Machine Translated by Google

OSLO DISTRICT COURT

DOM

Said: 20.10.22 in Oslo District Court,

Case no.: 19-076844TVI-TOSL/04

Judge: District Court Judge Helen Engebrigtsen

Case concerns: Allegation of defamation on Twitter

[Hodlonaut] | Lawyer Ørjan Salvesen Haukaas

Legal assistant:
Lawyer Marie Bjørk Myklebust

against

Craig Wright | Lawyer Halvor Manshaus

Legal assistants:
Lawyer Halvard Helle and
paralegal Sandra Ulleland

No restrictions on access to public reproduction

Machine Translated by Google

DOM

The case concerns the question of whether specific statements on Twitter are defamatory or infringe on privacy, and whether the statements possibly provide a basis for compensation. The case has been brought as a negative declaratory judgment action, where the plaintiff [Hodlonaut] wants to have it determined that his statements about Craig Wright are not unlawful.

Presentation of the case

Under the alias Hodlonaut, the plaintiff, [Hodlonaut], has made several statements on Twitter related to the defendant Craig Wright not being Satoshi Nakamoto. Satoshi Nakamoto is the pseudonym of the person (or those) who developed bitcoin.

Craig Wright is from Australia but lives in London. He has several formal educations and extensive work experience in IT. He is one of the founders of the company nChain, which is behind the digital currency Bitcoin Satoshi Vision (BSV). Wright claims that he invented bitcoin, and that he is the man behind the pseudonym Satoshi Nakamoto.

[Hodlonaut] was a former elementary school teacher, but is now full-time involved in bitcoin-related business. Until this case, it has not been known that [Hodlonaut] is behind the Hodlonaut twitter account. [Hodlonaut] is currently the editor of the journal Citadel21, which writes about bitcoin and bitcoin culture.

The case concerns the following statements from Hodlonaut on Twitter:

13. mars 2019

Blows my mind that scam sites like Coingeekdotcom and Bitcoindotcom are still able to peddle blatant lies and fool noobs out of their money. A lot of damage Is still being done. I have nothing but contempt for trash like Roger, Faketoshi, PedoCalvin
and all their enabling scum.

16 mars 2019

Craig Wright is a very sad and pathetic scammer. Clearly mentally ill. Everything about him induces deep cringe. I suffer from obviousness fatigue after still having to read posts arguing why he isn't Satoshi.

17. mars 2019

As a tribute to Craig Wright being a fraud, I'm going to make next week 'Craig wright is a fraud week', and tag all my tweets with #CraighWright IsAFraud Feel free to join the celebration.

This space is so fascinating. It has people of the absolute highest calibre intellectually and ethically. It also has individuals representing the scummiest sides of humanity, supported by people with vegetable-like brain power. History being written every day.

The forensics to CSW's first attempt to fraudulently 'prove' he is Satoshi. Enabled by @gavinadresen. Never forget. #CraigWrightIsAFraud

Machine Translated by Google

(en re-tweet av Rob Grahams twitterpost: *Craig Wright is a fraud. I wrote a blogpost proving his fraud: blog.erratasec.com/2016/05/satosh ... I mention this because he's trending in my timeline right now because he threaten ...)*

 # CraigWrightIsAFraud The chain goes strong

The fact that Twitter agrees #CraigWrightIsAFraud must surely be causing a serious meltdown as we speak. Long on popcorn for the next couple of days.

18. mars 2019

Happy #CraigWrightIsAFraud week everyone!

#CraigWrightIsAFraud week gets off to a flying start with the fraud himself disappearing from twitter on day 1. Double taco rations tonight!

The messages were deleted on 9 April 2019, after [Hodlonaut] received a warning letter from Wright's English lawyers. The lawyers demanded that [Hodlonaut] acknowledge Craig Wright as Satoshi Nakamoto, or else the letter was a notice of lawsuit.

Background

Bitcoin is a digital currency. The system is decentralized, operated by the users themselves, and has no central bank or central administrator. The system is based on an open blockchain principle, where all transactions are digitally accessible in the blockchain. Value transfers in the network are based on cryptographic signing and verification. Transactions are signed with a cryptographic key set with a private key and a corresponding public key. The private key is kept secret, the public key is precisely public, and means that signatures can be verified in the blockchain. The cryptographic keys can also be used to sign/verify things other than bitcoin transactions.

Bitcoin was launched by Satoshi Nakamoto in 2009. On January 3, 2009, he published the first block in the bitcoin blockchain, the so-called genesis block. On March 9, 2009, the bitcoin blockchain went live, and on January 12, 2009, the first transaction was made between Satoshi Nakamoto and Hal Finney. On March 24, 2009, Nakamoto published a White Paper (a short treatise/note) explaining the principles behind bitcoin. Before publication, he sent a draft of the White Paper to people on a mailing list. Satoshi Nakamoto disappeared from public view in 2010.

Who is behind the pseudonym Satoshi Nakamoto has long been unknown and a question that many have become involved in. Several people have been designated as Nakamoto, but have denied it, and some have even come forward and claimed that they are Nakamoto. One of these is the defendant, the Australian Craig Wright.

On December 8, 2015, Wired and Gizmodo magazines separately published articles that named Craig Wright as the person behind the pseudonym Satoshi Nakamoto. The articles were based on information that the magazines had received from an anonymous source. A few days later, both magazines retracted the claim, concluding that Wright

Machine Translated by Google

probably was *n't* Satoshi Nakamoto. In April/May 2016, Wright invited selected people and the media to a private evidence session, where the purpose was to prove to these people that he was Satoshi Nakamoto. Signing sessions were conducted with Jon Matonis (the founder of the Bitcoin Foundation and a central figure in the bitcoin community) and Gavin Andresen (who had emailed with Nakamoto and assisted in solving problems with the bitcoin code). A signing was conducted, with Wright apparently signing with keys associated with the early bitcoin blocks known to belong to Satoshi Nakamoto. These signing sessions have later been criticized because the general public has not been able to verify what Matonis and Andresen actually got to see. Signing sessions were then conducted with the BBC and GQ Magazine, which would also show that Wright had access to Nakamoto's cryptographic keys. What happened there is also discussed in Wright's own blog post on 2 May 2016, referred to as the Sartre post. It is clear that Wright did not carry out a signing with keys belonging to Nakamoto, but there is disagreement as to what the purpose of the sessions was.

Bitcoin is built on the principle of "don't trust - verify", and the core of the system is transparency and verifiability in all transactions. A number of people in the bitcoin community are therefore skeptical that Wright does not sign with keys that belonged to Satoshi Nakamoto, or otherwise document that he has or has had control over these keys. Wright has not been willing to do this, and he also claims that he now has no opportunity to do so. He has given several explanations for the reason for this, which the court does not go into further.

As mentioned, Bitcoin is based on the principle that the blockchain contains all the transactions, and it has therefore gradually become very data- and energy-intensive to handle bitcoin transactions. In 2017, a disagreement arose in the bitcoin community related to processing capacity issues. The disagreement – also referred to as a civil war – particularly dealt with block sizes. Larger blocks will have room for more transactions, but larger blocks will in return make it more difficult to be a decentralized system, because larger blocks require a large data capacity and therefore cannot be run on ordinary machines. As a consequence of this disagreement, in August 2017 a change was made to the bitcoin protocol, so that a branching (fork) of the original bitcoin blockchain occurred. The blockchain was split into BitcoinCore (BTC) (originally bitcoin) and BitcoinCash (BCH). Wright was one of the founders of BitcoinCash. Supporters of BitcoinCore and BitcoinCash respectively represent the fronts in the mentioned civil war, and strongly disagree with each other.
In November 2018, BitcoinCash was again split into two - BitcoinCash (BCH) and Bitcoin Satoshi Vision (BSV). Wright is a co-founder of and employee of the group nCrypt, which is behind Bitcoin Satoshi Vision (BSV). BSV markets itself, among other things, as "the original bitcoin". For BitcoinCore (BTC), a protocol/node (called 'lightning') has been launched on top of the bitcoin code, which should make it easier and faster to process several transactions at the same time.

