Identity Trial. Overall, they did not appear to me to substantiate a real threat to his personal safety if he were to attend Court for the hearing of the contempt application. I add that anyone interfering or threatening to interfere with Dr Wright's attendance at the Contempt Hearing would be likely themselves to be committing a serious contempt of court.

35. COPA submitted that this ground was spurious. Notwithstanding that a great majority of the threats he now relies upon pre-date the Identity Trial (as I mentioned above), Mr Hough KC pointed out that Dr Wright was willing and able to attend Court on a number of days in the Identity Trial without any concerns for his safety being expressed at the time either by him or by his legal team. Dr Wright responded to this by asserting in his submissions to me that his safety had been assured by two bodyguards, the cost of which had been met by nChain at the time. He also asserted the cost had sometimes amounted to £50k a day. He said he no longer had the backing of nChain and could not afford to employ bodyguards himself. I observe that none of this response had been set out in any of the extensive materials he served in advance of the hearing. In view of Dr Wright's propensity to lie, and in particular to invent excuses during his cross-examination, as discussed in my Main Judgment from the Identity Trial, I was inclined to regard this bodyguard story at best as very significantly embellished in order to support his claim for remote attendance, but more likely to be pure invention.

36. Even if Dr Wright continues not to have legal representation for the Contempt Hearing, a taxi to Court provides a convenient and anonymous way to get to the relevant Court building. Although I do not consider there is any real threat to his personal safety if he does attend Court, in order to alleviate any concern he

might have, I have omitted reference in this Judgment to the date(s) set for the Contempt Hearing.

ASD

37. This is not the first occasion when I have been required to consider Dr Wright's ASD. It is undoubtedly the case that he has been diagnosed with ASD and ASD may have effects on the person's perception and communications.

38. However, Dr Wright has given evidence in multiple legal actions without it ever being suggested by any of his impressive legal teams that his ASD condition meant that he should attend remotely. Dr Klin gave evidence in the *Kleiman* and *Granath* proceedings, but there is no indication that he ever made such a proposal. Dr Wright originally sought to rely upon evidence from Dr Klin in these proceedings, but later abandoned it because it repeatedly strayed into the territory of inadmissible "*oath-helping*".

39. I received expert evidence on Dr Wright's condition in the COPA Claim from Prof Fazel and Prof Craig, for the purposes of making adjustments to receive Dr Wright's evidence at the Joint Trial. Their agreed view in their joint report was that Dr Wright could give evidence in the usual way, subject to (i) clear timetabling of his evidence; (ii) the Court not drawing negative inferences from aspects of presentation during evidence; (iii) permitting him to write down questions and answers if he wished; (iv) more regular breaks; and (v) shortening questions in the event of Dr Wright becoming emotionally dysregulated. Nothing in their conclusions suggested that Dr Wright ought not to attend Court in person. If anything, in-person participation would enable the Court better to ensure that the adjustments were applied (e.g. to assess and respond to signs that he might need a break or time to make a note).

40. In his report (paras. 60-62), Prof Craig analysed Dr Wright's performance both under cross-examination in previous proceedings and in recorded public speaking sessions. He concluded that Dr Wright "*consistently demonstrates an ability to understand complex and sometimes challenging questions, and respond to them succinctly and with clarity*"; and that Dr Wright had "*mastered the art of talking in public better than the average man*", including "*speaking in a clear and logical way without notes*", "*appearing able to understand relatively complex and lengthy questions*" and "*answering these with apparent perception and clarity*".

41. Based on the experts' joint statement, the parties agreed upon adjustments to be adopted at trial and incorporated them into an agreed order. At the Joint Trial, these adjustments were adhered to and they appeared to prove successful, as I mentioned in my Main Judgment at [129] and [133]. Furthermore, COPA reminded me that, at end of his principal evidence at the Joint Trial, Dr Wright endorsed this impression, saying: "*If I may say, this has been my least stressful court case, with you, my Lord. You've been good. I know that's not a normal thing, but other ones have been more so*" (the last sentence plainly meaning that his other cases had been more stressful for him) – transcript for day 8, p198, lines 22-25.

42. In his Submission, Dr Wright suggested that at the Joint Trial the Court failed to adhere to the adjustments in the agreed order. I reject that suggestion. In addition to the observations I made in the Main Judgment, there was no complaint during the trial from Dr Wright, his wife or any of his many lawyers that they were not being applied properly. Dr Wright certainly never suggested that his in-person participation was a problem.

