

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

UNITED STATES OF AMERICA)	Criminal No.: 10-225 (CKK)
)	
v.)	
)	PUBLIC VERSION
STEPHEN JIN-WOO KIM,)	
also known as Stephen Jin Kim,)	
also known as Stephen Kim,)	
also known as Leo Grace,)	
)	
Defendant.)	

NOTICE OF FILING

At the Status Hearing on October 11, 2011, the Parties updated the Court on their progress with respect to outstanding discovery issues. As mentioned at the hearing, and to further inform the Court, the United States hereby files with the Court all of the discovery correspondence between the Parties without the attachments, which are voluminous. As reflected below, many of the government’s discovery productions and the defense’s most recent discovery letter are classified. Therefore, the correspondence so marked has been filed under seal with the Classified Information Security Officer (CISO) pursuant to the Court’s CIPA Protective Order [ECF Document 10]. Further, phone numbers, IP addresses, email account names, and names of third-parties have been redacted from the public filing to protect the privacy of those involved. Cf. F.R.Cr.P. 49.1.

- | | | |
|----|--------------------|---|
| 1. | September 14, 2010 | Defense letter (unclassified) |
| 2. | October 15, 2010 | Government production (unclassified) |
| 3. | October 29, 2010 | Government production (unclassified) |
| 4. | November 8, 2010 | Defense letter (unclassified) |
| 5. | November 15, 2010 | Government production (unclassified) |
| 6. | November 19, 2010 | Government production (classified) [filed under seal] |

7. November 19, 2010 Government letter (classified) [filed under seal]
8. December 20, 2010 Government production (unclassified)
9. February 11, 2011 Government production (unclassified)
10. February 18, 2011 Government production (classified) [filed under seal]
11. February 18, 2011 Government production (unclassified)
12. February 28, 2011 Government production (unclassified)
13. March 8, 2011 Government production (classified) [file under seal]
14. March 14, 2011 Government production (classified) [file under seal]
15. March 18, 2011 Government letter (classified) [file under seal]
16. April 16, 2011 Government production (classified) [file under seal]
17. May 3, 2011 Government production (classified) [file under seal]
18. May 19, 2011 Government production (classified) [file under seal]
19. June 16, 2011 Government production (classified) [file under seal]
20. June 16, 2011 Government production (unclassified)
21. September 13, 2011 Government production (classified) [file under seal]
22. September 22, 2011 Government production (classified) [file under seal]
23. September 26, 2011 Government production (classified) [file under seal]
24. October 6, 2011 Defense letter (classified) [filed under seal]

An unredacted version of this Notice of Filing and the above-listed correspondence was served upon counsel for the defendant through the CISO, in the same form as provided to the Court under seal.

CERTIFICATE OF SERVICE

On this 13th day of October, 2011, a copy of the foregoing was served on counsel of record for the defendant via the Court's Electronic Filing System.

/s/
G. MICHAEL HARVEY
Assistant United States Attorney

McDermott Will & Emery

Boston Brussels Chicago Düsseldorf Houston London Los Angeles Miami Milan
Munich New York Orange County Rome San Diego Silicon Valley Washington, D.C.
Strategic alliance with MWE China Law Offices (Shanghai)

Abbe David Lowell
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September 14, 2010

VIA EMAIL AND FIRST CLASS MAIL

G. Michael Harvey, Esquire
Jonathan M. Malis, Esquire
Assistant United States Attorneys
for the District of Columbia
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Washington, D.C. 20001

Patrick T. Murphy, Esquire
Trial Attorney
National Security Division
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1400 New York Avenue, N.W.
Washington, D.C. 20530

Re: United States v. Kim, No. 1:10-cr-00225-CKK

Gentlemen:

On behalf of our client, Stephen Kim, we hereby request that the government provide defense counsel with any document and/or information¹ subject to disclosure by the government pursuant to Rule 16 of the Federal Rules of Criminal Procedure, Rule 404(b) of the Federal Rules of Evidence, the applicable rules of prosecutorial ethics,² the Fifth and Sixth Amendments to the United States Constitution, and the Supreme Court's rulings in Brady v. Maryland, 373

¹ The word "document" and "information" includes, but is not limited to, reports, memoranda, faxes, instant messages, telexes, inter- or intra-agency transmissions, agents' notes, photographs, videos, audio recordings, letters, e-mails, papers, transcripts, printouts, contracts, checks, receipts, and all copies or portions thereof, and/or any other form of written, recorded or electronic communication.

² Prosecutorial ethics require disclosure at the earliest opportunity. See ABA Standards for Criminal Justice, Prosecution Function and Defense Function 3-3.11(a) (3d ed. 1993) ("A prosecutor should not intentionally fail to make timely disclosure to the defense, at the *earliest feasible opportunity*, of the existence of all evidence or information which tends to negate the guilt of the accused or mitigate the offense charged or which would tend to reduce the punishment of the accused.") (emphasis added); ABA Model Rules of Professional Conduct, Rule 3.8(d) (2002) ("The prosecutor in a criminal case shall . . . make timely disclosure to the defense of all evidence or information known to the prosecutor that tends to negate the guilt of the accused or mitigates the offense . . .").

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U.S. 83 (1963), and its progeny, including United States v. Agurs, 427 U.S. 97 (1976), and Giglio v. United States, 405 U.S. 150 (1972).

The documents and information that we request include not only documents and information in the possession, custody, or control of your office, but also documents and information in the possession, custody, or control of any federal agency (including, without limitation, the Federal Bureau of Investigation (“FBI”), the Central Intelligence Agency (“CIA”), the Department of State, and other agencies with which you have been working on this investigation. See, e.g., United States v. Perdomo, 929 F.2d 967, 970-71 (3d Cir. 1991); United States v. Bryan, 868 F.2d 1032, 1036 (9th Cir. 1989); United States v. Deutsch, 475 F.2d 55, 57 (5th Cir. 1973); United States v. Bryant, 439 F.2d 642, 650 (D.C. Cir. 1971).

