

EXHIBIT A

1 on behalf of the defendants. I'll go ahead and jump onto
2 that issue.

3 I will say in advance of today, if it's all right
4 with Your Honor, I've agreed to split some of the argument
5 with Ms. Hughey --

6 THE COURT: Perfect.

7 MR. ANGLE: -- okay, because there are certain
8 issues I think are more appropriate coming from her,
9 particularly the allegations of fraud and discovery abuse.

10 THE COURT: I'm all about that. We are likely not
11 to talk a great deal about the allegations of fraud. Not to
12 foreclose your argument, but to the extent that something
13 that I get into is more appropriately shared, feel free.

14 MR. ANGLE: Sure. Thank you, Your Honor.

15 In terms of substantial completion, I've provided
16 an update to counsel today. We feel that we are going to be
17 substantially complete by Saturday. We have several more
18 productions today, tomorrow, and probably onto Saturday that
19 will take us up to approximately 175,000 documents that will
20 have been produced totaling over half a million pages and
21 more than 30,000 native documents, mainly large Excel files
22 and what have you.

23 There is one small set of financial documents that
24 are still in China that are being impacted by the
25 coronavirus, but it is a relatively small selection, and we

1 would be able to produce them very promptly once we are able
2 to get people back into the factory who can access those.

3 Beyond that, the only thing that we believe that we
4 will continue to have to produce, we are continuing to go
5 through privilege review of documents, and to the extent
6 that we realize that we reduced them off of a privilege
7 list, those will continue out. And to the extent that
8 Willis identifies any gaps or holes, we're always willing to
9 talk further and produce more, but I hope this has come
10 across in the papers. We have bent over backwards to
11 produce everything as quickly as possible and believe we
12 have met the deadline we proposed of February 15th.

13 THE COURT: You mentioned a privilege review. I
14 assume you're keeping a privilege log of documents.

15 MR. ANGLE: Yes, Your Honor.

16 THE COURT: When do you think that you will be
17 producing the privilege log?

18 MR. ANGLE: We have produced one or two versions
19 already, and we are willing to produce those on a rolling
20 basis, and we can agree to a time line. In the last couple
21 of weeks, the parties have agreed to generally every twice a
22 month meet and confer where we get on the phone and talk
23 about things, that's something that we're happy to agree to
24 a time line, and it's what you expect in discovery.

25 THE COURT: Okay. So you've produced one, another

1 is coming. We have a May first st fact discovery close
2 date. Do you have a sense for when any issues could be
3 fully teed up regarding privilege?

4 MR. ANGLE: I think, having not talked to my
5 reviewers, we should be able to have our final privilege
6 review done by the middle of March.

7 THE COURT: Okay. So probably able to disclose
8 the final log or at least be very near to that by March
9 15th.

10 MR. ANGLE: That's what I meant, yes, Your Honor.

11 THE COURT: And then it will be up to the
12 plaintiff whether there is things in there that merit
13 contesting, meaning confer, try to narrow them and then
14 bring that to me.

15 MR. ANGLE: Yes, Your Honor.

16 THE COURT: If that happens, maybe there will be
17 uniform agreement and that won't happen, so, okay,
18 excellent. I want to hear from Ms. Altman about that
19 production, but I'm going to have you address one other
20 topic.

21 So one of the things that Willis raised is the
22 belief that you are withholding certain documents pursuant
23 to very broad categories of objections, things like it's not
24 relevant, you know, general objections about
25 proportionality. It sounds like you maybe made some of

1 those general objections, but have nonetheless in your
2 belief produced an awful lot of those documents.

3 MR. ANGLE: That's right, Your Honor. We are not
4 standing -- the one objection That's not privileged that I
5 believe we are standing on is production of documents before
6 2010, and we've made that clear in our discussions with
7 opposing counsel. I believe we've also made clear that
8 we're not standing on any other substantive objections, and
9 the best example of that is the insistence that we use the
10 quick set search term that is just about ubiquitous within
11 our documents and we've gone ahead and produced those.

12 THE COURT: Okay, so you are not standing on --
13 you are standing on documents that predate 2010.

14 MR. ANGLE: Correct.

15 THE COURT: What was the first issuance of the
16 patents in suit?

17 MR. ANGLE: June of 2013.

18 THE COURT: So you're agreeing to basically a two
19 and a half year window ahead of that?

20 MR. ANGLE: Yes, Your Honor.

21 THE COURT: But not pre-2010?

22 MR. ANGLE: That's right, Your Honor.

23 THE COURT: You are not making relevance
24 withholding -- I guess that's a big question, so that one's
25 a little harder to discuss.

1 MR. ANGLE: No, we can discuss it. We are not
2 withholding things based on our view of what is relevant.
3 We've sort of accepted their view as broadly as we can,
4 quick set being the best example of that, which I think in
5 part is because it results in these very large volume of
6 documents we have produced.

7 THE COURT: Okay.

8 MR. ANGLE: But to the extent that we have, that
9 there are specific issues that come up, I'm sure that we can
10 discuss it with opposing counsel and reach agreement. The
11 approach we have been very much taking since the stay was
12 lifted was to be as open and forthcoming as we can be and to
13 produce things as quickly as we can.

14 THE COURT: So the only sort of broad categorical
15 objection that you are continuing to observe besides
16 privilege is the pre-2010.

17 MR. ANGLE: That's right, Your Honor. Up until
18 the District Court's decision on February 3rd about
19 antitrust, we were standing on that objection. We have
20 obviously withdrawn or that objection is now moot because of
21 the breadth of our prior production, we have already
22 produced and are continuing to produce documents that are
23 responsive to the antitrust side of the request.

24 THE COURT: Okay. So this is one area that I find
25 your conduct not acceptable. We had a previous conversation

1 where you had made a decision about what was and wasn't
2 discoverable. I think it was around the date range, and I
3 think we had the conversation that you don't get to decide
4 unilaterally what that is. And the plaintiff's theory of
5 the case included antitrust allegations and you decided that
6 you didn't have to provide discovery about those until you
7 lost the motion to dismiss. Rather than asking me whether
8 that's true, I would not have permitted that. I would have
9 required antitrust discovery or at least we would have had a
10 more fulsome conversation about why not.

11 It's academic now because, but it sounds like
12 you're saying that it was actually somewhat academic before
13 because even though you were standing on the objection, you
14 were also producing documents?

15 MR. ANGLE: Your Honor, first of all, I think the
16 time line is important here. The request for antitrust
17 documents weren't even propounded until October,
18 mid-October, so it's not like we've been waiting since the
19 second Amended Complaint was filed. That's when they were
20 served. We objected and made it clear what our objections
21 were and met and conferred with them.

22 However, as I indicated, we did not want to return
23 to China for a third supplemental document collection, so we
24 took a very broad approach as we were collecting documents
25 and included that within those documents that we thought

1 would be responsive to what the allegations were in the
2 antitrust side of the case, and in fact have been producing
3 and will continue producing through Saturday documents that
4 are responsive.

5 THE COURT: Okay. Well, consider yourself advised
6 that, you know, you don't get to decide the universe of
7 relevance in this case, particularly when it has to do with
8 a clearly pled theory for relief that the plaintiffs have
9 alleged, and it should be up to me whether that is something
10 that makes more sense to wait and see what the district
11 judge says or not.

12 But for future reference, you can withhold things
13 that are completely not relevant to any claim in the case,
14 but you can't decide to withhold things that are relevant to
15 a claim in the case because you don't credit the claim.
16 That's a little bit what that felt like. It's academic now
17 because the production has happened and has been robustly
18 occurring since that Order came down, but that was a source
19 of concern to me.

20 Let's pivot to number 4. I'm kind of using the
21 road map that Willis provided in its memorandum to guide our
22 conversation, and I'm specifically looking at their argument
23 4, at 4A. I'm sorry, give me just a second to get on top of
24 this. Yeah, let's start with 4A, which are interrogatories
25 4, 5 and 12. And this has to do, I think with the financial

1 information.

2 MR. ANGLE: Absolutely, Your Honor.

3 THE COURT: That originally there was a concern
4 from Willis that it was being produced in sort of here's our
5 receipts, add them up, not to say that's what you said but
6 shorthand. I assume that you are changing that. Tell me
7 where you're at.

8 MR. ANGLE: Well, Yes, Your Honor. We have, in
9 fact, we supplemented our interrogatory responses last
10 night, as we said we would before this hearing. That's not
11 the first time we have supplemented. We also supplemented
12 back in September.

13 With respect to the specific interrogatories that
14 relate to the financial documents, one of the biggest most
15 significant parts of the production of the last several
16 weeks have been the financial documents that we've gotten
17 out of China including substantial spreadsheets, and
18 summary, you know, forms of data that we believe are fully
19 responsive. As I mentioned earlier, there is a small subset
20 that is still stuck in China that we're going to get out,
21 but other than that, we have produced it in the native form
22 of our SAP documents and various different costing
23 worksheets and that information has been identified not
24 generally in the interrogatories. I mean we have a Bates
25 number pointed to the specific areas where you would find

1 that information, and we anticipate we will have to
2 supplement it again because more, like I said, there's
3 another set that hasn't been produced and that is part of
4 our ongoing obligation to supplement interrogatory responses
5 as new information becomes available. So we will be
6 supplementing further, but we have supplemented to provide
7 what up through today we have produced in terms of financial
8 information.

9 THE COURT: Okay. So either it was never really
10 your position that you weren't going to do it, you just
11 hadn't done it yet, is that what you're saying?

12 MR. ANGLE: I guess. I mean --

13 THE COURT: My question is this: Did you actually
14 think that your original disclosures of non-summary
15 documents were adequate or were you saying we will get you
16 summary documents when we can?

17 MR. ANGLE: Your Honor, one of the difficulties
18 has been throughout this case is communication issues. We
19 are dealing with a Chinese client, so we had I think a
20 misunderstanding about what type of data they really had,
21 and as I mentioned when we were before you, we have learned
22 that they had SIP and ERP type of data, and we had committed
23 to providing that.

24 One of the slowdowns on that was that getting
25 documents out of China does require navigating a China state

1 secrecy law, and before we could produce anything, we had to
2 get the opinion of counsel as I mentioned in my papers I
3 have, the opinion letter if you would like to see it that
4 approve of our exporting of documents. We got that opinion
5 in the middle of December and started flooding information
6 out of China.

7 THE COURT: Okay. Then Section 4B has to do with
8 interrogatories 12 and 13 in the second set of
9 interrogatories from Willis.

10 MR. ANGLE: Yes, Your Honor, so that interrogatory
11 12 is another financial interrogatory that now seeks, I
12 believe it seeks non-quick set financial information. That
13 is also included in the documents we produced, and we have
14 supplemented that answer as well. Interrogatory number 13
15 asks for certain agreements that relating to their antitrust
16 theories of the case. We supplemented that last night by
17 identifying documents we have produced including agreements
18 between us and seasonal specialties, one of the trading
19 agents I guess you would call it, that we work with.

20 THE COURT: So you were not -- there is no fight
21 about counting subparts?

22 MR. ANGLE: Oh, no.

23 THE COURT: Okay, good. I was actually going to
24 send you to the conference room to duke it out.

25 MR. ANGLE: I saw that when I was preparing it and

1 I thought who --

2 THE COURT: No, that was not the heart of the
3 disagreement, and I'm glad it hasn't grown.

4 Okay. Subset C in that same conversation -- never
5 mind, I want to speak to opposing counsel about that.

6 Contention interrogatories 8, 9 and 10.

7 MR. ANGLE: We have supplemented, I can't remember
8 if I had 9, 10, or 8 and 9. Excuse me, Your Honor, just a
9 moment.

10 Like I mentioned we did serve supplemental
11 interrogatories last night that supplemented, further
12 supplemented I think 8 and 10, not 9.

13 THE COURT: When do you think that you will either
14 additionally supplement or finally provide answers to these
15 contention interrogatories?

16 MR. ANGLE: Your Honor, because they are
17 contention interrogatories, we will be supplementing all of
18 them at various points for the next several months as fact
19 discovery goes on and I think that's part of our Rule 26
20 allegation, so we are in no way standing on what our current
21 answers are, and we'll continue to supplement.

22 THE COURT: Okay. Antitrust we've addressed.

23 Okay. I think that's what I want to talk to you
24 about for now. Is there anything you want to flag for me at
25 this point?

1 MR. ANGLE: No, Your Honor, but I'll be right
2 there.

3 THE COURT: Okay.

4 MR. ANGLE: Thank you.

5 THE COURT: All right. Your turn. First, any of
6 the answers that we've just heard, things that you want to
7 clarify, push back on, or ask for more information or share
8 something with me about. Let's start with the document
9 production. It sounds like documents are coming your way,
10 and they're going to continue apace until Saturday.

11 MS. ALTON: Yes, Your Honor, and what I had asked
12 for in my motion was just that I said the date they've said,
13 fine, but what I want is a Court Order saying that whatever
14 they're giving me has to be done pursuant to a reasonable
15 search. And I still have concerns that what they are
16 providing to me is not documents that are pursuant to a
17 reasonable search.

18 Now, what that does is gives me the leverage to
19 confer with them if I find continuing errors or documents
20 that have been withheld or that were lost that I didn't know
21 about to come back and ask you in the future for contempt
22 basically, and also in discussions with them to be taken
23 seriously frankly.

24 THE COURT: Okay.

25 MS. ALTON: So I think that I'm retaining that

1 request that I get documents responsive to a reasonable
2 search pursuant to all of my document requests, and there is
3 two parts of the issue with that. One is we have had an
4 opportunity now to look at what they've produced to me so
5 far, and we're finding a high number of irrelevant
6 documents.

7 They did on February 6th tell me for the first
8 time in a declaration that there are a large number of miss
9 hits on both the quick set term and on OPT, Opt Out, for
10 example, is hitting on OPT, and quick set is something they
11 use for swimming pools and for a water pump. And now they
12 said that there were a number of hits before, but I didn't
13 know it was a large number of irrelevant documents until I
14 started going through their document production and received
15 that declaration from Mr. Forstner on February 6th.

16 So when they say we've produced 175,000 documents,
17 I had three associates go through about 3,000 of them this
18 week from that time period I was discussing with you before
19 2014, and literally about ten of them were flagged as
20 something that merited my attention. One associate said he
21 didn't actually find anything relevant. So there are a lot
22 of those documents. The number is high but the quality is
23 low.

24 And another one of the things that I did is just
25 sort of kind of search for some things that I knew I should

1 expect to find in the production. For example, Polygroup
2 won an award for innovation based upon its infringing
3 product. The quick set product I think won an innovation
4 award in 2013 from Michaels, and I've also heard on industry
5 it may have won an innovation award from Home Depot. There
6 are no documents in the production, even though they
7 attended the award ceremony that referred to that award,
8 there is one that sort of references they got some kind of
9 Michael's award but not for what it was on. I also wanted
10 to show you --

11 THE COURT: Which document request do you think
12 that would be responsive to?

13 MS. ALTON: There is a document request directly
14 on awards in second set of document requests, which is
15 another thing I'll just skip to adjusting with you, Your
16 Honor. When I received the objections and responses to our
17 second set of document requests, they agreed in the entirety
18 of the production to only produce the entirety of e-mail
19 chains that I specifically referenced. Otherwise, every
20 single RFPD they said they weren't going to provide
21 responsive documents to.

22 So I had a telephone conversation with them on
23 December 20th where I raised that as an issue. I agreed at
24 that point, didn't follow-up until January, actually, but to
25 tell them, well, some of those don't even relate to

1 antitrust, so I don't know why I'm not getting anything.
2 Had another e-mail exchange with them, I think I sent them
3 an e-mail on January first where I said, hey, you still
4 haven't addressed the fact that you've declined to provide
5 me any documents in response to, you know, RFPD set 2, I
6 raise it on a phone call with them, they said they have this
7 antitrust issue again. I said, okay, I'll follow-up with an
8 e-mail with you and identify the request that in my view
9 don't even relate to antitrust, and I did that on January
10 9th.

11 Here we are a month later. I also said in that
12 phone call I couldn't even tell, you know, you're saying I'm
13 supposed to be getting some of the documents pursuant to
14 some of these, but you said in your objections I'm not
15 getting any of them. So there is a request in the second
16 set that's specific on awards that even mentioned Home Depot
17 specifically in a separate request. They just said they're
18 not producing those documents.

19 So I don't know if I'm not seeing those documents
20 because they are withholding them because they have
21 objections to my second set, the entirety of it, or if they
22 haven't, you know, looked for me them. If, you know, if
23 they've been deleted. I don't know. I just know they're
24 not in the production.

