

SealedPublic and unofficial staff access
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prohibited by court order**UNITED STATES DISTRICT COURT**

for the

Southern District of Texas

United States Courts
Southern District of Texas
FILED*December 02, 2025*

Nathan Ochsner, Clerk of Court

United States of America

v.

Fanyue GONG,
aka TomCase No. **4:25-mj-718****FILED UNDER SEAL***Defendant(s)***CRIMINAL COMPLAINT**

I, the complainant in this case, state that the following is true to the best of my knowledge and belief.

On or about the date(s) of November 1, 2023, to present, in the county of Fort Bend in the
Southern District of Texas, the defendant(s) violated:*Code Section**Offense Description*

18 U.S.C. § 371

Conspiracy

18 U.S.C. § 554

Smuggling Goods from the United States

This criminal complaint is based on these facts:
See attached affidavit.

TRUE COPY I CERTIFY

ATTEST: *December 02, 2025*

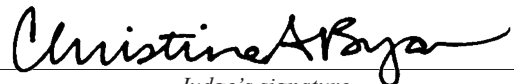
NATHAN OCHSNER, Clerk of Court

By: s/ Antonio B. Banda

Deputy Clerk

☒ Continued on the attached sheet.*Complainant's signature*

Christopher O'Neill, Special Agent, Dept. of Comm.

*Printed name and title*Attested to by the Complainant in accordance with
the requirements of Fed. Crim. P. 4.1. by telephone.Date: 12/02/2025*Judge's signature*City and state: Houston, Texas

Hon. Christina A. Bryan, U.S. Magistrate Judge

Printed name and title

4:25-mj-718

AFFIDAVIT IN SUPPORT OF CRIMINAL COMPLAINT
“ATTACHMENT A”

I, Christopher O'Neill the undersigned complainant, being duly sworn, state that the following is true and correct to the best of my knowledge and belief.

I am a Special Agent with the United States Department of Commerce, Bureau of Industry and Security (“BIS”). I have been so employed since May 2016, and I am currently assigned to the Office of Export Enforcement’s New York field Office. Prior to my employment with BIS, from 2010 until May 2016, I was a Special Agent with the Air Force Office of Special Investigations, where I participated in criminal investigations concerning offenses against the Air Force, Department of Defense, and U.S. Government. As a BIS Special Agent, I am charged with investigating the unlawful export of goods and commodities controlled for export by the Department of Commerce, including firearms and technology, for reasons of national security and/or foreign policy. I am a law enforcement officer of the United States within the meaning of Title 18, United States Code, Section 2510(7), and am authorized by law to conduct investigations into alleged violations of federal law. Since joining BIS and the Office of Export Enforcement, I have investigated, among other things, violations of the Export Control Reform Act, 50 U.S.C. §§ 4801-4852; Smuggling of Goods from the United States, in violation of 18 U.S.C. § 554; and Submitting False Export Documents, in violation of Title 13, United States Code, Section 305.

This affidavit is made in support of a criminal complaint charging **Fanyue GONG**, aka “Tom,” with conspiring to smuggle goods from the United States, in violation of 18 U.S.C. §§ 371 and 554.

I have personally participated in this investigation and have witnessed many of the facts and circumstances described herein. The facts in this affidavit come from my personal observations, my training and experience, and information obtained from other agents, witnesses,

and agencies. This affidavit is intended to show merely that there is sufficient probable cause for the requested Criminal Complaint. It does not set forth all my knowledge, or the knowledge of others, about this matter.

LEGAL BACKGROUND

1. Export Control Reform Act (ECRA) and Export Administration Regulations (EAR)

1. The Export Control Reform Act of 2018 (“ECRA”) provides, among its stated policy objectives, that “[t]he national security and foreign policy of the United States require that the export, reexport, and in-country transfer of items . . . be controlled.” 50 U.S.C. § 4811(2). To that end, ECRA grants the President the authority to control, among other activities, “the export, reexport, and in-country transfer of items subject to the jurisdiction of the United States, whether by United States persons or by foreign persons.” *Id.* at § 4812(b). ECRA further grants to the Secretary of Commerce the authority to establish the applicable regulatory framework. *Id.* at § 4813(a).