A. Indictment Particulars

Mr. Kim requests more particular information about the allegations in the Indictment as follows:

1. In Count One of the indictment, please provide the dates encompassed by the phrase “in or about June 2009”;
2. In Count One, please provide the locations described as “elsewhere”;
3. In Count One, please provide the intelligence report, the last six digits of which are “3630-09”;
4. In Count One, please provide the identity of the nation described as “a particular foreign nation”;
5. In Count One, please provide information about the “intelligence sources and/or methods” referred to;
6. In Count One, please provide the identity of the person described as “a reporter for a national news organization”;
7. In Count One, please identify the organization described as “a national news organization”;
8. In Count Two of the indictment, please provide the identity of the “named reporter”;
9. In Count Two, please provide the identity of the “national news organization”;
10. In Count Two, please provide the dates encompassed by the phrase “in or about March 2009”; and

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11. In Count Two, please provide information relating to what is meant by “repeated contact”

B. Discovery Requests under Rule 16³

1. That portion of any written record containing the substance of any oral statement made by Mr. Kim, whether before or after indictment, in response to interrogation by any person then known to the defendant to be a government agent. Fed. R. Crim. P. 16(a)(1)(A). This request includes, without limitation, all documents, including notes (e.g. FBI 302 Forms), prepared by an FBI employee or agent that contain the substance of any statement made by either defendant. In this regard and especially because of the allegations under 18 U.S.C. § 1001, we request copies of the agents’ notes for any interviews with Mr. Kim.
2. Any and all written or recorded statements made by Mr. Kim within the possession, custody, or control of the government, the existence of which is known, or by the exercise of due diligence may become known, to the prosecution. Fed. R. Crim. P. 16(a)(1)(B).
3. A copy of any prior criminal record the government may claim to exist for Mr. Kim. Fed. R. Crim. P. 16(a)(1)(D).
4. Copies of or access to all books, papers, documents, photographs, tangible objects, buildings or places, or copies or portions thereof that were obtained from or belonging to Mr. Kim at the time of the alleged offenses. Fed. R. Crim. P. 16(a)(1)(E). Included in this request are copies of the hard drives or other electronic data taken from Mr. Kim’s work or personal computers or laptops and a copy of his passport.
5. Copies of or access to all books, papers, documents, photographs, tangible objects, buildings or places, or copies or portions thereof that the prosecution intends to use at trial during its case-in-chief. Fed. R. Crim. P. 16(a)(1)(E). This includes not only those materials that will be marked or offered into evidence, but also those materials that will be relied on or referred to in any way by any witness (including any “expert” witness) called by the prosecution during its case-in-chief.

³ We have organized these requests pursuant to the authority that appears most applicable, but we recognize that many of the materials and information we have requested are subject to production pursuant to more than one and other authorities as well. Similarly, we recognize the possibility that the materials and information we have requested may be subject to production pursuant to a different authority than that identified in the header. While we nevertheless hope this organizational system is useful to you, we do not mean to foreclose any of our client’s rights by organizing our requests in this manner. Accordingly, please treat each request as having been made pursuant to all of the authorities identified in the first paragraph of this letter.

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6. Copies of or access to all books, papers, documents, photographs, tangible objects, buildings or places, or copies or portions thereof that are material to the presentation of the defense, Federal Rule of Criminal Procedure 16(a)(1)(E), including, but not limited to those items set forth in paragraphs 7-18 below.
7. All documents or information relating to the defendant that were introduced as exhibits before the grand jury or that were obtained by or for the grand jury pursuant to any grand jury or trial subpoena.
8. All documents or information relating to Mr. Kim obtained from any witness who testified before the grand jury.
9. All documents or information relating to Mr. Kim obtained from any person who was interviewed or consulted during the course of the grand jury investigation.
10. All documents or information relating to Mr. Kim obtained from any federal government, regulatory or legislative body or agency or government contractor.
11. All documents or information relating to Mr. Kim obtained from any foreign government or entity.
12. All photographs, videos or audio recordings the government has obtained as part of the investigation of this case.
13. All documents or information obtained from any news medium concerning articles that reported the information referred to in the indictment.
14. All documents or information concerning telephone, e-mail or other electronic communications of any member of the news media obtained by the government as part of the investigation of this case.
15. All documents or information concerning the entries and departures of personnel of the Bureau of Verification, Compliance and Implementation of the Department of State and members of the news media from March 1, 2009 through September 30, 2009.
16. All documents or information that identify or describe each individual responsible for obtaining or transmitting the information that found its way into the intelligence report described in the indictment.
17. All documents or information that identify or describe each individual who had access to the intelligence report described in the indictment from June 10, 2009 through June 30, 2009.

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18. All documents or information that identify or describe each individual to whom the intelligence report described in the indictment was distributed or its contents disclosed from June 10, 2009 through June 30, 2009.

The documents requested above are material to the defendant's preparation of a defense relating to the offenses charged, including whether the events alleged in the indictment actually occurred and the defendants' involvement, knowledge, and intent with respect to the alleged events. Pursuant to Federal Rule of Criminal Procedure 16(a)(1)(E)(i), Mr. Kim is entitled to production of documents that will assist him in developing evidence to negate the charges set forth in the indictment. The requested documents will also play a critical role in uncovering admissible evidence, aiding with witness preparation, and corroborating testimony.

C. Specific Requests under *Brady/Agurs/Giglio/Fifth Amendment*

Pursuant to *Brady v. Maryland*, 373 U.S. 83 (1963), and its progeny, including *United States v. Agurs*, 427 U.S. 97 (1976), and *Giglio v. United States*, 405 U.S. 150 (1972), the defendant requests disclosure of all exculpatory or impeaching material in the United States' possession, custody, or control, the existence of which is known, or by the exercise of due diligence may become known, by the government (whether in documents, interview memoranda, agent notes, grand jury transcripts, or otherwise) including but not limited to:

1. All documents or information indicating or tending to establish that any of the allegations in the indictment might not be true.
2. All interviews or statements by potential witnesses that contain exculpatory statements, regardless of whether those statements would later be discoverable as Jencks material.
3. All documents or information indicating or tending to establish that Mr. Kim lacked the requisite intent to be guilty of the crimes charged (e.g., he was not operating in "bad faith," his intent was not to injure the interests of the United States, he was not working on behalf of any foreign country).
4. All documents or information from which the underlying intelligence agency report was prepared.
5. All documents or information reflecting a classification status different than the overall underlying intelligence agency report for any part or portion of the substantive information in that report.
6. All documents or information from other federal agencies at around the same time of the underlying intelligence agency report on the same subject.

