No. CR 05 00812 RMW HRL

E-filing

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

SAN JOSE DIVISION

FILED
DEC 21 2005
RICHARD W. WIEKING
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE

THE UNITED STATES OF AMERICA

vs.

SUIBIN ZHANG

INDICTMENT

Counts One Through Three: 18 U.S.C. §§ 1030(a)(3)(A) - Computer Fraud;

Counts Four Through Six: 18 U.S.C. §§ 1832(a)(1), (2) and (4) - Theft, Misappropriation, and Unauthorized Downloading of Trade Secrets;

Count Seven: 18 U.S.C. §§ 1832(a)(2) and (4) - Unauthorized Copying and Transmission of Trade Secrets;

Count ~~Eight~~ NINE: 18 U.S.C. § 1832(a)(3) - Unauthorized Possession of Stolen Trade Secrets.

A true bill.

Foreperson

Filed in open court this 21st *day of* December
*A.D. 200*5

United States Magistrate Judge

Bail. $ No process required

KEVIN V. RYAN (CASBN 118321)
United States Attorney

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SAN JOSE

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

SAN JOSE DIVISION

CR 05 00812 RMW
HRL

UNITED STATES OF AMERICA, Plaintiff, v. SUIBIN ZHANG, Defendant.	No. VIOLATIONS: 18 U.S.C. §§ 1030(a)(4), 1030(c)(3)(A) – Computer Fraud; 18 U.S.C. §§ 1832(a)(1), (2) and (4) – Theft, Misappropriation, and Unauthorized Downloading of Trade Secrets; 18 U.S.C. §§ 1832(a)(2) and (4) – Unauthorized Copying and Transmission of Trade Secrets; 18 U.S.C. § 1832(a)(3) – Unauthorized Possession of Stolen Trade Secrets; 18 U.S.C. §§ 1834, 981(a)(1)(C), and 28 U.S.C. § 2461(c) – Criminal Forfeiture SAN JOSE VENUE

INDICTMENT

The Grand Jury charges:

BACKGROUND

At all times relevant to this Indictment:

1. Broadcom Corporation ("Broadcom") was a corporation based in San Jose, California, that designed and marketed semiconductor chips for broadband communications devices.

2. Marvell Semiconductor, Inc. ("Marvell") was a corporation based in Sunnyvale, California that designed and marketed semiconductor chips for use in broadband communication

devices in interstate and foreign commerce. Among other items, Marvell sold switches and transceivers to companies for use in the manufacture of networking devices. Broadcom and Marvell were competitors.

3. Netgear, Inc. ("Netgear") was a corporation based in San Jose, California that offered networking products for small office users, home office users and small businesses. Netgear used the original design manufacturer ("ODM") methodology for most of its product development activities. Under this method, Netgear defined the product concept and specification and performed the technology selection. Based on this information, Netgear's technology suppliers, such as Marvell and Broadcom, developed the chipsets, software drivers and detailed circuit designs.

4. Defendant SUIBIN ZHANG was employed by Netgear from approximately August 2000 to April 2005. Hired by Netgear as an engineer working on switch designs, defendant ZHANG was promoted in December 2001 to Product Development Manager and was thereafter responsible for Ethernet Hub and Switch development.

Selected Marvell Product Lines

5. Switches in a computer network are devices that filter and forward packets between segments in a local-area network ("LAN"). Marvell sold two switches, named "Link Street" and "Prestera," which were used in different markets and had different features and capabilities. The Link Street switches were designed for use in small office and home office networks, whereas the Prestera switches were designed for use by larger businesses. Marvell marketed three "families" of Prestera switches: a) the DX, which was designed for small to medium business networks; b) the EX, which was designed for Enterprise level networks used by large businesses; and c) the MX, which was designed for Metropolitan Area Networks used by telecommunication companies or other large businesses with networks covering large geographic areas.

6. Transceivers are devices that transmit and receive digital or analog signals within a network. The term "transceiver" is often used to describe the component in LANs that applies signals onto the network wire and detects signals passing through the wire. Marvell's transceivers include a product line named Alaska Gigabit Quad-Port PHY.

