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 13 USA PERFORMANCE TECHNOLOGY, INC

14 UNITED STATES DISTRICT COURT
 15 NORTHERN DISTRICT OF CALIFORNIA
 16 SAN FRANCISCO DIVISION

17 UNITED STATES OF AMERICA,

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

18 Plaintiff,

STIPULATED FACTS

19 v.

20 WALTER LIEW, USA PERFORMANCE
 21 TECHNOLOGY, INC., and ROBERT
 22 MAEGERLE,

23 Defendants.

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1 Defendants Walter Liew, USA Performance Technology, Inc., and Robert Maegerle
2 (collectively, "Defendants") and the United States (collectively, "the parties"), by and through
3 their undersigned counsel, stipulate and agree that the following facts are stipulated as true and
4 correct:

5 **WALTER LIEW**

6 1. Walter Liew was born in Malaysia in 1957. Walter Liew became a United States
7 citizen in 1993.

8 2. Walter Liew graduated from National Taiwan University in 1980 with a B.S.E.E.
9 degree, and earned a master's degree from the University of Oklahoma in E.E.

10 3. Walter Liew does not have any degree from Stanford University.

11 4. Walter Liew was the president and sole shareholder of LH Performance. He was
12 president of Performance Group, Inc., and USA Performance Technology, Inc. Walter Liew and
13 Christina Liew were the sole shareholders in Performance Group, Inc. and USA Performance
14 Technology, Inc. and each owned 50% of those companies, except that in 2006 Christina Liew
15 owned 100% of Performance Group.

16 5. The handwriting in the following Exhibits is Walter Liew's: 46 (pages 24, 50-51,
17 67, and 73 only); 204, 205, 207, 208 (all pages except 3-4, 9-16, and 33-35), 209 (all pages except
18 140), 211 (all pages except 3 and 128), 243, 244 (all pages except 4-7), 246, 247 (pages 3-7, 11-
19 12, and portions of pages 1 and 18), 248, 249 (pages 17 and 31-32), 291, 296 (all pages except 7-
20 50), 341, 356 (all pages except 6), 372, 373, 375, 388, 391, 393 (except pages 43-46 and 50
21 contain Walter Liew's handwriting as well as the handwriting of at least one other person who is
22 not Christina Liew), 398, 418, 434, 492, 700, 705, 706 (only the bottom half of page 1), 714, 784,
23 811, 812, 874 (all pages except the first two pages), 875 (all pages except 1 and 4), 1130 (pages
24 2-64, 73-81, 84-85, 92, and part of 82), 1131 (pages 4-7, 10, 123, 124, 126, 127, 133, 141, 154-
25 155, 159-162, 171-173, 175, 189, 213, 251, 260-262, 273-275, 292, 301-304, 312, 316, 318-319,
26 332, 360, 367, and part of page 2), 1132 (pages 27, 31, 35, 51, 63-65, and parts of page 2), 1133
27 (pages 3-17, 19, 25-76, 28-29, 31-44, 48-50, 52, and 54-60), 1134 (pages 10, 28, 34, 38-39, 53,
28 56, 100, and 131-132) 1262, 1263, 1270, 1273, 1340, 2040, 2441, 2036, and 2834.

1 13. Elaine Shu Peng Chin is Walter Liew's niece and resides in Singapore.

2 14. Shirley Sue Lan Chin is Walter Liew's niece and resides in Singapore.

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4 15. The handwriting in the following exhibits is Christina Liew's: 247 (except for
5 pages 3-7, 11-12, and portions of pages 1 and 18), 249 (except for pages 17 and 31-32), 377
6 (except for pages 17 and 18), 486 (except for pages 8-9, 13, and 22, 23), and 875 (pages 1 and 4).

7 16. During the time relevant to this case, Timothy Spitler, a former DuPont employee,
8 lived outside Reno, Nevada and worked for companies called BHP and AltairNano Technologies.
9 He passed away prior to the trial of this case.

10 **DOCUMENTS**

11 17. Where it is stipulated that a document is "authentic under Fed. R. Evid. 901," that
12 means that it is stipulated that the document is an accurate copy of a document obtained as
13 indicated. The parties reserve all objections to the admissibility of such documents, including on
14 foundation grounds.

15 18. Where it is stated on the Joint Exhibit List that there is "no objection with a proper
16 witness" to a document, that means that, subject to establishing a foundation, the document shall
17 be admitted without objection during the testimony of a witness who testifies about the document,
18 or on cross-examination within the scope of the direct examination.