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7. All documents or information that reflect any intelligence agency damage assessments that were done from June 2009 to the present as a result of the news article in question in this case.
8. All documents or information that reflect statements made by people interviewed by the government after the news article(s) in question in this case in which the person made statements about the significance or lack of significance of the disclosure of the information described in this case to the national security interests of the United States.
9. All documents or information that reflect any other individual the government investigated to determine the source of the information included in the news article(s) in question in this case.
10. All documents or information that reflect the public disclosure of any of the information contained in the news article in question in this case found in other public sources and whether the government attempted to find the source of those other disclosures.
11. All consideration or promises of consideration given during the course of the investigation and preparation of this matter by any law enforcement officials—including prosecutors or agents, police or informers—to or on behalf of any witness the prosecutor intends to call at trial, or at one time considered to call to trial, or any such consideration or promises expected or hoped for by any such witness at any future time. Such “consideration” refers to anything that arguably could be of value or use to a witness, including but not limited to formal or informal, direct or indirect, leniency, favorable treatment or recommendations, or other assistance with respect to any pending or potential criminal, parole, probation, pardon, clemency, civil, administrative, or any other matter involving the state, territorial or federal government, any other authority, or other parties; civil, criminal, or tax immunity grants; payments of money, rewards or fees, and special witness fees, provision of food, clothing, transportation, legal services, or other benefits; letters to help the status of the witness; and anything else that arguably could reveal an interest, motive or bias in the witness in favor of the prosecution or against the defendant or act as an inducement to testify or to color his or her testimony.
12. All statements—formal and informal, oral or written—by the prosecution, its agents, and representatives to any person (including counsel for such persons) whom the prosecution intends to call as a witness at trial pertaining in any way to the possibility, likelihood, course, or outcome of any government action—state, territorial or federal, criminal or civil—or immigration matters against the witness, or anyone related by blood or marriage to the witness.

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13. All inducements or threats, express or implied, direct or indirect, or other coercion directed against any witness or anyone related by blood or marriage to the witness, whom the prosecutor intends to call at trial; criminal prosecutions, investigations or potential prosecutions pending or which could be brought against any such witness or anyone related by blood or marriage to the witness; any probationary, parole, or deferred prosecution status of any such witness or anyone related by blood or marriage to the witness; and any civil, tax court, court of claims, administrative, or other pending or potential legal disputes or transactions involving any such witness, or anyone related by blood or marriage to the witness, and the state or federal government, or over which the state or federal government has real, apparent, or perceived influence.
14. All documents and other information regarding drug and alcohol usage and/or dependency by any individual the United States intends to use as a witness at trial, including but not limited to records relating to treatment of such individual in any federal, state, territorial, city, or military drug or detoxification program.
15. Any material not otherwise listed that reflects or evidences the motivation of any witness to cooperate with the United States or reflects or evidences the competency or credibility of the United States' witness, or the witness's bias or hostility against any defendants.
16. All statements or documents, including but not limited to grand jury testimony, executed by any potential prosecution witness, which the prosecution knows, or through reasonable diligence should have reason to know, is inaccurate or false.
17. All written or oral statements, whether or not reduced to writing, made by any potential prosecution witness, which in any way contradicts or is inconsistent with other oral or written statements, whether or not reduced to writing, made by any person, whether or not a witness.
18. All requests prepared by the prosecution for permission to grant immunity (formal or informal) or leniency for any witness, regardless of whether or not such request was granted.
19. The names and addresses of all persons whom the prosecution, its agents and representatives believe to have relevant knowledge or information with reference to the charges contained in the Indictment but whom the prosecution does not intend to call as witnesses at trial.
20. Copies of all documents, statements, and any other evidence including but not limited to a written summary of all oral evidence and statements now known to the United States or that may become known to the United States or that through

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due diligence may be learned from the investigating agents or witnesses in this case or persons interviewed in connection with the investigation, that are exculpatory in nature or favorable to either defendant, or tend to negate or mitigate the guilt of either defendant, as to the offenses charged, or would tend to reduce the punishment therefore.

21. Copies of any and all records of law enforcement or other governmental agencies reflecting intradepartmental disciplinary action taken against any law enforcement agency for which the witness previously worked.

D. Other Crimes Evidence

Pursuant to the Fifth and Sixth Amendments and Federal Rule of Evidence 404(b), we request that the prosecution disclose all evidence of any similar crimes, wrongs, or acts allegedly committed by the defendant, upon which the prosecution intends to rely to prove motive, scheme, opportunity, intent, preparation, knowledge, or absence of mistake or accident.

E. Suppression Issues

As a predicate to motions pursuant to Federal Rule of Criminal Procedure 12, we request that we be informed if any search warrants, Title III communications interceptions, or FISA interceptions or searches were conducted as part of the investigation of this case.

F. Grand Jury

The defendant requests that the prosecution disclose the empanelment date of the grand jury that heard evidence concerning this case; the record of the empanelment of the grand jury and selection of grand jurors; the dates on which each such grand jury sat and the number of grand jurors present on those dates; the dates on which each grand juror was in attendance; the identities of all persons to whom grand jury materials were disclosed; whether any persons were present during grand jury proceedings other than the grand jurors, witnesses, court reporter, and the Assistant United States Attorneys; the instructions provided to the grand jury before the indictment was returned; and the voting record and record of return in open court of the indictment.

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Please let us know when we can begin to receive the discovery information requested. We will supplement these requests as we continue our preparation for trial. Should you have any questions or wish to discuss any of these requests further, please contact me.

Sincerely,

A handwritten signature in black ink, appearing to read "Abbe David Lowell". The signature is written in a cursive style with a large initial "A" and "D".

Abbe David Lowell



U.S. Department of Justice

Ronald C. Machen Jr.
United States Attorney

District of Columbia

*Judiciary Center
555 Fourth St., N.W.
Washington, D.C. 20530*

October 15, 2010

VIA E-MAIL AND FEDEX (with attachments)

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Washington, D.C. 20005-3096
202-756-8001

Ruth Wedgwood, Esq.
1619 Massachusetts Ave., NW
Washington, D.C. 20036
202-663-5618

Re: United States v. Stephen Jin-Woo Kim, Crim. No. 10-255 (CKK)

Dear Mr. Lowell and Ms. Wedgwood,

To assist you in preparing for trial in this case, and pursuant to your request for Rule 16 discovery, enclosed please find one disk labeled "U.S. v. Stephen Kim, Discovery Disc # 1, US-0000001 to US-0002111," containing the Government's first production of unclassified discovery in the above-captioned matter.¹ We anticipate producing additional unclassified discovery to you on a rolling basis and will get those materials to you as soon as they become available.

¹As mentioned orally at your client's initial appearance on August 27, 2010, we note here that prior to the indictment of your client and his arraignment in this case, the Government shared and reviewed with you substantial classified and unclassified documents and information.

