

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA :
 : SUPERSEDING INDICTMENT
 -v.- :
 : S1 08 Cr. 649
 KWOK KUEN LEUNG, :
 a/k/a "Leung Kwok Kuen," :
 a/k/a "Andy Leung," :
 :
 Defendant. :

- - - - - x

COUNTS ONE THROUGH EIGHT
(Entry of Goods Falsely Classified)

The Grand Jury charges:

1. AN/PEQ-2As, AN/PAQ-4Cs and AN/PEQ-14s (the "Laser Aiming Devices") are weapons-mounted infrared laser aiming devices. The Laser Aiming Devices project on a target an infrared laser beam that cannot be seen with the naked eye, but can be seen with night vision equipment.
2. The Laser Aiming Devices are manufactured under contract with the United States Department of Defense for military use or under contract with law enforcement agencies.
3. On or about the dates set forth below, in the Southern District of New York and elsewhere, KWOK KUEN LEUNG, a/k/a "Leung Kwok Kuen," a/k/a "Andy Leung," the defendant, unlawfully, willfully, and knowingly effected entry of goods, wares and merchandise, at less than the true weight and measure

thereof, and upon a false classification as to quality and value, and by the payment of less than the amount of duty legally due, to wit, KWOK KUEN LEUNG imported into the United States Laser Aiming Devices and military scopes by falsely declaring the contents and dollar values of the shipments of these items on customs declaration forms, as set forth below.

| Count | Approx. Date | Items Imported | Declared Description of Items | Approx. Actual Value | Declared Value |
|-------|---------------|---|--------------------------------------|----------------------|----------------|
| One | Jan. 7, 2005 | 1 AN/PAQ-4C infrared laser-aiming device | Distance Measuring Device | US \$2,150 | HK \$150 |
| Two | Jan. 17, 2005 | 1 AN/PAQ-4C infrared laser-aiming device | Distance Measuring Device | US \$2,100 | HK \$120 |
| Three | Jan. 17, 2005 | 1 AN/PEQ-2A infrared laser-aiming device | Distance Measuring Device | US \$3,060 | HK \$120 |
| Four | Mar. 17, 2005 | 3 AN/PAQ-4C infrared laser-aiming devices | Distance Measuring Device Model 4Cx3 | US \$5,400 | US \$138 |
| Five | April 8, 2005 | 1 pair of AVS Gen 3 night-vision scopes | Distance Measuring Device | US \$3,550 | US \$72 |
| Six | May 9, 2005 | 2 AN/PEQ-2A infrared laser-aiming devices | Distance Measuring Device 2Ax2 | US \$6,000 | US \$64 |
| Seven | May 23, 2008 | 1 AN/PEQ-2A infrared laser-aiming device | Distance Measuring Device PEQUNIT | US \$2,702 | US \$42 |

| | | | | | |
|-------|------------------|---|------------------------|------------|---------|
| Eight | Nov, 20, 2009 | 1 AN/PEQ-14 infrared laser-aiming device | Flashlight ITI Unit | US \$3,240 | US \$45 |
|-------|------------------|---|------------------------|------------|---------|

(Title 18, United States Code, Sections 541 and 2.)

COUNTS NINE THROUGH SIXTEEN

(Entry of Goods by Means of False Statements)

The Grand Jury further charges:

4. Paragraphs 1 and 2 of this Indictment are realleged and incorporated by reference as though fully set forth herein.

5. On or about the dates set forth below, in the Southern District of New York and elsewhere, KWOK KUEN LEUNG, a/k/a "Leung Kwok Kuen," a/k/a "Andy Leung," the defendant, unlawfully, willfully, and knowingly did enter and introduce, and attempt to enter and introduce, into the commerce of the United States imported merchandise by means of fraudulent and false invoices, declarations, affidavits, letters, papers, and by means of false written statements, and by means of false and fraudulent practices and appliances, and did make false statements in declarations without reasonable cause to believe the truth of such statements, and did procure the making of such false statements as to matters material thereto without reasonable cause to believe the truth of such statements, to wit, KWOK KUEN LEUNG imported into the United States Laser Aiming Devices and

military scopes by falsely declaring the contents and dollar values of the shipments of these items on customs declaration forms, as set forth below.