Marvell's Secure Extranet

7. Marvell maintained a secure Extranet Web site, hosted by a server located in the Northern District of California, that served as a document repository that allowed authorized customers controlled access to Marvell's proprietary product information. (An "extranet" is a private network that uses the Internet to share part of a business's information or operations with suppliers, vendors, partners, customers, or other businesses.) Marvell's Web site stated: "The Marvell Extranet requires all users to be under a Non-Disclosure Agreement (NDA), because the information provided within the site represents Marvell-proprietary information." Under the required NDAs, users of the Extranet agreed to maintain the confidentiality of the information available on the site. The Extranet allowed authorized users to download specific files pursuant to the NDAs for purposes of legitimate business with Marvell.

8. To gain access to the Extranet, Marvell required applicants to complete a registration form which asked for name, address, e-mail address, company name, and product selection. After submission, a product manager at Marvell reviewed all registration requests and decided which Extranet "folders" – or categories of proprietary information – the customer would be permitted to access. After Marvell verified that an NDA had been signed, the customer was assigned a user identification, which was that customer's e-mail address, and selected a secure password. The password was required to be reset every 120 days. The user was prompted to the Extranet "Terms of Use" after initial log-in, and the user was required to click the "Accept" button to enter the Extranet site. These Terms of Use incorporated the NDA and a limited use license agreement.

9. Certain files on the Extranet required an additional password. For these files, the user was required to send an e-mail to Marvell requesting a temporary password. If acceptable, Marvell then e-mailed the user a unique password relevant only for a particular download and which expired after sixty minutes. Additional downloads required other password requests. Other files on the Extranet required an additional "open password" selected by the user, and certain files had print restrictions.

10. A unique identification mark, or "hash code," was incorporated into every file that

authorized users downloaded from the Extranet. The hash code identified the user who downloaded the file and also recorded the date and time in an alphanumeric code. In addition, "Confidential" watermarks were incorporated into downloaded files in three separate locations, including diagonally across the page. Marvell maintained records reflecting user activity on the Extranet, including: name of the customer; name of the authorized employee or user; email account of authorized user; date and time of log-ins; a record of session activity, such as whether downloads occurred; and the title, document size, and a description of all downloaded materials.

Marvell's Business Relationship with Netgear

11. Marvell served as one of Netgear's "technology suppliers" in its product development process. Because of Netgear's customer base of small businesses and home users, Netgear purchased switches from Marvell's Link Street and DX product lines, rather than switches from Marvell's EX and MX product lines, which were designed for larger businesses or telecom users. As part of its business relationship with Netgear, Marvell permitted certain Netgear employees, including defendant ZHANG, to access Marvell's Extranet, pursuant to an NDA and limited use license agreement.

Defendant ZHANG and His Employment by Broadcom

12. In or about March 2005, defendant ZHANG interviewed for positions at Marvell and Broadcom. Defendant ZHANG rejected Marvell's employment offer on or about March 7, 2005. The following day, on or about March 8, 2005, defendant ZHANG accepted an offer of employment from Broadcom to work in its Network Switching Group. Defendant ZHANG began working at Broadcom on or about April 25, 2005.

COUNT ONE: (18 U.S.C. §§ 1030(a)(4), 1030(c)(3)(A) – Computer Fraud)

13. The allegations in paragraphs 1-12 are realleged and incorporated herein as if set forth in full.

14. On or about March 9, 2005, in the Northern District of California and elsewhere, the defendant

SUIBIN ZHANG

did knowingly and with intent to defraud, access without authorization, and exceed authorized

access, a protected computer, namely, Marvell's Extranet, and by means of such conduct further the intended fraud and download and obtain things of value, as set forth more specifically below

