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AMERICAS NEWS INTEL PUBLISHING

11 UNITED STATES DISTRICT COURT

12 NORTHERN DISTRICT OF CALIFORNIA

13 SAN JOSE DIVISION

14 INTEL CORPORATION,

15 Plaintiff,

16 v.

17 AMERICAS NEWS INTEL PUBLISHING,
18 LLC,

19 Defendant.

CASE NO. C09-5085 (PVT)

**AMERICAS NEWS INTEL
PUBLISHING, LLC'S NOTICE OF
MOTION AND MOTION TO
DISMISS INTEL CORPORATION'S
COMPLAINT; MEMORANDUM OF
POINTS AND AUTHORITIES**

Date: February 9, 2010

Time: 10:00 a.m.

21 Defendant hereby gives notice of its Motion to Dismiss Plaintiff's Complaint, set for
22 hearing on February 9, 2010 at 10:00 a.m., or as soon thereafter as counsel may be heard.

23 Defendant hereby moves the Court to dismiss plaintiff's Complaint in its entirety for failure
24 to state a claim pursuant to Federal Rule of Civil Procedure 12(b)(6), for the reasons more fully set
25 forth in defendants' accompanying memorandum of points and authorities.

1 Dated: December 31, 2009

CARR & FERRELL *LLP*

2
3 By: /s/ Colby B. Springer

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MEMORANDUM OF POINTS AND AUTHORITIES

INTRODUCTION AND FACTUAL OVERVIEW

The Complaint by Intel Corporation is a massive work that sets forth an immense number of trademark-based claims. These claims center on the allegation that the defendant, America News Intel Publishing, has infringed Intel Corporation's INTEL trademarks through the use of the marks AMERICAS NEWS INTEL PUBLISHING, LATIN INTEL, and LATIN INTEL TRADE CENTER in association with "consulting services and newsletter subscriptions on business, economics, travel and politics in Mexico." Complaint ¶ 20. Intel Corporation is, of course, the well-known computer chip giant whose INTEL trademark is one of the world's best known for technology. Complaint ¶ 8-11. Nowhere in the Complaint, however, is it alleged that Intel Corporation uses its trademarks, intends to use them, or is likely to use them in connection with consulting services and newsletter subscriptions on business, economics, travel, and politics in Mexico.

No allegation is made in the Complaint that defendant is offering consulting services and newsletters respecting technology, computers, or anything having to do with Intel Corporation or for what its INTEL brand is known. The Complaint omits, however, the explanation as to why defendant might "use" a trademark associated with computer chips and related goods and services in connection with consulting services and newsletter subscriptions on business, economics, travel and politics in, of all places, Mexico. The reason for this is that Intel Corporation chooses to ignore a very significant fact: That the word "intel" used in defendant's marks has nothing to do with INTEL chips, Intel Corporation, or its business. Rather, "intel" is a word in the English language—albeit via slang—for "intelligence," usually used in the sense of reconnaissance and analysis regarding areas of special interest. It's not all about Intel Corporation.

As set forth below, once the Court takes—as the law provides that it should—judicial notice of the universe of dictionary and other reference and popular media definitions for the word "intel," the meritless nature of the Complaint becomes painfully clear. Thus Merriam-Webster's online dictionary reports a single, solitary definition for the word "intel": "Function: *abbreviation* [Definition:] intelligence." SPRINGER DECLARATION, EXHIBIT A. Journalists, analysts, and others

1 in a position to write or talk about “intel” do so with the full understanding of how the public
 2 understands the word. Thus, no less a standard-setter than the Associated Press has, in the last few
 3 days alone, repeatedly used the word to report the news, including once in a headline reading “**Intel**
 4 report: Iran seeking to smuggle raw uranium.” SPRINGER DECLARATION, EXHIBIT B (emphasis
 5 added). Another Associated Press use of “intel” was on December 29, 2009 in the body of a news
 6 article that ran in the online and print versions of *Investor’s Business Daily*—among countless other
 7 publications—and that read, “[m]eanwhile, diplomats are concerned about an **intel** report that Iran
 8 is trying to import 1,350 tons of imported uranium from Kazakhstan.” SPRINGER DECLARATION,
 9 EXHIBIT C (emphasis added).

10 Further examples of such usage abound. Earlier this week, CNN foreign affairs
 11 correspondent Mohammed Jamjoun explained news developments on a network program by
 12 saying, “[t]he Yemenis maintained that they’re doing this all on their own, but they’re getting
 13 money from the U.S. and they’re getting **intel** information from the U.S.” SPRINGER
 14 DECLARATION, EXHIBIT D (emphasis added). Similarly, in a *National Review* article entitled “Deep
 15 in the Shallows” and reviewing the recent film “Avatar,” the author writes:

16 Thus equipped, and supervised by an ornery scientist named Grace
 17 (Sigourney Weaver, having fun), he sets out to infiltrate the local alien clan
 18 in the hopes of making peace—or, failing that, in the hopes of bringing
 useful military **intel** back to his superiors.

19 SPRINGER DECLARATION, EXHIBIT E (emphasis added). On the opposite end of the political
 20 spectrum—and merely utilizing a small fraction of publicly-recorded uses of the term “intel” in just
 21 the few days prior to this filing—the following usage comes via television commentator Chris
 22 Matthews:

23 MATTHEWS: Yes. Well, how would you possibly pick up **intel** on a few
 24 guys get together with a kid like this? They recruit him or he joins them.
 25 They give him what he needs in terms much weaponry. He is already
 26 indoctrinated, or self-indoctrinated. He already has a point of view. How
 27 could a big intelligence worldwide network pick up on such a small situation
 28 like that, Tyler and then Bob?

1 SPRINGER DECLARATION, EXHIBIT F (emphasis added). Finally, only two days ago, no less a
 2 competent source than the press secretary of the President of the United States engaged in this
 3 exchange at a press conference:

4 Q Was there any discussion or consideration of the possibility of returning to
 5 Washington and cutting the vacation short?

6 MR. McDONOUGH: I'm not aware of any such discussion. I mean, the
 7 President has got a full team here, we're very close. Interagency is stood up
 8 back in Washington, working all agencies, all **intel**, law enforcement,
 9 military, homeland security and others are working regularly, aggressively.

9 SPRINGER DECLARATION, EXHIBIT G (emphasis added).

10 The indisputably standard definition of the word “intel” provides a completely logical basis
 11 for understanding defendant’s choices of terminology. Such a definition likewise provides a far
 12 more plausible basis than the conclusory allegations set forth in the Complaint and that defendants
 13 would conceivably have anything to gain by using the name of a computer chip manufacturer to
 14 describe their business of disseminating information about and advising clients and readers with
 15 respect to Mexico.

16 For this reason, and for many others—including the fact that plaintiffs cannot plausibly,
 17 even by dint of the allegations of the Complaint, be regarded as competitors; and that plaintiff’s
 18 dilution claims fail to state a cognizable claim on multiple grounds as well—the Court should
 19 swiftly end this adventure in gross intellectual property overreaching and dismiss the Complaint of
 20 Intel Corporation as a matter of law.

21 LEGAL ARGUMENT

22 I. PLAINTIFF’S ALLEGATIONS SOUNDING IN TRADEMARK INFRINGEMENT 23 FAIL TO STATE CLAIMS FOR WHICH RELIEF CAN BE GRANTED

24 A. Legal standard for dismissal under Fed. R. Civ. P. 12(b)(6)

25 A motion to dismiss under Federal Rule of Civil Procedure 12(b)(6) tests the “legal
 26 sufficiency” of the claims alleged in the complaint. *In re Graphics Processing Units Antitrust*
 27 *Litig.*, 527 F. Supp. 2d 1011, 1018 (N.D. Cal. 2007). A motion to dismiss is properly granted under
 28

1 Fed. R. Civ. P. 12(b)(6) where the pleadings fail to state a claim upon which relief can be granted.
 2 The complaint is construed in the light most favorable to the non-moving party and all material
 3 allegations in the complaint are taken to be true. *Sanders v. Kennedy*, 794 F.2d 478, 481 (9th Cir.
 4 1986). The court is not, however, required to accept legal conclusions cast in the form of factual
 5 allegations if those conclusions cannot reasonably be drawn from the facts alleged. *Clegg v. Cult*
 6 *Awareness Network*, 18 F.3d 752, 754-55 (9th Cir. 1994) (citing *Papasan v. Allain*, 478 U.S. 265,
 7 286 (1986)). Mere “conclusory allegations of law and unwarranted inferences are insufficient to
 8 defeat a motion to dismiss for failure to state a claim.” *In re Graphics Processing Units, supra*, 527
 9 F. Supp. 2d at 1018 (citing *Epstein v. Washington Energy Co.*, 83 F.3d 1136, 1140 (9th Cir.1996)).
 10 Even under the liberal pleading standard of Federal Rule of Civil Procedure 8(a)(2), a plaintiff must
 11 do more than recite the elements of the claim and must “provide the grounds of [its] entitlement to
 12 relief.” *Bell Atlantic v. Twombly*, 127 S. Ct. 1555, 1559 (2007) (citations omitted). In addition, the
 13 pleading must not merely allege conduct that is conceivable; the allegations must also be plausible.
 14 *Id.* at 1974. To dismiss for failure to state a claim pursuant to Fed. R. Civ. P. 12(b)(6), the court
 15 must ultimately determine that “the complaint lacks a cognizable legal theory or sufficient facts to
 16 support a cognizable legal theory.” *Mendiondo v. Centinela Hosp. Med. Ctr.*, 521 F.3d 1097, 1104
 17 (9th Cir. 2008).

18 **B. The Court should take judicial notice of dictionary definitions of the word “intel”**

19 Fed. R. Evid. 201 (b)(2) permits the Court to take judicial notice of facts that are “not
 20 subject to reasonable dispute in that it is . . . (2) capable of accurate and ready determination by
 21 resort to sources whose accuracy cannot be reasonably questioned.” It is proper to take judicial
 22 notice of dictionary definitions. *Wilshire Westwood Assoc. v. Atlantic Richfield Corp.*, 881 F.2d
 23 801, 803 (9th Cir. 1989); *Cose v. Getty Oil Co.*, 4 F.3d 700, 705 (9th Cir. 1993). “To that end,
 24 dictionaries and encyclopedias may be consulted” in determining trademark issues and, in
 25 particular, in assessing genericness. *B.V.D. Licensing Corp. v. Body Action Design, Inc.*, 846 F.2d
 26 727, 728 (Fed. Cir. 1988); *Team Cent. Inc. v. Xerox Corp.*, 606 F. Supp. 1408, 1413 (D.C. Minn.
 27 1985) (citing *Miller Brewing Co. v. G. Heileman Brewing Co.*, 561 F.2d 75, 80-81 (7th Cir.), *cert.*
 28 *denied*, 434 U.S. 1025 (1978) (relying heavily on dictionary to find that “light” or “lite” was

generic term for low-calorie beer and noting propriety of judicial notice of common usage of the English language to determine whether a use is generic)); see also *Road Dawgs Motorcycle Club of U.S., Inc. v. Cuse Road Dawgs, Inc.*, 2009 WL 3790183, 16 at n. 64 ((N.D.N.Y. 2009) (reference to online dictionary).

In all these cases, the question of genericness was resolved by reference to standard reference works proffered by parties in competition with the senior mark holder. In contrast to the present case, the alleged trademark “use” of the generic term “intel” is completely non-competitive. The parties, even upon a plain reading of the facts alleged in the Complaint, do not compete or operate in the same marketing channels. The use of dictionary and other standard or reference-work definitions to ascertain that the word being used by the defendant is not the same word that constitutes plaintiff’s trademark is particularly appropriate.

Having established the legal basis for the Court to consider such definitions, consideration of the extensive body of references set forth in the Statement of Facts to use of the word “intel” in the manner used by defendants, and completely unrelated to plaintiff’s trademarks or its business, easily demonstrates the meritless nature of the Complaint.

C. Defendant’s of the word “intel” in its plain English sense is not use of the INTEL trademark

Plaintiff has pleaded a number of claims sounding in trademark infringement but based on different legal theories, which are all alternative conceptual approaches to capturing—in a legally cognizable way—a person’s wrongful use of another’s trademark and either confusing the public, or undermining, by dilution, the trademark holder’s ability to benefit from his mark. All are premised on wrongful use of the trademark in question. Not only are defendant’s actions not even remotely likely to cause confusion or mislead consumers—as will be discussed in the following section—but, even more fundamentally, the INTEL **trademark** has never been used by the defendant, even though it has used the *unrelated* English word “intel.”

All these legal theories ultimately reflect the policy embodied in the federal Lanham Act, which imposes liability upon any person who (1) uses an infringing mark in interstate commerce, (2) in connection with the sale or advertising of goods or services, and (3) such use is likely to

1 cause confusion or mislead consumers. 15 U.S.C. § 1114(1)(a). The first and most fundamental
 2 prong of a claim for trademark infringement or trademark dilution, therefore, is that a plaintiff must
 3 allege that the defendant actually used its trademark. *See Academy of Motion Picture Arts and*
 4 *Sciences v. Network Solutions*, 989 F. Supp. 1276, 1279-81 (C.D. Cal. 1997) (federal trademark
 5 infringement and dilution claims and state law unfair competition claims require that defendant
 6 “used” another’s mark without permission in connection with its own goods and services); *Toho*
 7 *Co. v. Sears, Roebuck & Co.*, 645 F.2d 788, 793 (9th Cir. 1981) (dilution doctrine codified in
 8 Business and Professions Code protects trademark holder from harm due to defendant’s “use” of its
 9 mark); *Sunset House Distributing Corp. v. Coffee Dan’s Inc.*, 240 Cal. App. 2d 748, 753 (1966)
 10 (state law trademark infringement and unfair competition claims require defendant’s “use of a
 11 confusingly similar tradename” to tradename used by plaintiff); 15 U.S.C. § 1125(a)(1) (false
 12 representation actionable under Lanham Act if party “uses in commerce” a “false or misleading
 13 representation of fact”).

14 But the courts have long made it clear that not all “uses” of a trademark are actionable.
 15 Trademarks “identify and distinguish” goods “from those manufactured or sold by others” and
 16 “indicate the source of the goods.” 15 U.S.C. § 1127; *New Kids on the Block v. News America*
 17 *Publ’g, Inc.*, 971 F.2d 302, 305 (9th Cir. 1992). Trademark rights—as was perhaps best stated by
 18 Justice Holmes—only enable their owner to prohibit the use of that trademark “so far as to protect
 19 the owner’s good will against the sale of another’s product as his.” *Prestonettes, Inc. v. Coty*, 264
 20 U.S. 359, 368 (1924) (Holmes, J.). In contrast, “[i]f defendants are only using [plaintiff’s]
 21 trademark in a ‘non-trademark’ way—that is, in a way that does not identify the source of a
 22 product—then trademark infringement and false designation of origin laws do not apply.”
 23 *Interactive Prods. Corp. v. a2z Mobile Office Solutions, Inc.*, 326 F.3d 687, 695 (6th Cir. 2003); *see*
 24 *also Academy of Motion Picture Arts and Sciences*, 989 F. Supp. 1276 at 1279 (“commercial use”
 25 under Lanham Act requires that defendant attach marks to goods or services that it sells); *Pirone v.*
 26 *MacMillan, Inc.*, 894 F.2d 579, 583 (2d Cir. 1990) (a defendant “can infringe [a trademark
 27 owner’s] rights only if [the defendant’s] use was a ‘trademark use,’ that is, one indicating source or
 28 origin”).

1 In the present matter, it is beyond dispute that defendants are using the word “intel,” which
 2 is spelled and pronounced exactly as the INTEL trademark. Furthermore, defendant is making, in
 3 the strict sense, trademark use of the word “intel” as part of the three word combinations used to
 4 describe their offerings. But defendant is not making use of the **trademark INTEL** which, while
 5 the complaint attempts to distract matters by claims that it is “ubiquitous” (Complaint ¶ 10) and in
 6 use “with virtually every product and service it sells” (Complaint ¶ 11), is ultimately associated
 7 only with the famous, wealthy company that “develops, manufactures and sells a wide variety of
 8 computer, communications and Internet-related products and services”—but not news and
 9 information. Not “intelligence.” Not “intel.” This is **not** trademark use.