**CONTENTS SUBJECT TO PROTECTIVE ORDER
ISSUED BY U.S. DISTRICT COURT ON OCTOBER 13, 2010**

I. Unclassified Documents and Videos

To assist you in your review of the enclosed documents and items, we assigned Bates numbers to them and provide the following index:

1. Federal Reserve Bank of New York records (US-0000001 to US-0000234);
2. Hanmi Bank records (US-0000235 to US-0000248);
3. JP Morgan Chase Bank records (US-0000249 to US-0000502);
4. Department of State (DoS) Federal Credit Union records (US-0000503 to US-0000631);
5. American Express records (US-0000632 to US-0000946);
6. Comcast subscriber and call detail records for (202) 506-██████████ (US-0000947 to US-0001007);
7. Comcast Internet subscriber records for Stephen Kim (US-0001008)
8. Yahoo! subscriber and IP address records for ██████████@yahoo.com (US-0001009 to US-0001114);
9. Yahoo! subscriber and IP address records for ██████████@yahoo.com (US-0001115 to US-0001119);
10. Google subscriber and IP address records for ██████████@gmail.com (US-0001120 to US-0001121);
11. AT&T subscriber and call detail records for (202) 777-██████████ (US-0001122 to US-0001125);
12. AT&T subscriber records for (212) 601-██████████ (US-0001126);
13. AT&T Wireless subscriber records for (202) 549-██████████ (US-0001127 to US-0001128);
14. AT&T Wireless subscriber and call detail records for (202) 549-██████████ (US-0001129 to US-0001137);
15. AT&T Wireless subscriber records for (202) 615-██████████ (US-0001138 to US-0001139);
16. AT&T Wireless subscriber and call detail records for (202) 213-██████████ (US-0001140 to

US-0001155);

17. TracFone subscriber records for (202) 213-████ (US-0001156 to US-0001159);
18. T-Mobile subscriber and call detail records for (703) 342-████ (US-0001160 to US-0001219);
19. Security video from the American Red Cross (US-0001220 to US-0001222);
20. Verizon subscriber records for (202) 824-████, (202) 861-████, and (202) 861-████ (US-0001223 to US-0001224);
21. Verizon subscriber and call detail records for (703) 883-████ (US-0001225 to US-0001230);
22. Verizon IP address records for 71.163-████ (US-0001231);
23. Verizon call detail records for (202) 824-████, (202) 861-████, and (202) 861-████ (US-0001232 to US-0001239);
24. Verizon subscriber records for the following phone numbers:
 - a. (202) 293-████
 - b. (202) 728-████
 - c. (202) 824-████
 - d. (202) 456-████
 - e. (202) 456-████
 - f. (202) 824-████
 - g. (202) 824-████
 - h. (202) 824-████
 - i. (202) 824-████
 - j. (202) 547-████
 - k. (202) 647-████
 - l. (202) 647-████
 - m. (718) 720-████
 - n. (703) 979-████
 - o. (202) 628-████

(US-0001240 to US-0001248);
25. Verizon Wireless subscriber and call detail records for (202) 577-████ (US-0001249 to US-0001430);

26. Verizon Wireless subscriber records for (202) 329-██████ (US-0001431 to US-0001432);
27. Verizon Wireless subscriber records for (703) 472-██████ (US-0001433 to US-0001434);
28. Passport applications for Stephen Kim (US-0001435 to US-0001437);
29. Security banner for Stephen Kim's Unclassified and SECRET DoS computer systems (US-0001438);
30. Security banner for Stephen Kim's TOP SECRET DoS computer system (US-0001439);
31. DoS Bureau of Verification, Compliance and Implementation rotation duty rosters (US-0001440 to US-0001447);
32. Security briefing forms for Stephen Kim (US-0001448 to US-0001480);
33. Security debriefing forms for Stephen Kim (US-0001481 to US-0001482);
34. Acknowledgment for Acceptable Use of Government-Issued Personal Digital Assistants (PDAs) for Stephen Kim (US-0001483 to US-0001484);
35. Personal Custody Property Receipt for Stephen Kim (US-0001485);
36. COMSEC Material Report form for Stephen Kim (US-0001486);
37. DoS badge records for Stephen Kim (US-0001487 to US-0001579);
38. DoS badge records (US-0001580 to US-0001582);
39. DoS call detail records for (202) 316-██████ (US-0001583 to US-0001609);
40. Computer screen shots of Stephen Kim's unclassified DoS computer system (US-0001610 to US-0001625);
41. Excerpts from the DoS Foreign Affairs Manual (FAM) (US-0001626 to US-0001946);
42. Paperwork regarding Sony Vaio computer (US-0001947 to US-0001950);
43. Paperwork regarding Apple computer (US-0001951 to US-0001953);
44. Video surveillance camera screen shots and badge records (US-0001954 to US-0001956);

45. DoS call detail records for (202) 647- [REDACTED] (US-0001957 to US-0001975);
46. DoS video from 9/15/09 and associated badge records (US-0001976 to US-0001977);
47. DoS video from 9/15/09 - 9/16/09 and associated badge records (US-0001978 to US-0001979);
48. DoS video from 9/18/09 and associated badge records (US-0001980 to US-0001982);
49. DoS video from 9/24/09 - 9/25/09 and associated badge records (US-0001983 to US-0001984);
50. Classified Information Non-disclosure Statement (US-0001985);
51. Consent to Search (US-0001986 to US0001987);
52. Emails recovered from Stephen Kim's DoS unclassified computer (US-0001988 to US-0001998);
53. Emails recovered from [REDACTED]@gmail.com account (US-0001999 to US-0002012);
54. Screenshots of emails from Stephen Kim's DoS unclassified computer (US-0002013 to US-0002030);
55. Emails and records recovered from [REDACTED]@yahoo.com and [REDACTED]@yahoo.com accounts (US-0002031 to US-0002108);
56. DoS floor plans (US-0002109 to US-0002111).

Prior to the production to the prosecution team of the emails recovered from the [REDACTED]@yahoo.com and [REDACTED]@yahoo.com accounts (US-0002031 to US-0002108), those emails were reviewed for potentially-privileged material by a Federal Bureau of Investigation (FBI) Special Agent and an Assistant United States Attorney (AUSA) with no involvement in the criminal investigation and prosecution of your client. If you have any questions concerning the privilege review, please contact AUSA John Borchert at (202) 353-2442.

II. Unclassified Hard Drives

We have also enclosed one 1 TB hard drive and one 500 GB hard drive with duplicate images of your client's Sony and Apple computer hard drives which he provided to the FBI on

March 29, 2010. We are also in possession of three separate images of your client's unclassified DoS hard drive as of August 31, 2009, September 22, 2009, and September 30, 2009, respectively. Please provide us with three 80 GB hard drives, and we will have those three images duplicated and produced to you when they have been scrubbed for classified information. We are also in possession of your client's unclassified Department of Energy (DoE) computer. We will have an image made of that computer and produce it to you when the DoE computer has been scrubbed for classified information.

III. Defendant's Rule 16 Statements

The Government provides notice to you of any statements made by your client contained in the attached discovery materials. Further, FBI Form 302s of your client's statements to the FBI on September 24, 2009 and March 29, 2010, respectively, will be provided to you in classified discovery.

