Neutral Citation Number: [2022] EWHC 2068 (QB)

Case No: QB-2019-001430

IN THE HIGH COURT OF JUSTICE
QUEEN'S BENCH DIVISION
MEDIA AND COMMUNICATIONS LIST

Royal Courts of Justice
Strand, London, WC2A 2LL

Date: 1 August 2022

Before:

MR JUSTICE CHAMBERLAIN:

- -

Between:

CRAIG STEVEN WRIGHT	**Claimant**
– and –	
PETER McCORMACK	**Defendant**

- -
- -

Adam Wolanski QC, Greg Callus and Lily Walker-Parr (instructed by **ONTIER LLP**) for the **Claimant**

Catrin Evans QC and Ben Silverstone (instructed by **Reynolds Porter Chamberlain LLP**) for the **Defendant**

Hearing dates: 23, 24 and 25 May 2022

- -

APPROVED JUDGMENT

MR JUSTICE CHAMBERLAIN:

Introduction

1 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.

2 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.

3 Together with Calvin Ayre, a Canadian businessman based in Antigua, Dr Wright promotes "Bitcoin Satoshi Vision" or "BSV", which he says reflects Bitcoin's founding purpose and values. In his oral evidence, Dr Wright referred to Calvin Ayre as his "mentor".

4 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.

5 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. I set out the tweets below, but it is now common ground that their meaning 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").

6 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. Accordingly, the identity of Satoshi is not among the issues I have to determine.

7 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, relief.

The Publications and their context

8 I set out below the publications forming the subject matter of this claim, in context. The words complained of are underlined.

9 On 29 March 2019, there were two tweets from Calvin Ayre:

> "yup… Dr Craig Wright is Satoshi Nakamoto…and #BSV is the only real #Bitcoin. All others are attacking Craig to sell their dysfunctional snake oil crypto products. Craig has proven this to me directly in a number of ways."
>
> "Craig has started filing lawsuit against those falsely denying he is Satoshi…they can all have a day in court to try to prove their fake case but the judge will rule that Craig invented Bitcoin because he did and he can prove it."

10 Mr McCormack replied at 8.17pm in these terms (Publication 1):

> "Can I go first?
>
> Craig Wright is not Satoshi
> Craig Wright is not Satoshi
> Craig Wright is not Satoshi
> Craig Wright is not Satoshi
> Craig Wright is not Satoshi
> Craig Wright is not Satoshi
> Craig Wright is not Satoshi
> Craig Wright is not Satoshi
> Craig Wright is not Satoshi"

11 On 9 April 2019 Calvin Ayre tweeted a photograph of himself, Dr Wright and five others standing behind a conference table in what appears to be a lawyer's office. Mr Ayre has one arm around Dr Wright's shoulder and is giving a "thumb's up" sign with the other hand. The others pictured include Adam Wolanski QC, Dr Wright's leading counsel in these proceedings. The text accompanying the photograph is:

> "Craig and I are polishing our muskets at today's Troll Hunting meeting in London. #CraigisSatoshi."

12 Mr McCormack responded at 1.47pm on 10 April 2019 (Publication 2):

> "Craig Wright is not Satohis! [sic]
> When do I get sued?"

13 At 10.23pm on 10 April 2019, Mr McCormack tweeted (Publication 3):

> "Dear @CalvinAyre,
>
> I would like to formally state that:
> 1. Craig Wright is not Satoshi

2. Craig Wright is a fraud
3. I hope as many people ReTweet this as possible

Please send legal correspondence to [Mr McCormack's home address]"

14 At 2.16pm on 12 April 2019, Mr McCormack replied to his own tweet as follows (Publication 4):

"@CalvinAyre mate, that is over 1k RTs and 2.3k likes, I demand my lawsuit…

…but you aren't going to do it are you? You are just trying to bully people into silence with empty threats.

Craig Wright is a fraud, bring it or go jogging."

15 By 12 April 2019, Mr McCormack had received a letter from Dr Wright's solicitors complaining about his tweets and asking him to delete the tweets, undertake not to repeat the claims and apologise publicly. His response was to post a copy of the letter with a series of tweets, the first of which was at 5.04pm. These were as follows (Publication 5):

"1/ So I got my letter from Craig Wright and @CalvinAyre. This is what they are sending out to people, now you can all see.

I absolutely reject their requirements.

(PS I don't recommend anyone else does this)."

"2/ I believe that claiming to be Satoshi and promoting a fake version of Bitcoin is fraudulent. I believe this is in the public interest.

Let's go to court."

"Before any claims of virtue signalling or clout…I'm doing this because it is the right thing to do. I've lost everything before and if I lose again, so what. BSV is a fake Bitcoin run by frauds.

Fuck them!"

16 Mr McCormack tweeted this at 7.28pm on 12 April 2019 (Publication 6)

"'I was right to allege Craig Wright fraudulently claimed to be Satoshi. I DO NOT accept he is Satoshi. I am not sorry Dr Wright (are you even a Doctor?) I will repeat this.'

Going down the pub, laters Bitcoin famalam."

17 Next, at 8.25am on 14 April 2019, Mr McCormack tweeted his formal response to Dr Wright's solicitors' letter (Publication 7). It included these words:

"Dear Sirs,

I confirm receipt of your letter regarding Craig Wright, who in my professional opinion is definitely not the person behind the pseudonym Satoshi Nakamoto.

I have taken legal advice. The claim is so vexatious I now have 15 lawyers who are willing to represent me on a pro bono basis.

In answer to your question, my real name is Peter McCormack and I am the person behind the pseudonym The King of Bedford.

Under my handle @petermccormack, I Peter McCormack […] have posted accurately that Craig Wright is a fraud with the interest of protecting investors from investing money in his fake Bitcoin SV under the belief that this is Satoshi's Vision. This is definitely not in my opinion Satoshi's vision.

As readers of my Twitter know, Craig Wright is a fraud in relation to his claims that he is "Satoshi," this information has been in the public domain for many years before I started sharing it. I find it difficult to understand how I can affect the reputation of your client; this mistakenly states that he has any reputation left. It is highly arguable when reading information about him he does not.

For reference, if you Google "Craig Wright is a Fraud" there are currently 6,330,000 results. While we can allow for a margin of error, where there is smoke, there is usually fire, and here there is enough fire to make Mordor feel like a holiday in Iceland.

Your client has repeatedly and fraudulently claimed to be Satoshi Nakamoto. He did not play an integral part in the development of Bitcoin: it is highly questionable that he can in fact code. He did not produce the report 'Bitcoin: a peer-to-peer- Electronic Cash System in October 2008.' He did not send the first Bitcoin to Hal Finney in January 2009 and did not play an integral part in the development of Bitcoin. He may have explained his role in detail on previous occasions. However, anyone can do this, look, 'Hey, I Peter McCormack am Satoshi Nakamoto, I created Bitcoin." See, I just did it.

I believe Craig Wright to be a con man.

[…]

Please also let your client [sic] I have my own requirements:

[…]

2. His undertaking to delete all online publications where he fraudulently claims that he is Satoshi Nakamoto;

3. His undertaking not to repeat these fraudulent claims;

[…]

5. His agreement to join in a statement to an open court in which he apologises for and acknowledges the falsity of his claims;

[…]

Everyone he has defrauded with his false claims is plainly entitled to substantial damages in respect of his fraudulent claims.

[….]

Apology to everyone involved in Bitcoin

I was wrong to fraudulently claim that I Craig Wright to be Satoshi Nakamoto. I accept that I am not Satoshi. I am sorry. I will not repeat this fraudulent claim."

18 On 15 April 2019 at 6.54pm, Mr Ayre tweeted a link to an article. At 8.29pm on 15 April 2019, Mr McCormack replied as follows (Publication 8):

"Replying to @CalvinAyre

You can double down as much as you like…or…try and understand why nobody supports you, everyone thinks Craig is a fraud and exchanges are delisting you. He is not Satoshi.

There is no conspiracy.

You are just sitting on the wrong side of history."

19 On 16 April 2019, Mr Ayre tweeted:

"And it does not change anything. Craig is Still Satoshi, Real #BitcoinSV is still superior technology and Craig is still going to court to prove his legacy...and the market will recover."

20 At 12.30am on 16 April 2019, Mr McCormack replied as follows (Publication 9):

"Replying to @CalvinAyre

When are we going to court? You said I would hear from your solicitors yesterday and I was rather disappointed that I didn't.

Also, as you are in London, have you the nauts to do an interview with me?"

21 Mr McCormack issued a series of tweets starting at 11.53am on 16 April 2019, some replying to other participants in the discussion. The last words were a reply to Crypto Law Review and were in these terms:

"Let's go to court and prove once and for all that he is a liar and a fraud. Craig Wright is not Satoshi."

22 At 8.52am on 16 April 2019, Mr McCormack tweeted this (Publication 10):

> “There are different opinions. The only ones who dissuade are because of time and cost.
>
> I can’t explain how much I want this to go to court. Craig Wright will lose as we have a mountain of evidence that he is a fraud and is not Satoshi”.

23 At 4.54am on 22 August 2019, Mr McCormack tweeted as follows (Publication 12):

> “CSW is getting better at fraud, he’s learned about metadata now, just not mastered it.
>
> With the white paper he amended it in 2008 while the creation date is 2009. Nice try Craig, keep working on these fakes, you’ll master it eventually.”
>
> This tweet was a Quote Tweet embedding a tweet by @jimmy007forsure ‘SeekingSatoshi’ as follows:
>
> “Dear all. Could I please encourage you all to *download* Craig Wrights version of the Bitcoin White paper to your thumb or hard drive. I will explain later. I have archived it so you can choose to download from either source.”