25 THE COURT: Okay.

1 MS. ALTON: So another thing I wanted to show you
2 is I just provided this to counsel, if I may approach.

3 THE COURT: You may, yes. Thank you.

4 MS. ALTON: So what this is, Your Honor, is it's
5 just sort of a chart that shows how many document hits we
6 have per custodian in the database. And what I've done is
7 identified the custodian's either name hits or documents
8 that they say came from those persons for their sales
9 representatives.

10 And as you look at that, what you're looking at is
11 the sort date or the date sent for any e-mails that are
12 produced by that custodian. What they told me for the first
13 time on February 6th is that they had U.S. based sales
14 server documents starting around 2015 for these witnesses or
15 custodians. And what you can see is for every single
16 witness that has or custodian that has any historical
17 documents, there's a huge jump up starting around that time
18 period either late 2014 or in 2015, meaning that I'm getting
19 a higher number of documents back in the collection if it's
20 after the U.S. based sales server. And if it's stored
21 somewhere in China, for some reason I'm getting a very low
22 number of documents in the document production.

23 Now, that's telling me that either they're
24 incorrect, that they did in fact delete those historical
25 e-mails or at least some of them or they're under-collecting

1 in China or something, but I just see that for every single
2 witness we have this dearth of historical documents and it
3 jumps up as soon as that date range where they say they are
4 collecting from the United States occurs.

5 THE COURT: And you have spoken to them about
6 this?

7 MS. ALTON: No, because I just did this, I
8 provided them this set of information because we ran it
9 based upon their most recent collections out of just sort of
10 like what's going on here, they now said they are
11 substantially complete, I'm not seeing substantial
12 completion in here.

13 I also will note that they had an enormous product
14 transferral problem in 2019, they had to either recall or
15 reconstruct all of the quick set Christmas trees that they
16 had shipped to Lowe's. I believe they actually went there,
17 opened boxes and had to replace a part because the trees
18 were not functional. There's a huge snafu for them, and I
19 haven't so far we've only spent a couple of hours looking,
20 but given that size of an issue, I would hope or understand
21 that either Polygroup directors or their sales folks are
22 talking to Lowe's about how to fix it. I can't find any
23 documents on that issue.

24 THE COURT: And what document request is that
25 responsive to?

1 MS. ALTON: In my second set, Your Honor. I put a
2 second set of document requests out there and any defects,
3 complaints, recalls, warranty problems, things like that.
4 So, again, I don't know if they're just not responding to my
5 second set of documents. If, you know, what's the
6 explanation? I know that I thought I asked for this stuff.
7 I know it exists, and I know it's not in the document
8 production.

9 THE COURT: And when was the second set served?

10 MS. ALTON: I know that their objections were
11 received in late November and that's why I didn't start
12 asking them about this until December and January.

13 THE COURT: Okay. Let's pivot to --

14 MS. ALTON: Your Honor, I did have a couple of
15 other comments just very briefly based on what you spoke to
16 Mr. Angle about.

17 THE COURT: Great.

18 MS. ALTON: I think it's sort of similar for both
19 the interrogatory responses I've belatedly received on this
20 antitrust based objection. You can see from the record,
21 which is exhaustive, I think that I started raising issues
22 with Reliance on 33D and it being improper back in 2016
23 immediately upon receipt of their interrogatory responses.
24 I raised it in my last motion. I've raised it in basically
25 every e-mail on the topic.

1 In response to my last motion they said no,
2 reliance on 33D is proper. In our transcribe meet and
3 confers on the telephone, they've just said, well, we can
4 only rely on 33D, and we can't find any documents. And it
5 wasn't until I filed this motion pointing out the fact that
6 they have e-mails in their production, talking in detail
7 about their costs and how much they go up, and that they
8 have an FPD database that they admitted that exists before
9 they produced to me last night still loading into my
10 database right now documents that are finally these reports
11 that are run from their SAP system, and they never even told
12 me they were going to do that. I had to come here a second
13 time and demand that information. I don't think that's
14 appropriate.

15 THE COURT: Okay. Let's talk about
16 interrogatories 12 and 13, the supplements that you've
17 received. Have you had an opportunity to look and see
18 whether you think those supplements are adequate?

19 MS. ALTON: We have -- there are a number of Bates
20 numbers that are in the production they provided to me last
21 night at 11:00 p.m. Obviously, I haven't gotten to look at
22 those yet. There are some like sales spreadsheets that I
23 would have expected to receive several years ago. I need to
24 send them to my expert basically to see, you know, if they
25 are okay or not. So I have noted that spreadsheets now

1 finally do exist. They do appear to cover both quick set
2 and non-quick set products, which I needed. And it's just
3 going to take, because of the data you have to run summary
4 tables and test it to see if it's good, which again is why
5 I'm asking for this sort of an Order saying you've got to
6 give her discovery, so that if I do find a problem I don't
7 have to come back here again.

8 THE COURT: Okay. I am not going to give you a
9 blanket order that says they have to give you everything you
10 want, and if you find that you don't think they've complied
11 with that, you get to hold them in contempt because they
12 haven't done enough.

13 I agree that it feels like it's been a little bit
14 of pulling teeth for Ms. Alton to get some of these things,
15 but I also agree that we've been getting some strong signals
16 from the defendants. I've looked at some of the visual aids
17 that they included in their brief. They have been producing
18 rolling documents, and they said before you filed this
19 motion that it would be done by February 15th, and they are
20 holding to mostly being done by February 15th.

21 So, you know, I could and do agree that you've had
22 to push to get some of these documents. I could and do
23 agree that they've been producing some documents more
24 robustly than I think you're seeing. I don't think it's
25 productive to decide that you're right and that all future

1 noncompliance is in contempt of court, because it's pretty
2 clear to me that they told you starting back in December
3 they would get it done by February 15th, and they are going
4 to get it done by February 15th.

5 I told you all last time I don't deal in the
6 abstract. I deal in the specific. And you have been
7 patient waiting for these documents, and if it turns out
8 that these documents aren't in this set, it's not going to
9 be delightful for me that Ms. Alton had to wait months and
10 months to get them only to find out that they're not
11 complete.

12 At the same time, Ms. Alton, I hear you saying
13 they are over-inclusive, a little bit that's what you get
14 when you're looking for a complete search around the quick
15 set term, so kind of be careful what you wish for. I think
16 your point is not that you should not have gotten them, but
17 that it makes a "ginormous" number somewhat illusory. That
18 may well be. I'm so much less interested in the "ginormous"
19 number from either side than in the whether the documents
20 are responsive to the requests, And I think it's a little
21 early to know whether this is an inadequate production that
22 you are going to drill down and find that you don't have
23 what you need, which I won't be pleased about. Or if it is
24 an adequate production, then you are going to drill down and
25 find out that you've got what you need, which I will be very

1 pleased about.

2 So I'm not granting this blanket grant of the
3 motion to compel so that any future non-compliance is just
4 per se contempt. I think there might be some issues of
5 non-compliance that we have to discuss that they might think
6 were actually not responsive to one of the requests that you
7 think were responsive to one of the requests. That's the
8 exact sort of discovery dispute that I will help you with.

9 I'm hopeful that's not the case because I'm
10 hopeful that amid this ginormous production are all of the
11 answers that Ms. Alton seeks and is entitled to and that
12 would be great. So although I'm not giving you the kind of
13 blanket -- it's not quite a get out of jail free card.
14 It's more like a go to jail right now card, if you come back
15 to me and say these 14 times I tried to get my hands on
16 this, they said it would be in these productions, it's not
17 anywhere. I'll have some focused questions for you, as you
18 would expect.

19 But I think it's a little premature to just decide
20 that this is inadequate or not. I'm going to ask counsel
21 about the specific points you raised, but I'm not going to
22 navigate discovery disputes right now that have just been
23 raised for the first time from the podium that might be in
24 this set. I do want to find out what happened with the
25 second set of requests for production.

1 So it sounds like your suggestion is about
2 documents 12 and -- or I'm sorry, responses 12 and 13. They
3 have been supplemented. You've finally gotten your hands on
4 what you've been asking for all along. Is that fair to say?

5 MS. ALTON: On request 13, and this may be have to
6 do with their anti-trust objection, I'm not sure. There's
7 this document that's listed in the Complaint that we
8 referenced in our RFPDs, but not the interrogatories, but I
9 just said any of your agreements that could be alleged to be
10 an antitrust agreement, I would like a copy of.

11 They had a written but unsigned agreement that's
12 referred to an e-mail chain that we've attached to the
13 Complaint saying basically we're not going to compete for
14 one another's trees at Lowe's, and I still have a copy of
15 that document. And in the course of the interrogatory, it
16 was just heard like that agreement and any other agreements.
17 Well, what they've given me is like supply agreements and
18 stuff like that.

19 So I still don't have any of those records. I
20 should have also addressed the fact that I have not seen,
21 again, these document productions are coming in since
22 February 1st. I have not seen any of those antitrust
23 related documents in those productions, and in fact, they
24 did object to providing them, so my suspicion is that
25 although Mr. Angle may believe they are being produced to

1 me, I don't think they have been.

2 THE COURT: They might be on the caboose
3 because --

4 MS. ALTON: We will hope, Your Honor.

5 THE COURT: Yes, we will hope. Okay, let me ask
6 you about --

7 MS. ALTON: Your Honor, if I may make just one
8 very brief point about a reasonable search request.

9 THE COURT: Sure.

10 MS. ALTON: I feel as though I've had kind of had
11 to catch issues with their search for documents and call
12 them out on them repeatedly before they are addressed, and
13 one of the examples for that is search terms. I mean they
14 did not search for quick set. They didn't search for any
15 e-mails or on the laptop or in the custody of their
16 director.

17 Now, they've provided me with Chinese search
18 terms, but, again, these search terms all search for quick
19 connect. There's apparently no Chinese term being searched
20 to for quick set. All of these things are things that of
21 course I can ask about in depositions, but I can't on the
22 back end identify relevant custodians, ask those custodians,
23 you know, what words do you use until I'm sitting there in
24 depositions. And if I continue to find issues with, you
25 know, we search for quick connect. You've got everything,

1 I'm going to be back here, and I'm going to be even more
2 assertive regarding some of the allegations that I've made.

3 THE COURT: Well, one of the things we did last
4 time to address this concern is have some greater
5 communication about what was being searched, what custodians
6 were being searched, what terms were being used. Give you
7 some certainty about at least the process that was being
8 used to gather things, so if you could point to, well, this
9 leaves out the number one, you know, offender, of
10 custodians, we could get to that.

11 Have you received a list of search terms? Have
12 you received a list of custodians? Have you received that
13 kind of documentation?

14 MS. ALTON: I received the list of search terms,
15 which is how I learned that quick set wasn't on them. I
16 received a list of custodians, which is how I learned that
17 Mr. Paul Chung was not on it.

18 I then got some revised search terms for them, you
19 know, one of them I raised, it's like why aren't you
20 searching for anything Chinese? You know, people there
21 speak Chinese, so they went and added Chinese terms, but
22 again, only for quick connect. Maybe all of the custodians
23 said we only refer to it as quick connect in Chinese, but I
24 have some suspicions as to whether or not that was part of
25 the conversation they may have had with --

1 THE COURT: Have you communicated terms that you
2 would like added to the list that have been rejected? I
3 mean that's what we need here, right? You might not like
4 those terms, but it's not teed up for me to opine or compel
5 or condemn unless you have suggested a term and they are
6 refusing.

7 Now, I understand you don't have full vision into
8 their system and the terms they use, and that's kind of just
9 a blindness, but you've just come up with a couple ideas for
10 things you're concerned about not seeing. And in fact,
11 you've shown that you came up with some terms, asked them to
12 be added, and they were added.

13 So unless there's something concrete that you're
14 pointing to that you think that you have suggested that they
15 are refusing, I'm not quite sure what you want me to do.
16 I'm not trying to be flip. I'm really not quite sure what
17 you want me to do.

18 MS. ALTON: I understand that, Your Honor. I
19 suppose that I was simply returning to the idea of a
20 reasonable search is something that I can't do for them and
21 it's also really hard for me to tell if they're not doing
22 it. I can look at what I'm getting and say why isn't this
23 stuff in there? But it's really hard for me to go and say,
24 well, you have a bunch of Chinese here. I told you to ask
25 people about Chinese. I have questions about whether he

1 really did that.

2 So that's why I had historically said, well, I'd
3 really like them to be required to do a reasonable search so
4 I don't have to keep doing that, whatever that is.

5 THE COURT: A reasonable search, like one woman's
6 reasonable search is another woman's crazy land, right? And
7 one woman's reasonable search is another person's radically
8 narrow. We need to have specifics.

9 So if they are refusing to provide a list of
10 search terms, that's not helpful. If they are refusing to
11 identify custodian search, that's not helpful. If they are
12 identifying these, you are giving them new ones. They are
13 agreeing to do them or telling you why they won't do them,
14 and you're just troubled that there should be more?

15 You've got to give more than that. You have to
16 point to and discuss with them and put in a meet and confer,
17 and then if they say we're not going to search for the
18 Chinese version of Christmas tree because here's why, that's
19 something I resolve. It's disproportionate. It's not
20 disproportionate. You've got to do it, you don't have to do
21 it.

22 But just this idea that they have to do a
23 reasonable search, and you want me to order them to do a
24 reasonable search, they have to do a reasonable search.
25 They know that. You have to show ways that it failed, and I

1 know that's hard because they know their terms. They know
2 their model. They know their business people, but that's
3 why it's kind of an iterative process.

4 And you are about to get an enormous number of
5 documents, and if you still don't see documents about an
6 award that they received from Home Depot and an award that
7 they've received from Michael's that you're pretty sure they
8 received, and you've got a specific RFP for things related
9 to awards, and they're not in there, why aren't they in
10 there?

11 Like that's suspicious and maybe that means that
12 searches aren't being done right, but that's concrete, and I
13 can't just endorse that your vision for reasonableness is
14 the right one nor that their vision for reasonableness is
15 the right one. I feel like maybe they started out too
16 narrow, and you gave some suggestions and they took them.
17 But tell me something you want them to do that they won't,
18 and that I can work with. Or tell me something that you
19 don't want to do that she wants you to, and that I can work
20 with. And it doesn't all have to be formal motions to
21 compel.

22 I mean I'm really tempted to put this case on the
23 you, you know, we have to have a phone call first and see if
24 we can work this out because you guys devoted 60 pages in
25 the briefing to who met and conferred with whom, and I read

1 it all, and honestly, a pox on both your houses. It's not
2 that you're not communicating, it's that you're not
3 communicating meaningfully, and I think it's in part that
4 this document production has become this problem. Right,
5 you need to see what's in there, and hearing them say over
6 and over we're getting it to you, it will be in there.
7 We're getting it to you, it will be in there, is not
8 assuaging your concerns, right? And that has become this
9 barrier.

10 But at this point, when you believe you've
11 responded to all of these document requests and provided
12 everything except maybe some tag-along financials that you
13 can't get because of the corona virus, and when you start to
14 have concretes that aren't in there, that is ripe for me to
15 get involved, and that's where I won't be happy because I do
16 feel like it's taken a long time but I'm not just going to
17 generally opine that it's taken too long.

18 We've got a Chinese customer. This case, although
19 it feels to you like it's been going forever, it has been
20 going for me since this spring, give or take, so we need to
21 be specific. And I'm not dismissing your frustration, I'm
22 just saying that your frustration and my tools don't go
23 together very well. So I want to focus on what I can do,
24 which is, yes, your order to substantially complete your
25 document production. I'm ruling from the bench, and I'm

1 going to make some rulings at the end by February 15th, but
2 I'm not going to say that it has to comply with your vision
3 of what it looks like or not, and I'm actually denying the
4 motion to compel because you're doing exactly what you've
5 told her for two months you were going to be doing, which is
6 substantially complete document production by February 15th.

7 Can we talk, Ms. Alton, about is there anything
8 that you want to say about the location of the depositions?
9 And I actually think it probably makes sense for us to maybe
10 recognize that what I'm inclined to rule today should wait
11 until we know a little bit more about even if anybody can be
12 deposed or travel from China or Hong Kong right now at all
13 anyway. It feels like the coronavirus has complicated our
14 geography question, so given that, tell me what you want me
15 to know.

16 MS. ALTON: Your Honor, I'm happy to take
17 depositions anywhere in the United States, and they have
18 historically happened in Atlanta or New York, but I know
19 that Polygroup's principals travel somewhat frequently to
20 California as well. I also note that in other contexts, I
21 know at least one of those principals is coming to the
22 United States anyway for business at the end of April. So
23 to ask for deposition dates in the United States and say,
24 no, it has to be in Hong Kong, and then to hear that they're
25 going to be in the United States or just recently were in

1 the United States for a trade show is very frustrating for
2 me.