10 **D. Any use by defendant’s of plaintiff’s mark is an example of a non-actionable**
 11 **generic meaning in different contexts**

12 Despite the deference afforded registered trademarks, much less incontestable and famous
 13 ones, the cases have not hesitated to give short shrift to plaintiffs, such as Intel, that seek to control
 14 the development of language and culture merely because they own a bona fide stake in a particular
 15 combination of letters in the Latin alphabet. Indeed, the Ninth Circuit has ruled this way even
 16 when the association—even the genesis of the junior user—is in fact obvious, yet consumer
 17 associations are not:

18 The First Amendment may offer little protection for a competitor who labels
 19 its commercial good with a confusingly similar mark, but “[t]rademark rights
 20 do not entitle the owner to quash an unauthorized use of the mark by another
 21 who is communicating ideas or expressing points of view.” *L.L. Bean, Inc. v.*
 22 *Drake Publishers, Inc.*, 811 F.2d 26, 29 (1st Cir.1987). Were we to ignore
 23 the expressive value that some marks assume, trademark rights would grow
 24 to encroach upon the zone protected by the First Amendment. *See Yankee*
 25 *Publ’g, Inc. v. News Am. Publ’g, Inc.*, 809 F.Supp. 267, 276 (S.D.N.Y.1992)
 26 (“[W]hen unauthorized use of another’s mark is part of a communicative
 27 message and not a source identifier, the First Amendment is implicated in
 28 opposition to the trademark right.”). Simply put, the trademark owner does
 not have the right to control public discourse whenever the public imbues his
 mark with a meaning beyond its source-identifying function. *See Anti-*
Monopoly, Inc. v. Gen. Mills Fun Group, 611 F.2d 296, 301 (9th Cir.1979)
 (“It is the source-denoting function which trademark laws protect, and
 nothing more.”).

1 *Mattel, Inc. v. MCA Records, Inc.* 296 F.3d 894, 900-901 (9th Cir. 2002) (no trademark
2 infringement in BARBIE trademark for dolls arising from performance of “Barbie Girl” song).

3 Professor McCarthy, in his definitive treatise, addresses this topic under the rubric of
4 “generic meanings in different contexts.” His analysis of the black-letter law on this topic is
5 precisely on point. And while the following excerpt is somewhat extended, defendant respectfully
6 submits that the Court indulge its inclusion, for in this passage McCarthy comprehensively and
7 authoritatively addresses—and demolishes—the specious trademark / unfair competition issue in
8 this litigation:

9 Sometimes a word used as a trademark comes to have an entirely new
10 “generic” meaning or usage apart from its function as a trademark. This
11 occurrence has been described as “the parallel development of new
12 dictionary meanings in the everyday give and take of human discourse.” In
13 one such case, a federal court refused to enjoin public interest groups from
14 referring to the “Strategic Defense Initiative” as the “Star Wars Program” in
15 television media, over the objection of the owner of the STAR WARS
16 motion picture trademark. The court reasoned that:

14 [T]he use of star wars in political propaganda, newspapers or
15 noncommercial, non-trade references will not undermine plaintiff's
16 exclusive property right to use in connection with goods and services.
17 ... Now the phrase star wars has acquired a double meaning ... The
18 new meaning of the phrase in the political context or scientific
19 context does not affect the distinct, and still strong secondary
20 meaning of STAR WARS in trade and entertainment.

19 This policy of allowing parallel “generic” use of a trademark in a different
20 context acknowledges the dynamic nature of modern language: the meaning
21 of a word or symbol is not necessarily fixed for all time as it is first used, or
22 as it is defined in the dictionary, but may grow and develop new meaning and
23 nuances according to its use. Although a word may have developed a new,
24 generic meaning in a non-commercial, non-trade context, as long as it still
25 functions in the commercial context to identify the good will of its source, it
26 has meaning as a trademark and that meaning will be judicially protected
27 against confusingly similar commercial use. Thus, while the terms “Mickey
28 Mouse” or “Teflon” president may have acquired new, “generic” meanings
in the language, that does not impugn their original status as strong
trademarks in the commercial context. Similarly, the trademark SPAM for
canned meat took on a new and parallel meaning in the language as denoting
unwanted or “junk” advertising e-mail. “[T]he trademark owner does not
have the right to control public discourse whenever the public imbues his
mark with a meaning beyond its source-identifying function.”

1 Somewhat similar is the case where the Illinois High School Association for
 2 several decades named the state high school basketball tournament “March
 3 Madness,” and, years later, television sports broadcasters began calling the
 4 N.C.A.A.’s national college basketball tournament “March Madness.” The
 5 court refused the high school association's plea to enjoin the N.C.A.A.’s use
 6 of the term “March Madness” and its licensing of the term for computer
 7 games. The court said that principles of free speech prevent a court from
 8 prohibiting the media from calling the N.C.A.A. tournament “March
 9 Madness” and a court could not stop the public from affixing the name to
 10 something other than the Illinois high school tournament. To centralize
 11 ownership, the two parties then assigned their trademarks to a new entity
 12 which licensed back both of the parties to use the term to identify their
 13 basketball tournaments. The new entity then prevailed in asserting
 14 infringement against a third party user.

15 A term may be the generic name of one product, but not of another. For
 16 example, while DIESEL is not the generic name of wearing apparel, the
 17 owner of that mark for wearing apparel cannot prevent a maker of diesel
 18 engines from using the word to name its products. Thus, some cases can be
 19 decided on the ground that the defendant's use is permitted because the
 20 contested term is a generic name of the *defendant's* goods, without the court
 21 having to pass on the validity of the mark and its genericness as to the
 22 *plaintiff's* goods. . . .

23 McCarthy § 12:3 (citing *Lucasfilm, Ltd. v. High Frontier*, 622 F. Supp. 931, 969 (D.D.C. 1985);
 24 *Viacom International Inc. v. Komm*, 46 U.S.P.Q.2d 1233, 1998 WL 177472 (T.T.A.B. 1998) (MY-
 25 T-MOUSE software not an infringement of MIGHTY MOUSE cartoon character even though
 26 merchandised for use on toys, which could include computer toys and games); 56 *INTA Bulletin*,
 27 no. 14 p.1 (Aug. 1, 2001) (Hormel Foods “spam” litigation); *Mattel, Inc. v. MCA Records, Inc.*, 296
 28 F.3d 894, (9th Cir. 2002), *cert. denied*, 537 U.S. 1171 (2003) (“Some trademarks enter our public
 discourse and become an integral part of our vocabulary.”); *Illinois High School Ass'n v. GTE*
Vantage, Inc., 99 F.3d 244 (7th Cir. 1996) (“[A] court could not, without violating the free speech
 clause of the First Amendment, have enjoined (or used other legal remedies to prevent or deter) the
 media from calling the NCAA tournament ‘March Madness’ . . . [W]e think that for the sake of
 protecting effective communication [the issue] should be resolved against trademark protection,
 thus assimilating dual use of multiple use terms to generic terms.”); *March Madness Athletic Ass'n*,
L.L.C. v. Netfire, Inc., 310 F. Supp. 2d 786 (N.D. Tex. 2003), *judgment entered*, 2003 WL
 22173299 (N.D. Tex. 2003) and *aff'd*, 120 Fed. Appx. 540 (5th Cir. 2005)).

1 Every one of these cases involved a junior use whose “inspiration” or allusion to the
2 trademark in question was beyond cavil, but was still found to be permissible as a generic meaning
3 in a different context. The trademark rights did not follow, as they cannot, the change in meaning.

4 In contrast, the defendant's position is far stronger than in the aforementioned cases, where
5 the infringement claims still failed. In contrast, there has been no change or “genericization” of the
6 trademark. The generic word used by the defendant—“intel”—bears no conceptual, commercial, or
7 semantic relationship to the trademark INTEL besides a common root in the word “intelligence.”
8 The government officials, journalists and pundits quoted using the English term “intel” for
9 “intelligence information” were obviously not referring to, much less using, the INTEL trademark.
10 And neither can the same use of the same term in the same way by defendant plausibly be alleged
11 to constitute trademark infringement.

12 **E. Plaintiff has failed adequately to plead facts amounting to a plausible claim of**
13 **likelihood of confusion**

14 As the Trademark Trial and Appeal Board (TTAB) wrote in *Viacom International Inc. v.*
15 *Komm*, 46 U.S.P.Q.2d 1233 (T.T.A.B. February 05, 1998), “[t]his brings us to the issue of
16 likelihood of confusion.” In determining whether confusion between related goods is likely, the
17 Ninth Circuit considers eight factors: (1) strength of the mark; (2) relatedness of the goods and
18 services; (3) similarity of the marks; (4) evidence of actual confusion; (5) marketing channel used;
19 (6) type of goods and the degree of care likely to be exercised by the purchaser; (7) the defendant's
20 intent in selecting the mark; and (8) likelihood of expansion of the product lines. *AMF, Inc. v.*
21 *Sleekcraft Boats*, 599 F.3d 341, 349 (9th Cir.1979). The Complaint fails, here, on multiple scores.

22 First, there is no plausible relation between the goods and services of plaintiff and
23 defendant. Second, the uses of the word “intel” by defendant, even if those uses are construed by
24 the Court as legally cognizable uses of the INTEL mark, and even if they are not deemed fair uses,
25 they are not confusingly similar to the INTEL trademarks because they are not similar to the
26 INTEL trademark; rather, they are embedded in longer, multi-word phrases of which “intel” is only
27 a component of the phrase. Third, there is no allegation of actual confusion. Fourth, the types of
28 goods and the marketing channels for these goods are entirely disparate—there is no plausible

allegation here that a prospective customer interested in any service provided by plaintiff would choose or even consider defendant's offerings instead. Fifth, there is not even a plausible allegation that plaintiff is going into the business of publishing area-related policy analysis and "intel" in any form. Most of these facts are self-evident; defendant analyzes some of the relevant legal principles below.

i. Defendant's of the word "intel" as part of various longer phrases is not likely to be confused with the INTEL trademark

According to the "anti-dissection" rule, "[t]he commercial impression of a trademark is derived from it as a whole, not from its elements separated and considered in detail." *Estate of P.D. Beckwith, Inc. v. Comm'r of Patents*, 252 U.S. 538, 545-46, 40 S.Ct. 414, 64 L.Ed. 705 (1920); 4 J. Thomas McCarthy, *McCarthy on Trademarks and Unfair Competition* § 23:41 (4th ed.2004) ("McCarthy"). As the Ninth Circuit has taught:

[When a] mark is a composite term . . . its validity is not judged by an examination of its parts. Rather, the validity of a trademark is to be determined by viewing the trademark as a whole. *See Union Carbide Corp. v. Ever-Ready Inc.*, 531 F.2d 366, 379 (7th Cir.), *cert. denied*, 429 U.S. 830, 97 S.Ct. 91, 50 L.Ed.2d 94 (1976). "Words which could not individually become a trademark may become one when taken together." *Id.* "A composite geographical mark should not be dissected into its parts . . . It is the likely reaction of customers to the total mark that is at issue." 1 J. McCarthy, *supra*, § 14:6, at 496 . . .

California Cooler, Inc. v. Loretto Winery, Ltd., 774 F.2d 1451, 1455 (9th Cir. 1985).

Plaintiff's trademark claim is based on the use by defendant of the word "intel" in the phrases AMERICAS NEWS INTEL PUBLISHING, LATIN INTEL and LATIN INTEL TRADE CENTER. None of these phrases, however, is confusingly similar either to the INTEL mark itself, nor to any of the multi-word marks alleged by plaintiff but which cannot plausibly be as likely to be confused with defendant's marks.

ii. Defendant's of the word "intel" is not likely to be confused with the INTEL trademark because each is used with completely different goods and services.

"Even where there is precise identity of a complainant's and an alleged infringer's mark, there may be no consumer confusion—and thus no trademark infringement—if the alleged infringer

1 is in a different geographic area or in a wholly different industry.” *Brookfield Communications,*
 2 *Inc. v. West Coast Entertainment Corp.*, 174 F.3d 1036, 1054-56 (9th Cir. 1999) (“If, on the other
 3 hand, Brookfield and West Coast did not compete to any extent whatsoever, the likelihood of
 4 confusion would probably be remote”). Here geography is irrelevant, but surely the disconnection
 5 between the parties’ different businesses is more than sufficient to deem the Complaint’s claim of a
 6 likelihood of confusion implausible.

7 In *Viacom*, for example, the TTAB was easily able to distinguish between the rights of
 8 Viacom in the MIGHTY MOUSE trademarks and the software at issue in that opposition
 9 proceeding based on a record indicating that despite the virtual identity of the trademarks in
 10 question as a matter of law—MIGHTY MOUSE and MY-T-MOUSE—consumers simply would
 11 not confuse the animated rodent superhero with software to enhance the performance of a computer
 12 mouse, even where (unlike here) it was obvious that former was meant as an allusion to the latter.
 13 Where, as here, the Complaint itself makes it clear that there is no coherent connection between the
 14 goods and services offered by the plaintiff and those of the defendant, it is entirely proper for a
 15 court to dismiss trademark claims for failure to plead a plausible case of likelihood of confusion at
 16 the pleadings stage:

17 A likelihood of confusion exists when a consumer viewing a service mark is
 18 likely to purchase the services under a mistaken belief that the services are,
 19 or associated with, the services of another provider. *Rodeo Collection, Ltd. v.*
 20 *West Seventh*, 812 F.2d 1215, 1217 (9th Cir.1987). The confusion must “be
 21 probable, not simply a possibility.” *Id.* If goods or services are totally
 unrelated, there is no infringement because confusion is unlikely. *AMF v.*
Sleekcraft Boats, 599 F.2d 341, 348 (9th Cir.1979).

22 *Murray v. Cable Nat. Broadcasting Co.*, 86 F.3d 858, 861 (9th Cir. 1996) (rejecting suggestion that
 23 12(b)(6) relief unavailable in Lanham Act cases on likelihood of confusion grounds). Similarly, no
 24 plausible likelihood of confusion has been pleaded. And while *Viacom* was procedurally
 25 distinguishable from this case, the TTAB’s argument for rejecting a claim of likelihood of
 26 confusion is completely applicable here; all the Court needs to know perform the same analysis is
 27 indeed contained in the Complaint.

1 The defendant here publishes—or, until plaintiff destroyed its business by its legal threats,
 2 did publish—a newsletter and blog offering “intel,” or intelligence information, about world affairs,
 3 and in particular about Mexico. On the other hand, plaintiff sells computer chips and related goods
 4 and services. Indeed, as paragraph 8 of the Complaint states, plaintiff, in part asserts infringement
 5 on the ground that it is used the INTEL mark in “a wide variety of computer, communications and
 6 Internet-related products and services.” Computers . . . communications . . . Internet . . . exactly the
 7 business of defendant! But any suggestion by Intel Corporation that it in competes with defendant
 8 at all is preposterous, and falls far short of the plausibility standard of Rule 12(b)(6). INTEL is not,
 9 and cannot be, alleged to be a trademark used in connection with foreign-affairs blogging, even
 10 though blogs or websites such as those of defendants are communicated via the Internet from
 11 computer to computer.¹ This would, after all, apply to virtually all modern commerce,
 12 communication, and human intercourse in almost the whole world. Indeed, as an initial matter, the
 13 TTAB was not at all impressed, as this Court should not be, with broad claims by a trademark
 14 owner that its mark is all about “the Internet,” and that “the Internet” is all about absolutely
 15 anything:

16 The mere fact that computer accessories and computer toys and games
 17 involve the use of computers or software, and that applicants' goods are also
 18 computer software, does not, in and of itself, demonstrate that the computer
 19 software on which applicants use their mark is within the natural scope of
 20 expansion of the use of opposer's mark. As we have said in the context of
 21 determining whether products are related, “Given the ubiquitous use of
 22 computers in all aspects of business in the United States today, this Board
 23 and its reviewing Court have rejected the view that a relationship exists
 24 between goods and services simply because each involves the use of
 25 computers.” *Electronic Data Systems Corp. v. EDSA Micro Corp.*, 23
 26 USPQ2d 1460, 1463 (TTAB 1992). See also *Octocom Systems, Inc. v.*
 27 *Houston Computers Services Inc.*, 918 F.2d 937, 16 USPQ2d 1783 (Fed. Cir.
 28 1990); *Information Resources Inc. v. X*Press Information Services*, 6
 USPQ2d 1034 (TTAB 1988). . . .

¹ Intel’s throwaway invocation of its “design center in Guadalajara” (Complaint ¶ 10) suggests both its desperation and cynicism on this point. It also ignores the fact that, as the Complaint itself states, the target audience of defendant’s publications was not in Mexico at all, but “nationwide”—in the United States (Complaint ¶ 7).

1 *Id.* Plaintiff's "wide variety of computer, communications and Internet-related products and
2 services" allegation proves too much, and helps the Court focus on the paucity of allegations that
3 could amount to a substantive basis to find that likelihood of confusion had been pleaded here.

4 Indeed, and again in *Viacom*, after brushing away the "Internet and computers" distractions,
5 the TTAB relied, in finding that there was no likelihood of confusion, on a far more fundamental
6 fact. In short, the two trademarks existed in completely different conceptual "spaces"—just as the
7 INTEL trademark associated with computer chips are plainly not be likely, and cannot plausibly be
8 alleged as likely, to be confused with regional or strategic "intel" delivered via a newsletter or blog:

9 Moreover, the marks have different connotations, in that applicants' mark is
10 actually used in connection with the computer peripheral known as a
11 "mouse," and this meaning is further emphasized by the informational
12 language in the mark, THE SOFTWARE THAT MAKES YOUR MOUSE A
13 MOUSE THAT TYPES. Thus, it is the connotation of the computer
accessory, rather than of the cartoon animal associated with opposer's mark,
that consumers will perceive.

