



Kobre & Kim's Offshore Contacts



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A New Door to Obtaining Business Intelligence in Offshore Cases

Historically, it has been difficult to obtain court documents on business rivals in offshore jurisdictions, Hong Kong and the UK. However, a recent English Court of Appeal decision has provided increased access to intelligence in these jurisdictions. Our Offshore team explains the decision, and how it should be perceived as an advance for open justice.

A recent court decision by the English Court of Appeal has provided increased access to intelligence about court cases in the UK, offshore jurisdictions and Hong Kong. Companies with a presence in these jurisdictions, including those based in the People's Republic of China (PRC) should adopt an aggressive, multinational legal strategy.

A New Era of Increased Access

Historically, it has been difficult in offshore jurisdictions, Hong Kong and the UK to obtain information about court cases involving business rivals. Most of the courts in these jurisdictions have not implemented electronic filing, and none allow completely open access to court documents. The English Court of Appeal's decision, which will likely influence offshore jurisdictions and Hong Kong, has shed light on how nonparties can get copies of court documents, evidence, written arguments and judgments.

An Advance for Open Justice

This decision reflects the simple idea that the public is entitled to know what goes on in open court hearings. For example, as a result of the ruling, any nonparty is entitled to request a copy of court documents which the judge reads in his or her chambers, as if they had been read aloud in court — a substantial step forward.

If applicants can show that they have a legitimate interest, they should now be able to obtain access to a wide range of potentially useful documents relating to trials or hearings which have taken place in open court. This idea applies across the offshore jurisdictions and Hong Kong, all of which have adopted similar principles.

Seizing the Opportunity

This recent decision is a big opportunity for businesses looking to obtain useful intelligence on a rival or associate, whether for litigious or commercial reasons. The parties best positioned to take full advantage of the opportunity will be those who can move aggressively within a multiparty, multijurisdictional context.

About Kobre & Kim's Offshore Team

Kobre & Kim is a conflict-free Am Law 200 law firm focused on disputes and investigations, often involving fraud and misconduct.

Often working with other law firms as special counsel in cases that are beyond their geographic reach, our offshores enforcement teams located in Cayman, BVI, Hong Kong and Shanghai, focuses on enforcing high-value judgments and arbitration awards, as well as cross-border asset tracing and recovery. Our conflict-free profile allows us to pursue aggressive positions on behalf of clients, even in situations involving multiple, overlapping stakeholder interests.

Our lawyers have experience litigating in courts around the world, and the global team comprises lawyers and English solicitors and barristers (including English King's Counsel) qualified in key offshore jurisdictions, including Cayman Islands and the British Virgin Islands.