APPROX. TIME (PDT)	TITLES OF DOWNLOADED ITEMS
09:52 AM	DATASHEET - 88E6185, 88E6182, 88E6155, 88E6152, Gigabit Ethernet Switch
09:56 AM	RD-88E6095-48F4G Reference Design Schematics
09:57 AM	48FE +2GE Managed and Stacked System Hardware System Design Specification
09:57 AM	RD-88E6095-48F4G Design and Layout Guidelines
09:58 AM	RD-88E6095-48F4G Reference Design BOM
09:58 AM	RD-88E6095-48F4G Gerber Files
09:59AM	SOHO Switch Software Architecture Specification
10:29AM	SOFTWARE-SOHO Switch Drivers DSDT Ver 2.3b
10:30AM	WHITE PAPER - Auto-Neg/MAC Interface
10:30AM	WHITE PAPER - Auto-Neg/MAC Interface
10:31AM	WHITE PAPER - Back-Pressure for Flow Control
10:31AM	WHITE PAPER - Common Mistakes with Ethernet System
10:31AM	WHITE PAPER - Flow Control Explained
10:31AM	WHITE PAPER - How to Quote, Measure and Use Power
10:31AM	WHITE PAPER - Supply Noise Measurement
10:32AM	WHITE PAPER - Tutorial on Clock PPM Effects
10:32AM	WHITE PAPER - Tjc, Tja & Temperature Calculations
10:33AM	Ballout for Prestera 98DX270 and 98DX273
10:33 AM	Hardware Design Guide for Prestera 98DX250/253/260/263/270/273
10:33 AM	Hardware Specification for Prestera 98DX250/253/260/263/270/273
10:34 AM	Product Brief - 98DX253/263/273
10:34 AM	Functional Errata and Restriction for DX166/166R/246/250/260/270
10:36 AM	FUNCTIONAL SPECIFICATION & REGISTER SET FOR 98DX166/166R/167/167R/246/247/250/253/260/263/270/273/803
10:37 AM	BSDL Model for 98DX273 Rev A1
10:37 AM	IBIS Model for 98DX250/253/260/262/263/270/273/803 Rev A1
10:38 AM	Ballout for Prestera 98DX803
10:39 AM	Hardware Specification for Prestera 98DX803

10:39 AM	Product Brief - Prestera 98DX803
10:40 AM	FUNCTIONAL SPECIFICATION & REGISTER SET FOR 98DX166/166R/167/167R/246/247/250/253/260/263/270/273/803
10:41 AM	BSDL Model for 98DX803 Rev A1
10:38 AM	Ballout for Prestera 98DX803
10:39 AM	Hardware Specification for Prestera 98DX803
10:39 AM	Product Brief - Prestera 98DX803
10:40 AM	FUNCTIONAL SPECIFICATION & REGISTERED SET FOR 98DX166/166R/167/167F/246/247/250/253/260/263/270/273/803
10:41 AM	BSDL Model for 98DX803 Rev A1
10:41 AM	IBIS Model for 98DX250/253/260/262/263/270/273/803 Rev A1
10:42 AM	Ballout for 98EX126-A
10:43 AM	Hardware Specification - Prestera 98EX116, 98EX126 and 98EX136 Packet Processors
10:43 AM	FUNCTIONAL ERRATA - PRESTERA PACKET PROCESSOR 98EX116-A/98EX126-A

All in violation of Title 18, United States Code, Sections 1030(a)(4), 1030(c)(3)(A).

COUNT TWO: (18 U.S.C. § 1030(a)(4), 1030(c)(3)(A) – Computer Fraud)

15. The allegations in paragraphs 1-12 are realleged and incorporated herein as if set forth in full.

16. On or about March 16, 2005, in the Northern District of California and elsewhere, the defendant

SUIBIN ZHANG

did knowingly and with intent to defraud, access without authorization, and exceed authorized access, a protected computer, namely, Marvell's Extranet, and by means of such conduct further the intended fraud and download and obtain things of value, as set forth more specifically below:

APPROX. TIME (PDT)	TITLES OF DOWNLOADED ITEMS
10:38 AM	Ballout for 98EX126-A
10:39 AM	APPLICATION NOTE - AN-171 Policy and Meter Configuration Guidelines
10:39 AM	APPLICATION NOTE - AN-146-FC and HOL Configuration for Prestera Devices
10:39 AM	APPLICATION NOTE - AN-148 Implementing a GbE Desktop Value-Added Solution using the Prestera 98DX240 and 98EX126 Devices

