



TWENTY
ESSEX

ARBITRATING ON THE BLOCKCHAIN

Revolution or evolution?

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On the blockchain

- **Crypto-currencies**

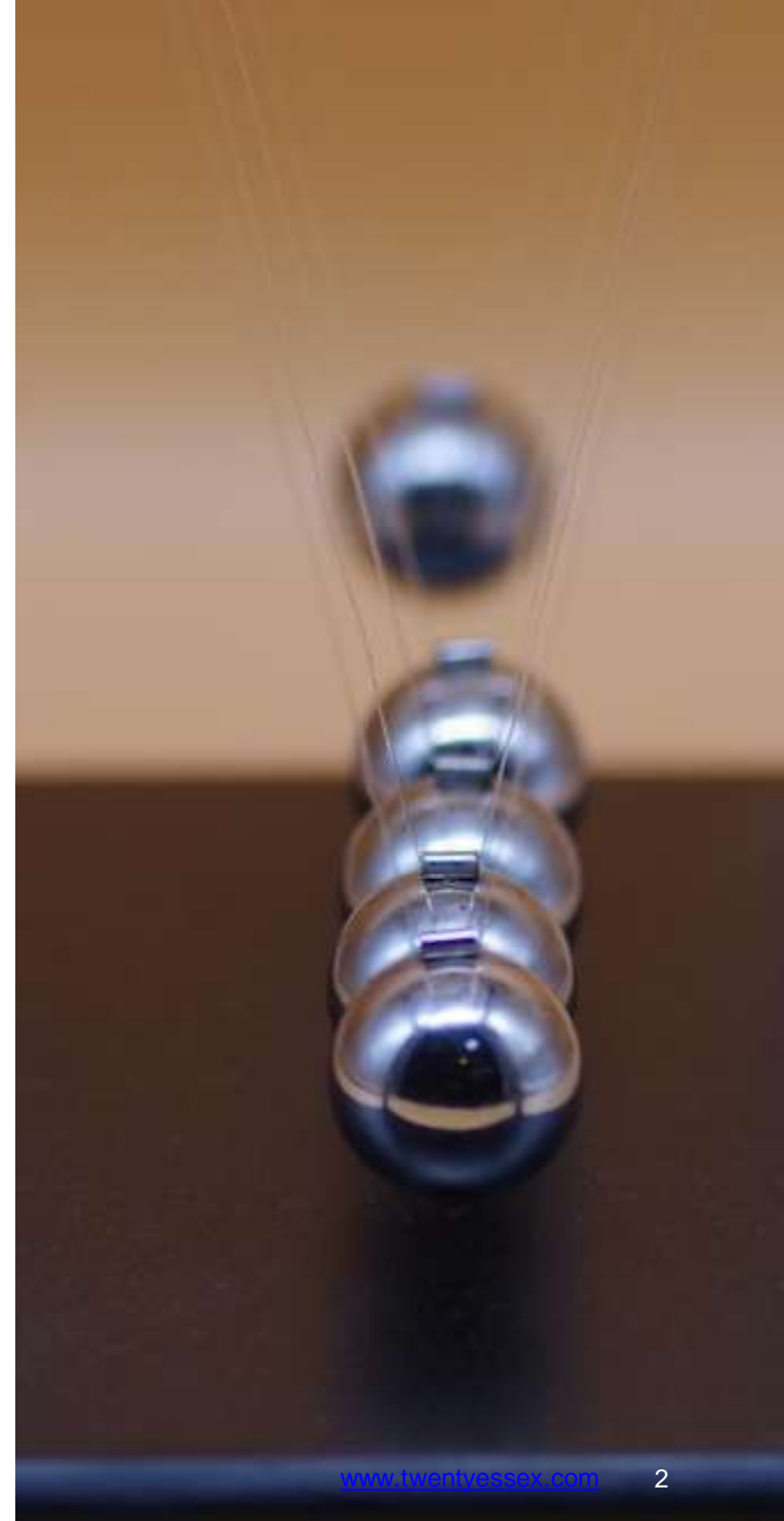
Bitcoin ; Altcoins (e.g. Ethereum) ;
Stablecoins (e.g. Tether)

- **Non-Fungible Tokens (NFTs)**

Consider collateral/associated rights

- **Other tokens / data**

e-BLs, utility tokens etc.



