

1 KEVIN V. RYAN (CSBN 118321)
United States Attorney

2
3
4
5
6
7
8 UNITED STATES DISTRICT COURT
9 NORTHERN DISTRICT OF CALIFORNIA
10 SAN FRANCISCO DIVISION

11 UNITED STATES OF AMERICA,)
12 Plaintiff,)
13 v.)
14 AMR MOHSEN and)
15 ALY MOHSEN,)
16 Defendants.)

No.: CR 03-0095 PJH

VIOLETIONS: 18 U.S.C. § 371--
Conspiracy to Obstruct Justice and
Commit Perjury; 18 U.S.C. § 1621(1) --
Perjury; 18 U.S.C. § 1622 -- Subornation
of Perjury; 18 U.S.C. § 1341-- Mail
Fraud; 18 U.S.C. § 1503--Obstruction of
Justice; 18 U.S.C. §§ 401(3) and 3148--
Contempt of Court; 18 U.S.C. § 2--
Aiding and Abetting and Willfully
Causing Offenses; 18 U.S.C. § 1512
(b)(1)--Attempted Witness Tampering; 18
U.S.C. § 373--Solicitation To Commit
Arson; 18 U.S.C. § 373--Solicitation To
Commit Murder

17
18
19 SAN FRANCISCO VENUE

20 SUPERSEDING INDICTMENT RETURNED JULY 27, 2004

21 The Grand Jury charges:

22 1. At all times relevant to this Indictment:

23 The Defendants and Companies

24 a. Amr Mohsen ("Amr") is an engineer and the founder, chairman and chief
25 executive officer of Aptix Corporation ("Aptix"), a California corporation headquartered
26 in San Jose, California. Aptix owns United States Patent No. 5,544,069 ("069 Patent")
27 which covers certain hardware-emulation technology. Amr Mohsen is the named
28

SUPERSEDING INDICTMENT
RETURNED JULY 27, 2004
CR 03-0095 PJH

1 inventor of the 069 Patent. The 069 Patent discloses and claims "field programmable"
2 circuit boards that permit computer programmers to reconfigure the electronic
3 components of an integrated circuit.

4 b. Dr. Aly Mohsen ("Aly") is a medical doctor and Amr's brother. Aly resides in
5 Springfield, Missouri, and owns 15,000 shares of stock in Aptix.

6 c. QuickTurn Design Systems, Inc. ("QuickTurn"), is a Delaware corporation
7 headquartered in San Jose, California. QuickTurn and Aptix both do business in the
8 hardware-logic-emulation field. Hardware emulation provides solutions for designing
9 and verifying complex electronic systems for, among other items, digital wireless cellular
10 phones, wireless base stations, network routers, graphics and multimedia devices.

11 Aptix Sues QuickTurn for Infringement of the 069 Patent

12 2. On February 26, 1998, Aptix and another corporation to which Aptix had licensed
13 the 069 Patent, Meta Systems, Inc. ("Meta"), sued QuickTurn in federal court in San
14 Francisco, California in a civil suit entitled *Aptix Corporation, et al. v. QuickTurn Design*
15 *Systems, Inc* No. C 98-00762 WHA ("Aptix case"), alleging infringement of the 069
16 Patent. The 069 Patent was originally prosecuted by the patent law firm Skjerven,
17 Morrill, MacPherson, Franklin & Friel ("Skjerven firm"). Aptix and Amr Mohsen
18 retained a different law firm to represent them in the litigation against QuickTurn.

19 3. Under existing principles of patent law, the presumed date of invention is the date
20 of the patent application. In this case, the initial application for the 069 Patent was filed
21 September 20, 1989. In order to establish a conception date earlier than the presumed
22 date of invention, Rule 16-7(b)(3) of the 1998 Civil Local Rules for the Northern District
23 of California required Aptix and Meta to state an alternate date of conception and to
24 corroborate that date.

25 4. Engineers ordinarily document their process of invention in notebooks.
26 Engineers' notebooks are typically witnessed by a colleague who acknowledges having
27 read a particular entry, by signing and dating the entry. The purpose of the witnessing
28 process is to satisfy the corroboration requirements established by patent case law for

proving invention dates.

Amr Mohsen Claims July 31, 1988 Invention Date

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

5. On or about March 29, 1998, Amr Mohsen faxed photocopies of seventeen pages from an engineering notebook Amr started in 1989 (“1989 Notebook”) which purported to document the research, design and development of the 069 invention to Aptix’s attorneys. On April 13, 1998, Aptix produced these seventeen pages to QuickTurn pursuant to Local Rule 16-7(c).