10:39 AM	APPLICATION NOTE - Prestera Hardware Design Guide for EX/FX/MX
10:40 AM	APPLICATION NOTE - AN-126 Thermal Management and Power consumption for the Prestera Packet Processor
10:40 AM	APPLICATION NOTE - an-118 ppm Differences Between Rx Clock and Tx Clock
10:40 AM	APPLICATION NOTE - AN-102 Prestera Systems Power Sequencing
10:40 AM	APPLICATION NOTE - AN-109 IPv4 Routing Engine Data Structure Memory Consumption in the Prestera-EX Packet Processor Family
10:41 AM	APPLICATION NOTE - AN-122 Broadcast and Multicast Rate Limit Configuration
10:41 AM	APPLICATION NOTE - AN-151 Implementing Auto-Media Detect in 88E1111/4x Transceivers with Prestera EX/MX Packet Processors
10:41 AM	APPLICATION NOTE - AN-67 Powering Up/Powering Down Marvell. Devices with Multiple Power Supplies of Different Voltages
10:42 AM	APPLICATION NOTE - AN-79 Implementing Nested VLANs Using the Prestera Devices, 98EX and 98MX Family
10:42 AM	APPLICATION NOTE - AN-80 Prestera Packet Processor Memory Usage
10:42 AM	APPLICATION NOTE - AN-89 Back-end Port Configuration in Prestera Packet Processors
10:43 AM	Application Note - Value Blade Software Architecture
10:43 AM	DB-98EX126-12G750 BOM
10:44 AM	DB-98EX126-12G750 Schematics
10:44 AM	DB-98EX126-12G750 User Manuel
10:45 AM	EV-64260A-750CX-PCI User Guide
10:45 AM	WxWorks BSP User Manuel for EV-64260A-750CX-PCI

All in violation of Title 18, United States Code, Sections 1030(a)(4), 1030(c)(3)(A).

COUNT THREE: (18 U.S.C. § 1030(a)(4) – Computer Fraud)

17. The allegations in paragraphs 1-12 are realleged and incorporated herein as if set forth in full.

18. On or about March 18, 2005, in the Northern District of California and elsewhere, the defendant

SUIBIN ZHANG

did knowingly and with intent to defraud, access without authorization, and exceed authorized access, a protected computer, namely, Marvell's Extranet, and by means of such conduct further the intended fraud and download and obtain things of value, as set forth more specifically below:

APPROX. TIMES (PDT)	TITLES OF DOWNLOADED ITEMS
03:41 PM	DATASHEET - 88E1149 Quad-Channel Gigabit Ethernet PHY
03:44 PM	APPLICATION NOTE - 88E1149 PCB Layout Guidelines
03:45 PM	APPLICATION NOTE - Alaska MDI Interface Design
03:45 PM	APPLICATION NOTE - Measuring Supply Noise
03:45 PM	APPLICATION NOTE - Oscillator References for Gigabit PHYs
03:45 PM	APPLICATION NOTE - Using Marvell PHYs in Backplane Applications
03:46 PM	APPLICATION NOTE - Crystal Oscillators
03:46 PM	APPLICATION NOTES - Differential Single Impedance Calculations SPREADSHEET
03:46 PM	APPLICATION NOTES - Alaska Gigabit Magnetics
03:46 PM	APPLICATION NOTES - Alaska Gigabit Magnetics
03:47 PM	MODELS - 88E1149-BAM(BGA) BSDL Model
03:47 PM	MODELS - 88E1149-TAH (TQFP) BSDL Model
03:47 PM	WHITE PAPER - How to Quote, Measure and Use Power Numbers
03:48 PM	WHITE PAPER - BER Vs. Packet Loss
03:48 PM	WHITE PAPER - Auto-Neg/MAC Interface
03:48 PM	WHITE PAPER - Auto-Crossover & Parallel Detect
03:49 PM	DATASHEET - 98MX6x5-A
03:49 PM	APPLICATION NOTE - AN-143 Controlling Traffic to the CPU for 98EX1xx-C/D and 98MXxx Prestera Packet Processor

All in violation of Title 18, United States Code, Sections 1030(a)(4), 1030(c)(3)(A).

