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9 UNITED STATES DISTRICT COURT
10 NORTHERN DISTRICT OF CALIFORNIA
11 SAN FRANCISCO DIVISION

12 UNITED STATES OF AMERICA,

13 Plaintiff,

14 v.

15 WALTER LIEW, CHRISTINA LIEW, USA
PERFORMANCE TECHNOLOGY, INC.,
16 and ROBERT MAEGERLE,

17 Defendants.
18

Case No. CR 11-0573-JSW (NC)

JOINT STATUS REPORT

Judge: Hon. Jeffrey S. White

Hearing Date: December 13, 2012

Hearing Time: 2:30 p.m.

1 In accordance with the Court's November 6, 2012 Order, defendants Walter Liew,
2 Christina Liew, Robert Maegerle, and USAPTI ("Defendants") on the one hand, and the United
3 States, on the other hand, submit the following Joint Status Report setting forth the status of this
4 case.

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6 **A. Renewed Motion for Bail.**

7 A threshold issue for the defense before a trial date and pretrial schedule can be set is
8 whether or not Defendant Walter Liew will be released on conditions that will allow meaningful
9 trial preparation. He has been detained pending trial since July 2011. On November 20, 2012,
10 Mr. Liew's new counsel at Kecker & Van Nest filed a renewed bail motion. (Dkt. No. 198). The
11 Government will be filing an Opposition on December 12, 2012. The bail motion is scheduled to
12 be heard by Magistrate Judge Nathanael Cousins on December 21, 2012, and it is likely that an
13 appeal by one or both parties will follow. The defense believes that whether or not Mr. Liew is
14 incarcerated will have a significant effect on the length of time needed to prepare for trial. There
15 are also several other pending issues (discussed below) that remain unresolved. Accordingly,
16 while the parties disagree vigorously on the merits, they agree that a trial date and complete
17 pretrial schedule cannot be set at this time.

18 **B. Status of Discovery**

19 Over the course of the last several months, the parties have been meeting and conferring
20 about discovery, and the Government has produced approximately 5 terabytes of hard copy
21 documents and electronically stored information. The Government has indicated that there is
22 more discovery to come. In addition, there are a few areas of dispute between the parties as to
23 whether Defendants are entitled to certain documents. Defendants raised both the schedule for
24 additional discovery and those areas of dispute in a letter brief filed with Magistrate Judge
25 Cousins on December 3, 2012. Dkt. No. 203. The parties anticipate that Magistrate Judge
26 Cousins will address those discovery issues at a hearing scheduled for December 12, 2012.

27 **C. Superseding indictment**

28 The Government has been investigating a further superseding indictment, and anticipates

1 seeking its return sometime in the New Year. In the interest of moving the case forward
2 expeditiously, Defendants propose discussing, at the December 13 hearing before this Court, any
3 specifics of the Government's anticipated timeline that the Government is prepared to share.
4 While the Government is not in a position to share the specifics of its timeline with the defense, it
5 is prepared to provide additional information to the Court ex parte and under seal, if requested.
6 Defendants object to any such ex parte discussions.

7 **D. Service of the Pangang defendants**

8 The Government will file a separate notice regarding service of the Pangang defendants.

9 **E. Motions Practice**

10 Defendants anticipate a variety of motions, including at a minimum, motions regarding
11 whether the acts alleged fall within the scope of the Economic Espionage Act, to what extent the
12 Government should list the alleged trade secrets with specificity, the propriety of the searches
13 undertaken and statements made in this case, and whether and to what extent all parties and issues
14 ultimately made part of the indictment should be tried in one case. There are also likely to be
15 discovery and *Brady/Giglio* issues that require District Court attention. Defendants anticipate
16 being in a position to determine and brief these and other potential issues after discovery on the
17 current indictment is complete and they have the benefit of all of the potentially relevant
18 documents.

19 **F. Experts**

20 There is likely to be considerable expert testimony in this matter. The parties anticipate
21 discussing procedures for dealing with experts and ideally to be in a position to seek Court
22 approval of a mutually acceptable procedure.

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24 In sum, Defendants hope to be in a position to discuss a trial date as early in the New Year
25 as possible. The parties further request that the Court set an additional hearing for late January at
26 which progress regarding the issues outlined above will be addressed.

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Dated: December 6, 2012

KEKER & VAN NEST LLP

By: /s/ Stuart R. Gasner

STUART L. GASNER
SIMONA A. AGNOLUCCI

Attorneys for Defendants
WALTER LIEW and
USA PERFORMANCE TECHNOLOGY, INC.

Dated: December 6, 2012

By: /s/ Doron Weinberg

DORON WEINBERG

Attorney for Defendant
ROBERT J. MAEGERLE

Dated: December 6, 2012

By: /s/ Jerome J. Froelich, Jr.

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