

United States Courts
Southern District of Texas
FILED

SEP 04 2019

David J. Bradley, Clerk of Court

UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

UNITED STATES OF AMERICA,
v.

MAKSYM NIENADOV,
a/k/a Maksim Nenadov, and
VOLODYMR NIKOLAIENKO,
Defendants.

Criminal No. H- 19-365
18 U.S.C. § 2
18 U.S.C. § 371
18 U.S.C. § 545
18 U.S.C. § 2320(a)(4)
21 U.S.C. § 331(a)
21 U.S.C. § 331(i)
21 U.S.C. § 333(b)(8)
21 U.S.C. § 353

SUPERSEDING INDICTMENT

THE GRAND JURY CHARGES:

COUNT ONE
(Conspiracy – 18 U.S.C. § 371)

A. Introduction

At all times material to this indictment:

1. The United States Food and Drug Administration (FDA) was the agency charged with the responsibility of protecting the health and safety of the American public by ensuring, among other things, that drugs sold for administration to humans bore labeling containing true and accurate information. The FDA's responsibilities included regulating the labeling and distributing of prescription drugs shipped or received in interstate commerce.
2. Under the Food, Drug and Cosmetic Act (FDCA), the definition of a "drug" included articles which (1) are intended for use in the diagnosis, cure, mitigation, treatment, and prevention of disease in man, and (2) are intended to affect the structure or function of the body of man. Due to toxicity and other potential harmful effects, certain drugs are not considered safe for use except

under the supervision of a practitioner licensed by law to administer such drugs. These drugs are known as prescription drugs. Furthermore, the FDCA stated that these drugs shall be dispensed only by practitioners licensed by law to administer such drugs.

3. The FDCA also regulated the importation, delivery, distribution, and receipt of prescription drugs in interstate commerce. Under the Act, a prescription drug is deemed misbranded if its labeling is false or misleading in any particular manner. A prescription drug is also deemed counterfeit if it bears a trademark without the authorization of the registrant of the trademark.

4. The U.S. Patent and Trademark Office (USPTO) was an agency of the United States that, among other functions, examined and registered trademarks. A trademark is a word, name, symbol or device that is intended to identify and distinguish one producer's goods from those manufactured or sold by others and to indicate the source of the goods so that consumers are not confused about the source of the goods.

5. Epclusa was a prescription drug product for the treatment of Hepatitis and was approved by the FDA for distribution in the United States.

6. Gilead Sciences, Inc. (Gilead) had the exclusive right to manufacture Epclusa for distribution in the United States.

7. The following trademarks were owned by Gilead and were registered in the principal registry in the United States Patent and Trademark Office:

- a. The name "Epclusa,"
- b. The word design "Epclusa" stylized as follows:

Epclusa®

- c. The name "Gilead,"

- d. The numbers “7916,”
- e. The Letters “GSI,”
- f. A red and white shield and the word Gilead as follows:



- 8. Abraxane was a prescription drug product for the treatment of cancer and was approved by the FDA for distribution in the United States.
- 9. Celgene had the exclusive right to manufacture Abraxane for distribution in the United States.
- 10. The following trademarks were owned by Celgene and were registered in the principal registry in the United States Patent and Trademark Office:

- a. The name “Abraxane,”
- b. The name “Celgene,”
- c. The word design “Abraxane” as follows:

Abraxane

- d. The word design “Celgene” as follows:



- 11. Keytruda was a prescription drug product for the treatment of cancer and was approved by the FDA for distribution in the United States.

12. Merck & Co. (Merck) had the exclusive right to manufacture Keytruda for distribution in the United States. Merck Sharp & Dohme Corp. (MSD), a subsidiary of Merck, had the right to manufacture Keytruda for distribution internationally.

13. The following trademarks were owned by Merck (and MSD) and were registered in the principal registry in the United States Patent and Trademark Office.

