

Matthew Thorne successful in Tulip Trading Limited v Bitcoin Association for BSV and others [2022] EWHC 2 (Ch)

In a judgment of interest to the wider cryptocurrency community, the Court has ordered the claimant to provide security for costs in respect of its claim against software developers seeking more than USD \$4.5 billion of Bitcoin and other cryptocurrencies. [Matthew Thorne](#), instructed by O'Melveny & Myers, represented the successful defendants.

The claimant is a holding company said to be beneficially owned by Dr Craig Wright. It is alleged that he was subject to a computer hack resulting in the loss of his ability to access the relevant cryptocurrencies. It is claimed that the developers owe tortious and/or fiduciary duties to re-write the software in order to enable access to the cryptocurrencies. If they fail to do so, he seeks the value of the cryptocurrencies personally from the developers.

The defendants have challenged the jurisdiction of the English courts, and applied for security for costs up to the hearing of that challenge. In granting their application for security, the Court noted that the claimant was a holding company with no customers, no bank account and which did not file accounts or tax returns. It noted that the claimant had not set out details of its assets but had instead sought to suggest that the defendants had simply not provided evidence of the claimant's inability to pay. The Court held that the case fell squarely within the requirements set out in *Sarpd Oil v Addax* [2016] EWCA Civ 120: the claimant had been given the opportunity to show that it could pay the defendants' costs and had "*failed to take up that opportunity*". This amounted to "*deliberate reticence*" which gave reason to believe that it would be unable to pay costs if ordered to do so. Security would therefore be ordered.

The jurisdiction hearing is presently listed for March 2022.

[Read judgment here](#)