Machine Translated by Google

For the record, the court adds that the price/rate for the various types of bitcoin is very different: 1 BTC currently costs about $20,000, while 1 BSV costs about $50. Although bitcoin was originally, and still is, intended as a digital means of payment, at least BTC has in practice become an investment object. The exchange rate against the dollar has fluctuated greatly, and has been up to over $61,000. The exchange rate for BSV has also fluctuated, with a peak of about $400.

[Hodlonaut] is an advocate of BTC, and he believes that BTC is the original bitcoin, and that other types of bitcoin, BCH and BSV, confuse newbies into investing in them, believing that they are buying "real" bitcoin. In connection with the block size disagreement, which resulted in bitcoin being split into three (BTC, BCH and BSV), in January 2019 Hodlonaut started the Lightning Torch experiment to show that BTC with the lightning node on top was well suited for many and concurrent transactions. Lightning Torch is a form of relay, where a bitcoin user sends a small amount of bitcoin to another user he trusts, who adds a similar small amount and passes the baton on. The experiment was successful and received a lot of attention in the bitcoin community. [Hodlonaut] twitter account Hodlonaut gained increased attention as a result, and at most had about 8,000 followers.

The split of bitcoin and the disagreements between the two (possibly three) camps in the bitcoin community form the background for the twitter messages that this case is about. There are steep fronts between the various camps.

The case before the district court After the warning letters from Wright's lawyers, who threatened legal action in London, [Hodlonaut] went to a negative determination action before the Oslo District Court on 19 May 2019. Initially, there was a dispute about jurisdiction, among other things. The Borgarting Court of Appeal ruled in a ruling of 8 June 2020 (LB- 2020-22204) that the case should be brought forward in Norway. The ruling was appealed to the Supreme Court, which rejected the appeal on 30 September 2020 (HR-2020-1872-U). In parallel, Wright filed a lawsuit against [Hodlonaut] in England. Wright's lawsuit in England was initially rejected as lis pendens as a result of the Norwegian case, but was later allowed to be brought forward by a superior court. At the conclusion of the Norwegian main proceedings, the case between Wright and [Hodlonaut] in England had not been scheduled.

The main hearing in the Norwegian case was originally scheduled for January 2022, but was postponed as a result of large amounts of documentation being submitted a few days before the end of the case preparation. The main hearing was conducted over seven court days in the period 12 to 21 September 2022, as appears from the court book. 18 witnesses and experts were heard. The judgment has not been handed down within the deadline in the Disputes Act § 19-4, subsection 5, which is partly due to the scope of the case, partly absence on holiday and partly other work duties.

Machine Translated by Google

[Hodlonaut] basis of claim

The starting point is that everyone has freedom of expression, cf. Section 100 of the Constitution and Article 10 of the ECHR. Redress for defamation or invasion of privacy is a limitation of freedom of expression.

The allegations in question are not defamatory, and they do not violate privacy. Although some of the statements may initially be suitable to weaken Wright's reputation, the statements are justified after weighing up the considerations that justify freedom of expression. The statements were based on a strong factual basis, the statements are not particularly offensive, Wright has had the opportunity to rebut on Twitter, there were good reasons for making the statement, and [Hodlonaut] was acting in good faith. Where there is a strong factual basis for the statement to be true, the statement will, as a clear general rule, be lawful. In cases where the statement rests on a factual basis that is too weak, the other elements could mean that the statement is nevertheless justified. It is at the core of freedom of expression that you should be able to express what you believe to be true.

Craig Wright has fraudulently tried to prove that he is Satoshi Nakamoto, and that is what the statements are about. No credible evidence has been presented, either at the time of the statements or later, that Craig Wright is Satoshi Nakamoto:

- Wright has not succeeded in providing evidence that he has or had access to the encryption keys that Satoshi Nakamoto had access to.
- Wright has conducted private signing sessions with Gavin Andresen and Jon Matonis. There are a number of red flags associated with these signing sessions, and they do not provide a basis for concluding that Wright actually signed with keys associated with Satoshi Nakamoto. The signing sessions are particularly suspicious in light of other manipulations in the case.
- Wright signed to the BBC, and the session is later published on Wright's blog - referred to as the Sartre post. The signature is later revealed to be a fake. Wright's attempt to explain away the Sartre post makes no sense and is not credible. The session essentially shows that Wright did not have access to Nakamoto's cryptographic keys.
- Wright has explained that he has destroyed the cryptographic keys and key parts. There are no good reasons for doing this, and instead comes across as an explanation tailored to the fact that he never had the keys to Satoshi Nakamoto.
- In the case, Wright has presented a number of documentary evidence which allegedly document that he is Satoshi Nakamoto, including previous drafts and versions of the White Paper that Satoshi published on 24 March 2009, previous editions of the bitcoin code, as well as emails sent to people Satoshi involved. A closer review of the material shows that the documents have been manipulated, and the documents cannot be used as a basis for a claim that Wright is Satoshi Nakamoto. Several of the presented documents were not invoked by Wright during the trial.

Machine Translated by Google

- The stated story about the Tulip Trust does not make sense and is not credible. In the light of other evidence, the documents cannot be from the time they are claimed to be from, and the documents presented have been manipulated.
- Wright's explanation in court is not credible on key points, and a number of them his reasoning is not possible to understand
- After reports were presented which conclude that the Wrights presented documents are manipulated, so Wright changed tactics and wants to prove that he is Satoshi Nakamoto using witness evidence. Witness evidence for what happened before 2009 will be fairly unreliable evidence anyway. The tactic goes against the fundamental point of Satoshi Nakamoto's bitcoin project, namely 'don't trust – verify'.
- The key witnesses who could possibly verify Wright's story are missing. The witnesses who are actually brought either have a clear vested interest in Wright being considered Nakamoto, or have explanations that are peripheral or irrelevant to the question of whether Wright is Nakamoto.

In summary – the court must base the following on:
- Wright has not written the Bitcoin White Paper
- Wright did not write the bitcoin code
- Wright has never had access to private keys or bitcoin belonging to Nakamoto
- Wright does not have access to Satoshi Nakamoto's email accounts

The statements from Hodlonaut must be interpreted in context. Although elements of the statements can be interpreted as a negative characteristic of Wright, there are no claims that criminal offenses have been committed. Although the statements have a core of accusation, the statements are primarily value judgments. Such valuations enjoy stronger protection than factual information. The Wrights themselves use strong words and characterizations on Twitter. There is no evidence that [Hodlonaut's] messages were widely disseminated on the Internet. It concerns a small number of messages that were deleted after a short time. Hodlonaut had a small account on Twitter with a total of about 8,000 followers after the lightning torch action.

The statements are not inconsistent with the law. [Hodlonaut] built on a sound basis when he made the statements, and nothing has subsequently emerged to suggest that Wright is Satoshi Nakamoto. The claim that Wright is not Satoshi Nakamoto and has fraudulently tried to prove it is based on the information that was openly available and that was discussed in various newspaper articles. In addition, Wright's own blog posts from May 2016 contain admissions that the evidence he offered was insufficient and that the world will perceive him as a 'fraud'.

In any case, the statements were in the public interest, and such statements are strongly protected. Wright is a public figure, who himself has sought publicity, both by claiming to be Satoshi Nakamoto, and by being the front man for BSV and intensifying activities related to BSV at the beginning of 2019. Wright has to endure criticism when he presents controversial "evidence ».

