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S'pore's 1st bitcoin lawsuit: Judge asks if laws enough to deal with IT errors

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In what is the first lawsuit here involving bitcoin, International Judge Simon Thorley had dismissed an application by electronic market maker B2C2 for a summary judgement against Singapore-registered bitcoin exchange operator Quoine. Photo: Reuters

Published **28 DECEMBER, 2017**

SINGAPORE — Amid the rise of cryptocurrencies, a judge at the Singapore International Commercial Court has raised questions about the adequacy of existing laws to deal with the fallouts arising from computer errors.

Earlier this month, in what is the first lawsuit here involving bitcoin, International Judge Simon Thorley had dismissed an application by electronic market maker B2C2, which is incorporated in England and Wales, for a summary judgement against Singapore-registered bitcoin exchange operator Quoine.

Releasing his grounds of decision dated Wednesday (Dec 27), Mr Thorley said: “The doctrine of unilateral mistake is well developed in circumstances where the error is a human error and the knowledge or lack of it is directly ascertainable from the humans involved. Where computers are concerned, the law is less well developed.”

He added: “When can the workings of a computer or computer programme constitute actual knowledge on the part of the programmer or operator of the computer?”

B2C2 had brought a civil lawsuit against Quoine in May for wrongfully reversing trades, involving proceeds which are currently valued at about US\$45 million (S\$60 million), following the rapid rise in the value of bitcoin over the past months.

The proceeds were valued at about US\$3.78 million on April 19, when the transactions were made. That day, B2C2 placed orders on Quoine's platform to sell 309.2518 ethereums – another type of cryptocurrency – for bitcoin at an “abnormally high” price of 10 bitcoins for one ethereum. The next day, Quoine reversed the trades after becoming aware of a technical glitch, which had caused the only available price on its platform to be the price offered by B2C2.

B2C2 is alleging that this reversal, which denied them the “fruits of the previous day's highly advantageous transactions”, was in breach of their commercial agreement with Quoine and in breach of trust.

Quoine maintains that it was entitled to carry out the reversal because the trades were “mostly trades with huge mark-up over fair global market price” — one ethereum could only be exchanged for about 0.03929075 bitcoin on average on April 19.

However, B2C2 alleges that Quoine had “acted fraudulently”, based on the agreement that an order, once fulfilled, is “irreversible”, and sought to recover its losses of over 3,000 bitcoins. B2C2 also argues that Quoine's breach of trust “deprived it of the opportunity to sell the proceeds on the date of their highest immediate value”, the court was told during a hearing on Dec 5.

Quoine's lawyers argue that B2C2 “must have known” that the price was “wholly out of line with all the other prices it had been seeking to trade at during that day”, all of which were more than 250 times lower.

Mr Thorley said: “(Quoine's) case on the mistake itself is a cogent one and I accept that a more thorough investigation of the facts behind the setting of the abnormally high offer price is justified in order to place the court in a proper position fully to assess the state of (B2C2's) knowledge.”

A trial will also grant the court a chance to examine the law on unilateral mistake where computers are involved “in greater detail than was possible” in a summary judgment, he added.

Among the areas that need to be examined at trial is “why the system quoted a high price, but, more specifically, why it selected 10 bitcoin for 1 ethereum as the exchange rate”, the judge said.

Nevertheless, Mr Thorley noted that while computers were involved in this case, the technical glitch arose in part by “human error”. “Human error caused the correct passwords and cryptographic keys not to be keyed into the (software programme used by Quoine), which caused the (Quoine) platform to perform abnormally,” he said.