2. Pursuant to ECRA, the Department of Commerce reviews and controls the export of certain items, including commodities, software, and technologies, from the United States to foreign countries through the Export Administration Regulations (“EAR”), 15 C.F.R. parts 730-774. In particular, the EAR restrict the export of items that could make a significant contribution to the military potential of other nations or that could be detrimental to the foreign policy or national security of the United States. The EAR impose licensing and other requirements for items subject to the EAR to be exported lawfully from the United States or re-exported lawfully from one foreign destination to another.

3. The most sensitive items subject to EAR control are identified on the Commerce Control List (“CCL”), published at 15 C.F.R. part 774, Supp. No. 1. Items on the CCL are categorized by

an Export Control Classification Number (“ECCN”) based on their technical characteristics. Each ECCN has export control requirements depending on the destination, end user, and end use.

4. The EAR establish the responsibility of Department of Commerce, Bureau of Industry and Security (“BIS”) to approve or deny export license applications with the input of other federal agencies. If a license is required for a transaction subject to the EAR and the transaction does not qualify for a specific license exception, a U.S. person must submit a license application to BIS and receive a license prior to engaging in the transaction. The license may be subject to certain terms and conditions defined by BIS or other federal agencies.

2. Advanced Computing/Supercomputing Interim Final Rule (AC/S IFR)

5. Beginning on October 7, 2022, BIS began amending the EAR to implement new controls on advanced computing integrated circuits (“ICs”), computer commodities that contain ICs, and certain semiconductor manufacturing items, including certain Nvidia-manufactured Graphic Processing Units (“GPUs”), through an interim final rule (effective on October 7, 2022). *See* 15 C.F.R. § 744.23; 87 Fed. Reg. 62186 (Oct. 7, 2022). The purpose of the rule is “to protect U.S. national security and foreign policy interests by restricting the [People’s Republic of China’s] access to advanced computing for its military modernization, including nuclear weapons development, facilitation of advanced intelligence collection and analysis, and for surveillance.” BIS further imposed additional export controls on certain advanced computing semiconductor chips (chips, advanced computing chips, integrated circuits, or ICs), transactions for supercomputer end-uses, and transactions involving certain entities on the Entity List. These restrictions applied to high-performance ICs that are useful in data center processing and artificial intelligence, with a total processing performance of 4800 or more, or a total processing performance of 1600 or more and a performance density of 5.92 or more. These controls and restrictions applied to the People’s Republic of China (“PRC”), including Hong Kong and Macau.

6. On October 25, 2023, BIS released an interim final rule (effective on November 17, 2023) that expanded the export controls related to advanced computing and semiconductors, including with respect to additional Nvidia-manufactured GPUs, which had been developed specifically for the PRC following the October 7, 2022 restrictions. According to the interim final rule, “[t]hese revisions protect U.S. national security interests by further restricting China’s ability to obtain critical technologies to modernize its military capabilities in ways that threaten the national security interests of the United States and its allies.” 88 Fed. Reg. 73458 (Oct. 25, 2023).

3. Export Restrictions on Relevant GPUs, Baseboards, and Servers

7. There are several Nvidia products described below that the defendant and his co-conspirators conspired to unlawfully smuggle outside the United States, all of which were subject to specific export restrictions and requirements relevant to this Affidavit.

8. The following items are classified under ECCN 4A090.a: Nvidia H100 GPUs; Nvidia H200 GPUs; Nvidia H200 GPU baseboards; Nvidia HGX A100 8-GPUs; and Nvidia HGX A100 640 GB GPU baseboards. Items classified under ECCN 4A090.a are controlled for regional stability (RS) and anti-terrorism (AT) reasons and require a license for export to the PRC, including Hong Kong. See 15 C.F.R. 742.6(a)(6)(iii)(A).

9. The following item is classified under ECCN 3A090.a: Nvidia A100 GPU 80GB SXM4. Items classified under ECCN 3A090.a are controlled for regional stability (RS) and anti-terrorism (AT) reasons and require a license for export to the PRC, including Hong Kong. See 15 C.F.R. 742.6(a)(6)(iii)(A).

10. The following items are classified under ECCN 5A002.z: SuperMicro SuperServers 420GP-TNAR/420GP-TNAR+ and SuperMicro A+ servers configured with A100 baseboards. Items classified under ECCN 5A002.z are controlled for regional stability (RS) and anti-terrorism

(AT) reasons and require a license for export to the PRC, including Hong Kong. See 15 C.F.R. 742.6(a)(6)(iii)(A).

