

**EASTERN CARIBBEAN SUPREME COURT
TERRITORY OF THE VIRGIN ISLANDS**

**IN THE HIGH COURT OF JUSTICE
COMMERCIAL DIVISION**

Claim No. BVIHC(COM) 2023/0239

BETWEEN

AQF APPLICANT

AND

XIO FIRST RESPONDENT

VQF SECOND RESPONDENT

CGN THIRD RESPONDENT

IN CHAMBERS (EX PARTE/WITHOUT NOTICE)

Appearances: Mr. Peter Ferrer for the Applicant

2023: 23 November

JUDGMENT

Introduction

- [1] **Mangatal J:** On 23 November 2023 I set down for an urgent hearing the Applicant's urgent ex parte/without notice application for a freezing injunction against the First Respondents, identified as Persons Unknown by reference to their digital wallets. The Applicant also seeks a mandatory interim injunction and an ancillary disclosure order against the Second and Third Respondents who operate

and issue a well-known cryptocurrency. In addition, the Applicant applies for an order for service out of the jurisdiction by way of alternative service of these Application Papers on the First Respondents.

[2]

The application raises novel points for this jurisdiction, and indeed, the points raised would likely to be considered novel in many other common law jurisdictions. This is so both in relation to the type of interim relief sought against the Second and Third Respondents by way of what may be classified as interim mandatory injunctive relief, as well as in relation to one of the alternative means of service sought. This means of service is by way of sending a copy of the Applicant Papers by non-fungible token (NFT) airdrop to the digital wallet addresses of the First Respondents. It is also the first time that I am making an order for service by alternative means under the ***Eastern Caribbean Supreme Court Civil Procedure Rules (Revised Edition) 2023*** (“the 2023 CPR”). It is for all of these reasons that I considered it important to take the time to provide a brief written judgment. I wish to express my gratitude to Mr. Ferrer and his team for the very succinct and helpful skeleton arguments that have assisted the Court in carrying out that task.

[3]

On 26 July 2023, the Singapore Court issued a worldwide injunction against the First Respondents prohibiting them from dealing with their assets up a value of US\$3,065,100.06. Following the grant of the injunction, the Applicant sought disclosure in the Singapore Court against several exchanges which was granted on 25 August 2023. As a result of information obtained by the disclosure order, in October 2023, the Applicant sought, and obtained the permission of the Singapore Court to vary the standard undertaking he had provided to permit him to commence proceedings in this Court. No substantive relief was sought in the Singaporean Court against the Second and Third Respondents.

[4]

The Applicant now seeks parallel relief against the First Respondents in this jurisdiction together with a mandatory interim injunction against the Second and Third Respondents to prevent transfer or disposal of the cryptoassets and ancillary disclosure orders against the Second and Third Respondents with any information relating to the wallets and the ownership of such wallets to be provided.

BACKGROUND FACTS

- [5] The Applicant is a businessman resident in Dubai U.A.E. and provides broker services for gold bullion transactions. He is the owner of US\$ 3,065,100.06 worth of cryptocurrency previously held in 2 digital wallets under his control.
- [6] The form of cryptocurrency issued by the Second and Third Respondents is on the Ethereum and TRON networks which are publicly available ledgers known as block chains which provides a digital record of every transaction. As the issuer, the Second and Third Respondents can annotate the relevant cryptocurrency held in any wallet at any particular point in time which effectively disables the coin and freezes it.
- [7] The Applicant's case is that he intended to transfer the cryptocurrency as part of a transaction for the purchase of 50,265.5 grams of gold bullion by a company known as X Limited as buyer from a company known as Y Limited as seller. As part of the transaction, the Applicant was to advance the purchase price and subsequently be reimbursed by X Limited.
- [8] The Applicant claims that, unfortunately, he became the victim of an 'address poisoning' scam (also referred to as a zero-value transfer scam). This is a form of scam where a scammer produces a wallet address that looks similar or near identical to the wallet which the victim is known to interact with. The victim therefore thinks that he is making a payment to a bona fide wallet when in fact the address is that of the scammer.
- [9] On 3 July 2023, the Applicant made 4 payments totaling US\$3,065,100.06 worth of cryptocurrency in the belief that he was making a transfer to the Seller's wallet (the Defrauded Assets). The Applicant sets out his evidence in relation to the transfers and his belief at the time at paragraph 13 of the Applicant's First Affirmation.
- [10] The Applicant was subsequently informed by the Seller that payment had not been received and he became aware that he had been the subject of a scam. The Applicant filed a police report with the Dubai (United Arab Emirates) Police on 6 July 2023.