43. Dr Wright complains that, whilst the order allowed him to write notes for his responses, this was not permitted in practice at the Joint Trial. This allegation is incorrect. COPA drew my attention to an extract from the Transcript which demonstrates Dr Wright was able to and did take notes during his cross-examination. Not surprisingly, no complaint of this nature was made during the Identity Trial. Furthermore, as COPA submitted, Dr Wright was generally keen to give immediate answers, often at length.

44. Dr Wright also raised a particular complaint about one passage of cross-examination by Mr Gunning KC (for the Developers) on day 8, in which Dr Wright was unable to explain what an unsigned integer was. He says that "interruptions prevented me from completing a coherent and accurate explanation", so "exploiting the disadvantages posed by his condition".

45. However, COPA presented me with a timed extract from the transcript in question. That accords with my recollection that Mr Gunning asked short, clear questions and gave ample time for responses – there were long pauses before Dr Wright gave his answers. For example, after asking the question in open form and giving Dr Wright two opportunities to answer, Mr Gunning said "Take a wild guess", after which there was a pause of 9 seconds before Dr Wright said that he could not explain what an unsigned integer was, although he claimed to know. In short, Dr Wright's particular complaint was simply untrue.

New evidence from Dr Klin and Prof. Craig

46. The latest letter from Dr Klin (of 15 November 2024) explained that it was produced against the background of Dr Wright's request to participate in the hearing remotely. It went on to explain various aspects of Dr Wright's ASD condition and its effects on his social interactions. It referred repeatedly to Dr Klin's original report and (in short) indicates that the views expressed in the letter are really a summary of those previously expressed in the report. The draft letter of 30 March 2023 is to similar effect, but it once again gives "oath-helping" evidence.

47. However, as COPA submitted, probably the most telling feature of Dr Klin's letters is what they do not include, namely any conclusion that Dr Wright should attend the Contempt Hearing remotely or any general statement that he cannot fairly be expected to participate in a court hearing in person. Dr Klin begins his latest letter by setting out that he was asked by Dr Wright "*to write my clinical opinion and recommendations regarding his request from you for a secure, remote video link setup to more meaningfully participate in the court proceedings associated with the legal case above*". However, Dr Klin never actually gave an opinion that Dr Wright should participate in the hearing

remotely. If he had done so, he would have had to explain why that was a measure he had never previously suggested in any of his reports or in his oral evidence in the Kleiman or Granath cases.

48. COPA submitted that, in any event, very limited weight should be given to Dr Klin's latest letter for the following reasons. First, the clinical evaluation on which he bases his views was in April 2020, whereas both Prof. Craig and Prof. Fazel based their reports on more recent evaluations. Secondly, Dr Klin took account of a transcript of proceedings in the *Kleiman* case and observations of Dr Wright during that and the *Granath* case. Meanwhile, Prof. Craig and Prof. Fazel drew on a wider range of examples of Dr Wright giving evidence. Furthermore, I have my own experience of Dr Wright giving evidence with adjustments recommended by the experts. Thirdly, COPA made a point that Dr Wright did not call upon Prof. Fazel, suggesting that was because he would not have supported his application. I am not inclined to give that point any weight.

49. Dr Wright objected to COPA relying on the latest report from Prof. Craig, in response to Dr Klin's latest letters but I have no doubt that I must reject his objection to ensure procedural fairness.

50. In his latest report, Prof. Craig remains of the view set out in his joint report with Prof. Fazel, namely that the reasonable adjustments set out for the trial of this action remain appropriate and sufficient. He went on to say that his opinion in his earlier reports has been supported by the summary of the experience of the trial set out in paras 129, 133-137 in my Main Judgment. He therefore concluded that he was unable to support a direction that Dr Wright should attend the Contempt Hearing remotely. Since Prof. Craig's original opinions about Dr Wright's condition and reasonable adjustments to accommodate it were agreed by Dr Wright's expert and borne out in the trial, COPA submitted I should give Prof Craig's evidence considerable weight.

Analysis of the ASD evidence

51. There is one difference between the current situation and the previous ones which I kept in mind. On the previous occasions when Dr Wright gave evidence (in *Kleiman, Granath* and at the Identity Trial), Dr Wright was legally represented. When giving his evidence at the Identity Trial, Dr Wright spoke for the most part with confidence and considerable assurance, the 'unsigned integer' topic being a notable exception. At the contempt hearing, Dr Wright will be subject to a relatively short cross-examination (see further below), but will have to make submissions himself. However, he asserted he is 'better in writing' and has already shown he can and does prepare lengthy written submissions which contain all the points he wishes to make.