COUNT FOUR: (18 U.S.C. § 1832(a)(1), (2), (4) – Theft, Misappropriation, and Unauthorized Downloading of Trade Secrets)

19. The allegations in paragraphs 1-12 are realleged and incorporated herein as if set forth in full.

20. On or about March 9, 2005, in the Northern District of California and elsewhere, the defendant

SUIBIN ZHANG

with the intent to convert trade secrets belonging to Marvell, as set forth more specifically below, to the economic benefit of someone other than Marvell, which trade secrets are related to and

included in products that are produced for and placed in interstate and foreign commerce, did steal and without authorization appropriate, take, carry away, and conceal, and by fraud, artifice, and deception obtain such information, and knowingly and without authorization download, copy, and duplicate such information, from Marvell's Extranet, and attempt to do so, intending and knowing his acts would injure Marvell:

Trade Secret Information

a) DATASHEET - 88E6185, 88E6182, 88E6155, 88E6152,Gigabit Ethernet Switch
b) SOHO Switch Software Architecture Specification
c) SOFTWARE-SOHO Switch Drivers DSDT Ver 2.3b
d) Hardware Design Guide for Prestera 98DX250/253/260/263/270/273
e) Functional Errata and Restriction for DX166/166R/246/250/260/270
f) FUNCTIONAL SPECIFICATION & REGISTER SET FOR 98DX166/166R/167/167R/246/247/250/253/260/263/270/273/803
g) FUNCTIONAL ERRATA - PRESTERA PACKET PROCESSOR 98EX116-A/98EX126-A

All in violation of Title 18, United States Code, Sections 1832(a)(1), (2), and (4).

COUNT FIVE: (18 U.S.C. § 1832(a)(1), (2), (4) – Theft, Misappropriation, and Unauthorized Downloading of Trade Secrets)

21. The allegations in paragraphs 1-12 are realleged and incorporated herein as if set forth in full.

22. On or about March 16, 2005, in the Northern District of California and elsewhere, the defendant

SUIBIN ZHANG

with the intent to convert trade secrets belonging to Marvell, as set forth more specifically below, to the economic benefit of someone other than Marvell, which trade secrets are related to and included in products that are produced for and placed in interstate and foreign commerce, did steal and without authorization appropriate, take, carry away, and conceal, and by fraud, artifice, and deception obtain such information, and knowingly and without authorization download, copy, and duplicate such information, from Marvell's Extranet, and attempt to do so, intending and knowing his acts would injure Marvell:

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Trade Secret Information

a) APPLICATION NOTE - AN-148 Implementing a GbE Desktop Value-Added S Solution using the Prestera 98DX240 and 98EX126 Devices
b) APPLICATION NOTE - Prestera Hardware Design Guide for EX/FX/MX
c) APPLICATION NOTE - AN-109 IPv4 Routing Engine Data Structure Memory Consumption in the Prestera-EX Packet Processor Family
d) APPLICATION NOTE - AN-80 Prestera Packet Processor Memory Usage
e) Application Note - Value Blade Software Architecture

All in violation of Title 18, United States Code, Sections 1832(a)(1), (2), and (4).

COUNT SIX: (18 U.S.C. § 1832(a)(1), (2), (4) – Theft, Misappropriation, and Unauthorized Downloading of Trade Secrets)

23. The allegations in paragraphs 1-12 are realleged and incorporated herein as if set forth in full.

24. On or about March 18, 2005, in the Northern District of California and elsewhere, the defendant

SUIBIN ZHANG

with the intent to convert trade secrets belonging to Marvell, as set forth more specifically below, to the economic benefit of someone other than Marvell, which trade secrets are related to and included in products that are produced for and placed in interstate and foreign commerce, did steal and without authorization appropriate, take, carry away, and conceal, and by fraud, artifice, and deception obtain such information, and knowingly and without authorization download, copy, and duplicate such information, from Marvell's Extranet, and attempt to do so, intending and knowing his acts would injure Marvell:

Trade Secret Information

a) DATASHEET - 88E1149 Quad-Channel Gigabit Ethernet PHY
b) DATASHEET - 98MX6x5-A
c) APPLICATION NOTE - AN-143 Controlling Traffic to the CPU for 98EX1xx-C/D and 98MXxx Prestera Packet Processor

All in violation of Title 18, United States Code, Sections 1832(a)(1), (2), and (4).