- [11] He also instructed a block chain investigations specialist to trace the Defrauded Assets. A copy of the investigations reports dated 22 September 2023 and 7 November 2023 were exhibited.
- [12] In summary, within 24 hours of the scam, the cryptocurrency had been transferred 3 times to various wallets referred to in his evidence as 1st, 2nd and 3rd layer wallets.
- [13] The Applicant instructed Setia a Singaporean law firm who requested the Second and Third Respondents to freeze the cryptocurrency in the wallets which had been traced as at that date but the Second and Third Respondents declined on the basis that they could only work with law enforcement directly to freeze and reissue funds.
- [14] Proceedings were commenced in the High Court of the Republic of Singapore against Persons Unknown for a proprietary injunction and for disclosure orders against the exchanges through which some of the Defrauded Assets had been transmitted namely **Exchange 1, Exchange 2, Exchange 3 and Exchange 4**.
- [15] On 26 July 2023, the Singapore Court granted an injunction against the First Respondents from dealing with their assets up to a value of US\$3,065,100.06.
- [16] On 25 August 2023, the disclosure application against the various exchanges was heard and they were ordered to provide information in relation to the wallets including the balances being held, KYC information as to the identity of the users and details of the transactions involving the accounts with the exchanges.
- [17] As a result of the disclosure, various email addresses were discovered and an additional Exchange 1 account.
- [18] One of the digital wallets involved in the 2nd layer of transfers and which was frozen by the Singapore injunction received US\$ 172,500 worth of cryptocurrency of the proceeds of the Defrauded Assets. On 9 September 2023, Exchange 1 wrote to the Claimant's Singapore legal representatives in relation to this wallet informing them that there is an Exchange 2 user who uses the wallet to deposit

funds designated to his Exchange 2 account and that this user also holds a separate Exchange 1 account (i.e. defined in the Applicant's evidence as the Additional Exchange 1 Account). Exchange 1 placed a "courtesy freeze" over the Additional Exchange 1 Account.

- [19] The Applicant applied to the Singapore Court to vary the injunction to include the additional Exchange 1 account and to be released from its undertaking not to pursue proceedings elsewhere.
- [20] On 5 October 2023 the Singapore Court gave permission to commence proceedings in the BVI against Persons Unknown and to use the information obtained as a result of the orders in Singapore in BVI proceedings.
- [21] Exchange 1 confirmed that if the user of the Additional Exchange 1 Account reached out to them regarding the courtesy freeze, Exchange 1 may inform them that the restrictions have been placed on the Account pursuant to the Claimant's claim and provide them with the Claimant's legal representatives' details.
- [22] On 13 September 2023, the Claimant's Singapore legal representatives received an email from the email address demanding to know why the Additional Exchange 1 Account was frozen. Further emails were sent on 20 September 2023 from the same email address asking why his/her account on Exchange 1 was blocked. The Claimant's Singapore legal representatives informed the user that the Exchange 1 account was frozen pursuant to an Order of the Singapore High Court in connection with a fraud that was perpetrated against their client, the Claimant.
- [23] As a result of the Singapore Freezing Order there is a sum of approximately USD 1,263.01 frozen with Exchange 2, Exchange 3 and Exchange 1. In particular, Exchange 2 has frozen cryptoassets with a value of approximately USD 16.34, Exchange 3 has frozen cryptoassets with a value of approximately USD 1,232.41 and Exchange 1 has frozen cryptoassets with a value of approximately USD 1,359.10, comprising of USD1,344.84 (i.e. associated with their user with email address '____@gmail.com') and USD14.26 (i.e. associated with their user with email address '____@gmail.com'). The amounts of cryptoassets frozen with the involved exchanges are minimal, especially in comparison to the total value of the Defrauded Assets, i.e. US\$3,065,100.06.

