

URGENT COMMUNICATIONS:

Former Hytera Director Pleads Guilty to Conspiracy Charge to Steal Motorola DMR Trade Secrets, Says Exec Knew

By Donny Jackson | 7 December 2022

A key former Hytera Communications director has entered a guilty plea to criminal charges of conspiring to steal trade secrets from Motorola Solutions that enabled Hytera to accelerate the development of its profitable DMR product line—allegedly at the behest of a top executive at the China-based LMR manufacturer.

Gee Siong (G.S.) Kok—Hytera Communications’ former director of research and development, as well as a former member of the company’s board of directors—filed the plea agreement with the U.S. Department of Justice (DoJ) as part of the criminal case against Hytera that was made public in February. G.S. Kok was one of seven former employees of Hytera indicted individually who were identified in April.

In the criminal plea agreement, G.S. Kok confirms many allegations made by Motorola Solutions in the lengthy case that resulted in the March 2020 judgment that required Hytera to pay hundreds of millions of dollars for stealing DMR trade secrets from Motorola to develop a competing product set. Although the damage amount of \$764.6 million award was lowered, Hytera still owes Motorola Solutions more than \$600 million from the case, according to legal documents.

Perhaps most notable in the G.S. Kok plea agreement is the assertion that at least one top Hytera executive—designated as “Executive 1”—knew about the plan to steal the DMR trade secrets from Motorola Solutions. In fact, “Executive 1” spoke about the proposed trade-secret theft while recruiting G.S. Kok from Motorola—where he worked in the Malaysia plant before Motorola split into Motorola Solutions and Motorola Mobility—to join Hytera, according to the plea agreement.

“At the time of his recruitment to Hytera, defendant [G.S. Kok] was the senior engineering manager for DMR products at Motorola,” the plea agreement states. “On multiple occasions, Executive 1 told defendant that he wanted to develop Hytera’s DMR product in a two-year time frame. Defendant believed that it would take several more years to develop a DMR product like Motorola’s. Executive 1 told defendant to take Motorola’s technology, including source code for DMR products, and use it at Hytera to develop the technology faster.

“Before defendant joined Hytera and while defendant was at Hytera, Executive 1 requested and defendant agreed that they would steal Motorola’s DMR technology. To accomplish this task, defendant recruited multiple Motorola employees and told them to steal Motorola’s trade secrets, including Motorola’s proprietary source code related to DMR.”

This theft of Motorola DMR trade secrets and copyrighted DMR software was conducted by G.S. Kok and six other people he recruited directly or indirectly from Motorola, each of whom copied files—totaling more than 7,000—that would be used as the intellectual foundation of Hytera’s DMR product line, according to legal filings.

Hytera attorneys did not question the theft during the four-month-long civil trial that concluded in 2020, but they indicated that it was performed by some “bad apples” in the company who took action as individuals. G.S. Kok’s plea agreement indicates otherwise.

“As a result of Executive 1’s instruction and defendant’s efforts, and the efforts of other Hytera employees taken at defendant’s instruction or with his agreement, Hytera’s DMR used source code stolen from Motorola,” according to the plea agreement.

In a statement provided to IWCE’s Urgent Communications, Hytera Communications asserted that G.S. Kok’s allegation that a Hytera executive participated in the theft of the Motorola trade secrets and software code.

“Hytera vigorously disputes that its executives knew of or were involved in any theft of trade secrets from Motorola Solutions, and Hytera is not aware of any Hytera executives having been charged with stealing Motorola’s trade secret—only former Motorola employees such as G.S. Kok,” according to the Hytera statement. “The company denies the allegations made by GS Kok, who clearly made statements in order to curry favor with DOJ. Hytera and its executives look forward to defending themselves in a court of law at the appropriate time.”

Hytera’s “Executive 1” is not named in the G.S. Kok plea agreement, but previous legal filings have noted that G.S. Kok was recruited by—and reported directly to—Hytera Communications Chairman and founder Qingzhou Chen starting in June 2007. G.S. Kok began working for Hytera in February 2008.

Motorola Solutions noted the potential involvement of Chen as part of a footnote in its latest civil-court filing.

“This is not a case where low-level employees committed a minor indiscretion: as one of Hytera’s former senior executives admitted last week at his plea hearing in the co-pending criminal case against Hytera, the scheme to steal Motorola’s intellectual property came from and was directed by Hytera’s ‘Executive 1,’ which resulted in great damage to Motorola,” according to the Motorola Solutions filing.

“To the extent ‘Executive 1’ refers to Hytera’s founder Qingzhou Chen, he is still the chairman of the company, continues to reap millions from the company’s theft through his substantial ownership, and as a result, is reported as one of the richest individuals in China. That the very people who allegedly committed the theft continue to profit from it is particularly egregious, considering that Hytera is not challenging liability on appeal, thus confirming its actions were willful and malicious.”

Other co-defendants in the case who worked with G.S. Kok in the alleged conspiracy to steal Motorola’s DMR trade secrets and software have been identified: Yih Tzye (YT) Kok, Samuel Chia Han Siong (Chia), Phaik ee Ooi (Ooi), Wong Kiat Hoe (Wong), Yu Kok Hoong (Hoong) and Chua Siew Wei (Chua). G.S. Kok’s plea agreement outlines the roles that each person played in the alleged scheme.

“As instructed by Executive 1, defendant [G.S. Kok] told Chia that he should take as much information as he could take from Motorola and everything related to DMR,” the plea agreement states. “Chia, with others, stole proprietary Motorola DMR information, including the source code. Hytera engineers used Motorola’s stolen trade-secret information.