52. With that difference in mind, I can state my conclusion succinctly. The expert evidence which I received prior to the Identity Trial as supplemented by the letters and reports supplied recently did not support the contention that Dr Wright's ASD required remote attendance at the hearing of the contempt application. If anything, I inclined to the view that in-person participation is more likely to ensure that the agreed adjustments are properly applied, for example to assess and respond to signs that Dr Wright might need to take a

break or time to make a note. I will continue to ensure that the previously agreed adjustments are adhered to at the forthcoming hearing.

COPA's position

53. As COPA submitted, the starting point is that a contempt hearing is a public proceeding of the utmost seriousness which should be in person, absent strong reasons to the contrary. The rules require it to be in public, with judge and advocates robed, in order to mark the seriousness of the matter and to secure open justice.

54. The rationale for personal attendance as explained in the case law applies with full force in this case, where the allegation of contempt against Dr Wright consists of breaching an anti-suit injunction by bringing an extremely large claim against a wide but ill-defined group of people, a number of which have already been the target of claims by Dr Wright or at his instigation in the Identity Trial and related cases, including Tulip Trading. Absent clear medical justification, COPA submitted that Dr Wright should not be permitted to make use of the English legal system to bring enormous claims, causing cost and inconvenience to others, while hiding at a keyboard in an undisclosed location. I agree.

Other factors

55. There are two other factors to mention. The first I raised at the hearing and it concerns the fact that in my Judgment following the Form of Order hearing – see [2024] EWHC 1809 (Ch) at [199] I decided that I would refer the papers in the Identity Trial to the CPS for a decision whether Dr Wright should be prosecuted for perjury and forgery. It occurred to me that Dr Wright might be fearful of arrest if he returned to the UK. Although he denied that, I made it clear that the referral would not take place until after the appeal process had concluded. At the date of the hearing, the appeal process was on-going but concluded shortly afterwards, as I relate below. No referral will take place until after the Contempt Hearing.

56. The second is Dr Wright's personal convenience, having regard to his stated work commitments and travel plans. These cannot be a material factor in providing justification for remote attendance. As COPA pointed out, Dr Wright has shown himself perfectly willing to travel, having recently apparently visited Thailand, China, Dubai and Singapore (while recounting his travels in postings on X (Twitter)).

Conclusion on the Remote Attendance Application

57. I can now return to state my conclusions, having analysed above the grounds which Dr Wright put forward and the other factors I have mentioned.

58. Having considered Dr Wright's attempted justification for remote attendance and any other relevant factors, I concluded that his justification(s) carried no weight. In these circumstances it is difficult to avoid the conclusion invited by COPA which was that his real motivation is a wish to avoid the consequences

of his contempt (if proved). It is unnecessary to make any finding in this regard, however. It is sufficient for me to state that I remained unpersuaded that Dr Wright's application for remote attendance was in any way justified. It was for all these reasons that I directed that the contempt hearing must be fully in-person, with Dr Wright attending in person.

COPA's application for cross-examination on limited topics

59. It is necessary to put this application in context by outlining COPA's allegations of contempt by Dr Wright.

60. I understand that it is not in dispute that Dr Wright knew of the Order and its terms, or that he deliberately did the acts on which the application is based (principally, that he issued the New Claim). Accordingly, on the question of liability on the principal grounds of the Contempt Application (concerning threatening and issuing Precluded Proceedings), the only issue is whether the New Claim includes claims which fall within the scope of the Order. That is an issue which simply requires the Court to construe the Order, analyse the Particulars of Claim in the New Claim and compare the two documents.

61. However, COPA say it is necessary for Dr Wright to be cross-examined on the issue of whether he intentionally or recklessly breached the Order, that issue being relevant to sentence. Dr Wright insists that he believed that the New Claim circumvented the terms of the Order. Meanwhile, COPA maintains that the breaches were clear; that he must have appreciated that he was breaching the terms of the Order; or at least that he must have appreciated that there was a risk that his acts would amount to breaches and chose to run that risk. COPA needs to put that case to Dr Wright, so that cross-examination is required, subject of course to his right to silence.

62. COPA also identify another short topic on which cross-examination of Dr Wright is required, again, subject to his right to silence and privilege against self-incrimination. This concerns liability relevant only to COPA's final ground of contempt; namely, that he removed the required legal notice from his X (Twitter) account @Dr_CSWright on or about 18 October 2024, contrary to the order that it be displayed until 23 October 2024. Dr Wright maintains that he was not responsible for the notice being taken down. COPA takes issue with him on that point of fact, and so needs to put its case to him.