Machine Translated by Google

The allegation that the messages violate privacy was made after the case preparation had ended, which is too late, and the allegation must therefore be precluded, cf. the Disputes Act § 9-16.
Claims for compensation based on the Damages Compensation Act § 3-6 are in any case obsolete.

In any case, there is no basis for compensation – [Hodlonaut] has not acted negligently and compensation is not reasonable.

Claimant's – [Hodlonaut] – claim:

1 [Hodlonaut] acquitted of Craig Wright's claim for compensation (restitution) according to the Damages Compensation Act § 3-6a first paragraph second paragraph.

2 Apart from any liability according to point 1, [Hodlonaut] has no liability against Craig Wright for damage to his honor or reputation based on the statement made in the Twitter message [Hodlonaut] published on March 13, 2019, whether in in which countries it may have been read.

3 Apart from any liability according to point 1, [Hodlonaut] has no liability against Craig Wright for damage to his honor or reputation based on the statement made in the Twitter message [Hodlonaut] published on March 16, 2019, whether in in which countries it may have been read.

4 Apart from any liability according to point 1, [Hodlonaut] has no liability against Craig Wright for damage to his honor or reputation based on the statements made in the Twitter messages [Hodlonaut] published on March 17, 2019, including the statement with the content *"The forensics to CSW's first attempt to fraudulently 'prove' he is Satoshi. Enabled by @gavinandresen. Never forgot.*

#CraigWrightIsAFraud", regardless of the countries in which it may have been read.

5 Apart from any liability according to point 1, [Hodlonaut] has no liability against Craig Wright for damage to his honor or reputation based on the statements made in the Twitter messages [Hodlonaut] published on March 18, 2019, whether in in which countries it may have been read.

6 Craig Wright is ordered to pay [Hodlonaut] costs

Craig Wright's Claim Basis Craig Wright
alleges that [Hodlonaut]'s statements are defamation and invasion of privacy
peace, cf the Damages Act § 3-6a and § 3-6, together with EMF Art 8. The reports are unlawful and cannot be considered to be justified. The messages are a disparagement of Wright's professional and personal sense of honor and reputation.

Machine Translated by Google

These are gross accusations and characteristics that have been repeated in a number of messages over several days. The messages are not written in affect, it is a planned attack against Wright, and [Hodlonaut] is pulling others along in a coordinated mob action. The Twitter messages fall outside the core area of free speech, and [Hodlonaut] has never retracted either the statements or the attack against Wright.

The statements are defamatory in isolation, and the statements must be viewed as a whole. There are several different condescending valuations, combined with factual claims about Wright's state of health - *"clearly mentally ill"* and factual allegations with accusations of fraud - *"sad and pathetic scammer", "fraud", "the fraud himself",* together with calls for participation in and dissemination of [Hodlonaut's] message. It is significant that the statements made on Twitter with the use of a hashtag and thereby suitable for reaching a large, unlimited circle on the internet, and the messages have had a viral spread. It is also important that the messages are anonymous, that strong expressions are used and that messages are received over several days. There was no prior contact between [Hodlonaut] and Wright, no ongoing debate. It is decisive what factual basis [Hodlonaut] had for his statements at the time of publication.

The underlying topic – who invented Bitcoin – has an undisputed public interest. [Hodlonaut]'s statements are still not a contribution to the public debate, they are not about a topic, but about a person, and [Hodlonaut] always has an underlying financial motive in defaming BSV and promoting BTC. [Hodlonaut] is not a 'public watchdog' and his statements do not enjoy special protection, as, for example, journalists' statements will.
In any case, the communication has not taken place within legitimate and balanced methods. The statements have an unnecessarily strong use of words and characteristics, and the purpose is a harassing attack on a leader within BSV.

Compensation is assessed at the discretion of the court, up to a maximum of NOK 100,000, in line with practice for similar cases.

Counts 2-5 of [Hodlonaut's] claim must be dismissed because he has no legal interest in obtaining judgment for such claims. Demand for judgment for 'no liability' is too unspecified. [Hodlonaut] furthermore, there is no real need to obtain a judgment for what other courts may come to do.

In the alternative, it is stated that even if [Hodlonaut] were to succeed in the case, there are strong reasons for applying the exception rule in § 20-2 (3) of the Disputes Act. He failed to respond to letters from Wright's lawyer, went to court without sending a process notice, submitted a comprehensive report several months after the deadline and thereby caused the main hearing to be postponed, and has helped to unnecessarily increase the scope of the case.

Machine Translated by Google

The defendant's – Craig Wright's – claim

1 Craig Wright is acquitted.

2 [Hodlonaut] claim point 2 - 5 is rejected.

3 [Hodlonaut] is ordered to pay compensation to Craig Wright, measured at the court's discretion, up to NOK 100,000.

4 Craig Wright is awarded costs for the district court due 14 days from the pronouncement of the sentence.

The court's assessment

1 Question of rejection Wright believes that [Hodlonaut] claims 2 - 5 should be rejected because the requirements for legal interest are not met. Wright states that [Hodlonaut] cannot be convicted because 'he is not responsible', such a claim becomes too unspecific. [Hodlonaut] believes that he has a need for, and a legal interest in, having all sides of the case settled.

The legal aftermath of [Hodlonaut]'s statements began with a warning letter from the law firm SCA Ontier on 29 March 2019 relating to claims of defamation under English law, including claims for *"substantial damages"* and *"legal costs".* Wright's economic claim was not limited to non-economic damages.

[Hodlonaut] went to a negative determination lawsuit in Norway to have it established that the statements do not infringe Wright, and that he thereby bears no financial responsibility. In the Norwegian lawsuit, Wright eventually dropped a claim for compensation as a counterclaim.

[Hodlonaut]'s claim has been changed several times during case preparation, and most recently during the main hearing. The court understands paragraphs 2 - 5 of the submitted claim and the statements related to it to mean that he requests that the court decide on all potential financial claims as a result of the statement, i.e. compensation for damage suffered and compensation for non-economic loss. [Hodlonaut] wants to have all financial claims settled, and not just the issue of restitution. This includes possible damage that has occurred in countries other than Norway.

In the Shevill case (C-68/93), the European Court of Justice determined that the Lugano Convention art 5 no. 3 must be interpreted so that libel is committed where the newspaper is printed, and not where it was sold:

> In light of the foregoing, the answer […] must be that, on a proper construction of the expression 'place where the harmful event occurred' in Article 5(3) of the Convention, the victim of a libel by a newspaper article distributed in several Contracting States may bring an action for damages against the publisher either before the courts of the Contracting State of the place where the publisher of the defamatory publication is established, which have jurisdiction to award damages for all the harm caused by the defamation, or before the courts of each Contracting State in which the publication was distributed and where the victim claims to have suffered injury to his reputation, which have jurisdiction to rule solely in respect of the harm caused in the State of the court seised. *(Rettens understrekning)*

Machine Translated by Google

A defamation case can therefore be brought *either* in the publicist's home country, which has jurisdiction to deal with issues of compensation for all damage caused by the defamation, *or* where the publication was distributed, which will have jurisdiction only to assess damage incurred in the respective country.

It follows from the Borgarting Court of Appeal's ruling of 8 June 2020 (LB-2020-22204) in this case (appealed, but the appeal was rejected (HR-2020-1872-U)) that Norwegian courts have jurisdiction according to the Lugano Convention art 5 no. 3, because [Hodlonaut] potentially defamatory acts have been committed here. When the defamation case is brought in the publicist's home country, as in this case, Norwegian courts have the authority to process all sides of the claim, regardless of whether the damage has occurred in Norway or other countries.

As mentioned, Wright has only submitted a claim for restitution in this case. In the 2019 warning letter, Wright sought damages for more than restitution for non-pecuniary damages. These claims have not subsequently been withdrawn, Wright has at no time stated that he does not claim compensation for damage he has suffered as a result of the statements, and he has even started a parallel lawsuit in England with a claim for compensation for his financial loss. On this background, the court believes that it is clear that [Hodlonaut] has a legal interest in having the questions raised in points 2 - 5 of the claim decided.