COUNT SEVEN: (18 U.S.C. § 1832(a)(2), (4) – Unauthorized Copying of Trade Secrets)

25. The allegations in paragraphs 1-12 are realleged and incorporated herein as if set forth in full.

26. On or about April 27, 2005, in the Northern District of California and elsewhere, the defendant

SUIBIN ZHANG

with the intent to convert trade secrets belonging to Marvell, as set forth more specifically below, to the economic benefit of someone other than Marvell, which trade secrets are related to and included in products that are produced for and placed in interstate and foreign commerce, did without authorization copy, duplicate, replicate, transmit, deliver, send, mail, communicate, and convey such information, and attempt to do so, by loading the trade secrets onto a laptop computer issued to him by Broadcom, intending and knowing his acts would injure Marvell:

Trade Secret Information

a) DATASHEET - 88E6185, 88E6182, 88E6155, 88E6152,Gigabit Ethernet Switch
b) SOHO Switch Software Architecture Specification
c) SOFTWARE-SOHO Switch Drivers DSDT Ver 2.3b
d) Hardware Design Guide for Prestera 98DX250/253/260/263/270/273
e) Functional Errata and Restriction for DX166/166R/246/250/260/270
f) FUNCTIONAL SPECIFICATION & REGISTER SET FOR 98DX166/166R/167/167R/246/247/250/253/260/263/270/273/803
g) FUNCTIONAL ERRATA - PRESTERA PACKET PROCESSOR 98EX116-A/98EX126-A
h) APPLICATION NOTE - AN-148 Implementing a GbE Desktop Value-Added Solution using the Prestera 98DX240 and 98EX126 Devices
i) APPLICATION NOTE - Prestera Hardware Design Guide for EX/FX/MX
j) APPLICATION NOTE - AN-109 IPv4 Routing Engine Data Structure Memory Consumption in the Prestera-EX Packet Processor Family
k) APPLICATION NOTE - AN-80 Prestera Packet Processor Memory Usage
l) Application Note - Value Blade Software Architecture
m) DATASHEET - 88E1149 Quad-Channel Gigabit Ethernet PHY
n) DATASHEET - 98MX6x5-A
o) APPLICATION NOTE - AN-143 Controlling Traffic to the CPU for 98EX1xx-C/D and 98MXxx Prestera Packet Processor.

All in violation of Title 18, United States Code, Sections 1832(a)(2), (4).

COUNT EIGHT: (18 U.S.C. § 1832(a)(2), (4) – Unauthorized Transmission of Trade Secrets)

27. The allegations in paragraphs 1-12 are realleged and incorporated herein as if set forth in full.

28. On or about June 2, 2005, in the Northern District of California and elsewhere, the defendant

SUIBIN ZHANG

with the intent to convert trade secrets belonging to Marvell, specifically, Functional Specification & Register Set for 98DX166/166R/167/167R/246/247 /250/253/260/263/270/273/803, to the economic benefit of someone other than Marvell, which trade secrets are related to and included in products that are produced for and placed in interstate and foreign commerce, did without authorization copy, duplicate, upload, replicate, transmit, deliver, send, mail, and convey such information, and attempt to do so, by sending the trade secrets by email to certain Broadcom employees, intending and knowing his acts would injure Marvell.

All in violation of Title 18, United States Code, Sections 1832(a)(2), (4).

COUNT NINE: (18 U.S.C. § 1832(a)(~~2~~3), (4) – Unauthorized Possession of Stolen Trade Secrets)

29. The allegations in paragraphs 1-12 are realleged and incorporated herein as if set forth in full.

30. On or about June 24, 2005, in the Northern District of California and elsewhere, the defendant

SUIBIN ZHANG

with the intent to convert trade secrets belonging to Marvell, as set forth more specifically below, to the economic benefit of someone other than Marvell, which trade secrets are related to and included in products that are produced for and placed in interstate and foreign commerce, did possess such information, and attempt to do same, knowing the same to have been stolen and appropriated, obtained, and converted without authorization, intending and knowing his acts would injure Marvell:

Trade Secret Information

a) DATASHEET - 88E6185, 88E6182, 88E6155, 88E6152,Gigabit Ethernet Switch
b) SOHO Switch Software Architecture Specification
c) SOFTWARE-SOHO Switch Drivers DSDT Ver 2.3b
d) Hardware Design Guide for Prestera 98DX250/253/260/263/270/273
e) Functional Errata and Restriction for DX166/166R/246/250/260/270
f) FUNCTIONAL SPECIFICATION & REGISTER SET FOR 98DX166/166R/167/167R/246/247/250/253/260/263/270/273/803
g) FUNCTIONAL ERRATA - PRESTERA PACKET PROCESSOR 98EX116-A/98EX126-A
h) APPLICATION NOTE - AN-148 Implementing a GbE Desktop Value-Added Solution using the Prestera 98DX240 and 98EX126 Devices

i) APPLICATION NOTE - Prestera Hardware Design Guide for EX/FX/MX
j) APPLICATION NOTE - AN-109 IPv4 Routing Engine Data Structure Memory Consumption in the Prestera-EX Packet Processor Family
k) APPLICATION NOTE - AN-80 Prestera Packet Processor Memory Usage
l) Application Note - Value Blade Software Architecture
m) DATASHEET - 88E1149 Quad-Channel Gigabit Ethernet PHY
n) DATASHEET - 98MX6x5-A
o) APPLICATION NOTE - AN-143 Controlling Traffic to the CPU for 98EX1xx-C/D and 98MXxx Prestera Packet Processor.

All in violation of Title 18, United States Code, Sections 1832(a)(3), (4).

FORFEITURE ALLEGATION: (18 U.S.C. §§ 1834, 981(a)(1)(c), 28 U.S.C. § 2461(c) - Criminal Forfeiture)

31. The allegations contained in Counts Four through ~~Eight~~ NINE of this Indictment are hereby realleged and by this reference fully incorporated herein for the purpose of alleging forfeiture pursuant to the provisions of 18 U.S.C. § 1834.

32. As a result of the offenses alleged in Counts Four through Eight, the defendant

SUIBIN ZHANG,

shall forfeit to the United States:

(a) Any property constituting, or derived from, any proceeds the person obtained, directly or indirectly, as the result of such violation; and

(b) Any of the person's property used, or intended to be used, in any manner or part, to commit and facilitate the commission of such violations.

23. If any of the property described herein as being subject to forfeiture, as a result of any act or omission of the defendant-

(A) cannot be located upon the exercise of due diligence;

(B) has been transferred or sold to or deposited with, a third person;

(C) has been placed beyond the jurisdiction of the Court;

(D) has been substantially diminished in value; or

(E) has been commingled with other property which cannot be subdivided without difficulty;

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any and all interest defendants have in other property shall be vested in the United States and forfeited to the United States pursuant to 18 U.S.C. § 981(a)(1)(c) & 28 U.S.C. § 2461(c).

DATED: 12-21-05

A TRUE BILL.

FOREPERSON

KEVIN V. RYAN
United States Attorney

MATTHEW A. PARRELLA
Chief, San Jose Branch

(Approved as to form: _____)
AUSA SONDERBY

CR 05 00812 RMW

HRL

E-filing

Penalty Sheet Attachment

FILED
DEC 21 2005
RICHARD W. WIEKING
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE

Counts One through Three: 18 U.S.C. §§ 1030(a)(4), 1030(c)(3)(A) - Computer Fraud

5 years imprisonment;
$250,000 fine, or twice gross gain or loss;
3 years supervised release;
$100 special assessment;
Restitution.

Counts Four through Nine: 18 U.S.C. §§ 1832(a)(1), (2) and (4) - Theft, Misappropriation, and Unauthorized Downloading of Trade Secrets; 18 U.S.C. §§ 1832(a)(2) and (4) - Unauthorized Copying and Transmission of Trade Secrets; 18 U.S.C. § 1832(a)(3) - Unauthorized Possession of Stolen Trade Secrets

10 years imprisonment;
$250,000 fine, or twice gross gain or loss;
3 years supervised release;
$100 special assessment;
Restitution.