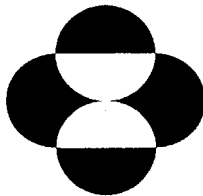
- a. The name “Keytruda,”
- b. The name “Keytruda,” stylized as follows:

KEYTRUDA

- c. The name “Merck,”
- d. The name “Merck Sharp & Dohme Corp.,”
- e. The letters “MSD,”
- f. The stylized MSD as follows:

MSD

- g. The following icon:



B. THE CO-CONSPIRATORS

14. Defendant MAXIM NIENADOV, a/k/a Maksim Nienadov, was a Ukrainian national who owned Healthy Nation, a Ukraine-based company that smuggled and distributed counterfeit cancer and hepatitis drugs, among others, throughout the world, to include the United States.

15. Defendant VOLODYMYR NIKOLAIENKO was a Ukrainian national engaged in the sale, smuggling and distribution of counterfeit cancer and hepatitis drugs, among others, throughout the world, to include the United States.

C. THE CONSPIRACY

16. Beginning in or about May 2018 and continuing thereafter to the present in the Houston Division of the Southern District of Texas and elsewhere,

MAKSYM NIENADOV and VOLODYMR NIKOLAIENKO,

defendants herein, did knowingly, intentionally, and willfully combine, conspire, confederate and agree with each other, and with other persons unknown to the Grand Jury to commit certain offenses against the United States, namely:

- a. To intentionally traffic and attempt to traffic in counterfeit drugs in violation of Title 18, United States Code, Section 2320(a)(4).
- b. To intentionally traffic and attempt to traffic in labels, documentation and packaging, knowing that a counterfeit mark had been applied thereto, the use of which was likely to cause confusion, to cause mistake, and to deceive, in violation of Title 18, United States Code, Section 2320(a)(2).
- c. To violate the Food, Drug and Cosmetic Act, namely, with the intent to defraud and mislead, cause the introduction and delivery for introduction of prescription drugs into interstate commerce that are misbranded, in violation of Title 21, United States Code, Section 331(a) and 333(a)(2).
- d. To violate the Food, Drug and Cosmetic Act, namely, knowingly selling and dispensing counterfeit drugs in violation of Title 21, United States Code, Section 331(i)(3), 333(b)(8).

- e. To willfully and knowingly and with the intent to defraud the United States, smuggle and clandestinely introduce and attempt to smuggle and clandestinely introduce into the United States, merchandise which should have been invoiced in violation of Title 18, United States Code, Section 545.
- f. To knowingly import merchandise contrary to law or receive, conceal, buy, sell, or facilitate the transportation, concealment, or sale of such merchandise after importation in violation of Title 18, United States Code, Section 545.

D. OBJECTS OF THE CONSPIRACY

17. It was an object of the conspiracy for the defendants and others to unlawfully enrich themselves by distributing counterfeit and illegitimate pharmaceutical drug products that bore the trademarks associated with Epclusa, Abraxane, and Keytruda, without the authorization of the drug manufacturers, which did not aid in curing the conditions which the legitimate drugs were manufactured to cure or aid in curing.

18. It was an object of the conspiracy for the defendants and others to unlawfully enrich themselves by 1) obtaining pharmaceutical drug products manufactured for overseas markets and 2) shipping and importing those pharmaceutical drug products into the United States, without the authorization of the manufacturer.

E. MANNER AND MEANS

The manner and means of the conspiracy included, but were not limited to the following:

19. Defendants MAKSYM NIENADOV and VOLODYMR NIKOLAIENKO shipped counterfeit pharmaceuticals from Ukraine to the United States. The pharmaceuticals were counterfeit in that neither NIENADOV nor NIKOLAIENKO had any authorization or license from the brand-holders to manufacture, make, sell, or traffic in any of the legitimate pharmaceuticals.