24 At 5.13am on 28 August 2019, Mr McCormack tweeted an image in the style of the cover page of a book (Publication 13) entitled “Faketoshi’s Vision: The Art of Fraud”. The author credit was “Craig Wright”. Underneath were the words “Foreword By Bum Beard Calvin”.

25 At 9.08pm on 28 August 2019, Mr McCormack tweeted this (Publication 14):

> “I am thinking that a class action lawsuit would only be right for falsely claiming a technology is Satoshi’s Vision when CSW is not Satoshi. This has affected a lot of people. I’ll be talking to both my US lawyers and those who have been defrauded. Let’s Wright this Wrong.”

26 At 8.31am on 29 August 2019, Mr McCormack tweeted this (Publication 15):

> “A class action lawsuit would be against:
>
> - Craig Wright (the forger)
>
> - @CalvinAyre (bum beard)
>
> - @JimmyWinMedia (the snake)
>
> All three are likely guilty of misleading investors by lying that Craig is Satoshi and that BitcoinSV is Satoshi’s Vision.”
>
> Meeting US lawyers next week.”

27 On 18 October 2019, Mr McCormack participated in a video discussion hosted by an individual called Hotep Jesus and broadcast on YouTube. The video was later posted on YouTube and remains there. The discussion featured four others: Kurt Wuckert Jr, Connor Murray, an individual known as Shinobi and Mr McCormack. 3 hours and 18 minutes into the discussion, Mr McCormack said these words (Publication 16):

> "The reality is, is Bitcoin is king. Like, you can do what the fuck you want with BSV; it's dead, it's already dead. The market's voted, it's dead. If you're going to put your time at it, it's dead. The price is going to die; it's -- the only thing keeping it afloat, is Calvin's money; that's literally it. Add to that, you are supporting a bunch of people who are liars, frauds and morons. Craig Wright is a fucking liar, and he's a fraud; and he's a moron; he is not Satoshi. He can come at me in the fucking UK, he can take me to Court; he can come with his -- his fucking billions of dollars; I don't give a shit, come at me. Sue me, I don't give a fuck; you're still a liar, you're still a fraud, and you're still a moron."

The agreed meanings of Publications 1-10 and 12-15

28 In his Re-Re-Amended Particulars of Claim, Dr Wright pleads that:

(a) Publications 1-10 and 13-15 bear the same innuendo or natural and ordinary meaning: that Dr Wright "had fraudulently claimed to be Satoshi Nakamoto, that is to say the person, or one of the group of people, who developed bitcoin"; and

(b) Publication 12 bears the natural and ordinary meaning that Dr Wright "had fraudulently claimed to have written the Bitcoin White Paper".

29 Although these meanings were originally in issue, Mr McCormack now accepts that Publications 1-10 and 12-15 do indeed bear these pleaded meanings. It is agreed that these are "*Chase* Level 1" meanings (i.e. that the publications meant that Dr Wright's claim to be Satoshi was fraudulent, not merely that there were reasonable grounds to suspect as much): see *Chase v News Group Newspapers Ltd* [2002] EWCA Civ 1771, [2003] EMLR 11, [43].

The meaning of Publication 16

Submissions

30 Mr McCormack initially accepted that Publication 16 bore the following meaning:

> "the Claimant's claim to be Satoshi Nakamoto (the pseudonymous person or one of the group of people who created bitcoin) was fraudulent, in that it was a lie, as demonstrated by his own failed promises to provide cryptographic proof of that claim."

31 That acceptance was withdrawn when Mr McCormack dropped his truth defence. His current case is that:

(a) Since the claim against him relates to the republication of words spoken during a long discussion, "any 'bane' in the words complained of must be taken together with the 'antidote' of the other words uttered in the discussion whose effect is to neutralise the

impact of the words spoken by the defendant". The words relied on as "antidote" are set out in Annex 1 to the skeleton argument. They consist of comments by other discussants to the effect that Dr Wright is Satoshi.

(b) Applying that interpretive approach, Publication 16 means no more than "that there were reasonable grounds for questioning or inquiring as to whether the Claimant had fraudulently claimed to be [Satoshi Nakamoto]". That meaning is not defamatory at common law.

(c) It would be clear to any reasonable viewer that Mr McCormack was adopting a polemical and outspoken approach and his words would be viewed with scepticism.

32 There is no dispute as to the principles that apply when determining meaning. They were summarised by Nicklin J in *Koutsogiannis v Random House Group Ltd* [2019] EWHC 48 (QB), [2020] 4 WLR 25, at [12], and include these:

> "viii) The publication must be read as a whole, and any 'bane and antidote' taken together. Sometimes, the context will clothe the words in a more serious defamatory meaning (for example the classic 'rogues' gallery' case). In other cases, the context will weaken (even extinguish altogether) the defamatory meaning that the words would bear if they were read in isolation (e.g. bane and antidote cases).
>
> ix) In order to determine the natural and ordinary meaning of the statement of which the claimant complains, it is necessary to take into account the context in which it appeared and the mode of publication.
>
> x) No evidence, beyond [the] publication complained of, is admissible in determining the natural and ordinary meaning."

33 Applying these principles, Mr McCormack submits as follows:

(a) There is nothing in any other part of the Hotep Jesus debate which serves to remove or dilute the defamatory sting of the words spoken by Dr Wright. Indeed, there are several passages which make the meaning even worse.

(b) In any event, the new meaning now contended for (a *Chase* level 3 meaning) is nonetheless seriously defamatory at common law.

Discussion

34 It is common ground that Publication 16 must be read as a whole. The discussion lasted for over 3 hours. It ranged over a wide variety of subjects, of which the identity of Satoshi was only one. It took the form of a discussion between people with different views. I have considered the whole of the discussion with a view to ascertaining its meaning, bearing in mind that "bane" and "antidote" can be spoken by different participants.

35 One of the participants, Connor Murray, expressed the clear view that Dr Wright is Satoshi. He said, for example, "Yeah, Craig Wright created Bitcoin, undeniably" and claimed to know this on the basis of "many private conversations with him". Later, he said: "I'm for

truth. And Craig Wright isn't a fraud. That's why I disagree with Peter. He's making things up when he says Craig Wright is – he wants to fit in to the popular crowd, and say, 'Look, Craig Wright's a fraud, everyone follow me and my podcast', when Craig Wright objectively created Bitcoin."

36 One of the other participants, Kurt Wuckert, was more equivocal. He said this:

> "I mean I'd say that frankly 100 per cent we don't know who Satoshi Nakamoto is. Like I agree with Craig about Bitcoin and that's why I'm here. Whether or not he's Satoshi Nakamoto it's the same as saying like, 'Well, did Jesus Christ exist?' you know, like, well shoot I mean there's been 2,000 years of discussion about, well yeah, and here's all this evidence that Jesus was there and here's where he was buried and here's all this stuff and you have a whole group of people who say, 'No, it's impossible and here's the reasons why'. And ultimately there's a billion people on one side that believe that he was real and there's a billion people on the other side, or more, that say he wasn't and this is one of those things. It's like Craig Wright has provided all kinds of evidence toward it. He won't give the one piece of evidence that everybody says is absolutely necessary. And frankly I don't blame him because here's a thing: Craig Wright in 2015 was doxed by Wired magazine and Gizmodo. This is what I remember occurring. All of a sudden there's this guy who got kicked out of Australia, was allegedly Satoshi Nakamoto and he's on the run. There's this whole -- it starts this whole wild goose chase of who is Satoshi and is Satoshi Craig Wright? And at the end of the day, he proved himself…"

37 There are other passages, in which Mr McCormack makes further statements to the same effect as the words complained of. It is not necessary to set them all out here. In my judgment, the publication, taken as a whole, bears the meaning contended for by Mr McCormack – that there were reasonable grounds for questioning or inquiring as to whether the Claimant had fraudulently claimed to be Satoshi.

38 In my judgment, that *Chase* level 3 meaning is plainly a less serious allegation than the other publications, which bear *Chase* level 1 meanings. Nonetheless, it seems to me clear that it is defamatory at common law. Whether it caused or was likely to cause serious harm is, of course, another matter.

Liability for Publication 16

Dr Wright's case

39 Dr Wright submits that Mr McCormack is liable for publication of the Hotep Jesus video (i) to livestream viewers and (ii) to those who watched the recorded version on YouTube. As to (i), s.166 of the Broadcasting Act 1990 ("the 1990 Act") provides that the publication of words in the course of any programme included in a programme service is to be treated as publication in permanent form. A livestream falls within the definition of "programme service" in s. 201 of the 1990 Act. As to (ii), the uploading of the video to a YouTube channel was the foreseeable consequence of agreeing to participate in the discussion as a matter of common sense and because Mr McCormack was a self-styled expert in podcasting and had a former career in advertising, so his claims in evidence to be ignorant of how YouTube works should be rejected. In any event, two of the participants refer to the discussion as a

"podcast" (suggesting that it was common knowledge that it was being recorded) and Hotep Jesus made clear at the end of the livestream that the programme had been recorded.

Mr McCormack's case

40 Mr McCormack has not disputed his liability for the publication to those who viewed the livestream. The only dispute is as to liability for re-publication by posting the recording on YouTube. As to that, Mr McCormack says that he did not know that the discussion was to be recorded and posted on YouTube.