4. Smuggling

11. Pursuant to Title 18, United States Code, Section 554, it is unlawful to fraudulently or knowingly export or send from the United States, or attempt to export or send from the United States, any merchandise, article, or object contrary to any law or regulation of the United States, or receive, conceal, buy, sell, or in any manner facilitate the transportation, concealment, or sale of such merchandise, article or object, prior to exportation, knowing the same to be intended for exportation contrary to any law or regulation of the United States.

5. Unlawful Export Information Activities

12. Pursuant to U.S. law and regulations, exporters or their authorized agents, such as shippers or freight forwarders, are required to file certain forms and declarations concerning the export of goods and technology from the United States. Typically, those documents are filed electronically through the Automated Export System (“AES”), which is administered by the U.S. Department of Homeland Security, Customs and Border Protection (“CBP”).

13. The Electronic Export Information (“EEI”) (formerly known as the Shipper’s Export Declaration (“SED”)) is the required documentation submitted to the U.S. Government through the AES in connection with an export shipment from the United States. Exporters or their authorized agents are required to file an accurate and truthful EEI for every export of goods from the United States with a value of \$2,500 or more. EEI also is required, regardless of the value of the goods, if the goods require an export license. 15 C.F.R. §§ 758.1 and 30.2.

14. Title 18, United States Code, Section 305, makes it a federal crime to knowingly fail to file or to knowingly submit false or misleading export information through the SED, EEI, or the AES, or to otherwise use the SED or the AES to further any illegal activity.

DEFENDANT AND RELEVANT PARTIES

15. The defendant, **Fanyue GONG**, aka “**Tom**,” is a resident of New York and the owner of a technology company located in Brooklyn, New York (“New York Technology Company”).

16. Co-conspirator-1 is an employee of a Shenzhen, China-based technology company that is a supplier of AI equipment and provides services related to import and export declarations (“Shenzhen Technology Company”). Co-conspirator-1 is also connected to a Hong Kong-based shipping and logistics company (“Hong Kong Logistics Company”) that is affiliated with Shenzhen Technology Company. For example, certain public financial records describe Hong Kong Logistics Company as part of the corporate network of Shenzhen Technology Company.

SUMMARY OF PROBABLE CAUSE

17. BIS, Homeland Security Investigations (“HSI”), and the Federal Bureau of Investigation (“FBI”) are investigating a sophisticated illicit procurement conspiracy and smuggling network that is orchestrating the purchase and export of Nvidia A100, H100, and H200 Tensor Core GPUs and HGX baseboards, which are used for artificial intelligence (“AI”) applications and high-performance computing (“HPC”), to the PRC, including Hong Kong, and other destinations, in violation of U.S. export and other laws. Specifically, a GPU is an electronic circuit that can perform calculations at high speed, key to processing the vast amounts of data used to train AI applications. A tensor core is a specialized processing unit within a GPU that is designed to accelerate matrix operations, which are used in AI, deep learning, and HPC tasks. A GPU baseboard is a server platform that integrates multiple high-performance GPUs. A GPU server is a kind of server that has additional GPUs in addition to standard Central Processing Units (CPUs) – a CPU is the primary component of a computer that is key to running a computer’s

operating system and applications. These technologies are dual-use, i.e. they are used for both civilian and military applications.

18. From at least in or about November 2023, Hong Kong Logistics Company and its co-conspirators have engaged in a conspiracy to unlawfully export Nvidia technologies from the United States to the PRC. **GONG**, along with known and unknown coconspirators, conspired to smuggle from the United States, or attempted to do so, Nvidia GPUs and baseboards, in violation of 18 U.S.C. §§ 371 and 554.

19. As part of the overall scheme, employees of Hong Kong Logistics Company and Shenzhen Technology Company conspired to violate U.S. laws by obtaining export-controlled Nvidia GPUs through straw purchasers and intermediaries, including in the Southern District of Texas, and falsely indicating that the goods were for U.S. customers or customers in third countries such as Taiwan or Thailand. The GPUs were shipped to multiple U.S. warehouses, where individuals removed Nvidia labels and relabeled the GPUs with labels bearing the name “SANDKYAN” – believed to be a fake company – and then prepared the goods for export. The shipping and export paperwork, submitted in AES, also misclassified the goods as “adapters,” “adapter modules,” or “contactor controllers.” The co-conspirators then shipped the goods or attempted to do so, directly or indirectly, to the PRC and Hong Kong in violation of U.S. export and other laws.