Furthermore, the counterfeit pharmaceuticals did not contain the active ingredients that were necessary for the drugs to serve their legitimate function and included fillers and adulterants that served no legitimate function for the conditions that they purported to treat and for which the owners manufactured the legitimate drugs to address. For example, the samples of counterfeit Keytruda obtained from the defendants were found to contain a class of chemicals known as proton-pump inhibitors: specifically, omeprazole and/or pantoprazole. Omeprazole, available as an over-the-counter medication, Prilosec, treats conditions like acid reflux and heartburn. Pantoprazole is the active ingredient used in Protonix, a prescription-only medication used to treat gastroesophageal reflux disease (GERD), commonly referred to as acid reflux. The pharmaceuticals were also counterfeit in that they were contained within counterfeit packages that bore labeling that the manufacturers had not authorized them to use and falsely represented to be 1) Merck/MSD brand Keytruda, 2) Gilead brand Epclusa and 3) Celgene brand Abraxane.

20. Defendants MAKSYM NIENADOV and VOLODYMR NIKOLAIENKO would and did arrange for the placement of counterfeit pharmaceutical drug products in boxes and packaging bearing counterfeit labels. In some instances the labels listed a false and fictitious combination of letters and numbers, also known as “lot numbers”, which in their legitimate form are used by manufacturers to trace and identify where the goods are produced for both consumer protection and quality controls. In other instances, the defendants copied legitimate lot numbers and expiration dates from authentic drugs and created counterfeit packaging, listing these lot numbers and expiration dates, without the manufacturer’s authorization, in an effort to confuse and mislead consumers into believing that the drugs were legitimate.

21. Defendants MAKSYM NIENADOV and VOLODYMR NIKOLAIENKO would and did arrange for the shipment into the United States of pharmaceutical drug products not manufactured

for the U.S. market nor approved by the U.S. Food and Drug Administration (FDA).

22. Defendants MAKSYM NIENADOV and VOLODYMR NIKOLAIENKO would and did negotiate the sale of counterfeit pharmaceuticals with a federal agent acting in an undercover capacity. The pharmaceuticals received from the defendants were analyzed by the registered trademark holders and were determined to be counterfeit.

23. Defendants MAKSYM NIENADOV and VOLODYMR NIKOLAIENKO would and did ship misbranded pharmaceuticals from Ukraine to the United States. The pharmaceuticals were misbranded in that,

- a. The packaging and labeling falsely represented that the counterfeits were genuine Merck, Celgene, and Gilead products; and
- b. The counterfeit medicine was manufactured in a non-FDA registered facility.

24. Defendants MAKSYM NIENADOV and VOLODYMR NIKOLAIENKO would and did negotiate the sale of counterfeit and misbranded pharmaceuticals with a federal agent acting in an undercover capacity. The pharmaceuticals received from the defendants were analyzed by the registered trademark holders and were determined to be counterfeit.

25. Defendants MAKSYM NIENADOV and VOLODYMR NIKOLAIENKO would and did use U.S. Postal, commercial, and/or private interstate carriers to deliver the counterfeit pharmaceutical drug products into and throughout the United States.

26. The defendants would and did accept wire transfers as payment for the shipment of the counterfeit pharmaceutical drug products that they sent to the United States.

F. OVERT ACTS

27. In furtherance of the conspiracy and to affect the objects thereof, the following Overt Acts, among others, were committed in the Southern District of Texas and elsewhere:

- a. On or about October 9, 2015, MAKSYM NIENADOV created a Google email (Gmail) account which was used to further the trafficking, misbranding, and smuggling of counterfeit drugs into the United States and around the world.
- b. On or about March 2, 2018, NIENADOV sent an email with three photographs of two vials and one diagram to an individual asking, “[h]i, do you have this vials?”
- c. On or about April 18, 2018, NIENADOV received an email from an individual stating, “[h]ello sir check email any detail put invoice” with an attached invoice for the purchase of Epclusa tablets.
- d. On or about June 15, 2018, NIENADOV sent a WhatsApp message to an undercover U.S. Homeland Security Investigations (HSI) Agent advising the agent that he sold Keytruda 50mg for \$1,180 per pill.
- e. On or about June 15, 2018, NIENADOV sent a WhatsApp message to an undercover HSI Agent advising him that the Keytruda’s expiration date was June 2020 and he also sent two photographs of the drug.
- f. On or about June 15, 2018, NIENADOV sent a WhatsApp message to an undercover HSI Agent advising him of his bank information, which included, the name: “Maksim Nenadov,” the bank, Privatbank, and a bank account number ending in 0262.
- g. On or about June 19, 2018, NIENADOV sent a WhatsApp message to an undercover HSI Agent advising him of the cost for two boxes of Keytruda, which was \$2,360 plus \$40 for shipping.
- h. On or about June 27, 2018, NIENADOV sent a WhatsApp message to an undercover HSI Agent with an EMS tracking number for a shipment of Keytruda.
- i. On or about June 28, 2018, after shipping the Keytruda to the undercover HSI Agent