63. Against this backdrop, COPA submitted that those are the only issues on which oral evidence and cross-examination is required. Accordingly, and in order to assist the parties in preparing for the hearing, COPA requested a direction indicating the scope of the cross-examination as outlined above.

64. As COPA accept, it is clear that perhaps the most important allegation of contempt can be determined by reference to the statement of the New Claim in the Claim Form and Particulars of Claim. In this regard, I have noted that Dr Wright filed an application to amend his Particulars of Claim two days after I granted a stay of the New Claim pending the outcome of the Contempt Application. COPA therefore object to his new application. However, I have

little doubt that, at the hearing of the Contempt Application, it will be necessary to consider Dr Wright's document entitled "Amended Particulars of Claim'.

65. CPR 81.7(1) provides that the Court may give directions for a contempt hearing, with particular reference to "*directions for the attendance of witnesses and oral evidence*".

66. Essentially for the reasons as explained by COPA, I gave the following directions:

    i) First, for Dr Wright to give oral evidence (and in person), it appearing that no other oral evidence is required.

    ii) Second, as to the scope of his oral evidence, namely that it should address (i) whether in issuing the New Claim he was intentionally or recklessly breaching the Order; and (ii) whether Dr Wright was responsible for removing the legal notice after service of the New Claim.

Bias

67. The last section of the 'Threats' document which Dr Wright served for this hearing was headed 'Mellor affiliation with David Pearce / COPA'. Mr Pearce is a UK and European Patent Attorney. The first part of that section attempts to show links between David Pearce and COPA. It says:

> 'His relevant origins is as an Advisor alongside the Co-Founder to the pre-cursor of COPA…. This pre-cursor called The Open Crypto Foundation (OCF).'

68. Then Mr Max Sills is introduced as 'the Director of OCF, Counsel at Block and General Manager at COPA'. Then Dr Wright states:

> 'Not only did David Pearce work for the pre-cursor and the current Counsel at Block and General Manager of COPA, David Pearce also has a direct interest in opposing Dr Wright. He has worked for years on a Patent case opposing Dr Wright / nChain since February 2021'.

69. What follows are some posts, apparently by Mr Pearce, about his involvement in an EPO Opposition to an nChain patent.

70. Then Dr Wright states:

> 'David Pearce and Justice Mellor have seemingly close ties (video has been downloaded) and have met a few times, including prior to the identity case.

71. The video is on YouTube and is of an interview of David Pearce by an online interviewer published on 6 June 2024 in which the host 'interviews UK attorney David Pearce about recent landmark cases that are shaking up the crypto space.' The first topic is the COPA v Wright judgment. David Pearce talks about the two occasions when we have met.

72. In his 'Threats' document, Dr Wright then sets out some extracts from a transcript of the video, with some comments. It is unnecessary to set out these extracts. There follows 'Conclusion – David Pearce/COPA & Justice Mellor', which reads as follows:

> 'It seems that David Pearce has known Max Sills and worked for the pre-cursor of COPA since 2015. Whether David Pearce still works for the newly named OFC [sic] under the name COPA we can not determine, that he has direct opposition to Dr Craig Wright is a definite (past and ongoing patent cases) since 2021. That he knew and still knows Max Sills, Director of OFC, Counsel of Block & General Manager of COPA is a definite, that he met with Judge Mellor at least a couple of times outside of court setting (that we know of) in 2023 and 2024, and discussed Dr Wright and the identity case is a definite. That Mellor, in his own words, and as discussed with David Pearce, knows only what has been presented to him about Bitcoin, is a definite. That David Pearce discussed Bitcoin with Judge Mellor and presented Judge Mellor with his (arguably biased) personal view & understanding of Bitcoin, outside court settings, at least on two separate occasions (that we know of), is a definite.'

73. Even though Dr Wright has brought no application in this regard, I had no doubt that I should address what Dr Wright says now. I proceeded on the basis that the accusation is one of apparent not actual bias.