- [24] Paragraph 60 of the Applicant's First Affirmation sets out the correspondence between the Applicant's Singaporean lawyers, Setia and the Exchange 1 user with email address. The suggestion from the user appears to be that he had purchased the cryptocurrency from the owner and/or controller of Wallet TDB but that he is not otherwise linked to him/her. Given the timing of the fund transfers, the nature of XMR (i.e. an even more anonymised cryptocurrency which is often used in money laundering activities), and the manner in which the user interacts in the chat log he provided, suggests that he is part of a group or syndicate of persons dealing with the assets to obfuscate their trail. It is therefore very doubtful, Mr. Ferrer submits, if the explanation provided by the user is correct. He also asked the Court to note that the user _____@gmail.com is not being cooperative or forthcoming to Setia's requests and has not addressed the other, substantial withdrawals from Wallet TDB, as listed and identified from the disclosure from Exchange 2 (as requested by Setia).
- [25] While the Second and Third Respondents do not control the relevant wallets containing the cryptocurrency, Counsel submits that the Second and Third Respondents have the ability to 'freeze' the cryptocurrency contained in various private wallets by disabling its functionality, making it impossible to send or otherwise exchange the specific cryptocurrency concerned.
- [26] Based on the transfers between the wallet addresses belonging to the First Respondents, and the manner in which wallets have interacted with one another, the investigations specialists have been able to conclude that the entire wallet address infrastructure (referring to all of the addresses which received the Defrauded Assets and interacted with the Additional Exchange 1 Account, which in turn was funded by a 2nd layer wallet which can be directly traced to the Defrauded Assets) are controlled by the same individual or group of individuals who are acting in concert to obfuscate or conceal the trail of the Defrauded Assets.
- [27] As an example of such interactions, cryptoassets were transferred between various wallets in quick succession, and in some cases were involved in a round tripping-style of obfuscation by which cryptoassets were received to a single address by layer 3 and layer 6 addresses, the implication of this, Counsel pointed out, is that the wallets at each layer are controlled by a single person or group

of persons with an intention to move assets through multiple layers to obfuscate, rather than representing legitimate transactions.

[28] The Applicant seeks a freezing injunction up to the value of the claim against the First Respondents as the wallets listed in Annex A have been identified as belonging to or controlled by the individual or group of individuals who misappropriated the Applicant's assets (i.e. the cryptocurrency in the listed wallets are controlled by the Persons Unknown against whom the Applicant has commenced the Singapore Proceedings).

[29] The Applicant also seeks a mandatory interim injunction against the Second and Third Respondents who are able to restrict the transfer or disposal of the cryptocurrency as issuers and also seeks ancillary disclosure against the Second and Third Respondents.

APPLICABLE LEGAL PRINCIPLES

Freezing Order

[30] It is now well established that cryptocurrency is property and that the Court is entitled to grant injunctive relief in relation to it if appropriate. Freezing orders have been granted in relation to cryptocurrency (see *Vorotyntseva v Money-4 Ltd* (t/a Nebeus.com)¹, including as against persons unknown (see *AA v Persons Unknown*²) cited by Mr. Ferrer. I believe there have also been BVI decisions, some of which are unreported.

[31] The correct approach to a freezing order has been set out in many cases, but as was well stated by Parker LJ in *Derby & Co v Weldon*³: "There are in essence only three issues; (i) has the plaintiff a good arguable case; (ii) has the plaintiff satisfied the court that there are assets within and, where an extraterritorial order is sought, without the jurisdiction; and (iii) is there a real risk of dissipation or secretion of assets so as to render any judgment which the plaintiff may obtain nugatory. Such matters should be decided on comparatively brief evidence".

