

**UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS**

**UNITED STATES OF AMERICA**

**v.**

**BISWAMOHAN PANI,**

**Defendant**

**Case No. 08-40034-FDS**

**VIOLATIONS:**

**18 U.S.C. § 1832 (Theft of Trade Secrets)**

**18 U.S.C. §§ 1343, 1346 (Wire Fraud)**

**18 U.S.C. § 981(a)(1)(C) (Forfeiture)**

**18 U.S.C. § 1834 (Forfeiture)**

**28 U.S.C. § 2461(c) (Forfeiture)**

**SUPERSEDING INDICTMENT**

The Grand Jury charges that at all times relevant, unless specified otherwise:

**PARTIES**

**A. Intel Corporation**

1. Intel Corporation is one of the world's leaders in designing and manufacturing semiconductor (microprocessor) chips. A microprocessor is a central processing unit ("CPU") on an integrated circuit chip that allows a computer to process information in an efficient and cost-effective manner.

2. Intel manufactures chips at its Hudson, Massachusetts facility, which also houses Intel's Massachusetts Microprocessor Development Center ("MMDC"), which engineers and develops the company's microprocessors.

**B. BISWAMOHAN PANI**

3. In May 2003, Intel acquired a facility in Massachusetts at which PANI was working and hired PANI as a Design Engineer in the MMDC. PANI remained as a Design Engineer throughout his tenure with Intel and was a low-level engineer on the projects on which he worked.

4. From the outset of his employment with Intel, PANI was assigned to design small subsections of Intel's next-generation Itanium® microprocessors. This line of microprocessors is designed for use in high-performance computer systems to ensure that data is not lost.

**C. Advanced Micro Devices, Inc.**

5. Advanced Micro Devices, Inc. (“AMD”), is a microprocessor designer and manufacturer, and is one of Intel’s major competitors.

**PANI’S SCHEME TO OBTAIN INTEL’S TRADE SECRETS**

**A. Working for AMD and Intel Simultaneously**

6. Beginning by at least February 2008, PANI was looking for jobs outside Intel. PANI’s managers did not know this at the time.

7. On or about March 27, 2008, PANI was offered a job at AMD. PANI accepted the offer on or about April 17, 2008. During the hiring negotiations, PANI and AMD had initially discussed a start date in or about late April, 2008, but PANI moved that date a number of times. They ultimately settled on a start date of June 2, 2008.

8. Part of the reason that PANI delayed his start date at AMD was his interest in moving his wife from California closer to home in Massachusetts by obtaining a job for her at Intel in Massachusetts before he left Intel. On or about May 26, 2008, PANI learned that Intel would offer his wife a job in Massachusetts on the 27th.

9. Throughout PANI’s negotiations with AMD and his efforts to obtain an Intel job in Massachusetts for his wife, and even after PANI accepted AMD’s offer on April 17, PANI did not disclose his departure plans to Intel until May 29.

10. On May 29, 2008, just four days before his June 2, 2008 start date at AMD, PANI resigned from Intel, saying that his last day at Intel would be June 11, 2008 and that he would spend his time away from the office using up his accrued vacation time, after which he would return to Intel for his last day on the 11th.

11. Explaining his resignation, PANI falsely told Intel that he was leaving because “a hedge fund had showed some interest in letting [him] apply [his] option-trading strategy for one of their multi-million\$ accounts,” he might “dabble in that for a few months,” and he needed time to “rest, reflect, and rejuvenate.” PANI also falsely told Intel said that he planned to use the first two

days of his vacation investigating the hedge fund opportunity and the rest of his vacation helping his wife move from an Intel job in California to an Intel job in Massachusetts, which PANI had helped her secure.

12. Notwithstanding these statements to Intel, PANI started working at AMD on June 2, 2008. Yet PANI remained on Intel's payroll and had access to Intel's computer system through June 11, 2008. PANI's access to the company's facilities was not terminated before the 11th because Intel did not know that PANI was working for a competitor. Had Intel known, it would have terminated him immediately and cut off his access to the company's computer system.

**B. Theft of Trade Secrets and Confidential Proprietary Business Information**

13. In April and May, 2008, knowing that he would soon leave Intel for one of Intel's major competitors, PANI reviewed numerous confidential and proprietary Intel computer files.

14. On or about May 28 and 29, 2008, the day before and the day of his resignation, PANI reviewed and downloaded from Intel more than 150 confidential and proprietary computer files concerning the design and manufacturing of Intel's current and unreleased microprocessors. PANI ultimately kept these documents on his personal hard drive for future reference once he left Intel. May 28 was one day after Intel offered PANI's wife a job in Massachusetts, one day before PANI resigned from Intel, and just five days before PANI started working for AMD and Intel simultaneously. PANI reviewed and downloaded some of the files from Intel's computer servers in Colorado and others from Intel's computer servers in Massachusetts.

15. From June 8 through June 11, 2008, while on both Intel's and AMD's payrolls, PANI used his Intel-issued laptop computer to access Intel's computer networks from outside the company and thereby download a variety of confidential and proprietary documents from Intel.

