



Department of Justice

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Northern District of California

FOR IMMEDIATE
RELEASE
November 17, 2011
6599

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EXPORTER PLEADS GUILTY TO SELLING SENSITIVE TECHNOLOGY TO CHINA

Former Cupertino Man Sold Restricted Microwave Amplifiers to People's Republic of China Without a License

SAN JOSE, Calif. – Fu-Tain Lu, formerly of Cupertino, Calif., pleaded guilty in federal court in San Jose today to selling sensitive microwave amplifiers to the People's Republic of China without a license, United States Attorney Melinda Haag announced.

In pleading guilty, Lu admitted that he was the owner and founder of Fushine Technology, Inc. (Fushine), a California corporation formerly located in Cupertino. Fushine was an exporter of electronic components primarily used in communications, radar and other applications. At the time of the offense, Fushine had a sales representative agreement with Miteq Components, Inc. (Miteq), a New York-based manufacturer of microwave and satellite communications components and subsystems.

Lu, 64, admitted that, on March 1, 2004, Fushine submitted a purchase order to Miteq for one microwave amplifier and requested that Miteq notify Fushine immediately if an export license was required. Miteq responded that the part was controlled for export to China. Nonetheless, on April 2, 2004, Fushine exported the amplifier to co-defendant

Everjet Science and Technology Corporation (Everjet), located in the People's Republic of China, without having obtained a license or license exception from the United States Department of Commerce. Lu further admitted that the amplifier he shipped was restricted for export to China for reasons of national security.

Lu, along with the two corporate defendants, Fushine and Everjet, were first indicted on April 1, 2009. A superseding indictment was returned on Feb. 17, 2010. In addition to the count of conviction, the indictment also charged him with conspiring to violate United States export regulations, and lying to federal agents who were investigating that conduct. The indictment alleged that the defendants knew about the licensing restrictions and specifically sought to circumvent them. The superseding indictment quoted from an internal company e-mail in which an Everjet employee told a Fushine employee, "Since these products are a little bit sensitive, in case the maker ask [*sic*] you where the location of the end user is, please do not mention it is in China." The indictment also quoted from another e-mail in which Lu advised a subordinate to pretend that the intended end-user for an item was in Singapore rather than China.

In the plea agreement, Lu also agreed to forfeit 36 additional microwave amplifiers that were seized on March 24, 2010, but that were not included in the superseding indictment.

"Export regulations are vital to protecting the competitiveness and national security of the United States," said United States Attorney Melinda Haag. "My office will continue to work vigorously with our law enforcement partners to prosecute willful violations of those regulations."

U.S. Attorney Haag also expressed her appreciation to the agencies who conducted and assisted with the investigation, including the Department of Commerce Office of Export Enforcement, the Federal Bureau of Investigation, and the Department of Homeland Security's Immigration and Customs Enforcement as well as Customs and Border Protection.

The sentencing of Lu is scheduled for 9 a.m. on Feb. 21, 2012, before U.S. District Court Judge Ronald M. Whyte, sitting in San Jose. The maximum statutory penalties for the count of conviction – violation of export regulations (50 U.S.C. § 1705(b) and 15 C.F.R. 764.2(a)) – are 10 years in prison and a \$50,000 fine. Any sentence following conviction, however, would be imposed by the court after consideration of the U.S. Sentencing Guidelines and the federal statute governing the imposition of a sentence, 18 U.S.C. § 3553.

David R. Callaway is the Assistant U.S. Attorney who is prosecuting the case with the assistance of Tracey Andersen and Rawaty Yim. The prosecution is the result of a joint investigation by the Department of Commerce, the Federal Bureau of Investigation, and U.S. Immigrations and Customs Enforcement Homeland Security Investigations.

Further Information:

Case #: CR 09-0341 RMW

A copy of this press release may be found on the U.S. Attorney's Office's website at www.usdoj.gov/usao/can.

Electronic court filings and further procedural and docket information are available at <https://ecf.cand.uscourts.gov/cgi-bin/login.pl>.

Judges' calendars with schedules for upcoming court hearings can be viewed on the court's website at www.cand.uscourts.gov.

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