

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA :

-v.- :

HYUNG G. LIM, :

Defendant. :

INFORMATION

S3 12 Cr. 121 (RJS)

- - - - - x

COUNT ONE

(Conspiracy to Commit Securities Fraud)

The United States Attorney charges:

Relevant Entities and Individuals

1. At all times relevant to this Information, NVIDIA Corporation ("NVIDIA") was a public technology company whose stock was traded on the Nasdaq Stock Market. Furthermore, at all times relevant to this Information, NVIDIA's policies prohibited the unauthorized disclosure of NVIDIA's confidential information.

2. From in or about April 2008 through in or about mid-January 2012, Danny Kuo, a coconspirator not named as a defendant herein ("Kuo"), was employed as an analyst at a wealth management company headquartered in South Pasadena, California ("Investment Firm A").

The Insider Trading Scheme

3. From in or about 2008 through in or about 2011, HYUNG G. LIM, the defendant, and others known and unknown, conspired to engage in insider trading. In furtherance of the

conspiracy, LIM obtained material, nonpublic information concerning NVIDIA ("NVIDIA Inside Information") from an individual who worked in the accounting department at NVIDIA (the "NVIDIA Insider"). In furtherance of the scheme, LIM provided the NVIDIA Inside Information to Kuo. LIM knew that Kuo wanted the NVIDIA Inside Information for purposes of executing securities transactions. In return, Kuo gave LIM cash and other items of value, including material, nonpublic information concerning other publicly traded technology companies.

4. The NVIDIA Inside Information obtained by HYUNG G. LIM, the defendant, included information relating to earnings, revenues, gross margins, and other confidential financial information of NVIDIA. LIM informed the NVIDIA Insider that he wanted the NVIDIA Inside Information for purposes of trading in NVIDIA stock in his own account. The NVIDIA Insider provided the NVIDIA Inside Information to LIM in order to maintain a personal relationship with LIM.

5. The NVIDIA Inside Information obtained by HYUNG G. LIM, the defendant, was obtained in violation of: (i) fiduciary and other duties of trust and confidence owed by the NVIDIA Insider to NVIDIA; (ii) expectations of confidentiality held by NVIDIA; and (iii) written policies of NVIDIA regarding the use and safekeeping of Inside Information.

6. As part of the scheme, Kuo provided the NVIDIA Inside Information to a portfolio manager at Investment Firm A ("Portfolio Manager 1"). Portfolio Manager 1 executed transactions and caused others to execute transactions in the securities in NVIDIA based, in whole or in part, on the NVIDIA Inside Information that LIM provided to Kuo, thereby earning illegal profits and illegally avoiding losses for Investment Firm A.

The Conspiracy

7. From in or about 2008 through in or about 2011, in the Southern District of New York and elsewhere, HYUNG G. LIM, the defendant, and others known and unknown, willfully and knowingly did combine, conspire, confederate and agree together and with each other to commit an offense against the United States, to wit, securities fraud, in violation of Title 15, United States Code, Sections 78j(b) and 78ff, and Title 17, Code of Federal Regulations, Section 240.10b5.

Object of the Conspiracy

Securities Fraud

8. It was a part and an object of the conspiracy that HYUNG G. LIM, the defendant, and others known and unknown, willfully and knowingly, directly and indirectly, by the use of the means and instrumentalities of interstate commerce, and of the mails, and of the facilities of national securities exchanges,

would and did use and employ, in connection with the purchase and sale of securities, manipulative and deceptive devices and contrivances in violation of Title 17, Code of Federal Regulations, Section 240.10b-5 by: (a) employing devices, schemes and artifices to defraud; (b) making untrue statements of material fact and omitting to state material facts necessary in order to make the statements made, in the light of the circumstances under which they were made, not misleading; and (c) engaging in acts, practices and courses of business which operated and would operate as a fraud and deceit upon persons, all in violation of Title 15, United States Code, Sections 78j(b) and 78ff, and Title 17, Code of Federal Regulations, Section 240.10b-5.

Means and Methods of the Conspiracy

9. Among the means and methods by which HYUNG G. LIM, the defendant, and others known and unknown, would and did carry out the conspiracy were the following:

a. LIM obtained the NVIDIA Inside Information from an employee of NVIDIA (the NVIDIA Insider) that was disclosed by the NVIDIA Insider in violation of fiduciary and other duties of trust and confidence that the NVIDIA Insider owed to NVIDIA.

b. The NVIDIA Insider provided the NVIDIA Inside Information in order to maintain a personal friendship with LIM.

c. LIM provided the NVIDIA Inside Information to an analyst working at a wealth management company (Kuo), knowing that the information would be used for the purposes of trading.

d. LIM received cash and other items of value in exchange for providing the NVIDIA Inside Information to Kuo.

e. Portfolio Manager 1 executed and caused others to execute securities transactions in NVIDIA for the benefit of Investment Firm A based, in whole or in part, on the Inside Information provided by LIM to Kuo.