IV. Expert Witnesses/Reports of Examinations and Tests

The Government has not yet determined which, if any, expert witnesses it may call at trial. When the Government has done so, it will so inform the defense and comply with its obligations under Rule 16(a)(1)(G).

V. Criminal Record

The Government is unaware of any prior convictions for your client.

VI. Classified Discovery

As we have discussed, the Government is also preparing for your review of classified discovery. Once other defense counsel have obtained the necessary clearances, and you are prepared to review the classified materials in an approved SCIF, we can arrange for your inspection of those materials on a rolling basis as they become available for production.

VII. Reciprocal Discovery Demands

The United States formally requests full reciprocal discovery pursuant to Fed. R. Crim. P. 16(b), including but not limited to the disclosure of any documents, photos, tangible objects, and reports of examinations or tests you intend to use at trial.

Should you have any questions, please contact us.

Very truly yours,

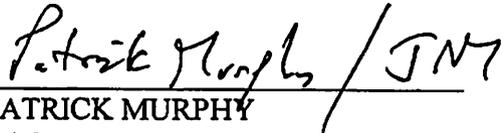
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Enclosures



U.S. Department of Justice

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District of Columbia

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October 29, 2010

VIA E-MAIL AND FEDEX (with attachments)

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McDermott, Will & Emery, LLP
600 Thirteenth St., NW
Washington, D.C. 20005-3096

Ruth Wedgwood, Esq.
1619 Massachusetts Ave., NW
Washington, D.C. 20036

Re: United States v. Stephen Jin-Woo Kim, Crim. No. 10-255 (CKK)

Dear Mr. Lowell and Ms. Wedgwood,

To assist you in preparing for trial in this case, and pursuant to your request for Rule 16 discovery, enclosed please find a disc labeled "U.S. v. Stephen Jin Kim, Discovery Disc # 2, US-0002112 to US-0014567," containing the following items representing the Government's second production of unclassified discovery in the above-captioned matter:

I. Unclassified Documents

1. Pen register and trap trace order results for (202) 577-██████████ (US-0002112 to US-0005253);
2. Pen register and trap trace order results for (703) 342-██████████ (US-0005254 to US-0006335);
3. Pen register and trap trace order results for (703) 883-██████████ (US-0006336 to US-0006818);
4. Pen register and trap trace order results for ██████████@gmail.com (US-0006819 to US-0006821);

5. Pen register and trap trace order results for [REDACTED]@yahoo.com (US-0006822 to US-0006824);
6. Pen register and trap trace order results for [REDACTED]@yahoo.com (US-0006825 to US-0009402);
7. 18 U.S.C. §2703(d) order results for [REDACTED]@gmail.com (US-0009403 to US-0009470);
8. 18 U.S.C. §2703(d) order results for [REDACTED]@yahoo.com (US-0009471 to US-0014532);
9. Copy of Stephen Kim's passport (US-0014533 to US-0014548); and
10. Department of State (DoS) badge records (US-0014549 to US-0014567).

II. Electronic Media

We have also enclosed the following additional electronic media:

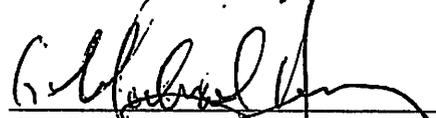
1. A 250 GB hard drive marked "U.S. v. Stephen Jin Kim, Three DoS Open Net Workstation Images, (US-0014568)," which contains three separate images of your client's DoS Open Net workstation computer taken as of August 31, 2009, September 22, 2009, and September 30, 2009; and
2. Three discs entitled "U.S. v. Stephen Jin Kim, Discovery Disc #3, US-0014569," "U.S. v. Stephen Jin Kim, Discovery Disc #4, US-0014570," and "U.S. v. Stephen Jin Kim, Discovery Disc #5, US-0014571," which contain copies of your client's DoS Open Net workstation email.

The Government used keyword searches to attempt to identify classified information on this electronic media. Those searches did not reveal any classified information. Keyword searching for classified information on electronic media has its limitations; nevertheless, processing classified information on the DoS Open Net system was prohibited. Because the keyword searches did not identify any such classified information, and because a byte-by-byte review of the voluminous data on this electronic media was impractical, we are providing this electronic media to you in unclassified discovery pursuant to the Rule 16 protective order entered in this case. We reserve the right to protect any classified information that may later be identified on this electronic media under the Classified Information Procedures Act protective order.

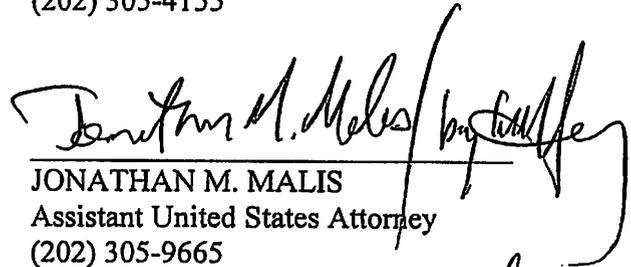
Should you have any questions, please contact us.

Very truly yours,

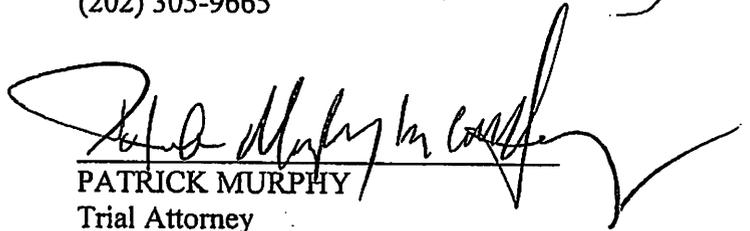
RONALD C. MACHEN JR.
United States Attorney



G. MICHAEL HARVEY
Assistant United States Attorney
(202) 305-4155



JONATHAN M. MALIS
Assistant United States Attorney
(202) 305-9665



PATRICK MURPHY
Trial Attorney
U.S. Department of Justice
(202) 305-7003

Enclosures

McDermott Will & Emery

Boston Brussels Chicago Düsseldorf Houston London Los Angeles Miami Milan
Munich New York Orange County Rome San Diego Silicon Valley Washington, D.C.