20. As further described below, on or about May 10, 2025, agents investigating this conspiracy received information regarding pallets of Nvidia GPUs being stored in a U.S. logistics company’s (“U.S. Logistics Company”) leased New Jersey warehouse (“New Jersey Warehouse”) that were destined for the PRC. When agents visited the New Jersey Warehouse two days later, including an undercover agent (“UC-1”), they observed individuals relabeling the Nvidia GPUs

with labels for the fake company (SANDKYAN). As further detailed below, agents subsequently detained the GPUs and moved them to another government-controlled facility.

21. Defendant **GONG** directed a key part of the conspiracy by hiring individuals, referred to as “engineers,” to “test and inspect” the goods. But in fact, **GONG** directed the “engineers” to *relabel* Nvidia GPUs with fake company labels to conceal their origin, in preparation for the GPUs to be smuggled outside the United States in violation of U.S. laws.

22. One of the engineers, Engineer-1¹, informed agents that **GONG** had directed Engineer-1 to relabel boxes of GPUs located at various warehouses in New Jersey. Engineer-1 did this relabeling for **GONG** on four or five occasions. Engineer-1 received the addresses and phone numbers of the warehouses from **GONG** through an encrypted messaging application group chat containing 20-30 individuals.² Some of the members of the group chat appeared to be in the PRC based on phone numbers associated with a PRC code. Engineer-1 informed agents that one individual on the group chat who had trained Engineer-1 on how to relabel goods before Engineer-1’s first job was a PRC national who had traveled back to the PRC.

23. **GONG** paid Engineer-1 in cash and/or by check and Engineer-1 used **GONG**’s vehicle to drive to the worksites. Engineer-1 stated that the labels he and his co-workers used to relabel the items, as well as the boxes, were always located at the warehouse prior to his arrival and were left at the warehouse when they departed. The boxes were repackaged after Engineer-1 left the warehouse. Engineer-1 did not know what happened to the packages after he departed.

¹ On May 29, 2025, Engineer-1 was arrested in New York for Improper Entry by Alien in the Southern District of Texas. Engineer-1 provided a post-*Miranda* statement to law enforcement. On July 25, 2025, agents interviewed Engineer-1 with his attorney present.

² All communications described in this Complaint regarding the messaging application occurred in Mandarin, unless otherwise noted, and the communications referenced here are translations.

24. According to Engineer-1, **GONG** had never disclosed the purpose of relabeling the boxes, though Engineer-1 suspected that “it was not a good thing.” Engineer-1 knew that the items were Nvidia products and “new technology,” and from watching the news and social media videos, Engineer-1 knew that such items had export restrictions from the United States. Specifically, Engineer-1 had watched videos on PRC-based video-sharing platforms showing that these items could not be exported to the PRC. Engineer-1 suspected that the items he saw in these videos were the same items that he was relabeling and that were discussed in the group chat.

STATEMENT OF PROBABLE CAUSE

1. Houston Company-1 Purchased Export-Controlled GPUs on Behalf of Hong Kong Logistics Company, Which Were Transported and Stored by Same U.S. Logistics Company as the GPUs Relabeled by Engineers Hired by GONG

25. From October 2024 to May 2025, Houston Resident-1, utilizing his company, Houston Company-1, knowingly purchased and smuggled export-controlled Nvidia H100 and H200 GPUs out of the United States. Those GPUs were ultimately exported to the PRC and Hong Kong.

26. Specifically, Houston Company-1 purchased at least \$60 million worth of GPUs from a U.S. global technology company (“U.S. Global Technology Company”). Houston Company-1 received funds from various entities to facilitate the purchases, including companies based in the PRC. Houston Company-1 received at least \$1.5 million directly from Hong Kong Logistics Company and received other funds indirectly – for example, using front companies – from PRC companies. Shipping records show that GPUs purchased from U.S. Global Technology Company by Houston Resident-1 were ultimately exported to the PRC, including by transshipping the GPUs through Singapore and Malaysia, without the required licenses from the Department of Commerce.

27. On March 14, 2025, Houston Company-1 scheduled GPUs for pickup at U.S. Global Technology Company’s distribution center. The GPUs were then shipped to U.S. Logistics

Company's warehouse in New York.³ Shipping records confirmed the GPUs arrived at that warehouse on March 15, 2025. During an interview of U.S. Logistics Company's representative ("U.S. Logistics Company Representative") in May 2025, agents learned that the GPUs arrived at the warehouse at the request of a PRC-based logistics company ("PRC Logistics Company").