2 Question about the preclusion of a statement made too late

[Hodlonaut] has stated that Wright's allegation of violation of privacy should be dismissed as submitted too late, cf. the Danish Disputes Act § 9-16 (1). The case preparation ended on 20 June 2022 and lawyer Manshaus stepped in as the new legal representative on 8 July. In the first procedural letter from lawyer Manshaus, on 12 August, the allegation of breach of privacy was made for the first time. However, lawyer Haukaas did not object to this until the final part of his procedure on the last day of the negotiations. The court believes that the claim has been dealt with on the merits by both parties, so that the consideration of contradiction is taken care of. The processing of the allegation has not caused any delay in the case, and the assessment of whether [Hodlonaut]'s statement is in breach of the Damages Act § 3-6 is based on the same facts as the assessment according to § 3-6 a, and further evidence is not necessary. On this basis, the court has decided that Wright's submission will be processed, as overall procedural economic considerations dictate that he will also be able to try this side of the case.

3 Questions about whether the statements violate Wright's honor or privacy

3.1 Legal points of departure

Freedom of expression is a clear right in a democratic society, and follows from Section 100 of the Constitution and Article 10 of the ECHR. Freedom of expression means that one must be able to express one's opinion, even when it is unpopular or offensive to others. Section 100 of the Constitution states that freedom of expression has its *'ground in the search for truth, democracy and the individual's free opinion formation'.* The right to respect for privacy is protected by ECHR art 8. The rules on defamation and violations of privacy constitute restrictions on freedom of expression.

Machine Translated by Google

Norwegian rules on breach of privacy and defamation appear in the Damages Compensation Act. Previously, the description of what was defamation was regulated in the Criminal Code, but the substantive content has been continued. The conditions for awarding compensation/restitution are currently set out in the central parts of the Damages Act § 3-6 (violation of privacy) and § 3-6 a (defamation):

> **Section 3-6** ***(compensation for breach of privacy)***
>
> The person who has negligently violated privacy must pay compensation for the damage suffered and such compensation for loss in future acquisitions as the court finds reasonable, taking into account the proven guilt and the circumstances. He can also be ordered to pay such compensation (restitution) for damage of a non-economic nature as the court finds reasonable. […]
>
> **Section 3-6 a** ***(compensation for defamation)***
>
> The person who has negligently put forward an expression which is suitable to offend another's sense of honour or reputation, shall provide compensation for the damage suffered and such compensation for loss in future acquisitions as the court, based on the proven fault and the circumstances, otherwise finds reasonable. He can also be ordered to pay such compensation (restitution) for damage of a non-economic nature as the court finds reasonable. […]
>
> A defamatory statement does not entail liability under the first paragraph if it is considered so justified after weighing up the considerations that justify freedom of expression. In this assessment, particular emphasis must be placed on whether the statement rests on a sufficient factual basis, on the degree of infringement of the statement, and whether the interests of the offended party are satisfactorily safeguarded by, for example, access to countermeasures, whether public interests or other good reasons dictate that the was put forward, and whether the speaker has acted in good faith with regard to the elements that can make the statement justified

The question of whether a statement is offensive or not – whether it is unlawful – is decided in a balance between consideration of freedom of expression, cf. ECHR Article 10, on the one hand, and consideration of privacy, cf. ECHR Article 8, on the other. In the ECtHR's judgment in the case Axel Springer AG v. Germany (39954/09) it is stated:

> When examining the necessity of an interference in a democratic society in the interests of the 'protection of the reputation or rights of others', the Court may be required to verify whether the domestic authorities struck a fair balance when protecting two values guaranteed by the Convention which may come into conflict with each other in certain cases, namely, on the one hand, freedom of expression protected by Article 10 and, on the other, the right to respect for private life enshrined in Article 8.

Whether Wright's rights have been violated raises three main questions in this case: 1) how the statements in question should be interpreted, 2) whether the statements are offensive, and 3) whether they are unlawful, cf. Rt-2014-1170 *Avisa Nordland.*

3.2 The statements and their interpretation

Whether or not [Hodlonaut's] statements imply unlawful infringements will initially depend on how the statements are interpreted. The statements must be interpreted in the light of how an ordinary user/reader will perceive them, and in their context, cf. Rt-2014-1170 *Avisa*

Machine Translated by Google

Nordland, with further references. The question is whether the statements are suitable for infringing another's sense of honor or reputation, cf. Section 3-6a of the Damages Act, or whether they violate privacy, cf. Section 3-6 of the Damages Act.

The court believes that it is natural to see the nine statements to which the case relates and [Hodlonaut]'s use of words context, cf. Rt-2014-152 *Ambulance driver.* The court also believes that the content of the opinion is influenced by the form in which the statements are made. The meaning of the designation *'swindler'* is not the same if you are referred to as a fraudster at a police seminar on ID theft as when you are called a *'swindler'* on Twitter in a heated discussion about whether one has succeeded in proving his identity as Satoshi Nakamoto. The remarks are made in an ongoing public discussion about bitcoin, Satoshi Nakamoto and Wright's role. It is not unusual to use strong words on Twitter, and this affects the interpretation and meaning of the terms used.

The case concerns a total of nine statements over a five-day period, as described in the introduction. The court believes that the general theme of the Twitter messages is that Craig Wright is not Satoshi Nakamoto, that his claims of being Satoshi Nakamoto are lies and not credible, and that he cheated in his attempts to prove that he is Satoshi Nakamoto.
The messages are generally derogatory about Wright.

Among the terms used are *'fraud'* and *'fake'* and *'scammer'.* One of the messages on 17 March mentions *'CSW's first attempt to fraudulently prove...'.* The court believes that *'fraud'/ 'fraudulently'* in this context means 'someone who is something other than what he claims to be'.
'Fake' has a similar meaning; 'false', 'fake', 'something other than what he pretends to be'.
'Scammer' must be understood in the same way, in the sense of 'swindler' or 'cheat maker'. It is not natural to interpret these designations, either individually or collectively, as allegations that Wright has committed fraud or other criminal acts. In the court's opinion, it is natural to understand the designations as a reference to the general theme of the Twitter messages.

One of [Hodlonaut's] utterances includes a message that Wright is *'clearly mentally ill'.*
The court understands this primarily as a value assessment in the sense of 'he is confused / disillusioned / insane' when he claims that he is Satoshi Nakamoto. Using the term 'insane' if someone you believe is behaving incredibly or strangely is common and, in the court's opinion, cannot be understood as an actual claim that someone has been diagnosed with a mental illness. The court perceives [Hodlonaut] use of *'clearly mentally ill'* as a
power expression. [Hodlonaut] didn't know Wright was diagnosed with autism (that's also something unclear if he was diagnosed at this time), and it is not natural to understand [Hodlonaut]'s statement that Wright is *'clearly mentally ill'* as a reference to Wright's
autism diagnosis. Autism is not a mental illness either.

Machine Translated by Google

Wright has particularly stated that [Hodlonaut]'s use of the hashtag (#) on Twitter in connection with the statements *(#CraigWrightIsAFraud),* the launch of *CraigWrightsIsAFraudWeek* and the statement *feel free to join the celebration* means that [Hodlonaut] has encouraged others to harass Wright. The court does not agree that this is understood as an invitation for others to bully Wright. Hashtags are common on social media in general and Twitter in particular, and are a way of sorting conversations or topics. The court cannot see that [Hodlonaut]'s use of the hashtag deviates from this.