Applicable Legal Principles

74. The applicable principles are well-known, not in dispute and conveniently summarised in the judgment of Miles J. in *Business Mortgage Finance 4 Plc v Hussain* [2022] EWHC 140 at [138]-[139]:

> '138. The legal principles were summarised in *Bubbles & Wine Ltd v Lusha* [2018] EWCA Civ 468 at [17]-[19] and I shall not repeat the whole passage. The ultimate question is whether the fair-minded observer and informed observer, having considered the facts, would conclude that there was a real possibility that the tribunal was biased. The fair minded and informed observer is not unduly sensitive and suspicious but neither is he or she complacent. The facts and context are critical to any recusal application. The fair minded and informed observer is not to be confused with the person raising the complaint of apparent bias and the test ensures that there is this measure of detachment.
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> 139. I also note the observation of Floyd LJ in *Zuma's Choice Pet Products Ltd v Azumi* [2017] EWCA Civ 2133 at [29] that the mere fact that a judge has decided applications in the past adversely to a litigant is not generally a reason for that judge to recuse himself at further hearings. If that were the case the same judge could not make two successive interim decisions in a case without risking accusations of bias. It would make it impossible

> for there to be a designated judge assigned to complex cases with multiple interim applications. The fair minded and informed observer does not assume that because a judge has taken an adverse view of a previous application or applications, that he or she will have pre-judged, or will not fairly deal with, all future applications.'

Application to the facts

75. At the hearing on 27 November 2024, I drew attention to Dr Wright's allegations/insinuations. I gave a brief summary of my interactions with David Pearce and stated my conclusion that I rejected any suggestion of bias.

76. As far as I can recall, I have only met David Pearce on two occasions.

77. Having checked some records, the first was at a dinner on Thursday 23 February 2023. I had been invited to speak on a Judge's Panel at the Union IP Roundtable event on Friday 24 February 2024 (on 'Claim Scope in view of the Description'), which was held at the German Patent Office in Munich. The event organisers held a dinner for the speakers the evening before. This took place in a room at a restaurant in Munich. There were perhaps 30-40 people at two tables. I remember the dinner being very noisy, so it was difficult to hear. Although I can picture the room, I have no recollection of any conversation with David Pearce other than he said he would send me a book, so Bitcoin must have been a topic of conversation. In the video referred to below, David Pearce says we did not talk about Dr Wright, but there was talk of Bitcoin. I also recollect he may have been one of the Union IP organising committee. February 2023 was just after the time the Bitcoin cases were first docketed to me. This was at a very early stage of my involvement and a year before the Identity Trial took place.

78. I should mention that during my case management of the Identity Trial and the other actions involving Dr Wright, I received unsolicited a number of books about Bitcoin. These I put on a shelf in my room in their packaging. I did not read any of them, (and still have not) but I assume that one of them was sent to me by David Pearce. I also received a considerable number of emails, particularly in the lead up to and during the Identity Trial which purported to provide me with information about Satoshi Nakamoto. These emails were forwarded to the parties. I paid no attention to any of them, since they were not evidence in the Identity Trial.

79. I have no recollection at all of anything about Bitcoin which David Pearce might have said to me at the Union IP dinner, and certainly by the time of the Identity Trial, I had nothing in mind of what David Pearce might have said to me about Bitcoin.

80. The second occasion was at a CIPA ('Chartered Institute of Patent Agents') seminar entitled 'UK patent drafting and litigation – myth, legend & reality' held in the UK at 14-15 Belgrave Square in London on 29 April 2024. Again, I was a speaker on a Judges' panel. There were drinks after the seminar and I recognised David Pearce in the crowded drinks reception from our earlier

meeting and because he had observed some days of the Identity Trial from the back of the Court. I had already announced the outcome of the Identity Trial and by 29 April 2024 I had already written most of the Judgment. We had a brief conversation. Again, what he said in the video reminds me that he asked me: 'Adam Back wants to know when the judgment is coming out?' I had no idea that David Pearce knew Adam Back. I said I was aiming to finish it by 9 May. In fact, I recall the cross-referencing took some time to complete and check, so the draft Judgment was sent out to the parties on 10 May and handed down on 20 May 2024.

81. As should appear from the above, I do not have 'close ties' with David Pearce. These two brief interactions do not represent any 'affiliation' between David Pearce and myself, nor any link to COPA. Nor do they give rise to any hint of bias, whether real or apparent. These are the reasons why I rejected the insinuation of bias.

82. Whilst preparing this judgment, I was sent a copy of the Order of the Court of Appeal rejecting Dr Wright's application for permission to appeal against the Orders I made at the conclusion of the Identity Trial and after the Form of Order hearing. In that Order, Arnold LJ rejected allegations of bias based on interactions between me and David Pearce. Although I have not reviewed the extensive materials which were filed with the Court of Appeal by Dr Wright in connection with his application for permission, it would seem that the same or similar materials as I have summarised above were provided to the Court of Appeal on the bias allegation, with the same result.