1 August 2022

Wright v McCormack

Press Summary

This summary is provided by the Court, but does not form part of the judgment.

Mr Justice Chamberlain, sitting in the High Court, today handed down judgment in a libel claim brought by Dr Craig Wright against Mr Peter McCormack.

Background (see paragraphs 1-6 of the judgment)

In 2008, a "white paper" entitled *Bitcoin: A Peer-to-Peer Electronic Cash System* was published under the pseudonym Satoshi Nakamoto ("Satoshi"). It is widely believed that the author or authors went on to invent bitcoin, releasing early versions of the software and modifying the source code until 2010, and that this person or these persons still own a significant quantity of early bitcoin, currently worth many billions of US dollars.

There has been much speculation about the identity of Satoshi. Various individuals or groups have been proposed. One of these is the Claimant, Dr Craig Wright, a computer scientist and businessman active in the cryptocurrency and blockchain sphere who also aspires to an academic career in more than one field. Dr Wright now avows the claim that he is Satoshi.

The Defendant, Peter McCormack, is a podcaster and blogger specialising in content about bitcoin and associated cryptocurrencies. He publishes podcasts and blogs on his website "What Bitcoin Did". He is also a prolific user of Twitter and, from August 2017, tweeted using the handle @PeterMcCormack.

Between 29 March and 29 August 2019, Mr McCormack published a series of tweets ("Publications 1-10 and 12-15"). There is no longer any complaint about Publication 11. It is now common ground that the meaning of the Publications complained of is that Dr Wright is not Satoshi and his claims to be Satoshi are fraudulent. Mr McCormack made similar claims in a video discussion hosted by an individual known as Hotep Jesus and broadcast on 18 October 2019 on YouTube, where it remains accessible ("Publication 16").

On 17 April 2019, Dr Wright issued this claim for libel in respect of the publications which had occurred by that time. The claim was amended to include the later publications. Initially, Mr McCormack pleaded a defence of truth. However, in late 2020, he abandoned that defence, saying that, otherwise, the trial would take about three weeks and he could not afford to pay for legal representation for such a trial.

The issues (see paragraph 7 of the judgment)

The identity of Satoshi is not among the issues the Court has to determine. The only issues remaining concern:

(a) the meaning of Publication 16;

(b) liability for republication of Publication 16;

(c) whether each of the Publications caused, or was likely to cause, "serious harm to the reputation of the claimant" within the meaning of s. 1(1) of the Defamation Act 2013; and

(d) if liability in respect of one or more of the Publications is established, whether the Court should award damages and/or an injunction to prohibit the repetition of the allegations complained of.

Issue (a): The meaning of Publication 16 (see paragraphs 30-38 of the judgment)

The Court found that the words complained of in Publication 16 had to be read as part of a longer discussion in which different participants expressed different views about whether Dr Wright is Satoshi. Read as a whole, the Publication meant that there were reasonable grounds for questioning or inquiring as to whether the Claimant had fraudulently claimed to be Satoshi. This meaning was defamatory of Dr Wright at common law.

Issue (b): Liability of Publication 16 (see paragraphs 39-43 of the judgment)

The Court found it more likely than not that Mr McCormack knew when he participated in the discussion that it was being recorded and that the recording would be made available in permanent form online. The republication was, therefore, the natural consequence of participation in the discussion. Mr McCormack was accordingly liable for the republication.

Issue (c): Dr Wright's original case on serious harm (see paragraphs 44-111)

Dr Wright's original case was that serious harm to his reputation could be inferred having regard to the wording of the Publications, submitting that the words complained of were inherently serious in terms of their propensity to cause reputational harm, they had been widely published and they had been amplified by the grapevine effect.

However, after the Supreme Court gave judgment in *Lachaux v Independent Print Ltd* [2019] UKSC 27, [2020] AC 612, Mr McCormack's lawyers said that, because the Defamation Act 2013 required a claimant to show "serious harm" to his reputation, it was necessary to set out facts and matters relating to the actual impact of each of the Publications.

In response, Dr Wright served an amended statement of case and later signed a witness statement, in both cases endorsed with a statement of truth.

The Court found that the statement of case and the witness statement were to the same effect, namely: (i) he had submitted a paper to each of ten specified academic conferences; (ii) in each

case, his paper had been accepted following a blind peer review process and he had been invited to speak; (iii) in each case, the invitation was withdrawn after the Publications began; (iv) it can be inferred from the timing that the withdrawals were because the conference organisers had been influenced by one or more of the Publications; (v) the withdrawal of invitations meant that it was not possible to publish the papers submitted; (vi) this had an adverse effect on his academic standing and on the value of his patents (which would be enhanced if the patent were backed by an academic paper).