3 I also note that currently there's only a
4 quarantine if you are coming directly out of Wuhan, I know
5 that that may change, but at this point it's 14 days to get
6 into the United States only if you're coming from that
7 specific city. Otherwise, they let you in and sort of
8 discourage you from like voluntarily going to large public
9 places and things like that.

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THE COURT: But in all honesty that doesn't sound
very workable. The fact that there might not be a point we
know that flights have been substantially reduced. We know
that there's vigorous screenings at airports and then don't
go to a big public place, but you can come for your
deposition. You think that presents no barrier?

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MS. ALTON: I'm willing to take the risk of
meeting one or two people in person. I'm not willing to
take the risk of flying to Hong Kong at the moment, and I
think that that's not something that I should have to do on
behalf of my client.

24

25

Furthermore, I think it should be noted that they
have admitted that their factory is currently not operating.

1 There is very little business going on in China at all. I'd
2 hate to say it's fortuitous to not have to have issues at
3 home that are demanding your attention. But right now, if
4 they can come to the United States it's fairly convenient.
5 And in light of the fact that I finally, supposedly, am
6 going to be having my documents, I can take those
7 depositions and be done with it.

8 THE COURT: Okay, but you've mentioned a few
9 principals who travelled to the United States, some of the
10 people that you are seeking to depose don't travel to the
11 United States regularly, and there's plenty of case law to
12 support the idea that you chose to sue a Chinese company.
13 The Hong Kong proposal gets around some of the legal issues,
14 that traditionally depositions are taken near the
15 headquarters of the company that you are seeking to depose.

16 I've read a ton of cases. I know there's a
17 multi-factor test. I honestly know I have the discretion to
18 do whatever I want here, and my inclination is that I don't
19 see a reason to unsettle the general presumption that you
20 depose representatives of a company near or at the company,
21 and Hong Kong is an appropriate compromise for near or at
22 the company.

23 You're pointing out that for specific witnesses
24 that come to the United States anyway that are coming to the
25 United States, it makes a lot more sense to do those here.

1 That may be totally true, but there are some witnesses for
2 whom that's not true, right?

3 MS. ALTON: Your Honor, I don't actually know. I
4 think if they had limited their objections to just like an
5 engineer or something that has never been to the United
6 States and doesn't come here regularly, I would have been
7 like okay. But they've made this blanket assertion that no
8 witnesses are going to be produced in the United States, and
9 I do think that when you are dealing with a company who has
10 been knowingly violating my client's asserted intellectual
11 property with express reference to Willis and their products
12 since 2012, and comes to trade shows, sells it all knowingly
13 into the U.S. market, certainly for the 30(b)(6) and their
14 directors, and I mean their co-chair directors. I think
15 it's fair to ask them to come to the United States.

16 THE COURT: It's also fair since you chose to sue
17 them to ask them to go there. I mean the case law really,
18 really points both ways.

19 MS. ALTON: It does point both ways, but I think
20 in this case we've made an adequate showing of prejudice,
21 especially given that in China, Hong Kong, China is now
22 asserting their authority over Hong Kong again. Taking
23 depositions is illegal in China. We don't have the same
24 access to court reporters. I don't have an office there.
25 If I'm there for weeks at a time, this is a large case I'll

1 be trying to print exhibits; invariably you receive document
2 productions immediately before depositions. I think that
3 it's asking a lot of us.

4 And I will note that in historical context, we've
5 provided all of our witnesses in the United States,
6 including Johnny Chen who, you know, came to New York and
7 was deposed here.

8 THE COURT: Where are your witnesses? Where is
9 Mr. Chen? Where does he work?

10 MR. ALTON: Taiwan and China.

11 THE COURT: So, presumably, so is your company
12 headquartered somewhat in Taiwan and China or just he works
13 there?

14 MS. ALTON: The company is headquartered in
15 Taiwan. We have factories in China and Cambodia. Our
16 engineering staff is located in China. We had produced the
17 witnesses that they asked to see here in the United States.
18 And in terms of choosing to sue them here in the United
19 States, that's the only option for infringement that's being
20 sold into the United States market pursuant to U.S.
21 patents.

22 THE COURT: I'm not disagreeing with your choice
23 to sue them here. I'm not saying that's not the right
24 remedy. I'm trying to decide much more discreet issues.
25 So, okay, thank you. Anything else you want to say?

1 MS. ALTON: I will say that one of the things they
2 did absolutely reject was our request for What's App and SMS
3 messages. I appreciate those were addressed in the ESI.
4 It's simply the reason I had decided to request this is
5 because I have seen this dearth of documents especially from
6 the relevant time period.

7 What's App, for example, and We Chat don't
8 automatically delete things, so this could be a reservoir of
9 information for data that's otherwise unavailable to me.

10 Also, frankly, when I agreed to ESI, I didn't
11 realize how common it was for those satellite-based
12 messaging apps to be used for professional communications
13 like with sales representatives and things likes that, that
14 I don't otherwise have access to. This is how they set up
15 their meetings. Sometimes they can get feedback from people
16 on pricing or on other units that are being considered in a
17 competitive context and that's not something that I had
18 experienced with U.S. businesses. So now that I'm aware of
19 that, I did move to compel the production of those records
20 as well.

21 THE COURT: Okay. Thank you. I would like to
22 hear from your team about request for documents, the second
23 set of documents that Ms. Alton described that was served in
24 it sounds like October. Objections were by November. She's
25 not seen any responses. Is this coming sometime in the next

1 few days?

2 MR. ANGLE: Your Honor, those were the antitrust
3 requests that we were talking about earlier, and yes, those
4 are being produced, and I don't understand the nature of
5 some of what she identified. Like I said, I don't believe
6 we've said no specifically to anything. I was flummoxed
7 with respect to one of the things she said. I didn't
8 understand what she was talking about about the e-mail chain
9 thing, but we're producing broadly and widely as quickly as
10 we can.

11 THE COURT: Okay. Let me ask about the innovation
12 awards.

13 MR. ANGLE: Your Honor, we're happy to go back and
14 look. This is precisely to your point what's a good subject
15 of a meet and confer, and now that I know about it, I can go
16 back and look for it specifically. Your Honor, I know you
17 put a pox on both our houses, and I think that's probably
18 right, but one of the things we've been --

19 THE COURT: I take back the pox. I'm not going to
20 curse anybody. There's no poxing. None.

21 MR. ANGLE: I understand your frustration, and I'm
22 sorry to have weighed you down with 30 exhibits, but the
23 correspondence here I think is important because we have had
24 a very difficult time communicating, and we on the positive
25 side I believe have been trying earnestly to get engagement.

1 And, for example, on this adequacy of the search,
2 we have now provided two or three declarations that describe
3 exactly what we did. We've provided letters that have
4 described it. We even invited her to meet and confer before
5 we went to China so we could talk about what we're going to
6 do and how we're going to search and got no response and
7 that's been the problem. We have had many communications
8 where we communicate and get no response, and communicate
9 and get no response.

10 And then there's a later disagreement about what
11 was discussed or agreed. So we started putting together
12 detailed outlines, and I'm not going to go through all of
13 it. It's in the record. But we are doing our darndest to
14 be forthcoming and to try to get on the same page, and if
15 something is identified to go search for it, find out what
16 the story is.

17 The graph she just showed of some of the U.S.
18 sales reps, it's the first I've seen it, but it doesn't
19 include all the custodians by any stretch of the
20 imagination, and a number of those people didn't get hired
21 until 2015, so, you know, and there were different servers.

22 THE COURT: So I wrote on the top of the graph,
23 which I find interesting, meet and confer, like sit down
24 with this graph and speak one to the other about, so I'm a
25 little suspicious that Tim Boone has a ginormous -- again my

1 term of the day apparently -- 2,900 hits from a date that is
2 too tiny for my old person eyes to see, but has no hits
3 before that. What's up with that? That was Ms. Alton's
4 phrase.

5 MR. ANGLE: Exactly.

6 THE COURT: And then you said, oh, he was on
7 maternity leave or whatever the answer is or, you know, that
8 looks fishy to us, too. It turns out that our server
9 gobbled maliciously or otherwise several, you know, let's
10 use this as not a visual aid but a guide for meeting and
11 conferring.

12 And then, Ms. Alton, if you find that there are
13 shenanigans afoot or there are documents that are hinted at
14 by some of these low bumps that aren't being produced and
15 you can't explain why, that's the right kind of thing to
16 bring to me.

17 So I want you to talk directly about any parts of
18 RFD number 2. I want you to go back and find it, and I want
19 you to look at it, and if you think that you're not
20 responding to any of it in this document production, talk to
21 Ms. Alton about that. If you think it's covered, then say
22 after you've looked at the production, let's talk about it
23 again.

24 I want this graph of sales reps to be the kind of
25 thing that people are talking about, you directly talking to

1 one another about. I would like there to be a direct
2 conversation about the awards that Ms. Alton expected to see
3 and isn't seeing. Why not? Maybe the search wasn't enough
4 to get those. Let's talk about how to fix that problem. If
5 the awards existed, I'm not hearing you say we don't think
6 there's a relevant or non-discoverable. I'm not hearing you
7 say it's disproportionate. I know you might not think that
8 they're essential, but she's got a theory for why they
9 matter. If they're in there, tell her they're in there, if
10 not, come up with a solution.

11 The enormous product transformer problem of 2019.
12 They asked for documents related to recalls and consumer
13 complaints, I forget Ms. Alton's more inclusive language.
14 She would have expected some of these documents to be in
15 there. Perhaps it's in the final push, perhaps it's not,
16 that's the kind of thing that you meet and confer about. If
17 you aren't producing those for a reason that makes sense to
18 you, and it doesn't make sense to her, that's perfect for me
19 to wade into. Let's try to have as much communication
20 around concrete concerns as possible.

21 I want to hear from you about the Hong Kong point
22 that Ms. Alton just raised related to whether there are
23 concerns about the lawfulness of depositions in Hong Kong.

24 MR. ANGLE: Your Honor, we don't believe -- unless
25 you really want to, go ahead. If you don't mind.

1 THE COURT: Not at all. Not at all.

2 MS. HUGHEY: Perhaps, the only person whose read
3 more cases about depositions and locations than you is me.

4 THE COURT: Brian read a lot.

5 MS. HUGHEY: We can talk later, Brian.

6 I haven't seen any evidence that there's any
7 issues with Hong Kong. Obviously, Hong Kong is not China.
8 Hong Kong is a separate country, has separate jurisdiction,
9 has separate laws. And as you know, courts do order
10 depositions to take place in Hong Kong. I think we've cited
11 the *Dagon* case where the Court's conclusion was the Court
12 granted a protective order and designated Hong Kong.

13 I saw in other cases that Brian probably also
14 found where courts ordered depositions to take place in Hong
15 Kong. The *Brown* case and the *Tower* case, and I can get you
16 cites. The point is I personally haven't seen any evidence
17 that there's any issues with taking depositions in Hong
18 Kong. And as you know, the general rule is that those
19 30(b)(6) depositions take place where the company is the
20 principle place of business, which for us is Hong Kong. So
21 this isn't a we're based in China but we'll do it in Hong
22 Kong. The company is based in Hong Kong. Most of the
23 employees that have had their 30(b)(1) depositions noticed,
24 and some of them will also speak on 30(b)(6) live in Hong
25 Kong and work in Hong Kong.

1 So Hong Kong is the right location because at
2 least right now I believe we have eight 30(b)(1)s and almost
3 all of those people live in Hong Kong and work in Hong Kong.
4 And, again, the coronavirus does create a complication, but
5 I don't think that that is a complication that makes it
6 better for us to do depositions in the U.S.

7 THE COURT: I don't know, let's pretend we don't
8 have coronavirus for a minute and then we'll talk about
9 coronavirus.

10 MS. HUGHEY: Okay.

11 THE COURT: Ms. Alton raises a good point that
12 generally you've got a good argument, but then when she
13 hears a blanket opposition to deposing anyone in the United
14 States and hears that some of those people are coming to the
15 United States where it's clearly more convenient for her to
16 depose them and equally convenient for you, the one person
17 that might to travel to the United States that doesn't have
18 to travel is their in-house counsel, but frankly, that's
19 optional, right?

20 So are there people coming to the United States in
21 the next couple of months that are on this list that you
22 could agree should be deposed in the United States?

23 MS. HUGHEY: So my understanding is most of the
24 witnesses do not generally come to the U.S. Again, it's a
25 little hard to get the details because some of them are

1 currently tied up because of the coronavirus, but my
2 understanding is the three who sometimes come to the U.S.
3 are Ricky Kong, Lewis Chang and Elmer Chang, but even then
4 it's not like they come frequently. They do come to the
5 U.S. a couple times a year. I guess maybe I heard Lewis
6 Change maybe once or twice. That's the belief. And so I
7 don't believe they have plans to come to the U.S. They
8 certainly when, again, when we responded to the motion, they
9 don't come to Minnesota. I don't know that I have evidence
10 --

11 MR. ANGLE: Can I weigh in?

12 MS. HUGHEY: Oh, Robert has actually more specific
13 information about their travels to the U.S.

14 THE COURT: Okay.

15 MR. ANGLE: Actually, I just am going to answer
16 your question directly. It's the first I've heard a
17 willingness to depose just some here. We're willing to talk
18 about it. I mean we'll check their schedules and if we can
19 arrange for a deposition in California because one is going
20 to be there, yes, it's more convenient for us. I mean I
21 don't want to go to China.

22 So, yeah, we're not trying to do it to be
23 obstreperous or make it difficult. I think the
24 correspondence shows we were trying to make it easy,
25 offering them all in Hong Kong at a time we were a stretch

1 of period --

2 THE COURT: And you're talking about consolidating
3 them to minimize the number of times that Ms. Alton --

4 MR. ANGLE: Correct, right. And if she wants to
5 take them one every other week, that's fine too. I was just
6 trying to make it easy, and likewise with the U.S.
7 associates. We've agreed to produce them all in Atlanta
8 over a specific period of time to make it more convenient
9 for her. If she would rather go their places of business or
10 home all around the country on different dates, that's fine
11 too.

12 THE COURT: Okay. Anything you guys want to say
13 about the What's App issue?

14 MR. ANGLE: Your Honor, yes. We have spent
15 hundreds of thousands of dollars collecting lots and lots of
16 communications that I don't think are really relevant at all
17 to the patent issues in the case for the reasons we talked
18 about before and probably aren't really all that relevant to
19 the antitrust stuff. That enormous amount of information is
20 being cascaded upon opposing counsel right now and there
21 will be probably be some more that she has to absorb.

22 But at this moment, we don't know that there's
23 anything missing or there's any additional communication
24 that she really needs. I think it would be incredibly
25 burdensome to require us to now start also collecting other

1 forms of communication for which there has been no showing
2 whatsoever by plaintiff that they really are relevant. She
3 has to show good cause under the ESI agreement. She's made
4 no such showing.

5 THE COURT: And you have not, just to be very
6 clear about what she is and isn't getting, nowhere in this
7 document request are What's App, We Chat, texts, Facebook
8 messenger or other sort of texting or social media type
9 communications between principals or parties in your case?

10 MR. ANGLE: The ESI agreement provided that --

11 THE COURT: My question was not whether you think
12 you're right. Not produced, right?

13 MR. ANGLE: Correct. That's where I was going,
14 the parties agreed upfront --

15 THE COURT: And so you --

16 MR. ANGLE: Correct.

17 THE COURT: Okay, thank you.

18 MR. ANGLE: Anything else, Your Honor?

19 THE COURT: No, I don't think so.

20 MR. ANGLE: Okay. Thank you.

21 THE COURT: Okay, I'm going to issue some rulings.
22 I'm going to give some guidance and then I think I'm going
23 to set up a call.

24 I'm going to deny the motion to compel that would
25 just give a blanket you have to give me everything we've

1 asked for or else you're already in contempt. I'm denying
2 it in part, in overwhelming part because these documents are
3 being produced. They have been produced with increasing
4 numbers, and it's all supposed to be done barring unforeseen
5 circumstances by Saturday. And I'll note that Saturday is
6 the date that you said it was going to be done by even
7 before Ms. Alton brought the motion.

8 I'm not though, and I don't want to be taken as
9 not sharing some of Ms. Alton's frustration about how
10 difficult this process is and how she feels like she had to
11 push and push to get these documents. I'm not going to say
12 whether that was reasonable or not reasonable, but we've
13 been waiting a while for these documents, and I'm very
14 hopeful that they contain all of the things that had been
15 suggested that they contain.