The court believes that the statements, both individually and collectively, are an expression that [Hodlonaut] believes that Wright is not Satoshi Nakamoto, that he is lying when he claims to be Satoshi Nakamoto, and that his attempt to prove that he is Satoshi Nakamoto is cheating/ fraud. In the court's opinion, these statements have a core of allegations of a factual nature, particularly related to Wright lying about being Satoshi Nakamoto and that his attempts to prove that he is Satoshi Nakamoto is cheating/fraud. In addition to this, the statements are distinctly value judgments in the form of disparaging comments and insults in a heated discussion about the topic of whether Wright is Satoshi Nakamoto or not. The court notes that these are not particularly serious allegations.

3.3 Are the statements offensive?

It follows from the preliminary proceedings (Ot.prp.nr. 22 (2008-2009) p 488) that it is sufficient that an expression *is suitable* to offend another's sense of honor - it is not required that it be proved that such an infringement has actually taken place. Accusations of criminal offenses will normally be defamatory, but also allegations of violation of other of society's formal and informal norms may be suitable to weaken a person's reputation (Wessel-Aas and Ødegaard, *Privacy – publication and processing of personal data* (2018) point 7.2).

The parties agree that (some of) the statements in [Hodlonaut's] twitter messages are basically suitable for damaging Wright's sense of honor, cf. the Damages Act § 3-6 a.
The parties' detailed submissions on this nevertheless require the court to point out that the potentially defamatory elements of [Hodlonaut]'s statements are that Wright is lying when he claims that he is Satoshi Nakamoto, and that his attempts to prove that he is Satoshi Nakamoto is cheating.
The court notes for the record that there is nothing concrete about any of the statements which means that the court believes that they are collectively or individually particularly suitable for violating privacy, cf. the Damages Act § 3-6. As regards the statement that Wright is *'clearly mentally ill',* the court refers to what has been said above about the interpretation of the statement. Calling someone or someone's actions 'insane' in this way will not, in the court's opinion, be defamatory or represent an infringement of privacy.

The court has understood it to mean that Wright claims that [Hodlonaut's] statements violate privacy, among other things, because it concerns several messages that Wright believes encourage others to a coordinated bullying action. The court believes that the messages cannot be perceived as in

Machine Translated by Google

call for coordinated bullying action, and that the number of messages is not sufficient to concern troublesome behavior in breach of privacy.

3.4 Are the statements unlawful?

Defamatory claims may be compensable according to the Damages Compensation Act § 3-6 a, and may, depending on the circumstances, be compensable because they violate privacy, cf. Damages Compensation Act § 3-6. The court must therefore assess whether the statements are unlawful, or whether they are exempt from liability after weighing up the considerations that justify freedom of expression and protection of privacy, respectively.

The starting point is that the rules on defamation protect the individual against false accusations. The court refers to Axel Springer AG v Germany (39954/09), where the ECtHR states:

> The Court has held, moreover, that Article 8 cannot be relied on in order to complain of a loss of reputation which is the foreseeable consequence of one's own actions such as, for example, the commission of a criminal offence.

The central point is that a statement that is true cannot be defamatory because the damage to the person's reputation is then the consequence of the person's own actions, and not of the statements made against him.

It is undecided, outside of this case, whether Craig Wright is Satoshi Nakamoto or not, and there is still public debate on the question. Both parties in the case have pointed to circumstances that speak respectively for and against Wright being Satoshi Nakamoto. The question has been debated since 2016. The court chooses not to take a position on this, because it has no bearing on the outcome of the case. The court will assess whether the statements are unlawful based on the premise that it is unclear whether Wright is Satoshi Nakamoto.

In case law, some guidelines have been given for which elements are relevant for the assessment of whether a statement is unlawful or not. Emphasis must be placed on the degree of public interest, the nature of the accusations, whether the statements can be characterized as factual assertions or value assessments, and whether the statements are aimed at a public figure or a private person. In addition, the degree of care is important, including what evidence there was in fact at the time of the statement that the statement was true. The Supreme Court specified in Rt-2003-928 *Tønsberg Blad* (44):

> In general, the expression will have strong protection if it concerns matters of the general public interest, valuations, dissemination, public figure, and there are strong evidence that the claim was true. On the contrary: The case applies to the general public interest, factual allegations, own presentation, private person, and there are weak ones evidence that the claim was true, the statement has less strong protection

Machine Translated by Google

Statements that are not defamatory - either because the allegations are true, because the speaker had sufficient factual support for the statements or for other reasons - may nevertheless be unlawful because they violate privacy, cf. the Damages Act § 3-6. In the ECtHR's decision Axel Springer AG v. Germany (39954/09), a media group had disseminated (true) information that an actor who played a police inspector in a well-known TV series had been arrested by the police for possession of cocaine. The actor had received a judgment in national courts that the mention violated his right to privacy. The EMD concluded that the media group's freedom of expression had been violated. The judgment deals with the intersection of freedom of expression and privacy, and the court believes that the assessment of whether the statements are unlawful is based on a balancing of the same considerations that must be taken into account when assessing whether something is defamatory or not. The court clarifies for the record that true allegations cannot be defamatory, but they can, depending on the circumstances, violate privacy.

3.4.1 Public interest?

The backdrop for [Hodlonaut]'s utterances is that Wright claims to be Satoshi Nakamoto. The court believes that the question of who invented bitcoin and is behind the pseudonym Satoshi Nakamoto is undoubtedly of public interest, and the court understands the statements from Wright to mean that he also agrees with it.

There has been a publicly expressed uncertainty about whether Wright is really Satoshi Nakamoto since Wright was named as Nakamoto in 2015. The question is contentious, and the debate is highly polarized. The prevailing opinion in the media (including Gizmodo 11 December 2015, BBC News 2 May 2016, The Guardian 3 May 2016 and GQ Magazine 18 November 2016) has been, and is, that Wright is unlikely to be Satoshi Nakamoto. At the end of 2018 and the beginning of 2019, there was a big discussion in the bitcoin community about the split from Bitcoin (BTC) to Bitcoin Cash (BCH), and again to Bitcoin Satoshi Vision (BSV). In that connection, the discussion about whether Wright is Nakamoto flared up again.

Wright is a person who has sought publicity. He claims to be Satoshi Nakamoto and thereby the founder of bitcoin, and he is one of the frontmen of the company nCrypt that has launched Bitcoin Satoshi Vision (BSV). nCrypt claims that BSV is the bitcoin that best aligns with Satoshi Nakamoto's vision for bitcoin. Wright thus appears with several controversial claims, and to which financial interests are also linked. In a situation where he has not succeeded in, nor does he wish to, provide cryptographic evidence that can support his claim to be Satoshi Nakamoto, the court believes that he must accept that there is a debate as to whether he is who he says he is he is.

The court assumes that the question of whether Wright is Satoshi Nakamoto has been discussed in the bitcoin community and on Twitter since 2016. An overview of 7,000 twitter messages from 2016-2019 from a number of users who discuss the topic, and which, among other things, mention Wright such as *'scammer', 'fraud'* and *'faketoshi'.* About half of them

The 7,000 Twitter messages are from the period November 2018 to March 2019, and the court assumes that during this period there was an extra heated debate on the topic, as a result of Wright being the front man for nCrypt, which is behind BSV. The nine reports to which this case applies are, in the court's opinion, part of this picture. Based on the twitter messages, as well as testimony about the mood and attitudes of the bitcoin community prior to [Hodlonaut]
messages in March 2019, the court assumes that it was not the tweets from Hodlonaut that started the discussion on Twitter, but rather that Hodlonaut's messages joined a long line of messages with similar messages. Wright himself participated in the exchange of words, both actually by being the front man for BSV and in writing through posts on Twitter and other 16 February 20 places (e.g. 19 on medium.com), and therefore helped to keep the discussion alive.