14 *Viacom*, 46 U.S.P.Q.2d 1233, 1998 WL 177472. Computer mice are not cartoon mice, just as
15 INTEL chips and their "related goods and services" could never, in the mind of a consumer,
16 plausibly be alleged to connote publishing about overseas affairs.

17
18 **F. The fame of defendant's mark does not enhance the plausibility of its allegations of**
19 **a likelihood of confusion because defendant's use of the word "intel" is not a**
"competing mark"

20 Finally, there is the matter of fame, which, while not the same as "strength" in trademark
21 terms, is an issue in a trademark case such as this one. Indeed "a mark's fame creates an incentive
22 for competitors "to tread closely on the heels of a very successful trademark," and "[a] strong mark
23 . . . casts a long shadow which competitors must avoid." *Kenner Parker Toys Inc. v. Rose Art*
24 *Industries, Inc.*, 963 F.2d 350, 353 (Fed. Cir. 1992). For this reason, "the Lanham Act's tolerance
25 for similarity between competing marks varies inversely with the fame of the prior mark. As a
26 mark's fame increases, the Act's tolerance for similarities in competing marks falls." *Id.* But these
27 considerations are relevant only to competing goods and services, which it cannot plausibly alleged
28 are implicated by this Complaint. In *Viacom*, the TTAB set out an important lesson for those who

are unduly impressed with the fame of a trademark and who assert, or believe, that the owner of a famous trademark is entitled, per se, to own or control every manifestation of some version of it that might occur in common parlance:

We acknowledge that applicants' mark MY-T-MOUSE and design might bring to mind the cartoon MIGHTY MOUSE. However, this does not necessarily mean that consumers will be confused into believing that the two marks indicate the same source of origin. See *Jacobs v. International Multifoods Corp.*, 668 F.2d 1234, 212 USPQ 641, 642 (CCPA 1982) (the fact that one mark may bring another to mind does not in itself establish likelihood of confusion as to source). See also, *Original Appalachian Artworks Inc. v. Streeter*, 3 USPQ2d 1717 (TTAB 1987) As the Court stated in *University of Notre Dame du Lac v. J.C. Gourmet Food Imports Co., Inc.*, 703 F.2d 1372, 217 USPQ 505 (Fed. Cir. 1983):

likely * * * to cause confusion means more than the likelihood that the public will recall a famous mark on seeing the same mark used by another. It must also be established that there is a reasonable basis for the public to attribute the particular product or service of another to the source of the goods or services associated with the famous mark. To hold otherwise would result in recognizing a right in gross, which is contrary to principles of trademark law and to concept embodied in 15 USC Section 1052(d).

Thus, even in the case of a famous mark (and, as we have stated, on this record MIGHTY MOUSE does not rise to the level of a famous mark), the mere fact that the junior user's mark may remind the public of the famous mark does not mean that the use of the junior mark is likely to cause confusion. For the reasons given above, we find that consumers will distinguish between the parties' marks, and are not likely to believe that applicants' identified software, sold under the MY-T-MOUSE and design mark, emanates from or is sponsored by the same source as the MIGHTY MOUSE cartoon character.

Here, too, it cannot plausibly be alleged that consumers encountering newsletters, blogs or consulting services utilizing the marks AMERICAS NEWS INTEL PUBLISHING, LATIN INTEL and LATIN INTEL TRADE CENTER would possibly think they emanate from or are sponsored by computer-chip maker Intel Corporation.

G. Plaintiff has failed to state a claim that defendant's use of the word "intel" is likely to dilute its INTEL mark

To prevail on its dilution by blurring claim (Complaint ¶¶ 36-40), plaintiff has the burden of proving by a preponderance of evidence: (a) that it is the owner of a trademark that is famous; (b)

1 that the famous mark is distinctive, either inherently or through acquired distinctiveness; (c) that
2 defendant is making or has made use in commerce of an identical or nearly identical trademark; (d)
3 that defendant's use of the INTEL mark began after it became famous; and (e) that defendant's use
4 of the word "intel" as part of its AMERICAS NEWS INTEL PUBLISHING, LATIN INTEL and
5 LATIN INTEL TRADE CENTER marks is likely to cause dilution by blurring of the INTEL
6 trademark. 15 U.S.C. § 1125(c); *Jada Toys, Inc. v. Mattel, Inc.*, 518 F.3d 628, 634 (9th Cir. 2007).

7 As set forth above, plaintiff cannot establish all these elements. The first two elements as
8 well as the fourth are not at issue, but it is clear that defendant is not making and has not made use
9 in commerce of an identical or nearly identical trademark to INTEL by its own use of the English
10 word "intel" in the marks AMERICAS NEWS INTEL PUBLISHING, LATIN INTEL and LATIN
11 INTEL TRADE CENTER. These are simply not identical, or nearly identical, trademark uses.

12 The Complaint similarly fails as to the likelihood of causing dilution by blurring. "Dilution
13 by blurring" is association arising from the similarity between a mark or trade name and a famous
14 mark that impairs the distinctiveness of the famous mark. 15 U.S.C. § 1125(c)(2)(B). But while
15 the INTEL mark remains distinctive in its own right, the word "intel" has its own meaning, is in
16 widespread—indeed, nearly universal—use that has no connection to Intel Corporation or its
17 business, and is either properly considered a separate word or "mark" from the plaintiff's INTEL
18 mark or, by virtue of its use as a word, a clear indication that the distinctiveness that plaintiff claims
19 for its mark is long gone, and that defendant's actions have nothing at all to do with that.

CONCLUSION

Accordingly, for all of the foregoing reasons, this Court should grant defendants' Motion to Dismiss the Complaint. As no amount of re-pleading can overcome the fact that defendants are utilizing the term 'intel' in a non-actionable and generic meaning, said dismissal should be with prejudice.

Respectfully submitted,

Dated: December 31, 2009

CARR & FERRELL *LLP*

By: /s/ Colby B. Springer

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AMERICAS NEWS INTEL PUBLISHING

11 UNITED STATES DISTRICT COURT

12 NORTHERN DISTRICT OF CALIFORNIA

13 SAN JOSE DIVISION

14 INTEL CORPORATION,

15 Plaintiff,

16 v.

17 AMERICAS NEWS INTEL PUBLISHING,
18 LLC,

19 Defendant.

CASE NO. C09-5085 (PVT)

**DECLARATION OF COLBY B.
SPRINGER IN SUPPORT OF
AMERICAS NEWS INTEL
PUBLISHING, LLC'S MOTION
TO DISMISS INTEL
CORPORATION'S COMPLAINT**

Date: February 9, 2010

Time: 10:00 a.m.

21 I, the undersigned, COLBY B. SPRINGER, declare as follows:

22 1. I am an attorney admitted to practice before this Court and all of the courts of the
23 State of California. I am a member of the firm of Carr & Ferrell LLP, the attorneys of record for
24 Defendant AMERICAS NEWS INTEL PUBLISHING, LLC ("ANIP"). The facts set out herein are
25 within my personal knowledge, or are based on documents in my possession and other information
26 to which I have access in the course of my duties. If called upon to do so I could and would testify
27 to the truth thereof.
28

1 2. Attached hereto as Exhibit “A” is a true and correct copy of the dictionary definition
2 of the term ‘intel’ as taken from the Merriam-Webster Online Dictionary and referenced in ANIP’s
3 Motion to Dismiss at 1:26-28.

4 3. Attached hereto as Exhibit “B” is a true and correct copy of George Jahn, *Intel*
5 *Report : Iran Seeking to Smuggle Raw Uranium*, Associated Press, December 30, 2009, which
6 utilizes the term ‘intel’ in the context of an intelligence report obtained by the Associated Press and
7 referenced in ANIP’s Motion to Dismiss at 2:2-4.

8 4. Attached hereto as Exhibit “C” is a true and correct copy of *Iran Extends Post-*
9 *Protest Crackdown with High-Profile Arrests, Blaming West*, Associated Press, December 29,
10 2009, which utilizes the term ‘intel’ in the context of an intelligence report that Iran is trying to
11 import uranium from Kazakhstan and referenced in ANIP’s Motion to Dismiss at 2:5-9.

12 5. Attached hereto as Exhibit “D” is a true and correct copy of *CNN Saturday Morning*
13 *News Transcript*, December 26, 2009, which utilizes the term ‘intel’ in the context of the Yemeni
14 government receiving intelligence information from the United States and referenced in ANIP’s
15 Motion to Dismiss at 2:10-14.

16 6. Attached hereto as Exhibit “E” is a true and correct copy of Ross Douthat, *Deep in*
17 *the Shallows*, NATIONAL REVIEW, December 31, 2009, which utilizes the term ‘intel’ in the context
18 of useful military intelligence and the movie *Avatar* and referenced in ANIP’s Motion to Dismiss at
19 2:14-19.

20 7. Attached hereto as Exhibit “F” is a true and correct copy of *CNBC: Hardball*
21 *Transcript*, December 28, 2009, which utilizes the term ‘intel’ in the context of gathering
22 intelligence information and referenced in ANIP’s Motion to Dismiss at 2:19-3:1.

23 8. Attached hereto as Exhibit “G” is a true and correct copy of *Press Briefing by Denis*
24 *McDonough, Deputy Assist to the President and National Security Counsel Chief of Staff*,
25 December 28, 2009, which utilizes the term ‘intel’ in the context of intelligence agencies and
26 referenced in ANIP’s Motion to Dismiss at 3:1-9.

1 I declare under penalty of perjury under the laws of the United States of America that the
2 foregoing is true and correct.

3 Executed at Palo Alto, California, this December 31, 2009.

4
5
6 /s/ Colby B. Springer

7 COLBY B. SPRINGER
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December 30, 2009

Intel report: Iran seeking to smuggle raw uranium

By GEORGE JAHN
Associated Press Writer

Iran is close to clinching a deal to clandestinely import 1,350 tons of purified uranium ore from Kazakhstan, according to an intelligence report obtained by The Associated Press. The assessment is heightening international concern about Tehran's nuclear activities, diplomats said.

Such a deal would be significant because, according to an independent research group, Tehran appears to be running out of the material, which it needs to feed its uranium enrichment program.

Kazakh Foreign Ministry spokesman Yerzhan Ashikbayev denied Wednesday his government was involved, saying that the ex-Soviet nation has fully observed its international obligations. "All Kazakhstan's activities in the uranium sphere have been under the IAEA control," he told the AP.

A spokesman for Kazatomprom, the Kazakh state uranium company, also denied involvement.

Iran's mission to the United Nations in New York described the report as "a fabrication and completely baseless," in a statement faxed to the AP in Tehran.

The report was drawn up by a member nation of the International Atomic Energy Agency and provided Tuesday to the AP on condition that the country not be identified because of the confidential nature of the information.

In Washington, State Department spokesman Ian Kelly said, "the transfer of any uranium yellowcake ... to Iran would constitute a clear violation of UNSC sanctions."

"We have been engaged with many of our international nonproliferation partners on Iran's illicit efforts to acquire new supplies of uranium over the past several years," he said.

A senior U.S. official who spoke on condition of anonymity because he was talking about confidential information said late Tuesday that Washington was aware of the intelligence report, but he declined to discuss specifics.

"We are not going to discuss our private consultations with other governments on such matters but, suffice to say, we have been engaged with Kazakhstan and many of our other international nonproliferation partners on this subject in particular over the past several years," he told the AP. "We will continue to have those discussions."

In New York, Burkina Faso's U.N. Ambassador Michel Kafando, a co-chair of the Security Council's Iran sanctions committee, referred questions Tuesday about a potential deal between Iran and Kazakhstan to his sanctions adviser, Zongo Saidou. Speaking in New York, Saidou told the AP that, as far as he knew, none of the U.N.'s member nations has alerted the committee about any such allegations.

"We don't have any official information yet regarding this kind of exchange between the two countries," Saidou said. "I don't have any information; I don't have any proof."

A senior U.N. official said the Vienna-based IAEA was aware of the assessment but could not yet draw conclusions. He spoke on condition of anonymity because he was discussing confidential information. A Western diplomat from a member of the IAEA's 35-nation board said the report was causing concern among countries that have seen it and was generating intelligence chatter. The diplomat also requested anonymity because he was barred from publicly discussing intelligence information.

A two-page summary of the report obtained by the AP said the deal could be completed within weeks. It said Tehran was willing to pay \$450 million, or close to euro315 million, for the shipment.

"The price is high because of the secret nature of the deal and due to Iran's commitment to keep secret the elements supplying the material," said the summary, adding: "The deal is to be signed soon." An official of the country that drew up the report said "elements" referred to state employees acting on their own without approval of the Kazakh government.

Iranian nuclear officials did not answer their telephones late Tuesday.

Purified ore, or uranium oxide — known as "yellowcake" — is processed into a uranium gas, which is then spun and re-spun to varying degrees of enrichment. Low enriched uranium is used for nuclear fuel, and upper-end high enriched uranium for nuclear weapons.

Iran is under three sets of U.N. Security Council sanctions for refusing to freeze its enrichment program and related activities that could be used to make nuclear weapons. Tehran denies such aspirations, saying it wants to enrich uranium only to fuel an envisaged network of power reactors.

Any attempt to import such a large amount of uranium ore would be in violation of those sanctions, which ban exports to the Islamic Republic of all items, materials, equipment, goods and technology that could contribute to its enrichment activities.

In addition, transfers of uranium ore in quantities greater than 500 kilograms — 1,100 pounds — annually are subject to close scrutiny by the Nuclear Suppliers Group of countries exporting atomic technology and materials.

Tehran still has hundreds of tons of uranium hexafluoride — the gas that is spun by centrifuges into enriched uranium. But its stockpile of uranium oxide, from which the gas is derived, is thought to be rapidly diminishing.

The IAEA believes that Iran's rapidly expanding enrichment program has been built on 600 tons of uranium oxide imported from South Africa during the 1970s as part of plans by the former regime to build a network of nuclear reactors.

The Washington-based Institute for Science and International Security said earlier this year that, based on 2008 IAEA statistics, Iran had already used up close to three-quarters of its South African supply.

In a November report, the IAEA noted that Iran had stopped producing uranium gas from yellowcake in early August and said Iranian officials had notified the agency that the production facility was down for maintenance.

David Albright, head of the Institute for Science and International Security, said Tuesday that the facility at the city of Isfahan had produced very little uranium gas for about a year.

"They said it was closed for maintenance but the reality is they probably ran out of uranium," he said.

Kazakhstan is among the world's three top producers of uranium, accounting for more than 8,500 tons last year. Iran, in contrast is producing an estimated 20 tons a year — far too little to power even one large reactor let alone the network it says it wants to put in place.

Experts say it has amassed enough low enriched uranium to build at least two nuclear warheads, should it choose to. Albright estimated that Tehran theoretically could produce about 150 such weapons from 1,350 tons of yellowcake, as specified in the intelligence report, but said that was not necessarily why Iran wanted the material.

"They want to have a civilian nuclear program but on the other hand they want to have nuclear weapons capability and they are willing to risk international sanctions," he said.

Tehran built its nuclear program on purchases from the black market, with its present workhorse centrifuge based on the same basic model that it purchased from the illicit nuclear network of Pakistani scientist A.Q. Khan in the 1980s.

"Their modus operandi is smuggling and that continues," said Albright, alluding to numerous instances of Iranian attempts to import equipment banned by the U.N. Security Council that have surfaced from the time its secret program was discovered seven years ago to the present.

Adding to concerns, Iran has recently announced it plans 10 new enrichment plants. It belatedly revealed that it had been working on a secret facility in September, in an action Western officials describe as pre-emptive and driven by fears it was about to be found out.

Associated Press Writers John Heilprin at the United Nations and Matthew Lee in Washington contributed to this report.



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POLITICS

Iran Extends Post-Protest Crackdown With High-Profile Arrests, Blaming West

By THE ASSOCIATED PRESS
Posted 12/29/2009 07:20 PM ET



A poster displaying the image of Ayatollah Khamenei with the words "Down with the Dictator" stands near the Iranian Embassy in Paris on Tuesday.... [View Enlarged Image](#)

violation of U.N. Security Council sanctions. Such a deal would be significant because Tehran seems to be running out of that material, which it needs to feed its enrichment program.

A summary of the report obtained by the Associated Press on Tuesday said a \$450 million deal could be completed within a week.

The news may bolster a new U.S. effort to gain support for tough new sanctions vs. Iran's nuclear program.

Back in Iran, the son of leading opposition figure Mahdi Karroubi told AP by phone that police-assigned guards for his father on Monday stopped providing security for him when he goes out. Police have for years provided leading opposition figures with security.

His son called it a "quasi-house arrest." If Karroubi does go out unprotected he risks attack by hard-line government supporters. His car was attacked Saturday when he went out, and the assailants shattered his front windshield.

Karroubi and Mousavi were the defeated reformists in the disputed June presidential election, which set off the worst unrest in Iran since the 1979 Islamic Revolution.

The arrests, along with tough criticism of the U.S. and U.K., added to rising tensions with the West, which condemned the crackdown and is seeking nuclear sanctions.

