

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

HEWLETT-PACKARD COMPANY,	§	
	§	
<i>Plaintiff,</i>	§	
v.	§	Civ. A. No. 4:18-CV-00762
	§	
QUANTA STORAGE, INC.	§	
	§	
<i>Defendants.</i>	§	
	§	
	§	
	§	

**QUANTA STORAGE, INC.’S OPPOSITION TO
HP’S MOTION FOR SHOW CAUSE HEARING**

COMES NOW, Defendant Quanta Storage, Inc. (“Quanta”), and files this Opposition to HP’s Motion styled “Motion for Show Cause Hearing Regarding Quanta’s Non-Compliance With Court’s Turnover Order.” (Doc. No. 425) In support thereof, Quanta would show as follows:

1. On April 1, 2020, the Court entered a turnover order (Document No. 424) (the “Order”). As explained herein, Quanta is working to comply with that Order, but Quanta’s efforts are impacted by the international COVID-19 pandemic. The Court’s Order included no deadline, perhaps given (1) the circumstances of the pandemic and (2) the Court’s awareness (as reflected by the record) that—with the exception of Quanta’s U.S. patents and trademarks, which Quanta is working to turn

over to comply with the Court's order—Quanta's assets are real property (*e.g.*, factories) located in Taiwan and China.

2. As explained herein, Quanta has been doing what it can do in light of the circumstances to arrange for the compliance it is able to do at this point. But HP has unilaterally created, first a one-week deadline, and now a two-week deadline for Quanta's compliance. HP is now asking the Court to hold Quanta in contempt because Quanta has not met HP's unilaterally imposed two-week deadline for compliance. HP's conduct, in light of the international pandemic, is hard to understand.

3. And HP has done all of this while HP is enjoying the one-month extension of time (until May 1) for filing HP's Brief of Appellee in the Fifth Circuit—an extension that Quanta opposed in light of HP's efforts to execute on the judgment. Quanta is making all preparations immediately to file its Reply Brief (shortly after May 1) and to ask the Fifth Circuit—in light of HP's efforts to execute on the judgment and to hold Quanta in contempt—to expedite this single-issue appeal (with Quanta expressing its willingness to waive oral argument), so that this appeal can be decided quickly.

QUANTA’S NON-EXEMPT ASSETS IN THE UNITED STATES

4. Quanta’s non-exempt assets in the United States are Quanta’s U.S. patents and trademarks, and Quanta is attempting to comply with the Court’s order by arranging to turn over such U.S. patents and trademarks. Quanta is in the process of reaching out to the office of Constable Alan Rosen and counsel for Plaintiff to determine the specific method and process of handling this transfer. Quanta is prepared to execute a general assignment of its patents and trademarks registered in the United States in favor of Plaintiff, if such an assignment will satisfy the Order and Plaintiff.

QUANTA’S NON-EXEMPT ASSETS OUTSIDE THE UNITED STATES

5. As Quanta has previously shown the Court, its assets outside the United States are primarily comprised of real property (*e.g.*, factories) in Taiwan and China. However, with respect to all Quanta’s non-exempt property located outside the United States, Quanta’s compliance with the Court’s Order is impacted by the current situation due to the COVID-19 pandemic. The declaration of Jake Wang, attached hereto, explains how, as a result of the pandemic, Quanta has effectively been divested of its manpower and managerial and operational capacities in order to comply with Taiwanese emergency regulations. According to the declaration of Jake Wang:

- To counter the current COVID-19 pandemic, the central government of Republic of China (“Taiwan”) had activated the Central Epidemic Command Center (CECC) as early as January 20, 2020, and over the following weeks, the CECC imposed scores of measures on all companies to aid in containing the disease and preventing its spread into the general community. For example, government regulations require Quanta (a) to screen all employees and (b) to impose a mandatory 14-day self-quarantine for employees who have traveled to People’s Republic of China (“China”), with criminal penalties in accordance with the Communicable Disease Control Act.
- By late February 2020, Quanta had imposed a 14-day quarantine on all employees (into the hundreds) who had recently returned from China—including Quanta’s Chief Executive Officer.
- By late February 2020, Quanta also had implemented alternative work arrangement by rotating roughly one-third (1/3) of its headquarters employees to meet minimum staffing requirements.
- Quanta has transitioned some of its production lines to make face masks for its own employees (*i.e.*, the production lines in the factories that HP is demanding that Quanta immediately turn over).