¹ [2018] EWHC 2596 (Ch) -342]

² [2019] EWHC 3556

³ [1990] Ch 48 at 57 – 58

- [32] What is required therefore is an appreciation that the evidence may not be conclusive in the sense that it will need to be at trial but that it needs to be cogent. This particularly so when considering the “good arguable case” test, in respect of which Mustill J’s observation in *The Niedersachsen*⁴ is apt: “good arguable case” means “more than barely capable of serious argument, and yet not necessarily one which the judge believes to have a better than 50% chance of success”.
- [33] As far as the risk of dissipation is concerned the Court may be able to infer a risk of dissipation from the nature of the claim itself: see *VTB Capital plc v Nutritek International Corp*⁵, per Lloyd LJ approving Flaux J’s decision in *Madoff Securities International Ltd v Raven*⁶. Given the evidence of the Applicant, it was argued that a risk of dissipation can be inferred from the Perpetrators’ conduct, and the intentional nature of the harm caused by them.
- [34] I accept that the Applicant has crossed the threshold and met the requirements outlined in paragraphs [30]-[33] above for the grant of freezing order relief.
- [35] As to the issue of the appropriateness of the BVI court granting a parallel injunction to the Singapore Court, the Court is of course entitled to exercise its own discretion as to the appropriateness and obviously is not bound by the Singapore court determination. However, the factors which militate in favour of granting a parallel injunction in this jurisdiction, which were put forward by Counsel, and which I accept, are that:
- i. In an authoritative (but non-judicial) legal statement on Crypto assets and Smart contracts published by the UK Jurisdictional Task Force (the Legal Statement) whose authors include two High Court judges, including the Chancellor, it is submitted that, amongst relevant considerations for determining the lex situs of cryptoassets, regard should be given to whether there is “any centralised control” in the jurisdiction. Given that the relevant cryptocurrency is issued and centrally controlled by the Second and Third Respondents incorporated in the BVI, I accept at this *ex parte* hearing on the

⁴ [194] 1 ALL ER 398

⁵ [2012] EWCA Civ 808 at [177-178]

⁶ [2011] EWHC 3102 (Comm)

evidence available at this stage, that this consideration is met in the particular circumstances of this case.

- ii. The Second and Third Respondents have indicated that they would require intervention by law enforcement (or by extension, this Court) before taking any steps to prevent dissipation of the First Respondents' Assets.
- iii. The consequence of being a party to a BVI injunction means that the Second and Third Respondents would be bound to comply with it.
- iv. The Singapore Court has already granted permission to issue proceedings in the BVI and it is be assumed therefore that it was satisfied that it would not be oppressive to have a multiplicity of proceedings.
- v. The Applicant is willing to give the usual undertakings in damages in the event that it subsequently transpires that the injunction should not have been granted.

Mandatory Injunction against a Non- Cause of Action Defendant

[36] On the facts of the present case, the Second and Third Respondents are non-cause of action defendants. No substantive claim is being brought against them and there is no suggestion of their involvement in the scam. The Court therefore has to take care that any injunction granted particularly, what may fall within the general classification of interim mandatory injunction, is one which is properly founded on relevant legal principles.

[37] In ***Gee on Commercial Injunctions***, 7th Edition, the learned author sets out the following summary of the applicable principles for an interim mandatory injunction, which I entirely accept. He states at 2-041: In summary: (1) the general principle is to take the course which involves the least risk of injustice if it turns out to be "wrong"; (2) the court should keep in mind that ordering a positive step to be taken may involve an increased risk of injustice for the defendant if the decision turns out to be "wrong"; (3) it is legitimate to consider whether the court does feel a "high degree of assurance" that

the claimant will succeed at trial. This is because the greater the degree of assurance, the less the risk of injustice if the injunction is granted; (4) even where the court does not feel this high level of assurance there are still exceptional cases in which it is correct to grant an interim mandatory injunction because that course involves the least risk of injustice. Thus, on an application for an interim mandatory injunction the court does pay attention to the relative strength of the apparent merits in exercising its discretion, and in this respect American Cyanamid principles do not apply.

