



**IN THE COMPETITION  
APPEAL TRIBUNAL**

Case No: 1523/7/7/22

**B E T W E E N :**

**BSV CLAIMS LIMITED**

Applicant /  
Proposed Class Representative

**- and -**

- (1) BITTYLICIOUS LIMITED**
- (2) PAYWARD LIMITED**
- (3) SHAPESHIFT GLOBAL LIMITED**
- (4) PAYWARD, INC.**
- (5) SHAPESHIFT AG**
- (6) BINANCE EUROPE SERVICES LIMITED**

Respondents /  
Proposed Defendants

---

**REASONED ORDER (SERVICE OUT OF THE JURISDICTION)**

---

**UPON** reading the Proposed Class Representative’s collective proceedings claim form (“CPCF”) dated 29 July 2022 and the Proposed Class Representative’s application of the same date made pursuant to Rule 31(2) of the Competition Appeal Tribunal Rules 2015 (the “Tribunal Rules”) to serve the CPCF on the Fourth, Fifth and Sixth Proposed Defendants out of the jurisdiction (the “Rule 31(2) Application”)

**AND UPON** reading the witness statement of Mr Seamus Andrew of 29 July 2022

**IT IS ORDERED THAT:**

1. The Proposed Class Representative be permitted to serve the Fourth, Fifth and Sixth Proposed Defendants outside the jurisdiction.

2. This Order is made pursuant to the rules governing service which apply to proceedings taking place in England and Wales, without prejudice to the determination of any issues of jurisdiction or venue that might arise subsequently in the proceedings.
3. This Order is without prejudice to the rights of the Fourth, Fifth and Sixth Proposed Defendants to apply pursuant to Rule 34 of the Tribunal Rules to dispute the jurisdiction. Any such application should take account of the observations set out in *Epic Games, Inc. v Apple Inc*, [2021] CAT 4 at [3].

## REASONS

4. The claims as articulated in the CPCF concern Bitcoin Satoshi Vision (“BSV”), a cryptocurrency. It is alleged that the delisting of BSV in April 2019 was an unlawful agreement and/or concerted practice contrary to Article 101 TFEU and/or the Chapter I prohibition on the part of the Proposed Defendants. The members of the proposed class are all holders of BSV who were resident in the UK between 11 April 2019 and 29 July 2022.
5. The First, Second and Third Proposed Defendants are all companies incorporated in England and Wales, and no application to serve out of the jurisdiction is made against these Proposed Defendants. Permission to serve out of the jurisdiction is sought in respect of the Fourth, Fifth and Sixth Proposed Defendants, and the Application is framed accordingly. Permission is sought to serve the CPCF (and associated documents) on:
  - (a) The Fourth Proposed Defendant at its registered offices at 237 Kearny Street, Suite 102, San Francisco, CA 94108, United States.
  - (b) The Fifth Proposed Defendant at its registered offices at Bahnhofplatz 5, 6060 Sarnen, Switzerland.
  - (c) The Sixth Proposed Defendant at its registered offices at 14 East, Level 5b, Triq Tas-Sliema, Gzira, GZR 1639, Malta.
6. The Proposed Class Representative contends that the proceedings are to be treated as

taking place in England and Wales. This seems likely to be the correct outcome, given the fact that the Proposed Class Representative is incorporated in England and Wales and claims relate to alleged losses suffered in this jurisdiction. On this basis, the Tribunal would approach service out of the jurisdiction on the same basis as the High Court by reference to the relevant principles in the Civil Procedure Rules 1998 (*DSG Retail Ltd and another v Mastercard Inc and others*, [2015] CAT 7 at [17]-[18]). A final determination of this issue can be made by the Tribunal which hears the first case management conference in the proceedings.

7. The relevant legal principles for applications to serve defendants out of the jurisdiction in Tribunal cases are summarised in *Epic Games Inc and others v. Apple Inc and Others* [2021] CAT 4 [78]. In short, they involve determinations of whether:
  - (a) There is a serious issue to be tried on the merits of the claim. This is a test of whether there is a real as opposed to fanciful prospect of success on the claim.
  - (b) There is a good arguable case that the claim falls within one of the “gateways” set out in CPR Practice Direction 6B at paragraph 3.1.
  - (c) In all the circumstances, England and Wales is clearly or distinctly the appropriate forum for the trial of the claim.
8. I consider that the claim has a real prospect of success and that there is a serious issue to be tried. The claim is fully pleaded in the CPCF, and I proceed on the basis – without prejudice to any future contentions that the Fourth, Fifth and Sixth Proposed Defendants might choose to make – that the averments are true. The claims are expressed in accordance with recognised legal principles.
9. The Proposed Class Representative relies on paragraph 3.1(3) (necessary and proper party), 3.1(11) (property within the jurisdiction) and 3.1(9) (damage sustained within the jurisdiction or resulting from an act or acts within the jurisdiction) of Practice Direction 6B of the CPR.
10. I consider there to be a good arguable case that the claims articulated in the CPCF falls

within these “gateways” as described in paragraph 10*ff* of the Application.

11. The Proposed Class Representative submits that the Tribunal is clearly and distinctly the appropriate forum in which the claim against the Proposed Defendants can suitably be tried for the interests of all the parties and for the ends of justice. They rely on the facts and matters specified in paragraphs 31*ff* of the Application.
12. I am satisfied that the UK (and this Tribunal) is the proper place in which to bring the claim, and that, within the UK, the jurisdiction is likely to be England and Wales (although that is a matter for further consideration at the first case management conference).
13. Accordingly, I grant the Application for service out of the jurisdiction.

**Sir Marcus Smith**  
President of the Competition Appeal Tribunal

Made: 12 October 2022  
Drawn: 12 October 2022