- The local government has required Quanta, as “quarantine relief,” to provide isolation hotel rooms for those who cannot conduct self-quarantine at home, and to provide employees’ tracking data to the local government for case identification and containment.
- Quanta’s attorneys in the United States are all subject to “shelter at home” orders.

6. As Quanta has previously shown the Court, its assets overseas are primarily made up of real property (*e.g.* factories) in Taiwan and China. The attached declaration of Jake Wang explains the legal proceedings that must be conducted in Taiwan before Quanta could transfer such assets. According to the attached declaration of Jake Wang:

- Quanta is a Taiwanese company publicly traded on the Taiwan Stock Exchange.
- Under Taiwanese law, §36-1 of the Taiwan Securities and Exchange Act (“SEA”)—and Regulations Governing the Acquisition and Disposal of Assets by Public Companies adopted in accordance with SEA §36-1—govern the transfer of property belonging to publicly traded companies listed on Taiwan Stock Exchange (such as Quanta).

- These laws impose requirements if a publicly traded company chooses to transfer major assets without a final and binding judgment.
- Pursuant to Taiwan Code of Civil Procedure (“TRCP”) §402, this Court’s Order, as an order for a foreign court (from the perspective of Taiwanese law), would need to be recognized as final and binding through proper Taiwanese judicial proceedings.
- As these non-exempt properties are within the sovereignty and jurisdiction of Taiwan, in order to comply with the Taiwanese Securities and Exchange Act and other Taiwanese governmental regulations, Quanta must petition the governmental and judicial authorities in Taiwan for permission to comply with the Order.
- Without these proper adjudications, Quanta would not be able to transfer such assets without violating regulations and laws imposed upon Quanta by the sovereignty of Taiwan and its judiciary.
- Quanta has taken measures to consult its Taiwanese counsel regarding the relevant proceedings, but the COVID-19 virus has not only slowed Quanta’s business but also the governmental and judicial functions of Taiwan.

- Quanta, a publicly traded Taiwanese company, and its shareholders, would be unduly prejudiced if Quanta ignored the laws and regulations imposed by Taiwanese government.

7. Quanta asks the Court to deny HP's attempts to hold Quanta in contempt in light of (1) the efforts Quanta is making to comply, (2) the ongoing COVID-19 situation, and (3) the fact that the Court's order does not contain a date by which Quanta must turn over its assets.

8. In light of the circumstances, Quanta believes a hearing on a motion to show cause is premature.

THEREFORE, Quanta respectfully requests the Court to Deny HP's motion.

PRAYER

Quanta Storage, Inc. asks the Court to deny HP's motion.

DATE: April 14th, 2020

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Respectfully submitted,

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ATTORNEYS FOR DEFENDANT QUANTA STORAGE. INC.

CERTIFICATE OF SERVICE

I hereby certify that on the 14th day of April, 2020, all counsel of record who are deemed to have consented to electronic service are being served with a copy of the foregoing instrument via the Court's CM/ECF filing system.

/s/ Marie R. Yeates
Marie R. Yeates
Attorney for Quanta Storage, Inc.

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DECLARATION OF JAKE WANG

Pursuant to 28 U.S.C. §1746, I, Jake Wang, declare that the following is true and correct:

1. I am over the age of eighteen (18) years, am of sound mind, and am competent to make this Declaration. I am Head of Legal in the Legal/IP Department for Defendant Quanta Storage Inc. (“Quanta”), and I have personal knowledge of the matters described herein. In addition, I have been personally involved in Quanta’s defense of this matter as well as its compliance with post-trial orders.

2. In connection with the Court’s turnover order entered on April 1, 2020 (the “Order”), I would like to explain to the Court the situation that Quanta faces

given the international pandemic and the fact that Quanta is a Taiwanese company with the bulk of its assets in Taiwan and China. Although the Court's Order does not contain any deadline by which Quanta must comply with the Order, HP is asking this Court to hold Quanta in contempt only two weeks after the Order was entered. Quanta is taking steps to comply with the Order to the best of its ability given the situation. Compliance is hindered both by the international COVID-19 pandemic and the additional legal requirements associated with any transfer of Quanta's overseas assets.

