

Global Dimension and Challenges of Trade Secrets

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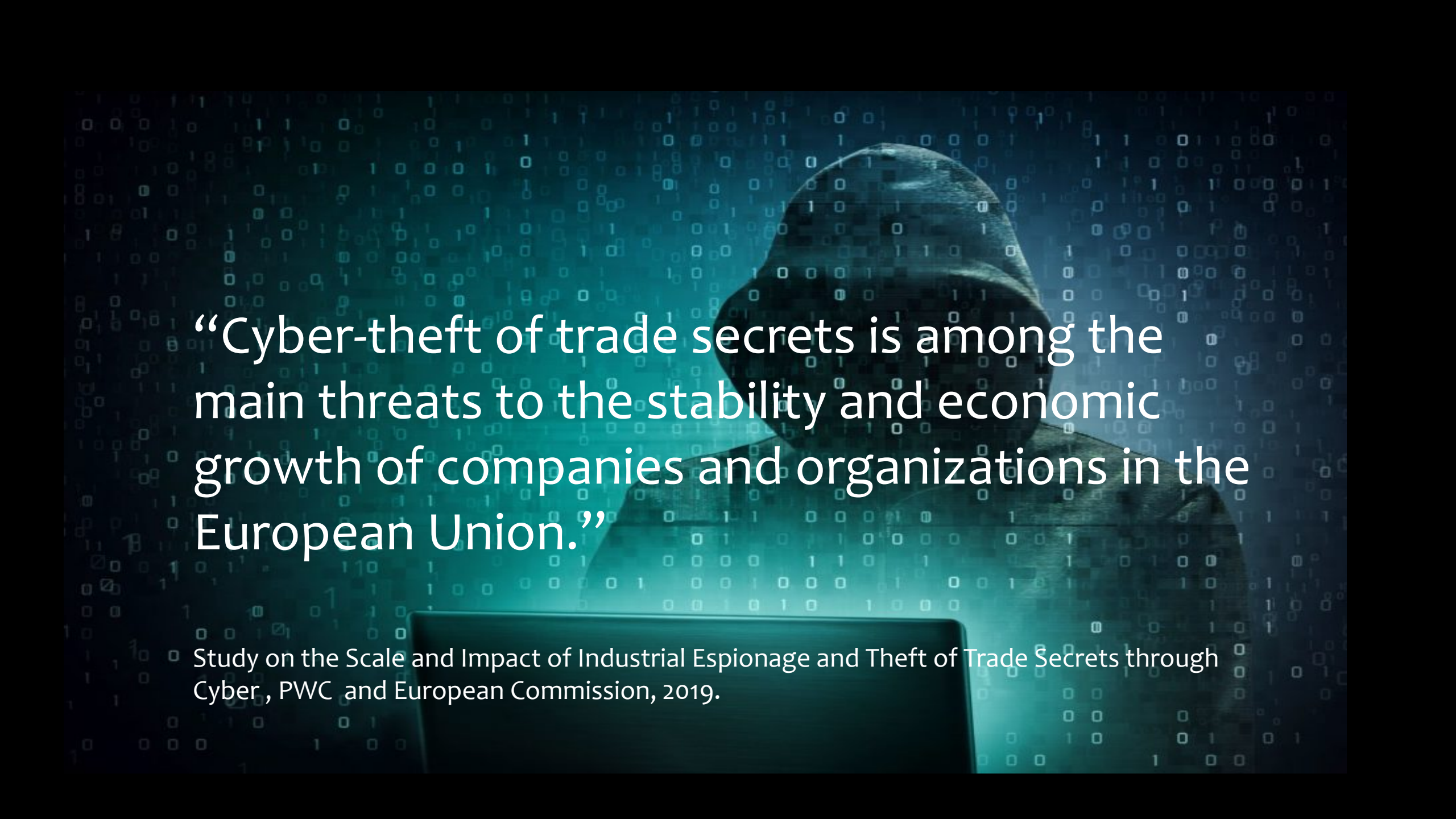


“Invention is the most important product of man’s creative brain. The ultimate purpose is the complete mastery of mind over the material world, the harnessing of human nature to human needs.”

- Nikola Tesla.

DIAL 007 FOR TRADE SECRETS



A person wearing a dark hoodie is sitting at a computer, their face obscured by the hood. The background is a dark blue-green color with a pattern of white binary code (0s and 1s) floating around. The person's hands are on a keyboard, and a monitor is visible in front of them.

“Cyber-theft of trade secrets is among the main threats to the stability and economic growth of companies and organizations in the European Union.”

Study on the Scale and Impact of Industrial Espionage and Theft of Trade Secrets through Cyber, PWC and European Commission, 2019.

