

Tulip Trading Limited v Wladimir van der Laan and ors [2023] EWCA Civ 83- Alex Charlton KC and Daniel Khoo

The Court of Appeal has upheld the appeal of Tulip Trading Limited in the highly publicised multi-billion dollar claim brought by Dr Craig Wright against a number of bitcoin software developers.

This is the first case before the English court to consider the role and duties of cryptoasset software developers and the Court of Appeal's decision will be of significant interest to those in the cryptoasset community and beyond.

Significantly, the Court of Appeal has held that it is arguable that software developers owe fiduciary duties to owners of cryptoassets to take steps to enable owners to recover bitcoin that has been stolen as the result of a computer hack.

The suggestion that software developers can be compelled to write code which fundamentally changes the design of the blockchain (by enabling digital assets to be transferred without the use of private keys) is entirely novel and would, in the Court's words "*involve a significant development of the common law on fiduciary duties*" (para 86). However, the Court considered that such a duty could not be dismissed summarily.

[Alex Charlton KC](#) and [Daniel Khoo](#) acted for the Fourteenth Respondent at first instance and in the Court of Appeal, instructed by Chris Corney at Brett Wilson LLP.