in Houston, NIENADOV sent a WhatsApp message to the undercover agent telling him that he had, “a good price in Epclusa now 3800\$.”

- j. On or about July 3, 2018, NIENADOV responded to an email related to the purchase of Atriance, a drug used in the treatment of leukemia, and provided an invoice for the purchase showing the sale of 40 vials of the drug at a cost of \$6,200.00 plus \$200 shipping.
- k. On or about July 9, 2018, NIENADOV sent an undercover HSI Agent an invitation to join a WhatsApp group titled, “INTL Onco Group.”
- l. On July 12, 2018, NIENADOV sent an email to an individual and stated, “[h]i. I need vias 10 ml” with an attached diagram of a bottle.
- m. On or about July 13, 2018, NIENADOV sent a WhatsApp message to an undercover HSI agent informing him that he could supply the undercover agent with Abraxane.
- n. On or about July 17, 2018, NIENADOV sent an email to the undercover HSI agent with an invoice for one box of Keytruda and one box of Abraxane and with bank wire transfer information.
- o. On or about July 18, 2018, NIENADOV sent the undercover HSI Agent an email informing him that he would mail the undercover HSI Agent two boxes of Keytruda and two boxes of Abraxane.
- p. On or about July 21, 2018, NIENADOV sent the undercover HSI Agent a WhatsApp message with a tracking number for the order of the two boxes of Keytruda and two boxes of Abraxane.
- q. On or about July 31, 2018, NIENADOV sent the undercover HSI Agent a WhatsApp message stating that he could supply the undercover agent with 15 boxes of Abraxane

a month.

- r. On or about September 3, 2018, NIENADOV sent an email to the undercover HSI Agent's undercover email account which contained an invoice, #9874, and a quoted price of, \$3,900 for 10 boxes of Abraxane. The invoice identified "Maksim Nenadov" as the sales person and included a telephone number associated with NIENADOV.
- s. On or about September 4, 2018, NIENADOV sent the undercover HSI Agent a WhatsApp message saying "ok" after he received a message from the undercover HSI Agent that a wire transfer had been made for the shipment of 10 boxes of Abraxane.
- t. On or about September 10, 2018, NIENADOV sent a WhatsApp message to the undercover HSI Agent advising him that he was sending Abraxane in "Russian packing."
- u. On or about September 14, 2018, NIENADOV sent the undercover HSI Agent three WhatsApp messages advising the undercover HSI Agent that he mailed the Abraxane in two separate parcels, with each containing five boxes of Abraxane.
- v. On or about November 27, 2018, NIKOLAIENKO, quoted a source of information (SOURCE) a price of \$6,000, plus shipping for the purchase of two boxes of Epclusa.
- w. On or about December 2, 2018, NIKOLAIENKO, sent the SOURCE a detailed invoice stating a price of \$6,040 for the purchase of two boxes of Epclusa. The invoice listed payment for the purchase to NIENADOV's Private bank account number ending in 0262.
- x. On or about December 11, 2018, NIKOLAIENKO sent the SOURCE an EMS tracking number for the shipment of Epclusa.

COUNT TWO
(Misbranded Drugs)

On or about June 27, 2018, in the Houston Division of the Southern District of Texas and elsewhere, defendant,

MAKSYM NIENADOV,

aided and abetted by others known and unknown to the Grand Jury, with the intent to defraud and mislead, caused the introduction and delivery for introduction into interstate commerce of drugs that were misbranded, namely counterfeit Keytruda that was marked in a manner to falsely represent that it was genuine Keytruda.