19 19. The documents identified on the Joint Exhibit List filed on January 6, 2014 as
20 having been found at the Liew Residence, the Maegerle Residence, the USAPTI Office, the Bank
21 of East Asia Safe Deposit Box, and the Rodeway Inn, by electronic device number starting with
22 "SVE," were located in searches conducted by the FBI on July 19 and 20, 2011. The documents
23 are authentic under Fed. R. Evid. 901. These documents may be offered during the testimony of
24 any witness, even if the witness does not have personal knowledge that a certain document was
25 located in a particular place.

26 **Emails**

27 20. Exhibits 12-14 and 123 are emails that were obtained by the FBI from the
28 gmail.com accounts of the listed senders and recipients. The following exhibits also originate

1 from the gmail.com accounts of the listed senders and recipients: Exhibits 1728-1729, 1764,
2 1768, 1804-1805, 1893-1895, 1905-1906, 1927-1928, 1932-1933, 1935-1937, and 1943. These
3 documents are authentic under Fed. R. Evid. 901.

4 21. Exhibits 37, 38, 64, 66-67, 69-72, 77-85, 87, 89-122, 124-126, 128-130, 175, 177,
5 326, 354, 374, 678-685, 698, 708, 717, and 803 are emails that were obtained by the FBI from the
6 yahoo.com accounts of the listed senders and recipients. The account usapti.com was maintained
7 by yahoo.com as a business account. Walter Liew had two yahoo.com accounts that were
8 searched: wliew@usapti.com and waltliew@performanceusainc.com. Robert Maegerle had one
9 yahoo.com account that was searched: r_maegerle@yahoo.com. The following exhibits are
10 emails that were obtained by the FBI from the yahoo.com accounts of the listed senders and
11 recipients or were collected under the direction of staff at Kecker and Van Nest from Walter
12 Liew's email account waltliew@yahoo.com: Exhibits 1024, 1054, 1056, 1058, 1077-1078, 1081,
13 1090-1093, 1096-1112, 1229, 1282-1284, 1388, 1508-1518, 1521-1522, 1533-1546, 1554-1557,
14 1576-1587, 1589, 1602-1604, 1608-1612, 1618, 1634-1636, 1638, 1644, 1646-1648, 1660-1661,
15 1713, 1716-1722, 1727, 1762-1763, 1765-1771, 1774-1776, 1781, 1784-1787, 1793-1795, 1796-
16 1798, 1800, 1802-1803, 1806-1809, 1892, 1896-1897, 1902-1904, 1917-1918, 1929-1930, 1938-
17 1942, 1944, 1948, 1950, 1958-1972, 1974, 1975, 2440, 2619, 2813-2814, 2838, 2869-2878,
18 2880-2884, 2887-2888, 2891, 2894, 2902, 2934-2935, 2945-2946, 2958, 2987, 3002, 3037, 3063,
19 3065, 3071-3072, 3074-3076, 3078-3086, 3088, 3091-3107, 3129, 3131-3132, 3166, and 3386-
20 3389. These documents are authentic under Fed. R. Evid. 901.

21 22. Exhibit 1025 is a translation of Exhibit 1024. The parties do not stipulate as to the
22 accuracy of the translation.

23 23. Exhibit 1055 is a translation of Exhibit 1054. The parties do not stipulate as to the
24 accuracy of the translation.

25 24. Exhibit 1057 is a translation of Exhibit 1056. Exhibit 1059 is a translation of
26 Exhibit 1058. Exhibit 1058 is the attachment to Exhibit 1056. The parties do not stipulate as to
27 the accuracy of the translations.
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1 43. Exhibits 676 and 1256 are records obtained from the Clerk of Court for the
2 Northern District of California. These documents are authentic under Fed. R. Evid. 901. The
3 parties agree that these documents are relevant and admissible.

4 44. Exhibit 787 is a record obtained from the Gaylord Chemical Corporation. The
5 document is authentic under Fed. R. Evid. 901.

6 45. Exhibits 1130-1134, 1211-1213, 1215, and 2830 are documents that were located
7 at the USAPTI office in Oakland, but not seized during the searches. They were thereafter kept in
8 storage, provided to Defendant Walter Liew and USAPTI's counsel at Kecker and Van Nest, and
9 then produced by Kecker and Van Nest.