“Ooi was recruited by YT to serve as a software-development project manager to manage all the software development that was ongoing at Hytera. Defendant went to Executive 1 to get approval to hire Ooi, and Executive 1 approved hiring Ooi.

“While at Motorola, defendant [G.S. Kok] supervised Wong, Hoong and Chua. Defendant selected Wong because Hytera needed someone who (1) could develop testing parameters for Hytera’s products and (2) was familiar with DMR testing. Hoong was chosen because of his expertise in synthesizer design and familiarity with the timing restrictions imposed by TDMA, or Time Division Multiple Access. Chua was also chosen for her experience with synthesizer design.”

G.S. Kok could face a maximum of 10 years in prison for his actions, as well as being subject to fines and monetary restitution exceeding \$1 million, according to the plea agreement. The impact of the trade-secret theft was more than \$250 million in estimated lost profits attributed to Hytera competing against Motorola Solutions in the DMR marketplace while using the trade secrets and software stolen from Motorola, the plea agreement states.

Although filed on Dec. 1 in the U.S. District Court in the Northern District of Illinois before Judge John Tharp Jr., the plea agreement was made public in a filing posted yesterday by Motorola Solutions as part of its civil case against Hytera in the same Chicago U.S. district court before Judge Martha Pacold.

During a status hearing conducted last week, Judge Tharp indicated that he currently hopes the trial in the Hytera criminal case will begin in January 2024. The actual start date for the trial is expected to be finalized next month, he said.

IWCE's Urgent Communications submitted questions today to the U.S. Department of Justice about the G.S. Kok plea agreement, but the department declined to issue a comment on the matter. However, a DoJ representative confirmed that G.S. Kok was extradited to the U.S. and that he is the only one of the individual defendants who has been extradited thus far.

Motorola Solutions officially is not a party to the criminal case, although it has submitted a filing in the matter as a "crime victim" in the case. The company provided the following statement about the G.S. Kok plea agreement to IWCE's Urgent Communications.

"Motorola Solutions' intellectual-property theft allegations against Hytera have once again been publicly validated," according to the prepared statement from Motorola Solutions. "We are pleased that former Hytera executive Gee Siong (G.S.) Kok—recruited and hired by and directly reporting to Hytera's CEO—has pled guilty to the criminal charges filed by the Department of Justice, admitting responsibility for his illegal conduct on behalf of Hytera, including criminal conspiracy to steal and use Motorola Solutions' trade secrets and proprietary information.

"This development further underscores how Hytera's illicit behavior permeates its culture and values from the leadership down and further demonstrates that Hytera is guilty of theft and blatant infringement of our innovative patents, copyrights and trade secrets. We remain committed to holding Hytera accountable for its wrongdoing and will vigorously defend Motorola Solutions' valuable intellectual property for the benefit of our industry, customers, channel and distribution partners, shareholders and other stakeholders."

Hytera disputed this perspective in a prepared statement provided to IWCE's Urgent Communications.

"Hytera is disappointed by the false public comments Motorola recently circulated following GS Kok's guilty plea," according to the Hytera statement. "Motorola's public attack on Hytera's executives and the company's core values is an obvious anticompetitive attempt to undermine the confidence Hytera's customers, dealers, and partners hold in Hytera's products and services worldwide.

"Hytera is a leading global provider of professional communications devices—it is not going anywhere. Its presence in the market protects competition among products and services that its customers so highly value. And Hytera continues to invest heavily in research and development to further its culture of innovation, as evidenced by its recently launched H-series of Digital Mobile Radio (DMR) products.

"Motorola's war of words is disappointing, but it cannot change Hytera's firm commitment to honoring the intellectual property rights of others, and to complying with the laws of every jurisdiction in which it

operates. Hytera looks forward to continued success in sharing its innovations with the world for years to come.”

While the G.S. Kok plea agreement is associated with the criminal conspiracy case filed by the DoJ against Hytera Communications and seven individuals, multiple civil cases in the lengthy Hytera-Motorola dispute—initiated in March 2017—continue to be litigated.

From the primary civil trial that concluded in 2020, Hytera Communications has appealed the case to the 7th Circuit Court, but the initial briefing process is not scheduled to be completed until April 2023. Meanwhile, Judge Pacold—who succeeded retired Judge Charles Norgle on the case in the district court—is considering whether to rule on lingering motions.

In particular, Hytera Communications is seeking a stay of Judge Norgle’s order that required Hytera to pay \$49 million in royalties for DMR products sold between July 1, 2019, and June 30, 2022. Hytera did not make the payment in cash by the July 31 deadline but indicated that it would agree to compensate Motorola Solutions with Hytera stock that is worth more than the royalty amount owed.

Motorola Solutions has opposed the notion of a Hytera-stock substitute to the cash payment to meet the royalty requirement. In addition, Motorola Solutions has asked Pacold to declare that Hytera’s actions are in contempt of court and has suggested a worldwide injunction blocking the sale of Hytera products—not just the impacted DMR gear in the case, but all Hytera products.

Briefings on these matters are scheduled to conclude on Dec. 19. It is not clear when Pacold might rule on these motions. In fact, there are some questions whether Pacold has jurisdiction to make rulings in the case, because it already has been appealed to the 7th Circuit.

Finally, after several years of delays, Hytera’s antitrust lawsuit against Motorola Solutions is expected to begin its initial briefing process in the coming weeks.