Wright has shown that [Hodlonaut's] statements primarily affect Wright as a person, and therefore has limited protection under § 100 of the Constitution and Article 10 of the ECHR. When it comes to the question of which expressions can be restricted as hateful, cf. Penal Code § 185, the Supreme Court has distinguished between expressions that concern a *subject* and expressions that affect *one or more people.* Speeches that primarily affect individuals enjoy modest protection in the context of freedom of expression, while statements about a subject *"normally [hit] the core of freedom of expression and are not affected by Section 185 of the Criminal Code, even if they were to be perceived as offensive. Such statements – of a political nature, for example – are not aimed at 'someone'",* cf.
HR-2020-184. In the court's view, the distinction is also relevant for the assessment of whether a statement is defamatory or not. [Hodlonaut]'s remarks are undoubtedly aimed at Wright
as a person, but is, in the court's view, just as much part of a discussion about a subject - namely who is the inventor of bitcoin. The fact that the subject in this case is a person does not in itself mean that the statements become a personal attack - it is, in the court's view, still a debate on a subject of public interest, even if [Hodlonaut]'s statements are also derogatory
personal characteristics that affect Wright as a person.

3.4.2 The nature of the accusation The
court has above interpreted the statements to which the case applies, and concluded that the statements must be understood so that they have a core of being allegations about factual matters. [Hodlonaut]
alleges that Wright is lying when he claims to be Satoshi Nakamoto, and that Wright's attempts to prove that he is Nakamoto is cheating. The court nevertheless believes that the twitter messages mainly contain value statements, insults and expressions of what [Hodlonaut] thinks about
Wright. For example, the statement *"I have nothing but contempt for trash like Faketoshi, … and all* …, *their enabling scum"* falls into this category. Assertions that someone is trash, fake or scum are distinct value judgments. The court believes that statements that Wright is a cheater / fraudster *(fraud, scammer)* is a similar expression of what [Hodlonaut] thinks about Wright's claims to be Satoshi Nakamoto. The court thinks

as mentioned that it is not a question of particularly serious accusations.

[Hodlonaut] has made his claims on Twitter. How seriously the statements are perceived, and how offensive they are must be seen in light of that. There is a lot of strong language on Twitter. The format of the media

Machine Translated by Google

encourages strong descriptions and characteristics. Swear words, insults and profanity are common. [Hodlonaut] wording is fairly typical of the jargon on Twitter, and the statements are therefore perceived in the court's view as less offensive on Twitter than they would be on Dagsrevyen. In this context, the court refers to the ECtHR's judgment in Magyar Tarttalomszolgáltatok Egyesülete and Index.hu v. Ungarn (22947/13), where it is stated:

> "…regard must be had to the specificities of the style of communication on certain Internet portals. For the Court, the expressions used in the comments, albeit belonging to a low register of style, are common in communication on many Internet portals – a consideration that reduces the impact that can be attributed to those expressions."

The court also believes that Wright's own use of language on Twitter in comparable discussions is important in the legal dispute assessment of [Hodlonaut's] statements, and finds support for it in Rt-1993-537 and LA-2021-155004. Several examples have been presented of Wright using terms such as *'scammer'* and *'fraud'* about his opponents related to the disagreement about blockchain size. There are also examples of him calling dissenters other degrading insults such as *'soy boy' (man* who lacks masculine qualities) and *'cuck' (cuckold* or weak/servile man), and that he has referred to Wikileaks founder Julian Assange as a *'rapist'.* All the examples are from the time before the statements that are the subject of this case. Wright himself uses jargon with coarse characteristics and derogatory references, and then, in the court's view, must accept that others use similar jargon against him.

Wright has stated that the threshold for what [Hodlonaut] can utter has been exceeded. Wright has shown to the content and character of the messages, and also believes that the messages involve a repeated call for harassment. Wright is referring here to [Hodlonaut] launching hashtaggen *#CraigWrightIsAFraud, CraigWrightIsAFraudWeek* og *Feel free to join the celebration.* The fact that it involves several statements over several days naturally increases the pressure on Wright. However, this is not unusual, and several of the cases that have been dealt with in the courts in this field are precisely about the fact that the statements caused pressure over time. The court refers to Rt-2014-152 *Ambulance* driver and Rt-2014-1170 *Avisa Nordland.* A pressure over time and a possible call for others to participate does not change the main impression of the statements, which are primarily derogatory assessments of Wright and his claims to be Nakamoto. Nor has it been proven that anyone followed Hodlonaut's calls to *'join the celebration',* and even made unlawful accusations against Wright.

3.4.3 Dissemination / own presentation A further element in the assessment of whether a statement is unlawful is whether it is a matter of disseminating another's view, or whether it is a presentation of one's own opinions. Wright has stated that [Hodlonaut] is not part of the press and that his statements do not enjoy the special the protection freedom of expression affords the press and other actors with a role as 'public watchdog', cf. ECtHR in Axel Springer AG v. Germany (39954/09). It is clear that

Machine Translated by Google

[Hodlonaut] did not express himself as part of the press or with a background in the press's special social mission. On the contrary, he expressed himself anonymously on Twitter. The fact that the press has a special role, and enjoys special protection under the rules on freedom of expression, does not mean that other anonymous actors do not have freedom of expression. There is no antithesis associated with this. The court cannot see that the ECtHR's judgment in Magyar Helsinki Bizottság v. Hungary (18030/11) expresses anything else, as Wright's lawyers have stated.

Even if [Hodlonaut] did not pass on information in the capacity of being part of the press, in the court's view it is important in the legal dispute assessment that the topic of the statements was already part of the public conversation. It is clear to the court after the evidence that there were clear views in the bitcoin community on Twitter that Wright is not Satoshi Nakamoto, and his attempts to prove it were referred to as *fraud* and *fake.* It was not [Hodlonaut] who first launched this claim. The court refers to the overview of Twitter messages that has been presented (about 7,000 messages) from the period 2016 - 2019, and which is discussed above.

Wright has stated that statements of the type in question here have a greater potential to be offensive when they are promoted on the Internet, due to the possibilities of viral spread.
The court notes that it has not been proven that Hodlonaut's Twitter messages have gone viral. First, Twitter is generally a volatile medium. Furthermore, the documentation presented to the court shows that Hodlonaut's tweets have received a very modest number of likes, and are only exceptionally re-tweeted (forwarded).

3.4.4 Did [Hodlonaut] have a substantial factual basis for his statements?
What factual basis [Hodlonaut] had for his statements is important for the assessment of whether the statements are unlawful. There are smooth transitions between what are factual allegations and what are value assessments, and the requirement for evidence will depend on the seriousness of the accusation and the degree of value assessments. It follows, among other things, from Rt 2014-152 *Ambulance* driver that the more concrete and precise an accusation is, the more actual evidence is required. The court therefore notes that the accusations are not particularly serious in this case, and that they mainly concern valuations. The court adds that it follows from the same judgment that there is basically a requirement for a general preponderance of probability for evidence of fact relating to the published material.

The court believes that [Hodlonaut] had sufficient factual grounds to claim that Wright had lied and cheated in his attempt to prove that he is Satoshi Nakamoto. At the time of the remarks, there was public discussion about whether Wright is Satoshi Nakamoto or not. In media coverage, the prevailing opinion was that Wright was not Satoshi Nakamoto. The court refers to the previously mentioned articles from Gizmodo (2015), and BBC News The Guardian and GQ Magazine (2016).

Both parties have tried to prove that Wright is and is not Satoshi Nakamoto, respectively. The court points out that the evidence brought in the case is not suitable to change it

Machine Translated by Google

prevailing opinion that Craig Wright is not Satoshi Nakamoto. A number of documents have been produced which Wright claims are early versions of the White Paper and source code.
Both KPMG (on behalf of [Hodlonaut]) and BDO (on behalf of Wright) have found that these documents contain at best unexplained changes which are likely to have been made after the date the documents are claimed to be from. KPMG and BDO believe that this applies to: 1)
Inconsistency (missing) in metadata that is not naturally based on normal use/editing, and 2) Use of fonts. KPMG has concluded that it is *"probable that several of the files in the data material have been changed so that they appear to have been created earlier than they actually* are".
Although BDO and Cyfor, both of whom are engaged by Wright, have individual discrepant findings compared to KPMG's report, the court perceives their reports and explanations to mean that they have essentially found the same conditions that KPMG points to, and which are the basis of KPMG's conclusion.