10 46. Exhibits 1520, 1548-1550, 2040-2042, 3182, 3183, and 3185-3217 were seized
11 from the Liew's residence. They are authentic under Fed. R. Evid. 901.

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13 47. Exhibit 3180 was seized from the Liew's residence. It is authentic under Fed. R.
14 Evid. 901.

15 48. Exhibits 1140, 1223, 1227-1228, 1369, 1378, 1519, 1687, 1957, 2456, 2465, and
16 2466 were seized from the USAPTI office in Oakland. They are authentic under Fed. R. Evid.
17 901.

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19 49. Exhibits 829, 2392, 2441-2455, 2458-2464, 2467-2469, 2470-2489, and 3167-
20 3177 were seized from the USAPTI office in Oakland. They are authentic under Fed. R. Evid.
21 901.

22 50. Exhibit 1016 is from SVE034329. SVE034329 was seized from the Liew's
23 residence. Exhibit 1016 is authentic under Fed. R. Evid. 901.

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25 51. Exhibit 1000 is SVE034297 and is a forensic image of a server located at the USA
26 Performance Technology office in Oakland.

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1 52. Exhibit 2829 is an index of the folder directory from WD HDD SVE034294
2 (Exhibit 1001) from the safe deposit box at the Bank of East Asia. This hard drive also has the
3 evidence number SVE034332. Exhibit 2829 is authentic under Fed. R. Evid. 901.

4 53. Exhibits 1249, 1254, 1255, and 1257-1261 are authentic under Fed. R. Evid. 901.

5 54. Exhibits 1235-1237 and 1956-1957 are authentic under Fed. R. Evid. 901.

6 55. Exhibits 694, 701, and 2624-2627 are from SVE034332. Exhibit 1006 contains
7 the metadata for Exhibit 694. Exhibits 694, 701, and 2624-2627 are authentic under Fed. R. Evid.
8 901. Exhibit 1020 reflects the metadata for Exhibit 350.

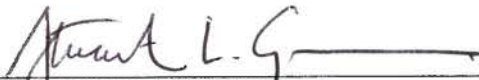
9 56. Exhibits 1008, 1014, 1039, 1080, 2391, and 2594-2600 are from SVE034309.
10 SVE034309 was seized from the USAPTI office in Oakland and is one of Walter Liew's
11 computers. Exhibit 2595 references metadata and contains accurate information for the following
12 categories: "file name," "author," "creation date," "last saved on," and "last saved by." Exhibit
13 1009 is the metadata for Exhibit 1008. Exhibit 1015 is the metadata for Exhibit 1014, and Exhibit
14 1015 contains accurate information for the following categories: "file name," "author," "creation
15 date," "last saved on," and "last saved by." Exhibit 1041 is the metadata for Exhibit 1039 and
16 Exhibit 1041 contains accurate information for the following categories: "file name," "author,"
17 "organization," "date created," "date last mod," and "last author." Exhibits 1008, 1009, 1014,
18 1039, 1080, 2391, 2594, and 2596-2600 are authentic under Fed. R. Evid. 901.

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57. Exhibit 2601 is an accurate depiction of a subfolder directory from SVE034309.


SO STIPULATED AND AGREED.

Dated: January 14, 2014

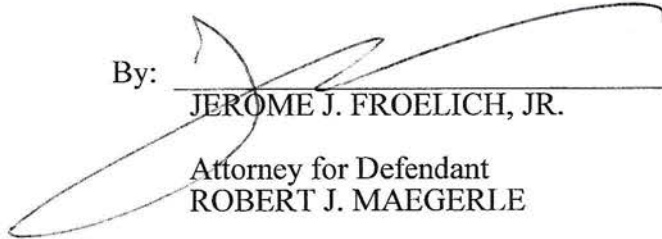
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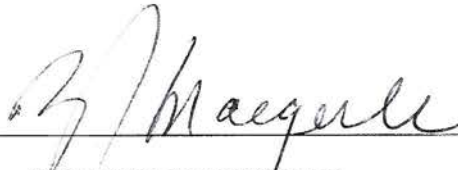
Dated: January 14, 2014

By: 
WALTER LIEW

Dated: January 14, 2014

By: 
JEROME J. FROELICH, JR.
Attorney for Defendant
ROBERT J. MAEGERLE

Dated: January 14, 2014

By: 
ROBERT MAEGERLE

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Dated: January 14, 2014

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