Where have we been?

- *Some caveats*

- Interim applications with lower threshold: *AA v PU* [2019] EWHC 3556 (Comm)
- Single-party attendance: e.g. *AA* ; *PD*
Citation of Authorities [2001] 1 WLR 1001
- What is disputed? e.g. *Wang v Derby* [2021] EWHC 3054 (Comm)
- Not all crypto assets are minted equally



Where have we been? - *Decisions to date I*

■ Nature of crypto

AA ; *Fetch-ai* [2021] EWHC 2254 (Comm) ;
Jones [2022] EWHC 2543 (Comm)

Yan Yu Ying v Leong Wing Hei [2021] HKCFI
3160 ;

Samara v Dan [2022] HKCFI 1254

Osbourne [2022] EWHC 1021 (Comm)

■ Consequences

Wang v Darby ; *Samara v Dan*
Nemo dat quod non habet?



Where have we been? - *Decisions to date II*

- **Governing law**

Lex situs / domicili?

Ion Science Ltd (unreported, 21 December 2020) (Commercial Court)

- **Duties to participants**

Tulip Trading v Bitcoin Association BSV
[2022] EWHC 667 (Ch) (under appeal)



Where have we been?

- *Decisions to date III*

■ **Service**

AirDrop: LCX AG (unreported, 21 August 2022) (SC of NY) ;

D'Aloia [2022] EWHC 1723 (Ch) ; *Jones*

■ **Security**

Tulip Trading v Bitcoin Association BSV
[2022] EWHC 2 (Ch)

vs. Hague v Cordiner (No. 2) [2020]
NSWDC 23



Where are we now? - *Existing arrangements*

No.	Crypto/NFT Exchange	Arbitral Institution	Venue of Arbitration	Governing Law
1	Binance	HKIAC	Hong Kong	Hong Kong
2	OpenSea	JAMS	California	New York
3	Coinbase (for US/Canada residents only)	AAA	California	California
4	Huobi Global	ICC	Seychelles	Seychelles
5	Rarible	AAA	To be agreed	California
6	Kraken	JAMS	California	California
7	Gate.io	ICC	Panama	Panama
8	Nifty Gateway	JAMS	New York	New York

Source: http://www.hkiarb.org.hk/wp-content/uploads/2022/08/20220829-HKIArb-Webinar-by-Henry-Yu-Wallace-Chan_Presentation-Slides_NoCopy.pdf

- Re Binance arbitration:
 - 1) Relevant respondent entity
 - 2) Breach of terms
 - 3) Illegality



Where are we now?

- *Live issues for tribunals*

- **DAOs – truly extra-territorial?**

Soleymani v Nifty Gateway [2022] EWHC 773 (Comm) (this point not the subject of appeal: [2022] EWCA Civ 1297)

- **Duties to participants**

Tulip Trading ; Barclays Bank v Quincecare [1992] 4 All ER 363; *Hamblin v World First* [2020] EWHC 2383 (Comm)

- **Interim protection**



Where are we going?