Wright has brought a number of witnesses to court. What these witnesses have in common is that they knew Wright at the time when Satoshi Nakamoto developed bitcoin. They have all explained themselves well about Wright's intellectual abilities and capacity, which is otherwise not disputed. However, statements from these witnesses relating to whether or not he is Satoshi Nakamoto are not supported by contemporary evidence. The court notes for the record that it has been 13 years since Nakamoto developed bitcoin.

In connection with the signing attempt to the BBC and the noise surrounding the blog post referred to as the Sartre post, a post was published on Wright's own blog on 5 May 2016, which contained, among other things:

> They were not deceived, but I know that the world will never believe that now. I can only say I'm sorry.

The court believes that it is natural to perceive this as Wright accepting, or at least understanding, that the world/outsiders will not believe that he can prove that he is Satoshi Nakamoto. If the statement is not an expression of Wright's current opinion, then he has had sufficient time to correct the impression.

The prevailing opinion in the media in 2015/2016 was that Wright had not provided sufficient evidence that he is Satoshi Nakamoto, and that it is not likely that he is Satoshi Nakamoto. The media's opinion has not changed. Bitcoin is based on the principle of transparency.
The general attitude in the community was, and is, that it is in principle possible to verify whether one has access to the cryptographic keys and/or the first blocks that belonged to Satoshi Nakamoto. It is generally agreed that if one can provide evidence that one can move bitcoin from any of these first blocks, or sign with keys associated with these blocks, then that will be strong evidence that one is Satoshi Nakamoto. It is not necessarily conclusive evidence, because the keys could in theory have been stolen, but there is no indication of such theft associated with the keys that belonged to Satoshi Nakamoto. The court adds for the record that the values associated with Nakamoto's early

Machine Translated by Google

blocks at today's bitcoin rate are several billion kroner. There have been no movements or transactions associated with these blocks since 2009. Following the 2016 media articles, it has been widely believed that Wright has not provided cryptographic evidence that he is Satoshi Nakamoto.

Against this background, the court believes that [Hodlonaut] had sufficient factual basis to claim that Craig Wright is not Satoshi Nakamoto in March 2019. Wright has come out with a controversial claim, has to endure criticism from dissenters. Overall, the court believes that the wording and claims that [Hodlonaut] has made are not above the threshold for what constitutes defamation and invasion of privacy. The statements are not unlawful.

4 Design of the conclusion As mentioned at the outset, the court believes that [Hodlonaut] has a legal interest in obtaining a verdict for that he has no financial responsibility for the statements, also beyond the question of restitution. As mentioned, it is within the Norwegian courts' authority in the case to decide on such a claim. The court has concluded that [Hodlonaut] does not make statements are contrary to law, and [Hodlonaut] then has no legal responsibility for the statements made understanding. This includes both financial and non-financial damage, and regardless of where the damage has occurred. The ending is designed in line with this. The court believes that it is clearly stated in this judgment which statements the court has considered and made a decision on, so that it is not necessary or appropriate to state it in the conclusion.

5 Case costs

[Hodlonaut] has been upheld that his statements are not defamatory or contrary to privacy. Even if the conclusion deviates from the formulation of the claim, the court nevertheless believes that [Hodlonaut] has succeeded in reality, and thereby won the case. He has therefore initially claim full compensation for their reasonable and necessary legal costs, cf. Swedish Disputes Act § 20-2 (1), cf. § 20-5 (1).

Wright has stated that in the event that [Hodlonaut] is successful in its claims, it exists strong reasons for applying the exception provision in § 20-2 (3) of the Disputes Act, and has cited several factors as reasons for this. The court believes that the fact that [Hodlonaut] did not responded to the initial warning letter from SCA Ontier, or that he did not attempt to negotiate a solution with Wright at the initial stage cannot lead to the § 20-2 (3) exception rule in being applied. The court indicates that Wright in effect demanded, and still demands, that [Hodlonaut] acknowledge that Wright is Satoshi Nakamoto, which [Hodlonaut] cannot comply. The financial requirement is thus subordinated. [Hodlonaut] chose to go for declaratory action in Norway to avoid a potentially expensive lawsuit in London. In such a situation, it is natural that he does not warn about it first. The Situation [Hodlonaut] was in has similar features to temporary injunctions, where there is no requirement for advance notice, cf. the Norwegian Disputes Act § 32-2. In this case, the lack of notice of legal action has no bearing on the assessment of whether it is reasonable to exempt Wright from liability for legal costs.

Machine Translated by Google

In the court's opinion, neither the postponed main hearing (which was due to the late presentation of documents by [Hodlonaut]), nor the scope of the case has resulted in additional costs in such a way that there are weighty reasons for exempting Wright from general responsibility for costs, cf. the Disputes Act § 20-2 (3). This is a defamation case, and not a question of establishing identity. Both parties have nevertheless filed the case in such a way that proof of identity has been provided, and both sides must therefore, in the court's view, bear responsibility for the fact that the evidence presented to the court has been broader than the questions the court has had to decide on.
The court therefore believes that the exception rule in § 20-2 (3) should not be applied in the case.

[Hodlonaut] is entitled to cover his reasonable and necessary costs in the case, cf. the Swedish Disputes Act § 20-5 (1). [Hodlonaut] has submitted a statement of legal costs totaling NOK 7,056,899 (incl. VAT). Of this, NOK 4,774,175 is lawyer's fees (ex VAT), which represents a total of 1455.5 hours spent on the case, divided between three lawyers. The average hourly rate is NOK 3,280. The legal assistant, lawyer Haukaas, accounts for about 36% of the hourly consumption, at an hourly price between NOK 5,200 and 5,600. The legal assistant, lawyer Myklebust, who also litigated parts of the case, spent about 60 % of the hours, but at a significantly lower hourly price - between NOK 1,900 and 2,300.

The statement of costs also contains claims for reimbursement of expenses to KPMG with NOK 1,078,486 (incl. VAT), which has carried out expert assessment and document analysis (digital forensics). NOK 10,694 is also claimed for other expenses for witnesses.

In comparison, Wright's lawyers have presented a total cost statement of NOK 11,766,507 including VAT. Lawyers' fees ex VAT amount to NOK 7,537,720, which represents a total hourly consumption of 1,405 hours at an average hourly price of NOK 5,365. Wright's expenses for experts are NOK 1,975,533.50, i.e. significantly higher than [Hodlonaut]
expenses for experts, which involve analysis of the same material, with essentially the same conclusions.

Wright's lawyers have not objected to the cost statement from lawyer Haukaas, and also have higher demands on their side. The court must, on its own initiative, and regardless of what the other party may think, try whether the legal costs are necessary, cf. the Disputes Act section 20-5 (5).
In the preparations for the Disputes Act, clear signals were given that the level of costs in civil cases should be reduced, and that the courts should have a far more central role in managing the level of costs, cf. Ot.prp.nr.51 (2004–2005) page 51- 59 and HR-2020-1515. The court also notes that Wright's legal costs do not in themselves have any significance for the determination of what constitutes [Hodlonaut's] reasonable and necessary costs, cf.

1515. HR-2020-

Questions about legal costs were raised at the end of the main hearing, and both parties were given an account of both their own and the other party's legal costs statement. The consideration of contradiction is thereby taken care of.

