



IP ITeasers Post 018:

Help, someone hacked my bitcoin!

In a fascinating recent judgment on bitcoin, *Tulip Trading Ltd v Bitcoin Association for BSV and others* [2022] EWHC 667 (Ch) Falk J has refused permission to serve proceedings out of the jurisdiction on four digital asset networks.

Dr Craig Wright claims that he is “Satoshi Nakamoto”, the inventor of bitcoin, and that TTL, a Seychelles company whose shares are held on trust for his family, holds bitcoin worth more than USD 3 billion. He says that hackers have stolen the password protected files containing the “private keys” which give access to the bitcoin. Dr Wright wanted the defendant networks to help TTL regain access to its assets by writing a software patch. However, the court found that the networks did not owe TTL any duty to do so. TTL was asking the networks to take positive steps for its own exclusive benefit, not for the benefit of users generally, and which might disadvantage other users. That militated against a fiduciary duty. There was also no tortious duty to take reasonable steps to prevent third parties (the hackers) from causing harm to TTL.

The judge accepted that there was a good arguable case that TTL was resident in England (despite being a Seychelles company) that the bitcoin was located in England, and that damage was sustained in England. She also considered that England was the appropriate forum for trial. But the absence of a serious issue to be tried meant that permission for service out of the jurisdiction was refused.