16 If there are specific showings that were sought
17 that were purported to be in there that are not in there, I
18 want to hear about those, and you're welcome to file a
19 formal motion to compel. I would much rather have that
20 brought to me through the informal process so we can act
21 much more quickly because we are starting to run out of time
22 to give Ms. Alton what she needs in order for depositions to
23 occur. I won't view it as you not really meaning it if you
24 bring it through the informal process. I'll view it as more
25 focussed and fast. But I'm going to deny at this point some

1 blanket idea that there has been a failure or just a blanket
2 finding that it all has to be done, because I guess I'm sort
3 of finding its moot.

4 I'm also not going to issue a blanket order as
5 requested that mandates a reasonable search to have been
6 conducted. I don't think that that's helpful because one
7 person's reasonable search is another person's utterly
8 unreasonable search and so saying that that's true is just
9 saying the obvious. You need to be responding to these
10 discovery requests, conducting reasonable good faith
11 searches in an effort to gather the documents that are being
12 requested. Communicate what those searches are, communicate
13 where you are looking, time frames, search terms being used,
14 and be open to feedback about where those might be
15 imperfect.

16 One thing that the Sedona Conference teaches us is
17 that this is a dialogue and that it's only effective if it's
18 a dialogue, and so you need to continue to update about
19 terms used. You need to continue to show where you think
20 terms are failures.

21 If this Chinese language issue, you know, she
22 can't know how your clients refer to the things that she is
23 asking about. So that puts some good faith burden on you to
24 try to say we've looked at all of these e-mails, and really
25 what they mostly call it is X, and so that is covered in

1 these search terms. This needs to be a dialogue. I think
2 that the rules require reasonable search, so must do a
3 reasonable search, but I'm not issuing an order to that
4 effect.

5 There does need to be communication and
6 transparency about things that are being withheld, so that
7 Ms. Alton knows that it doesn't exist or whether there's a
8 fight about it and that those are the ones to bring to me.

9 I am not going to deem Polygroup's objections
10 waived as a result of 2016's conduct. I find that Polygroup
11 provided well enough timely written responses to the Rule 34
12 request before the stay with some general and some specific
13 objections. General objections are often insufficient but,
14 honestly, that was early and we know the way this works.
15 The objections get more focused, the production reveals
16 what's being withheld and what is said in the very first set
17 of objections is quite often sort of nonsense that I'm not
18 quite sure coming from a much more pragmatic practice area
19 why people even make them because they don't seem to do a
20 lot, but I'm not finding that adhering to that general
21 practice including some specific objections here constituted
22 a waiver.

23 I want things to get specific now. We're in the
24 home stretch, and so if you are withholding, if you are
25 objecting, be very specific so Ms. Alton is empowered to

1 bring the specific disagreement to me.

2 For instance, you've made very clear that you are
3 willing to now produce pre-patent but only to 2010. If this
4 is an issue about which Ms. Alton thinks that that's the
5 illegitimate line to run, that's the perfect kind of thing
6 to bring to me what is the appropriate date, but I'm not
7 finding objections have been waived.

8 I am also not for the same reason there was a
9 request for me to find some of the objections as overbroad
10 and unacceptable, you know, they kind of are overbroad
11 refusing to produce things that aren't relevant, but the
12 proof is always in the pudding on what you are producing
13 that is relevant. So, again, I'm not going to find that
14 this was out of step with practice.

15 With respect to the interrogatories, it sounds
16 like Polygroup has agreed that their previous position on
17 financial documents is untenable. I am granting the motion
18 to the extent that it requested better responses to
19 interrogatories 4, 5 and 12, and better provision of
20 documents through Rule 33D. The previous production was not
21 adequate, but it sounds like the new production might be.
22 So I am granting this request, and I will leave it to
23 Ms. Alton to bring to my attention if it turns out that it's
24 still not adequate, but you know what, this needs to look
25 like it sounds like you've gotten more cooperation from your

1 client around this and, hopefully, this is now fixed, but I
2 do grant that.

3 I am very thankful that you're not asking me to
4 count subparts, and it sounds like we have some
5 understanding that the supplements to 12 and 13 have been
6 provided, so I'm going to deny that motion as it stands
7 right now.

8 However, if Ms. Alton reviews those along with the
9 other production and decides that they haven't provided
10 responsive information, I want to know about it.

11 I deny the request to find that the response to
12 interrogatory number 2, which is a Rule 33D response that
13 incorporates 24 engineering documents and several purchase
14 orders. I am denying a request or a motion to demand more
15 there. The supplemental responses provide reasonably
16 detailed information in response to this request, and
17 Polygroup is agreeing to further supplement its response is
18 probably under work already, so I am denying that motion.

19 I'm denying a motion to compel responses to the
20 contention interrogatories at this stage. Two of them have
21 been responded to. There's an assurance that the third will
22 be, and that those two will be supplemented. It's my
23 understanding that that's the way contention interrogatories
24 are frequently handled. If we come to a point, Ms. Alton,
25 where we're at the end of fact discovery or near the end of

1 fact discovery and these contention interrogatories have not
2 been provided, bring that to my attention. But in my
3 experience with civil litigation, it is very common for
4 contention interrogatories to be based on the cumulation of
5 fact discovery and, therefore, provided near the end.

6 I don't want these to be done on the last day just
7 because, and it sounds like you're already starting to
8 supplement, which is appreciated and strongly preferred.
9 And the same goes for any contention interrogatories
10 directed the other way. I don't want those on the last day
11 if possible.

12 I've already scolded you for irrigating onto
13 yourself the ability to decide that you're not providing
14 antitrust discovery. That's not how things are done, and I
15 was going to grant that so, but, I guess I don't need to
16 grant it because you've withdrawn that objection and,
17 therefore, that information is coming.

18 I am going to order the parties to meet and confer
19 about the location of depositions. My general order is that
20 it is appropriate for these depositions to take place in
21 Hong Kong. I find that there is no reason and that
22 specifically Willis hasn't shown a reason to upset that
23 general rule, particularly given that Willis is also a
24 company with headquarters in Asia. Polygroup is a company
25 with headquarters in Asia. Even though the U.S. courts are

1 the ones that honor this patent or fight for this patent,
2 it's completely expected that these depositions are going to
3 occur in Hong Kong or China. And here it's not just that
4 Hong Kong is convenient. I've been educated that Hong Kong
5 makes specific sense.

6 However, if there are people who are traveling to
7 the United States, they have to be deposed in the United
8 States. If they are coming here at a time it's convenient
9 for Ms. Alton to depose them prior to the end of discovery,
10 and she finds out about it and I find out about it, and then
11 they went back to Hong Kong for depositions, unless there's
12 a really good reason that that doesn't work, like you all
13 are in Hong Kong for depositions, they should be deposed
14 here. But, otherwise, I'm not requiring all of these
15 witnesses to come to the United States for depositions.

16 It sounds like you are open to having a handful of
17 these people deposed in the United States, at least the
18 three that maybe travel to the United States more
19 frequently. Let's do that. Let's try to make things easier
20 for all of you, frankly.

21 All right. Let's talk about the coronavirus. I
22 think that it may be true that it's harder, less safe and
23 less workable to go to China than to have people come from
24 China to the United States. I don't know that that is at
25 all true about Hong Kong. My ruling that these should take

1 place in Hong Kong with the exception of those in the United
2 States that I've been identified does not trump the CDC.

3 So if in a month it turns out that you can't get to
4 Hong Kong or that people from Hong Kong can not get here for
5 depositions either, we need to be cognizant of the fact that
6 that might require flexibility or creativity, delay or video
7 depositions, who knows? I'm hopeful that that's not going
8 to be the case. I'm hopeful that Hong Kong continues to do
9 business and that it continues to be a workable place for
10 these depositions, but I'm very open to having phone calls
11 to address this as a dynamic and prevalent issue in this
12 case.

13 That also applies to your challenges getting
14 documents out of your client's factories that might be
15 affected by the coronavirus. I expect both sides to be
16 really tolerant of the way that this virus might be
17 affecting their other side's clients and representatives and
18 factories and things like that, so let's just all be aware
19 that even my black robe does not give me power of the
20 coronavirus or a lot of other things frankly, And let's try
21 to be flexible around this.

22 I'm not going to change my ruling based on the
23 coronavirus risk right now because there is no record before
24 me that makes clear that one or the other things makes
25 sense, but if that changes, I'm open to readdressing this

1 issue.

2 When are you all thinking of as time windows for
3 these depositions? It sounds like we've already got Atlanta
4 set. When are those going to be?

5 MS. ALTON: Your Honor, I was just working with
6 one of my partners on splitting up the U.S. based
7 depositions. I think they are going to occur in March,
8 assuming I actually have the documents I need to take the
9 depositions, which I do not yet, so I don't know.

10 THE COURT: You don't know, right. You don't even
11 know what you've got right now, let alone the fact that it's
12 not Saturday. But assuming that that's all good, because
13 I'm assuming that that's all good, you're hoping for March
14 for the Atlanta --

15 MS. ALTON: Yes, I think that there is some days
16 they provided in March. They also provided some by late
17 February, but there's no way that we can assess the document
18 production by then.

19 THE COURT: Okay. And then when are you thinking
20 of for some of the depositions in Hong Kong? I guess it's
21 too early to know because until today you didn't know what I
22 was going to say.

23 Okay, well, start talking, see what we can figure
24 out. Let me know if you need further clarification, if
25 there's individual disputes that I can address or if the

1 coronavirus changes this landscape.

2 I'm going to deny Willis' motion to compel
3 documents from What's App, We Chat, SMS, Facebook Messenger
4 or other message or social media forms of ESI for four
5 reasons:

6 First, I don't find that Willis has sustained its
7 burden of demonstrating that these workers frequently used
8 these forms of communication to communicate about important
9 business information nor to show that those communications
10 aren't duplicative of communications that are otherwise
11 available. The burden is on Willis to establish that and,
12 you know, simply asserting that a lot of business people in
13 China like to do business on What's App isn't enough in this
14 case.

15 The second reason is I have no information before
16 me about whether these are personal accounts or business
17 accounts. My What's App is personal. I don't Facebook, but
18 my Facebook Messenger would be personal. My We Chat or, you
19 know, Google Messaging would be personal to me, and there's
20 special showings that have to be made before a party can be
21 required to invade its employees' personal forms of e-mail
22 and other communications, and I don't have those showings
23 before me that these methods are or aren't personal or are
24 so used for business that it betrays that or that Polygroup
25 can even be said to be in control of these documents.

1 The third basis is I don't even have any sense of
2 when or where or who, which users, which data? It's just
3 too broad and speculative.

4 And then, finally, I'm going to point to that
5 early ESI protocol. I know it was early days, but everybody
6 agreed that these weren't going to be part of the
7 discoverable things, and at this stage on this showing I'm
8 not going to upset that, so I'm denying the motion to compel
9 as to those items.

10 I'm not awarding any fees, kind of see the
11 previous pox on everyone's houses. I don't think that this
12 is an ill-advised motion. I actually think that it helped
13 focus you on getting these documents done on time.
14 Although, I do note that they told you this date, and they
15 honored this date even before you came to court, so I don't
16 think it's inappropriate that you came to me, and even some
17 of these things that I sent you back to meet and confer, I'm
18 not finding that they shouldn't have been brought. So I'm
19 not shifting fees, but I'm also not awarding fees, because I
20 find that each side has been working to get this stuff done
21 and there isn't a clear winner in this landscape such that I
22 would find one side's conduct unreasonable.

23 I think that I have addressed all of the
24 individual line items in your motion, Ms. Alton. Are there
25 any that you think that I am missing?

1 MS. ALTON: Your Honor, there's just maybe a
2 couple of points, and one is that when I understood there
3 were substantial e-mail deletions, that's why I went to
4 Mr. Angle to address this We Chat, What's App, et cetera.

5 THE COURT: Oh, yeah, I'm glad you brought this
6 up, but keep talking.

7 MS. ALTON: I had requested at that time that
8 those documents be placed on litigation hold. I understand
9 that their production is not being compelled at this point,
10 but whether or not these records are used for business
11 purposes, by what witnesses, and et cetera, may be a subject
12 of future discovery, and I would appreciate it if a
13 litigation hold could issue as to those as of this date.

14 THE COURT: Okay. So that is worrisome to me
15 because we're not talking about a business litigation hold.
16 We're talking it sounds like you're asking for a litigation
17 hold as to the personal accounts of a perhaps unlimitless
18 number of Polygroup employees?

19 MS. ALTON: No, I believe my requests were
20 actually directed at their sales representatives and the
21 directors that to the extent they have correspondence either
22 among one another or with retailers, that was the direction
23 of my document request, and it's also the same direction for
24 my request on the litigation hold issue. My concern is
25 simply now that I've asked for them, they should be notified

1 that they should not be deleting them at this point. I do
2 understand that there's no auto delete for most of those
3 types of records but --

4 THE COURT: All of mine are on auto delete.

5 MS. ALTON: I believe that it's either What's App
6 or We Chat doesn't even have that function, and they just
7 recently said you may have to turn it on. So in light of
8 the fact that I have ongoing concerns about historical
9 documents especially that might end up being if it's the
10 only repository for certain time periods, I just don't have
11 an understanding of those facts, but I haven't taken the
12 depositions of these folks.

13 I'm just saying that I think they should be
14 covered by a reasonable litigation hold to the extent that
15 they are used for business purposes. It might be that most
16 litigation holds don't have to cover personal information
17 anyway. I just have no way of knowing if there may be a
18 reason to be preserving that information.

19 THE COURT: Okay, what's your position on this?

20 MR. ANGLE: Your Honor, we can meet and confer
21 about it. I don't know if they're personal accounts or not.

22 THE COURT: Okay. How about you find out what you
23 can. You tell what you want, try to meet and confer about
24 this. I understand Ms. Alton's position, which is maybe I
25 lost this battle today but maybe facts will reveal that

1 there's some good cause down the road, and it would be
2 unfortunate if between now and then all of these go missing.

3 So, you know, but I am mindful that if you're
4 talking about somebody's personal cell phone, I'm not sure
5 that a litigation hold is an appropriate, for a sales rep,
6 not an executive. I know we've looked at this in other
7 cases. I'm just not sure that that's appropriate, but if
8 you can find an easy way to do it, much better safe than
9 sorry.

10 You've reminded me of an important point, so
11 before I hear your other concern. You've found backup
12 disks?

13 MR. ANGLE: Yes, Your Honor, yes, we have.

14 THE COURT: Great.

15 MR. ANGLE: So there are no lost e-mails.

16 THE COURT: There are no lost e-mails.

17 MR. ANGLE: Correct.

18 THE COURT: The backup disks are complete.

19 MR. ANGLE: Correct.

20 THE COURT: Awesome. And --

21 MR. ANGLE: There's a declaration that was with
22 the filings that explains the background to it. But the
23 long story short is there were some misunderstandings
24 because of language issues, and on the most recent trip to
25 China we found backup disks that included custodians going

1 back to 2009. So there are no e-mails that are lost in that
2 prior period.

3 THE COURT: And now those are part of the current
4 production.

5 MR. ANGLE: They are being produced and collected
6 and, yes.

7 THE COURT: Okay, terrific.

8 Ms. Alton, you were going to talk about something
9 else.

10 MS. ALTON: Yes, and that's this kind of goes to
11 the objections waiver. What I historically requested in a
12 number of my items, well, probably double digits with items
13 of correspondence on the topic with opposing counsel is that
14 on the first set of requests, they didn't comply with what I
15 view as federal rules in specifying whether or not they are
16 withholding documents. I still don't know that I really
17 understand that, so they would say, "and we object to this,"
18 so I don't know if there are any objections still being
19 maintained.

20 And as I noted on the record earlier, if you look
21 at Exhibit 29, which is their second set of requests for
22 production, they have objected to every single request as I
23 reiterated earlier and said they are not producing
24 documents. Yet, they specifically say they are not
25 producing documents.

1 So if that's not true, what I had asked is to know
2 which ones those objections are being stood upon, and for
3 the ones that they've agreed to produce documents, just an
4 e-mail chain, I would like to know if that's also something
5 that I can expect to be maintained in this case.

6 THE COURT: Okay. I think he's verbally expressed
7 that they are not standing on those objections at all today.
8 They are not standing on those objections. Now, I
9 understand your point is there are some things in here that
10 aren't just covered by we give up on the antitrust.