28. According to the U.S. Logistics Company Representative, the U.S. Logistics Company handled the receiving, warehousing, palletizing, and shipping of domestic freights for PRC Logistics Company. The orders typically included only the number of pallets, weight, and dimensions of the goods to be shipped; the orders did not include a description of the contents, which would typically be included as part of paperwork in the normal course. The U.S. Logistics Company Representative provided agents with copies of delivery orders of shipments from the New Jersey Warehouse. The delivery orders included "shipping mark" numbers formatted with the prefix "SD" followed by a number.

29. According to the U.S. Logistics Company Representative, whenever a shipment arrived at U.S. Logistics Company's warehouse, the PRC Logistics Company would arrange for "engineers" to visit the warehouse for testing and inspection of the goods. The U.S. Logistics Company Representative had, on at least one occasion, been present during the engineers' testing and inspection of a shipment and observed that the contents of the shipments were all marked "Nvidia." Photographs taken by U.S. Logistics Company Representative during the testing/inspection, and provided to agents, show a box of opened Nvidia products, which agents believed to be export-controlled Nvidia GPU baseboards. Additional photographs show the engineers working on at least four pallets of items, all of which appear to be Nvidia HGX baseboards.

³ U.S. Logistics Company then began leasing another warehouse in New Jersey because of a pricing dispute which is later described in the Affidavit.

30. Once testing and inspection were completed, the engineers repackaged the products, and U.S. Logistics Company arranged for the packages to be re-palletized before they were shipped via truck to a New York shipping company's ("New York Shipping Company") leased warehouse space in New York ("New York Warehouse"), as requested by the PRC Logistics Company. Every shipment that U.S. Logistics Company handled for the PRC Logistics Company was routed to go to the same New York Shipping Company's New York Warehouse.

31. All communication between the PRC Logistics Company and the engineers was in Mandarin and done via an encrypted messaging application. The U.S. Logistics Company Representative provided agents with identifiers of individuals who were "engineers" that came to the warehouse. Agents identified three of the engineers based on photographs and identifiers provided by the U.S. Logistics Company Representative. Agents determined that all of them were PRC-nationals. Engineer-1 was one of the engineers. Engineer-1 was identified as having unlawfully entered the United States from Mexico, at a time and place not designated by immigration officials, near McAllen, Texas, in the Southern District of Texas. In late May, when agents showed Engineer-1 photographs of the individuals, Engineer-1 confirmed that these individuals had worked with him on relabeling jobs.

32. During an interview of the U.S. Logistics Company Representative on May 10, 2025, agents learned that 14 pallets that were due to be sent to New York Shipping Company were being stored at the U.S. Logistics Company's New Jersey warehouse ("New Jersey Warehouse"). An additional 26 pallets were on the way to the New Jersey Warehouse. Per communications from the PRC Logistics Company, the engineers planned to test and inspect all goods contained in the pallets before the U.S. Logistics Company shipped the pallets to the New York Warehouse. Specifically, two engineers were scheduled to inspect the pallets on May 12, 2025.

2. GONG Hired “Engineers” to Relabel Nvidia GPUs

33. As noted in Paragraph 32, GPUs were scheduled to be “inspected” by “engineers” before being shipped to the New York Warehouse in May 2025. During April 2025, **GONG** and other co-conspirators in the GPU smuggling scheme organized the critical step to hire and deploy engineers to relabel the goods in preparation for smuggling the GPUs from the United States.

34. Specifically, on April 2, 2025, **GONG** added Engineer-1 to a messaging application group chat, at approximately 1:13 am. The group chat label translated to “stick labels in warehouses” (hereafter “Labels Group Chat”). Engineer-1 explained to agents that **GONG** added Engineer-1 to that group when **GONG** hired Engineer-1 to relabel Nvidia servers. **GONG**’s username in the messaging application roughly translated to “[New York Technology Company] American region business and trade.”

35. One minute after **GONG** added Engineer-1 to the Labels Group Chat, **GONG** asked “everyone” with no plans to “go stick labels ... the day after tomorrow.” Group members then arranged to travel to the location and would “meet at Tom’s place at 9am the day after tomorrow.”

36. Unidentified user-1 (“UU-1”) stated “Don’t be late. There’s a lot that will take the whole day.” When Unidentified user-2 (“UU-2”) asked whether it was located “same place as the last time,” [“UU-1”] responded “No. Another warehouse in New Jersey” and posted an address in Secaucus, New Jersey. The Secaucus address posted by UU-1 in the labels group chat was the same address where UC-1 observed Engineer-1 opening boxes and changing labels on May 12, 2025.

