Response to Juror questions.

First off I want to state that my intention on leaving out these arguments in my original evidence was that it seemed to me at the time there was a clear cut violation of 5.2 that I could prove. So to save everyone time, I focused on that. I still had these other violations in mind when I challenged but chose to keep them in reserve. My intention was not to try to add last minute arguments that Spendcoin cannot respond to. I am unfamiliar with off-chain legal proceedings, but I see your point and hope everyone has adequate time to submit arguments.

Secondly I do not concede that 10% are in circulation or withdraw my claim that 5.2 and 2.1 have been violated. We have reached a point in this line or argumentation where further evidence is out of my hands. As the proof that the distribution has taken place is off-chain and only Spendcoin and Bitrex can know if it is true or not, I do not see how I can provide anything further to the argument at this time. The timing of the token distribution movements and Spendcoin's decision to restart the submission process suggests that there is reason to believe that the distribution numbers may have been inflated so that the project appears to comply with the terms this time around. The decision to restart the submission process instead of appeal suggests that distribution hadn't taken place prior to the previous dispute. If it had, and there was proof, why would they give up their stake? After the previous case ended, tokens from the Spendcoin Partner fund were moved to Bitrex and the submission process was started over. We do not know where these, or any of the other tokens moved to Bitrex in the last several months have gone. Jurors who find these actions adequately suspicious should require Spendcoin to provide some form of proof of distribution. Until it has taken place on-chain I would argue the distribution isn't verifiable. Why use a blockchain if we consider a company's promise that they distributed funds off-chain as legitimate? I would also point out that the company used to have a graph on their website which gave the current token distribution and now it has been removed. There is no public place besides Kleros that I have found where they publicly state they have made this distribution. They could easily keep the tokens on Bitrex until they have been given the badge and then take them back and they would not be accountable anywhere else.

Question 4. I argue that the Spends current beta product is not a legitimate use for the token and therefore is not a beta product for the project. The token does not do anything in the system except act as a payment token. There is no cryptographic use of it, as we have seen it is not even keeping track of payments on-chain. In its current use, Spendcoin is essentially acting as a stand in fiat. It could be swapped out for any other monetary instrument with no change to the application. The application also supports a host of other cryptocurrencies in addition to Spendcoin, so you can use the Spend App without having to own any Spendcoin at all. Therefore it is not a working beta product for the token. Spendcoins purported native use is in Spendchain which does not have a working beta.

Question 5. It depends on how you define utility. Does simply having the ability to be sent back and forth give a token utility? I think we can all agree no, or else every tradable token created would pass this point. I put utility in quotes in my previous argument to imply alleged utility. I did not mean to state it has utility. I do not think simply because you get a kickback from the tokens creators for sending it back and forth this gives a token utility. The decision to give extra tokens out as a reward for use is a distribution tactic. The distribution is not even guaranteed in a smart contract or distributed on-chain so it is hard to argue that it is inherent to the token itself. Spendcoin policy could change and distributions could stop at any time. The distribution strategy of the token is not the same thing as it's utility. The question the jurors should ask themselves is: without the reward pool, what does Spendcoin actually do?

Question 6: I am not an expert in the legal definition of a dividend in Switzerland but I will show how I interpreted these transaction to constitute a dividend type payment. A common definition of a dividend is: A sum of money paid regularly by a company to its shareholders out of its profits (or reserves). If we look at how the funds are moved from the Spend Distribution account; holders do not get their reward instantaneously for the token movements. They are given out specifically by the company from their reserves at intervals. Like a dividend, once there are no more reserves the payments will stop. Two of the major keys to interpreting the definition for this case is: does it have to be given out to all shareholders each time to be considered a dividend and what constitutes as regular? Also how much wiggle room does "similar payments" give us to work with? Jurors will have to interpret these meanings themselves. If we look at the kickbacks that are given for these types of transactions, the token holder retains their original balance of tokens, and is given a distribution from company reserves based on their balance of tokens at intervals. This fits a definition of a dividend. I cannot claim that all of the kickbacks fit this definition, but it does appear that some do, and that all tokens have the ability be used in such a manner by any holder if they so choose. So it acts as an opt-in dividend essentially. Because of the manner in which they are distributed, from a reserve token pool to holders from the company based on their holdings while having the ability to not lose any of the tokens they hold to get this payment, this looks very much like a dividend payment.

I am happy to answer further questions or give clarifications on these or any other points.