6. On or about April 19, 1998, Amr Mohsen advised Aptix’s counsel that he had found another engineering notebook, that he allegedly started in 1988 (“1988 Notebook”). The 1988 Notebook supposedly documented the first conception of the 069 invention.

7. On May 4, 1998, Aptix served QuickTurn with a supplemental initial disclosure which listed July 31, 1988 as the date of conception of the 069 invention. Aptix also produced a photocopy of the 1988 Notebook. The only person who witnessed the entries in the 1988 Notebook was Aly Mohsen.

8. On May 28, 1998, QuickTurn received a photocopy of the 1989 Notebook from the Skjerven firm, Amr Mohsen’s patent counsel when he originally applied for the 069 Patent on September 20, 1989 (“Skjerven Copy”), which was significantly different from and more abbreviated than the portion of the 1989 Notebook that Aptix produced to QuickTurn on April 13, 1998. The Skjerven firm did not have a copy of the 1988 Notebook.

9. On June 4, 1998, QuickTurn deposed Amr Mohsen. Amr Mohsen brought the “originals” of both the 1988 and 1989 Notebooks to his deposition. QuickTurn made a photocopy of the 1989 Notebook. On August 19, 1998, QuickTurn made color copies of the “originals” of both the 1988 and 1989 Notebooks. Amr Mohsen retained custody of the “originals” of both Notebooks.

10. On November 24, 1998, QuickTurn moved to compel production of the “original” 1988 and 1989 Notebooks for forensic testing by a questioned document expert. QuickTurn’s motion to compel was scheduled to be heard on December 29, 1998.

Amr Mohsen Retains a Forensic Document Examiner

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

11. Between about August 25, 1998 and March 1, 1999, Amr Mohsen, without the knowledge of Aptix's attorneys, contacted a forensic document examiner and an ink expert to determine what forensic testing of the "original" 1988 and 1989 Notebooks would reveal.

12. After examining the original Notebooks, the forensic document examiner found numerous indicators that raised concerns about the creation of the 1988 Notebook. These findings were reported to Amr Mohsen in September 1998.

13. On December 14, 1998, Amr Mohsen reported that the "original" Notebooks had been stolen from his car.

14. On or about February 25, 1999, in response to an earlier inquiry from Amr Mohsen, the forensic document examiner advised Amr Mohsen that it was not possible to determine dating on photocopies of documents created by an office copy machine.

Amr and Aly Mohsen's Efforts To Corroborate the Authenticity of the 1988 Notebook

15. Between January 1999 and February 10, 2000, Amr and Aly Mohsen produced fabricated documents to QuickTurn in an effort to demonstrate the authenticity of the stolen 1988 Notebook and to persuade the District Court to allow Aptix to introduce photocopies of both Notebooks at the patent infringement trial in lieu of the originals.

16. Between June 4, 1998 and February 18, 2000, Amr Mohsen made numerous material false statements under oath regarding the 1988 and 1989 Notebooks during his deposition testimony.

17. On May 25, 1999, Aly Mohsen made numerous material false statements under oath regarding the 1988 Notebook during his deposition testimony.

COUNT ONE: (18 U.S.C. § 371 – Conspiracy to Obstruct Justice and Commit Perjury)

1 18. Paragraphs 1 through 17 of this Superseding Indictment are realleged and
2 incorporated as if fully set forth here.

3 19. Beginning on or about March 29, 1998 and continuing to on or about May 10,
4 2000, in the Northern District of California, and elsewhere, the defendants

5
6 AMR MOHSEN and
ALY MOHSEN,

7 and others, did knowingly and intentionally conspire to obstruct justice by fabricating
8 evidence relating to the priority of the 069 Patent and commit perjury in testimony given
9 in connection with the Aptix case, in violation of 18 U.S.C. §§ 1503 and 1621.

