

CRYPTO OPEN PATENT ALLIANCE V WRIGHT: CAN THE REAL SATOSHI NAKAMOTO PLEASE STAND UP?

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Last October, Mr Justice Mellor handed down the latest decision in the ongoing saga that is Dr Craig Wright and his highly criticised claim to be Satoshi Nakamoto. The decision arose in the High Court in *Crypto Open Patent Alliance v Craig Steven Wright* and while it may appear on the surface as a minor case management application, it has potentially significant ramifications.

Who is Satoshi Nakamoto?

Satoshi Nakamoto is the pseudonymous author behind the 2008 "White Paper" which first described the basic structure of the Bitcoin network.⁽¹⁾ To this day, the author's true identity is unknown; despite the best efforts of Dr Wright, an Australian Computer Scientist, who first claimed that he was Satoshi Nakamoto in 2016 and has been trying to convince crypto-users and judges across the world ever since. Significantly, Dr Wright has been successful in obtaining nearly 4,000 patents pertaining to Bitcoin which could allow him to start charging for the right to build a wide variety of blockchain applications. The crypto community has largely rejected Dr Wright's claims and has been quick to make allegations that he forged and falsified the alleged evidence he relies upon; allegations that Dr Wright firmly denies. These disputes have resulted in countless legal battles in jurisdictions all over the world, including several in the UK.⁽²⁾

Crypto Open Patent Alliance v Craig Steven Wright (2023) EWHC 2642 (Ch)

The Crypto Open Patent Alliance ("COPA") is a non-profit organisation comprised of people and companies who support a defensive Crypto patent strategy. In January 2021, Dr Wright sent a cease-and-desist letter to the crypto subsidiary of payment company Block, which happened to be one of COPA's members.⁽³⁾ COPA subsequently filed a claim in the High Court against Dr Wright in April 2021 which sought a declaration that Dr Wright was not the author of the White Paper and, more generally, not the person who adopted the pseudonym Satoshi Nakamoto (referred to as the "COPA Claim").



Separately, Dr Wright filed a claim against several blockchain developers in which he alleges, inter alia, that he is in fact Satoshi Nakamoto (referred to as the "BTC Core Claim"). The COPA Claim is to be tried in January 2024 during which the identity issue pertaining to both claims is to be resolved.

Mr Justice Mellor's decision

Mr Justice Mellor was tasked with considering an application by COPA to add three paragraphs to its Particulars of Claim under the heading "Wright's failed attempts to prove he is Satoshi". To summarise the primary additions, COPA sought to add allegations that documents relied upon by Dr Wright to prove he is in fact Satoshi had been altered or tampered with and, accordingly, it was to be inferred that Dr Wright is either (a) responsible for the alterations and tampering, or (b) was at least aware of them.

Dr Wright resisted the application on 10 grounds which Mr Justice Mellor distilled into the following key points:⁽⁴⁾

- 1.the claim hitherto had not been one of forgery, rather, it was a case where the documents relied on by Dr Wright were said not to be authentic and a distinction ought to be maintained;
- 2.amendments sought to put forgery in issue in respect of approximately 400 documents; and
- 3.the forgery amendments were not a proper pleading of forgery and fell short of the principles relating to pleading fraud.



(1) Nakamoto, Satoshi "Bitcoin: A Peer-to-Peer Electronic Cash System" 31 October 2008 (Bitcoin: A Peer-to-Peer Electronic Cash System | Satoshi Nakamoto Institute)
(2) <https://forbes.com/sites/digital-assets/2023/07/12/satoshi-or-not-here-he-comes/>
(3) Ibid.