In violation of Title 21, United States Code, Sections 331(a) and 333(a)(2), and Title 18, United States Code, Section 2.

COUNT THREE
(Misbranded Drugs)

On or about July 21, 2018, in the Houston Division of the Southern District of Texas and elsewhere, defendant,

MAKSYM NIENADOV,

aided and abetted by others known and unknown to the Grand Jury, with the intent to defraud and mislead, caused the introduction and delivery for introduction into interstate commerce of drugs that were misbranded, namely counterfeit Abraxane that was marked in a manner to falsely represent that it was genuine Abraxane.

In violation of Title 21, United States Code, Sections 331(a) and 333(a)(2), and Title 18, United States Code, Section 2.

COUNT FOUR
(Misbranded Drugs)

On or about September 14, 2018, in the Houston Division of the Southern District of Texas and elsewhere, defendant,

MAKSYM NIENADOV,

aided and abetted by others known and unknown to the Grand Jury, with the intent to defraud and mislead, caused the introduction and delivery for introduction into interstate commerce of drugs that were misbranded, namely Abraxane that was marked in packaging that indicated that it was packaged and made for sale in a Russian market.

In violation of Title 21, United States Code, Section 331(a) and 333(a)(2), and Title 18, United States Code, Section 2.

COUNT FIVE
(Counterfeit Drugs)

On or about June 27, 2018, in the Houston Division of the Southern District of Texas and elsewhere, defendant,

MAKSYM NIENADOV,

aided and abetted by others known and unknown to the Grand Jury, did knowingly sell and dispense counterfeit drugs, namely pharmaceutical drugs that were marked with the trademarks Keytruda and MSD without the authorization of Merck, the registered holder of said trademarks.

In violation of Title 21, United States Code, Sections 331(i) and 333(b)(8), and Title 18, United States Code, Section 2.

COUNT SIX
(Counterfeit Drugs)

On or about July 21, 2018, in the Houston Division of the Southern District of Texas and elsewhere, defendant,

MAKSYM NIENADOV,

aided and abetted by others known and unknown to the Grand Jury, did knowingly sell and dispense counterfeit drugs, namely pharmaceutical drugs that were marked with the trademarks Abraxane and Celgene without the authorization of Celgene, the registered holder of said trademarks.

In violation of Title 21, United States Code, Sections 331(i) and 333(b)(8), and Title 18, United States Code, Section 2.

COUNT SEVEN
(Counterfeit Drugs)

On or about January 10, 2019, in the Houston Division of the Southern District of Texas and elsewhere, defendants,

MAKSYM NIENADOV and VOLODYMR NIKOLAIENKO

aided and abetted by others known and unknown to the Grand Jury, did knowingly sell and dispense counterfeit drugs, namely pharmaceutical drugs that were marked with the trademarks Eplusa and Gilead without the authorization of Gilead, the registered holder of said trademarks.

In violation of Title 21, United States Code, Sections 331(i) and 333(b)(8) and Title 18, United States Code, Section 2.

COUNT EIGHT
(Trafficking in Counterfeit Drugs)

On or about June 27, 2018, in the Houston Division of the Southern District of Texas and elsewhere, defendant,

MAKSYM NIENADOV,

aided and abetted by others known and unknown to the Grand Jury, did intentionally traffic and attempt to traffic in goods, namely, pharmaceutical drugs, and knowingly used counterfeit marks on and in connection with such goods, that is, the Keytruda and MSD trademarks used to identify a pharmaceutical product marketed by Merck, which counterfeit marks were identical with and substantially indistinguishable from the genuine marks in use and registered for that good on the principal register in the United States Patent and Trademark Office, and the use of which marks was likely to cause confusion, mistake and deception regarding said marks.

In violation of Title 18, United States Code, Section 2320(a)(4), and Title 18, United States Code, Section 2.