Strategic alliance with MWE China Law Offices (Shanghai)

Abbe David Lowell
Attorney at Law
adlowell@mwe.com
+1 202 756 8001

November 8, 2010

VIA EMAIL

G. Michael Harvey, Esquire
Jonathan M. Malis, Esquire
Assistant United States Attorneys
for the District of Columbia
555 4th Street, N.W.
Washington, D.C. 20001

Patrick T. Murphy, Esquire
Trial Attorney
National Security Division
Department of Justice
1400 New York Avenue, N.W.
Washington, D.C. 20530

Re: United States v. Kim, No. 1:10-cr-00225-CKK

Gentlemen:

On behalf of our client, Stephen Kim, we are writing to supplement our initial requests for discovery. In our discovery letter dated September 14, 2010, we requested that the government provide defense counsel with any document and/or information¹ subject to disclosure by the government pursuant to Rule 16 of the Federal Rules of Criminal Procedure, Rule 404(b) of the Federal Rules of Evidence, the applicable rules of prosecutorial ethics, the Fifth and Sixth Amendments to the United States Constitution, and the Supreme Court's ruling in Brady v. Maryland, 373 U.S. 83 (1963), and its progeny, including United States v. Agurs, 427 U.S. 97 (1976), and Giglio v. United States, 405 U.S. 150 (1972).

As it now appears that there will be more data than we may be able to organize or review and because, especially in the electronic media, the government can put us in a position to be

¹ The word "document" and "information" includes, but is not limited to, reports, memoranda, faxes, instant messages, telexes, inter- or intra-agency transmissions, agents' notes, photographs, videos, audio recordings, letters, e-mails, papers, transcripts, printouts, contracts, checks, receipts, and all copies or portions thereof, and/or any other form of written, recorded or electronic communication.

November 8, 2010

Page 2

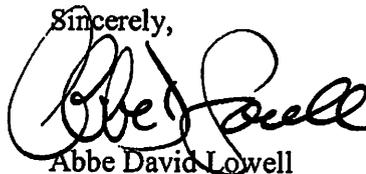
“finding that needle in a haystack,” we are also making a specific request, pursuant to Fed. R. Crim. P. 12(b)(4)(B) and Fed. R. Crim. P. 16(a)(1)(E)(ii), for copies of or access to all books, papers, documents, photographs, tangible objects, buildings or places, or copies or portions thereof that the prosecution intends to use at trial during its case-in-chief. This request includes not only those materials that will be marked or offered into evidence, but also those materials that will be relied on or referred to in any way by any witness (including any “expert” witness) called by the prosecution during its case-in-chief.

Also, based on your request that we put it in writing, we are including in our specific *Brady* requests any information that refutes the suggestions the government has been making to witnesses concerning the possible motive of our client to commit the acts for which he has been charged. As we mentioned when we met last, government agents have suggested to witnesses a number of theories and we understand that on at least many occasions, those witnesses have contracted those theories. We believe these contradictions to be exculpatory and request that the statements be provided to us.

All of the material we have requests are material to the defendant’s preparation of a defense relating to the offenses charged, including whether the events alleged in the indictment actually occurred and the defendant’s involvement, knowledge, and intent with respect to the alleged events. Pursuant to Federal Rule of Criminal Procedure 16(a)(1)(E)(i), Mr. Kim is entitled to production of documents that will assist him in developing evidence to negate the charges set forth in the indictment. The requested documents will also play a critical role in uncovering admissible evidence, aiding with witness preparation, and corroborating testimony.

Please let us know when we can expect to receive the discovery information requested. We will supplement these requests as we continue our preparation for trial. Should you have any questions or wish to discuss any of these requests further, please contact me.

Sincerely,

A handwritten signature in black ink, appearing to read "Abbe David Lowell". The signature is stylized and cursive, with the first name "Abbe" being particularly prominent.

Abbe David Lowell



U.S. Department of Justice

Ronald C. Machen Jr.
United States Attorney

District of Columbia

*Judiciary Center
555 Fourth St., N.W.
Washington, D.C. 20530*

November 15, 2010

VIA E-MAIL AND FEDEX (with attachments)

Abbe D. Lowell, Esq.
McDermott, Will & Emery, LLP
600 Thirteenth St., NW
Washington, D.C. 20005-3096

Re: United States v. Stephen Jin-Woo Kim, Crim. No. 10-255 (CKK)

Dear Mr. Lowell,

To assist you in preparing for trial in this case, and pursuant to your request for Rule 16 discovery, enclosed please find a disk labeled "U.S. v. Stephen Jin Kim, Discovery Disc # 6, US-0014572," containing the following items representing the Government's third production of unclassified discovery in the above-captioned matter:

- "Spector" screenshots collected of your client's DoS Open Net workstation computer and Internet activity from August 24, 2009 through October 1, 2009 (US-0014572).

The Government used keyword searches to attempt to identify classified information on this electronic media. Those searches did not reveal any classified information. Keyword searching for classified information on electronic media has its limitations; nevertheless, processing classified information on the DoS Open Net system was prohibited. Because the keyword searches did not identify any such classified information, and because a byte-by-byte review of the voluminous data on this electronic media was impractical, we are providing this electronic media to you in unclassified discovery pursuant to the Rule 16 protective order entered in this case. We reserve the right to protect any classified information that may later be identified on this electronic media under the Classified Information Procedures Act protective order.

**CONTENTS SUBJECT TO PROTECTIVE ORDER
ISSUED BY U.S. DISTRICT COURT ON OCTOBER 13, 2010**

The Spector screenshots were collected with Spector CNE software. You will need that software to open and review the Spector screenshots file contained on the enclosed disk. It can be purchased from:

SpectorSoft Corporation
1555 Indian River Blvd
Bldg. B-210
Vero Beach, FL 32960
Tel: 888-598-2788
<http://www.spectorcne.com>

Should you have any questions, please contact us.

Very truly yours,

RONALD C. MACHEN JR.
United States Attorney



G. MICHAEL HARVEY
Assistant United States Attorney
(202) 252-7810



JONATHAN M. MALIS
Assistant United States Attorney
(202) 252-7806



PATRICK MURPHY
Trial Attorney
U.S. Department of Justice
(202) 305-7003

Enclosure

**CONTENTS SUBJECT TO PROTECTIVE ORDER
ISSUED BY U.S. DISTRICT COURT ON OCTOBER 13, 2010**

The November 19, 2010 Government production
(classified) is filed under seal.

The November 19, 2010 Government letter (classified)
is filed under seal.



U.S. Department of Justice

Ronald C. Machen Jr.
United States Attorney

District of Columbia

*Judiciary Center
555 Fourth St., N.W.
Washington, D.C. 20530*

December 20, 2010

VIA E-MAIL AND HAND DELIVERY (with attachments)

Abbe D. Lowell, Esq.
McDermott, Will & Emery, LLP
600 Thirteenth St., NW
Washington, D.C. 20005-3096

Re: United States v. Stephen Jin-Woo Kim, Crim. No. 10-255 (CKK)

Dear Mr. Lowell,

To assist you in preparing for trial in this case, and pursuant to your request for Rule 16 discovery, enclosed please find the following items representing the Government's fourth production of unclassified discovery in the above-captioned matter:

- A 300 GB hard drive marked "U.S. v. Stephen Jin Kim, DoE Laptop Image, (US-0014573)," which contains an image of the unclassified materials on your client's Department of Energy (DoE) laptop received from him on March 29, 2010.