37. On April 3, 2025, a member in the label chat group posted a photograph below that showed what appears to be a Nvidia GPU baseboard, capable of housing eight Nvidia GPUs:



38. On April 29, 2025, at approximately 1:18 AM, **GONG** posted in the label group chat “continue sticking labels tomorrow” and posted the same warehouse address in Secaucus. **GONG** then stated that there would be 60 units after another member of the label group chat posted the photograph below. Based on the context, it appears that “units” referred to GPU baseboards.

序号	罐头 (入会号)	件数	到货日期	操作日期
1	SD20250426-HY	2板/10台	4.26	4.29
2	SD20250426-KYT	7板/50台	4.28	4.29

39. The photograph shows Chinese characters in the top row, and below: two shipments and their “shipping mark” numbers, the number of pallets/units, arrival date at the warehouse, and “work” date at the warehouse. The format of the number in the second column is the same as the numbers shown on the delivery order documents referenced in Paragraph 27 with “SD” as the prefix.

40. On April 29, 2025, at approximately 2:53 PM, an unidentified user with the username “4.32” asked for measurements of the size of a GPU. Another member of the group chat responded with the photo below showing a “SANDKYAN” label covering a Nvidia label, a measuring tape,

and drawings of two red boxes circling part of the measuring tape and a part of the Nvidia GPU displaying a barcode:



41. Approximately three minutes after the photograph was posted, “4.32” asked for additional measurements, including the barcode, stating “the purpose is to have two labels to cover these two parts: the barcode and NVIDIA trademark.”

42. At approximately 8:50 pm on April 29, 2025, a group chat member stated, “finished with all 60.” At approximately 2:55 pm on April 30, 2025, **GONG** instructed the group to update the “shipping mark” number to “SD20250425-SNC (3 pallets/30 units)” because “the phot[o] was incorrect.”

43. On May 4, 2025, **GONG** stated in the label group chat that “there will be labeling next week for 26 commodities.”

44. On May 7, 2025, a member in the label group chat posted the photograph below showing a baseboard with eight (8) “SANDKYAN” labels. The packaging of the baseboard appears to be identical with the packaging of a NVIDIA baseboard, a photograph of which was posted in the group chat on April 3, 2025:



45. On May 8, 2025, “4.32” posted that “the new labels say ADAPTER MODULE PN: 900-210100022 MADE IN CHINA. Check to see if we got it right.” Later the same day, “4.32” posted that “go ask the warehouse. The client said they should still have some of the labels that were mailed previously.”

46. On May 9, 2025, “4.32” stated in the label group chat that the labels have arrived and that they should ask the warehouse for “this delivery” and posted tracking information for the shipment below:

47. On May 11, 2025, **GONG** notified Engineer-1 and another member in the group chat that “tomorrow, go stick label at [address of the warehouse in Secaucus, NJ]. Meet at Eighth Avenue tomorrow and will drive.” On May 12, 2025, “4.32” asked for “photograph feedback” once the job was done.

3. Agents Observed Mislabeled Nvidia GPUs with Fake Company Labels and Identified Shipping Records Showing False Information

48. On May 12, 2025, UC-1 went to U.S. Logistics Company’s New Jersey Warehouse for approximately one hour. During that time, UC-1 observed two engineers, both appearing of

Chinese origin, unboxing and inspecting open boxes of Nvidia GPU baseboards. UC-1 spoke in Mandarin with one of the engineers (later identified as Engineer-1). During the conversation, UC-1 inquired about what Engineer-1 and his colleague were working on. Engineer-1 stated they were working to change the labels of the products, and that they needed to cover all the original Nvidia product labels. When UC-1 asked Engineer-1 why they needed to change the labels, Engineer-1 responded that it was for “export purposes.” UC-1 remarked to Engineer-1 that he thought Engineer-1 and his colleague were engineers there to conduct testing on the products to make sure they were functional and without problems. Engineer-1 responded that the products had no problems. When UC-1 tried to engage Engineer-1 on what export problems he faced, Engineer-1 responded that they should not discuss what the problems were.

49. During his time in the New Jersey Warehouse, UC-1 observed both engineers removing Nvidia labels from the GPUs and replacing them with other labels with the name “SANDKYAN.” The engineers carried pages of preprinted labels, including new barcodes and “SANDKYAN” product labels. The engineers placed these adhesive labels over existing Nvidia product codes.

