

CLIENT ALERT

U.S. Charges Chinese and Taiwanese Companies with Trade Secret Theft, Continues Vigilant Prosecution of Chinese Economic Espionage

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In an indictment unsealed last week, the U.S. Department of Justice charged two companies – one based in China and the other in Taiwan – as well as three individuals, with trade secret theft, conspiracy to commit trade secret theft, economic espionage, and other related crimes. These charges are the latest in a recent string of similar prosecutions, as U.S. officials have sought to combat the threat of Chinese economic espionage against American technology companies, defense contractors, and other entities.

The indictment claims that defendants stole trade secrets from U.S.-based Micron Technologies, Inc., relating to the research and development of dynamic random-access memory (DRAM), a technology used to store data in electronic devices. DRAM had been identified by the Department of Commerce as an “essential component of U.S. military systems.” According to the indictment, the People’s Republic of China (PRC) has “publicly identified the development of DRAM technology as a national economic priority because PRC companies had not been able to develop technologically advanced DRAM production capabilities, and PRC electronics manufacturers relied on producers outside the PRC to supply DRAM.”

The indictment claims that United Microelectronics Corporation (UMC) (a semiconductor company headquartered in Taiwan) and Fujian Jinhua Integrated Circuit, Co., Ltd. (a PRC-funded company dedicated to the development and manufacture of DRAM) entered into a technology cooperation agreement to develop DRAM for a product described as “32nm and 32Snm DRAM.” The companies subsequently recruited three former Micron employees, including the former head and two former employees of Micron’s Taiwan subsidiary responsible for making DRAM, all of whom left Micron to work for UMC in 2015 and/or 2016. The indictment further claims that prior to leaving Micron, the former employees downloaded and took Micron information pertaining to at least eight different trade secrets, totaling nearly 1,000 files.

According to the indictment, the defendants used the numerous Micron trade secrets to “advance the development of UMC’s F32 DRAM technology,” including filing five patents and a patent application concerning DRAM technology that “contained information that was the same or very similar to technology described in Micron’s trade secrets.”

The indictment follows the recent addition of Jinhua to the Department of Commerce’s “Entity List,” which the Secretary of Commerce stated will limit Jinhua’s “ability to threaten the supply chain for essential components in our military systems.” Notably, the DOJ also filed a civil action seeking an injunction preventing UMC and Jinhua from exporting, selling, or importing to the U.S. any product containing DRAM manufactured by either Jinhua or UMC.

The indictment is the fourth case brought by the DOJ relating to Chinese economic espionage in the last three months. The three other cases are the following:

- [Charges against ten defendants](#) working for the Jiangsu Ministry of State Security (JSSD), alleging conspiracy to steal information from U.S. and European defense contractors relating to aerospace technology (Oct. 30, 2018);

- [Charges against Ji Chaoqun](#), a Chicago resident, for allegedly assisting JSSD to recruit U.S. engineers and scientists, including U.S. defense contractors (Sept. 25, 2018); and
- [Charges against Xiaoqing Zheng](#), a GE engineer residing in New York, alleging theft of GE trade secrets relating to turbine technology (Aug. 1, 2018).

In noting that Chinese economic espionage against the U.S. is “increasing rapidly,” Attorney General Sessions has announced a new initiative dedicated to curtailing Chinese theft of U.S. trade secrets. A video of the DOJ’s announcement of the indictment is [available here](#). The flurry of recent activity clearly demonstrates that the DOJ is continuing to increase its policing efforts.

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