Topics

- Trade Secrets
- Importance of Protecting Trade Secrets.
- Efforts to Combat Trade Secret Theft.
- Importance of Global Cooperation.

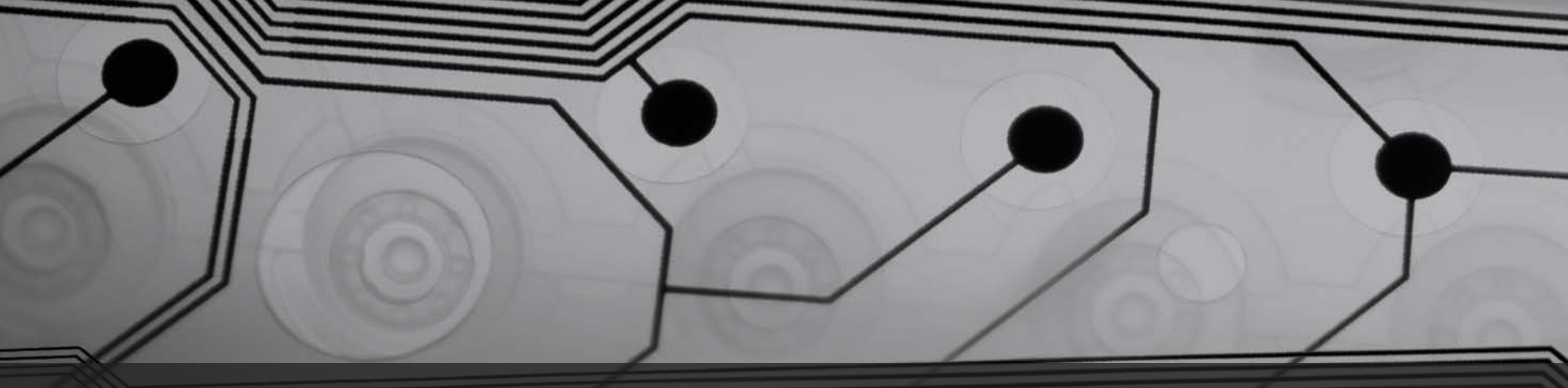
Trade Secrets

Financial, business, scientific, technical, economic, or engineering information, where the owner has taken reasonable measures to keep such information secret.

The information derives independent economic value from not being generally known to, or readily ascertainable by, another person.

Trade Secrets

- Business methods, market analysis, financial information, and business planning.
- Pricing, cost, and purchasing information.
- Customer and supplier lists and related data.
- R&D data.
- Process know-how, technology, and computer programs.
- Formula, recipes, and ingredients.
- Manufacturing techniques and methods.
- Product technology.



Importance of Trade Secrets



“Intellectual property underpins nearly every aspect of our economy – it supports good paying jobs, it supports the arts, sciences, and technology, and it creates a framework that allows new industries and innovations to flourish.”

U.S. Intellectual property Enforcement Coordinator, Annual Intellectual Property Report to Congress, 2019.

\$180,000,000,000 –

\$540,000,000,000

- Estimated financial loss to the United States of \$180bn - \$540bn annually from trade secret theft.
- Years of research and development wasted.
- Jobs lost.
- Leadership in advanced technologies at risk.

“Trade secrets also help achieve competitiveness on the market and foster innovation, often being the core of a company’s operations. Therefore, any breach or disclosure of a trade secret might result in significant economic loss for the company in question.”

European IPR Helpdesk, Fact Sheet *Trade secrets: An efficient tool for competitiveness*, June 2017.

€60,000,000,000

1,000,000

Cyber theft of trade secrets is estimated to cost Europe about **€60 billion lost in economic growth**, resulting in a loss of competitiveness, jobs and reduced R&D investments.

More specifically, **289,000 jobs** could be at risk in 2018 in Europe and **1 million jobs** could be at risk by 2025.

Study on the Scale and Impact of Industrial Espionage and Theft of Trade Secrets through Cyber , PWC and European Commission, 2018

“Cyber-theft of trade secrets is among the main threats to the stability and economic growth of companies and organizations in the European Union. It is an issue that affects both the public and private sector on a regular basis . . . Europe is widely attractive for emerging countries as its economy has an industrial and academic base specialized in automotive, biotech, infrastructure equipment and aerospace.”