11 MS. ALTON: Most of their requests I would say
12 actually related to the commercial success of the products.
13 I have things in there regarding how much do you charge for
14 the non-patented versus the patented? Awards have nothing
15 to do with antitrust. So he said, oh, antitrust we give up.
16 Most of them didn't relate to antitrust issues, so I know
17 that there are a number of them that specifically said Ricky
18 Chong's We Chat. Clearly, I'm not going to get those at
19 this point, so I don't feel certainty by the assurance that
20 they're waiving their antitrust objections, that I'm going
21 to be getting documents responsive to the second set or that
22 I know which ones because they all say I'm not getting
23 documents.

24 THE COURT: Okay.

25 MR. ANGLE: I thought I made it about as clear as

1 possible to make that the objection we're standing on is
2 privilege and pre-2010.

3 THE COURT: Okay. They are withdrawing all of
4 their objections. I don't, you know, I share your thought
5 that not identifying withheld documents is not okay, but
6 it's my understanding in practice in cases like this where
7 there are massive document productions, you can't know what
8 you are withholding until you know what you are producing,
9 and so I don't find that the fact that they didn't include
10 that list back in 2016 is wrong. I mean it does seem to
11 violate the rule, but it also seems like it is always done
12 because you haven't done your document production yet.

13 I take this as a disavowal of objections to all of
14 requests for documents too, with the exception I think of
15 the things that are specifically covered by the We Chat
16 requests. So if you look and you don't buy it, and you
17 think that there are some that they're actually continuing
18 not to produce, mention it, mention that they're not there,
19 and let's bring it to my attention.

20 MR. ANGLE: And the only thing I would add to that
21 because I haven't looked back at every single request, if
22 there's something that we think, oh, yeah, that objection
23 was right, I will make it explicit, and it will be crystal
24 clear, and we'll say we are withholding this --

25 THE COURT: Okay.

1 MR. ANGLE: -- so that like you said, so we can
2 crystallize the issue.

3 THE COURT: Right. Do that as soon as you can.
4 I'm not going to expect it to be by Saturday because you've
5 got a lot on your plate before Saturday, including,
6 hopefully, observing Valentine's Day. But next week, if, go
7 back through Request For Production 2, and if there's
8 anything beyond pre-2010 and privileged that you are and the
9 We Chat issue that you are standing on, she gets to know
10 that so she can know if she has to look through all these
11 documents and find that answer or not.

12 I mean, frankly, the answer to her request for
13 production that's satisfied by a document production should
14 be referring each of those requests to which documents are
15 responsive to that request, and that's what pure compliance
16 with the rules requires. It sounds like you're not doing
17 that.

18 MR. ANGLE: Neither party is doing that, Your
19 Honor.

20 THE COURT: You're not doing that either?

21 MS. ALTON: Referring to their requests?

22 THE COURT: Yeah, going back and for each request
23 for production say this request for production is satisfied
24 by these 47 individual documents in our production.

25 MS. ALTON: I am willing to concede to opposing

1 counsel that that would be impossible in document
2 productions this large. We are referring to the document
3 requests in connection with our review of development of
4 search terms, going through them to make sure is there a
5 repository for this thingy, but I think it would be very
6 difficult to list by Bates number in the bulk that we're
7 dealing with.

8 THE COURT: Did you just say "thingy?"

9 MS. ALTON: It's a legal term, Your Honor.

10 THE COURT: Yes, it is, just like "a pox on your
11 house," which I retracted from the record.

12 Okay, anything else that you think that we need to
13 discuss?

14 MS. ALTON: Not at this time.

15 THE COURT: Okay.

16 MS. ALTON: Oh, I did think of a thing. So we
17 have this pending motion with regard to Michael's on the
18 subpoena production, so the scheduling issue is that we had
19 attempted to identify, you know, the subpoenas we sent out
20 for basic information are very, frankly, identical to one
21 another of a number of different retailers.

22 MR. ANGLE: Your Honor, may I be heard? I have a
23 flight that I have to catch.

24 THE COURT: Yes, is there anything else you need
25 to talk about?

1 MR. ANGLE: No, Your Honor, if that's okay.

2 MS. HUGHEY: I'm going to cover the rest.

3 THE COURT: I want visual confirmation of the
4 cuteness of the dogs that you have to get home to.

5 MR. ANGLE: Thank you, Brian, for passing that
6 along.

7 THE COURT: Yes, I'm sorry, you should have
8 interrupted me earlier. Yes, goodbye, especially since this
9 isn't really your issue.

10 MS. HUGHEY: I'll stay here and cover anything
11 else, Your Honor.

12 THE COURT: Good luck.

13 (Mr. Angle exits courtroom)

14 MS. ALTON: The intent was to get one of those
15 motions noted to kind of use your ruling on what we should
16 be discovering with respect to a number of other subpoena
17 parties. We've got about ten or 12 parties in the Minnesota
18 jurisdiction.

19 With the delay on that, or potential delay on that
20 motion, I'm not sure if I should be attempting to get
21 hearing dates with the large number of people we've
22 subpoenaed with Minnesota subpoenas or.

23 THE COURT: Is everyone not complying?

24 MS. ALTON: There seem to be some widespread
25 objections to providing sales spreadsheets that relate to

1 products other than Polygroup's, and the reason that's an
2 issue is that Polygroup in some prior pleadings before the
3 PTAB took the position that basically an industry-wide fort
4 of market view had to be taken to see if the share of
5 infringing products was increasing. So that was one of the
6 issues.

7 Also, at least some of the people that have been
8 subpoenaed have told us that they've had communications with
9 Polygroup and been assured that Polygroup is producing all
10 of the documents so that they don't have to.

11 THE COURT: Okay. I don't want to hear merits
12 right now.

13 Let's talk scheduling though because I know one of
14 your concerns about us taking that off the calendar was how
15 long it would take, and it is my expectation that I will
16 look at this the day we hear about what the Court in Texas
17 does. And if we need to have a hearing, I will get it on as
18 quickly as possible, so I'm not just going to put this at
19 the back of the line for things on my plate when Texas does
20 something.

21 So I think that might be as much as I feel like is
22 appropriate for us to talk about in the absence of Michael's
23 counsel.

24 MS. ALTON: Right.

25 MS. HUGHEY: I'm not Michael's counsel.

1 MS. ALTON: My sort of ancillary question was in
2 view of that potential delay, if I should try to schedule a
3 hearing with multiple parties or at least one different
4 party, so that I can get this on the calendar because I am
5 just concerned about the time frame of trying to get one
6 order and then going back to everybody else.

7 THE COURT: Right. I don't view Texas as being
8 some blanket review of the overbreadth or not overbreadth of
9 your third party subpoenas. Texas has before it the issue
10 of whether a motion to quash a subpoena served in Delaware
11 and in Minnesota should be decided in Texas for Michael's.

12 So, although, I hear you saying that a lot of the
13 factual fight about the content of these subpoenas will
14 overlap, I think they should be filed, if you have served
15 subpoenas, isn't it on them to file motions to quash or for
16 you to file motions to compel? And if the subpoena served
17 in Minnesota for a Minnesota company, I don't think Texas'
18 resolution of a procedural question means that I can't hear
19 those.

20 MS. ALTON: Right, so I guess I'm not being very
21 clear. And my question is would you prefer that I attempt
22 to obtain a notice of hearing for maybe ten parties to come
23 in and complain about their subpoenas?

24 THE COURT: Do them one at a time?

25 MS. ALTON: Exactly.

1 THE COURT: Well, I think you know the answer to
2 that. I want no one to complain about their subpoenas, but
3 I would just assume let's try to get everybody here at once
4 and the sooner the better. I'm open to that. It might be
5 difficult for you, and so maybe do what you can, but I
6 prefer probably all at once.

7 Otherwise, what's going to happen I think is that
8 we're going to be doing this piecemeal, and person 3 might
9 come up with a good argument that person 1 didn't.

10 MS. ALTON: None of them have good arguments, Your
11 Honor.

12 THE COURT: I would try to get a couple hour block
13 of time on my calendar. I'll work with my assistant to find
14 some things that are pretty quick. You try to work with the
15 opposing counsel in these various cases, and let's try to
16 get this going.

17 MS. ALTON: That would be great, and sorry for the
18 sideway, I just wanted to note --

19 THE COURT: I think that that's right. I, if I
20 after consulting with Brian have some different thoughts,
21 I'll e-mail you and let you know, but I don't want to talk
22 substance in any way without all of those people being
23 represented. I just want to think about the logistics of
24 how to tee up their issues. And the way I hear you saying
25 it, none of them are moving to quash these in other courts.

1 MS. ALTON: No.

2 THE COURT: Okay, good, so get on our calendar.

3 MS. ALTON: Thank you very much, Your Honor.

4 THE COURT: I think that that is all we need to
5 do. My last question was should we set a call or am I just
6 asking for it?

7 MS. ALTON: I would appreciate having something on
8 the calendar which we can cancel sufficiently far out where
9 we can assess the collection, identify potential issues,
10 talk about them with counsel and then have a call. I don't
11 think it needs to be in the immediate future.

12 THE COURT: I was thinking 30 days and, obviously,
13 what I want is everybody to review the productions and
14 everybody to meet and confer about a lot of things, but I
15 was thinking maybe Monday the 16th?

16 MS. HUGHEY: I assume that works, but would it be
17 okay if I ran that date by the people who are more familiar
18 with the production issues?

19 THE COURT: Absolutely.

20 MS. ALTON: Your Honor, we'll also follow-up if
21 there's any issue.

22 THE COURT: Wait, wait, wait, we're already
23 together on your motion to compel that day.

24 MS. HUGHEY: Yes, we are.

25 THE COURT: So meet and confer and try to make

1 that go away, but if assuming that you can't, let's assume
2 that after we address those issues would be an appropriate
3 time to informally address issues that we've talked about
4 today. So we'll be in person rather than on the phone. And
5 what I was going to do is ask for you by four o'clock on the
6 Friday before, that's Friday March 13th, if you do want me
7 to talk about something, flag it in a letter that you e-mail
8 to chambers CC'ing opposing counsel, so I know how to set
9 the table for that conversation, but that will happen after
10 the hearing on motion to compel.

11 MS. HUGHEY: That sounds good, Your Honor. Is
12 your expectation that that meeting on the 16th after the
13 hearing is just covering the issues that we talked about
14 today? Or can the parties raise additional issues?

15 THE COURT: Well, I think we can raise additional
16 issues. I would love there to be none, but I recognize that
17 as we are getting closer to this deposition window, closer
18 to the deadline, we can't keep waiting for full cycles of
19 motions to compel and motions for protective order, and so
20 these issues, new issues that weren't apparent until this
21 production got reviewed by the plaintiffs, any additional
22 issues, but let's try to keep them robustly met and
23 conferred where possible, narrowed where possible, and if
24 this doesn't work, I'll go back to requiring formal motions,
25 and I'll just expedite the schedule.

1 But I handle so many of my discovery disputes
2 informally. I find it to be incredibly helpful, and I would
3 love it if we can use that to get it over the finish line
4 here. Okay.

5 All right. I think that that covers everything.
6 Thank you all. I am going to issue the briefest order that
7 says sort of granted in part, denied in part as expressed on
8 the record, so the explanation for what we did and why is
9 captured in our conversation today.

10 Okay. Thank you. Have a good weekend, everybody.
11 Stay warm.

12 (Court adjourned at 4:31 p.m.)

13

14 * * * *

15 **REPORTER'S CERTIFICATE**

16 I, Maria V. Weinbeck, certify that the foregoing is
17 a correct transcript from the record of proceedings in the
18 above-entitled matter.

19

20 Certified by: s/ Maria V. Weinbeck

21 Maria V. Weinbeck, RMR-FCRR

22

23

24

25

EXHIBIT B



Larina A. Alton
Direct Dial: 612.672.8305
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larina.alton@maslon.com

March 2, 2020

VIA E-MAIL

The Honorable Kate M. Menendez
United States District Court
8E U.S. Courthouse
300 South Fourth Street
Minneapolis, MN 55415
menendez_chambers@mnd.uscourts.gov

Re: *Willis Electric Co., Ltd v. Polygroup Ltd (Macao Commercial Offshore) et al.*
Court File No. 15-cv-3443-WMW-KMM

Dear Judge Menendez:

We write to update the Court on the evolution of the complex crisis centered on the outbreak of COVID-19, a deadly new coronavirus (hereinafter “coronavirus”), last year in mainland China. Unfortunately, the situation has deteriorated even further in recent weeks, and its impact continues to spread beyond mainland China.

The Court heard Willis’s Second Motion to Compel on February 13, 2020. Before the hearing, the parties provided argument regarding the location of the depositions of Polygroup’s executives and sales personnel, noticed both individually and pursuant to Fed. R. Civ. P. 30(b)(6). At the hearing, counsel for Willis articulated Willis’s position that all of these depositions should be taken in the United States, and why the relevant law and facts surrounding this case supported that position. Conversely, Polygroup’s counsel argued that because Polygroup is headquartered in Hong Kong, the default rule dictates that all depositions of Hong Kong-based Polygroup personnel should occur in Hong Kong, and that the Court should not deviate from the default rule. The Court ultimately ruled that Polygroup’s Hong Kong-based personnel should be deposed in Hong Kong, but that specific Polygroup personnel who have traveled to the United States in the past should be deposed in the United States. The Court directed the parties to meet and confer regarding the deposition locations of those individuals and corporate representatives. In its discussion of the deposition location issue on the record, the Court acknowledged that

it’s harder, less safe and less workable to go to China than to have people come from China to the United States. I don’t know that that is at all true about Hong Kong. My ruling that these should take place in Hong Kong with the exception of those in the United States that I’ve been identified does not trump the CDC. So if

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in a month it turns out that you can't get to Hong Kong or that people from Hong Kong cannot get here for depositions either, we need to be cognizant of the fact that that might require flexibility or creativity, delay or video depositions, who knows? I'm hopeful that that's not going to be the case. I'm hopeful that Hong Kong continues to do business and that it continues to be a workable place for these depositions, but I'm very open to having phone calls to address this as a dynamic and prevalent issue in this case.

(February 13, 2020 Hearing Tr. ("Tr.") 53:22-54:12.) In short, and as the Court acknowledged, the "coronavirus has complicated our geography question." (*Id.* 32:13-14.)

As the Court noted in the hearing, the court may consider "(1) the location of counsel for both parties, (2) the size of the defendant corporation and regularity of executive travel, (3) the resolution of discovery disputes by the forum court, (4) the nature of the claim and relationship of the parties, and (5) expense." *Webb v. Ethicon Endo-Surgery, Inc.*, No. CIV. 13-1947 JRT/JJG, 2014 WL 7685527, at *4 (D. Minn. Aug. 8, 2014), *aff'd*, No. CIV. 13-1947 JRT/JJK, 2015 WL 317215 (D. Minn. Jan. 26, 2015).

Despite Polygroup's misleading contention that Willis moved the Court for an order that depositions be conducted in Minnesota, Willis has consistently maintained that it would be willing to conduct the corporate depositions anywhere in the United States. (*See* Tr. 32:16-33:2.) Polygroup is a large multinational corporation whose executives travel to the United States in the ordinary course of business, a fact conceded by Polygroup's counsel at the hearing on Willis's motion. (*See id.* at 43:23-44:9.) Indeed, the three executives, Alan Leung, Ricky Tong, and Elmer Cheng, appear to regularly travel to the United States for sales meetings with retailers and trade shows.¹ These facts also distinguish this case from the cases cited by Polygroup in opposition to Willis's motion. *Cf. Dagen v. CFC Grp. Holdings Ltd.*, No. 00 CIV. 5682 (CBM), 2003 WL 21910861, at *3 (S.D.N.Y. Aug. 11, 2003) (no U.S. depositions ordered where the absence of the sole deponent of the defendant, a small corporation with one shareholder in a financially precarious situation, would have a significant adverse impact on the defendant's business); *Sloniger v. Deja*, No. 09CV858S, 2010 WL 5343184, at *9 (W.D.N.Y. Dec. 20, 2010) (refusing to compel deposition of natural person in the United States where the plaintiff failed to cite "cases involving natural persons as defendants being compelled to leave their domicile to be deposed" and distinguishing cases cited by the plaintiff clearly recognizing that "[c]orporate defendants are frequently deposed in places other than the location of the principal place of business, especially in the forum, for the convenience of all parties and in the general interests of judicial economy."). The regularity of this travel coupled with Polygroup's substantial resources

¹ Counsel for Polygroup has not yet responded regarding Polygroup's executives' preexisting plans to travel to the United States. Willis notes that the Court's order provides some incentive to cancel any such plans.

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weigh heavily in favor of requiring Polygroup to make these deponents available in the United States.