Discussion

41 The dispute on this point is a narrow one, because of the total number of people who saw the video in England and Wales (about 650), the majority (about 400) watched the livestream and there is no dispute about Mr McCormack's liability for that. Nonetheless, since there remains a dispute, I must decide it.

42 In *Turley v Unite the Union* [2019] EWHC 3547 (QB) at [84]-[89], Warby J summarised the principles governing liability for republication of a defamatory statement. A defendant can be liable for republication not only where he has authorised or intended the republication but also where republication was the "natural consequence" of the original publication. Consequently, a person who supplies another with information intending or knowing that it is liable to be republished is held prima facie liable for the publication of what he or she provided.

43 In my judgment, it is 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. I base that conclusion on: (i) the description of the discussion as a "podcast" by two of the participants (which I agree suggests common knowledge that the discussion would be made available in permanent form); (ii) the words spoken by Hotep Jesus at the end of the discussion (which make clear his knowledge that the discussion was being recorded); and (iii) the fact that, as a person with experience of podcasting, Mr McCormack is likely to have known that such discussions are often made available in recorded form online. The republication was, therefore, the "natural consequence" of participation in the discussion. Mr McCormack is accordingly liable for the republication.

Serious harm

How the Claimant's case on serious harm has developed

44 On 1 May 2019, Dr Wright served Particulars of Claim in respect of Publications 1-10. At that stage, the Claimant said that serious harm was a matter of inference having regard to the wording of the Publications; that the words complained of were inherently serious in terms of their propensity to cause reputational harm; that they had been widely published; and that they had been amplified by the grapevine effect.

45 On 12 June 2019, the Supreme Court handed down its judgment in *Lachaux:* [2019] UKSC 27, [2020] AC 612. Lord Sumption (with whom the other members of the Court agreed) noted at [14] that the requirement in s. 1 of the Defamation Act 2013 to show that a

publication has caused or is likely to cause serious harm set an additional threshold for a defamation claim over and above the common law requirements:

> "The reference to a situation where the statement 'has caused' serious harm is to the consequences of the publication, and not the publication itself. It points to some historic harm, which is shown to have actually occurred. This is a proposition of fact which can be established only by reference to the impact which the statement is shown actually to have had. It depends on a combination of the inherent tendency of the words and their actual impact on those to whom they were communicated. The same must be true of the reference to harm which is 'likely' to be caused. In this context, the phrase naturally refers to probable future harm."

46 On 8 August 2019, Mr McCormack served his Defence, in which he pleaded that "the contention… that the imputations complained of are inherently serious as a matter of obvious inference, ignores the critical overarching context in this case, as well as the requirement that the Claimant show serious harm as a matter of actual provable fact." On the same date, he served a Part 18 request, requesting further particulars of serious harm, including facts and matters relating to the "actual impact" of each of the publications. The Part 18 request also invited Dr Wright to identify each of the EU states in which it was said that the Claimant had suffered reputational damage.

47 Dr Wright did not respond to the Part 18 request. Instead, on 11 October 2019, he served draft Amended Particulars of Claim. In this draft, the Claimant added pleas relating to Publications 11-15, and also supplemented his case on serious harm, to plead the following:

> 35.9 Further, the Claimant's reputation within the cryptocurrency industry has been seriously harmed by the publications complained of. Despite the Claimant's endeavours to develop cryptocurrencies, leading to the Claimant being granted a substantial number of patents, the Claimant is now often excluded from cryptocurrency related events and appearing on industry panels. Given the Defendant's prominence in the Crypto Currency world it is to be inferred that a significant cause of these exclusions was publication of the words complained of.
>
> 35.10 The Claimant has, in the past, worked with a number of public bodies and undertaken publicly funded work. Due to the impact of the publications complained of on the Claimant's emotional state the Claimant has been deterred from undertaking such work or applying for roles in public life, such as becoming a magistrate, an aspiration which the Claimant recently abandoned due to the publications complained of.
>
> 35.11 The Claimant's academic career has also been negatively impacted. The Claimant is currently working towards a PhD at Leicester University. Due to the publications complained of a number of faculty members have shown hostility towards the Claimant and the Claimant's affiliation with Leicester University.
>
> 35.12 Such harm has had an impact on the Claimant's relationship with his family. The Claimant no longer picks his children up from school, and is rarely

> seen in public with his children, because of the vilification he believes the words complained of will subject him to amongst other parents."

48 On 30 October 2019, Dr Wright served revised draft Amended Particulars of Claim, in which he added a complaint in respect of Publication 16 and further supplemented his case on serious harm, adding the following to what had been para. 35.11: "Concerns have also been raised with him following the publication of the tweets by individuals at SOAS and at the CNAM in Paris, both institutions where the Claimant is studying."

49 On 15 November 2019, Mr McCormack served a Part 18 request seeking further information in respect of the "cryptocurrency related events" and "industry panels" from which Dr Wright had been excluded, the "work" he had been "deterred from undertaking" and the "roles in public life" which he had been "deterred… from applying for" and the negative impact alleged in relation to "faculty members" at Leicester University and "individuals" at SOAS and CNAM. Mr McCormack reiterated his request for further information in respect of the reputational damage allegedly suffered by the Claimant in EU states. A response was required by 29 November 2019.

50 On 29 November 2019, Dr Wright served further revised draft Amended Particulars of Claim, in the same form as ultimately served on 19 December 2019. This altered the Claimant's case on serious harm, abandoning the contentions relating to Dr Wright's relationships with individuals at Leicester University, SOAS and CNAM. The fact that he no longer picked his children up from school was now pleaded as a particular of distress, but not of serious harm. The averment that he had been deterred from undertaking work with public bodies and applying for roles in public life was replaced with a more limited averment that the publications had made it more difficult for him to achieve his ambition of becoming a magistrate in Surrey. The claim in relation to serious harm to reputation in EU states was abandoned; the harm pleaded was now confined to that said to have been suffered in England and Wales.

51 Dr Wright's new case was that, in the period between 1 January and 31 March 2019, he had been invited to speak and present academic papers at eight academic conferences and that:

> "25.9.2 Prior to publication of the words complained of, the Claimant had been invited to speak at numerous further such conferences. In several instances those invitations followed the successful submission by the Claimant of proposed academic papers for blind peer review. However following publication of the words complained of, invitations to the Claimant were withdrawn by the following conferences:
>
> > 25.9.2.1. The Twenty-sixth International Conference on Telecoms, held in Hanoi, Vietnam on 8 to 10 April 2019;
> >
> > 25.9.2.2. The IEEE International Conference on Computer Communications, held in Paris, France on 29 April to 2 May 2019;
> >
> > 25.9.2.3. The Forty-first ACM/IEEE International Conference on Software Engineering, held in Montreal, Canada on 25 to 31 May 2019;

25.9.2.4. The Sixth International Symposium on Networks, Computers and Communications, held in Istanbul, Turkey on 18 to 20 June 2019;

25.9.2.5. The Twenty-second International Conference on Business Information Systems, held in Seville, Spain, on 26 to 28 June 2019;

25.9.2.6. The Forty-second International Conference on Telecommunications and Signal Processing, held in Budapest, Hungary on 1 to 3 July 2019;

25.9.2.7. The Second Vietnam Symposium in Leadership and Public Policy, held in Ho Chi Minh City, Vietnam on 28 to 29 October 2019;

25.9.2.8. The Twenty-fifth Asia-Pacific Conference on Communications, held in Ho Chi Minh City, Vietnam on 6 to 8 November 2019;

25.9.2.9. CHAINSIGHTS Fintech and Blockchain Summit, held in New York City, USA on 10 October 2019; and

25.9.2.10. MoneyConf, held in Lisbon, Portugal on 5 to 7 November 2019.

25.9.3. Given the timings of these exclusions it is to be inferred that the primary cause of these exclusions was publication of the words complained of.

25.9.4. As a result of the exclusion of the Claimant from the conferences set out at paragraphs 25.9.2.1 to 25.9.2.8 the academic papers which the Claimant had been due to present were not presented at those conferences and, as a result, the Claimant has been unable to publish them to the world at large. The inability of the Claimant to present and publish those papers has led to considerable difficulties for the Claimant in pursuing academic opportunities. The Claimant wishes to develop an academic career in England (having previously taught as an Adjunct Lecturer in the Faculty of Business, School of Computing and Mathematics at Charles Sturt University, Australia) but needs to demonstrate the recent publication of academic papers to obtain such positions.

25.9.5. Further, the inability of the Claimant to publish academic papers has a detrimental impact upon the value of the patents which the Claimant files and creates. The publication of academic papers assists in the promotion of patents: a patent which has a published academic paper behind it can be worth many times as much as a patent which does not."

52 There was a CCMC in March 2020 and disclosure in September 2020. At the CCMC, Master Davison said that Dr Wright's costs budget was "the biggest budget that I have ever seen personally in any category of work. It is certainly hugely in excess of any budget that I have seen in a defamation case…". On Friday 9 October 2020, following disclosure, Dr Wright indicated his intention to increase the costs budget.

53 On 23 October 2020, Mr McCormack's solicitors wrote to Dr Wright's solicitors noting that taking the matter to trial would be likely to incur costs of well over £5 million and informing them that Mr McCormack would no longer be defending the claim for reasons of cost.