| Count | Approx. Date | Items Imported | Declared Description of Items | Approx. Actual Value | Declared Value |
|----------|---------------|---|--------------------------------------|----------------------|----------------|
| Nine | Jan. 7, 2005 | 1 AN/PAQ-4C infrared laser-aiming device | Distance Measuring Device | US \$2,150 | HK \$150 |
| Ten | Jan. 17, 2005 | 1 AN/PAQ-4C infrared laser-aiming device | Distance Measuring Device | US \$2,100 | HK \$120 |
| Eleven | Jan. 17, 2005 | 1 AN/PEQ-2A infrared laser-aiming device | Distance Measuring Device | US \$3,060 | HK \$120 |
| Twelve | Mar. 17, 2005 | 3 AN/PAQ-4C infrared laser-aiming devices | Distance Measuring Device Model 4Cx3 | US \$5,400 | US \$138 |
| Thirteen | April 8, 2005 | 1 pair of AVS Gen 3 night-vision scopes | Distance Measuring Device | US \$3,550 | US \$72 |
| Fourteen | May 9, 2005 | 2 AN/PEQ-2A infrared laser-aiming devices | Distance Measuring Device 2Ax2 | US \$6,000 | US \$64 |

| | | | | | |
|---------|------------------|---|--|------------|---------|
| Fifteen | May 23, 2008 | 1 AN/PEQ-2A infrared laser- aiming device | Distance Measuring Device PEQUNIT | US \$2,702 | US \$42 |
| Sixteen | Nov. 20, 2009 | 1 AN/PEQ-14 infrared laser- aiming device | Flashlight ITI Unit | US \$3,240 | US \$45 |

(Title 18, United States Code, Sections 542 and 2.)

COUNTS SEVENTEEN THROUGH TWENTY-FOUR
(Import Smuggling)

The Grand Jury further charges:

6. Paragraphs 1 and 2 of this Indictment are realleged and incorporated by reference as though fully set forth herein.

7. On or about the dates set forth below, in the Southern District of New York and elsewhere, KWOK KUEN LEUNG, a/k/a "Leung Kwok Kuen," a/k/a "Andy Leung," the defendant, unlawfully, willfully, and knowingly, with the intent to defraud the United States, did make out and pass, and attempt to pass, through the customhouse false, forged and fraudulent invoices and other documents and paper, and did fraudulently and knowingly import and bring into the United States merchandise contrary to law and did receive, conceal, buy, sell, and facilitate the transportation, concealment, and sale of such merchandise after importation, knowing the same to have been imported and brought

into the United States contrary to law, to wit, KWOK KUEN LEUNG imported into the United States Laser Aiming Devices and military scopes by falsely declaring the contents and dollar values of the shipments of these items on customs' declaration forms, as set forth below, in violation of Sections 541 and 542 of Title 18, United States Code.

| Count | Approx. Date | Items Imported | Declared Description of Items | Approx. Actual Value | Declared Value |
|------------|---------------|---|--------------------------------------|----------------------|----------------|
| Seventeen | Jan. 7, 2005 | 1 AN/PAQ-4C infrared laser-aiming device | Distance Measuring Device | US \$2,150 | HK \$150 |
| Eighteen | Jan. 17, 2005 | 1 AN/PAQ-4C infrared laser-aiming device | Distance Measuring Device | US \$2,100 | HK \$120 |
| Nineteen | Jan. 17, 2005 | 1 AN/PEQ-2A infrared laser-aiming device | Distance Measuring Device | US \$3,060 | HK \$120 |
| Twenty | Mar. 17, 2005 | 3 AN/PAQ-4C infrared laser-aiming devices | Distance Measuring Device Model 4Cx3 | US \$5,400 | US \$138 |
| Twenty-one | April 8, 2005 | 1 pair of AVS Gen 3 night-vision scopes | Distance Measuring Device | US \$3,550 | US \$72 |

| | | | | | |
|--------------|---------------|---|-----------------------------------|------------|---------|
| Twenty-two | May 9, 2005 | 2 AN/PEQ-2A infrared laser-aiming devices | Distance Measuring Device 2Ax2 | US \$6,000 | US \$64 |
| Twenty-three | May 23, 2008 | 1 AN/PEQ-2A infrared laser-aiming device | Distance Measuring Device PEQUNIT | US \$2,702 | US \$42 |
| Twenty-four | Nov. 20, 2009 | 1 AN/PEQ-14 infrared laser-aiming device | Flashlight ITI Unit | US \$3,240 | US \$45 |

(Title 18, United States Code, Sections 545 and 2.)