Hong Kong depositions also work substantial prejudice on the Plaintiff with respect to safety and expense. In just under three weeks since the February 13 hearing, the situation in Hong Kong has deteriorated, just as the Court noted that it might. For the Court's convenience we have collected a sampling of the most relevant and current reporting on the issue, and attached news articles to this letter as Exhibits 1-6. On February 28, the Centers for Disease Control and Prevention upgraded its travel advisory regarding Hong Kong from 0 to 1, issuing a travel advisory noting that "multiple instances of community spread [of the coronavirus] have been reported in Hong Kong. Community spread means that people in Hong Kong have been infected with the virus, but how or where they became infected is not known." (Ex. 1.) Several news outlets have reported that political unrest in Hong Kong, which has led to increasing political instability and rising tensions between Hong Kong and China in recent months, is exacerbating the spread of the coronavirus. For example, on March 1, 2020, the Hong Kong Free Press reported that "[a]s the coronavirus grows closer to becoming a global pandemic ... this atmosphere of distrust in two highly opaque governments is starting to pose a serious threat to global public health." (Ex. 2.) The Hong Kong government's handling of the pandemic has also lead to additional civil unrest and renewed protests in Hong Kong. (Ex. 3.) While the rate of infection in the United States remains comparatively low, the New York Times reports that as of March 2, 2020, the coronavirus has infected over 90,000 people globally, killing more than 3,000. (Ex. 4.) Much farther from the epicenter of the outbreak than Hong Kong, European and Middle Eastern countries like Italy and Iran have many confirmed cases², and those numbers only appear to be rising. (*Id.*) Though Hong Kong's reported infections have not rapidly increased and remain at only 93 cases, the reported number is the subject of citizen unrest and suspicion. (*See, e.g.*, Ex. 3.) There have also been at least three deaths due to the virus. Hong Kong still has open borders with China, a country the CDC has issued a level 3 warning travel advisory to.

The spread of the coronavirus will very likely continue to impact the ability of Americans to re-enter the country after traveling abroad. The continued global spread of the coronavirus has led to speculation that the United States government may consider closing the border entirely to prevent the spread of the disease from travelers returning from abroad. President Trump has already restricted the entry of individuals traveling from China and Iran, and noted in a recent press conference that "[w]e're thinking about all borders." (Ex. 5.) Notably, President Trump

² The New York Times article notes that Italy has 1,577 confirmed cases, and that while numbers coming out of Iran are unreliable, it is home to "the largest outbreak in the Middle East." (Ex. 4 at 2.)

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Page 4

has also already indicated that should citizens travel abroad and be exposed to infection, they should not be allowed to re-enter the country. (Ex. 6.)

There are currently no travel restrictions on persons coming from Hong Kong to the United States. Though counsel misstated that they may need to be self-quarantined for a period of time, this advisory only applies to persons with a known exposure to the virus.

Additionally, taking depositions in Hong Kong is intrinsically prejudicial. A court reporter will likely have to be flown to Hong Kong, as well as counsel to first and second chair, for a period of weeks to get through depositions. Deposition kits, a printer, and an office location will all need to be procured to support several international depositions. Although Polygroup referenced the “flight expense” alone, the expense of coming to depositions in the United States is dwarfed by the expense of professionals flying to and attempting to be supported in international depositions. Counsel is acutely aware of the discomfort of not only flying to Hong Kong herself, but of asking a partner or associate to also undertake the same risks. In addition to the facts above, each of which has developed since the Court’s discussion at the hearing, the news media indicates that it is principally immune-compromised people or the elderly who suffer the greatest risks. Lead counsel is immune compromised.³ Counsel and any accompanying court reporter will be traveling through several airports and residing in a hotel for weeks at a time – just the locations most at risk for coming into contact with the virus spreading globally.

Sincerely,

/s/Larina A. Alton

Larina A. Alton

Enclosures

³ Counsel’s physician offered to provide a letter confirming the dysfunction of her immune system.



Travelers' Health

Coronavirus in Hong Kong

Warning - Level 3, Avoid Nonessential Travel

Alert - Level 2, Practice Enhanced Precautions

Watch - Level 1, Practice Usual Precautions

Key Points

- The ongoing [outbreak of respiratory illness](#) (COVID-19) has spread to Hong Kong.
- The virus can spread from person to person.
- Travelers to Hong Kong should avoid contact with sick people and clean their hands often by washing with soap and water for at least 20 seconds or using an alcohol-based hand sanitizer with 60%–95% alcohol.

What is the current situation?

A new coronavirus that recently emerged in China has been detected in a number of other locations around the world. Many cases of this new coronavirus infection (COVID-19) have been associated with travel to or from mainland China or close contact with a travel-related case, but multiple instances of community spread have been reported in Hong Kong. Community spread means that people in Hong Kong have been infected with the virus, but how or where they became infected is not known.

Illness with this virus has ranged from mild to severe. Signs and symptoms of infection include fever, cough, and difficulty breathing. Sore throat also has been reported in some patients. Some patients also have reported diarrhea without other symptoms. This new coronavirus has caused severe disease and death in patients who developed pneumonia. Risk factors for severe illness are not yet clear, although older adults and those with chronic medical conditions may be at higher risk for severe illness.

What can travelers do to protect themselves and others?

At this time, CDC does **not** recommend canceling or postponing travel to Hong Kong. If you travel to Hong Kong, take the following steps:

- Avoid contact with sick people.
- Avoid touching your eyes, nose, or mouth with unwashed hands.
- Clean your hands often by washing them with soap and water for at least 20 seconds or using an alcohol-based hand sanitizer that contains at 60%–95% alcohol. Soap and water should be used if hands are visibly dirty.
 - It is especially important to clean hands after going to the bathroom; before eating; and after coughing, sneezing or blowing your nose.
- Pay attention to your health during travel and for 14 days after you leave.

If you spent time in Hong Kong during the past 14 days and feel sick with fever or cough or have difficulty breathing:

- Take your temperature.
- Seek medical advice. Call ahead before going to a doctor's office or emergency room. Tell them about your recent travel to Hong Kong, an area with community spread of coronavirus, and your symptoms.
- Avoid contact with others.
- Do not travel while sick.
- Cover your mouth and nose with a tissue or your sleeve (not your hands) when coughing or sneezing.

- Clean your hands by washing them with soap and water for at least 20 seconds or using an alcohol-based hand sanitizer that contains 60%–95% alcohol immediately after coughing, sneezing, or blowing your nose. Soap and water should be used if hands are visibly dirty.

Clinician Information

Healthcare providers should obtain a detailed travel history for patients with [fever or acute respiratory symptoms](#). For patients with these symptoms who were in Hong Kong and had onset of illness within 2 weeks of leaving, consider novel coronavirus infection and notify infection control personnel and your local health department immediately.

Although routes of transmission have yet to be definitively determined, CDC recommends a cautious approach to interacting with patients under investigation. Ask such patients to wear a face mask as soon as they are identified. Conduct patient evaluation in a private room with the door closed, ideally an airborne infection isolation room, if available. Personnel entering the room should use standard precautions, contact precautions, and airborne precautions, and use eye protection (goggles or a face shield). For additional healthcare infection control recommendations, visit [CDC's Infection Control](#) webpage.

For additional information, please see:

- [Coronavirus Disease 2019](#)
- [Information for Healthcare Professionals](#)
- [WHO, Coronavirus](#)

This notice was originally posted February 19, 2020.

Page last reviewed: February 28, 2020
Content source: [National Center for Emerging and Zoonotic Infectious Diseases \(NCEZID\)](#)
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Panic and rumours show how Hong Kong gov't lost credibility long before the coronavirus arrived

1 March 2020 23:14 • Guest Contributor • 6 min read



By Ocean Salazar and Marcos Moschovidis

Widespread “fake news” about the recent coronavirus outbreak, ranging from reports about escaped Chinese bioweapons to mass cremations in Wuhan, are becoming increasingly rampant. Unverified videos, origin-free photos, and other misleading media sources are quickly believed by a wide portion of the public and create an atmosphere of uncertainty and fear, as shown by irrational panic purchases of goods such as toilet paper in Hong Kong.



Police Say To Carry This

Police say everyone should carry this new safety device that protects against attackers.

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Are Hong Kong's citizens to blame for believing unconfirmed theories about the coronavirus, though? In short, no. They have merely become accustomed to doubting the official government narrative of the Chinese Communist Party (CCP), as well as Hong Kong's narrative.



File photo: Tom Grundy/HKFP.

Both have fostered a climate of distrust with a long record of cherry-picking convenient truths, discrediting facts that contradict their policies and suppression of free speech. As the coronavirus grows closer to becoming a global pandemic — with over 4,000 international cases, 92 of them in Hong Kong — this atmosphere of distrust in two highly opaque governments is starting to pose a serious threat to global public health.

The root cause of this problem can be found long before the recent virus outbreak. In fact, there have been countless times when the local government and the Hong Kong Police Force (HKPF) have violated public trust in order to validate their narrative. The following three examples all happened long before anybody knew about the virus:



First, the Hong Kong government has insisted on the notion that protesters are a minority of “rioters” and peaceful accomplices; Carrie Lam has described them as the “enemy of the people”, stressing the fallacy of a silent, pro-government majority. However, this silent majority was nowhere to be seen when pro-democratic incumbents won a landslide victory in the 2019 District Council Elections. The district councils are the only governmental bodies in Hong Kong chosen by full universal suffrage.



Photo: May James/HKFP.

Second, the local government, in concert with the police force, has stressed that “there is no police brutality”. To most Hongkongers and foreign observers, excessive police force is a reality and just the tip of the iceberg. International human rights organisations such as Amnesty International and Human Rights Watch have called for an independent inquiry into police use of force.

Rumours have flourished that police were in collusion with armed thugs who attacked unarmed protesters on July 21st, and also involved in the mysterious death of HKUST student Alex Chow Tsz-lok. In both cases, the police changed their message when new photographic and video evidence, contradicting their first narrative, started circulating.

After the 7/21 attacks, images of police walking away from Yuen Long station and conversing with white-shirted thugs were widely spread on social media. Police claimed that “a group of people had led some protesters to Yuen Long.” This claim has now been refuted by photos and videos of the armed mob patrolling and attacking civilians before Lam Cheuk-ting arrived in Yuen Long.





Photo: Screenshot.

In the case of Alex Chow Tsz-lok’s death, police had claimed they had not entered the car park where Chow was found until 1:05 am. The police later changed their statement when videos surfaced of them leaving the car park at 11:28pm.

Finally, the Hong Kong government’s continued regurgitation of Chinese state-media theories on the protests has validated the notion that the government serves Beijing, and not its citizens. Carrie Lam and her administration have long stuck to the theory that the Hong Kong protests are caused by “deep-rooted”, non-political issues, such as the economy and foreign influences.

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At the World Economic Forum in Davos, Carrie Lam and her administration embarked on a charm offensive to try to restore credibility in the city’s freedoms, rule of law, and government. To do so, she once again blamed foreign interference for the Hong Kong protests, but acknowledged “there hasn’t been any conclusive evidence”.





Photo: Studio Incendo.

Now with the coronavirus epidemic, the people of Hong Kong do not trust their government to provide truthful information, due to its continuous presentation of “alternative facts” and ignorance of standards for transparency and accountability. Informed Hongkongers have had to live with the assumption that their government will contradict what they have seen with their own eyes.

This reality transforms posts found on social media into a game of truth or tale for internet users, as numerous published reports are either immediately censored, at least partly confirmed at a later stage, or outrageously wrong.

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For example, videos from Hubei province showing life under lockdown have been immediately censored on Weibo. Yet, people have been saving and reposting them on different platforms to spread awareness about the current situation. Another example is the surfacing of unverified photos of CSI masks for apparent personal use by police officers. Shortly after their publication, one of the photos was found to be from 2018.





Photo: GovHk.

However, Apple Daily recently also revealed that the HKPF’s protective equipment supplies from the government were magnitudes higher than those of other government sectors. For example, the police received nearly 14,000 N95 masks when the Department of Health only got 256. So, although inaccurate, the rumours regarding the CSI masks have some truth to them, which leaves citizens doubtful about what to trust and what not.

The most bizarre of recent coronavirus “reports” regarded the toilet paper supply in Hong Kong. Online rumours stated that supplies from toilet paper manufacturers in mainland China were compromised because of the coronavirus shutdowns. The result was mass buying, hoarding, and even armed robbery of toilet paper in Hong Kong supermarkets. Although some shops said they were unsure about toilet paper supply, there was no genuine shortage — until panic created it. Shelves were emptied of basic goods such as toilet paper and cleaning supplies.





Photo: Christopher Cheng/United Social Press

Panic and misinformation are not the fault of citizens. These are the effects of a climate of distrust created by poor political decision-making of the local government and Beijing. If the Hong Kong authorities want to restore trust with the public and maintain the city’s image as a modern centre of commerce, it needs to hold itself to a new level of transparency and accountability.

This would entail full, fact-checked information about the coronavirus response measures, influence from the CCP on decision making, and about the recent response to the protest movement. Sadly, this is extremely unlikely and presumably too late. For now, Hong Kong citizens will have to continue to rely on independent fact-checking, news organisations, and most importantly each other to stay informed and ready about the virus.

Marcos Moschovidis is the founder of EU for You, a channel informing users about the European Union. He is a postgraduate student in Politics & Technology at the Technical University of Munich and has spent a semester at HKUST. Ocean Salazar is the CEO of Studioso, a music education technology startup in the United States. He is currently a student in the World Bachelor’s in Business, a programme offered in partnership with HKUST.



#2020 coronavirus #Alex Chow Tsz-lok #Amnesty International #hong kong police #Human Rights Watch



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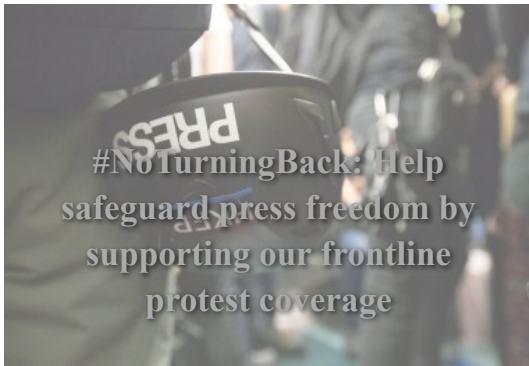
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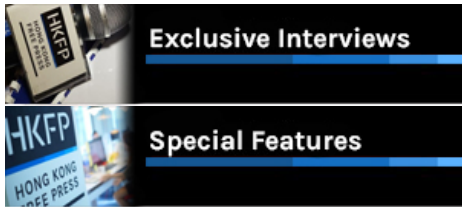
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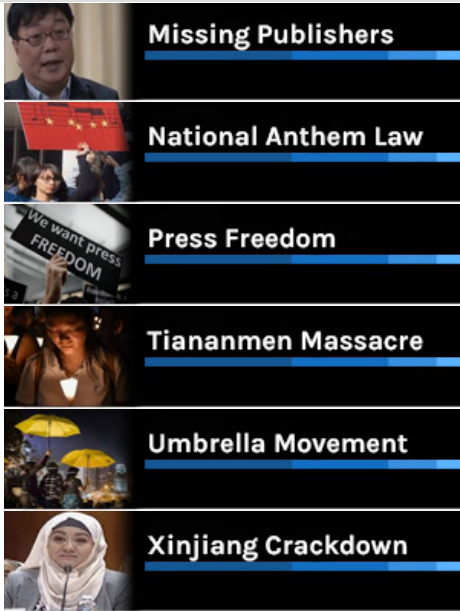
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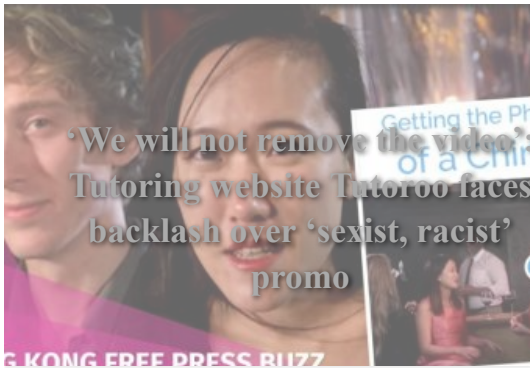


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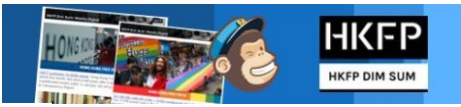
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The Washington Post

Democracy Dies in Darkness

Coronavirus is fueling new protests in Hong Kong. Authorities aim to arrest their way out.

By **Shibani Mahtani**

March 1, 2020 at 2:00 a.m. CST

HONG KONG — Lining up his camera's viewfinder as he documented a protest related to the coronavirus outbreak, Oscar Chan noticed a police officer pointing a canister right back at him. The pepper spray blasted the student journalist in the face as he clicked the shutter.