- **Impending end to arbitration?**

Redundancy through smart contracts

- **Near term**

UKJT DRRR ; increased tribunal powers

- **Mid-term**

National law divergence on blockchain

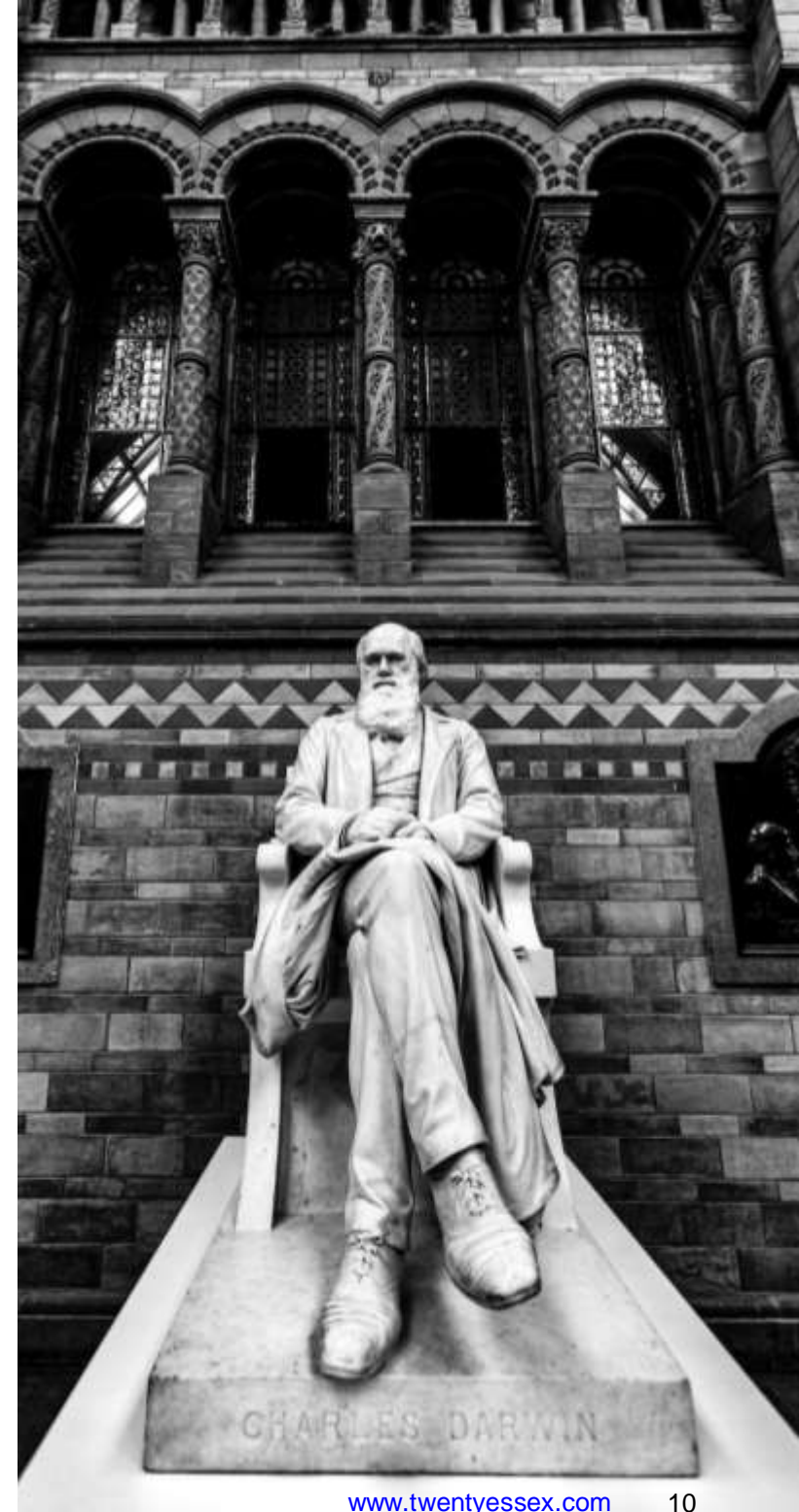
- **Long-term**

Auto-executing awards ; decentralised arbitration



Revolution or evolution?

- Present: evolution
 - Disputes
 - Technology
 - Law
 - Challenges
- Future: potential for disruptive revolution
 - Law
 - DR integration within blockchain





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