16. Among the documents he downloaded from June 8 through June 11, 2008, from computer servers located outside the District of Massachusetts, were 13 "top secret" (according to Intel's internal classification system) Intel documents.

17. PANI copied the 13 top secret files to an external hard drive, so he would have a copy

after returning his Intel-issued laptop.

18. The documents on PANI's external hard drive included mission-critical documents describing in detail the processes Intel used for designing and manufacturing its newest generation of microprocessors.

19. PANI had no work-related reason to view or download these documents between June 8 and June 11, 2008: he had not been in the office for several days, was no longer performing any Intel work, and was purportedly on vacation. Moreover, some of these documents were related to projects on which he had never worked.

**C. False Statements During June 11 Exit Interview**

20. On June 11, PANI returned to Intel and attended his exit interview. During this interview, PANI reaffirmed his confidentiality obligations and falsely told Intel that he had returned all of Intel's property, including any documents or computer data. Although PANI finally admitted that he was joining AMD after being asked about this by his exit interviewer, PANI did not tell Intel that he had downloaded, copied, and retained the top secret documents and other confidential information.

**D. June 13 Attempt to Access Intel's System Again**

21. The 13 top secret documents downloaded and copied between June 8 and June 11 had been encrypted by Intel, and therefore required special steps for PANI to review them after disconnecting from Intel's computer network. During his accesses of Intel's system between June 8 and June 11, PANI had reviewed and downloaded another document that explained how he could review them when not connected to Intel's computer network. But between June 8 and June 11, PANI did not complete all the steps necessary to review those documents offline.

22. On or about June 13, 2008, two days after PANI's final day as an Intel employee, PANI attempted to gain access to Intel's computer network once again. PANI passed the first login step because a copy of his Intel laptop — which Intel had not known about or approved — supplied the credentials necessary for the first login step. But PANI got no farther, because the subsequent

login steps required PANI to use his user identification, which Intel had disabled on or about June 11, following PANI's exit interview and his last day as an Intel employee.

**E. Paper Copies of Intel Documents at PANI's residence on and before July 1, 2008**

23. In addition to the documents that PANI had saved and retained on his hard drive, on and before July 1, 2008, PANI kept at his residence paper copies of eight Intel documents that Intel had classified, according to its internal classification system, as "confidential," "secret," and "top secret." Of those eight documents, two had no relevance to PANI's work at Intel. In addition, three of the documents concerned technology which had no AMD equivalence and had not been released to the marketplace. During his resignation and exit interview, PANI did not tell Intel that he had these documents at home.

**F. Intel's Trade Secrets and Confidential Proprietary Information**

24. Through considerable investment in research and development and other resources, Intel has increased its microprocessors' capacity, functionality and speed over the years without significantly increasing their physical size.

25. Intel is currently developing plans for building more efficient and powerful microprocessors two generations out from its current technology. It is critical to Intel's success that the designs and manufacturing methods for its future products remain secret. Intel's competitors could benefit greatly from this secret knowledge by knowing what benchmark they will need to compete against and by using Intel's secret methods and designs without incurring the research and development costs that Intel has expended.

26. The Intel documents that PANI downloaded, copied, concealed, and possessed, as described in the preceding paragraphs, included confidential proprietary information. They also contained trade secrets, in that they were secret, Intel took reasonable measures to keep them secret, they were not generally known or readily ascertainable to the public or people outside Intel in the field of microprocessor design or production, and they derived value from being kept secret.

27. This information cost Intel more than \$1 billion to develop.

**G. Intel's Security Measures**

28. Intel takes many steps to protect its trade secrets and its confidential proprietary information.

29. Intel requires all employees – including PANI – to sign a confidentiality agreement to refrain from disclosing confidential information to third parties and from using such information for personal purposes. Intel also enforces an Information Security Business Code of Conduct, which employees – including PANI – must sign when their employment begins. Intel also requires employees to participate in annual security and confidentiality training.

30. Intel restricts physical access to its Hudson facility and requires visitors to register and wear badges.

31. Intel restricts access to its computer systems, by maintaining advanced computer security systems and by protecting all of its trade secret and confidential proprietary information with passwords.

32. Some of Intel's manufacturing, production, and development process documents that are classified as secret or top secret, Intel's most restricted document classification levels, are kept on an encrypted document management system. The system records an employee's access and downloading, and, in certain instances, viewing, of confidential and proprietary documents.

33. Intel permits authorized employees, which included PANI while he was solely an employee of Intel, to access the encrypted system while off-site, through Intel's virtual private network ("VPN"). Intel's VPN uses encryption, security software, and other security devices, such as identification tokens and passcodes, to ensure that only authorized users can access Intel's network and that the data cannot be intercepted.

34. When an employee leaves the company, and that employee has had access to Intel's proprietary information and trade secrets, as PANI had, Intel asks the employee to acknowledge his or her confidentiality and trade secret obligations and to confirm that he or she has returned all confidential information and documents to the company.

**H. AMD**

35. AMD neither requested the information that PANI had downloaded and kept from Intel, nor knew that PANI had taken or would take this information.

36. Nevertheless, PANI planned to use this information to advance his career at AMD or elsewhere by drawing on it when the opportunity arose, whether with his employer's knowledge or not.