President Mahmoud Ahmadinejad shrugged off Sunday's protests as "a play ordered by Zionists and Americans" and criticized Barack Obama and Britain for allegedly supporting the protesters.

Sunday's clashes were the worst since the aftermath of June's disputed presidential election.

Opposition Web sites reported some 10 new arrests, including Dr. Noushin Ebadi. Shirin Ebadi, who won the 2003 Nobel Peace Prize for her human-rights efforts in Iran, has stayed outside of Iran since a day before the June elections. She told AP in a phone interview from London that Iranian authorities were trying to punish her by arresting her sister.

Iranian security forces have limited the movements of a leading opposition figure by refusing to protect him when he leaves his home, his son said Tuesday as authorities broadened their crackdown with a new wave of high-profile arrests.

Iran's worst internal violence in three decades has grown increasingly violent and bitter in the wake of clashes Sunday that left at least eight people dead. Security forces also arrested a relative of opposition leader Mir Hossein Mousavi, while government supporters held rallies in at least three cities.

Iran accused the U.S. and Britain of fomenting the violence, threatening to "slap" Britain in the face as it summoned the British ambassador to an urgent meeting.

Nuclear Shopping

Meanwhile, diplomats are concerned about an [intel](#) report that Iran is trying to import 1,350 tons of purified uranium ore from Kazakhstan in violation of U.N. Security Council sanctions. Such a deal would be significant because Tehran seems to be running out of that material, which it needs to feed its enrichment program.

The opposition Greenroad Web site also reported other arrests, including Mousavi's brother-in-law, Shapour Kazemi, and Mashallah Shamsolvaezin, a journalist who often criticizes the government. Authorities also detained the son of a prominent ayatollah, a reporter for the semiofficial ILNA news agency, and several activists.

Iran, West Trade Barbs

Foreign Ministry spokesman Ramin Mehmanparast accused outside countries, including the U.S. and Britain, of "miscalculating" by siding with the protesters.

Foreign Minister Manouchehr Mottaki made unspecified threats vs. Britain. "If this country does not stop its prattling, it will receive a slap in its face."

Britain, France, Germany and the U.S. have criticized Iran's violent response to the protests. President Obama on Monday praised "the courage and the conviction of the Iranian people" while condemning the Islamic government's "iron fist of brutality."

The government has taken the bodies of five slain protesters, including Mousavi's nephew, in what appears to be an attempt to prevent activists from using their funerals as a platform for more demonstrations.

In outbursts rarely seen in past street confrontations, protesters burned squad cars and motorcycles belonging to security forces that opened fire on the crowds, according to witnesses, opposition Web sites and amateur videos.

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CNN SATURDAY MORNING NEWS

More Information on the Attempted Terrorist Attack

Aired December 26, 2009 - 07:00 ET

THIS IS A RUSH TRANSCRIPT. THIS COPY MAY NOT BE IN ITS FINAL FORM AND MAY BE UPDATED.

(COMMERCIAL BREAK)

T.J. HOLMES, CNN ANCHOR: Hey there. Good morning, everybody, from the CNN Center on this CNN SATURDAY MORNING for December 26th. I'm T.J. Holmes.

BROOKE BALDWIN, CNN ANCHOR: And good morning. Thanks for being with us. I'm Brooke Baldwin, sitting in for Betty this weekend. Hope you've had a nice long holiday. We are up early, and perhaps you are, as well.

Maybe you're heading to the airport, maybe you're dropping your loved ones off. A lot will be changing in the airports this morning because of this top story we're all over. The White House is calling this attempted terror attack on board this Northwest Airline from Amsterdam to Detroit. A lot's being affected today.

HOLMES: Yes, this is going to change things on this holiday weekend. The story is and the first picture we're seeing here.

That man, 23-year-old, in the white t-shirt there, being taken in by security officials aboard that plane. His name is Umar Farouk Abdulmutallab. And he is a Nigerian suspect. He is now accused in this terrorist attack. Allegedly try to set off some kind of device aboard a plane that had originated in Amsterdam and was landing in Detroit.

The plane landed without major incident, I should say. Everybody on board was OK for the most part. The people got off and moved on on their way. But this man sustained all kinds of burns -- pretty serious burns to his body, specifically his leg where this device was attached.

This picture you're seeing is the first picture we are seeing and exclusive here to us at CNN of this suspect, taken by another passenger who was aboard that plane. We do want to head to Detroit now.

Our Deborah Feyerick is standing by the airport where this incident took place.

Deb, how have things changed so far there this morning? Just give us the update.

DEBORAH FEYERICK, CNN CORRESPONDENT: Well, T.J., we can tell you this morning that a senior U.S. official is telling CNN that, in fact, the 23-year-old Nigerian is, indeed, talking to the FBI. It appears that he's a lone jihadi, though the FBI is making sure to rule out whether he was or was not part of some larger al Qaeda plot acting perhaps acting as an al Qaeda operative.

The question right now is: how did this man get this material on board, not just one plane but two planes? A senior official tells us that, in fact, it does not appear he did any sort of secondary screening in Amsterdam. The man came from Lagos, Nigeria, stopped in Amsterdam, which is a very a busy hub, and then continued on here to Detroit.

Another big question officials are trying to answer, that is: why did he wait until he was just minutes from the Detroit airport to try to light that explosive? And why did the explosive allegedly not detonate? Why did it simply just catch fire?

Now, the man was sitting in his seat that was close to a window seat, 19-A. He was subdued by passengers, but you can imagine there were some very frantic moments onboard that flight as people heard a popping sound followed by smoke.

(BEGIN VIDEO CLIP)

ELIAS FAWAZ, WITNESS: What we heard in the beginning was a bang, sounded first like a balloon being popped. And then -- and then there was, a minute later, there was a lady shouting back and she was saying things like, "What are you doing? What are you doing?"

And then we looked back, there was a struggle. I think it was about five rows back on the left of where we were sitting. And we saw like fumes and then there was a flame fire coming out. And it was another man that jumped and the assailant, I think, the guy who was responsible.

(END VIDEO CLIP)

FEYERICK: Now, the FBI has alerted the Transportation Security Administration, the people who do the security at the airports as to the type of material that was used as part of this explosive. We do not know what the material is. But apparently, the security at airports across the country has been alerted.

I popped into the airport here into Detroit on my way and saw that the lines were very, very long. It appears screening is going to be a



lot tougher. We are told there's going to be a heavy -- heavier police presence. There's going to be additional screening to all of this. People are going to be checked out, not only going through security, but also at the gates -- any suspicious behavior.

And of course, there's going to be an additional presence of those bomb-sniffing dogs just to pick up on any sort of chemicals. But, again, we don't know what kind of materials were used and whether, in fact, they're a kind of material that would set up sort of a radar, whether they can be assembled and together be made into something clearly dangerous -- T.J. HOLMES: All right. And, Deborah, before we let you go, we want to pick up on something -- pick up on something you said that we're all trying to get some clarity on, which is how much security this man went through in Lagos and then in Amsterdam.

In Lagos, of course, they've been criticized there for the lack of security and screening at the airport, even though they have, according to officials, gotten up to international standards. But still, even after he left Nigeria, when he got to Amsterdam, you said he didn't go through secondary screening. And we're trying to understand what that means.

Does that mean, once he went through security in Nigeria, that was the only time he was ever screened as a passenger, and when he got to Amsterdam, he was just in the secure area so he got to board? Or does that mean he just didn't get a higher level of secondary scrutiny in Amsterdam? Did he go through any security in Amsterdam?

Can you try to answer that question? We're trying to get some clarity there.

FEYERICK: Sure. Well, you know, I spoke to somebody who is in charge of security at airports here in the United States, very familiar with the procedures. And you know, when you come into the U.S., for example, you first have to go through customs, regardless of whether it's your final destination. You have to go through customs, then pick up your bag, and then go through really an additional level of screening.

It appears that did not happen in Amsterdam. That once he was in Amsterdam, he was able to transit directly. But again, all of that is under investigation right now.

And one thing you have to remember, T.J., is whether, in fact, the materials he was carrying would've set off some sort of a radar, what kind of materials they are. Were they simple household products that perhaps he was able to mix while on board that plane? That's something -- having covered terrorism and security for a long time now -- that's something that officials talk about a lot. And that is, if you have a little bit of everything, can you pick up more items in order to make something?

Again, how he got this material on board the plane, whether it would have set off any radar, all of right now is under investigation. But clearly, the good news is the fact that he does appear to be talking to FBI agents. He was talking, in the words of one official, quote, "a lot." So, we should have a bit more information later on.

HOLMES: Deb Feyerick, thank you so much for that clarity. That's an important detail to get about the level of screening that he got. So, it's possible that the only time this man went through anything security-wise was in Lagos, in Nigeria. So, that's important detail. I know we're still working to get some more clarity.

But thank you so much for clearing that up and being on the story there in Detroit. We'll check in with you again. BALDWIN: And a lot of us really have questions about this whole incident in this investigation -- President Obama perhaps one of them. He has been briefed. He is on vacation right now in Hawaii. But he has gotten some details during a secure phone call with some of his aides. And the president also apparently has had a discussion with key security advisers.

Senior White House correspondent Ed Henry traveling with the president in Honolulu has more on that side of the story.

(BEGIN VIDEOTAPE)

ED HENRY, CNN SR. WHITE HOUSE CORRESPONDENT: Brooke and T.J., senior officials tell CNN that the White House believes this was an attempted terror attack. And that's why, even though he's on vacation here in Hawaii, the president has been getting secure briefings from the White House Situation Room back in Washington all the way here to Hawaii so he can stay on top of the situation.

It all started on Christmas morning around 9:00 or 9:30 in the morning here in Hawaii. That's five hours back from the east coast where the president decided to convene a secure conference call with two of his top aides. John Brennan, his principal homeland security adviser, as well as Dennis McDonough of the National Security Council staff.

We're told by White House spokesman Bill Burton that on that call, the president ordered federal officials to do everything they can to increase aviation security all around the country. Officials say that could mean more canine dogs at security check points.

It could mean officials taking a closer look at behavior, looking for people who may be acting suspiciously. Obviously, all this could cause more delays at airports during what has already been a very frustrating holiday travel season. But administration officials say that security is paramount, obviously, in this situation.

The White House very sensitive also to making sure the president is on top of this situation even while he's on vacation. He's obviously been talking a lot about the economy, health care in recent weeks and months. But the president himself has said publicly and his aides repeat privately that protecting the American people is always his first priority -- Brooke, T.J.

(END VIDEOTAPE)

HOLMES: All right. We're going to bring in our terrorism analyst -- CNN terrorism analyst Peter Bergen, a friend of our show here on CNN SATURDAY and SUNDAY MORNING.

Peter, we've got a lot of questions for you. I'll start with the first that a lot of people are going to have on their minds, which is: does this appear to you -- again, we've got a lot of questions to answer -- but so far in what you know in all of your experience and what we know of past plots and what we know of this one: isolated incident or part of something bigger that we need to be on the lookout for that more could be coming?

PETER BERGEN, CNN TERRORISM ANALYST: Well, the suspect has already reportedly volunteered the fact that he got the device in Yemen, which implies probably an al Qaeda link. It also implies a larger conspiracy, since somebody had to build this thing for him.

And in the Richard Reid case, the so-called "shoe bomber" which happened roughly the same time in 2001 during the Christmas holiday season, Richard Reid also had -- there was another guy, something that's forgotten, a guy called Sajid Badat, also a British citizen, who also had that shoe bomb. He never went through with the plan. He's now in jail in Britain.

But, you know, in the case of Richard Reid, there was more than one shoe bomb out there. It would be only prudent to make sure that there aren't other terrorists like this guy who have just been arrested in Detroit. And certainly, he -- by his own admission, he's part of a

large conspiracy.

HOLMES: Yes. Should we be taking him at his word? And why -- I mean, he's singing like a song bird. And so, quickly, should we be taking him at his word? Why in the world is he talking so much?

BERGEN: Well, you know, some people volunteer very quickly. Ramzi Yousef, you may recall, was the guy who bombed the Trade Center in 1993. When he was arrested in Pakistan, he volunteered the whole story to the FBI agent who arrested him, a gentleman by the name of Brad Garrett. He gave him chapter, song, and verse about the whole plan, the whole -- the whole attack.

So, you know, people react in different ways. Is he telling the truth? Who knows? But, you know, right now, I'm taking it as that yes, he did get this device in Yemen.

HOLMES: OK. What are we now going to learn from this?

And one of the things we possibly learn about a possible hole in security, in where we're still worried about here in this country and rightly so about terrorists getting into the country, from getting into the country and then putting together a plot from within.

But maybe not enough scrutiny for those just simply getting on board an international flight and maybe blowing up a plane while they're just over the U.S. once the plane gets here. They don't have to worry about getting through customs or anything. They just get over a U.S. city and blow up a plane.

Does this reveal now something we need to start looking at a little more?

BERGEN: Well, back in 1994, Ramzi Yousef, who I just mentioned to you, the guy who led the attack in Trade Center in 1993, actually assembled a bomb on a plane in Asia, got off the plane, the bomb blew up, and killed a Japanese businessman.

So, the idea of assembling a bomb on the plane has been out there for a long time. Ramsey Yousef was sort of on the fringes of al Qaeda. His uncle, Khalid Sheikh Mohammed was the operational commander of 9/11. This is an idea that's been floating around for a while.

Then we saw in the summer of 2006, a plan to blow up seven American and Canadian airliners with liquid explosives, which is the reason that you can't bring liquids on to a plane. That was an al Qaeda directed plot out of the U.K. The idea would have had those American and Canadian planes not blow up over an American city but blow up over the Atlantic, which would have been much better for the terrorists because you could do no forensics to find out what had really happened.

HOLMES: So, he'd waited, do you think, Peter? Why do you wait -- why do you think he waited, then, until he got here? Until he got to Detroit.

BERGEN: I -- you know, we don't know yet. You know, Richard Reid was assembling very similar kind of -- maybe different materials. But he also -- he waited about 3 1/2 hours into the flight. He was half way over the Atlantic.

This guy waited until the -- until the approach. Was it because that this was not really explosives but more designed to create a fire on the plane?

HOLMES: Yes.

BERGEN: We don't know.

Did he not get his act together? Did he get a case of cold feet? I mean, there are all sorts of possibilities.

HOLMES: All right. One more thing, I've got so many for you. I know we're going to be talking to you more this morning. But one more thing here: does this incident have the potential to be a game-changer the way that Richard Reid changed the game and forever changed the way we travel in this country?

BERGEN: That's a good question, T.J. I think that probably not because so many -- so many new policies are already in place. I mean, the 2006 plot was a game-changer in a sense that, you know, it really prevented you from taking liquids on to a plane. This seems to be more of the same.

You know -- it's a very good question. I think we still don't know enough about the plot to really know how it might change security.

HOLMES: All right. Peter Bergen for us, we always appreciate having you. We're going to be checking with you again plenty this morning. Thank you so much.

We got a lot, lot more questions for you this morning. We'll be asking those in a bit. But again, we are not, Brooke, as we say here, going to be too far away from this story this morning. BALDWIN: Right. He mentioned the Yemen angle. We'll be taking a deeper look at the Yemen angle. He'll also be talking to Richard Quest in Amsterdam. A couple of different angles we'll be looking at.

Stay right here. More continuing coverage here on CNN SATURDAY MORNING.

(COMMERCIAL BREAK)

BALDWIN: Flight 253 went from Amsterdam Schiphol Airport to Detroit yesterday, carrying a 23-year-old Nigerian national on board who detonated this incendiary device, causing quite a stir in this massive investigation that we're all over this morning.

I want to go to Richard Quest, who is joining us live this morning from Amsterdam from the Schiphol Airport.

And, Richard, I just want to first begin here with the security screening process. We're talking about this Nigerian national. He originated in Lagos, Nigeria, through Amsterdam, to Detroit.

What kind of security did he or did he not go through at the airport you're standing in front of?

RICHARD QUEST, CNN INTERNATIONAL CORRESPONDENT: Well, good morning to you from Amsterdam.

Over there is Pier E. You can see amongst the KLM planes, there's a couple of Delta aircrafts, as well. That is where the plane left. The Northwest plane left from yesterday.

Any passenger that would have connected to that flight or any of those U.S.-bound flights would have gone through a secondary search at the gate. Now, the authorities here at Schiphol have been quite, quite clear to me about that. All U.S. planes or flights are

searched.

However, for whatever reason, the search in this case was either ineffective, it failed, or something clearly went wrong elsewhere. Today, what we do know is that the -- as a result of new U.S. administration and transportation rules, there are new procedures in place, both here at Schiphol and places like London Heathrow. In the future, all U.S.-bound passengers will be searched at the gate.

And, Brooke, that means today, for instance, in London, they're now instituting a new rule that only one piece of hand baggage can be taken on the plane. So, you can see already, from this incident, the rules are starting to change.

BALDWIN: How specifically, Richard, there in Amsterdam -- I'm sure you stuck your head inside the airport and you saw. I don't know if the lines are forming where you are. But are they taking an increased look at perhaps liquids that people are bringing on? We don't know what kind of explosive this device might have been, whether it was liquid, whether it was powder. But what changes are you seeing already there in Amsterdam? QUEST: Well, not many at the moment. I came up here from Rome this morning, my producer came from London. She saw at the gates the screening.