[38] A useful summary of the principles, is set out in **Zockoll Group Ltd v Mercury Communications Ltd**.⁷

[39] As a result of the Eastern Caribbean Supreme Court (Virgin Islands) (Amendment) Act 2020, section 24A of the Supreme Court Act (Cap. 80) provides that the Court has jurisdiction to grant interim relief in relation to proceedings commenced abroad including against a non- cause of action defendant.

[40] Even in the absence of an express statutory basis as against non-parties, it has been determined at the highest level that the Courts will develop new practices to address new technology challenges - see **Broad Idea International Ltd v Convoy Collateral**⁸, a case emanating from this jurisdiction. Of particular relevance to this application are paragraphs 50 and 51 of the judgment where the Privy Council, noted as follows:

*“50. More recently, a new type of injunction has been developed to combat problems posed by the infringement of intellectual property rights via the internet. In **Cartier International AG v British Sky Broadcasting Ltd**.⁹ the Court of Appeal upheld decisions of Arnold J to grant injunctions ordering internet service providers (“ISPs”) to block websites selling counterfeit goods. The ISPs had not invaded, or threatened to invade, any independently identifiable legal or equitable right of the claimants. Nor had the claimants brought or indicated any intention to bring proceedings against any of the infringers. It was nevertheless held that there was power to grant the injunctions and a principled basis for doing so to compel the ISPs to prevent their facilities from being used to commit or facilitate a wrong. An analogy was drawn with third party disclosure orders.*

⁷ [1998] F.S.R 354 at 364

⁸ [2021] UKPC 24

⁹ [2016] EWCA Civ 658; [2017] 1 ALL ER 700

51. There was an appeal to the Supreme Court in *Cartier* though only on the question of costs. Nevertheless, in considering how the costs of complying with the injunctions should be dealt with, Lord Sumption (with whom the other Justices agreed) analysed the nature and basis of the website blocking orders made and concluded that they were justified “on ordinary principles of equity”: ***Cartier International AG v British Sky Broadcasting Ltd.***¹⁰ That was so although the claimants had no cause of action against the respondent ISPs who were themselves innocent of any wrongdoing. The Supreme Court of Canada reached a similar conclusion in ***Google Inc v Equustek Solutions Inc.***¹¹”

- [41] I accept Mr. Ferrer’s submission that in the present case, the most appropriate course of action is to impose a mandatory interim injunction on the Second and Third Respondents which can freeze those wallets which on a balance of probability are related to the individual or individuals involved in the fraud. This would be the principled approach and is supported both by the existing authorities in relation to mandatory injunctions, in particular I am of the view that it involves the least risk of injustice. In my judgment, it is indeed analogous to the website blocking injunctions developed recently and expressly approved by the Privy Council in ***Broad Idea***.

FULL AND FRANK DISCLOSURE

- [42] The Applicant has thoroughly set out matters which it considers the Court should be aware of prior to granting any order. I have considered these matters fully.
- [43] Having regard to all of the circumstances I propose to grant the injunctive and ancillary relief sought.

SERVICE OUT AND ALTERNATIVE SERVICE

- [44] The 2023 CPR general rule as to service of court process out of the jurisdiction of the BVI is set out at CPR 7.2(1). By virtue of Rule 7.2 (1) Court process may be served out of the jurisdiction without

¹⁰ [2018] 1 WLR 3259, para 15

¹¹ 2017 SCC 34; [2017] 1 SCR 824

the permission of the court provided that – (a) service is effected in compliance with rule 7.9 or pursuant to rule 7.17; (b) the court process is listed in rule 7.3; and (c) the claimant complies with rule 7.6.

[45] Court process is defined in Rule 7.1(2) to in relation to Part 7 include notices of application and supporting affidavits and thus is applicable here.

[46] Rule 7.17 applies to service of documents other than Court Process and is not applicable.

[47] Rule 7.9(1) states that service may be made through foreign governments or judicial or consular authorities in accordance with the relevant convention in accordance with the law of the country in which it is to be served or by personal service by the claimant or the claimant's agent.