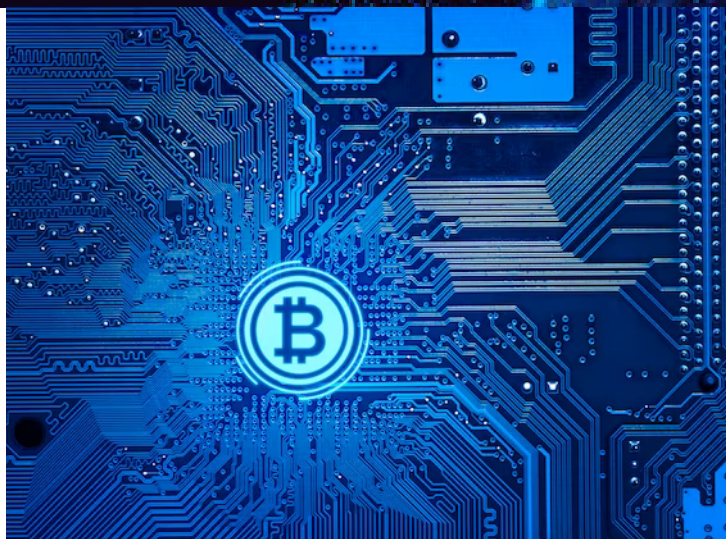
COPA, on the other hand, asserted that their pleaded case had always been that Dr Wright dishonestly claimed to be Satoshi Nakamoto and that he had consistently proffered false and forged documents in support of that claim.⁽⁶⁾ It acknowledged that an application to allow amendments to pleadings at such a late stage was a matter for the discretion of the Court which was required to balance the injustice to the applicant of refusing the opportunity to advance the case in a particular way against any prejudice to the respondent and other litigants resulting from the amendments being allowed.⁽⁶⁾

In his decision, Mr Justice Mellor sought to balance these competing considerations by taking, in his own words, "a somewhat unusual course".⁽⁷⁾ He gave COPA permission to amend the pleadings in a manner which had not been proposed by limiting the pleading of forgery to a total of 50 additional documents as opposed to the 400 sought by COPA. Mr Justice Mellor acknowledged that this amendment arose at a late stage but felt compelled to grant the amendment to some extent on the basis that, in his view, further allegations of forgery were always in contemplation and, by limiting the number of additional allegations the amendments ought not prejudice the trial date or cause any significant prejudice to Dr Wright.⁽⁸⁾ Dr Wright was also permitted to respond to the allegations by way of evidence in reply.⁽⁹⁾

Implications of the decision

A fair question to ask might be why Dr Wright is willing to spend significant time and money proving he is in fact Satoshi Nakamoto. The answer lies at the heart of the BTC Core Claim in which Dr Wright seeks recognition of alleged copyright and database rights in the original bitcoin network proposed by Satoshi Nakamoto in the White Paper. If these rights are recognised, it is possible Dr Wright could prevent the further operation of the Bitcoin Blockchain and the Bitcoin Cash Blockchain (which was forked from the Bitcoin Blockchain in 2017) without his consent. This would give Dr Wright unparalleled control over the operation of these currencies.

The outcome of the identity issue may also have wider ramifications for the well-publicised case of Tulip Trading Limited v van der Laan & Ors.⁽¹¹⁾ Tulip Trading made headlines earlier this year following the Court of Appeal's decision on an application to serve outside the jurisdiction in which it held that the first limb of the service out test, namely whether there was a serious issue to be tried on the merits, was made out in respect of Tulip's argument that developers of Bitcoin networks owe fiduciary duties to their users.



Relevantly, Dr Wright's claim to be Satoshi Nakamoto is also in issue in Tulip Trading. Tulip is indirectly owned by Dr Wright and his wife. In addition, 12 of the Defendants in the BTC Core Claim are Defendants in the Tulip Trading proceedings who hotly dispute Dr Wright's claim that he is Satoshi Nakamoto and, perhaps unsurprisingly, also challenge the authenticity of documents relied upon by Tulip in establishing ownership of the Bitcoin in question.

All this makes for a rather intriguing start to 2024 with the COPA trial kicking off this month. The crypto community will be interested in anything which sheds light on the identity of Satoshi Nakamoto and at least parts of both the BTC Core Claim and Tulip Trading may be resolved. Given Dr Wright's adversarial history and what is at stake in these claims, we can expect a vigorous fight.



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(4) Crypto Open Patent Alliance v Craig Steven Wright (2023) EWHC 2642 (Ch) at (9).

(5) At (11).

(6) At (34(ii)).

(7) At (68).

(8) At (70).

(9) At (72).

(10) Dr Craig Steven Wright & Ors v BTC Core & Ors (2023) EWHC 222 (Ch) at (14)-(20).

(11) Tulip Trading Limited v van der Laan & Ors (2023) EWCA Civ 83.