50. Open-source searches of “SANDKYAN” did not reveal any results indicating such a brand or company bearing that name exists; thus, there is reason to believe that “SANDKYAN” is a fabricated brand used to obfuscate the fact that the GPUs – which were subject to U.S. export controls – were in fact Nvidia GPUs.

51. On May 13, 2025, “4.32” posted in the group chat that “5.13 work on these three orders below,” specifying certain numbers, how each should be labeled and packaged, and posted labels—with the description “ADAPTER GROUP”—and two photographs below as references to where the labels should be applied:

65*22mm 数量：300张

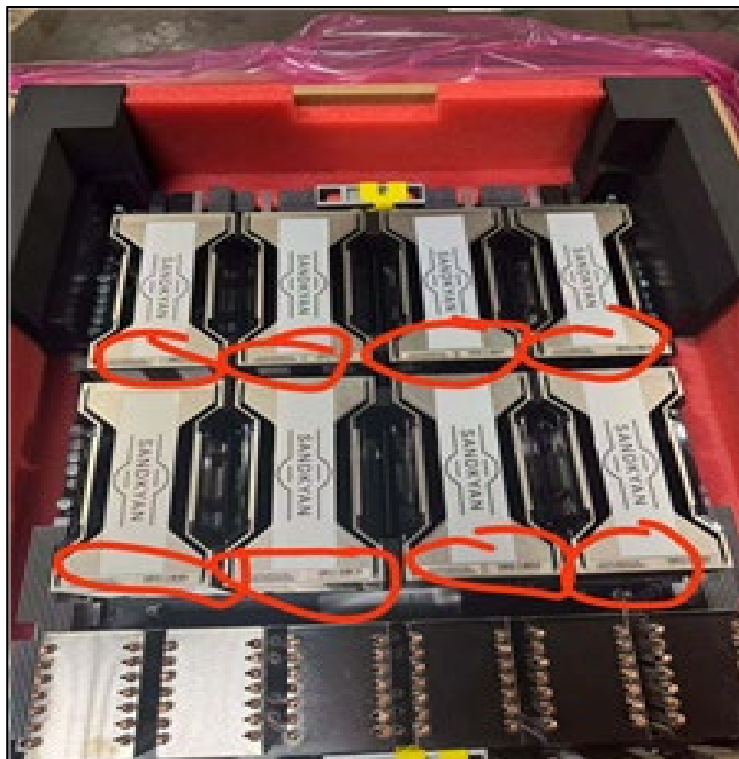


40*20mm 数量300





52. On May 13, 2025, at approximately 3:06 pm, “4.32” provided feedback to the photograph below, stating “those eight small labels need to be applied too.”



53. On May 13, 2025, at approximately 10:44 pm, **GONG** directed Engineer-1 and another member to “continue tomorrow.”⁴

54. Also on May 13, 2025, while the above communications were being exchanged, UC-1 and another BIS agent returned to the New Jersey Warehouse. The agents observed the pallets the engineers had inspected during the previous day – all of which now contained “SANDKYAN” labels – and the newly delivered pallets. The anti-tampering tape on the boxes was taped over, and several new adhesive labels were placed on the outside, falsely describing the products as “Adapter Group.” The new labels also listed the origin of the product as “Made in Taiwan,” with new product numbers, carton ID, serial numbers, and QR codes. Agents also observed additional product labels with descriptions of “Adapter Group,” fictitious model numbers, and stickers bearing the “SANDKYAN” brand name.

55. Based on my training and experience, hiding the origin and type of the goods using false information is a common tactic to allow for falsified EEI or to evade export controls by avoiding potential inspections when goods are shipped outside the United States.

56. The newly delivered pallets also included servers that contained Nvidia HGX A100 GPU baseboards. Except for one invoice and two bills of lading, there was no other physical paperwork in the warehouse showing where the products came from. The invoice, which was recovered from a single pallet, showed an Australian company as the purchaser of 100 Nvidia H200 GPUs from a U.S. supplier and Australia as the ultimate destination. Both bills of lading, which were recovered from discarded packaging materials, showed a Massachusetts company that

⁴ On May 13, BIS detained the equipment and moved the goods to a government-controlled warehouse. It is unclear when **GONG** became aware about the GPUs being moved to another location.

is a retailer of Nvidia GPUs in Southborough, Massachusetts (“Massachusetts Company-1”) as seller, with shipment to the New Jersey Warehouse.

