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Ex-Broadcom worker acquitted of stealing trade secrets

By JOHN GITTELSOHN

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A federal judge in Santa Ana acquitted an ex-**Broadcom Corp.** engineer on three counts of stealing the company's "crown jewels" on Tuesday in a criminal case that tested the rights of workers to change jobs.

U.S. District Court Judge David O. Carter wrote that the ex-Broadcom employee, Tien Shiah, could be subject to civil penalties for downloading thousands of corporate documents after he left Broadcom in 2003 to work for rival **Marvell Semiconductor Inc.** But it was a stretch to convict him on criminal corporate espionage.

"A contrary holding would not only deprive Shiah of his liberty without holding the Government to its high burden" of proving guilt beyond a reasonable doubt, Carter wrote in his 48-page opinion, "but it would also have a chilling effect on the ability of employees to move freely from one company to another."

Shiah, 40, hugged his attorney, Daniel Olmos, and then his wife, Margaret Juang, after Carter handed down the not-guilty verdict in the non-jury trial.

"It feels great, great to be exonerated," said Shiah, who still faces a civil suit by Broadcom in Santa Clara County Superior Court.

Broadcom spokesman Bill Blanning said the company did not have a comment on the verdict.

Shiah worked as a production line manager in Broadcom's ethernet division from 2001 to 2003. Before telling his bosses he was moving to Marvell, he downloaded more than 4,700 files that showed pricing, technical designs and other proprietary information that Broadcom described as its "crown jewels."

Shiah, who took the stand in his own defense, said he downloaded the files for what engineers call a personal "toolkit," or a record of his work, not to share confidential information with Marvell.

In his ruling, Carter criticized prosecutors for relying so heavily on Broadcom's investigation of Shiah to present their case, noting that in a highly competitive market, private companies have an incentive to present biased evidence.

"There are dangers that result from private companies conducting their own investigations, then subsequently presenting evidence to the Government," Carter wrote. "When the investigation is driven by a private entity, the process is deprived of the same level of prosecutorial judgment and discretion that accompanies a typical Government investigation conducted from scratch."

Carter also said a conviction would have required a stretch of the Economic Espionage Act, the federal trade secrets law under which Shiah was charged.

"There is no insinuation by either party that Shiah is a spy, or that the information possessed by Shiah affected national security," he wrote. He added that the Economic Espionage Act was not intended "to be used to prosecute employees who change employers â€‘ using general knowledge and skills developed while employed."

Shiah has been unemployed since 2006 while facing the trial. His wife said the couple delayed having a second child while the cloud of the prosecution hung over her husband's head.

"We're going to celebrate tonight," said Juang, a nursing student. "For over a year and a half, our lives have been on hold."

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