[48] Rule 7.2(2) states that if service is not to be effected in compliance with Rule 7.9 or pursuant to Rule 7.17, the court's permission is required to serve by alternative procedure under Rule 7.10.

[49] Rule 7.3 lists the gateway court processes for which permission for service out is not required. In this case the relevant rules are:

a. Rule 7.3(2)(b) states that "Court process may be served out of the jurisdiction if a claim is made for an injunction ordering the defendant to do or refrain from doing some act within the jurisdiction";

b. Rule 7.3(6) states that "Court process may be served out of the jurisdiction if the whole subject matter of a claim relates to property within the jurisdiction"; and

c. Rule 7.3(11) states that "Court process may be served out of the jurisdiction if an application is made for interim relief where proceedings have been or are about to be commenced in a foreign jurisdiction."

[50] Rule 7.6 requires that the claimant self-certify that (a) the claimant has a good cause of action, (b) the rule 7.3 gateway on which the claimant relies, (c) that the court is the appropriate forum for the trial and (d) that the proposed method of service does not infringe the law of that foreign state.

- [51] As advised by his Singapore lawyers, the Applicant has stated that he verily believes that he has a good cause of action.
- [52] Where service under rule 7.9 cannot be effected on the defendant for good reason, the claimant may apply for an order under rule 7.10 that the court process may be served by an alternative method specified by the court.
- [53] The former test under CPR rule 7.8A was “impracticability”. This has now been replaced in the 2023 CPR rule 7.10(1) by “good reason”. Good reason is widely considered to be a more liberal test and a lower bar than impracticability as a matter of English law. Accordingly, if the case meets the test for impracticability, it follows that it would meet the test for good reason.
- [54] English case law states that the “good reason” test is a general one that is not confined to specific and limited categories but remains the test for whether alternative service should be permitted (***Team Y & R Holdings Hong Kong Ltd and others v Ghossoub and Cavendish Square Holding BV and another v Ghossoub***).¹²
- [55] In ***Marashen v Kenvett***¹³ the current state of the law was held to be that, in Hague Service Convention or other bilateral service treaty cases, good reason meant “exceptional circumstances” must be shown before an order for alternative service other than in accordance with the terms of the treaty can be used; and mere delay or expense in serving in accordance with the treaty cannot, without more, constitute such “exceptional circumstances”
- [56] Some examples of “good reasons” have been that the claimant has difficulty identifying the defendant (service on persons unknown), the claimant is unable to ascertain the defendant’s current address; or the defendant has attempted to evade service.
- [57] In ***Canada Goose UK Retail Ltd v Persons Unknown***¹⁴, Nicklin J considered how the fundamental principles of service apply to proceedings brought against “persons unknown”. Citing Lord Sumption

¹² [2017] EWHC 2401 (Comm)). [AB/295-337]

¹³ [2017] EWHC 1706 (Ch)

¹⁴ [2020] 1 WLR 417 [AB/376-438]

JSC's judgment in **Cameron v Liverpool Victoria Insurance**¹⁵, Nicklin J confirmed "Where it is possible to locate or communicate with the anonymous defendant, and to identify him as the person described in the claim form, then it is possible to serve the claim form, if necessary, by alternative service under [English] CPR 6.15".

[58] In my judgment, there is good reason for service of the Application Papers on the First Respondents pursuant to Rule EC CPR 7.10 in this case for the following reasons:

a. The First Respondents are Persons Unknown and therefore unidentified (save for their digital wallet addresses) with their physical locations and whereabouts as also unknown. The Applicant does not have any definitive address at which it can attempt to serve the First Respondents.

b. The Applicant obtained an order for service outside of the jurisdiction and service of the Cause Papers in the Singapore Proceedings by substituted means from the Singapore Court to serve the First Respondents by email to any of the email addresses, or by file transfer to any of the text messages platforms or applications, in relation to user and/or account associated with wallet addresses disclosed by the Third to Sixth Defendants in the Singapore Proceedings. The Applicant has been duly advised by its Singapore legal counsel that email service is a valid means of service by substituted means in Singapore.

c. The Applicant has attempted service of the Cause Papers on the First Respondents. Aside from the responses listed earlier and in the Applicant's First Affirmation, I accept the Applicant's argument that it is highly likely that personal service on the Application Papers will meet the same outcome. In **Bayat Telephone Systems v Lord Michael Cecil and others**¹⁶ Lord Justice Stanley Burton stated at paragraph 68, "Service by alternative means may be justified by facts specific¹⁷ to the defendant, as where there are grounds for believing that he has or will seek to avoid personal service where that is the only method permitted by the foreign law."