What it really comes down to is looking at everybody's bags, asking at what the liquids are in people's gels and paste, taking more of an interest in what is actually being carried by the passenger. It may well transpire that what this passenger took on board was entirely acceptable at that particular point. It was the way it was handled. We just don't know.

What we do know is that from today, there is going to be this extra layer for passengers going to the United States, which will, of course, mean more security, more searches, more delays, and ultimately more inconvenience. We've seen it before, I'm afraid, we're seeing it again.

BALDWIN: We are indeed seeing it again. Richard Quest for us there in Schiphol Airport in Amsterdam -- Richard, thank you.

HOLMES: A lot -- there was a connection here, a lot of people hearing about this Nigerian now. This is a Nigerian man who's attempted of trying to blow up his plane that was landing in Detroit. Now, oftentimes, when people here at least in the U.S., talking about al Qaeda, you often hear about Pakistan, you hear about Afghanistan, but not about Africa maybe as much. But there's certainly as we know, al Qaeda has a presence there, as well.

We want to bring in Rohan Gunaratna, who is a terrorism analyst and author of "Inside al Qaeda: A Global Network of Terror."

Sir, thank you for hopping on the phone with us. Your book says "Global Network of Terror." And sometimes, maybe we don't realize just how global they are. Nigeria -- when you heard this man was from Nigeria, how did you react?

ROHAN GUNARATNA, TERRORISM ANALYST (via telephone): We have seen very significant penetration of al Qaeda and associated groups in North Africa and in the heart of Africa. There's been some activities in Nigeria, particularly in the north of Africa. So the link that we are seeing is largely inspired -- al Qaeda-inspired. (INAUDIBLE) has been in Europe for a considerable period of time.

And, of course, the tactic that he has used is consistent with other plots that have been disrupted by European and by other governments where they have targeted the aviation domain.

HOLMES: And, Rohan, something I want to pick up on that you said. You talked about the presence maybe in North Africa and you also say al Qaeda-inspired. Are we talking about a direct link between al Qaeda and these groups? Or are we talking about al Qaeda-inspired, guys who quite frankly, at it says, just inspired by al Qaeda or direct connection to that global network we're all familiar with?

GUNARATNA: It is too early to say. But most of the links that we have seen in the recent past pertaining to aviation has been al Qaeda-influenced or al Qaeda-inspired. Certainly, al Qaeda and the Islamic Maghreb has been operating and they have operated into the Sahel region just south of northern Africa and also some independent cells operating in Nigeria.

But it appears from what we have heard until now, this individual was studying in Europe. And he may have come into contact with al Qaeda cells or al Qaeda-inspired cells.

HOLMES: Would you call this a growing threat there in specifically Nigeria? And also Africa? A growing threat -- certainly any threat is one that is alarming, but one -- is this growing, I guess, at such a pace that we need to be paying more and more attention to it?

GUNARATNA: Al Qaeda in West Africa, where Nigeria is, it is a growing threat. It's a new threat, but -- and it is a threat that has concerned the Americans and the Europeans. And, certainly, this incident will make sure -- will ensure that governments will look at Africa more cautiously and more closely.

HOLMES: All right. Last thing here, Rohan, and quickly if you can. Just how tight is security at that airport? We here in the U.S. are used to going through certain things, and dealing with certain things at airports here, taking the shoes off, a lot of scrutiny of things and liquids we're taking on. But how tight would security have been -- that screening has been him going through that airport at Lagos?

GUNARATNA: In Nigeria, the security is very lax. He could have easily taken powder, gel, paste, all liquids, without, you know, being properly examined. He could have all this masqueraded and had a cover, a good cover to take this material. And I believe that authorities may have not paid the same attention that the European or an American airport would.

HOLMES: Well, Rohan Gunaratna, again, terrorism analyst, author of "Inside al Qaeda: Global Network of Terrorists" -- sir, we appreciate you hopping on the phone with us. Thank you so much.

And, Brooke, we just heard it there, both of you all kind of -- we both perked up in our chairs here.

BALDWIN: Yes.

HOLMES: But that is where we're trying to get some understanding. If he is saying to us now, who has experience with this, the Lagos airport, you can easily get liquids -- easily get something through. Not like where you see here in the U.S., you can't get more than three ounces of a liquid through -- easily got it through there.

And now there are questions about just exactly what kind of screening, if any, he got once he got to Amsterdam. This man, quite frankly, could have packed anything he wanted on to that plane and got over the U.S. without ever going through the same kind of scrutiny the U.S. passengers are used to going through.

BALDWIN: It's frustrating to think because we know how much we go through here in the States and it's like a link in the chain. You break one link and the whole thing is broken.

HOLMES: Yes.

BALDWIN: It's tough. But we'll stay on top of the story. We'll talk more about security, especially today at the airport if you're flying. We want to hear from you. Tips to speed up, hopefully...

HOLMES: Yes.

BALDWIN: ... check in at the airport for you today. Right here.

(COMMERCIAL BREAK)

BALDWIN: So, in the wake of the story that we are watching for you, this 23-year-old Nigerian national coming on board this flight from Amsterdam to Detroit, basically exploding partially this device. A lot of people are going to be affected at airports as security will be even further heightened.

And Josh Levs is keeping his eye on what we can do if you are heading to the airport.

JOSH LEVS, CNN CORRESPONDENT: Yes.

BALDWIN: If you have a loved one heading to the airport to just try to speed that process up just a little bit.

LEVS: Yes. And we're going to bringing you this throughout the day. You know, last hour, we're taking a look at how to speed your way through security.

Now, I'm going to talk to you how to speed your way through check-in, because if you've got to catch that flight, you know security's going to take longer now. You better know some tips that you don't spend too long with the check-in process in the first place.

We have this section that I'm grabbing from CNN.com called "Road Warriors" that specifically talks about tactics to help travelers all over the country. Let's go to some points I have for you first.

The first one: do absolutely everything you can online. Some people think, you know, I'd really rather deal in person with a person at the airport. You can do things easily online. You can pick your seats. You can change a flight if you need to.

Do everything you can, including this next one -- check your bags online. Now, this is particularly interesting because last hour, T.J. was pointing, "You know what? They're saying check lots of stuff so you don't carry it on, but then you have to pay for the extra checked bag."

Well, if you check a bag online, there are some airlines that actually won't charge you the extra fee if you take care of doing that online. So, check your bags online. They'll print out something and it'll be easy at the airport.

Let's go to the next one here. This one talks to you about using the kiosk. Some people are really intimidated by those things. They're convinced they're going to mess up. Statistics show not that many people use it when they could. Use the kiosk when you get there.

Also, check the right confirmation code. If you have booked a flight through a third party, like Expedia or Orbitz, sometimes, what a lot of people do is they notice the wrong number on their reservation. They notice the Orbitz reservation number instead of the actual confirmation code for your flight. It's on there, look carefully, get the number right the first time. It'll speed your way through check-in.

And finally, they suggest this: put everything in one pocket or one holder so you're not fishing through different bags, different pockets, your coat pocket, your pants pocket, to find everything. Have your I.D., have your tickets, have all the basic documents in one place, even if it's a separate little holder that you're carrying with you. When people do that, you're going a lot faster through check-in.

We've posted a link at the blog, CNN.com/Josh. Also, Facebook and Twitter, JoshLevsCNN. A lot of information for you there.

So, keep it coming there, and I'll be back next hour with more information. We're staying in touch with TSA all day. We're going to keep bringing you information every hour on helping you get through the airport, guys.

BALDWIN: Great. Josh, thank you.

LEVS: Thank you.

HOLMES: Well, still to come, again, that we are all over this breaking news story -- a story that continues to develop with details. We've got the first picture of the suspect being detained on the plane. New details about investigation now happening in London. Also, they're looking into security details at airports in Amsterdam, in Lagos, in Detroit as well where the plane was landing.

Stay with us this morning. Breaking news on CNN on the CNN SATURDAY MORNING.

(COMMERCIAL BREAK)

HOLMES: Well, good morning again. And welcome back to the CNN SATURDAY MORNING, everybody. I'm T.J. Holmes.

BALDWIN: Good morning. I'm Brooke Baldwin, sitting in for Betty Nguyen this Saturday. Thank you for starting your day with us. Hope you've had a nice holiday weekend.

A whole lot going on, let's get started here. We want to just bring you up-to-date as to what is going on with this investigation, this attempted terror attack on a flight from Amsterdam to Detroit.

Here's briefly what we know: the suspect, this 23-year-old Nigerian national. He is, in fact, talking to the FBI, talking a lot actually. He's been questioned about possible ties with a terror group. But so far here, no affiliation has been identified.

Now, security forces say parts of this explosive device that he detonated on board, they are being examined right now. In fact, they were taken to the FBI explosives lab in Quantico, Virginia, to try to figure out what this thing was.

And another headline here, if you are traveling at all today, heading to the airports, leave some extra time. You're going to wait in longer lines, security is heightened, homeland -- Department of Homeland Security says to expect additional screening at the airport.

HOLMES: And you can only imagine what it was like at Detroit yesterday when this thing first happened. A lot of people who are on several international flights -- they, of course, were delayed in a major way because investigators were trying to figure out if this was, in fact, an isolated incident.

Let's turn to Michael Rosenfield of our affiliate WDIV in Detroit.

(BEGIN VIDEOTAPE)

MICHAEL ROSENFELD, WXYZ CORRESPONDENT: The incident happened just about 20 minutes before landing. Passengers tell me, all of a sudden, they heard a pop and a boom. There was smoke and then some flames, and absolute chaos in that section of the plane.

At that point, very brave young man in his 20s maybe his 30s jumped over all of the chairs, all of the seats in the plane, from one side of the plane climbing all over the seats the other side of the plane in subduing the suspect in question, putting him in a head lock and then dragging him to the front of the plane.

At the same time, there was a smoke, there was this fire. Passengers were calling out for water. Flight attendants got to that section of the plane with a fire extinguisher. They were able to put the fire out.

The man, the suspect in question, was brought up to first class. Passengers in that area of the plane tell me it was pretty empty up there, so they put him in the seat, in a front row in row one. Another passenger in row one tells me the man was burned on different parts of his body that he was very quiet. He wasn't saying much and not reacting to anything that people were telling him or not reacting to any pain. Just kind of subdued and restrained in row one.

We talked to several passengers when they got off the plane. It took about five hours in between the time the plane eventually landed here in Detroit, by the time they were questioned, bags were re-screened, every single person was interviewed by federal officials here in Detroit. It took anywhere from four to five hours for all of the passengers to go through customs and be welcomed by loved ones here in Detroit or make their connecting flights.

Here's a listen to what some of them had to tell us here at the terminal.

(BEGIN VIDEO CLIP)

ILIANA SCHILKE, PASSENGER: We heard a loud pop, and then a bit of a smoke, and then some flames. And yelling and screaming.

ELIAS SAWAZ, PASSENGER: There's a lady shouted, "What are you doing? What are you doing?" And then we looked back, there was some fumes and some flames.

ZEENA SAIGAL, PASSENGER: And they said, "There's fire, bring water." People bringing water and two hostesses had brought fire extinguishers and they put on the fire. And one guy, a sturdy guy, put a, you know, lock on his head and dragged him to the front. And his pants down -- I heard the pants were on the fire. I thought they pulled down because -- so that he cannot run.

RICHELLE KEEPMAN, PASSENGER: He didn't say anything. He was injured. He was burnt quite severely on his leg. They were very careful in trying to make sure that he had nothing else on him. So, it was easy to see from the exposure that he had gotten significantly burned.

He was very calm. He, you know, didn't show any reaction to pain or to any feeling of shock or nervousness. He just looked like a normal individual.

(END VIDEO CLIP)

ROSENFELD: Several other international flights were also detained here at Metro Airport. These were flights coming in from London, Paris, Tokyo, and other flight from the Amsterdam. All of these passengers were seated on their planes for several hours while all of this was figured out.

And it took three, four, or five hours for all of these other passengers on these other flights to go through customs, to get out of their planes, go through customs, and get into the terminal to be welcomed here or to make their other connecting flights. But, certainly, terrifying moments from all of these people aboard Flight 253 from the Amsterdam this afternoon.

We have also learned about another incident also aboard a flight from Amsterdam to Detroit this afternoon. Another passenger was arrested on that flight, as well. Federal officials and local law enforcement here don't think the two incidents were connected. But it also did happen on a flight from Amsterdam to Detroit.

A passenger was yelling pro-Afghanistan statement, anti-American statements, as well. He was throwing food on passengers in the back part of the plane. He was taken into custody. But law enforcement officials here on the ground tell us they think it was just a drunk passenger. They did not think these two incidents were connected. (END VIDEOTAPE)

HOLMES: Well, a little scary there from our reporter from WXYZ, Rosenfield.

But everybody a little on edge and they will be for some time, especially during this holiday season.

BALDWIN: Yes, for good reason.

HOLMES: Yes.

BALDWIN: So that's the situation on the ground at Detroit.

We're also digging a little deeper as far as security in Europe goes, really just how safe are airports there? We'll get answers from a security expert.

HOLMES: Also, Yemen could be linked to this attempted attack. Apparently, this is where he got this device. At least that's what the suspect is telling authorities. We'll take you inside the terror hot spot and why he's getting so much attention from authorities here, as well.

It is 40 minutes past the hour on this CNN SATURDAY MORNING. Stay with us.

(COMMERCIAL BREAK)

BALDWIN: This incident in Detroit really is highlighting security challenges at airports, not just domestically, but all around the world. The suspect that we're talking about here flew from Nigeria to Amsterdam before hopping on this flight bound for Detroit here in the U.S.

So, let's talk more about security here.

Joining me now from New York is international security analyst Glenn Schoen.

And, Glenn, I just want to start with this situation, at Schiphol Airport in Amsterdam, because we're hearing some conflicting reports. We want you to set the record straight for me.

This 23-year-old, he started in Lagos, Nigeria, comes through Amsterdam before heads to Detroit. What kind of -- presumably going through some kind of screening in Nigeria to then get to Amsterdam -- what kind of screening would he have gone through if anything from Amsterdam to Detroit?

GLENN SCHOEN, INTERNATIONAL SECURITY ANALYST: He would have probably gone through a full level of screening at Amsterdam. All the flights to the U.S. are especially screened. There are several airlines, including a few non-American airlines, who get additional security coverage there. And normally, that's not just the metal detector but also questions being posed to people, sort of a personal profiling concept. There's CCTV coverage of the area. There's extra security around the area, as well, in case anything is discovered there or occurs.

So, I think the person probably was screened pretty thoroughly, and that's one of the points of concern here short of being padded down and maybe physically being disrobed and looked at. This person was able to get through what's generally considered a fairly high level of aviation security within Europe. If that can happen...

BALDWIN: Yes, let's talk about that.

SCHOEN: Yes.

BALDWIN: Let's talk about that specifically, because Amsterdam -- this is a major hub. This is Charles de Gaulle in Paris. This is Amsterdam. It's major transatlantic hub, not just to take you to Europe but to the rest of the world.

How high is security there?

SCHOEN: Generally speaking, pretty high.

BALDWIN: Yes.

SCHOEN: I mean, the Dutch have invested an awful lot, not just in people, but also in technology. It's known as an innovation platform. They do a lot of work with the Department of Homeland Security on systems, on inspections, on tips, on best practices. But they're also fairly active within Europe, the European institutions, dealing with aviation security -- and IATA, the international aviation security platform headquartered in Spain.

And interesting here is that the Dutch, a few years ago, were pioneers with biometric security for passengers, the so-called fast-lane concept, just called Privium at Amsterdam airport and frequent fliers there often use it to get sort of a bit preferred treatment. But they're also much sharper or higher level of screening for these people going through.

And right now, they're also piloting the body scan technology, which may be used in the future here. There's been a big controversy around body scanning because of the privacy concerns. You can literally see through people's clothes.

BALDWIN: So, Glenn...

SCHOEN: Yes?

BALDWIN: From what I'm getting from you, we could perhaps learn a thing or two from the Dutch in what they're doing screening-wise. So, in your 25 years here of studying terrorism issues, security issues -- where do you think the lapse occurred?

SCHOEN: Well, what scares me here -- obviously, we can talk about a lapse and a failure. The problem is, we talk about a lapse and a failure when we know what we're fighting against, when we have sort of a standard of what we're looking for. And when the standard is, we're looking for powder on the one hand and maybe syringes or small glass objects on the other, it gets very difficult.

And that's what's so worrisome in this particular case. I heard one report that there might be...

BALDWIN: It's the unknown.

SCHOEN: ... there might have been a syringe involved in making this little device.

And then the question becomes, does anybody with insulin stepping on to a flight or with flu shots getting on to a flight, are they going to be able to get through?

So, key news later today will be what did this device look like? What did it consist of? And what can the security authorities and especially the FBI tell us about what it is we need to look for now in addition to everything we were already looking for?

