

Date : 4/2/2020 5:57:59 AM

From : "Anderson, Reeves"

To : "Bellinger III, John B." , "xIsrael NSO"

Subject : RE: COMMON INTEREST PRIVILEGED - MTD draft

Attachment : [762924_image001.png](#);

The revised MTD draft reflects many, but not all, of the proposed changes we relayed from our call on Monday. With respect to issues we discussed, we note the following points:

- NSO has not modified the language regarding U.S. phone numbers on page 3, with the following note in the margin: “This is a statement about NSO’s technical safeguards, not about Israeli law. NSO has publicly disclosed this fact, and it is very important to the motion, both legally and ‘atmospherically.’”
- Page 2, line 11: “Under the ECL, the MoD is empowered to investigate NSO and its business, and to refuse or cancel NSO’s registration.” We had proposed removing the reference to “investigations,” but K&S has left it in with a note that “NSO insists this is an accurate statement of Israeli law, and we would like to keep it in.”
- Page 3, lines 1–3: “MoD also requires the end users to sign end-use certificates declaring that NSO’s technology will be used only for national security and law enforcement purposes, such as counterterrorism and criminal investigation efforts.” We explained to K&S, in the context of the affidavits, that MoD does not impose these requirements on the end user; as we understand it, all requests are made of NSO. If that is correct, NSO should be willing to make a corresponding change here.
- On the adequacy of Israeli courts to hear this dispute, we sent K&S a string-cite of cases that recognize the point. Those citations are not reflected in this draft, but K&S may still be verifying the cases for themselves.

Please let us know if you have any further comments—regarding these or other points—that you would like us to relay to NSO’s counsel prior to today’s filing.

Best,
Reeves

From: Bellinger III, John B. <John.Bellinger@arnoldporter.com>
Sent: Wednesday, April 1, 2020 2:39 PM
To: xIsrael NSO <xIsraelNSO@arnoldporter.com>
Subject: FW: COMMON INTEREST PRIVILEGED - MTD draft

Gil, Marlene, et al: We just received this revised draft of NSO’s MTD. We have not read yet but will do so. FYI, they have moved the “common law sovereign immunity” argument (still quoting Dogan) to a footnote but they have not added a Rule 19/Pimentel argument.
John

John Bellinger III
Partner

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From: Akrotirianakis, Joe <JAKro@KSLAW.com>
Sent: Wednesday, April 1, 2020 4:26 PM
To: Bellinger III, John B. <John.Bellinger@arnoldporter.com>; Anderson, Reeves <Reeves.Anderson@arnoldporter.com>
Cc: Rosenstein, Rod <rosenstein@kslaw.com>; Craig, Aaron <ACraig@KSLAW.com>; Noller, Matt <MNoller@KSLAW.com>; Dantiki, Sumon <sdantiki@kslaw.com>
Subject: COMMON INTEREST PRIVILEGED - MTD draft

John and Reeves,

Please see our revised MTD. We hope this is basically final with respect to the issues we have discussed.

There are a few issues raised in comment bubbles. We are available to discuss at your convenience.

Joe

Joseph N. Akrotirianakis

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