¹⁵ [2019] 1 WLR 1471 [AB/343-360]

¹⁶ 1 [AB/109-143]

¹⁷ 1 [2011] EWCA Civ 135 15

[59] The alternative methods of service proposed for the Application Papers by the Applicant are as follows:

- a. By sending a copy of the Application Papers by email to any of the email addresses, or by file transfer to any of the text message platforms or applications, in relation to user and/or accounts associated with any of the digital wallet addresses listed in Annex A or as may be disclosed by the Second and Third Respondents pursuant to the disclosure obligations in the Freezing Order;
- b. or b. By sending a copy of the Applicant Papers by non-fungible token (NFT) airdrop to the digital wallet addresses of the First Respondents listed in Annex A.

[60] The English Courts have recently permitted service by NFT where there would be difficulties with serving persons unknown where title else is known about them other than their digital wallet address: ***D’Aloia v Persons Unknown and Binance Holdings Limited and Others***.¹⁸

[61] Both methods of service have been permitted by the Singapore Court for service of the Cause Papers in the Singapore Proceedings, and there has been no suggestion at any time that First Respondents have not received documents via these methods of service.

[62] In the ***D’Aloia*** decision, Trower J, exploring this novel mode of service succinctly and helpfully, had this to say at paragraphs 38-40:

*“38. I then move on to the application for service by an alternative method or at an alternative place on the first defendant. **The application for service by alternative means on the first defendant is sought, both in relation to service by email, and, also, service by what is called the “non-fungible token”, which is a form of airdrop into the tda-finan wallets***

¹⁸ [2022] EWHC 1723 (Ch) [AB/511-519]

in respect of which the claimant first made his transfer to those behind the tda-finan website.

39. Ms Muldoon says that this is a novel form of service, and has explained to me that its advantage is that, in serving by Non-Fungible Token (NFT) the claimant will, what she described as “embrace the Blockchain technology”, because the effect of the service by NFT will be that the drop of the documents by this means into the system, will embed the service in the blockchain. I may not have expressed that very happily but that is the essence of what Ms Muldoon said. There can be no objection to it; rather it is likely to lead to a greater prospect of those who are behind the tda-finan website being put on notice of the making of this order, and the commencement of these proceedings.

40. I am satisfied that, in this particular case, it is appropriate for service to be effected by NFT in addition to service by email. I think that the difficulties that would otherwise arise and the complexities in relation to service on the first defendant mean that good reason has been shown I do not think it is appropriate, nor, indeed did Ms Muldoon ask me, to make an order for service by alternative means in circumstances in which it would be sufficient, without serving by email as well. However, I am content to make an order for service by alternative means by those two additional routes. I am also satisfied that there is good reason for service on the exchange defendants to be by the alternative means on the face of the order.”

(My emphasis)

[63] I am of the view that the analysis carried out by Trower J is logical and entirely apposite to the present circumstances.

[64] Accordingly, I accept that an order for alternative service both by email and by NFT airdrop would be consistent with the overriding objective to deal with cases justly, expeditiously, and effectively.

[65] It is for the reasons discussed above that I have made the orders sought.

High Court Judge

By the Court

Registrar

Postscript

`This judgment was handed down in private on 23 November 2023. The Judge gives leave for it to be reported/published in this anonymized form as: AQF v. XIO, VQF and CGN. The judgment is being distributed on the strict understanding that in any report no person other than the legal practitioners and other persons identified by name in the judgment itself, may be identified by his or her or its true name.