As we have discussed, the DoE identified classified material on Mr. Kim's DoE laptop. Per our December 13, 2010 letter agreement, search of that classified material for discoverable items will be addressed through the parties' December 8, 2010 agreement. For your convenience and to facilitate the defense's discovery of the unclassified materials on the hard drive, we have had the unclassified materials removed from the image of the hard drive disclosed with this letter.

The classified material on Mr. Kim's DoE laptop was identified through keyword searches. Keyword searching for classified information on electronic media has its limitations. Because a byte-by-byte review of the voluminous data on Mr. Kim's DoE laptop was impractical,

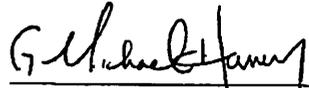
**CONTENTS SUBJECT TO PROTECTIVE ORDER ISSUED BY U.S. DISTRICT
COURT ON OCTOBER 13, 2010**

we are providing this electronic media to you in unclassified discovery pursuant to the Rule 16 protective order entered in this case. We reserve the right to protect any classified information that may later be identified on this electronic media under the Classified Information Procedures Act protective order.

Should you have any questions, please contact us.

Very truly yours,

RONALD C. MACHEN JR.
United States Attorney



G. MICHAEL HARVEY
Assistant United States Attorney
(202) 252-7810



JONATHAN M. MALIS
Assistant United States Attorney
(202) 252-7806



PATRICK MURPHY
Trial Attorney
U.S. Department of Justice
(202) 305-7003

Enclosure

**CONTENTS SUBJECT TO PROTECTIVE ORDER ISSUED BY U.S. DISTRICT
COURT ON OCTOBER 13, 2010**



U.S. Department of Justice

Ronald C. Machen Jr.
United States Attorney

District of Columbia

*Judiciary Center
555 Fourth St., N.W.
Washington, D.C. 20530*

February 11, 2011

VIA E-MAIL AND FEDEX (with attachments)

Abbe D. Lowell, Esq.
McDermott, Will & Emery, LLP
600 Thirteenth St., NW
Washington, D.C. 20005-3096

Re: United States v. Stephen Jin-Woo Kim, Crim. No. 10-255 (CKK)

Dear Mr. Lowell,

To assist you in preparing for trial in this case, and pursuant to your request for Rule 16 discovery, enclosed please find a disc labeled "U.S. v. Stephen Jin Kim, Discovery Disc #7, US-00014574 to US-0014652," containing the following items representing the Government's fifth production of unclassified discovery in the above-captioned matter:

I. Unclassified Documents

1. Redacted March 14, 2008 email from your client (US-0014574);
2. Redacted March 25, 2008 email from your client (US-0014575);
3. July 25, 2006 letter of recommendation on behalf of your client (US-0014576);
4. May 17, 2008 employment cover letter by your client (US-0014577 to US-0014580);
5. Classified Information Non-Disclosure Agreement signed by your client on October 16, 2002 (US-0014581 to US-0014582);
6. Classified Information Non-Disclosure Agreement signed by your client on November 8, 2002 (US-0014583 to US-0014584);

**CONTENTS SUBJECT TO PROTECTIVE ORDER
ISSUED BY U.S. DISTRICT COURT ON OCTOBER 13, 2010**

7. June 18, 2009 email to [REDACTED]@yahoo.com (US-0014585);
8. Frontier Communications subscriber records for (304) 558-[REDACTED] (US-0014586 to US-0014587);
9. Verizon subscriber records for (212) 301-[REDACTED] (US-0014588);
10. AT&T subscriber records for (202) 628-[REDACTED] (US-0014589 to US-0014590);
11. AT&T Mobility subscriber records for (917) 562-[REDACTED] (US-0014591 to US-0014594);
12. Yahoo! IP address records for [REDACTED]@yahoo.com (US-0014595 to US-0014629);
13. Department of State (DoS) badge records from August 3, 2009 through September 30, 2009 (US-0014630 to US-0014651); and
14. DoS badge records for January 18, 2010 (US-0014652).

II. Electronic Media

We have also enclosed the following additional electronic media:

1. One CD containing .wav files of recordings related to the telephone numbers indicated in the .wav file name, labeled "U.S. v. Stephen Jin Kim, Discovery Disc #8, Recordings, US-0014653."

Should you have any questions, please contact us.

Very truly yours,

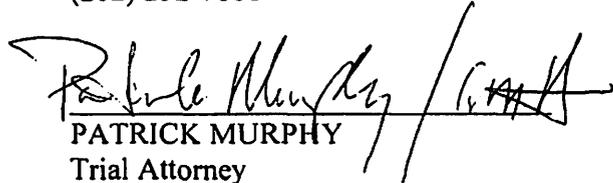
RONALD C. MACHEN JR.
United States Attorney



G. MICHAEL HARVEY
Assistant United States Attorney
(202) 252-7810



JONATHAN M. MALIS
Assistant United States Attorney
(202) 252-7806



PATRICK MURPHY
Trial Attorney
U.S. Department of Justice
(202) 305-7003

Enclosures

**CONTENTS SUBJECT TO PROTECTIVE ORDER
ISSUED BY U.S. DISTRICT COURT ON OCTOBER 13, 2010**

**The February 18, 2011 Government production
(classified) is filed under seal.**



U.S. Department of Justice

Ronald C. Machen Jr.
United States Attorney

District of Columbia

*Judiciary Center
555 Fourth St., N.W.
Washington, D.C. 20530*

February 18, 2011

VIA E-MAIL AND FEDEX (with attachments)

Abbe D. Lowell, Esq.
McDermott, Will & Emery, LLP
600 Thirteenth St., NW
Washington, D.C. 20005-3096

Re: United States v. Stephen Jin-Woo Kim, Crim. No. 10-255 (CKK)

Dear Mr. Lowell,

To assist you in preparing for trial in this case, and pursuant to your request for Rule 16 discovery, enclosed please find a disc labeled "U.S. v. Stephen Jin Kim, Discovery Disc #8, US-00014654 to US-0014657," containing the following items representing the Government's sixth production of unclassified discovery in the above-captioned matter:

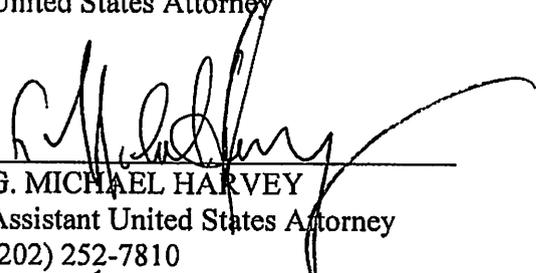
Unclassified Documents

1. Redacted FBI 302 concerning March 29, 2010, and March 30, 2010, telephone conversations with the defendant or Ruth Wedgwood (US-00014654 to US-0001655); and
2. Consent to Search form signed by the defendant on March 29, 2010 (US-00014656 to US-0001657).

