

COPY

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA :

-v-

: ORDER OF CONTINUANCE

SERGEY ALEYNIKOV, :

09 Mag. 1553

Defendant. :

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Upon the application of the United States of America and the affirmation of Joseph P. Facciponti, Assistant United States Attorney for the Southern District of New York, it is found that the defendant was charged with theft of trade secrets, in violation of Title 18, United States Code, Section 1832 and transportation of stolen property in foreign commerce, in violation of Title 18, United States Code, Section 2314, in a complaint dated July 4, 2009, and was arrested on July 3, 2009;

It is further found that the defendant was presented before Magistrate Judge Kevin Nathaniel Fox on July 4, 2009, and was ordered released upon the following conditions: a \$750,000 personal recognizance bond to be secured by three financially responsible persons and \$75,000 in cash or property; the defendant's travel restricted to the Southern and Eastern Districts of New York and the District of New Jersey; the defendant to surrender any travel documents and make no new applications for travel documents; the defendant to receive

regular pretrial supervision; the defendant is not to access the data that is the subject of this criminal action; that the Pretrial Services Office shall be permitted, to the extent possible, to monitor the defendant's use of computers and other electronic devices at his home or place of business to ensure that the defendant does not access the data that is the subject of this criminal action; and that the defendant is to be detained until all bail conditions are satisfied;

It is further found that the defendant satisfied all bail conditions and was released on July 6, 2009;

It is further found that Sabrina Shroff, Esq., counsel for defendant, and Assistant United States Attorney Joseph P. Facciponti have been engaged in, and are continuing, discussions concerning a possible disposition of this case;

It is further found that the Government has requested a continuance of 14 days to engage in further discussions with counsel about the disposition of this case and that the defendant, through counsel, has consented that such a continuance may be granted for that purpose and has specifically waived his right to be charged in an indictment or information for an additional 14 days; and

It is further found that the granting of such a continuance best serves the ends of justice and outweighs the

best interests of the public and the defendant in a speedy trial;
and therefore it is

ORDERED that the request for a continuance pursuant to
18 U.S.C. § 3161(h)(7)(A) is hereby granted until August 17,
2009, and that a copy of this Order and the affirmation of
Assistant United States Attorney Joseph P. Facciponti be served
by mail on this date on counsel for the defendant by the United
States Attorney's Office.

Dated: New York, New York
August ____, 2009

UNITED STATES MAGISTRATE JUDGE

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA :

-v- : AFFIRMATION

SERGEY ALEYNIKOV, : 09 Mag. 1553

Defendant. :

- - - - - X

STATE OF NEW YORK)
COUNTY OF NEW YORK : ss.:
SOUTHERN DISTRICT OF NEW YORK)

JOSEPH P. FACCIPONTI, pursuant to Title 28, United States Code, Section 1746, hereby declares under penalty of perjury:

1. I am an Assistant United States Attorney in the Office of Lev L. Dassin, Acting United States Attorney for the Southern District of New York. I submit this affirmation in support of an application for an extension of the order of continuance of the time within which an indictment or information would otherwise have to be filed, pursuant to Title 18, United States Code, Section 3161(h)(7)(A).

2. The defendant was charged in a complaint dated July 4, 2009, with theft of trade secrets, in violation of Title 18, United States Code, Section 1832 and transportation of stolen property in foreign commerce, in violation of Title 18, United States Code, Section 2314. The defendant was arrested on July 3,

2009, and was presented before Magistrate Judge Kevin Nathaniel Fox on July 4, 2009. The defendant was represented by Sabrina Shroff, Esq. and ordered released upon the following conditions: a \$750,000 personal recognizance bond to be secured by three financially responsible persons and \$75,000 in cash or property; the defendant's travel restricted to the Southern and Eastern Districts of New York and the District of New Jersey; the defendant to surrender any travel documents and make no new applications for travel documents; the defendant to receive regular pretrial supervision; the defendant is not to access the data that is the subject of this criminal action; that the Pretrial Services Office shall be permitted, to the extent possible, to monitor the defendant's use of computers and other electronic devices at his home or place of business to ensure that the defendant does not access the data that is the subject of this criminal action; and that the defendant is to be detained until all bail conditions are satisfied. On July 6, 2009, the defendant satisfied these conditions and was released.

3. At the initial presentment, Ms. Shroff consented to a waiver of her client's right pursuant to Rule 5 of the Federal Rules of Criminal Procedure to a preliminary hearing within 10 days of the initial appearance. Accordingly, under the Speedy Trial Act the Government initially had until August 3, 2009 within which to file an indictment or information.

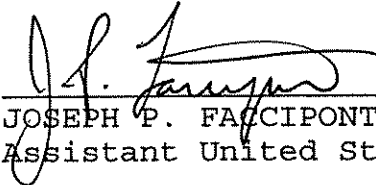
4. Ms. Shroff and I have had discussions regarding a possible resolution of this case beginning on or about July 7, 2009 and continuing to as recently as July 28, 2009. The negotiations have not been completed and we plan to continue our discussions, but do not anticipate a resolution before the deadline under the Speedy Trial Act expires on August 3, 2009.

5. Therefore, the Government is requesting a 14-day continuance until August 17, 2009, to continue the foregoing discussions to determine whether a disposition is possible prior to indictment. On July 29, 2009, Ms. Shroff advised me that she consents to this request and has spoken to her client who has also specifically consented to this request.

6. For the reasons stated above, the ends of justice served by the granting of the requested continuance outweigh the best interests of the public and defendant in a speedy trial.

I declare under penalties of perjury that the foregoing is true and correct, pursuant to 28 U.S.C. § 1746.

Dated: New York, New York
July 30, 2009



JOSEPH P. FACCIPONTI
Assistant United States Attorney