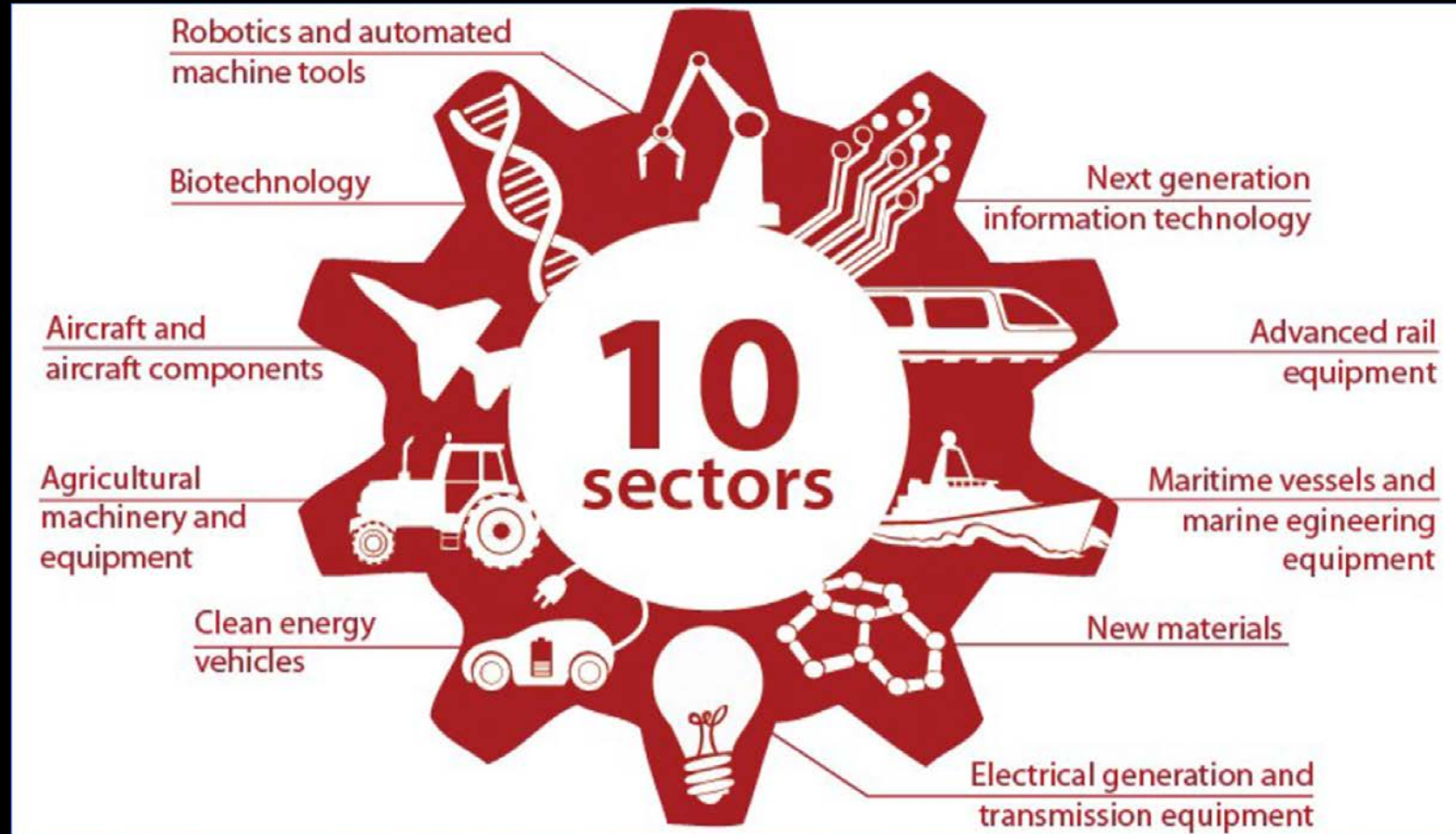
PWC and European Commission Study, 2019.



Combating Trade Secret Theft in the U.S.

- Theft of trade secrets and intellectual property rights from U.S. companies by/on behalf of foreign governments is one of the biggest threats to the U.S. economy and national security.
- Priority for the U.S. Government.
- China Initiative announced November 1, 2018.

Made in China 2025 Plan: Roadmap for Theft



WHAT HAS CHINA STOLEN?

(ROB, REPLICATE, REPLACE)



Whole Government Approach to Achieve a Fair Playing Field

- Engagement with trading partners.
- Effective use of all our legal authorities, including trade tools.
- Expanded law enforcement action and cooperation.
- Engagement and partnership with the private sector and other stakeholders.

Criminal Prosecution

Economic Espionage 18 U.S.C. § 1831

- Theft of a trade secret intended to benefit foreign government, instrumentality, or agent.
- Attempt and conspiracy as well.
- Up to 15 years imprisonment and \$5,000,000 fine.
- Organizations face fine of up to \$10,000,000 or three times value of the stolen trade secret.

Theft of Trade Secrets 18 U.S.C. § 1832

- Theft of a trade secret with the intent to benefit anyone other than the owner.
- Attempt and conspiracy as well.
- Up to 10 years imprisonment and \$250,000 fine.
- Organizations face fine of up to \$5,000,000 or three times value of the stolen trade secret.