COUNT NINE
(Trafficking in Counterfeit Drugs)

On or about July 21, 2018, in the Houston Division of the Southern District of Texas and elsewhere, defendant,

MAKSYM NIENADOV,

aided and abetted by others known and unknown to the Grand Jury, did intentionally traffic and attempt to traffic in goods, namely, pharmaceutical drugs, and knowingly used counterfeit marks on and in connection with such goods, that is, the Abraxane and Celgene trademarks used to identify a pharmaceutical product marketed by Celgene, which counterfeit marks were identical with and substantially indistinguishable from the genuine marks in use and registered for that good

on the principal register in the United States Patent and Trademark Office, and the use of which marks was likely to cause confusion, mistake and deception regarding said marks.

In violation of Title 18, United States Code, Section 2320(a)(4) and Title 18, United States Code, Section 2.

COUNT TEN
(Trafficking in Counterfeit Drugs)

On or about December 2018/January 2019, in the Houston Division of the Southern District of Texas and elsewhere, defendants,

MAKSYM NIENADOV and VOLODYMR NIKOLAIENKO,

aided and abetted by others known and unknown to the Grand Jury, did intentionally traffic and attempt to traffic in goods, namely, pharmaceutical drugs, and knowingly used counterfeit marks on and in connection with such goods, that is, the Epclusa and Gilead trademarks used to identify a pharmaceutical product marketed by Gilead, which counterfeit marks were identical with and substantially indistinguishable from the genuine marks in use and registered for that good on the principle register in the United States Patent and Trademark Office, and the use of which marks was likely to cause confusion, mistake and deception regarding said marks.

In violation of Title 18, United States Code, Section 2320(a)(4) and Title 18, United States Code, Section 2.

COUNT ELEVEN
(Smuggling Goods into the United States)

On or about June 27, 2018, in the Houston Division of the Southern District of Texas and elsewhere, defendant,

MAKSYM NIENADOV,

aided and abetted by others known and unknown to the Grand Jury, fraudulently and knowingly imported and brought into the United States merchandise contrary to law, namely, pharmaceutical drugs bearing counterfeit marks on and in connection with such goods, that is, the Keytruda and MSD trademarks used to identify a pharmaceutical product marked by Merck, which counterfeit marks were identical with and substantially indistinguishable from the genuine marks in use and registered for that good on the principal register in the United States Patent and Trademark Office, and the use of which mark was likely to cause confusion, mistake and deception regarding said marks, in violation of Title 18, United States Code, Section 2320(a). Furthermore, the pharmaceutical drugs were marked with the trademarks Keytruda and MSD without the authorization of Merck, the registered holder of said trademarks in violation of Title 21, United States Code, Sections 331(i)(3) and 333(b)(8). Furthermore, the pharmaceutical drugs were misbranded in that they were marked in a manner to falsely represent that the Keytruda was genuine Merck/MSD Keytruda in violation of Title 21, United States Code, Sections 331(a) and 333(a)(2).

In violation of Title 18, United States Code, Sections 545 and 2.

COUNT TWELVE
(Smuggling Goods into the United States)

On or about July 21, 2018, in the Houston Division of the Southern District of Texas and elsewhere, defendant,

MAKSYM NIENADOV,

aided and abetted by others known and unknown to the Grand Jury, fraudulently and knowingly imported and brought into the United States merchandise contrary to law, namely, pharmaceutical drugs bearing counterfeit marks on and in connection with such goods, that is, the Abraxane and Celgene trademarks used to identify a pharmaceutical product marked by Celgene, which counterfeit marks were identical with and substantially indistinguishable from the genuine marks in use and registered for that good on the principal register in the United States Patent and Trademark Office, and the use of which mark was likely to cause confusion, mistake and deception regarding said marks, in violation of Title 18, United States Code, Section 2320(a). Furthermore, the pharmaceutical drugs were marked with the trademarks Abraxane and Celgene without the authorization of Celgene, the registered holder of said trademarks in violation of Title 21, United States Code, Sections 331(i)(3) and 333(b)(8). Furthermore, the pharmaceutical drugs were misbranded in that they were marked in a manner to falsely represent that the Abraxane was genuine Celgene Abraxane in violation of Title 21 United States Code, Sections 331(a) and 333(a)(2).

