

(For ex parte hearing before the Hon. Mr Justice Lok or Duty Judge)

HCA 625/2025

Yan Yu Ying (“P”) v Persons Unknown and Others

SKELETON SUBMISSIONS OF THE PLAINTIFF

A. Note to the Court

1. The background facts of this case have been extensively litigated in HCA 2295/2019, which has been docketed to Lok J for trial. Lok J also heard P’s applications and granted an injunction against D1 (**“the First Injunction”**) and Bankers Trust orders (**“BTO”**) against D2–6.
2. The present applications are closely related to the First Injunction. P would place a heavy reliance on the written submissions previously made and the documents in the hearing bundles previously filed with the Court.
3. If Lok J is available, it may be a saving of judicial resources for the matter to be placed before him.

B. Overview

4. In summary, this is a **replica of the First Injunction**. P now seeks the following substantive orders:
 - (1) *“Person(s) Unknown who Received Cryptocurrency Originating from the Bitcoin Addresses Defined at Paragraph 4 of the Indorsement of Claim from 27 March 2025 to 25 July 2025”* be joined as D7;
 - (2) Leave be granted to P to make consequential amendments to the Writ of Summons and the Statement of Claim;
 - (3) Various orders as per the draft Injunction Order;
 - (4) Leave be granted to P to serve the concurrent writ and the orders out of jurisdiction; and

- (5) Leave be granted to P to serve the concurrent writ, the orders and the subsequent court documents by substituted services as per the draft Injunction Order.
5. To avoid repetition, P will rely on the documents previously filed for hearing of the First Injunction and the BTO at *ex parte* and *inter partes* stages, including:
- (1) P's written submissions dated 26 March 2025 ("**P's 1st Skel**");
 - (2) First Affirmation of YAN Yu Ying ("**Yan 1**");
 - (3) First Affirmation of CHOW Kam Pui ("**Chow 1**"); and
 - (4) Second Affirmation of CHOW Kam Pui ("**Chow 2**").
6. In order to facilitate the Court's reading, P has produced copies of the above documents and the relevant exhibits in a separate bundle.
7. In addition, together with the *ex parte* summons, P has filed the Second Affirmation of YAN Yu Ying ("**Yan 2**") and the Fourth Affirmation of CHOW Kam Pui ("**Chow 4**") in support of these applications.

C. Salient Background

8. P refer to the facts stated in P's 1st Skel at §10 and Yan 2 at §§5–12.
9. In short, Bitrace discovered that most of the 361 Bitcoins had been swapped for other cryptocurrency through different means. As of the date of the Bitrace Report (23 July 2025), 54.5% of the 361 Bitcoins had been transferred to 3 ETH addresses associated with Binance ("**the Binance ETH Addresses**").
10. P is essentially seeking **an identical injunction** against the Intended D7 (save for the substituted service order).
11. P takes out these *ex parte* applications on the grounds of urgency and secrecy. In **full and frank disclosure**, there might be an issue of delay as P was first

advised by Bitrace to take out these applications on 1 July 2025 (see Yan 2 at §10). However:

- (1) On 1 July 2025, P was only told that the recipient addresses were associated with Binance (see Yan 2 at §10.1). Without any concrete evidence of tracing, it was unlikely that P would succeed in taking out these applications. As such, P asked Bitrace to prepare an investigation report (see Yan 2 at §11).
- (2) The Bitrace Report was provided to P on 23 July 2025 (see Yan 2 at §12). Immediately after receiving the Bitrace Report, P made these applications promptly.

12. Therefore, P has made every effort to make these applications as early as possible. P humbly submits that the delay (if any) was excusable and should not undermine the urgency of these applications.

D. Joinder of D7

D1. Description of the Intended D7

13. The description of the Intended D7 is similar to that of D1.
14. In **full and frank disclosure**, the scope of the description of the Intended D7 arguably covers persons unknown not identified in the Bitrace Report:
 - (1) The Bitrace Report focused on the trail of the 361 Bitcoin which ended up in the Binance ETH Addresses. Although it is theoretically possible to compile a complete list of addresses, the task requires a substantial amount of time (see Chow 4 at §17).
 - (2) In light of the urgency of these applications, Bitrace targeted the addresses connected with Binance for the time being, as there is a greater chance of recovering assets from addresses associated with crypto exchanges.

- (3) The above was also the rationale behind labelling D1 by the date of the *ex parte* hearing instead of the precise addresses. Likewise, the Recoveris.io Report (i.e. the previous tracing report) did not identify all addresses. In particular, the Recoveris.io Report was dated 24 March 2025, two days before the *ex parte* hearing. The Recoveris.io Report also did not trace the 361 Bitcoins which were swapped for other cryptocurrency.