10 Overt Acts Committed in Furtherance of the Conspiracy

11 20. During the course of the conspiracy, and in order to further the objects thereof,
12 the defendants and their co-conspirators knowingly committed the following overt acts,
13 among others, in the Northern District of California, and elsewhere:

- 14 a. Between March 29, 1998 and May 4, 1998, Amr Mohsen fabricated the 1988
15 Notebook;
- 16 b. Between March 29, 1998 and May 4, 1998, Amr Mohsen directed Aly Mohsen
17 to sign and back date various entries in the fabricated 1988 Notebook;
- 18 c. On or about May 4, 1998, Amr Mohsen directed and caused Aptix to list July
19 31, 1988 as the date of conception of the 069 invention;
- 20 d. On or about August 25, 1998, Amr Mohsen, without the knowledge of his
21 attorneys or QuickTurn, contacted a private forensic document examiner;
- 22 e. On or about September 9, 1998, Amr Mohsen brought the "original" 1988
23 Notebook to an expert ink chemist;
- 24 f. On or about September 26, 1998, Amr Mohsen received a briefing from the
25 forensic document examiner which described the results of the examiner's tests
26 on the "original" 1988 Notebook;
- 27 g. On or about December 14, 1998, Amr Mohsen staged a theft of the 1988 and
28 1989 Notebooks;
- h. On or about January, 1999, Aly Mohsen "found" photocopies of pages 2-15 of
the 1988 Notebook;
- i. On or about January 30, 1999, Amr Mohsen asked the forensic document
examiner whether it was possible to determine dating on photocopies of
documents made from an office copy machine;

- 1 j. On or about March 1, 1999, Amr Mohsen sent his original 1989 Daytimer to
the forensic document examiner;
- 2 k. On or about April 29, 1999, Amr Mohsen produced his 1989 Daytimer to
QuickTurn;
- 3 l. On or about January 3, 2000, Amr Mohsen arranged for fragments of the
4 "stolen" original 1988 and 1989 Notebooks to be anonymously mailed back to
himself;
- 5 m. On or about February 18, 2000, Amr Mohsen made material false statements
6 under oath at his deposition concerning the entries in the fabricated 1988
Notebook;
- 7 n. On or about May 25, 1999, Aly Mohsen made material false statements under
8 oath at his deposition concerning the dates on which he witnessed the 1988
Notebook, each material false statement constituting a separate and distinct act;
9 and,
- 10 o. On or about May 10, 2000, Aly Mohsen made material false statements under
11 oath at an evidentiary hearing in United States District Court concerning the
12 dates on which he witnessed the 1988 Notebook and the dates on which he
made photocopies of pages of the 1988 Notebook, each material false statement
constituting a separate and distinct act.

13 All in violation of Title 18, United States Code, Section 371.

14

15

16

17

18

19

20

21

22

23

24

25

26

27

28

COUNT EIGHT: (18 U.S.C. § 1621(1) – Perjury)

1 33. Paragraphs 1 through 17 of this Superseding Indictment are realleged and
2 incorporated as if fully set forth here.

3 34. On or about May 25, 1999, in the Northern District of California, the
4 defendant

5 ALY MOHSEN,

6 having taken an oath before a competent person that he would testify truthfully at an oral
7 proceeding in connection with the Aptix case, did willfully and contrary to his oath testify
8 falsely as to a material matter, in that he was asked when the photocopies of pages 2-15 of
9 the 1988 Notebook were made by him and he gave the following testimony:

10
11 Q: When exactly was that copy that's Mohsen Exhibit 1 [photocopies
12 of pages 2-15 of the 1988 Notebook] made?

13 A: September the 5th, 1988.

14 when in truth, as the defendant well knew, the photocopies of pages 2-15 of the 1988
15 Notebook were not made on September 5, 1988, but were made sometime after
16 September 5, 1988; in violation of Title 18, United States Code, Section 1621(1).
17
18
19
20
21
22
23
24
25
26
27
28

COUNT NINE: (18 U.S.C. § 1621(1) – Perjury)

1 35. Paragraphs 1 through 17 of this Superseding Indictment are realleged and
2 incorporated as if fully set forth here.

3 36. On or about May 10, 2000, in the Northern District of California, the
4 defendant

5 ALY MOHSEN,

6 having taken an oath before a competent person that he would testify truthfully at an oral
7 proceeding in connection with the Aptix case, did willfully and contrary to his oath testify
8 falsely as to a material matter, in that he was asked when he signed page 2 of the 1988
9 Notebook and he gave the following testimony:

10
11 Q: There's a date [on page 2 of Evidentiary Hearing Exhibit 120]
12 8/14/88, August 14, 1988. Is that your handwriting?