54 On 27 October 2020, Dr Wright's solicitors indicated their intention to seek summary judgment.

55 On 6 November 2020, Mr McCormack's solicitors indicated that Mr McCormack would not be withdrawing his Defence and did not accept that the publications had caused or were likely to cause Dr Wright serious harm.

56 On 10 November 2020, Dr Wright filed his first witness statement in support of his application for summary judgment on the same date. Paragraphs 41-43 spoke to the pleaded case on actual harm as follows:

> "41. From 1 January 2019 - 31 March 2019 I spoke at eight academic conferences. At that time and prior to the defamatory tweets being published I also held invites to more than ten other conferences that were to take place throughout the rest of 2019 (paragraphs 25.9.2.1 – 25.9.4 of the Amended Particulars). At the time I was at a stage of developing my academic career in England by publishing recent academic papers I've written. The ten conferences all withdrew their invites for me to attend and present my papers which had been accepted by them following a blind peer review basis because of the defamatory lies being spread about me by Mr McCormack across social media and his encouragement of others to do the same. Due to the conference invite withdrawals, my papers were not published, and I have not been able to get to the academic standing I needed to be at by this point in England to pursue teaching and other academic opportunities. Although it is true to say that it is not only Mr McCormack who has libelled me by labelling me a fraud, the persistence of his campaign, the very wide reach of his social media platforms and his influence within the digital cash community lead me to believe that it was Mr McCormack's defamatory publications of me that have caused me this harm.
>
> 42. As I explain at paragraph 25.9.5 of my Amended Particulars of Claim, in addition to hindering my academic standing, the reduction in publication of recent papers has had a detrimental impact on the value of my patents of which I have filed.
>
> 43. Mr McCormack's publications have also forced me to abandon my application (which was in progress in March 2019) to be appointed as a Magistrate in Surrey (paragraph 25.10 of my Amended Particulars)."

57 After a pre-trial review hearing in February 2021, Julian Knowles J gave a judgment on 8 October 2021 deciding applications by the Claimant and Defendant: [2021] EWHC 2671 (QB). The only one it is necessary to mention here was the Claimant's application to strike out parts of the draft Re-Amended Defence and parts of the defendant's third witness statement. The passages complained of asserted that Dr Wright's claim to be Satoshi was generally known to be a sham and his attempts to provide cryptographic proof had failed. The Claimant's strike-out application succeeded, in part because the passages complained of infringed the rule in *Dingle v Associated Newspapers Ltd* [1964] AC 371, as elucidated in *Lachaux v Independent Print Ltd* by Warby J (see [2015] EWHC 2242 (QB), [2016] QB 402) and by the Supreme Court.

58 On 21 December 2021, the trial of the remaining issues was set down with a time estimate of 2 days on 23-24 May 2022.

59 On 12 May 2022, Mr McCormack applied to adduce evidence from Professor Izzat Darwazeh, a professor of Communications and Engineering at University College London and a chair of the Hanoi conference to which reference was made in para. 25.9.2.1 of the Re-Amended Particulars of Claim. Prof. Darwazeh explained that the Hanoi conference operated a rigorous peer review process to review papers submitted. Dr Wright had submitted a paper, which had been assigned to six peer reviewers, three of whom had responded. All three recommended rejection. Prof Darwazeh exhibited an email dated 15 February 2019 in which Dr Wright was informed of the peer review decision to exclude the paper. The email included a link to the negative reviews.

60 By the same application, Mr McCormack also applied to adduce evidence from Mr Tilman Wolf, a senior vice-provost at the University of Massachusetts Amherst and a co-chair of the Paris conference to which reference was made in para. 25.9.2.2 of the Re-Amended Particulars of Claim.

61 Mr Wolf's statement addressed the peer-review process for the Paris conference, which involved submitting papers through an online system called EDAS. Mr Wolf had conducted a search of the EDAS system and did not find any submission made by Dr Wright for the Paris Conference. He concluded: "Dr Wright therefore did not submit a paper. He was never invited to speak at the conference as part of the regular paper presentation program (i.e. the 'Call for Papers' part), nor was any such invitation rescinded." Invitations were only given to two keynote speakers and members of three panels, none of which related to cryptocurrency.

62 On 17 May 2022, Dr Wright applied to amend his Re-Amended Particulars of Claim in respect of serious harm, to delete large parts of para. 25.9. The application was supported by a third witness statement. This explained at para. 10 that:

> "in so far as conference invitations were withdrawn as a result (I believe) of the Defendant's tweets, such withdrawals are likely to have occurred as a result of the relevant individuals reading the tweets in countries other than England and Wales. Because I have confined my claim to damages for publications within this jurisdiction, I understand that I therefore cannot maintain this aspect of my claim. I therefore seek permission to amend my pleading to remove the case regarding these conferences."

63 Nonetheless, Dr Wright sought "to ensure that the fullest possible explanation as to what occurred with these conferences is before the court". He said that it had not been easy to piece together exactly what happened with each conference, "not least because of the passage of time and the absence of much contemporaneous documentary material". He continued: "I believe that most of what I said about conferences in my First Witness Statement was correct, but some is wrong. What I pleaded in my Re-Amended Particulars of Claim was, however, correct."

64 Dr Wright thus maintained that he had been correct to plead at 25.9.2 of the Re-Amended Particulars of Claim that "in several instances", the alleged invitations to speak at further

conferences had followed the successful submission of papers for peer review. However, Dr Wright withdrew his evidence at para. 41 of his first witness statement that all ten conferences had accepted his papers, and all ten had later withdrawn their invitations.

65 As to the Hanoi Conference, Dr Wright accepted that his submitted paper had been rejected, but asserted that he had been informally invited to speak at the conference, by (among other unnamed persons) Dr Thu Tra Nguyen, whom he identified as a teacher at the *Conservatoire des Artes et Metiers* ("CNAM") in Paris, in around February 2019. Dr Wright explained: "the people who extended these invitations, including Dr Nguyen, said they were organising these conferences, and I believed as a result of these detailed discussions that they were inviting me to speak at a number of conferences, including the Hanoi Conference", and that after Mr McCormack's tweets he heard nothing further.

66 As for the Paris Conference, Dr Wright exhibited an email from the EDAS conference manager dated 10 January 2019, which thanked him for registering his paper and gave a link where "you can see all your submissions and their status". A further email from the same address dated 21 February 2019 said: "we regret to inform you that your paper could not be accepted for inclusion in the technical program of the workshop." The email contained a link to the reviews of the paper and went on to say: "although your paper could not be accepted, we do hope to see you in Paris, France for INFOCOM 2019". The full, critical, workshop reviews followed.

67 Dr Wright gave further evidence about the other conferences which had been pleaded. In relation to the Istanbul and Budapest Conferences, he said that his submitted papers had in fact been rejected through the peer review process. However, he maintained that he had been invited and then disinvited to speak at Istanbul and Budapest, although he cannot specify by whom. In relation to the Seville Conference, the Claimant refers to an email which he says was "inviting me to speak", although it is in fact an invitation to submit a paper. Dr Wright then says that he "never spoke at the Seville Conference" and "did not receive another email or other communication from the organisers". He concludes: "Whilst I was not formally notified that I was disinvited, the effect was the same."

68 Dr Wright said that he had submitted two papers to the second Ho Chi Minh City Conference but had never heard whether they were accepted; that the conference was affiliated with "people at CNAM"; that he was invited and disinvited; and that "I believe that it was Dr Nguyen who extended the invitation, although I cannot recall precisely if it was she who extended the invitation or when it was made. It is possible that I was invited before the Defendant's tweets, but I simply cannot recall."

69 In relation to the first Ho Chi Minh City conference and the New York and Lisbon conferences, Dr Wright now said that he had <u>not</u> submitted a paper, while for a fourth conference in Montreal, he could not recall whether he had done so. However, he maintained being invited and then disinvited to speak at Montreal, Lisbon, and the First Ho Chi Minh City Conference. In relation to the New York Conference, it had become apparent from disclosure that the Claimant could not attend due to a prior commitment at Leicester; he had therefore not been disinvited.

70 On 18 May 2022, Dr Wright confirmed in a Position Statement that he would no longer be relying on paragraphs 41 and 42 of his first witness statement. On 20 May 2022, by consent,

Dr Wright amended his pleading so that he no longer relied on the withdrawal of conference invitations.

71 Also on 20 May 2022, Mr McCormack applied to rely on a witness statement from Dr Nguyen of the same date and sought permission for Dr Nguyen to give oral evidence via video-link if necessary. Dr Nguyen said that she was not a teacher, but a member of the administrative staff at CNAM. She was surprised to be referred to as "Thu" by the Claimant, this being a Vietnamese middle name which she did not use at CNAM or in France. She had "no recollection of ever having met, communicated with or come across Mr Wright at CNAM or elsewhere". She was "certain" that she did not invite the Claimant to the Hanoi Conference, or the first Ho Chi Minh City Conference. She was confident that, had she done so, the invitation and confirmation would have been sent by email, this being "essential" for any conference speaker in Vietnam, for visa and security reasons.

72 On 22 May 2022, Dr Wright applied to adduce a witness statement from Latif Ladid, an IEEE conference organiser, which said that it was possible that persons who had a paper rejected following peer review could nevertheless be invited to speak at the same conference. Keynote speakers, guest speakers and panellists were regularly invited to speak at IEEE conferences informally, without submitting papers for peer review.