Three officers surrounded him as he tried to wash his eye, Chan said, as their colleague demanded his arrest. They affixed plastic cuffs so tightly they left scratches and bruises before charging him with theft for possessing a transit card that provides discounts for the elderly.

“They kept calling me a ‘black journalist,’” said Chan, 24, a term that implied he was posing as a reporter. The officer who had sprayed him berated him with homophobic slurs and threatened to rape him, he said.

AD

After widespread unrest in 2019, dissent in Hong Kong is evolving in the coronavirus era. With the risk of infection deterring large-scale rallies, at least temporarily, protests now involve localized, spontaneous flare-ups or strikes.

But a lack of faith in authorities' response to the epidemic has deepened anti-government sentiment; leader Carrie Lam's satisfaction rating is at a record low, according to the Hong Kong Public Opinion Research Institute.

At the Feb. 8 protest Chan documented, some were commemorating a student's death following a police operation, while others were protesting government plans to establish quarantine facilities for coronavirus patients in their neighborhood. Slogans of “five demands, not one less” — the refrain of Hong Kong's democracy movement — mixed with calls for a “revolution against the virus.”

AD

Confronted with this form of unrest, Hong Kong's police, now clad in surgical masks, are deploying the same response: mass arrests. Of the more than 7,300 people arrested since June, one-tenth were detained this year, despite the smaller scale and frequency of protests. Among them are student journalists, civil rights observers, elected officials and medics.

On Friday, police arrested Jimmy Lai, a media tycoon known for his criticism of the Chinese government, on charges of unlawful assembly related to a protest in August. And on Saturday, violent protests flared again, the most serious clashes between police and protesters in weeks, leading to the arrest of 121 people.

Police say they are empowered to apprehend any person if there's reason to believe they have committed a crime. In a statement to the legislature last week, police added that officers will "always strive to protect the privacy and rights of detained persons." The force did not respond to questions from The Washington Post about mass arrests and treatment of detainees.

AD

The wave of arrests during a public health crisis is compounding mistrust between Hong Kong residents and the city's leaders, who are not directly elected and are widely perceived as serving the interests of the Chinese Communist Party before the Hong Kong people. As prosecutors prepare to bring hundreds to trial on riot charges stemming from the pro-democracy rebellion, the tactics are setting up a new flash point.

Arrests “are what Beijing and the Hong Kong government thinks may work, [and so] they keep on this hard-line approach,” said Eric Cheung, a legal scholar at the University of Hong Kong. “The assessment is that, in the end, there would only be a limited number of people who are prepared to risk their liberty and life to fight and protest.”

“They may be right in that sense,” he added, “but it doesn't address the root problems — and so one day, there will be another round.”

On Feb. 8, protests flared in several districts as residents fearful of coronavirus infection pushed back against officials' plans to set up quarantine facilities. Tactics demonstrators honed last year — road barricades, molotov cocktails, vandalism — were now employed toward a different goal.

AD

In a statement on Twitter, police said protesters in the Tseung Kwan O neighborhood had “blocked roads with barricades, damaged traffic lights, dug up bricks on the sidewalk and threw them on the thoroughfare.” Police arrested 119 people, including Chan, another reporter and five lower-level elected officials. “We appeal to members of the public not to break the law,” police said.

Ben Chung, head of the local district council, and other elected officials arrived at an apartment block that night after hearing from an anxious resident whose daughter had been arrested.

“It is my duty to be at the scene. District councilors are responsible for their district, and we were there to see if the police were carrying out their duties properly,” Chung said.

AD

Within an hour, police were rounding up everyone present. Chung and his colleagues were detained, he said, along with others, including a social worker and a tourist from mainland China. They were kept overnight on charges of participating in an unlawful assembly and released on bail.

“As elected officials, we were simply trying to liaise with the public and the police, and to minimize confrontation and clashes, but it seems the police don’t understand that,” he said.

Before the coronavirus outbreak, Chinese leaders urged Hong Kong to crack down on the pro-democracy protests, branding them a threat to the “one country, two systems” framework that gives the territory partial autonomy. In February, Beijing replaced its top official in Hong Kong with a hard-liner known for suppressing Christian churches in Zhejiang province.

Lawyers and legal scholars say Hong Kong’s police, in seeking to bolster weak cases in court, are resorting to extrajudicial evidence-gathering tactics.

AD

Joe Chan, a barrister who is among a group of pro-bono lawyers representing arrested protesters, said clients have complained that police forced them to hand over phone passcodes — a process that requires a court warrant under Hong Kong law.

Clients, he said, have been asked by police to pose for evidentiary photos while wearing full-face respirators, helmets and masks, even if those items did not belong to them — potentially to implicate a person as having participated in a protest.

"There is no legal basis for the police to ask them to do such things," Chan said. "We have complained in open court [about this practice] a few times."

Others complain, too, that police have widened their dragnet to arrest not only violent protesters but human rights observers, journalists, medics and others, in contravention of international standards. Last month, 24 human rights organizations including Amnesty International wrote to Lam, imploring authorities to cease investigations into human rights observers arrested in recent months.

AD

"Obviously, they've changed their strategy," Icarus Wong, founder of Civil Rights Observer, said of the police, who detained three of his monitors Jan. 1. "They've made it very clear that they don't consider anyone who is at a protest to be innocent of wrongdoing."

Other protesters and civil observers said the strategy of mass arrests had made them less willing to take to the streets.

“It is like a yellow card in a football match,” said Chung, the district councilor. “It almost feels like these arrests are preemptive, to make you behave yourself and stop you from coming out again.”

Chan, the student journalist, has grown tired of documenting clashes and is seeking other ways to support pro-democracy causes.

AD

“Even if I want to reject the idea, and pretend that I am not scared after my arrest, the simple truth is that [the police strategy] really works,” he said.

Tiffany Liang contributed to this report.

Coronavirus: What you need to read

Updated March 1, 2020

The latest: The United States, Australia and Thailand each reported their first coronavirus-related deaths over the weekend.

What you need to know about coronavirus: Coronaviruses are a large family of viruses whose effects range from causing the common cold to triggering much more serious diseases, such as severe acute respiratory syndrome, or SARS.

Mapping the spread of the new coronavirus: More than 30 countries have reported at least one case of the novel coronavirus since it originated in Wuhan, China.

How does the coronavirus make people sick, and why does it kill some of them? It's not just the virus that kills them — it's their own immune system. **Here's how to prepare for coronavirus in the U.S.** (Step 1: Don't panic).

What do you want to know about coronavirus? **Let us know here.**

LIVE UPDATES Updated 5 minutes ago

Coronavirus Updates: Global Infections Approach 90,000 as U.S. Scrambles to Slow Spread

Officials reported the first cases in New York, Rhode Island and Florida, which declared a public health emergency. Countries across Europe reported steady increases.

RIGHT NOW “There will be community spread,” Gov. Andrew Cuomo of New York warned.

Here’s what you need to know:

- As spread of virus slows in China, it picks up speed in the U.S.
- First two deaths are reported in the U.S., and more infections are detected.
- A Manhattan woman is New York State’s first confirmed case.
- The European Union moves to high alert.
- Financial markets remain volatile.



Shinjuku Station in Tokyo on Monday. Athit Perawongmetha/Reuters

As spread of virus slows in China, it picks up speed in the U.S.

Health officials across the United States were scrambling on Monday to trace all those who had come into contact with infected patients, even as they struggled to get a handle on how far the virus had spread in the country.

To date, the American authorities have reported a total of 88 cases nationwide, with two fatalities, both of them older adults with underlying health problems.

A genetic analysis of the virus in Washington State, where the deaths occurred, suggested that the illness could have been spreading within the community for as long as six weeks before the first case was detected.

The coronavirus, now present on every continent except Antarctica, has infected nearly 90,000 people, killing more than 3,000.

In China, where the epidemic erupted and where the overwhelming majority of cases have been identified, officials reported 202 new cases — the lowest daily total since January.

But in South Korea, the number rose to more than 4,000. And in Iran, the scale of the largest outbreak in the Middle East remained unclear, with public health experts expressing concern that the official numbers were unreliable.

Across Europe, countries reported steady increases in the number of cases, while officials warned residents to prepare for large outbreaks.

As coronavirus cases show up around the globe, the Organization for Economic Cooperation and Development cut its outlook for 2020, suggesting that global growth could be cut in half if infections spread more widely outside China.

First two deaths are reported in the U.S., and more infections are detected.

The United States recorded its first two deaths attributed to the coronavirus over the weekend, as states from coast to coast reported new infections leading to a significant jump in the total number of cases.

On Friday, there were 65 cases and no known deaths in the United States. Less than 48 hours later, a single hospital in Washington State reported two deaths, the makings of a cluster, and the total number of cases nationwide jumped 35 percent, to 88.

One state, Florida, declared a public health emergency, even as Vice President Mike Pence, tapped to lead the federal response to the crisis, sought to calm the public's nerves.

Officials in Washington State said on Sunday that a second person, a man in his 70s with underlying health conditions, had died at the EvergreenHealth hospital in Kirkland, a Seattle suburb. That is the same hospital where officials identified the United States' first coronavirus death on Saturday — a man in his 50s. The man in his 70s had been a resident at a nursing facility in Kirkland, run by Life Care Centers of America.

Twenty-three cases were announced on Saturday and Sunday in California, Florida, Illinois, New York, Oregon, Rhode Island and Washington. The new cases included a mix of people who had traveled to high-risk countries and those who were believed to have contracted the disease domestically.

[Do you know anyone who lives or works at Life Care Center in Kirkland, Wash.? If so, please email our reporter, Mike Baker, at mike.baker@nytimes.com.]

A Manhattan woman is New York State's first confirmed case.

Gov. Andrew M. Cuomo on Sunday confirmed New York State's first case of the coronavirus, saying that a woman contracted the virus while traveling in Iran and was in New York isolated in her home.

Get an informed guide to the global outbreak with our daily **Coronavirus** newsletter.



“The patient has respiratory symptoms, but is not in serious condition and has been in a controlled situation since arriving to New York,” Mr. Cuomo said in a statement.

A New York state official said that the positive case was in Manhattan. The case is the 32nd tested from New York. All previous cases had tested negative.

New York's state lab was granted the ability to test for the virus on Saturday after an appeal from Mr. Cuomo.

“There is no reason for undue anxiety — the general risk remains low in New York,” the governor's statement said. “We are diligently managing this situation and will continue to provide information as it becomes available.”

Early on Monday, the governor told CNN that he expected “community spread,” but urged calm.

In an earlier appearance, on CBS This Morning, he said the woman who had contracted the virus was a “unique case.” She was a health care worker, he added, so “she knew to take precautions and stay in a controlled situation.”

The European Union moves to high alert.

The European Union raised its alert level from moderate to high on Monday as new cases of infection were reported across the Continent.

The coronavirus has now spread to 18 of the 27 member states, with more than 2,100 confirmed cases of infection, according to bloc officials, costing member states about \$1 billion a month in lost tourism revenues.

In a news conference, the president of the European Commission, Ursula von der Leyen, praised European coordination in the crisis and urged calm. Announcing the new level of risk, she said, “In other words, the virus continues to spread.”

Still, she added, the union was not considering shutting borders.

In Italy, the epicenter of the European outbreak, the number of new infections jumped by about 50 percent to 1,577, from 1,029, with 34 deaths. The government announced plans to inject billions into the economy to mitigate the effects of the virus.

The economics commissioner, Paolo Gentiloni of Italy, said that the bloc would consider Rome’s request for flexibility on European Union fiscal rules on debt, “in the spirit of solidarity and understanding.”

Elsewhere, the authorities in Berlin and Moscow reported their first cases of the virus.

An infected man in Berlin has been placed in isolation in the city’s main research hospital, where was said to be in stable condition.

In France, which has reported 130 cases since January and two deaths, the Louvre remained closed to visitors on Monday as museum officials discussed how to handle large crowds in ways that would limit the potential spread of the virus.

Financial markets remain volatile.

Stocks were unsteady in global markets on Monday as investors bet that the world’s governments and central banks would step in to help a global economy slammed by the coronavirus outbreak.

In Europe, stock markets started the day with gains, but those began to fade as trading continued, with shares in France and Germany falling by early afternoon.

Most Asian indexes finished the trading session higher. Futures markets indicated that investors expected Wall Street to open lower.

Oil prices rose on Monday, reversing last week’s slide, as confidence grew that OPEC and Russia would agree to a cut in production this week.

The volatile opening for stocks followed one of the worst weeks for global markets since the 2008 financial crisis, with several major indexes around the world falling more than 10 percent in a few days — a stunning decline that came as investors grappled with the potential economic toll that the outbreak could take.

The virus affects the Chinese military.

The coronavirus epidemic, which led China to lock down some 700 million people, has also had an impact on one of the country’s most important and powerful institutions: the People’s Liberation Army.

China’s military, the world’s largest, with more than two million troops, has been forced to suspend its regular training exercises and postpone its spring recruitment, senior commanders said in Beijing on Monday.

China, on paper, still maintains a conscription force, with two years of compulsory service for most young men. But in practice, the military recruits enough volunteers to fill most of its ranks.

The military has reported no cases of the coronavirus, officials said, adding that the steps had been taken as a precautionary measure to ensure that the country’s forces remained at full strength.

“Through our vigorous, orderly and effective prevention and control measures, the troops can have very orderly training and life and be in a good state of combat readiness,” said Maj. Gen. Chen Jingyuan, director general of the Medical Service Bureau of the Central Military Commission’s Logistic Support Department.

The armed forces have dispatched more than 4,000 medical workers to Wuhan, where the epidemic has hit hardest, and also opened up 63 military hospitals across the country to civilian patients.

The Louvre remains closed as cultural institutions review protocols for crowds.

The world's most visited museum, the Louvre in Paris, was shut for the second day in a row on Monday after staff members refused to work out of concern over the coronavirus.

The Louvre had already been forced to close on Sunday after workers used their "right to withdrawal" under French law, which allows employees to stop work in cases of imminent and serious threats to safety or health.

The museum logged more than nine million visitors in 2019, with nearly three-quarters of those coming from abroad, mainly China and the United States, as well as from other European countries, particularly Britain, Germany, Italy and Spain.

The French government has banned all indoor gatherings larger than 5,000 people in an attempt to slow the spread of the coronavirus. There have been 130 cases and two deaths in France since the end of January.

The Paris book fair, for instance — one of the biggest literary events in France, scheduled for the end of March — has been canceled.

The authorities say that the Louvre is not covered by the ban because, although tens of thousands of visitors walk through every day, it is not a single enclosed space.

That has not allayed the fears of museum staff, however, who noted that some rooms were regularly packed with visitors in close quarters.

Cultural institutions elsewhere across Europe were also feeling the impact. In Italy, the Teatro alla Scala in Milan, the country's premier opera house, was among the venues that announced on Sunday that performances were suspended until at least March 8, after a government decree limiting public gatherings was extended.

In Venice, the Teatro La Fenice opera house said it would broadcast on YouTube a chamber music concert scheduled for Monday.

Which is worse, coronavirus or flu?

The coronavirus and the flu are often compared these days. But what are their basic similarities and differences?

So far, the coronavirus seems to be deadlier. On average, the seasonal flu strain kills about 0.1 percent of people who become infected. Early estimates of the death rate in the coronavirus outbreak's epicenter in Wuhan, China, have been around 2 percent.

The rate could fall if it turns out that many cases aren't detected because they are so mild or even symptom-free.

As with influenza, the coronavirus is most dangerous to people over the age of 65, or who have chronic illness or a weak immune system.

So far in the current season, the flu has sickened more people than the coronavirus. In the United States, there have been 32 million cases of flu, several hundred thousands of hospitalizations and 18,000 deaths, according to the C.D.C. By contrast, about 88 people in the United States have been infected with the new coronavirus, and there have been two deaths.

One area where the two ailments diverge is treatment. There is no approved antiviral drug for the coronavirus, but several are being tested. For those infected with any viral illness, doctors recommend rest, medicine to reduce pain and fever, and fluids to avoid dehydration. For the flu, doctors can offer four prescription medicines and they tend to work best within a day or two of when symptoms start.

There are no coronavirus vaccinations available, but one may be available in a year or two. Flu vaccines are widely available and generally 40 percent to 60 percent effective.

Church leader at the center of South Korea's epidemic offers an apology.

Lee Man-hee, the founding leader of the church at the center of South Korea's explosive coronavirus outbreak, bowed in supplication at a news conference on Monday and apologized amid growing anger at his handling of the crisis.

