

**EXHIBIT B**  
**Information to Be Filed**

[ATTACHED BEHIND THIS SHEET]

**UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS**

**UNITED STATES OF AMERICA**

**v.**

**BL TRADING, LLC,**

**Defendant.**

**Criminal Case No.**

**VIOLATIONS:**

**18 U.S.C. § 1343 (Wire Fraud)**

**18 U.S.C. § 2315 (Sale and Receipt of  
Stolen Property After Transportation in  
Interstate Commerce)**

**INFORMATION**

The United States Attorney charges that at or about the times alleged below:

1. EMC Corporation, the victim, was a corporation that designed and sold high-end computer and computer networking equipment and accessories. EMC's headquarters were located in the District of Massachusetts.
2. From 2000 through 2009, Kevin B. Kelly, charged separately in this District, worked at EMC's manufacturing and testing facility at Apex, North Carolina.
3. During the relevant periods, **BL TRADING, LLC** was a limited liability company located in Hanover, Massachusetts. **BL TRADING** had two lines of business. In the first line of business, the company sold and configured new EMC equipment and also serviced some used EMC equipment, all pursuant to contractual relationships with EMC and EMC's business partners or licensees, identified herein as "EMC-authorized business." At the same time, **BL TRADING** engaged in the second line of business, in which it purchased new and used EMC equipment from various vendors, both companies and individuals, over the Internet, and

resold that equipment, all outside of any contractual relationships with EMC and EMC's business partners or licensees, identified herein as "resale business" and "the resale market." **BL TRADING's** resale business was separate and independent from its EMC-authorized business.

4. From approximately 2000 through 2009, Kelly used his access as an EMC employee to EMC's facilities and equipment to steal approximately \$929,891 worth of EMC computer equipment from EMC's plant in North Carolina. He did so by concealing the equipment in a small duffel or gym bag in his cubicle and as he carried it out of the plant.

#### **PURCHASE OF STOLEN EQUIPMENT**

5. Kelly sold most of the equipment stolen during this period to **BL TRADING**, which bought it to sell again in its resale business.

6. **BL TRADING** and Kelly and communicated about the equipment by e-mails sent between Massachusetts and North Carolina.

7. **BL TRADING** purchased Kelly's stolen equipment largely at the direction and through the actions of a former employee, now deceased, who had primary responsibility for purchasing used and new EMC equipment for **BL TRADING** from the resale market and for the resale market. That employee knew or was willfully blind to the fact that Kelly had stolen his EMC equipment from EMC.

#### **EQUIPMENT UPGRADING AND CONVERSION**

8. Just as a computer's functions are governed by an operating system, such as Microsoft Windows or Apple's Snow Leopard, the functions of EMC's computer equipment are also governed by operating systems. These operating systems are generically called "firmware."

9. The firmware for EMC's computer equipment was updated occasionally by EMC

or by companies that provided EMC its firmware. These updates were intended to eliminate bugs or increase efficiency.

10. EMC made its firmware and firmware updates available online to customers with service contracts and to companies like **BL TRADING** that serviced or sold equipment pursuant to EMC-authorized business.

11. EMC did not, however, make its firmware and firmware updates available to customers whose service contracts had expired, or to companies for updating used or new EMC equipment outside of EMC-authorized service contracts and EMC-authorized sales or installation agreements.

12. EMC gave **BL TRADING** access to EMC's firmware and firmware updates under the above arrangements: for EMC-authorized business, that is, EMC-authorized service contracts or sales or installation agreements, and not for other uses such as the resale market.

13. Although it is not illegal, without anything more, to buy and sell EMC equipment on the resale market, **BL TRADING** used EMC's firmware in the resale market unlawfully. Specifically, **BL TRADING** fraudulently obtained and used the firmware and firmware updates that it had acquired from EMC for EMC-authorized business to update equipment that it had purchased on the resale market to sell on the resale market, equipment that was not under a service contract with EMC and for which EMC had not authorized service. **BL TRADING** did so at the direction of or under the supervision of the same former employee who was primarily responsible for purchasing the stolen equipment from Kelly.

14. **BL TRADING** also used the firmware and firmware updates to electronically convert some EMC hard disk drives of a certain model purchased on the resale market into EMC

hard disk drives of a different model. **BL TRADING** sold and attempted to sell the converted drives on the resale market. **BL TRADING** did so according to its own business needs, without authorization from EMC, without EMC's knowledge, and contrary to **BL TRADING's** agreements and promises to EMC. **BL TRADING** did so at the direction of or under the supervision of the same former employee who was responsible for purchasing the stolen equipment from Kelly.

#### **ADVERTISEMENTS AND SALES OVER THE INTERNET**

15. **BL TRADING** sold Kelly's stolen equipment and that which had been converted and upgraded as described above through advertisements on its website and through e-mails to its customers, some of which traveled in interstate commerce.

**COUNT ONE**  
**Wire Fraud**  
**18 U.S.C. § 1343**

16. The United States Attorney realleges and incorporates by reference the allegations in paragraphs 1-15 of this Information and charges that:

Between approximately 2007 and continuing through 2009, in the District of Massachusetts and elsewhere, the defendant,

**BL TRADING, LLC**

having devised and intending to devise a scheme to defraud EMC Corporation of its property, 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, namely e-mails to and from Kevin B. Kelly to purchase stolen equipment, e-mails to and from actual and potential customers to sell stolen and unlawfully-updated and converted equipment, and advertisements on its website to sell this equipment.

All in violation of Title 18, United States Code, Section 1343.

**COUNT TWO**  
**Sale and Receipt of Stolen Property After Transportation in Interstate Commerce**  
**18 U.S.C. § 2315**

17. The United States Attorney realleges and incorporates by reference the allegations in paragraphs 1-15 of this Information and charges that:

Between approximately 2007 and continuing through 2009, in the District of Massachusetts and elsewhere, the defendant,

**BL TRADING, LLC,**

received, possessed, stored, bartered, sold, and disposed of goods, wares, and merchandise of the value of \$5,000 and more, namely EMC's computer and computer networking equipment and accessories, which crossed a state boundary after being stolen, unlawfully converted, and taken, knowing the same to have been stolen, unlawfully converted, and taken.

All in violation of Title 18, United States Code, Section 2315.

CARMEN M. ORTIZ  
United States Attorney

By: \_\_\_\_\_  
Scott L. Garland  
Assistant U.S. Attorney