China Initiative

- About 80% of all federal economic espionage prosecutions have alleged conduct that would benefit the Chinese state.
- Around 60% of trade secret theft cases have had some nexus to China.

WHY PROSECUTIONS MATTER

- Hold defendants accountable.
- Mitigate loss to victims.
- Expose tradecraft and techniques.
- Raise awareness.
- Show resolve and ability to attribute.
- Apply diplomatic and political pressure
- Deter others (change cost-benefit calculation of leadership and thieves/hackers).





Global Cooperation

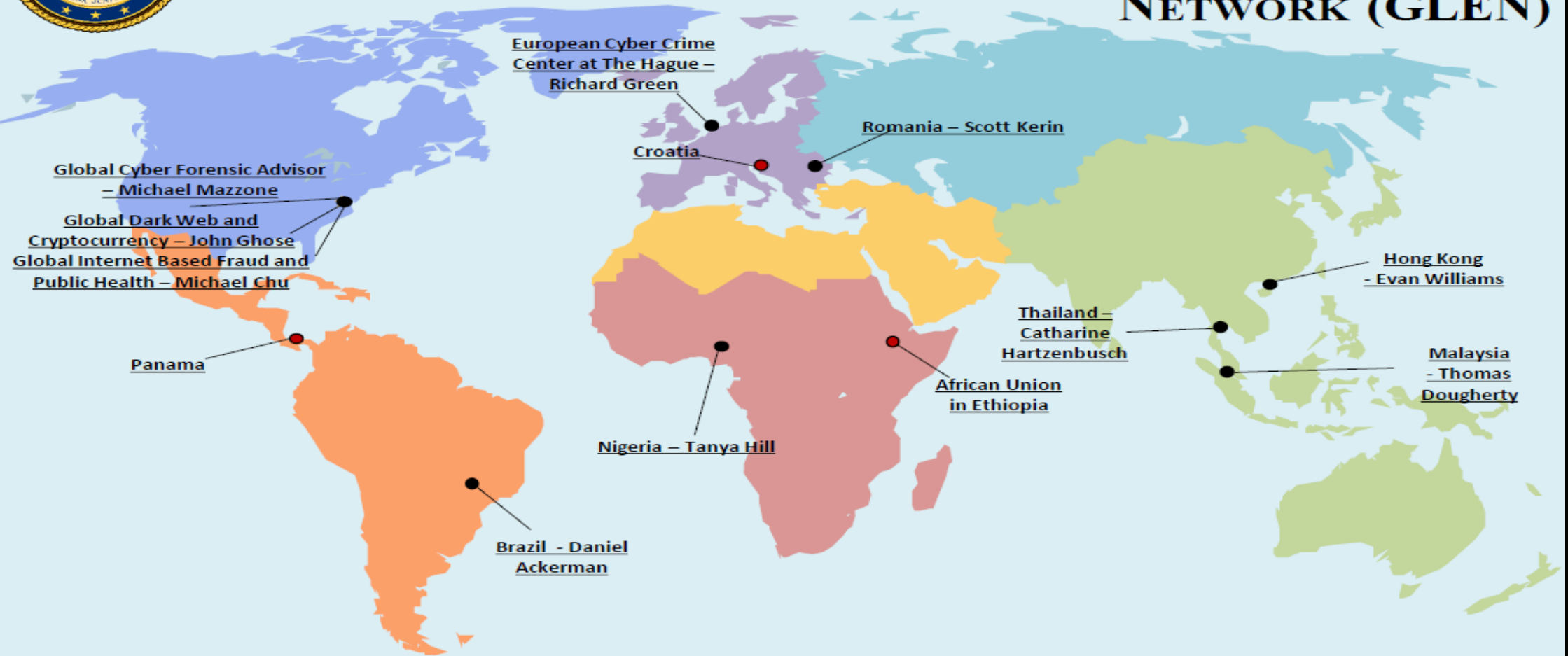
- Awareness.
- Effective and Vigorous Protection and Enforcement of Intellectual Property Rights.
- Cooperation and Engagement.

International Computer Hacking & Intellectual Property Advisors (ICHIP)

- Federal prosecutors with specialized training embedded around the world.
- Work with, advise, and train law enforcement (capacity building).
- Case-based mentoring.
- Working with government and non-government actors to review, advise, and assist.



U.S. TRANSNATIONAL AND HIGH TECH CRIME GLOBAL LAW ENFORCEMENT NETWORK (GLEN)



- Currently Funded International Computer Hacking and Intellectual Property Advisors (ICHIPs) Positions
- Anticipated ICHIP Positions coming online 2020



**WE ARE HERE
TO HELP**

Hvala vam (thank you).





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