D2. Legal Principles

15. Pursuant to O.15 r.6(2)(b), the court may add a defendant to the action on a plaintiff's application. The relevant principles are summarised in *Chen Hongqing v Aisa Cement Corp* [2022] HKCA 1086 at §§26–28 [LA#1]:

- (1) The starting point is that prima facie a plaintiff is entitled to choose the person against whom it wishes to proceed.
- (2) The test for O.15 r.6(2)(b) is “whether there is a bona fide claim and a proper question to be tried between the plaintiff and the intended defendant that is necessary or just and convenient for resolution between them as well as between the plaintiff and the defendant in the proceedings”.
- (3) Generally, at the joinder stage, the court will not engage itself in scrutiny of the applicant's case, or an adjudication of disputed facts.

D3. Limb (i) - bona fide claim and a proper question to be tried that is necessary

16. The Bitrace Report has revealed the connection between the theft of 361 Bitcoins and the transfers of ETH Tokens to the Binance ETH Addresses.
17. The facts of the case suggest a strong prima facie proprietary claim against the Intended D7. P also has prima facie claims against the Intended D7 on personal claims such as knowing receipt and dishonest assistance.

D4. Limb (ii) - just and convenient for resolution

18. The intended claims against the Intended D7 and the claims against D1 are derived from the same subject matter (i.e. the 361 Bitcoins) and the same set of facts.

D5. *Ex parte* application

19. The application for joinder is made in conjunction with the other applications and is made on an *ex parte* basis due to the urgency and confidentiality involved.

E. Service out of jurisdiction

20. The nature of the claims against the Intended D7 is largely the same as those against D1. P refers to the submissions for P's previous application for service out of jurisdiction in respect of D1:

- (1) For legal principles, P refers to P's 1st Skel at §§27–31. For the authorities cited therein, P refers to P's List of Authorities [LA#2] to [LA#9].
- (2) For application of the principles, P refers to P's 1st Skel at §§32–40.

F. Substituted Service

21. The proposed method of substituted service is largely the same as the method adopted in respect of D1. The differences have been highlighted in Chow 4 at §19. P refers to the submissions for P's previous application for substituted service in respect of D1:

- (1) For legal principles, P refers to P's 1st Skel at §§50–55. For the authorities cited therein, P refers to P's List of Authorities [LA#4], [LA#5] and [LA#10].
- (2) For application of the principles, P refers to P's 1st Skel at §57.

22. As to the choice of recipient addresses for service, P proposes serving the documents on the Binance ETH Addresses. Even though the Binance ETH Addresses belong to the bottom layer of dissipation (at least for now), the persons unknown holding addresses of previous layers could still be notified of the proceedings:
- (1) Viewing the pattern of dissipation as a whole, the 361 Bitcoins were first spread across numerous conduit addresses and over half of the 361 Bitcoins were subsequently collected in the Binance ETH Addresses.
 - (2) From that pattern, it could be inferred that holders of the Binance ETH Addresses could be the persons unknown who stole and orchestrated the dissipation.
 - (3) Hence, the Binance ETH Addresses would be an avenue allowing P to contact the Intended D7 directly.
23. A step-by-step guide to NFT Airdrop has been offered by Dr Chow in Chow 4 at §§20–25.
24. P respectfully invites the Honourable Court to order substituted service as per the draft order.

G. Injunction

25. The basis of applying for a proprietary injunction and worldwide Mareva injunction against the Intended D7 is fundamentally the same as that against D1. For legal principles and application, P refers to P's 1st Skel at §§60–63. For the authorities cited therein, P refers to P's List of Authorities [LA#3].

H. Further full and frank disclosure

26. **Firstly**, as to the limitation of the proposed method of substituted service, P refers to Chow 4 at §§26–29.

27. **Secondly**, the defence of bona fide purchase for value without notice might be available to the Intended D7, which could potentially defeat P's proprietary claims. It is also possible that the Intended D7 did not have knowledge of the source of the ETH Tokens, and the Intended D7 might rely on this lack of knowledge as a defence to the personal claims. In rebuttal, a strong inference can be drawn from the funnel-shaped dissipation pattern that the Intended D7 had knowledge.
28. **Thirdly**, P will seek disclosure of information from Binance in respect of the Intended D2. P will take out an *inter partes* summons to vary the BTO against D2 to that effect.
29. P would elaborate and/or make further full and frank disclosure at the *ex parte* hearing.

Dated 25 July 2025

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