Machine Translated by Google

The court must make a concrete proportionality assessment of the case and which costs are reasonable and necessary to be covered, cf. HR-2020-1515. The case lasted seven court days, and from that perspective the court believes that the hourly consumption is very high, even if one takes into account that the case has been ongoing since 2019. The court points out that costs related to the dispute over venue were awarded by the rulings of the Borgarting Court of Appeal and the Supreme Court respectively, and is not part of the requirement now. Almost a man-year's work has been carried out in this case, which the court believes far exceeds what has been necessary. When assessing what is reasonable and necessary, the court also saw to it that the main hearing had to be postponed because [Hodlonaut] handed in a large amount of documents just before the end of the case preparation. Such a postponement generates additional work, which [Hodlonaut] should not have covered. The court has taken into account the fact that there is a large amount of documents in the case (approx. 11,000 pages in total), which are mainly either presented by [Hodlonaut] or are presented after provocations from [Hodlonaut], but have also taken care that only a smaller proportion of the submitted documents are referred to and reviewed during the main hearing. The court has taken into account that it is normally more labor-intensive to be a plaintiff than a defendant, and that part of the work incurred on [Hodlonaut's] side is prompted by Wright's procedural scheme, which [Hodlonaut] should have covered. The court has also emphasized that the parties to the case are two private individuals.

The case's main issue – defamation – is an area of law where specialized lawyers are common. It follows from the preparatory work that *"a lawyer who is a specialist in an area [will] be able to demand a higher hourly rate if this is reflected in the number of hours being charged being lower than the amount of time a generally skilled lawyer would have spent",* cf. Ot.prp. no. 51 (2004–2005) page 448. The clear main rule is that the additional costs of the specialist hourly price cannot be claimed to be reimbursed by the counterparty unless the hourly price is reflected in a lower number of hours, cf. HR-2020-1515 with further references. The court cannot see that is the case in this case. The court also refers to HR-2020-611, where it is determined that *there is an upward limit for what is considered "necessary costs", and which can thereby be charged to the other party.* Overall, the court believes that the legal fees to be covered by Wright is NOK 2,500,000.

The court believes that the expenses of experts also exceed what is reasonable and necessary. In its assessment, the court considered that [Hodlonaut's] expert report was important in refuting the documents that Wright presented as documentation that he is Satoshi Nakamoto. The court nevertheless believes that the report exceeds the need, even if one takes into account that it takes time to do the analyses, not just write about them. The report appears to the court as unnecessarily voluminous. The court believes that [Hodlonaut] cannot claim more than 900,000

(incl. VAT) to cover reasonable and necessary expenses for witnesses and experts in the case. [Hodlonaut] does not have the right to deduct input VAT, and legal costs must therefore be covered including VAT. Court fees, which are charged to the plaintiff with NOK 28,750, are added.

Machine Translated by Google

Overall, the court considers that Wright should cover [Hodlonaut]'s legal costs as follows:

Lawyer's fees	DKK 2,500,000
Value added tax fee NOK	625 000
Expenses incl. VAT NOK	900 000
Court fee	DKK 28 750
Sum	DKK 4,053,750

CONCLUSION OF JUDGMENT

1 [Hodlonaut] is acquitted of claims for compensation.

2 [Hodlonaut] is not liable for damages as a result of the statements to which the case relates.

3 Craig Wright is sentenced to compensate [Hodlonaut] for the costs of the district court with NOK 4,053,750 -four million fifty-three thousand seven hundred and fifty-.

The court adjourned

Helen Engebrigtsen

Guidance on appeals in civil cases is attached.

Machine Translated by Google

Guidance on appeals in civil cases

In civil cases, the rules in the Disputes Act, Chapters 29 and 30, apply to appeals. The rules for appeals against judgments, appeals against rulings and appeals against decisions are slightly different. Below you will find more information and guidance on the rules.

Appeal period and fee

The deadline for appealing is one month from the day the decision was made known to you, unless the court has set a different deadline. These periods are not included when the deadline is calculated (legal holiday):

- from and including the last Saturday before Palm Sunday up to and including Easter Monday
- from and including 1 July to and including 15 August
- from and including 24 December to and including 3 January

The person who appeals must pay a processing fee. You can get more information about the fee from the court that has dealt with the case.

What must the statement of appeal contain?

In the statement of appeal, you must mention

- which decision you are appealing
- which court you are appealing to
- name and address of parties, representatives and legal representatives
- what you think is wrong with the decision that has been made
- the factual and legal justification for the existence of an error
- what new facts, evidence or legal justifications you want to present
- whether the appeal concerns the entire decision or only parts of it
- the claim the appeal applies to, and what result you require
- the basis on which the court can process the appeal, if there has been any doubt about it - how you think the appeal should be processed further

If you want to appeal a district court judgment to the Court of Appeal

Judgments from the District Court can be appealed to the Court of Appeal. You can appeal a judgment if you think it is

- errors in the factual circumstances that the court has described in the judgment
- error in the application of the law (that the law has been interpreted incorrectly)
- error in the proceedings

If you wish to appeal, you must send a written statement of appeal to the district court that heard the case. If you conduct the case yourself without a lawyer, you can appear in the district court and appeal orally. The court can also allow process representatives who are not lawyers to appeal orally.

It is usually an oral hearing in the Court of Appeal that decides an appeal against a judgment. In the appeal proceedings, the Court of Appeal must concentrate on the parts of the District Court's decision which are disputed, and about which there is doubt.

The Court of Appeal can refuse to hear an appeal if it comes to the conclusion that it is clear that the judgment from the district court will not be changed. In addition, the court may refuse to deal with some claims or grounds of appeal, even if the rest of the appeal is dealt with.

The right to appeal is limited in cases involving an asset value of less than NOK 250,000

If the appeal concerns an asset value of less than NOK 250,000, consent from the Court of Appeal is required for the appeal to be processed.

When the Court of Appeal considers whether to grant consent, it emphasizes - the nature of the case

- the parties' need to have the case tried again
- whether there appear to be weaknesses in the decision that has been appealed, or in the processing of the case

Machine Translated by Google

If you want to appeal a district court ruling or decision to the Court of Appeal
As a general rule, you can appeal a ruling on the grounds *of*

- errors in the factual circumstances that the court has described in the ruling
- error in the application of the law (that the law has been interpreted incorrectly)
- error in the proceedings

Rulings that apply to the proceedings, and which are taken on the basis of discretion, can only be appealed if you believe that the exercise of discretion is unjustified or clearly unreasonable.

You can only appeal a *decision* if you think so

- that the court was not entitled to make this type of decision on that legal basis, or that the decision is
- obviously unjustified or unreasonable

If the district court has given judgment in the case, the district court's decisions on the proceedings cannot be separately appealed. Then the judgment can instead be appealed on the basis of errors in the proceedings.

You appeal rulings and decisions to the district court that made the decision. The appeal is normally decided by ruling after written consideration in the Court of Appeal.

If you want to appeal the Court of Appeal's decision to the Supreme Court
The Supreme Court is the appeal body for the Court of Appeal's decisions.

Appeals to the Supreme Court against *judgments* always require the consent of the Supreme Court's appeals committee. Consent is only given when the appeal concerns questions that have significance beyond the case in question, or it is for other reasons particularly important to have the case dealt with by the Supreme Court. Appeals against judgments are normally decided after an oral hearing.

The Supreme Court's appeals committee can refuse to take appeals against *rulings* and *decisions* into consideration if the appeal does not raise questions of importance beyond the case in question, nor do other considerations suggest that the appeal should be tried.
The appeal can also be refused if it raises extensive evidentiary issues.

When an appeal against rulings and decisions in the District Court has been decided by ruling in the Court of Appeal, the decision cannot, as a general rule, be further appealed to the Supreme Court.

Appeals against the Court of Appeal's rulings and decisions are normally decided after written consideration by the Supreme Court's appeals committee.