

The Grip of the Peril

What have we learned from the Russian Aircraft LP Litigation?

Matthew Reeve KC



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- ❖ The Grip of the Peril principle.
- ❖ The use and effect of War Risks notices to review and cancellation endorsements under LSW555D.



- ❖ Arnould, the death blow principle:
 - ✧ *“If the subject matter of the insurance has already received its death blow when the risk expires, the fact that the damage has not yet reached such proportions as to make the ship or goods already an actual total loss cannot prevent the assured from claiming for an actual total loss when the work of destruction has been completed.”*

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- ❖ 24 February 2022 – Invasion
- ❖ 2 March 2022 – expiry of first WR cancellation – Genesis
- ❖ 5 March 2022 – FATA message to Russian Airlines; **the peril grips**
- ❖ 8/9 March 2022 – expiry of some WR cancellation notices; DAE/Falcon/Merx
- ❖ 10 March 2022 – GR311 – **Aircraft permanently lost**
- ❖ 15 March 2022 – Expiry of first C&P Policy; Genesis



- ❖ Section 5.1 of LSW555D:
 - ✧ *“1. (a) Underwriters may give notice, effective on the expiry of 7 days from midnight G.M.T. on the day on which notice is issued, to review the rate of premium and/or the geographical limits. In the event of the review of the rate of premium and/or geographical limits not being accepted by the Assured then at the expiry of the said 7 days, this Policy shall become cancelled at that date.”*



❖ The Grip of the Peril Principle according to Butcher J:

“963... if an insured is, within the policy period, deprived of possession of the relevant property by the operation of a peril insured against and, in circumstances which the insured cannot reasonably prevent, that deprivation of possession develops after the end of the policy period into a permanent deprivation by way of a sequence of events following in the ordinary course from the peril insured against which has operated during the policy period, then the insured is entitled to an indemnity under the policy.”

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