BALDWIN: You got it. You know, though, that the FBI looking very closely at the remains of this device there in Quantico, Virginia. And as soon as we hear what in the world this thing was, we'll bring it to our viewers.

Glenn Schoen, international security analyst and expert, I appreciate it -- live from New York this morning.

SCHOEN: Thank you.

BALDWIN: Thank you.

Still to come, another check of your holiday forecast. I hope you had a nice one, nice relaxing.

Reynolds is here with a little preview.

Hey, Reynolds.

REYNOLDS WOLF, CNN METEOROLOGIST: Hey, Brooke.

We're looking at some potential trouble spots at few places, namely in Chicago, where we're seeing snow right now. We could have delays in places like Milwaukee, maybe even Detroit before the day is out, perhaps even Indianapolis, and back in St. Louis.

We'll give you the full rundown on your travel weather coming up on a few moments right here at CNN SATURDAY MORNING. See you in a few.

(COMMERCIAL BREAK)

HOLMES: Well, welcome back, everybody to this CNN SATURDAY MORNING. What you are seeing is what some people are going through -- will be going through today at airports around the country. This one, though, Detroit. This is going to be a little different today. You see there a security official also -- we were told we're going to see more of these bomb-sniffing dogs.

Heightened level of security because of this attempt -- according to White House officials -- to blow up a plane that was landing in Detroit, landing at this airport.

Now, this is some of the new video from inside the airport. This is what's happening. Now, you see these every now and again when you travel just on any day. But according to security officials, homeland security, because of this new terror plot we saw yesterday, they are going to step things up just a bit which is going to cause longer lines. You see some lines there, anyway.

But also, higher scrutiny of your bags that -- you know, sometimes just comes in the form of a dog walking around with a security official and sniffing a little more. These bomb-sniffing dogs -- you're going to see some of these things like that. Some other things, they say, are different in the airport security that you won't really notice, some of them. But it is going to be a mess.

I know Reynolds is standing by here.

Reynolds, we thought our issue this weekend was going to be this weather mess. A lot of people are worried about traveling, get through. We had a couple of strong, big weather systems. The weather system is still there. It ain't going nowhere. But now, you throw something else into the mix.

WOLF: It doesn't make it any easier, does it? I mean, and then when you add on top of the sheer volume of people that are going to be out and about, trying to get home. I mean, Christmas was yesterday. They're trying to get home. The additional luggage, too. A lot of people are bringing back presents, that kind of thing.

HOLMES: Look at that.

WOLF: So, it's going to be just a wild crush where all of these elements are coming together. Of course, the terrorism scare, then, of course, you get the rough weather. Then you have all kinds of issues, not just at the airports but also the roads. It's going to be rough times for you.

Let's show you some of the places where we're pinpointing that you might have some problems later on today in terms of expected delays. All of your airports in New York, every single one of them you're going to have problem. Same deal in Boston, we have possibly from 30 minutes to an hour due to the low clouds, the rain, the wind. All your D.C. metro airports, Philadelphia, same story. Chicago, Minneapolis, low clouds, snow and wind could cause some issues.

That may happen later on today also in places like Detroit. But the heavy snowfall as we're speaking, leaving parts of the Central Plains, moving just southwest to Chicago this time, now rolling up towards Lake Michigan. So, it could be a rough time. And the reason why we're seeing that is because of this area of low pressure that is giving you heavy snowfall.

But farther back in the Northern Plains, this had a history of creating some very windy conditions. Some gusts topping 40, 50 miles an hour winds. We're talking tropical storm force winds but they should subside later on today.

An icy mix possible in New York. Fairly nice for you across the Central Plains, but bitter, on the cool side, and rain possible for much of the west coast.

Pretty nice for you in the Rockies. Northern Rockies, may be some scattered snow showers. But certainly not of the magnitude of what we've seen up in the Northern Plains.

Some places in excess of 20 inches of snowfall and fairly dry day for you in parts of the northeast. Southeast, pretty nice.

Atlanta, Georgia, take a look at this live shot that we have for you from the top of CNN Center. It looks pretty good. You see just in the lower left-hand corner of the screen, parts of Centennial Park. The skyline looks fantastic.

High temperatures, warming up to 48 degrees in Atlanta, 63 in Tampa, 75 in Miami. But again, Miami looks nice, but no delays there. Certainly no delays expected in Atlanta. So, good times for you.

We'll have more coming up right here on CNN SATURDAY MORNING. Thanks so much for watching.

(COMMERCIAL BREAK)

HOLMES: Well, a suspected device used in the attack, what officials are calling a terrorist attack here in the U.S., that plane that was landing from Amsterdam to Detroit yesterday, is being examined now, the device, by the FBI in Quantico, Virginia. It suspects -- the suspect here told investigators this came from Yemen.

BALDWIN: So, CNN international correspondent Mohammed Jamjoom spent a little bit of time there. He joins us now from our international desk.

Mohammed, we just want to talk about Yemen specifically. They're already facing their own security, their own terror concerns. If, in fact, this guy is telling the truth that the device did, in fact, comes from Yemen, is there anything the U.S. can do to help Yemen combat their own security problems?

MOHAMMED JAMJOOM, CNN INTERNATIONAL CORRESPONDENT: Well, Brooke, I've spoken to several Yemen experts this week, and they tell me there's not a whole lot the U.S. can do that they're not doing already. I mean, in the past week, you've seen Yemen coming out making a big statement to the world, saying, "We're going after al Qaeda." There have been two air raids in the past week, killing over 60 suspected militants. The Yemenis maintained that they're doing this all on their own, but they're getting money from the U.S. and they're getting intel information from the U.S., but they're carrying out the attacks on their own.

The problem is, is that the situation is very dire in Yemen. It's not just al Qaeda, which is a resurgent there. You've got a separatist movement in the south. You've also got Houthis rebels combating the government in the north, on the border with Saudi Arabia. I've talked to people this week, they've said the situation there is so bad that it's almost as if it's a failed state right now. They really have to get it under control.

One other sign that shows how concerned the U.S. is about this, in July, you saw David Petraeus going there, meeting with the president. In August, you saw John McCain going there, meeting with the president, trying to talk about al Qaeda, how to get the situation under control. But clearly, it's not under control. There's a lot more that's going to need to be done -- Brooke.

HOLMES: And, Mohammed, we talk about this device now that came from Yemen. How have you been able to piece together, how can we all piece together -- we talk about a guy in Nigeria who goes to Amsterdam carrying a device from Yemen -- I guess, how do we piece together the guy in Nigeria getting his hands on a device from Yemen?

JAMJOOM: Well, T.J., that's the big question right now. I mean, I've spoken to several Yemeni sources since yesterday about this. Nobody has confirmed that they know anything about this yet, that this man has obtained anything. But I will tell you that if you know anything about Yemen, it's very easy to smuggle weapons or devices outside or into Yemen.

I mean, it's very easy to do. The borders here are very porous. It's a very poor country. There are a lot of militant training camps there. And it's in complete disarray.

I mean, the government will tell you there are so many problems. If this person stopped over, if he was working with militants over there -- and we don't know this at this point -- but it's not -- it wouldn't be a surprise that he would have been able to obtain these weapons there if he really wanted to. It just would have been a lot simpler than most people expect -- T.J.

BALDWIN: So, it has porous borders, you say it's in a disarray. Give us, Mohammed, please, a brief geography lesson for people who don't know, where is Yemen, and then, what about the neighboring countries -- are they concerned? It sounds like a bad situation. Could it -- could it get even worse?

JAMJOOM: It could absolutely get worse. And that's the real concern in the region and by the U.S.

Yemen is just directly south of Saudi Arabia. Now, Saudi Arabia, as we all know, the biggest oil exporter in the world. Saudi Arabia, a big ally of the U.S.

That's one of the major concerns. The U.S. and Saudi Arabia doesn't want the violence in Yemen spilling over into Saudi Arabia. And there has been a lot of talk that that will happen. Actually, there have been a lot of indications that will happen.

I'll give you an example. Last year, Saudi al Qaeda and Yemeni al Qaeda -- they merged into one operation. It's called al Qaeda in the Arabian Peninsula. Since then, they've gotten stronger. They vowed to carry out attacks on regional neighbors.

They actually almost assassinated the Saudi Arabia anti-terrorist chief just a few months back. That really sent shockwaves through the Saudis, through the regional neighbors, and to the U.S., saying this situation is a lot worse than we think it's going to be.

And the last thing I'm going to say is, also, you have a lot -- a large influx of people coming in from Somalia. They're coming to Yemen all the time. There's a refugee situation. You have these refugees in the north of the country because of the violence there that are trying to get into other countries.

It's a complete mess. And many people I speak to say it's only going to get worse before it gets better.

HOLMES: All right. And, Mohammed, one other thing before we let you go, possible connection -- you talked about a little earlier some of the strikes that at least Yemenis have been taking out against some of the terrorists, the militants there and there was an attack just a few days ago that reportedly killed a number of militants.

Any idea, any speculation even by some of the governments are saying that, possibly, in anyway that the timing is connected between those attacks and now what we're seeing in this possible or attempted terror attack here in the U.S.?

JAMJOOM: There's a lot of -- there's a lot of talk about this. There's a lot of unsubstantiated reports about this. People are saying the timing is not coincidental. That's not been confirmed yet.

But in the past week, even the Yemenis have been coming out, the Yemeni government has been coming out saying that al Qaeda leaders have been coming out since the first attack that happened last week against them and with so many militants were killed, that they came out and vowed to take the revenge upon the U.S. and upon the Yemeni government.

Now, since then, the Yemenis said, "OK, we're going to go ahead and attack once again, we're going to go after the heart of their operation once more." There were more air strikes. Now, after that, you see this happening.

So there really are still a lot of questions and a lot of people are speculating. This could be connected and this could be some sort of retribution and that it might continue -- T.J.?

BALDWIN: CNN international (INAUDIBLE) digging a little deeper for us in this Yemen connection. Mohammed, thank you for that.

HOLMES: Yes. CNN SATURDAY MORNING is going to continue in just a minute and we are going to reset with the latest development, this whole story about an attempted terror attack on Christmas day here in the U.S. Quick break. We're right back.

(COMMERCIAL BREAK)

Weather forecast

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Film

Deep in the Shallows

ROSS DOUTHAT

BEFORE I say anything else about James Cameron's *Avatar*, I should say that it's flat-out amazing. Nothing in the movie's plot, themes, characters, and dialogue can change the fact that Cameron has delivered something revolutionary here, something gorgeous and immersive and unprecedented. We've grown jaded, of late, at what special effects can summon up. (Another apocalyptic battlefield? Yawn. Another fleet of starships? Well, if you must . . .) But *Avatar*'s science-fiction setting, the verdant planet Pandora in the year 2150 or so, represents world-building on a scale no movie has attempted. What Cameron has spun from CGI, motion capture, and 3-D needs to be seen to be believed.

And since this is James Cameron, after all—James “*Terminator*, *Titanic*, and *True Lies*” Cameron—the film doesn't just sit there, lovely and inert. He knows how to make a movie move. The action sequences are kinetic without being confusing: Their choreographed clarity harkens back to brilliant set-pieces in earlier Cameron efforts, while borrowing judiciously from the slo-mo tricks perfected by younger filmmakers during his long hiatus. The battle scenes are sweeping and horribly beautiful, in a Coppola-in-Vietnam kind of way. When the movie wants you to soar, you'll soar. When it wants to rivet you, you'll be riveted. *Avatar* is two hours and forty minutes long, but it's almost never boring.

It is, however, deeply stupid. Relentlessly stupid. Occasionally mindbogglingly stupid. The problem isn't that the dialogue is risible and the characters are paper-thin: *Titanic*, for instance, was a glorious work of popcorn art despite a first act in which every other sentence thudded like an anvil. And the fact that Cameron pilfers shamelessly from a host of famous screen epics isn't necessarily a bad thing: The original *Star Wars* was a long science-fiction pastiche, and that turned out pretty well.

No, the problem is what Cameron pilfers, and then what he leaves out. He's taken every left-wing cliché—about politics, religion, the environment, the military, imperialism, big business, Vietnam, George W. Bush, you name it—from a generation's worth of preachy Hollywood movies, and crammed them all into a single teeming blockbuster. There's a hilarious Internet parody, from early this decade, that imagines Noam Chomsky and Howard Zinn providing audio commentary for *The Fellowship of the Ring*. (Chomsky: “The point is clearly made that the ‘master ring,’ the so-called ‘one ring to rule them all,’ is actually a rather elaborate justification for preemptive war on Mordor.”) Now imagine that *Fellowship* had actually been co-directed by Zinn and Chomsky, and you have roughly the flavor of this movie.



The story starts with a crippled marine, Jake Sully (a glowering Sam Worthington, trying to channel the *Gladiator*-era Russell Crowe), being recruited for an unusual mission on Pandora, where a sinister corporation and its hired guns are mining for a metal called (I kid you not) “unobtainium,” while fending off attacks from the native Na'vi people. Sully is fitted out with an “avatar”—a nine-foot-tall, tail-sporting, blue-skinned Na'vi body, which he inhabits remotely, from inside what looks like a high-tech tanning bed. Thus equipped, and supervised by an ornery scientist named Grace (Sigourney Weaver, having fun), he sets out to infiltrate the local alien clan in the hopes of making peace—or, failing that, in the hopes of bringing useful military intel back to his superiors.

If you've seen *Dances with Wolves*, or

Pocahontas, or *The Last Samurai*, or . . . well, anyway, you probably know what happens next. Our man Sully falls hard for a Na'vi huntress named Neytiri (Zoe Saldana), falls even harder for her primitive, mystical, totally-in-harmony-with-nature community, and decides to switch sides and protect the locals from the rapacious human scum. And I do mean scum: Save for Sully, Grace's team of scientists, and a plucky helicopter pilot (Michelle Rodriguez), the human presence on Pandora consists of entirely soulless corporate greedheads and genocidal, militaristic thugs.

In other words, Republicans. Just in case the point wasn't clear enough, the thug-in-chief, Colonel Quaritch (Stephen Lang), spends the movie's final act barking slogans like a character in Oliver Stone's *W*. (“A preemptive attack!” “Shock and awe!” “We'll fight terror with terror!”) Meanwhile, the Na'vi embody every cliché of noble savagery: There's goddess worship, pantheism, sub-*Lion King* circle-of-life philosophizing, and (lest they lose the Richard Dawkins demographic) a bogus scientific explanation, à la the “midichlorians” in the *Star Wars* prequels, for what seem like supernatural happenings.

So this is what's in the movie. What's left out, to clear space for Cameron's *Ferngully*-meets-*Fahrenheit 9/11* posturing, are crucial lineaments of plot. Important scenes, like the sequence in which the Na'vi decide to initiate Sully instead of killing him, feel truncated to the point of absurdity. The sort of useful explanatory interludes (what does unobtainium do? what's the situation back on Earth? how was Sully crippled? etc.) that make a secondary world seem rich and plausible are missing from the film entirely. And so, bizarrely, is something more essential still: an explanation of some of the avatar program's basic rules. For instance: When your avatar is killed, are you? It's a pretty important question, given how often Sully courts death while wearing his blue-skinned secondary body—yet the movie never bothers to tell us.

What it tells us instead, over and over again, is that every technological advance counts for nothing if you lack heart and soul, empathy and vision. Given that his movie's technical what make *Avatar* w had better hope the pu

EXHIBIT E

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For December 28, 2009, MSNBC - Part 1

Chris Matthews, Matt Nesto, Chuck Todd

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Drumheller>

<High: Congress is likely to hold hearings on what went wrong in Homeland

Security to allow the attempted terror attack on Christmas day. How did a 23-year-old Nigerian man whose own father reported suspicions about him to the U.S. embassy manage to purchase a transcontinental airline ticket bound for the U.S. with cash and get past security with a syringe sewn into his underwear and explosive taped to his legs? Is Yemen now where the United States needs to go right now to fight terrorism? A family friend of the Obamas is reportedly injured in the ocean during the Obama family vacation in Hawaii.>

<Spec: Terrorism; Airlines; Congress; Security; Aviation; Politics; Yemen>

CHRIS MATTHEWS, HOST: Close call. Let's play **HARDBALL**.

Good evening. I'm Chris Matthews in New York. Leading off tonight: Whose fault? How did a 23-year-old Nigerian man whose own father reported suspicions about him to the U.S. embassy manage to purchase a transcontinental airline ticket bound for the U.S. with cash, checking no bags, and get past security with a syringe sewn into his underwear and explosive taped to his legs?

Some Republicans are already pinning the blame on the Obama administration. Janet Napolitano didn't help saying the system worked. What's it like when it doesn't work? Who created the watch lists, however, the system that we're using right now? Weren't they put into effect during the Bush administration?

Two members of the House Homeland Security Committee, one Republican and one Democrat, will debate that point, and it's a hot one, at the top of the show.

And is Yemen the new sanctuary for al Qaeda? The terror suspect we're talking about set off alarm bells with his father when he dropped his studies and disappeared into Yemen. Add to that the U.S.-backed air strikes against al Qaeda in Yemen earlier this month, is this the latest danger area? I'm going to talk to two former CIA operatives about how the terror threat is heading.