73 During the trial, on 24 May 2022, Mr McCormack filed and served a second witness statement from Mr Wolf, making clear that there was a second Paris conference, loosely associated with the first with which he (Mr Wolf) was not involved.

The position at trial

74 At trial, Mr Wolanski said that Dr Wright had decided to confine his case to harm suffered within the jurisdiction and therefore could no longer rely on the disinvitations from overseas conferences.

75 Ms Evans submitted that this was an unconvincing explanation. Given that the jurisdictional point was taken as long ago as 18 March 2020 (when the amended defence was served), she submitted that it should be inferred that the true reason for Dr Wright's withdrawal of his case in relation to the conferences is the exposure of its falsity.

76 At the start of trial, Ms Evans applied for permission to adduce the oral evidence of Dr Nguyen (who was in France) and Mr Wolf (who was in the United States) using a live video-link. I drew the attention of counsel to the decision in *Agbabiaka (evidence from abroad; Nare guidance)* [2021] UKUT 00286 (IAC), in which the Upper Tribunal (Immigration and Asylum Chamber), presided over by Lane J, gave guidance about the need to seek consent from foreign states though the Foreign, Commonwealth and Development Office before hearing oral evidence by video-link from persons located in those states. Having considered that decision, Ms Evans indicated that she would no longer pursue her application for permission for Dr Nguyen and Mr Wolf to give oral evidence by video-link. Although there was at one stage a suggestion that Dr Nguyen might be able to come to the UK to give evidence in person, that proved impossible. Ms Evans therefore sought to adduce the evidence of both witnesses as hearsay statements. This was not opposed, though Mr Wolanksi submitted that this affected the weight which could be attached to their evidence.

Dr Wright's oral evidence

77 I was assisted by considering the transcript of the evidence given orally by Dr Wright. The following are the key elements of his oral evidence.

78 Dr Wright was asked about para. 25.9.4 of the Re-Amended Particulars of Claim. He was asked if the "academic papers" referred to there were the papers referred to in para. 25.9.2 as having been submitted for blind peer review. Dr Wright said that they were not. There were multiple versions of each paper, so the "academic papers" referred to in para. 25.9.4 were not necessarily the ones originally submitted to the conferences for peer-review.

79 It was put to Dr Wright that in para. 41 of his first witness statement he had been clear that he had papers accepted at all of the conferences after a blind peer-review. He answered as follows:

> "No, that is actually not what I said. What I just explained was that I had papers accepted after a peer review process. There are journal articles and there are conference articles. I neglect to explain details at times of how the academic process works. I skip over that. I assume people understand. There are also invited panel and other conference forms. So, I did not go into details. I forget that people are not academics."

80 Dr Wright said that he was autistic and that because of this he found it hard to lie. In addition, he said that his autism caused him to expect that others would know what he knew and therefore not to explain matters as fully as others would.

81 Ms Evans went on to cross-examine Dr Wright on the evidence relating to each of the individual conferences. In relation to the Hanoi conference, Dr Wright did not accept Dr Darwazeh's evidence as complete. He was shown the email to him explaining that his paper had been rejected, but did not know whether he had received it. He said that he would not necessarily have clicked on the link to read the peer reviews and that the paper in question had ended up being published.

82 Dr Wright said that Dr Nguyen had made a mistake when she said she had no recollection of ever having met him. He insisted that every one of the papers mentioned in his pleading was accepted. They were not accepted everywhere and in all publications, but each was accepted somewhere albeit in some cases in modified form.

83 As to the evidence of Mr Wolf, and the email showing that his paper had been rejected, Dr Wright said that the paper had been accepted, but in a different publication. The paper referred to in the email was not the only thing he did for the conference in question.

84 It was put to Dr Wright that there was no documentary evidence to support his case that he had invitations to the conferences. His response was that such evidence would have been in emails sent to his CNAM account, to which he lost access in May 2019.

85 Dr Wright also sought to give evidence supporting a new and unpleaded case that the publications had caused him difficulties in his academic career at Leicester, Exeter and CNAM.

The findings of US Magistrate Judge Reinhart

86 This is not the first litigation in which Dr Wright has been involved. Proceedings were brought against him in the United States District Court for the Southern District of Florida by the personal representative of David Kleiman (deceased) and W&K Info Defense Research LLC, a company co-founded by David Kleiman and Dr Wright. The plaintiffs in this action claimed that Mr Kleiman and Dr Wright had been partners in the creation of Bitcoin and asserted an ownership interest in the Bitcoin which, they said, Mr Kleiman had "mined" together with Dr Wright. Mr Kleiman was ultimately unsuccessful, but in the course of the proceedings a motion was filed to compel disclosure of certain documents and information. The motion involved a hearing at which Dr Wright and others gave oral evidence.

87 In a reasoned Order dated 27 August 2019, US Magistrate Judge Bruce Reinhart made a series of trenchant findings. He "completely rejected" Dr Wright's testimony about certain factual matters central to the application. He noted the implausibility of Dr Wright's account, which he said "defies common sense and real-life experience". The judge's findings included these passages:

> "During his testimony, Dr. Wright's demeanor did not impress me as someone who was telling the truth. When it was favorable to him, Dr. Wright appeared to have an excellent memory and a scrupulous attention to detail. Otherwise, Dr. Wright was belligerent and evasive. He did not directly and clearly respond to questions. He quibbled about irrelevant technicalities. When confronted with evidence indicating that certain documents had been fabricated or altered, he became extremely defensive, tried to sidestep questioning, and ultimately made vague comments about his systems being hacked and others having access to his computers. None of these excuses were corroborated by other evidence.
>
> …
>
> There was substantial credible evidence that documents produced by Dr. Wright to support his position in this litigation are fraudulent. There was credible and compelling evidence that documents had been altered. Other documents are contradicted by Dr. Wright's testimony or declaration. While it is true that there was no direct evidence that Dr. Wright was responsible for alterations or falsification of documents, there is no evidence before the Court that anyone else had a motive to falsify them. As such, there is a strong, and unrebutted, circumstantial inference that Dr. Wright wilfully created the fraudulent documents.
>
> …the evidence establishes that [Dr Wright] has engaged in a wilful and bad faith pattern of obstructive behaviour, including submitting incomplete or deceptive pleadings, filing a false declaration, knowingly producing a fraudulent trust document, and giving perjurious testimony at the evidentiary hearing."

88 Dr Wright appealed Magistrate Judge Reinhart's Order. The appeal came before US District Judge Beth Bloom. In a reasoned decision dated 10 January 2020, she indicated that she had reviewed the transcripts of Dr Wright's testimony before Magistrate Judge Reinhart and agreed with his credibility findings. She noted that Dr Wright had been "evasive, refused to

give and interpret words in their very basic meanings, was combative, and became defensive when confronted with previous inconsistencies".

89 These findings were put to Dr Wright as relevant to his credibility. He did not accept them and pointed to the fact that he had been successful before the jury. In my judgment, the jury's verdict does not detract from the potential relevance to Dr Wright's credibility of these reasoned findings by judges in a respected common law jurisdiction, reached after hearing oral evidence. Ultimately, however, they do not play a significant role in my assessment of Dr Wright's credibility. I have been able to reach my own view about that, based on the evidence he gave before me.

<u>My findings on the abandoned "serious harm" case</u>

90 I had the benefit of observing Dr Wright give oral evidence and, later, of considering the transcript of that evidence alongside the documentary record. I make the following findings.

91 It may be that Dr Wright did not need to advance such a specific and detailed case about the serious harm said to have been caused by the Publications (I deal with that question later), but the fact remains that he did so, in Re-Amended Particulars of Claim and in his first witness statement, both endorsed with a statement of truth signed by him. The case was advanced in response to a decision of the Supreme Court which Mr McCormack's lawyers said required Dr Wright to show actual harm. It went to an issue which was an essential ingredient of the cause of action and was also relevant to the quantum of damages.

92 There is no significant difference between the case pleaded in the Re-Amended Particulars of Claim and the evidence given by Dr Wright in his first witness statement. The natural reading of para. 25.9.2 of the Re-Amended Particulars of Claim is that the "several instances" referred to in the body of that paragraph were intended to refer to (or include) the ten set out in the numbered sub-paragraphs thereafter. Paragraph 41 of Dr Wright's first witness statement (which makes specific reference back to the pleading) strongly supports that interpretation. In any event, there is no doubt at all about what Dr Wright was saying in para. 41 of his first witness statement – and he now accepts that this was incorrect.

93 In both the amended particulars of claim and the first witness statement, Dr Wright's clear case was that: (i) he had submitted a paper to each of the 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 patents were backed by academic papers).

94 Dr Wright now accepts that his evidence (though not his pleading) was wrong, but says that this was inadvertent. In assessing this, it is necessary to set out what the evidence now shows and the extent to which this diverges from the case originally advanced.

95 There is <u>no</u> documentary evidence that: (i) Dr Wright had a paper accepted following a blind peer review process at <u>any</u> of the academic conferences identified in para. 25.9.2 of the Re-Amended Particulars of Claim; or (ii) Dr Wright ever received an invitation to speak at <u>any</u>

of those conferences, with the possible exception of Seville; or (iii) that any such invitation was rescinded. I have borne in mind Dr Wright's evidence that he no longer has access to the emails sent to his CNAM account, but even if that account is true, emails are often retained by the sender as well as the recipient. It is striking that, with the assistance of his very well-resourced lawyers, he has been unable to locate any documentary evidence to support his account that invitations were made and then rescinded: see, in this regard, *Wetton (as Liquidator of Mumtaz Properties Ltd) v Ahmed* [2011] EWCA Civ 61, [14] (Arden LJ).