57. To prevent the illegal export of these goods, agents detained and removed all the GPUs from the warehouse. In total, the agents recovered more than \$30 million worth of export-controlled GPUs and other items from the New Jersey Warehouse.

4. Shipping and Export Records Indicated the Export of GPUs Included False Information

58. According to AES records for New York Shipping Company, New York Shipping Company began filing EEI with commodity descriptions including “adapter group,” “adapter module,” and “adapter board” (matching the false labels described above) in March 2025. These filings continued from March 12, 2025 through at least May 13, 2025 (when agents detained the shipment of GPUs described above). The shipments were filed “no license required” with an ultimate destination of an air freight facility near the Toronto International Airport in Canada. The ECCN field for all these export filings was left blank. Based on my training and experience, I know that leaving the ECCN field blank is a tactic used to conceal the true nature of the shipment and is an indication that the products may be diverted to other countries contrary to U.S. laws.

59. On May 16, 2025, agents spoke with employees of the New York Shipping Company at its offices. The employees informed agents that they recently had several exports to Canada. The contents of the exports were described as “adapters,” and the shipments were directed by an individual based in Hong Kong. A review of EEI filings for the Canada exports listed a company with a Colorado address (“Colorado Company-1”) as the U.S. Principal Party of Interest (“USPPI”) with an individual listed as the company agent. The point of contact for the company and the name on shipping documents, however, was Co-conspirator -1, an employee of Shenzhen Technology Company. When agents visited the address, they discovered it was a co-working space

and no individuals at the space knew of Colorado Company-1. Agents did not identify a valid bank account or business activity for the Colorado Company.

60. Agents also reviewed the bills of lading tied to exports handled by the New York Shipping Company during the five-day period between March 11 and March 16, 2025. Agents discovered a bill of lading for three pallets of “adapter groups” with the intermediate and ultimate consignee listed as Hong Kong Logistics Company. A review of the shipper’s letter of instruction and invoices indicated that the shipment included 23 pieces of “Sandkyan Adapter Group,” with an invoice in which Colorado Company-1 had sold the items to Hong Kong Logistics Company. Based on the items being falsely described in the same manner as Houston Company-1’s purchases and exports of GPUs, agents believe this was a shipment of Nvidia Tensor Core GPUs that was unlawfully exported to Hong Kong.

5. Messaging Group Chat After Detention of GPUs Included GONG and Referred to Hong Kong Logistics Company as “Client”

61. Three days after BIS detained the GPUs and other equipment, on May 16, 2025 at approximately 3:47 pm, “4.32” asked Engineer-1 to add him/her on the messaging application and that “4.32” would add Engineer-1 to the “client group chat”.

62. Approximately one minute later, on May 16, 2025 at 3:48 pm, Engineer-1 was added to group chat “[外部]福运-纽约设备改签服务” which translates to “[External][Hong Kong Logistics Company] - New York Equipment Label Changing Service” (hereafter “HKLC group chat”). **GONG** was also a member of this group.

63. A review of the HKLC Group Chat revealed that multiple group members asked Engineer-1 about what happened at the warehouse, demanding videochat to show the conditions at the warehouse, requesting Engineer-1 to ask questions with the warehouse about who ordered

the removal of equipment, whether there was any surveillance footage, any chat history or call history, and to ask the warehouse for license plate information, driver information, and logistic company information of the vehicle(s) that removed the servers. Engineer-1 did not know if the servers were ever found.

CONCLUSION

64. Based on my training and experience, and further supported by the facts in this affidavit, I submit that there is probable cause to believe that **Fanyue GONG**, aka “**Tom**,” had committed Conspiracy in violation of 18 U.S.C § 371 and Smuggling of Goods from the United States, in violation of 18 U.S.C. § 554.

Respectfully submitted,



Christopher O'Neill, Special Agent
U.S. Department of Commerce
Bureau of Industry and Security
Office of Export Enforcement

Subscribed and sworn to before me telephonically pursuant to Fed. R. Crim. P. 4.1 and 41(d)(3) on this 2nd day of December 2025, and I find probable cause.



Hon. Christina A. Bryan
United States Magistrate Judge

TRUE COPY I CERTIFY

ATTEST: [December 02, 2025](#)

NATHAN OCHSNER, Clerk of Court

By: s/ Antonio B. Banda

Deputy Clerk