13 A: Yes.

14 Q: Did you place those documents or those—that signature and date
15 on that page on the 14th of August 1988?

16 A: Yes.

17 when in truth, as the defendant well knew, he did not sign page 2 of the 1988 Notebook
18 on August 14, 1988, because the 1988 Notebook was created well after that date; in
19 violation of Title 18, United States Code, Section 1621(1).

COUNT TEN: (18 U.S.C. § 1622 – Subornation of Perjury)

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

37. Paragraphs 1 through 17 of this Superseding Indictment are realleged and incorporated as if fully set forth here.

38. Beginning on or about March 29, 1998 and continuing through May 25, 1999, in the Northern District of California, the defendant

AMR MOHSEN,

did procure another person, namely, Aly Mohsen, to commit perjury in that he directed Aly Mohsen to falsely backdate and witness certain entries in the 1988 Notebook and to thereafter falsely testify under oath that he actually witnessed the entries on the dates reflected in the fabricated 1988 Notebook, when in truth, as the defendant well knew, Aly Mohsen did not witness any entries in the 1988 Notebook in 1988; in violation of Title 18, United States Code, Section 1622.

COUNTS ELEVEN THROUGH EIGHTEEN (18 U.S.C. §§ 1341 and 2 – Mail Fraud)

1 39. The allegations contained in paragraphs 1 through 17 above are realleged
2 as though fully set forth herein.

3 40. From at least March 29, 1998 and continuing through at least June 1, 2000
4 in the Northern District of California and elsewhere, the defendant

5 AMR MOHSEN,

6 and others, having devised and intending to devise a scheme and artifice to defraud
7 QuickTurn, as more fully described in paragraphs 5 through 17 above, and to obtain
8 money and property by means of false and fraudulent pretenses and representations, did
9 knowingly cause to be placed in the United States mail and delivered by the United States
10 Postal Service and knowingly caused to be delivered by a private or commercial interstate
11 carrier the items described below:

<u>Count</u>	<u>Approximate Date of Mailing</u>	<u>Sender</u>	<u>Addressee</u>	<u>Item Mailed</u>
14 Eleven	9/25/98	Amr Mohsen c/o Aptix 2880 N. First St. San Jose, CA	Forensic Examiner 9010 Barrhill Way Fair Oaks, CA	Copy of 1988 Notebook Cover (Via UPS)
17 Twelve	3/1/99	Amr Mohsen c/o Aptix 2880 N. First St. San Jose, CA	Forensic Examiner 9010 Barrhill Way Fair Oaks, CA	Amr Mohsen 1989 Daytimer (Via Fed Ex)
20 Thirteen	3/4/99	Forensic Examiner 9010 Barrhill Way Fair Oaks, CA	Amr Mohsen c/o Aptix 2880 N. First St. San Jose, CA	Amr Mohsen 1989 Daytimer (Via Fed Ex)
23 Fourteen	6/4/99	Amr Mohsen c/o Aptix 2880 N. First St. San Jose, CA	Forensic Examiner 9010 Barrhill Way Fair Oaks, CA	Check in Amount of \$919.85 (U.S. Mail)

	<u>Count</u>	<u>Approximate Date of Mailing</u>	<u>Sender</u>	<u>Addressee</u>	<u>Item Mailed</u>
1					
2	Fifteen	1/3/00	FL Address Unknown	Amr Mohsen 16348 Aztec Ridge Los Gatos, CA 95030	Fragments of Original 1988 Notebook (U.S. Mail)
3					
4					
5	Sixteen	3/1/00	Amr Mohsen c/o Aptix 2880 N. First St. San Jose, CA	Forensic Examiner 9010 Barrhill Way Fair Oaks, CA	Copies of Notebook Pages (Via Fed Ex)
6					
7					
8	Seventeen	3/2/00	Forensic Examiner 9010 Barrhill Way Fair Oaks, CA	Amr Mohsen c/o Aptix 2880 N. First St. San Jose, CA	Forensic Test Results on Notebook Copies (Via Fed Ex)
9					
10					
11					
12	Eighteen	6/1/00	Amr Mohsen, 2880 N. First St. San Jose, CA	Forensic Examiner 9010 Barrhill Way Fair Oaks, CA	Check in Amount of \$131.00 (U.S. Mail)
13					

All in violation of Title 18, United States Code, Sections 1341 and 2.