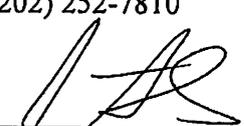
Should you have any questions, please contact us.

Sincerely,

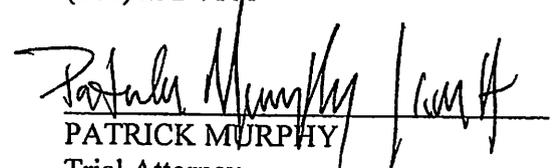
RONALD C. MACHEN JR.
United States Attorney



G. MICHAEL HARVEY
Assistant United States Attorney
(202) 252-7810



JONATHAN M. MALIS
Assistant United States Attorney
(202) 252-7806



PATRICK MURPHY
Trial Attorney
U.S. Department of Justice
(202) 223-2093

Enclosures



U.S. Department of Justice

Ronald C. Machen Jr.
United States Attorney

District of Columbia

*Judiciary Center
555 Fourth St., N.W.
Washington, D.C. 20530*

February 28, 2011

VIA E-MAIL AND FEDEX (with attachments)

Abbe D. Lowell, Esq.
McDermott, Will & Emery, LLP
600 Thirteenth St., NW
Washington, D.C. 20005-3096

Re: United States v. Stephen Jin-Woo Kim, Crim. No. 10-255 (CKK)

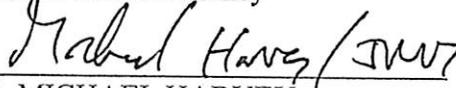
Dear Mr. Lowell,

To assist you in preparing for trial in this case, and pursuant to your request for Rule 16 discovery, enclosed please find a disc labeled "U.S. v. Stephen Jin-Woo Kim, Discovery Disc #9, US-0014658," containing the badge records for individuals who were employees, contractors, and/or detailees to the Department of State's Bureau of Verification, Compliance, and Implementation (now the Bureau of Arms Control, Verification, and Compliance) for the period March 1, 2009, through September 30, 2009. Please return this disk and any copies thereof (whether on disk or other electronic or paper form) to the United States upon the completion of this case.

Should you have any questions, please contact us.

Very truly yours,

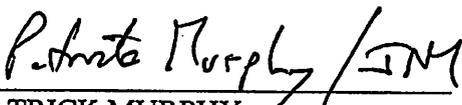
RONALD C. MACHEN JR.
United States Attorney


G. MICHAEL HARVEY
Assistant United States Attorney
(202) 252-7810

**CONTENTS SUBJECT TO PROTECTIVE ORDER
ISSUED BY U.S. DISTRICT COURT ON OCTOBER 13, 2010**



JONATHAN M. MALIS
Assistant United States Attorney
(202) 252-7806



PATRICK MURPHY
Trial Attorney
U.S. Department of Justice
(202) 233-2093

Enclosures

**CONTENTS SUBJECT TO PROTECTIVE ORDER
ISSUED BY U.S. DISTRICT COURT ON OCTOBER 13, 2010**

The March 8, 2011 Government production (classified)
is filed under seal.

The March 14, 2011 Government production
(classified) is filed under seal.

The March 18, 2011 Government letter (classified) is
filed under seal.

The April 16, 2011 Government production (classified)
is filed under seal.

The May 3, 2011 Government production (classified)
is filed under seal.

**The May 19, 2011 Government production (classified)
is filed under seal.**

The June 16, 2011 Government production (classified)
is filed under seal.



U.S. Department of Justice

Ronald C. Machen Jr.
United States Attorney

District of Columbia

*Judiciary Center
555 Fourth St., N.W.
Washington, D.C. 20530*

June 16, 2011

VIA E-MAIL AND FEDEX (with attachments)

Abbe D. Lowell, Esq.
Chadbourne & Parke LLP
1200 New Hampshire Avenue, N.W.
Washington, D.C. 20036

Re: United States v. Stephen Jin-Woo Kim, Crim. No. 10-255 (CKK)

Dear Mr. Lowell,

To assist you in preparing for trial in this case, and pursuant to your request for Rule 16 discovery, enclosed please find the following items representing the Government's 12th production of unclassified discovery in the above-captioned matter:

1. Four disks labeled "U.S. v. Stephen Kim, Discovery Disk # 16," "U.S. v. Stephen Kim, Discovery Disk # 17," "U.S. v. Stephen Kim, Discovery Disk # 18," and "U.S. v. Stephen Kim, Discovery Disk # 19," which contain copies of your client's DoS Open Net workstation emails and related data. Please note that these disks contain additional unclassified emails that were not contained on "U.S. v. Stephen Jin Kim, Discovery Disk #3," "U.S. v. Stephen Kim, Discovery Disk # 4" or "U.S. v. Stephen Jin Kim, Discovery Disk #5" which were produced to the defense in unclassified discovery on October 29, 2010.
2. Two pages of emails between your client and [REDACTED] sent in July 2005 (US-00015188 to US-00015189).

Should you have any questions, please contact us.

Sincerely,

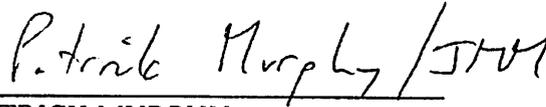
RONALD C. MACHEN JR.
United States Attorney

Handwritten signature of G. Michael Harvey in black ink, written over a horizontal line.

G. MICHAEL HARVEY
Assistant United States Attorney
(202) 252-7810

Handwritten signature of Jonathan M. Malis in black ink, written over a horizontal line.

JONATHAN M. MALIS
Assistant United States Attorney
(202) 252-7806

Handwritten signature of Patrick Murphy in black ink, written over a horizontal line.

PATRICK MURPHY
Trial Attorney
U.S. Department of Justice
(202) 233-2093

Enclosures

The September 13, 2011 Government production
(classified) is filed under seal.

The September 22, 2011 Government production
(classified) is filed under seal.

The September 26, 2011 Government production
(classified) is filed under seal.

The October 6, 2011 Defense letter (classified) is filed under seal.