96 Prof. Darwazeh is an academic of high standing. His written and documentary evidence establishes that: the first Hanoi conference did operate a rigorous blind peer review system; Dr Wright submitted a paper; it was reviewed and rejected on merit grounds; and the rejection was communicated to Dr Wright. None of this is now disputed, though Dr Wright maintained in oral evidence that he might not have read the communication to him and that the paper he submitted was accepted for publication, though not at the conference. There was no documentary evidence of this. In any event, it is not what he had said in his Re-Amended Particulars of Claim or evidence and, if true, is contrary to the case originally advanced (which was that the disinvitations meant that his papers were not published).

97 Dr Wright's new case at trial was that he had received an informal invitation to speak at the Hanoi conference from Dr Nguyen. She is an academic administrator at CNAM. Her written evidence (produced in response to his new case very shortly before trial) is that she has no recollection of ever having met, communicated with or come across Dr Wright at CNAM or elsewhere. Whilst I bear in mind that she did not give oral evidence and so could not be cross-examined, the reason for that is that her evidence became relevant only because of a late change of case on Dr Wright's part. I have considered the email from her to Dr Wright about the Ho Chi Minh City conference, but this is no more than a call for papers, addressed "Dear Colleague", which would have been sent to a large mailing list. This does not undermine the veracity or accuracy of her written evidence in any way. The fact that she mentioned her position at CNAM in that email suggests that she may have been mistaken in saying that she never referred to that position there when organising conferences, but this is a peripheral point which does not detract from the weight of her evidence on the key issue. Dr Nguyen's evidence strongly suggests the falsity of Dr Wright's new case that he had received an informal invitation from her.

98 Dr Wright's own evidence (filed in response to the evidence of Prof. Darwazeh and Mr Wolf) is now that his paper was rejected from the Paris conference before the first of the Publications. Again, he maintained that it had been published in a different publication. Again, however, this is flatly inconsistent with his original case.

99 Dr Wright now says that he does not recall whether he submitted a paper to the Montreal conference. He gave no adequate explanation of how he had come to say that he did in his first witness statement. His evidence was that he received an informal invitation from someone at CNAM, though he cannot remember who. This evidence was vague and unimpressive. I reject it.

100 Dr Wright now accepts that the paper he submitted to the Istanbul conference was rejected before the first of the Publications. He gave no adequate explanation of how he had come to say the opposite in his first witness statement. His evidence was that he had received an informal invitation when attending another conference in Istanbul. Again, however, his evidence was vague and there was no documentary evidence to support it. Again, I reject it.

101 Dr Wright maintains that he was invited to speak at the Seville conference and relied on an email which he says supports this. The email (which was not sent to his CNAM account) appears to be an invitation to submit a paper for the conference and to attend, but the fact that he has this email makes it surprising that there is no subsequent email showing that any invitation was withdrawn, as he had said in his first witness statement. I reject Dr Wright's evidence in this respect.

102 Dr Wright maintained in evidence that he had been invited to, and disinvited from, the Budapest conference. But the documentary evidence showed that the paper he submitted to that conference was rejected. Dr Wright quibbled with the inference that it was rejected on merit, saying that there was a lack of detailed feedback. The fact remains, however, that there was evidence of his paper being rejected, contrary to what he had said in his first witness statement.

103 Dr Wright accepted that he did not submit a paper to the first Ho Chi Minh conference, contrary to what he had said in his first witness statement. He maintains that he did, however, receive an invitation, which was withdrawn following the Publications. Again, there was no documentary evidence to support this. Dr Nguyen's written evidence was that invitations would always be made or followed up by email – as this was necessary for visa purposes in Vietnam. Dr Wright's answer – that he had his own immigration lawyers – was nothing to the point. Dr Nguyen was describing her general approach to invitations, and there is no reason why she should have known about Dr Wright's immigration lawyers. On the totality of the evidence, I reject Dr Wright's evidence as to the first Ho Chi Minh City conference.

104 Dr Wright now says that he submitted two papers to the second Ho Chi Minh City, but received no reply. This is quite different from what he said in his first witness statement. Not hearing back is quite different from being expressly disinvited following acceptance of a paper after blind peer review. The latter might provide a basis for inferring serious harm; the former does not.

105 Dr Wright now accepts that he was not invited to the New York conference and avers that it was not an academic conference at all. He says that he confused it with another American conference. I find this explanation very difficult to square with the crystal clear evidence given in his first witness statement.

106 Dr Wright now says that he was due to speak at the Lisbon conference but cannot recall the details of the invitation or when it was withdrawn and further confirms that he did not submit a paper for peer review. In other words, there was no basis for relying on the disinvitation from this conference as part of the case on serious harm.

107 I have carefully considered whether the case being advanced until a few days before trial could have been inadvertently false. I accept that some at least of the evidence showing it to be so came from Dr Wright's own disclosure. The timing, however, suggests that it was the service of the evidence of Prof. Darwazeh and Mr Wolf (10 days before trial, on 12 May 2022), which prompted the acceptance in Dr Wright's third witness statement (on 17 May 2022) that his earlier evidence was incorrect. There is nothing to indicate that Dr Wright had noticed that his case was inconsistent with his own disclosure at any time before that.

108 The explanation given by Dr Wright for abandoning this part of his case was that the damage to reputation arising from the disinvitations occurred outside England and Wales. This does not withstand scrutiny. His case had been expressly confined to harm sustained within the jurisdiction for many months. If he had really been concerned that the disinvitations gave rise to harm only outside the jurisdiction, he could have abandoned this part of his case long ago. The timing suggests, as Ms Evans submitted, that its abandonment was occasioned by its exposure as factually false and not by a late realisation that it was unsustainable for jurisdictional reasons.

109 I have borne in mind what Dr Wright said about his autism and its effects on the way he explains things to others. But the evidence in para. 41 of Dr Wright's first witness statement was not merely inadequately or infelicitously explained. The vice was not that it omitted explanatory background, but rather that what it did say was straightforwardly false in almost every material respect.

110 A conclusion that a witness has given deliberately false evidence should not be drawn lightly. There are times, however, when the application of Occam's razor impels such a conclusion. In this case, there is no other plausible explanation. I reach that view having observed Dr Wright give oral evidence and on the basis of 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.

111 I therefore conclude that Dr Wright's original case on serious harm, and the evidence supporting it, both of which were maintained until days before trial, were deliberately false.

Dr Wright's case at trial on serious harm

112 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.

113 Reference was made to the judgment of Lord Sumption in *Lachaux*, at [21], where he approved the approach of Warby J at first instance. Warby J had based his finding of serious harm on "(i) the scale of the publications; (ii) the fact that the statements complained of had come to the attention of at least one identifiable person in the United Kingdom who knew Mr Lachaux and (iii) that they were likely to have come to the attention of others who either knew him or would come to know him in future; and (iv) the gravity of the statements themselves". As Lord Sumption made clear, it was not necessary to call evidence of the impact the statements had on particular individuals; inferences of fact could be drawn.

114 Mr Wolanksi pointed out that serious harm had been found in a case where the initial publication was to just two individuals: *Singh v Weayou* [2017] EWHC 2102 (QB).

115 As to the scale of publication, it was agreed that Publication 16 was seen by 650 people in England and Wales, on the assumption (which I have held to be correct) that Mr McCormack intended or knew that the livestream recording would be made available online thereafter.

116 As to the tweets (Publications 1-10 and 12-15), the basic methodology for determining the extent of publication was also agreed, subject to some disputes to which I refer below.

117 I was referred to Warby J's helpful description *How Twitter works*, annexed to his judgment in *Monroe v Hopkins* [2017] EWHC 433 (QB), [2017] EMLR 16. In this case, some of the tweets were deleted shortly after they were sent (in circumstances to which I shall have to return). This meant that some of the analytic data associated with them was also deleted. In particular, it was not possible to ascertain the number of "impressions" each tweet received. (The number of "impressions" is the number of times a tweet is generated on the screen of a viewer of the tweet who is active at the time.)

118 Given the unavailability of accurate impressions data, it was agreed that the number of impressions could be estimated by using the number of retweets and likes for the tweets complained of and identifying comparator tweets with similar numbers of retweets and likes in respect of which impressions data were available. Because the comparator tweets for which impression data were available were from a later date, it was necessary to "scale down" the number of impressions by the ratio of the number of followers at the date of publication to the number of followers at the date of the comparator tweet. Finally, the total number of impressions is divided by 10 to account for the fact that about 10% of Mr McCormack's followers were in the UK.

119 Mr Wolanski submitted that, because Mr McCormack had installed tweet-deleting software, which also had the effect of deleting the relevant analytic data, the principle in *Armory v Delamirie* (1722) 1 Str 505 ("the *Armory* principle") applied, with the result that, where the evidence pointed to a range of possible outcomes, the court should take the outcome least favourable to Mr McCormack. Reliance was placed on *ED & F Man Capital Markets Ltd v Come Harvest Holdings Ltd* [2022] EWHC 229 (Comm), [134]-[136], *Blackledge v Persons Unknown* [2021] EWHC 1994 (QB), [40]-[48] and *Dudley v Phillips* [2022] EWHC 930 (QB).