Overt Acts

10. In furtherance of the conspiracy, and to effect the illegal object thereof, HYUNG G. LIM, the defendant, and others known and unknown, committed the following overt acts, among others, in the Southern District of New York and elsewhere:

a. On or about May 5, 2009, LIM spoke to the NVIDIA Insider by telephone.

b. On or about May 6, 2009, LIM spoke to Kuo by telephone.

c. On or about May 6, 2009, Portfolio Manager 1 caused approximately 12,500 shares of NVIDIA stock to be sold through a brokerage account in New York, New York, for the benefit of Investment Firm A.

(Title 18, United States Code, Section 371.)

COUNT TWO

(Wire Fraud)

The United States Attorney further charges:

11. The allegations contained in paragraphs 1 through 7 and 9 through 10 are repeated and realleged as though fully set forth herein.

Relevant Entities and Individuals

12. At all times relevant to this Information, Altera Corporation ("Altera") was a public technology company whose stock was traded on the Nasdaq Stock Market. Furthermore, at all times relevant to this Information, Altera's policies prohibited the unauthorized disclosure of Altera's confidential information.

13. From in or about 2000 through in or about March 2008, HYUNG G. LIM, the defendant, worked in the marketing department at Altera.

14. From in or about 2004 through in or about 2008, Kuo worked as a sell-side analyst for an investment firm headquartered in New York, New York. Financial reports prepared by Kuo were disseminated to the investment firm's clients located in New York, New York.

The Wire Fraud Scheme

15. From in or about 2005 through in or about early 2008, HYUNG G. LIM, the defendant, defrauded Altera of its confidential business information, including material, nonpublic

information ("Altera Inside Information") by disclosing the Altera Inside Information to Kuo. The Altera Inside Information included sales revenue information for all of Altera's business.

16. Kuo, in turn, provided the Altera Inside Information to one or more analysts working at hedge funds and other investment firms located in New York, New York, in advance of Altera's public earnings announcements.

17. The Altera Inside Information disclosed by HYUNG G. LIM, the defendant, to Kuo was disclosed in violation of: (i) fiduciary and other duties of trust and confidence owed by LIM to Altera; (ii) expectations of confidentiality held by Altera; and (iii) written policies of Altera regarding the use and safekeeping of confidential business information and Inside Information.

Statutory Allegation

18. From in or about 2005 through in or about March 2008, in the Southern District of New York and elsewhere, HYUNG G. LIM, the defendant, willfully and knowingly, having devised and intending to devise a scheme and artifice to defraud, and for obtaining money and property by means of false and fraudulent pretenses, representations, and promises, did transmit and cause to be transmitted by means of wire, radio, and television communication in interstate and foreign commerce, writings, signs, signals, pictures, and sounds for the purpose of executing such scheme and artifice, to wit, LIM disclosed, by telephone and other

electronic forms of interstate communication, material, nonpublic information regarding Altera to a sell-side analyst at an investment bank, in violation of fiduciary and other duties of trust and confidence LIM owed to Altera.

(Title 18, United States Code, Sections 1343 and 2.)

FORFEITURE ALLEGATION

19. As a result of committing one or more of the foregoing securities and wire fraud offenses alleged in Counts One and Two of this Information, HYUNG G. LIM, the defendant, shall forfeit to the United States pursuant to Title 18, United States Code, Section 981(a)(1)(C) and Title 28, United States Code, Section 2461, all property, real and personal, that constitutes or is derived from proceeds traceable to the commission of the securities fraud and wire fraud offenses, including but not limited to the following:

Money Judgment

a. At least a sum of money in United States currency which was derived from proceeds traceable to the commission of the securities fraud offenses.

Substitute Assets Provision

20. If any of the above-described forfeitable property, 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 party;

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 divided without difficulty;

it is the intent of the United States, pursuant to Title 21, United States Code, Section 853(p), to seek forfeiture of any other property of the defendant up to the value of the forfeitable property described above.

(Title 18, United States Code, Section 981; Title 28, United States Code, Section 2461; Title 18, United States Code, Sections 371, 1343 and 2; Title 15, United States Code, Sections 78j(b) and 78ff; and Title 17, Code of Federal Regulations, Section 240.10b-5).


PREET BHARARA (MPB)
United States Attorney