COUNTS TWENTY-FIVE THROUGH TWENTY-EIGHT
(Unauthorized Sale of United States Property)

The Grand Jury further charges:

8. Paragraphs 1 and 2 of this Indictment are realleged and incorporated by reference as though fully set forth herein.

9. On or about the dates specified below, in the Southern District of New York and elsewhere, KWOK KUEN LEUNG, a/k/a "Leung Kwok Kuen," a/k/a "Andy Leung," the defendant, unlawfully, willfully, and knowingly did embezzle, steal, purloin, and knowingly convert to his use and the use of another, and without authority, did sell, convey and dispose of a record, voucher, money, and thing of value of the United States, and of a department and agency thereof, to wit, the United States

Department of Defense, and property made and being made under contract for the United States and a department and agency thereof, to wit, the United States Department of Defense, the value of which property exceeded \$1,000, to wit, KWOK KUEN LEUNG, without authority, sold Laser Aiming Devices, as set forth below, manufactured for and owned by the United States Military and law enforcement agencies, but which were stolen from United States Military installations.

| Count | Approx. Ship Date | Items |
|--------------|-------------------|---|
| Twenty-Five | January 7, 2005 | 1 AN/PAQ-4C infrared laser-aiming device |
| Twenty-Six | January 17, 2005 | 1 AN/PAQ-4C infrared laser-aiming device |
| Twenty-Seven | January 17, 2005 | 1 AN/PEQ-2A infrared laser-aiming device |
| Twenty-Eight | March 17, 2005 | 3 AN/PAQ-4C infrared laser-aiming devices |

(Title 18, United States Code, Sections 641 and 2.)

FORFEITURE ALLEGATION

10. As the result of committing one or more of the false statements offenses alleged in Counts Nine through Sixteen of this Indictment, KWOK KUEN LEUNG, a/k/a "Leung Kwok Kuen," a/k/a "Andy Leung," the defendant, shall forfeit to the United States, pursuant to Title 18, United States Code, Section 982(a)(2)(B), any property constituting, or derived from, proceeds obtained, directly or indirectly, as a result of the

offenses charged in Counts Nine through Sixteen.

11. As the result of committing one or more of the import smuggling offenses alleged in Counts Seventeen through Twenty-Four of this Indictment, KWOK KUEN LEUNG, a/k/a "Leung Kwok Kuen," a/k/a "Andy Leung," the defendant, shall forfeit to the United States, pursuant to Title 18, United States Code, Section 982(a)(2)(B), any property constituting, or derived from, proceeds obtained, directly or indirectly, as a result of the offenses, and, pursuant to Title 18, United States Code, Section 545 and Title 28, United States Code, Section 2461, any merchandise introduced into the United States in violation of Title 18, United States Code, Section 545, or the value thereof, including but not limited to the following:

- a. 1 AN/PAQ-4C infrared laser-aiming device;
- b. 1 AN/PAQ-4C infrared laser-aiming device;
- c. 1 AN/PEQ-2A infrared laser-aiming device;
- d. 3 AN/PAQ-4C infrared laser-aiming devices;
- e. 1 pair of AVS Gen 3 night-vision scopes;
- f. 2 AN/PEQ-2A infrared laser-aiming devices;
- g. 1 AN/PEQ-2A infrared laser-aiming device; and
- h. 1 AN/PEQ-14 infrared laser-aiming device.

12. As the result of committing one or more of the unauthorized sale of United States property offenses alleged in

Counts Twenty-Five through Twenty-Eight of this Indictment, KWOK KUEN LEUNG, a/k/a "Leung Kwok Kuen," a/k/a "Andy Leung," the defendant, shall forfeit to the United States, pursuant to Title 18, United States Code, Section 981(a)(1)(C) and Title 28, United States Code, Section 2461, all property, real or personal, constituting or derived from proceeds traceable to the offenses.

Substitute Asset Provision

13. If any of the property described above, 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 or sold to, or deposited with, a third party;
- c. has been placed beyond the jurisdiction of the court;
- d. has been substantially diminished in value; or
- e. has been commingled with other property which cannot be divided without difficulty;

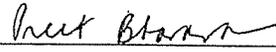
it is the intent of the United States, pursuant to 21 U.S.C. § 853(p), to seek forfeiture of any other property of said

defendant up to the value of the above forfeitable property.

(Title 18, United States Code, Sections 542, 545, 981, and 982;
Title 21, United States Code, Section 853; and Title 28, United
States Code, Section 2641.)



FOREPERSON



PREET BHARARA 
United States Attorney

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA

- v -

KWOK KUEN LEUNG,
a/k/a "Leung Kwok Kuen"
a/k/a "Andy Leung

Defendant.

SUPERSEDING INDICTMENT

S1 08 Cr. 649

(18 U.S.C. §§ 541, 542, 545, 641 and 2)

PREET BHARARA
United States Attorney.

 Foreperson.