**COUNT ONE**  
**Theft and Attempted Theft of Trade Secrets**  
**18 U.S.C. § 1832**

37. The Grand Jury realleges and incorporates by reference the allegations in paragraphs 1-36 of this Indictment, and further charges that:

From approximately May 28 through July 1, 2008, in the District of Massachusetts and elsewhere, the defendant,

**BISWAMOHAN PANI,**

with the intent to convert a trade secret that is related to and included in a product that is produced for and placed in interstate and foreign commerce — specifically, documents in electronic and paper format describing in detail the processes that Intel Corporation uses for designing and manufacturing its newest generation of microprocessors — to the economic benefit of someone other than Intel, namely, PANI and AMD, and knowing and intending that the offense would injure Intel, did knowingly obtain by fraud and deception, steal, conceal, and without authorization appropriate, take, carry away, copy, duplicate, download, and replicate such information, and did possess such information knowing it to be stolen and appropriated, obtained, and converted without authorization, and attempted to do so.

All in violation of Title 18, United States Code, Section 1832.



**COUNTS 2-7**  
**Wire Fraud**  
**18 U.S.C. §§ 1343, 1346**

38. The Grand Jury realleges and incorporates by reference the allegations in paragraphs 1-36 of this Indictment and charges that:

On and about the dates set forth below, in the District of Massachusetts and elsewhere, the defendant,

**BISWAMOHAN PANI,**

having devised and intending to devise a scheme to defraud Intel of its property — namely, its confidential proprietary information and its right to PANI's honest services — by means of material false and fraudulent pretenses, representations, and promises, did knowingly transmit and cause to be transmitted by means of wire communication in interstate commerce writings, signs, signals, and pictures for the purpose of executing the scheme:

| <b>Count</b> | <b>Date</b>   | <b>Wire Communication</b>  |
|--------------|---------------|--|
| 2            | May 28, 2008  | Logging on from Massachusetts to Intel's computer system in Colorado and reviewing and downloading documents                                   |
| 3            | May 29, 2008  | Logging on from Massachusetts to Intel's computer system in Colorado and reviewing and downloading documents                                   |
| 4            | June 8, 2008  | Logging on from Massachusetts to Intel's computer system in California and reviewing and downloading documents                                 |
| 5            | June 10, 2008 | Logging on from Massachusetts to Intel's computer system in California and reviewing and downloading documents                                 |
| 6            | June 11, 2008 | Logging on from Massachusetts to Intel's computer system in California and reviewing and downloading documents                                 |
| 7            | June 13, 2008 | Initiating log in procedure from Massachusetts to Intel's computer system in California for the purpose of reviewing and downloading documents |

All in violation of Title 18, United States Code, Sections 1343 and 1346.

**FORFEITURE ALLEGATIONS**

**18 U.S.C. § 981(a)(1)(C); 28 U.S.C. § 2461(c); 18 U.S.C. § 1834**

39. The Grand Jury realleges and incorporates by reference the allegations in paragraphs 1-36 of this Indictment, and further charges as follows.

40. Upon conviction of any offense in violation of 18 U.S.C. § 1343 alleged herein, the defendant,

**BISWAMOHAN PANI,**

shall forfeit to the United States, pursuant to 18 U.S.C. § 981(a)(1)(C) and 28 U.S.C. § 2461(c), any property, real or personal, that constitutes, or is derived from, proceeds traceable to the commission of the offenses.

41. Upon conviction of any offense in violation of 18 U.S.C. § 1832 alleged herein, the defendant,

**BISWAMOHAN PANI,**

shall forfeit to the United States, pursuant to 18 U.S.C. § 1834(a), (1) any property constituting, or derived from, any proceeds the defendant obtained, directly or indirectly, as the result of such violation; and (2) any property used, or intended to be used, in any manner or part, to commit or facilitate the commission of such violation. Such property includes:

- a. An IBM Think Pad laptop computer;
- b. A metal 250GB external Iomega USB hard drive, silver in color, bearing serial number FRBG38044E.

42. If any of the property described in paragraph 41 hereof as being forfeitable, 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 to, sold to, or deposited with a third party;
- c. has been placed beyond the jurisdiction of this 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 intention of the United States, pursuant to 28 U.S.C. § 2461(c) and 18 U.S.C. § 1834(b), incorporating 21 U.S.C. § 853(p), to seek forfeiture of all other property of the defendant up to the value of the property described in subparagraphs a through e of this paragraph.

All pursuant to Title 18, United States Code, Section 981, Title 28, United States Code, Section 2461(c) and Title 18, United States Code, Section 1834.

A TRUE BILL



Foreperson of the Grand Jury

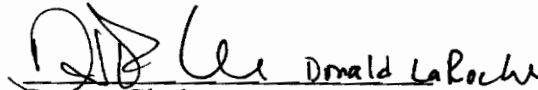


Assistant United States Attorney

DISTRICT OF MASSACHUSETTS

July 22, 2009

Returned into the District Court by the Grand Jurors and filed.



Deputy Clerk

Donald LaRoche 10:55AM