14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

COUNT TWENTY (18 U.S.C. §§ 401(3) and 3148 – Contempt of Court)

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

43. Paragraphs 1 through 17 of this Superseding Indictment are realleged and incorporated as if fully set forth here.

44. From at least March 25, 2004 and continuing through on or about March 27, 2004, in the Northern District of California, the defendant

AMR MOHSEN

did knowingly commit contempt of Court by disobeying and resisting a lawful order of a Court of the United States in that the defendant violated conditions of his release in *United States v. Amr Mohsen, et. al.*, CR 03-0095 WHA, by applying for an Egyptian passport and by thereafter failing to surrender said passport (number 1531829) to the Court after he had obtained it; in violation of Title 18, United States Code, Sections 401(3) and 3148.

COUNT TWENTY-ONE (18 U.S.C. § 1512(b)(1) – Attempted Witness Tampering)

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

45. Paragraphs 1 through 17 of this Superseding Indictment are realleged and incorporated as if fully set forth here.

46. Beginning in or about May of 2004 and continuing through at least June 13, 2004, in the Northern District of California, the defendant

AMR MOHSEN

did knowingly attempt to use intimidation, threaten, and corruptly persuade other persons, with intent to influence, delay, and prevent the testimony of those persons in an official proceeding, to wit, *United States v. Amr Mohsen, et. al*, CR 03-0095 WHA; in violation of Title 18, United States Code, Section 1512 (b)(1).

COUNT TWENTY-THREE (18 U.S.C. § 373–Solicitation To Commit Murder)

1 Paragraphs 1 through 17 of this Superseding Indictment are realleged and
2 incorporated as if fully set forth here.

3 49. Beginning in or about May of 2004 and continuing through at least June 13,
4 2004, in the Northern District of California, the defendant

5 AMR MOHSEN,

6 with intent that another person engage in conduct constituting a felony that has as an
7 element the use of physical force against the person of another, to wit, the murder of a
8 Federal Judge in violation of 18 U.S.C. § 1114, and under circumstances strongly
9 corroborative of that intent, did solicit, command, induce and otherwise endeavor to
10 persuade such person to engage in such conduct, namely the murder of the Federal Judge
11 who was then presiding over *United States v. Amr Mohsen, et. al*, CR 03-0095 WHA in
12 order to prevent that judge from performing his official judicial duties; in violation of
13 Title 18, United States Code, Section 373.
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

SENTENCING ALLEGATIONS

1 50. With respect to Counts 1 and 19 of this Superseding Indictment, Amr Mohsen
2 was an organizer, leader, manager, and supervisor in criminal activity that was otherwise
3 extensive.

4 51. With respect to Counts 1- 4 and 11-19 of this Superseding Indictment, Amr
5 Mohsen used a special skill not possessed by members of the general public and which
6 required substantial education and training, to wit, a Phd. in Electrical Engineering from
7 California Institute of Technology. Amr Mohsen's special skill significantly helped
8 facilitate the commission and concealment of the offenses.

9 52. With respect to Counts 2-10 and 19 of this Superseding Indictment, each such
10 offense resulted in substantial interference with the administration of justice.

11 53. With respect to Counts 11-18 of this Superseding Indictment;

- 12 (a) the intended loss exceeded \$20,000,000;
- 13 (b) the offenses involved more than minimal planning; and
- 14 (c) the offenses involved sophisticated means.

15 54. With respect to Count 20 of this Superseding Indictment, the offense was
16 committed while Amr Mohsen was on release.

17 55. With respect to Count 21 of this Superseding Indictment, the offense involved
18 causing and threatening to cause physical injury and property damage, in order to obstruct
19 the administration of justice.

20 56. With respect to Count 23 of this Superseding Indictment, the offense involved
21 the offer of something of pecuniary value to undertake the offense solicited.

22 57. With respect to Count 23 of this Superseding Indictment, the intended victim
23 was a government official and the offense of conviction was motivated by such status.

24 \\
25 \\
26 \\

1 58. With respect to Counts 20 - 23 of this Superseding Indictment, Amr Mohsen
2 attempted to obstruct and impede the administration of justice during the prosecution of
3 *United States v. Amr Mohsen*, CR 03-0095.

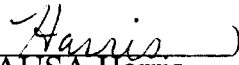
4 DATED:

A TRUE BILL.

6 FOREPERSON

7 KEVIN V. RYAN
8 United States Attorney

9 
10 ROSS W. NADEL
11 Chief, Criminal Division

12 (Approved as to form: )

13 AUSA Harris