Anyway, plus: Who you going to call? Myth busters. We're going to talk to the biggest -- about two of the biggest myths of a president's first year and maybe detonate a couple of those myths tonight here in **HARD-BALL**.

Also, the president's didn't speak publicly about the foiled terrorist attempt until today. Could the optics -- that's our new word these days -- of his Hawaii vacation hurt him, too much good time in the sun with the people left back here in the other 48 states with the cold? That's in the Politics Fix.

And finally, who were the big winners and losers of 2009? The Gallup poll has the answers and we're going to have them for you in tonight's Sideshow.

Let's start with the foiled terrorist plot to blow up a [Northwest](#) airliner. We're going to bring in two members of the Homeland Security Committee, Democrat Eleanor Holmes Norton of Washington, D.C. and Republican congressman Dan Lungren of California.

Let's go through the data here. You both know it. Number one, the guy paid in cash. He didn't check any bags. His father reported that he was troubled to the United States embassy -- a lot of questions about that thing. He had explosives taped to his leg. He had a syringe in his underwear. And he walked right onto that plane and did his business until a fellow passenger stopped him. No official stopped him anywhere. No official would have stopped him. He would have blown up the plane except for a fellow passenger.

This is scary stuff, Congressman. Tell me what do you make of the data we have already on this case?

REP. DAN LUNGREN (R-CA), HOMELAND SECURITY CMTE: Well, it's easy to be a Monday morning quarterback, and I don't want to do that. But the fact of the matter is, a lot of what we do when we're successful is connecting the dots. When you talk about a watch list, that's very different than the no-fly list. It's a much larger list. And you start to compile it and then try and bring bits of information together against the names that are already there.

Now we know there was sufficient reason to deny this person the opportunity to come to America, to have a visa to be on that airplane. The questions that we're going to ask as members of the committee are, Where are the failures in this system? How can we make sure that you connect these dots much earlier than happened in this particular case? And how do we have better inspections?

I've been a strong advocate of the full body scan, something that we have not put into place around the country and around the world. Hopefully, we'll take another look at that particular device, which would have given us an opportunity to see what this person had strapped to his body.

MATTHEWS: What did you do about getting us the full body scan, Congressman? How did you go about pushing for it before this happened?

LUNGREN: Well, what I've tried to do is to say, Look, if some people have objections to the idea, that it's an invasion of privacy, we ought to have something as simple as what I call a do not care line. That is, most people, I don't think, would care about the invasion of privacy. They wouldn't see one being subjected to this sort of a system. And in fact, where we've done pilots, over 95 percent of the people have voluntarily gone through.

For those who would not want to go through, they would go through the conventional means, but they would also be more likely to be subject to full-body pat-downs. It seems to me when we have the suggestion that the balance is not appropriate in terms of the right of privacy, we ought to realize what this kind of a detection system would give us. It would give us an opportunity to see things that cannot be found by a magnetometer.

MATTHEWS: OK...

LUNGREN: ... and also...

MATTHEWS: Did you introduce this...

LUNGREN: ... without a full body pat.

MATTHEWS: ... legislation -- Mr. Lungren, did you introduce this as legislation, the requirement that we go through that greater screening?

LUNGREN: Oh, I have worked with TSA on this, and I fought against an amendment that was on the floor that prohibited us from doing this.

MATTHEWS: I see. OK.

LUNGREN: It is not something that the TSA can't do. They have it within their authority to do it, if we will give them the proper funding to buy these machines.

MATTHEWS: Congresswoman Norton, your thoughts about these facts here? I just want to know what more could somebody have done? The father blew the whistle. The guy had no -- the guy paid in cash. He had no luggage. What else? He had this syringe that would have been shown on one of these detectors, had he gone through one. He had the explosive material in his underwear. I don't know, what do we have to do to raise a red flag? And nothing was done.

DEL. ELEANOR HOLMES NORTON (D-DC), HOMELAND SECURITY CMTE.: Chris, Dan is right about the dots. He and I have been on the committee, the Homeland Security Committee, since its inception, and we spent a lot of time during the Bush years trying to connect the dots. And it looks like we still got some dots to be connected.

And you're right, Chris, about red flags. That's what's most troubling to me. The father, a very credible -- a most credible, I must say, source who comes forward and reports his own son to the authorities, and that's not a red flag, a prominent banker who says that his son has connection to Yemeni terrorists? I'm going to want to know about that.

Now, the president did the right thing. He ordered the right investigations. He didn't panic and do some of the things we did after 9/11. But I must say, my good friend and his Homeland Security Secretary spun this into a controversy. I think people like Dan and I -- and we don't point fingers, we try not to, when it comes to homeland security -- would have been content to say, OK, let's see what happened. When you get somebody getting on television saying, Everything went well...

MATTHEWS: Well -- well, let's go watch that. You brought it up, Congresswoman. Let's watch. Here's the secretary of Homeland Security saying things worked as expected -- in fact, the system worked. Here she is making that dreadful comment.

(BEGIN VIDEO CLIP)

JANET NAPOLITANO, SECRETARY OF HOMELAND SECURITY: One thing I'd like to point out is that the system worked. Everybody played an important role here. The passengers and crew of the flight took appropriate action.

And our system did not work in this instance. No one is happy or satisfied with that. An extensive review is under way.

(END VIDEO CLIP)

MATTHEWS: Well, as Ross Perot would say, Congresswoman, measure twice, cut once.

NORTON: Well, you know -- you know, Chris...

MATTHEWS: I think that was...

NORTON: Chris, you know...

MATTHEWS: ... cutting twice and measuring once.

NORTON: The American people will forgive a lot if you say, you know, I think we have a problem here.

MATTHEWS: Yes.

NORTON: But when you look like you're spinning it, they really turn away from you. She did the president a disservice when she did that.

MATTHEWS: You know, Congressman, I want to go over this, and I accept everything about your efforts to try to deal with this by having people screened properly. And I keep thinking of the fact of all the times I fly -- and you fly all the time to California back and forth to do your job -- all the time, we see old women or old men being taken out of their wheelchairs and having to do this Lord's walk for about 20 yards to prove that they can walk. It's insane. And then you hear about this guy who raises all the red flags and walks right through.

Why do we put through this -- you got to take your shoes off, you got to do all this crap. And yet if a guy -- well, is this really going to get down to profiling? Is that what it's going to come down to, like they do in Israel where they have a 45-minute interview with the person and you try to figure out their politics, you try to figure out where they're coming from and where their head's at and hope they'll sweat enough so you'll know there's trouble? I mean, do we have to go further than robotic effort, to go to human common sense in screening people? Is that where we're going to have to head here?

LUNGREN: Well, we have adopted some...

MATTHEWS: I mean, do systems work, or do you need common sense?

NORTON: We do need common sense. And have adopted some of the processes that the Israelis have used. We use it in a more subtle fashion than they do. But the fact of the matter is, I'm concerned about what people call PC. We're afraid of being criticized for what we do. The fact of the matter is, we don't have the sense of urgency in this country about the threat that remains. This is a consistent, constant, intensified threat, and what we have to do is be agile enough to respond to the new manifestations of this threat.

We know that it's not just poverty. We know that it's not just people who are ill-educated. The most recent ones are educated people, sometimes acting in a single act but with connections to others. We have to constantly refine what we're doing...

MATTHEWS: I know.

LUNGREN: ... and we have to try and stay ahead of these people every single step of the way.

NORTON: Look, Dan, I agree, but you know what? This is the same old problem with the watch lists and the no-fly lists. And we've never gotten that act together. This guy was on one list, but he didn't kind of make it to the next list. He wasn't even an American citizen. What does it take to get off a list?

MATTHEWS: Well, I want to know whether we even go by these robotic things like, if you're paying in cash, if -- that used to be an old way to catch drug dealers because they dealt in cash. I mean, that was the old way...

NORTON: And he paid in cash.

MATTHEWS: ... twenty years ago of catching people.

NORTON: And this guy paid in cash.

MATTHEWS: Can you catch a person how pays in cash and has no luggage? Is that enough to say to the guy, You can't get on the plane?

NORTON: Well...

LUNGREN: That's not the only thing we do -- that's not the only thing we do, Chris. We add a number of different pieces of intelligence that we get on a regular basis, and we refine things on a very, very regular basis. That's why intelligence is so important in this matter.

MATTHEWS: Yes.

LUNGREN: We utilize the intelligence.

NORTON: We say we have a layered approach, and we do. But at each level of the layer, we failed here.

MATTHEWS: You know, the problem is, I wonder whether it's even possible -- because Congresswoman, let me ask you this. If this fellow had given a little attitude at the airport and said, Look, I know I don't have -- I'm paying in cash, that's how we do business in Lagos these days. I don't have any luggage because I'm smart enough to pack light on long trips. I don't want to have to go through luggage and getting the luggage back. And by the way, my father's a big banker over in Lagos. Get off my case. You'd have to let him on the plane.

NORTON: No, you go to the list next.

MATTHEWS: Well, the only reason...

NORTON: You go to the list next.

MATTHEWS: ... he was on the list, though, is his father complained. Suppose his father hadn't complained.

NORTON: Well, but he was on the list.

MATTHEWS: Because his father complained.

NORTON: I don't know. He may have been on the list all along...

MATTHEWS: I see.

NORTON: ... because he had Yemeni connections.

MATTHEWS: Oh, I see.

LUNGREN: Chris...

(CROSSTALK)

MATTHEWS: Go ahead, Congressman.

LUNGREN: Chris, this is why we have -- this is why we have to have the layered approach. We use intelligence. We use the robotic approach. We use personal observation. We use police dogs. We use all of these different things because we know nothing is a fail-safe.

MATTHEWS: Right.

LUNGREN: That's why we have to have a comprehensive approach. That's why we have to have American people alert to the kind of suspicious activity that might take place. You might make a mistake when you say, This person looks suspicious. But we ought not to have people cowed -- that is, afraid to say it. Let the authorities make those decisions.

NORTON: Chris, this man did not go through the whole body or entire body mechanisms that they have in Amsterdam. And there are reports that people coming into the United States don't have to go through that technology. That doesn't make much sense.

MATTHEWS: Yes. OK.

NORTON: This is a sovereign country...

(CROSSTALK)

MATTHEWS: Well, I feel a little better after talking to you two. Thank you very much for joining us, Delegate Eleanor Holmes Norton of D.C. and U.S. Congressman Dan Lungren of California.

Coming up: Where does the United States need to fight these terrorists? We'll ask two former CIA officers about where the real danger is. And they've been out in the field.

You're watching **HARDBALL**, only on MSNBC.

(COMMERCIAL BREAK)

MATTHEWS: Welcome back to **HARDBALL**. Al Qaeda's now claimed responsibility for the attempted terrorist attack on Christmas Day. So where does the United States need to go right now to fight terrorism in this world? And where does al Qaeda live? Bob Baer is a former CIA field officer and is now Time.com's intelligence columnist. Tyler Drumheller's been on before. He serves as the CIA -- he served as the CIA station chief in Europe until he retired in 2005.

Let me go to Bob Baer. Is this threat that we faced this weekend with the Christmas attempt over Detroit -- is this an emerging threat? I mean, is it fair to say that the threat of this kind of terrorism in the air, for example, is growing?

BOB BAER, FORMER CIA FIELD OFFICER: Chris, it's not an emergence. It's an old threat that we never took care of. This is Yemen. Yemen is the sort of the center of al Qaeda, always has been. We've never cleared it up. And you've elements of Qaeda all in those mountains, and they're almost impossible to get to. It's a divided country...

MATTHEWS: OK, hold on...

BAER: ... an ungovernable country.

MATTHEWS: Bob, hold there for a second. Welcome back. We want to bring in President Obama right now. He apparently has abruptly ended a round of golf and sped towards his family vacation home for what's described as a personal matter.

Let's go to Chuck Todd for a report on the president. He's in Hawaii -- Chuck.

CHUCK TODD, NBC WHITE HOUSE CORRESPONDENT/POLITICAL DIR.: Hey, Chris. Well, just very

quickly, we know there had been some reports about what happened and the president cutting things short. A friend of the family was injured today on the ocean. It's nothing having to do with the first family, but it was an injury to somebody very close to the president, a friend of the president. We're not quite clear how serious these injuries are, but there is a lot of law enforcement and ambulance folks around the presidential compound. And of course, any time that happens, it gets a lot of people nervous and concerned.

And so that's the facts as we know them now. The first family is fine. The president is fine. But it is a family friend that apparently has been injured. And again, we don't know yet the seriousness of those injuries, Chris.

MATTHEWS: OK, thank you, Chuck Todd, who's with the president. We'll get more on that as it develops later this evening.

TODD: You bet.

MATTHEWS: Let's go back to Tyler Drumheller with the question before the country this weekend, and that's who's our biggest threat? Is it Yemen now? And I wonder how this fits into our decision to send 20,000 more troops to Afghanistan. Can we pin down the enemy, or are they everywhere, Tyler?

Oh, we're having sound problems right now. Let's go back to Bob Baer. Bob, can you hear me?

BAER: I hear you fine.

MATTHEWS: Bob, I don't think Tyler -- I can't hear Tyler. Let me ask you that question. You were saying Yemen's been a problem. But is there a point of a particular concern, or is it Yemen, is it Somalia, is it Afghanistan, the Pakistan border, Europe, Hamburg, even cells within the United States? I mean, where is the enemy, if you had to put it in your head right now? Give me a picture of the enemy.

BAER: Chris, this is the classical guerrilla force that gets up and moves. You send in our military. It's untenable for them. They get up and move to more remote areas. So they've moved to Yemen. They've moved out of Afghanistan. They've moved into Yemen. They've moved into Somalia. They've got bases all across Europe. It's whack-a-mole. It is virtually impossible to crush this thing, with it being everywhere in the world.

MATTHEWS: Well, does it make sense, Tyler, to go after them in Afghanistan, given what's happening right now coming out of Yemen?

TYLER DRUMHELLER, FORMER CIA OFFICIAL: I think you have to go after them wherever they are, if Afghanistan, Yemen. But it's not really a military problem. The real place you have to look for these people, the real danger is in Europe, in Canada, and people that are already here in the United States. And working with the Europeans more effectively -- we still haven't gotten that right, even from my days there. There was plenty of intelligence available here.

And the other problem at this end lies in the structure that was put in place after 2004 here, where everything was sort of done by committee, everybody's talking about connecting the dots and throwing around buzzwords. And really, there's no individuals who are really responsible for this. It's all committees. So it's more of a structural problem here and then figuring out how to work with the Europeans, allay their fears about what we're going to do with the information and our fears about what they're going to do. And that's really where the process can be tightened up.

MATTHEWS: Well, there is a kind of who's on first base situation.

We know that the State Department, the U.S. Embassy in Lagos was informed of this young man's danger to us. We were told -- we were told, obviously, that the FBI's in charge of taking care of these watch lists and keeping an eye on who we should keep an eye on, as a country.

And now we realize that the homeland security is out there as the flak-catcher over the weekend.

Who is responsible, Tyler? You've got Janet Napolitano taking the flak. You have got the FBI in charge of keeping track of these watch lists. And it was a U.S. Embassy official or consular officer who got the call from the kid's father.

DRUMHELLER: Well, it's -- technically, if you look at the lists, it is the National Counterterrorism Center.

But all these organizations have their own counterterrorism centers, CIA, Homeland Security, all these people. And it's not -- and if you look at the way the watch list is compiled, they are committees that meet each morning and say who should be on it, who shouldn't be on it.

MATTHEWS: Right.

DRUMHELLER: And that's fine. You have to have groups of analysts.

But, at the end, there has to be one or two people who really do -- are experts on this who make the final decisions. And it can -- and it has -- we used to do it during the Cold War. We certainly can do it on this.

(CROSSTALK)

MATTHEWS: Well, I think it comes down to somebody with a really good intelligence hunch, brain, like you guys.

Let's take a look at Senator Lieberman, who has jumped on this thing. Here he is talking about Yemen. Let's

listen.

(BEGIN VIDEO CLIP, FOX NEWS SUNDAY)

SEN. JOSEPH LIEBERMAN (I), CONNECTICUT: I will leave you with this thought that somebody in our government said to me in Sanaa, the capital of Yemen. Iraq was yesterday's war. Afghanistan is today's war. If we don't act preemptively, Yemen will be tomorrow's war.

That's the danger we face.

(END VIDEO CLIP)

MATTHEWS: Well, that's a very aggressive statement. And you might expect it from Senator Lieberman. And it may be appropriate in some situation. But the question is, what does act preemptively mean, Bob? Go into Afghanistan? We're already in there with, you know, over 100,000 troops now. We're fighting. We fought in Iraq. We're fighting -- it's not like we're holding back in the war on terror here.

ROBERT BAER, FORMER CIA FIELD OFFICER: COM: Well, you can't go into Yemen. It's too mountainous, too many remote valleys up there, too many tribes. You will never get to the bottom of the problems in Yemen.

