

# Judge says maker of Pegasus spyware does not need to provide sought-after Israeli witnesses in WhatsApp case

By Suzanne Smalley

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The federal judge presiding over a long-running court battle between the Israel-based spyware manufacturer NSO Group and the Meta-owned WhatsApp messaging platform on Thursday [denied](#) a WhatsApp appeal to allow it to depose additional witnesses in Israel and subject them to turn over documents in discovery.

The decision could be significant in the aftermath of last week's [revelations](#) that the Israeli government sought to influence the case by reportedly seizing NSO Group documents, issuing a gag order to prevent Israeli press coverage of the seizure and editing court filings produced by the spyware purveyor. NSO Group's zero-click Pegasus spyware is considered by privacy experts to be the most advanced spyware technology available today, and is sold to governments worldwide.

In denying the WhatsApp request, Northern California federal judge Phyllis Hamilton said the three current executives NSO Group [selected to testify](#) are sufficient sources of information on the company's practices relating to its Pegasus product.

Currently, NSO CEO Yaron Shohat, vice president of research and development Tamir Gazneli and vice president of client executives Ramon Eshkar are scheduled to be deposed in the case.

WhatsApp argued to the court that those witnesses will not give a full picture of the hacks or how Pegasus is sold and deployed.

"NSO claims, without support, that the three current executives that it has hand-selected for depositions ... possess such vast knowledge about NSO's attack on WhatsApp's servers and its users that the depositions of the [additional] NSO witnesses would be duplicative," WhatsApp argued in an [earlier court filing](#).

"NSO's initial disclosures showed that certain of the NSO witnesses know about the topics that Plaintiffs seek to explore during depositions, and that the three current executives that NSO now offers for depositions do not," it added.

Hamilton overruled WhatsApp, saying that "the discovery sought can be obtained from deponents who have already agreed to appear."

The judge's Thursday order also overruled an NSO Group attempt to depose a digital forensic researcher working for the Citizen Lab, whose [experts helped](#) WhatsApp identify civil society victims of the Pegasus infections of some 1,400 WhatsApp users in 2019.

Hamilton also denied an NSO Group request to obtain pre-litigation communications between WhatsApp and Citizen Lab.

The Citizen Lab has become a nemesis of NSO Group's because it has led many investigations documenting Pegasus infections on civil society phones (NSO Group [says](#) its product is only sold to governments to use for law enforcement and intelligence investigations).

Throughout the lawsuit NSO Group has consistently sought to depose experts from The Citizen Lab and has asked that the organization turn over all documents relating to its Pegasus investigation even though the digital forensic research institute is not a party to the case.

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