

U.S. Government Flexes Its Muscles Under the DTSA Against DRAM Manufacturers in Asia

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On November 1, the U.S. Attorney's Office filed a civil suit in the Northern District of California against Taiwanese company United Microelectronics Corporation (UMC), Fujian Jinhua Integrated Circuit Co., Ltd. (Jinhua), a PRC state-owned enterprise, as well as a former senior VP of UMC and then current president of Jinhua. The U.S. government is seeking injunctive relief against the import of any products incorporating DRAM memory chips manufactured by defendants and further unauthorized disclosure or use of trade secrets belonging to U.S.-based Micron Technology, Inc. (Micron).

In its complaint, the federal government alleges that after moving from Micron's Taiwanese subsidiary (MMT) to UMC, former senior VP Chen enlisted two other MMT employees to steal confidential information and design specifications related to Micron's DRAM technology, and hired the two engineers over to UMC. The government pleads that some of this information was transferred to a personal Google cloud account stored on servers located in the U.S. Allegedly while in possession of the stolen technology, the defendants attended job fairs in Northern California, visited semiconductor equipment manufacturers, and jointly filed for U.S. patents on Micron's trade secrets. The government estimates that UMC and Jinhua saved between US\$ 400 million to 8.75 billion in R&D costs by using Micron's proprietary information.

On the same day, the Department of Justice (DOJ) announced that a federal grand jury had indicted the defendants and the other two former MMT employees under the same federal statutes, for conspiracy to commit theft of trade secrets and economic espionage. The criminal charges are also being brought in the Northern District of California, where Micron's own related civil suit against the defendants, filed one year earlier, is still pending.

This is the fourth economic espionage case the DOJ has brought against Asia-based companies since September 2018.

TIP: This case serves as a reminder that the U.S. government will seek to use the "long arm" reach of its trade secret protection statutes to apply to situations where economic espionage occurred in Asia, so long as some "act in furtherance of the offense" per 18 U.S.C. § 1837(2), occurred in the United States.

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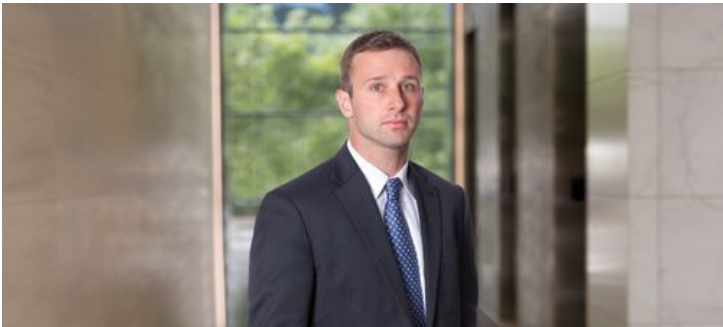
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