"I have never imagined this kind of thing would happen," Mr. Lee, 88, said in a choking voice during a nationally televised news conference. "I am still trying to understand how this could happen."

Mr. Lee called the news conference after Seoul and other cities asked prosecutors to investigate him for potential criminal charges, including murder through willful negligence. They accused Mr. Lee and his Shincheonji Church of Jesus of contributing to the nation's rising death toll — 22 as of Monday — by impeding the government's efforts to fight the outbreak.

Among other things, the church was accused of failing to provide a full list of its members fast enough for the government to track them down for testing.

By Monday, South Korea reported more than 4,000 total cases. At least 60 percent of the cases were among members of a Shincheonji branch in Daegu, a city in southeast South Korea, and people they had been in contact with.

Mr. Lee denied the accusations against his group, saying that his church was fully cooperating with the government.

Reporting was contributed by Steven Erlanger, Melissa Eddy, Marc Santora, Anton Troianovsky, Elisabetta Povoledo, Steven Lee Myers, Clair Fu, Russell Goldman, Sheri Fink, Mitch Smith, Richard C. Paddock and Aurelien Breeden.

The Coronavirus Outbreak

Answers to your most common questions:

Updated Feb. 26, 2020

- **What is a coronavirus?**

It is a novel virus named for the crownlike spikes that protrude from its surface. The coronavirus can infect both animals and people and can cause a range of respiratory illnesses from the common cold to more dangerous conditions like Severe Acute Respiratory Syndrome, or SARS.

- **How worried should I be?**

New outbreaks in Asia, Europe and the Middle East are renewing fears of a global pandemic. The Centers for Disease Control and Prevention warned this week that Americans should brace for the likelihood that the virus will spread to the United States.

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[CORONAVIRUS](#)

Coronavirus: Trump adds travel restrictions on Iran, advisories for Italy and South Korea

The travel warnings are intended to prevent coronavirus from spreading as health officials in Washington state announced the first U.S. death from the virus.



Feb. 29, 2020, 12:04 PM CST / Updated Feb. 29, 2020, 5:06 PM CST

By **Dareh Gregorian**

President Donald Trump and Vice President Mike Pence on Saturday announced additional travel restrictions involving Iran and increased warnings about travel to Italy and South Korea to combat the [coronavirus](#) after the health officials in Washington state announced the [first death in the U.S.](#) from the virus.

Pence, who's been placed in charge of the administration's response, said the U.S. was "expanding existing travel restrictions to include any foreign national who has visited Iran within the last 14 days." The administration is also urging Americans not to travel to areas of Italy and South Korea that have been struck hard by the virus.

Travel from China to the U.S. has already been restricted and Trump said he was also looking at restrictions on entry from America's southern border.

[Full coverage of the coronavirus outbreak](#)



[‘This is what we expected’: Azar discusses risk of coronavirus in the U.S.](#)

FEB. 29, 2020 01:42

“We are looking also southern border,” Trump said, despite the low number of coronavirus cases in Mexico so far. Pressed on the issue, he said, “This is not a border this seems to be much of a problem right now. We hope we won’t have to do that.”

“We’re thinking about all borders,” he said at another point.

Health and Human Services Secretary Alex Azar said, “We want to lower the amount of travel to and from the most impacted areas.”

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“This is a basic containment strategy,” he added.

Health officials said in a press briefing Saturday that the person who died is a man in his 50s.

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[Trump: First U.S. death from coronavirus was a 'medically high-risk' patient](#)

FEB. 29, 2020 1:51

Trump said four other Americans are "seriously ill," and there are currently 22 confirmed cases, not including the nearly four dozen people who were brought back from Asia.

"Additional cases in the United States are likely, but healthy individuals should be able to fully recover and we think that will be a statement we can make with great surety now that we've gotten familiar with this problem," he said. "Healthy people, if you're healthy you'll probably go through a process and you'll be fine."

The briefing came after three new confirmed or presumptive cases of the coronavirus illness COVID-19 contracted from an unknown source were reported Friday, including in California and Washington State. Azar said officials are not recommending restricting travel to those states.

Download the [NBC News app](#) for full coverage of the coronavirus outbreak

Robert Redfield, the director of the Centers for Disease Control and Prevention, said, "We should anticipate more cases, but the current risk to the American public remains low."

Pence also stressed "that the average American does not need to go out and buy a mask." He said the government has more than 40 million masks on hand and has contracted with Minnesota-based manufacturer 3M for 35 million more masks per month to ensure they're available for health care providers.

"We're going to lean into this effort and put the health and safety of the American people first," Pence said.

Trump said he'd be meeting at the White House on Monday with the heads of pharmaceutical companies about the prospects of a vaccine. "They'll be coming to the White House, and we're talking about a vaccine and developing very quickly, and they've already started working on it," he said.

Officials have cautioned it will likely take at least a year and a half to [develop a vaccine](#).

At a rally in South Carolina on Friday, Trump defended his administration's handling of the virus and accused Democrats of "politicizing" the issue. "This is their [new hoax](#)," he said.

His Democratic rivals [blasted the comments](#). Trump insisted he'd been misunderstood and hadn't referred to the virus itself as a hoax.

He said he was "referring to the action that they take to try and pin this on somebody because we've done such a good job. The hoax is on them. I'm not talking about what's happening here. I'm talking what they're doing. That's the hoax. That's just a continuation of the hoax, whether it's the impeachment hoax or 'Russia, Russia, Russia' hoax. This is what I'm talking about. Certainly not referring to this. How could anybody refer to this? This is very serious," he said.

He said there was still no reason for panic.

"We would respectfully ask the media and politicians and everybody else involved not do anything to incite a panic because there's no reason to panic at all. This is something that is being handled professionally," he said. "This too will end."



Dareh Gregorian

Dareh Gregorian is a politics reporter for NBC News.



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Trump Was Furious That Passengers With Coronavirus Were Brought Back to U.S.

Among the passengers from the Diamond Princess cruise ship who were flown back were 14 American citizens who tested positive for the virus. The move took Mr. Trump by surprise.



By **Edward Wong** and **Katie Rogers**

Published Feb. 22, 2020 Updated Feb. 26, 2020

Get an informed guide to the global outbreak with our daily **Coronavirus** newsletter.



WASHINGTON — President Trump was infuriated that 14 American citizens who had tested positive for coronavirus were permitted to return this week to the United States, said two senior administration officials. The decision had taken the president, a self-declared “germophobe,” by surprise.

Officials at the State Department decided to bring back the citizens, who had been quarantined on the Diamond Princess cruise ship in Japan, after consulting with a senior official at the Department of Health and Human Services. But officials at the Centers for Disease Control and Prevention objected, concerned that the passengers, among hundreds of Americans being evacuated from the ship, could spread the virus. News organizations reported on the decision on Monday, and the passengers arrived in the United States that day.

Mr. Trump, furious at not having been briefed on the Americans who had tested positive, relayed his anger to Alex M. Azar II, the health and human services secretary, and other top officials. They then alerted the White House interagency task force on the coronavirus, which Mr. Azar oversees. One official said Mr. Trump views shutting the borders to infected people as critical to keeping the country safe and wants to be seen as managing a proper response.

The top State Department official on the task force is Stephen E. Biegun, the deputy secretary of state.



g the early legs of a four-day trip this week to the West Coast meant to bolster his re-election effort, Mr. Trump paid close attention to Fox News’s coverage of the Diamond Princess that played aboard Air Force One.

Word of Mr. Trump’s reaction had already begun circulating among officials on Tuesday morning. The Washington Post and Politico first reported on it on Friday.

The Coronavirus Outbreak

How Is the U.S. Being Affected?

Updated Feb. 28, 2020

- Sixty people in the U.S. have been infected with the virus, mainly from travel abroad. There have been no deaths so far.
- Residents in Solano County, Calif. are worried about what may be the first infection in the U.S. without a known link to travel abroad.
- If you live in California [here’s what you need to know.](#)
- An outbreak would test the American education system. Few schools have detailed plans to teach online if schools were closed for long periods.
- The Centers for Disease Control and Prevention warned that Americans should

READ MORE ▼

In 2014, during an Ebola crisis in Africa, Mr. Trump, who was then a private citizen, demanded that the Obama administration cancel flights and bar anyone infected with the virus from entering the country — including American medical workers who had gone to Africa to help. “KEEP THEM OUT OF HERE!” he wrote in a July 31 tweet after learning that one American medical worker would be evacuated to Atlanta from Liberia.

“The U.S. cannot allow EBOLA infected people back,” Mr. Trump wrote on Twitter the next day, adding: “People that go to far away places to help out are great — but must suffer the consequences!”

There have been at least 634 infections and two deaths from the Diamond Princess, which Japanese officials kept in isolation for two weeks at a port in Yokohama. That effort at a quarantine contributed to the virus’s rapid spread among passengers. The cluster from the ship is the largest concentration of coronavirus cases outside China, warranting its own category in data compiled by the World Health Organization.



can officials began a complex evacuation procedure on Sunday night for 328 passengers aboard the Diamond Princess. All had been examined by American medical experts and showed no symptoms of the coronavirus, Dr. William Walters, managing director of operational medicine at the State Department, and Dr. Robert Kadlec, assistant secretary for preparedness and response at the Department of Health and Human Services, said on Monday during a conference call with reporters.

But as those passengers were bused to Haneda Airport in Tokyo early Monday morning, Japanese officials told American counterparts that laboratory tests for 14 passengers had come back positive, Dr. Walters said. The tests had been conducted two to three days earlier, but American officials, believing the timing of the results would be “unpredictable” because of the volume of testing being done in Japan, began the evacuation without having all results in hand.

American passengers who had already tested positive or who had displayed symptoms had been sent to hospitals in Japan, Dr. Walters said.

After they learned that 14 passengers had tested positive, American officials decided that the entire group set to leave Japan should be treated according to protocols the officials had developed for evacuees, Dr. Walters said. That meant continuing to transport those who had tested positive but putting them in isolation — behind sheets of plastic about 10-feet tall — at the rear of the two planes flying them back to the United States.

Dr. Walters said on Monday that he and Dr. Kadlec reviewed the possible options after learning of the test results.

“Then the question was simply this: Are these evacuees?” Dr. Walters said. “And do we follow our protocol? And the answer to that was yes on both accounts.”

Dr. Kadlec added, “We had additional expertise and experienced eyes on these people and monitoring through the flight.”

The planes landed at Travis Air Force Base in California and Lackland Air Force Base in Texas. Most of the 14 passengers who had tested positive were then flown to Omaha for treatment and monitoring by experts at the University of Nebraska.

Since then, Japanese officials have informed American officials that several other passengers among the 328 brought back had also tested positive for coronavirus. On Friday, American officials said at least 34 people inside the United States have the virus — 18 of them from the Diamond Princess. All of the 34 cases have been linked to overseas travel. There has been no sign yet of the virus spreading among communities in the United States.



State Department is closely monitoring American citizens on board the Westerdam cruise ship in Cambodia, as well as Americans who have disembarked and are in hotels in Phnom Penh, the capital of Cambodia. Those Americans are expected to travel onward at some point. One 83-year-old American woman from the ship traveled to Malaysia and tested positive for coronavirus.

Dr. Walters said Monday that 92 American citizens were still on board the Westerdam, while another 260 were in hotels in the Cambodian capital. About 300 American citizens had left the country, but “only after testing by the government of Cambodia’s ministry of health,” he said.

When asked whether the United States was thinking about arranging evacuation flights for the hundreds of Americans in Cambodia or elsewhere, Dr. Walters did not offer a direct answer. He said the State Department was “following very closely” the situation of American citizens in places where coronavirus is prevalent and of citizens who are “having difficulty in returning to the United States because of the disruptions in the international airline industry, and flights, and so forth.”

Separately, State Department officials say that thousands of Russia-linked social media accounts are spreading disinformation about the coronavirus, including a conspiracy theory that the United States is behind the outbreak.

American monitors first identified the campaign in mid-January. Agence France-Presse reported the assessment on Saturday.

“Russia’s intent is to sow discord and undermine U.S. institutions and alliances from within, including through covert and coercive malign influence campaigns,” said Philip T. Reeker, the acting assistant secretary of state for Europe and Eurasia. “By spreading disinformation about coronavirus, Russian malign actors are once again choosing to threaten public safety by distracting from the global health response.”

EXHIBIT C

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March 3, 2020

BY E-MAIL (MENENDEZ_CHAMBERS@MND.USCOURTS.GOV)

The Hon. Katherine M. Menendez
United States District Court for the District of Minnesota
8E U.S. Courthouse
300 South Fourth Street
Minneapolis, MN 55415

Re: *Willis Electric Co., Ltd. v. Polygroup Limited (MCO), et al.*, Case Number 15cv3443: Response to Willis' Letter re: Deposition Location

Dear Judge Menendez:

Willis wrote the Court yesterday to argue that Polygroup be compelled to produce certain China- and Hong Kong-based employees for deposition in the U.S. Because Polygroup was not given the opportunity to make its position known in a joint letter, as suggested by the Court's Practice Pointers and Preferences, Polygroup responds briefly below.

The Court has already decided this issue and Willis' request for reconsideration adds no basis for reversing that decision. There is no dispute that COVID-19 is a serious international health threat that has resulted in significant travel restrictions, both internationally and domestically. Nor is there any dispute that these travel restrictions affect the anticipated depositions of Polygroup's China- and Hong Kong-based employees.

Since the parties were before the Court on February 13, the COVID-19 threat and related travel restrictions have only increased. These changes, however, do not support requiring Polygroup to bring its China- and Hong Kong-based employees to the United States for depositions. To the contrary, to do so would improperly threaten the health of at least 8 Polygroup employees,¹ subject them to quarantining (possibly more than once), and potentially limit their ability to return to their homes if countries start "closing borders"—to say nothing of the incredible burden, expense and inconvenience of flying each of these employees to the U.S. and housing them there for at least a week and perhaps several weeks. That is not a reasonable solution, particularly when compared with the much less burdensome approach of having a Willis attorney travel to Hong Kong for depositions. Willis argues that it would have to fly a court reporter to Hong Kong,

¹ In addition to noticing a Fed. R. Civ. P. 30(b)(6) deposition of Polygroup, Willis also noticed depositions for Paul Cheng, Lewis Cheng, Elmer Cheng, Ricky Tong, Nick Ho, Samuel Kwok, Alan Leung, and Chang-Jun He.

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find office space and a printer, and have a second chair lawyer attend. Yet, court reporters and conference space are readily available in Hong Kong (see, e.g., <https://planetdepos.com/locations/hong-kong/>), as are printers. Willis' second chair lawyer, to the extent one is needed, could attend by videoconference or telephone.

That said, Polygroup does not discount Willis' counsel's health concerns. Polygroup has equal concerns about the safety and health of its workforce and has imposed travel bans and mandatory quarantines on its workforce that exceed those required by Hong Kong or Chinese authorities. Polygroup has no scheduled business trips to the U.S. and has postponed making such plans until the COVID-19 threat abates. One of Polygroup's executives, Lewis Cheng, previously had plans to come to the U.S. in late April on a personal trip (a business school reunion), but he has canceled those plans in light of the COVID-19 concerns. Polygroup will, as it previously agreed, inform Willis if any of its relevant employees travels to the U.S. for business in the coming months, but currently there are no such plans because of the growing COVID-19 threat.

One possible solution to avoid subjecting anyone to the COVID-19 health threat or the attendant travel restrictions is to conduct depositions by videoconference, as Polygroup offered previously. While Willis' counsel may not think this is an ideal way of conducting depositions, it would be far less burdensome, expensive, and inconvenient for both parties. Willis' counsel's preference to conduct such depositions in person is not a proper basis for subjecting Polygroup (or its employees) to the very significant burden, expense and inconvenience of producing its China- and Hong Kong-based employees for deposition in the U.S.

The other possible solution is to recognize that the COVID-19 outbreak presents an international threat that is beyond the control of the parties or the Court and may require some change in the discovery schedule to accommodate deposition scheduling. The current close of fact discovery is less than 60 days away and it seems unlikely that the COVID-19 situation will improve quickly enough to allow for the scheduling of the Polygroup depositions before the May 1 deadline. As no trial date has been set and many of the pretrial scheduling deadlines are tied to decisions from the Patent Trial and Appeal Board that have not yet been handed down, a brief extension of the fact discovery schedule will not affect the overall case schedule. Hence, if Willis is unwilling to conduct the depositions by videoconference, then the most reasonable solution may be to adjust the discovery schedule.

I look forward to discussing this issue with the Court later today.

Sincerely,

/s/ Robert A. Angle

Robert A. Angle
Counsel for Defendants

cc: Counsel of record (by email)