120 In order to demonstrate actual harm, Dr Wright relied on:

(a) Retweets and replies to Publications 12-15 by 17 influential Twitter users. (There is no information available about retweets or replies to other Publications, because of the deletion of the analytic data.) All of the 17 individuals had significant numbers of followers (some in the tens of thousands). These engagements are said to be clear evidence of harm to Dr Wright's reputation.

(b) Dr Wright's oral evidence about harm to his reputation in academic circles in the UK. Concerns had been raised with him by individuals at the School of African and Oriental Studies; his Ph.D. supervisor wanted to eject him from the University of Leicester; and his relationship with CNAM had been irreparably damaged (though this was harm occurring out of the jurisdiction).

(c) Mr McCormack's status as an expert and "rising star", his large and influential following on Twitter (some 54,000 in March 2019, including the then CEO of Twitter Jack Dorsey) and the rapidly growing following for his podcast (it gained some 1 million downloads in the 5 months to August 2019).

(d) A tweet by Hotep Jesus on the day on which the discussion was livestreamed, which said "Peter McCormack makes me believe CSW is a fraud".

(e) The much higher than average "engagement rate" for Mr McCormack's tweets, said to reflect the increasing popularity of his podcast.

(f) The fact that Mr McCormack's tweets forced Dr Wright to abandon his application to become a magistrate (because allegations of fraud would have to be disclosed under the duty of full and frank disclosure).

Mr McCormack's case at trial on serious harm

121 Ms Evans stressed that it is necessary for Dr Wright to show that each Publication caused serious harm. Aggregation of the harm caused by several publications is not permissible: *Sube v News Group Newspapers Ltd* [2018] EWHC 1961 (QB), [2018] 1 WLR 5767, [22]. Ms Evans highlighted several aspects of the context as relevant. The tweets complained of were in response to tweets from Calvin Ayre, goading others into accusing Dr Wright of being a fraud. On Dr Wright's own case, those reading the tweets would have known of Mr Ayre's own published view that Dr Wright is Satoshi. Mr McCormack's tweets were in flippant and light-hearted terms and that is how they would have been understood. Twitter is in any event regarded by its users as an ephemeral and casual medium. There would have been "diminishing returns" as those who read earlier tweets re-read the same allegations in later tweets. There were numerous other individuals who had posted the same allegations about Dr Wright.

122 Ms Evans also relied upon attempts by Dr Wright to sell the rights to his life story as showing that he had not been hurt by the controversy surrounding his claim to be Satoshi and indeed was trying to exploit that controversy for gain.

123 As to the individual Publications, Ms Evans submitted that:

(a) Publication 1 was a direct response to, and would have been read with, Calvin Ayre's tweet that others had been attacking Dr Wright "in order to sell their dysfunctional snake oil crypto products". Mr McCormack's "unsupported and even infantile response" could not support an inference of serious harm to Dr Wright's reputation.

(b) A similar point can be made about Publication 2, which presents a confident, well-resourced group of individuals (Mr Ayre, Dr Wright and his legal team) at a "Troll Hunting meeting". Mr McCormack's "light-hearted and frivolous" response, unsupported by evidence, was a "weak" accusation which does not warrant an inference of serious reputational harm.

(c) Publications 3 and 4 would come across as "humorous and light-hearted" and as "banter".

(d) Publication 5 embedded Dr Wright's letter before claim. Against that background, Mr McCormack's tweet would be regarded as providing a weak counter-narrative which did not even profess confidence in defending the claim ("I've lost everything before and if I lose again, so what").

(e) Publication 6 reads as a humorous contribution to the debate, as does 7 which contains the absurd and satirical response to the letter before claim and would not inferentially cause serious harm to reputation.

(f) Publication 8 would be read as more "fighting talk" between Mr Ayre and Mr McCormack, with further abuse directed at Mr Ayre.

(g) Publication 9 would be read in a jokey manner against the background of Mr Ayre's confident assertion that Dr Wright "is Still Satoshi".

(h) Publication 10 relies on the same words as Publication 9 and cannot give rise to a separate cause of action.

(i) Publication 12 is a further light-hearted swipe at Dr Wright.

(j) Publications 13, 14 and 15 are further light-hearted and comical contributions to the ongoing debate and cannot reasonably support an inference of serious harm.

(k) Publication 16 must be seen in the context of a discussion in which both sides of the debate were aired. In that context, it does not support an inference of serious harm.

124 As to the extent of publication, Ms Evans submitted that the *Armory* principle was not applicable because there was no deliberate destruction of evidence. She noted that, in both *Monroe* and *Riley v Murray* [2021] EWHC 3437 (QB), [2022] EMLR 8, Warby J and Nicklin J had declined to criticise the conduct of the defendants even though data relating to their Twitter accounts had been lost.

The issues as to the extent of publication

125 There were three calculation issues dividing the parties. First, because not every impression will actually have been viewed, how much of a discount should be applied to the number of impressions to reach the number of views of each tweet? Second, when estimating the number of impressions using more than one comparator tweet, should a mean or a range be used and, if the latter, should the *Armory* principle be applied to select the figure within the range which is least favourable to Mr McCormack? Third, how should the comparator tweets be chosen?

126 Mr Wolanski and Mr Callus (who addressed me on some of the points relevant to calculation methodology) devoted a great deal of analytic attention to answering these questions, both generally and in relation to the individual publications. Ms Evans and Mr Silverstone also filed detailed submissions on these issues. For reasons I shall explain, I do not find it necessary to resolve these issues.

My findings on the application of the *Armory* principle

127 There was a dispute between the parties as to the conditions under which the *Armory* principle applied. Mr Wolanski said that the principle applied whenever there was a lack of evidence which could be attributed to the fault of one party, even if that party had not deliberately destroyed evidence and could not be regarded as morally culpable. Ms Evans, for her part, submitted that some form of culpability was required. For reasons which will

become clear, this case does not turn on the resolution of this dispute. However, since I have heard argument on it, I set out my conclusions on this issue of law.

128 In *Marathon Asset Management LLP v Seddon* [2017] EWHC 300 (Comm), [2017] 2 CLC 182. At [164], Leggatt J (as he then was) described two related principles. The first was that difficulty in estimation of loss should not deprive a claimant of a remedy. The second was the *Armory* principle, that "where the defendant has destroyed or wrongfully prevented or impeded the claimant from adducing relevant evidence, the court will make presumptions in favour of the claimant".

129 That formulation seems to me to be helpful in two ways. First, it distinguishes the *Armory* principle from the more general principle that difficulty in estimating loss should not deprive a claimant of a remedy. The latter principle will apply in any case where there is an absence of evidence relevant to the quantification of loss (whether or not the absence can be attributed to the fault of any party). Where a justiciable wrong has been proven but calculation of damages is difficult, the court will not simply give up and say that no loss has been proven; it will persevere and seek out a method of calculation, even if the method is somewhat rough or indirect.

130 Second, Leggatt J's formulation suggests that a separate and stronger principle enables the court to determine uncertainty as to the extent of loss against the defendant where he has "destroyed or wrongfully prevented or impeded the claimant from adducing relevant evidence". These words seem to me necessarily to connote some form of morally culpable conduct on the part of the defendant which contributes to the absence of evidence. If there were no such culpability, it is difficult to see why it would be justifiable to make presumptions against the defendant. This is consistent with the reasoning in the cases relied upon by Mr Wolanski. In *ED & F Man Capital Markets,* the conduct which justified the application of the presumption was the deliberate deletion of WhatsApp messages. In *Blackledge*, the defendant never identified themselves at all. In *Dudley,* the defendant served no statement of case and provided no disclosure at all.

131 In my judgment, the evidence in this case does not disclose the kind of conduct that would justify the application of the *Armory* principle:

(a) The starting point is that, by a letter of 12 April 2019, Dr Wright specifically asked Mr McCormack to delete Publications 1-10. While that letter noted his obligation to preserve certain documents, it did not mention Twitter analytics at all and did not draw his attention to the need to download from the Twitter website any data relating to those Publications. Mr McCormack's evidence was that he did not know that deletion of a tweet would mean that the significant analytic data in respect of that tweet was lost. I accept that evidence. Even though he was experienced in both podcasting and digital marketing, there is no particular reason why someone with that experience should necessarily be assumed to know how Twitter analytics work.

(b) When Mr McCormack installed TweetDeleter software, on 14 June 2019, he had only just obtained legal representation. His evidence was that he had installed the software to avoid old tweets being taken out of context and used to attack him. This rings true given that (i) his tweets were not characterised by either forethought or moderation; (ii) he had just been informed of a libel claim against him; and therefore (iii) he would be likely to wish to avoid any further such claims.

(c) Dr Wright's solicitors did not mention until much later the need for downloading or preservation of analytic data – and then in terms which even Mr McCormack's own (experienced) solicitors did not find clear (see, for example, RPC's letter of 22 March 2021).

(d) This is not a case where Mr McCormack has failed to provide any relevant disclosure. On the contrary, he has provided disclosure which includes the retweets and likes for Publications 1-15, records of the number of his Twitter followers during relevant periods and analytic data in relation to some 27,000 other tweets, which – as the exercise undertaken by the two legal teams shows – can be used to calculate the number of views for the Publications complained of. His clear evidence was that he provided his solicitors with everything that was asked of him. There is nothing which undermines that evidence and I accept it as true.

(e) Accordingly, on the evidence as a whole, there is nothing to indicate that Mr McCormack "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.