In violation of Title 18, United States Code, Sections 545 and 2.

COUNT THIRTEEN
(Smuggling Goods into the United States)

On or about December 2018/January 2019, in the Houston Division of the Southern District of Texas and elsewhere, defendants,

MAKSYM NIENADOV and VOLODYMR NIKOLAIENKO,

aided and abetted by others known and unknown to the Grand Jury, fraudulently and knowingly imported and brought into the United States merchandise contrary to law, namely, pharmaceutical drugs bearing counterfeit marks on and in connection with such goods, that is, the Epclusa and Gilead trademarks used to identify a pharmaceutical product marked by Gilead, which counterfeit marks were identical with and substantially indistinguishable from the genuine marks in use and registered for that good on the principal register in the United States Patent and Trademark Office, and the use of which mark was likely to cause confusion, mistake and deception regarding said marks, in violation of Title 18, United States Code, Section 2320(a). Furthermore, the pharmaceutical drugs were marked with the trademarks Epclusa and Gilead without the authorization of Gilead, the registered holder of said trademarks in violation of Title 21, United States Code, Sections 331(i)(3) and 333(b)(8). Furthermore, the pharmaceutical drugs were misbranded in that they were marked in a manner to falsely represent that the Epclusa was/were genuine Gilead Epclusa in violation of Title 21 United States Code, Sections 331(a) and 333(a)(2).

In violation of Title 18, United States Code, Sections 545 and 2.

NOTICE OF FORFEITURE
(18 U.S.C. §§ 545, 982(a)(2)(B))

Pursuant to Title 18, United States Code, Sections 545 and 982(a)(2)(B), the United States gives notice to defendants,

MAKSYM NIENADOV and VOLODYMR NIKOLAIENKO,

that upon conviction for a violation of Title 18, United States Code, Section 545, or a conspiracy to commit such violations, as alleged in this Indictment, the United States intends to seek forfeiture of any merchandise introduced into the United States in violation of Section 545, or the value thereof; and all property, real or personal, which constitutes or is derived from proceeds traceable to such violations.

NOTICE OF FORFEITURE
(18 U.S.C. § 2323)

Pursuant to Title 18, United States Code, Section 2323(b)(1), the United States gives notice to defendants,

MAKSYM NIENADOV and VOLODYMR NIKOLAIENKO,

that upon conviction for a violation of Title 18, United States Code, Section 2320, or a conspiracy to commit such violations, as alleged in this Indictment, the United States intends to seek forfeiture of any article, the making or trafficking of which is prohibited by Section 2320; any property used, or intended to be used, in any manner or part to commit or facilitate the commission of such offense; and all property constituting or derived from proceeds obtained directly or indirectly as a result of such offense.

Property Subject to Forfeiture

The United States gives further notice that the specific property subject to forfeiture includes, but is not limited to, an Apple MacBook Air, Serial No. C0ZV57PCJ1WK.

Money Judgment and Substitute Assets

The United States gives notice that it will seek a money judgment against each defendant. In the event that one or more conditions listed in Title 21, United States Code, Section 853(p) exist, the United States will seek to forfeit any other property of the defendant up to the amount of each money judgment.

A TRUE BILL:

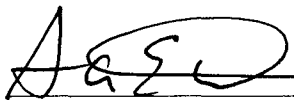
ORIGINAL SIGNATURE ON FILE

By:

Foreperson of the Grand Jury

RYAN K. PATRICK
UNITED STATES ATTORNEY

By:



SEBASTIAN EDWARDS
Assistant United States Attorney
Southern District of Texas



KEBHARU H. SMITH
Senior Trial Attorney
U.S. Department of Justice, Criminal Division
Computer Crime and Intellectual Property Section