Ten days before the trial, Mr McCormack served witness statements from Prof. Darwazeh and Mr Wolf, academics who had been involved with organising two of the conferences to which Dr Wright had referred. Both disputed Dr Wright's evidence.

Dr Wright abandoned his case about the withdrawal of invitations from academic conferences and filed a further witness statement seeking to correct his earlier evidence. He said that he had received informal invitations, including from Dr Nguyen at the *Centre des arts and métiers* in Paris.

Very shortly before trial, Mr McCormack filed a witness statement from Dr Nguyen disputing part of Dr Wright's new case.

The Court concluded that Dr Wright's original case and evidence had been deliberately false. That view was reached on the basis of Dr Wright's oral evidence and a combination of: (i) the circumstances in which the case on serious harm was pleaded, (ii) the extent to which that case – and the evidence contained in the first witness statement – were subsequently shown to be false; (iii) the timing of Dr Wright's third witness statement (in response to the new evidence exposing the falsity of his earlier case); (iv) the vague and unimpressive oral evidence given by Dr Wright in support of his new case at trial; and (v) the lack of any adequate or convincing explanation for the falsity of the original case and evidence.

Issue (c): Dr Wright's case at trial on serious harm (paragraphs 112-140 of the judgment)

At trial, Dr Wright's case on serious harm had three bases: first, the inherent seriousness of the imputation conveyed by each tweet; second, the significant extent of publication; and third, evidence of actual harm.

Some of the analytic data relating to the tweets complained of was not available because Mr McCormack had installed tweet-deleting software. Dr Wright said that this meant that any disputes about the extent of publication should be resolved in his favour, applying the principle established in *Armory v Delamirie* (1722) 1 Str 505.

The Court found that this principle applied only where there was some morally culpable conduct on the part of the defendant which contributes to the absence of evidence. In this case, on the evidence as a whole, there was nothing to indicate that Mr McCormack had destroyed or wrongfully prevented or impeded the claimant from adducing relevant evidence or that he engaged in any other form of morally culpable conduct giving rise to the absence of the Twitter analytics data. So, the principle in *Armory v Delamirie* did not apply.

The Court nevertheless found that each of the Publications is likely to have caused serious harm to Dr Wright's reputation. In this case, although the Publications were flippant in tone, they came from a well-known podcaster and acknowledged expert in cryptocurrency. They

were unequivocal in their meaning. Many people who read them would have known that there was a lively debate about whether Dr Wright was Satoshi, but some of them must have been influenced by reading Mr McCormack's trenchantly expressed contribution to that debate. The fact that he was willing to state his views so brazenly in response to threats of libel proceedings is likely to have made those who read them more, not less, likely to believe them.

As to the extent of publication, the dispute between the parties was greater in the case of some Publications than others. But it was not necessary to resolve these disputes because the number of people who viewed the tweets in this jurisdiction was in each case significant and in some cases very substantial. That conclusion could be reached even assuming Mr McCormack's figures to be correct. It was also relevant that there were retweets and replies to Publications 12-15 by influential Twitter users and, in respect of Publication 16, a tweet by Hotep Jesus showing that Dr Wright's reputation had been lowered in his eyes by what Mr McCormack had said.

In the light of all the evidence, the Court concluded that it was more likely than not that each of the Publications caused serious harm to Dr Wright's reputation. The Court, however, made clear that this conclusion was not based to any extent on Dr Wright's oral evidence as to the effect on his reputation in academic or other circles.

Damages/injunction (see paragraphs 143-148 of the judgment)

The Court found that, had it not been for Dr Wright's deliberately false case as to serious harm, a more than minimal award of damages would have been appropriate, though the quantum would have been reduced to reflect the fact that Mr McCormack was goaded into making the statements he did and, having found Dr Wright not to be a witness of truth, the Court would have rejected in its entirety his case as to the distress he suffered.

The Court decided, however, that, in the light of Dr Wright's deliberately false case and evidence on serious harm, maintained until days before the trial, it would be unconscionable for him to recover more than nominal damages. Damages of £1 were accordingly awarded.

The Court invited further written submissions on the question of injunctive or other relief and costs.