My findings on serious harm

132 I have considered the three bases on which Dr Wright contended that the Publications caused or were likely to cause serious harm to his reputation in England and Wales: the inherent seriousness of the imputation conveyed by each tweet; the significant extent of publication; and the evidence of actual harm.

133 I accept that the seriousness of the imputation in each tweet must, as Ms Evans submitted, be informed by their context. Publication 1 was tweeted in reply to Calvin Ayre. Any reader who did not already know that there were people who denied that Dr Wright was Satoshi would have learned this from Mr Ayre's tweet. Mr McCormack's reply must be seen in that light. The tweet to which Publication 2 was a response was even more obviously an attempt to "goad" others to deny that Dr Wright was Satoshi so as to set up a claim for libel. The obvious conclusion to be drawn from Mr Ayre's tweet (boasting that he and Dr Wright and his legal team had just had a "Troll Hunting" meeting) is that Mr Ayre and Dr Wright wanted someone to deny that Dr Wright was Satoshi, so as to justify proceedings which (Mr Ayre and Dr Wright hoped) would establish that he was. Anyone viewing Mr Ayre's tweet would know that there were those who considered Dr Wright's claim to be Satoshi to be fraudulent. Again, the only additional information that could be derived from Publication 2 is that Mr McCormack is one of those people.

134 On one level, it could be said that a person who in these circumstances goads another to say something so as to generate a basis for a defamation claim is seeking to remedy harm to his reputation which has already been done at the time of the publication complained of. I confess to some unease about the use of the law of defamation for that purpose. But, on the law as it currently stands, a person who publishes something defamatory is in principle liable if it can be shown that the publication has caused or is likely to cause serious harm to the claimant's reputation, even if the publication was in response to goading. In this case, although the Publications were indeed 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.

135 As to the scale of the publications, there was a discrepancy between Dr Wright's and Mr McCormack's figures. The figures were these:

Publication	Claimant's figures for number of readers in the jurisdiction	Defendant's figures for number of readers in the jurisdiction
Publication 1	1,435 to 2,875	442
Publication 2	243 to 2,590	125
Publication 3	39,324 to 97,233	16,908
Publication 4	1,643 to 10,488	485
Publication 5	15,791 to 70,684	14,986
Publication 6	4,062 to 13,847	1,149
Publication 7	88,611	23,558
Publication 8	354 to 1,677	358
Publication 9	260 to 397	104-159
Publication 10	260	104
Publication 12	5,110 to 6,545	1,053
Publication 13	2,261	904
Publication 14	8,302 to 9,564	1,722
Publication 15	5,254 to 9,802	2,104

136 As can be seen, the discrepancy is greater in some cases than others. The resolution of the differences between the parties might have been necessary to the assessment of damages if I had reached a different conclusion on relief (see below), but is not necessary for a conclusion that the number of people who viewed the tweets in this jurisdiction was in each case significant and in some cases very substantial. That conclusion can be reached even assuming Mr McCormack's figures to be correct.

137 I have also taken into account the retweets and replies to Publications 12-15 by influential Twitter users. I agree with Mr Wolanski that these engagements provide some evidence supporting an inference that harm has been done to Dr Wright's reputation. The tweet by Hotep Jesus indicating that he had been persuaded by Mr McCormack that Dr Wright was a fraud provides evidence supporting the inference that Publication 16 in fact caused serious harm to Dr Wright's reputation by lowering that reputation in the eyes of at least one influential individual.

138 I bear in mind that some of those reading the later Publications will already have seen the earlier ones, but – particularly given that each generated retweets and replies – it is likely that each of the Publications came to attention of at least some individuals in England and Wales who had not seen, or read, the earlier ones. That being so, it is likely that each caused serious harm to Dr Wright's reputation in this jurisdiction.

139 In the light of the matters discussed at [132]-[138] above, I find it more likely than not that each of the Publications caused serious harm to Dr Wright's reputation.

140 I make clear, however, that my finding on the issue of serious harm is not based to any extent on Dr Wright's oral evidence as to the effect on his reputation in academic or other circles. His case in that regards was not pleaded. Moreover, the evidence supporting it was vague and, in the light of my earlier findings as to his credibility, I place no weight on it. Nor was I impressed with the suggestion that Mr McCormack's allegations would have prevented him from becoming a magistrate. It is true that the application preceded the adverse credibility findings of Magistrate Judge Reinhart, so the Publications could in principle have caused serious harm by preventing him from pursuing the application at that time. There was, however, no evidence that an application for appointment as a magistrate would be likely to be refused because of unsubstantiated allegations made on Twitter. If any such application had been maintained after the adverse credibility findings of Judge Reinhart, those findings would of course have had to be disclosed; and if an application were now pursued the same would apply to the findings in this judgment.

Relief

141 By way of relief, Dr Wright claims damages, an injunction and an order for publication of a summary of the judgment pursuant to s. 12 of the 2013 Act. There has been correspondence in which Mr McCormack's solicitors have offered undertakings in the event of a finding against Mr McCormack on liability. In my judgment, the appropriate way to proceed is for me to resolve the question of damages first and then invite further submissions as to whether any injunctive or other relief should be granted in the light of my findings.

142 The general approach to the assessment of damages for defamation cases was set out by Warby J in *Monroe v Hopkins* at [75]-[78]. However, it is also well established that "a person should only be compensated for injury to the reputation they actually possess" and it is accordingly open to a defendant to adduce evidence of a claimant's bad reputation in mitigation of damages: *Lachaux*, [74] (Warby J). In assessing the proper level of damages or in mitigation of damages, the court can take into account evidence admitted on another issue: Gatley on Libel and Slander (13th ed., 2022), §34-096; *Dhir v Saddler* [2017] EWHC 3155 (QB), [2018] 4 WLR 1, [118]; *Bokova v Associated Newspapers Ltd* [2018] EWHC 2032 (QB), [2019] QB 861, [29].

143 In a libel action brought by an individual, compensation is awarded for injury to reputation (objectively assessed) and for injury to feelings. 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, I would have rejected in its entirety his case as to the distress he claims to have suffered.

144 But the deliberately false case on serious harm advanced by Dr Wright until days before trial in my judgment requires more than a mere reduction in the award of damages. In my judgment, it makes it unconscionable that Dr Wright should receive any more than nominal damages.

145 In *Joseph v Spiller* [2012] EWHC 2958 (QB), a claim heard before the 2013 Act, the claimant was a member of a musical group. The defendant was one of the directors of an entertainment bookings service. He published something defamatory of the claimant's group on his website. The claimant advanced a claim for special damages for the cancellation of a booking, said to have been occasioned by the publication complained of. Tugendhat J held that the claimant had carried on a sophisticated deception of the court by putting forward a witness statement he knew to be false and by relying on a false document to mislead the court. As a result, although the claim succeeded, "there would be no injustice to Mr Joseph if he is awarded only nominal damages" – and that is what happened: see at [177]-[178] and [184].

146 In *FlyMeNow Ltd v Quick Air Jet Charter GmbH* [2016] EWHC 3197 (QB), Warby J awarded damages of £10 to a company which succeeded in a claim for libel in respect of a statement by one of its creditors imputing insolvency. This very low or nominal award was justified in part by a finding that the claimant had fobbed the defendant off with a series of dishonest excuses (see [127]), but also by the finding that "a central element of its case was false from the beginning and should have been recognised as such by the company's principal", who had "given false evidence" (see [128]). The latter findings were "disreputable facts that are properly before the court, which logically affect the extent to which the claimant is entitled to vindication of its reputation through an award of damages". This approach was said to be supported by *Joseph v Spiller*.

147 In my judgment, the same principle applies here:

(a) Dr Wright advanced a deliberately false case as to the disinvitations from academic conferences in his Amended Particulars of Claim and his first witness statement. That case was designed to show that the Publications had caused serious harm, which is now an essential element of the tort of defamation. It was also relevant to the quantum of damages sought. These were both central issues in the claim.

(b) The case was maintained until shortly before the trial and, on my findings, would have been maintained at trial had Mr McCormack not served evidence from two of the organisers of the academic conferences from which Dr Wright said he had been disinvited after previously having had papers accepted following blind peer review.

(c) Dr Wright's response to this evidence was to change his case and withdraw significant parts of his earlier evidence, while seeking to explain that the errors were inadvertent. I have rejected that explanation as untrue.

(d) I have found that the Publications <u>did</u> cause serious harm without reference to the earlier deliberately false case as to the academic conferences. However, I am entitled to take into account my findings as to the earlier false case in assessing damages.

(e) As in *Joseph v Spiller*, I find that there would be no injustice if Dr Wright were to recover only nominal damages.

148 In the light of this conclusion, it is not necessary to resolve the differences between the parties as to the extent of publication; and it would not be a proportionate use of judicial resources to do so.

Conclusions

149 For these reasons, I conclude that:

(a) Publication 16 meant that there were reasonable grounds for questioning or inquiring as to whether the Claimant had fraudulently claimed to be Satoshi. This was defamatory at common law.

(b) Mr McCormack is responsible for the re-publication of Publication 16 by the posting of the recording on YouTube.

(c) Each of Publications 1-10 and 12-16 caused serious harm to the reputation of Dr Wright.

(d) However, because he advanced a deliberately false case and put forward deliberately false evidence until days before trial, he will recover only nominal damages.

150 Accordingly, I shall enter judgment for Dr Wright on the claim in the sum of £1.

151 I shall invite written submissions in the light of this judgment on the question of injunctive or other relief and on costs.