I don't know what he means, acting preemptively. The government in Sanaa is barely holding on. There is a civil war going on. Saudi Arabia is worried about its security from Yemen. So, it is another, you know, blank spot on the map, Yemen. I don't know what you would do about it. It would take two million soldiers to subdue that country.

MATTHEWS: Well, maybe that's what he means. Is there any argument to -- I mean, I'm obviously setting up perhaps a straw man here -- is there any argument for a large, you know, a punitive raid, United States Army marching into a country like Yemen, where we do have diplomatic relations, Tyler?

I just wonder how many wars -- it seems like every one of these situations develop, whether it's 9/11. You get people like Michael Ledeen, the far-out people: Let's attack Syria. Let's attack Iran. Let's attack on all fronts and go to war with every Islamic country.

Now, there are some people who might like the whole pinball machine to light up like that. I mean, I think they're crazy. But -- because that just makes more enemies, more casualties on both sides. And then you have got what the East-West -- well, the people who really want this East-West war have always wanted, which is an East-West total war.

You're shaking your head, Bob.

BAER: Well, we need fewer troops in the Middle East.

Look, there's no help for it. We have to kill Muslims when we have an army in Afghanistan, Pakistan, in Iraq. But the more Muslims we kill, the more enemies we have. And this just becomes a never-ending cycle. That's what worries me.

MATTHEWS: Well, is that something that people want? Who wants that?

BAER: No, they don't want it. It's -- no, what do you do about it? The question is, we have to find a way to get out of these wars as far fast as we can...

MATTHEWS: Yes.

BAER: ... and then see what happens.

In the meantime, you know, that man should have been stopped in Amsterdam because he was on a list. But the FBI and the CIA don't share databases.

MATTHEWS: OK.

BAER: They still don't after eight years.

MATTHEWS: Tyler, here's -- Tyler, then back to Bob.

Here's my worry. Everybody with a brain is worried. And that's everybody out there right now. What happens if our enemy out there gets really ambitious, they send 10 or 20 of these guys out every day, and we catch most of them, but we don't catch them all? And that's hell, where we don't catch them, real hell, Tyler.

DRUMHELLER: And I -- Chris, I think you're right. That's one thing you really have to prepare on -- for this. This is what the Europeans had to deal with in the '60s and '70s.

Occasionally, you're going to have to -- some of this won't work. Someone will get through. And you have to be prepared what to do after that. But it's -- in the meantime -- what you were saying before, very quickly, is, it is not a military solution. It is an intelligence solution.

And if you think they -- how many number two and number three and number four of al Qaeda have been killed

by Predator attacks and all these other things? The real dangerous people are the guys like this little guy that would never even come up on the radar.

MATTHEWS: Yes.

Well, how would you possibly pick up **intel** on a few guys get together with a kid like this? They recruit him or he joins them. They give him what he needs in terms much weaponry. He is already indoctrinated, or self-indoctrinated. He already has a point of view.

How could a big intelligence worldwide network pick up on such a small situation like that, Tyler and then Bob?

DRUMHELLER: Well, because you have to have -- the only way to do it - - these cells are very hard to penetrate, obviously, but you have to have sources on the ground, human sources, in places all over the world reporting. And you can do it with allies. You can do it with on you -- where you -- you did it where -- how you must where you are.

And you collect information on -- on the whole situation. And what you have to get is someone will come to you at some point and say, there is a fellow here. He's a Nigerian, and he looks like he may be one of the people that's -- that are going to do this.

The one thing that saves us on this is that you have -- it is hard to find people to kill -- to kill themselves, to do suicide bombings...

MATTHEWS: It is?

DRUMHELLER: ... unless you're in someplace like Israel and Palestine.

MATTHEWS: Well...

DRUMHELLER: To recruit suicide bombers is not easy for these guys. So, that's the one area. And you just - - you have to be constant -- you have to go to -- you have to go to work every day on it, basically.

MATTHEWS: Yes.

I wish you were right, but I have been in the West Bank in places like Nablus. And I have to tell you, I have seen the martyrs on the walls over there. They're celebrated. And their parents sit next to you and have sweet tea with you and talk about their kids.

It's not hard enough.

DRUMHELLER: Right.

MATTHEWS: Anyway, thank you, Bob Baer.

Thank you, Tyler Drumheller.

---- INDEX REFERENCES ---

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December 29, 2009

Section: Executive Office of the President

PRESS BRIEFING BY DENIS McDONOUGH, DEPUTY ASSISTANT TO THE PRESIDENT AND NATIONAL SECURITY COUNCIL CHIEF OF STAFF

THE WHITE HOUSE

Office of the Press Secretary

For Immediate Release

December 28, 2009

PRESS BRIEFING BY DENIS McDONOUGH, DEPUTY ASSISTANT TO THE PRESIDENT AND NATIONAL SECURITY COUNCIL CHIEF OF STAFF

Moana Surfrider Hotel

Honolulu, Hawaii

MR. McDONOUGH: -- (in progress) -- and then I had a brief update with him at the site of the remarks over on the Marine base. And then he's continuing to get written updates twice daily from the National Counterterrorism Center as well as periodic -- usually three times daily from the Sit Room.

Q I'm sorry, twice daily from whom?

MR. McDONOUGH: The National Counterterrorism Center.

Q Okay. And the three times?

MR. McDONOUGH: Three times daily from the Sit Room.

Q So five times daily?

MR. McDONOUGH: Yes, five different pieces of paper -- five different paper updates that --

Q These are all paper updates?

MR. McDONOUGH: That's correct.

Q So five paper updates and then he has a morning briefing, maybe more --

MR. McDONOUGH: The morning briefing is not set. He did have a morning briefing this morning, yes. And he's obviously had a morning briefing every day. This morning was not John and me, but rather John, the Attorney General, Secretary Napolitano and the President.

Q Are these televised or just phone?

MR. McDONOUGH: Just phone.

Q Can you tell us a little more about the timing of having him talk today, instead of yesterday versus tomorrow" Or why today" Why was today the appropriate time to kind of respond to this -- the Republicans saying that (inaudible) sooner?

MR. McDONOUGH: I can't really respond because I haven't seen what they've been saying, but I take your word for it that they have been saying something about it.

You know, I think that -- obviously we arrived on Christmas Eve; this developed on Christmas morning and obviously the President has been very engaged on this, has been leading our response effort, asking agencies -- directing agencies to take a variety of steps, including all the steps we outlined today. And then, for example, yesterday he thought it made sense -- so that was Friday; Saturday, continued to be regularly briefed and in communication with his administration with us here as well as back in Washington. And then of course yesterday he thought it appropriate that Secretary of Homeland Security -- who had not been previously scheduled to go out on the shows -- go out on the Sunday morning shows to explain what was happening. And of course, Robert was on all the shows, his spokesman. So we thought it made sense to handle it in that way. And then we thought today was a good opportunity for the President to go out.

Q But is this -- so is this sort of when you have these kinds of incidents -- especially ones that don't go anywhere, like this one -- is a waiting period, you know, not going out right away, is that sort of you all concluded over time that's the best route" You know, what is it about the couple, kind of, 48-hour window that makes it appropriate?

MR. McDONOUGH: Don't attach -- I think any development like this, you know, obviously our goal is to ensure that developments like this don't occur, so we don't really have a standard operating procedure about when is best to go out. But what's most important, we believe and I think the President believes, is that the government function, that the government take the steps that the American people expect us to take to ensure that they are secure. And not only did he direct those steps over the course of the weekend, his Secretary of Homeland Security and his spokesman went out yesterday and explained that and then he went out today to discuss that, as well as the situation in Iran, which I know you all are also following and which he thought it was important to be heard on.

Q Was there any discussion or consideration of the possibility of returning to Washington and cutting the vacation short?

MR. McDONOUGH: I'm not aware of any such discussion. I mean, the President has got a full team here, we're very close. Interagency is stood up back in Washington, working all agencies, all intel, law enforcement, military, homeland security and others are working regularly, aggressively. They've been together not just by SVTC, but in person, including (inaudible). So the interagency is working very effectively and the President is hooked right into that.

Q (Inaudible.)

MR. McDONOUGH: Are you suggesting he's not adequately staffed?

Q I'm saying you guys are working 20 hour days. Is it a sense that (inaudible) skeletal staff?

MR. McDONOUGH: You know, the fact is that given the -- the President is very ably served and staffed by the White House communications and White House military offices, who bring a degree of sophistication and agility to that communications infrastructure out here that allow us to have what we need, most importantly, have what he needs to get fully briefed and fully in contact with his Cabinet, with his senior staff, and that's what we have.

Q (Inaudible) -- been happening sort of when you guys are doing (inaudible) --

MR. McDONOUGH: The PDB briefer is here with him. He gets a brief every day, in addition to the updates. So maybe to the earlier question I just took -- that's all right -- I took it for granted that you guys were aware that he's getting the daily brief. So in addition to twice daily updates on the Detroit incident, plus three times daily updates from the Situation Room, the President is getting his morning briefing every day on intelligence, overnight intelligence.

Q Does the President feel that he and members of the administration have successfully conveyed to the American people what it is you guys want them to know?

MR. McDONOUGH: I would say that the President believes that in the first instance I think he admires very much what the passengers and crew of Flight 253 did in the first instance, one. Two, I think that he recognizes that it's very important that we communicate to the American people what we know and the steps that we're taking. And I think that's why he went out today to make his remarks; that's why Secretary Napolitano and Robert went out yesterday; and that's why we've been in constant touch with you all since we've been here, to ensure that you guys know what he's up to and the steps that we're taking.

Q When we look at those reviews, what's the time frame for them" Like, when does he want answers on that" Are there initial -- any kind of benchmarks with these?

MR. McDONOUGH: I confess to not having the timeline available at my fingertips here. We'll get you an answer and get back to you. But these are -- the President is looking for answers on this with dispatch.

Q Did Brennan (inaudible)?

MR. McDONOUGH: As it relates to the review on detection capacity, that will be handled out of the Department of Homeland Security, which houses the Transportation Security Administration.

Q But you don't have a TSA director.

MR. McDONOUGH: That is correct, we have a very able acting TSA Administrator. But the --

Q You don't feel like you -- you guys feel like (inaudible)?

MR. McDONOUGH: Well, I'd say two things. One, I think that we have a very able team of career professionals at TSA. We have a very able team in the Department of Homeland Security generally. But I think it's fair to say that the President believes -- the President is eager to have his TSA head on the job.

Q What are the other reviews?

MR. McDONOUGH: So that will be at TSA. The other review will be handled in the interagency. Exactly who runs it I don't think is yet determined. But that, like the timeline, is something I can get back to you on.

Q So this review has not started.

MR. McDONOUGH: The gathering of information as it relates to the watch lists has begun. That was something that was -- I think as we've indicated to all of you, this President is demanding of us that we constantly challenge the assumptions on which we make decisions. That obviously the procedures and protocols employed in this in-

stance are ones that we inherited, that have been kind of built over the course of several years since 2003. So he was demanding of us right out of the box on Christmas that we take a hard look at the decisions that were made as it relates to the lists. So we began to gather some of that data and will continue to gather more of it.

Q Are you concerned that these congressional hearings are going to come too soon" (Inaudible.)

MR. McDONOUGH: You know, I think it's important that Congress be involved in making sure that the government is doing all it can. Obviously we're also glad that Congress funded the agencies to do the work that the government -- that the country requires of them. And obviously we'd like to make sure that the administrators are in place to run the agencies as well.

But the hearings are important and we obviously think it's a good opportunity to get to the bottom of all of this.

Q If asked to testify, would (inaudible) testify" Or would you guys --

MR. McDONOUGH: Boy, that gets into a -- I don't think that generally --

Q Or would you (inaudible) executive privilege.

MR. McDONOUGH: You know, I guess I'd defer to all of you distinguished and experienced [White House](#) hands on what the precedent is on national security or homeland security council staff testifying.

Q (Inaudible.)

Q -- on the NCTC briefings are specific (inaudible) --

MR. McDONOUGH: Twice daily, that's correct.

Q The three times a day the Sit Room briefings are on a variety of issues. Does that include --

MR. McDONOUGH: Those are **intel** assessments to the President, updates to the President that invariably since Christmas Day have included in each instance updates on --

Q Plus the --

MR. McDONOUGH: -- but the --

Q -- phone briefings, so there are least half a dozen briefings a day --

MR. McDONOUGH: That's correct.

Q -- that include information on this.

MR. McDONOUGH: That's correct. That's correct.

But, look, I think as the President made clear in his statement today that -- by addressing the situation in Iran he obviously remains very engaged and focused on other developments as well, including Iran. And so the three times daily updates from the Sit Room include obviously other intelligence and breaking news developments.

Q (Inaudible.)

MR. McDONOUGH: Well, you know, I think that what the President suggested today is that we want to make clear that the Iranian people understand that we're bearing witness to developments on the ground there. And I think that we also want to make clear that the international community recognizes that Iran has rights as any other member of the international community, but with those rights comes responsibilities, and among those responsibilities are, as outlined in a number of international agreements the Iranians themselves have signed, are recognizing the universal rights of Iranian citizens.

Q (Inaudible.)

MR. McDONOUGH: I'm sorry?

Q There's an English translation (inaudible) that al Qaeda is claiming responsibility for the (inaudible). (Inaudible.)

MR. McDONOUGH: I obviously saw news reports about that today; I have not seen the English translation of it. We know independent verification of that claim, but obviously the President has made very clear now over the course of several months his concern about al Qaeda affiliates, the rise of global extremist organizations and al Qaeda affiliates in other countries and other regions, including in Somalia and East Africa, on the Arabian Peninsula and Yemen, as he mentioned in the West Point speech, in South Asia, in Southeast Asia. And so I think he's made quite clear that we recognize that these organizations are a threat to America and our interests, and that's why we've adapted the posture that we have in each of those regions.

Q (Inaudible.)

MR. McDONOUGH: Well, I don't -- I think that what we're doing is we're acting in response to threats against

the United States and our interests. So the President -- it's not just the President mentioning it today, he mentioned it in the West Point speech. And in that speech he said that we have to be agile and address these threats where they arise, through partnership and through pressure. Obviously the President, as you all reported, spoke to President Saleh a couple weeks ago to commend his efforts -- this ongoing effort against al Qaeda on the Arabian Peninsula, which obviously is a significant threat to the Yemen government. So we'll continue to address, as the President said in the West Point speech, these manifestations of al Qaeda affiliates where they manifest themselves.

Q (Inaudible.)

MR. McDONOUGH: Well, I don't want to make this as if it's some kind of esoteric thing. I think that there is very real manifestations of the al Qaeda and the threats that they pose to the United States and our interests. Frankly, I think as you've heard the President address many times, al Qaeda has killed more Muslims than people of any other faith, dramatically more Muslims than people of any other faith.

So I think the fact is that this is an organization that's sworn to attack the United States and our interests. And as the President indicated over the course of many months, that really going back to the last several years, he recognizes that this is a fight with an organization that we need to engage.

Q (Inaudible.)

MR. McDONOUGH: I think you and I have talked about this, Chuck, and you've asked Robert about this. I'm disinclined to get into a discussion about the incident at Fort Hood, because as you know that's a case that's under prosecution.

Q (Inaudible.)

MR. McDONOUGH: Well, it's a case, again, a case that's under prosecution in the Uniform Court of Military Justice and the UCMJ court, so I'm just not going to get into the business of talking about that now -- the same way that I wouldn't talk about the specifics of any other case that is under prosecution.

Q (Inaudible.)

MR. McDONOUGH: I think the record is splashed with examples of what this administration is doing to confront global violent extremists. I think John's speech at the CSIS in June, I think obviously the President's speech -- sorry, that was in late July -- the President's speech in Cairo, the President's speech in Ankara, where I think the President made very clear that there is a hard group of violent extremists with whom you could not negotiate, that you're going to have to take the fight to, as I think he said also in Oslo. So the fact is I think the record is pretty clear on how we intend to deal with this.

Q While these reviews are ongoing and, you know, the President's called for heightened security (inaudible), there does seem to be, though, somewhat of an (inaudible). Do you feel like the security measures that the President has called for that are in place right now are enough" I talked to a security analyst earlier today who said, you know, not having a blanket or not having a pillow in the last hour and all this, that this is window-dressing, that it really isn't enough. Do you think that it's safe to fly internationally, especially for Americans?

MR. McDONOUGH: I think I would just associate -- I'd just call your attention to what the President said on that today. I don't have anything more to add to it than what the President said in his remarks today.

Q Do you think it's going to get better after the reviews (inaudible)? Do you think it's (inaudible)?

MR. McDONOUGH: I think that part of the review is to ensure that we have appropriate detection capacity and the best detection capacity available to us, and that's exactly what we're going to do.

Q Are we going to hear from him again this week?

MR. McDONOUGH: From the President" You know, we haven't really talked through when he'll go out, but you guys will -- I'm sure you'll see him.

Q You're sure we'll see him?

MR. McDONOUGH: I'm sure you'll see him.

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ANS; SVTC; TRANSPORTATION SECURITY ADMINISTRATION; TSA; UCMJ; UNIFORM COURT OF
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