3. Quanta's only non-exempt property within the United States consists of trademarks and patents, and the Order does not provide any specific mechanism for turnover of the same to Constable Alan Rosen's office. I have instructed Quanta's counsel to reach out to Constable Rosen's office as well as counsel for Plaintiff to determine the specific method and process of handling this transfer. Presently, Quanta is prepared to execute a general assignment of its patents and trademarks registered in the United States in favor of Plaintiff, if such an assignment will satisfy the Order and Plaintiff.

4. With respect to Quanta's non-exempt property located outside the United States, Quanta's compliance is impacted by the current situation due to the COVID-19 pandemic. Compliance requires not only coordination with attorneys in

the United States, who are all subject to “shelter at home” orders, but also guidance from counsel in Taiwan concerning the additional steps discussed below required to lawfully effect certain transfers.

5. To counter the current COVID-19 pandemic, the central government of Republic of China (“Taiwan”) had activated the Central Epidemic Command Center (CECC) as early as January 20, 2020. Over the following weeks, the CECC put scores of measures onto all companies to aid in containing the disease and preventing its spread into the general community, including screening all companies’ employees for mandatory 14-day self-quarantine for employees who had traveled to People’s Republic of China (“China”) with criminal penalties in accordance with the Communicable Disease Control Act.

6. As a result, Quanta, as early as late February 2020, had implemented alternative work arrangement by rotating roughly one-third (1/3) of its headquarters employees to meet minimum staffing requirements. Furthermore, as early as late February 2020, Quanta required all employees returning from China to self-quarantine, resulting in the self-quarantine of hundreds of Quanta employees,

including Quanta’s Chief Executive Officer.¹ Quanta had also transitioned some of its production lines to make face masks for its own employees. Quanta had also been required by the local government on “quarantine relief” to provide isolation hotel rooms for those who cannot conduct self-quarantine at home, and to provide employees’ tracking data to the local government for case identification and containment.

7. In essence, Quanta had divested not only its manpower but also its managerial and operational capacities in order to comply with Taiwanese regulations against the COVID-19 pandemic.

8. As Quanta has previously shown the Court, its assets overseas are primarily comprised of real property (*e.g.*, factories) in Taiwan and China. As I understand it, Taiwan Securities and Exchange Act (“SEA”) §36-1—and Regulations Governing the Acquisition and Disposal of Assets by Public Companies adopted in accordance with SEA §36-1—govern the transfer of property belonging to publicly traded companies listed on Taiwan Stock Exchange. These laws impose requirements if a publicly traded company chooses to

¹ Taiwan has 23 million citizens of which 850,000 reside in, and 404,000 work in, China. In 2019, 2.71 million visitors, including these citizens and seasonal workers, from China traveled to Taiwan.

transfer major assets without a final and binding judgment. It is my understanding, pursuant to Taiwan Code of Civil Procedure (“TRCP”) §402, that this Court’s Order, as an order for a foreign court, would need to be recognized as final and binding through proper Taiwanese judicial proceedings.

9. As these non-exempt properties are within the sovereignty and jurisdiction of Taiwan, in order to comply with the Taiwanese Securities and Exchange Act and other Taiwanese governmental regulations, Quanta must petition the governmental and judicial authorities in Taiwan for permission to comply with the Order. Without these proper adjudications, Quanta would not be able to comply with this Court’s Order without violating regulations and laws imposed upon Quanta by the sovereignty of Taiwan and its judiciary. Quanta has taken measures to consult its Taiwanese counsel regarding the relevant proceedings, but the COVID-19 virus has not only slowed Quanta’s business but also the governmental and judicial functions of Taiwan. Quanta, a publicly traded Taiwanese company, and its shareholders, would be unduly prejudiced if Quanta ignored the laws and regulations imposed by Taiwanese government.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on April 14, 2020.

/s/ Jake Wang
Jake Wang