

Chinese scientist here for trial; He's accused with sister in theft of Glaxo cancer research.

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Body

ABSTRACT

He's accused with sister in theft of Glaxo cancer research.

A Chinese scientist accused of aiding a conspiracy to steal trade secrets potentially worth more than \$1 billion from GlaxoSmithKline has been extradited from Switzerland to stand trial in Philadelphia.

Federal prosecutors say Gongda Xue, a 50-year-old biochemist, received valuable proprietary cancer research that his sister stole while she worked for the pharmaceutical giant's research facility in Upper Merion from 2006 to 2016.

He is also accused of, but has not been charged with, pilfering confidential documents from one of his former employers, a Swiss research institute backed by the global health-care conglomerate Novartis.

Xue's handover to American authorities comes after an 18-month court battle in Switzerland, during which he fought extradition, and amid a backdrop of deteriorating U.S.-China trade relations.

For years, American officials have accused the Chinese government of encouraging scientists working for U.S. corporations to steal trade secrets to help jump-start their country's economy. Despite denials from Beijing, dozens of Chinese and Chinese American researchers in fields ranging from superconductivity to agricultural science have been indicted in U.S. courts.

But for all the attention on the economic tensions between the nations, Xue's arrival in the United States - just days before Christmas - was met with little fanfare.

The Justice Department has said little about the charges against Xue since a federal grand jury indicted him on 12 counts including conspiracy, theft of trade secrets, and wire fraud last year. As he made one of his first appearances in federal court in Philadelphia on Monday, Xue said nothing, leaving it to his attorney to argue on his behalf.

In court filings, defense lawyers Marc Eisenstein and Barry Coburn have denied the government's accusations, questioned the value of the stolen research, and characterized Xue's sister as the driving force behind the alleged crimes.

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"Dr. Xue has spent more than 20 years building his career and making significant contributions to the fields of cancer and HIV research," Eisenstein wrote in a filing last week. "He has a complete lack of prior contact with the criminal justice systems in China, Switzerland, and the United States. He is dedicated to his career and his family."

Xue's sister - Yu Xue, one of the world's leading biochemists and a naturalized U.S. citizen living in Wayne - awaits sentencing after pleading guilty in 2018 to stealing research on promising cancer therapies, many of which she developed during her time at GSK.

Prosecutors say she and four codefendants - including her twin sister and another former GSK colleague - aimed to use confidential documents to launch their own company, which they hoped would put Chinese industry at the forefront of lucrative pharmaceutical cancer research.

Their firm, Renopharma, received more than \$2 million in grants and 4,000 square feet of free lab space from the Chinese government. According to U.S. court filings, Yu Xue and her colleagues estimated that the company could be worth as much as \$10 billion within a matter of years.

In marketing materials, the business boasted of its access to GSK and Yu Xue, whom it described as the British pharmaceutical maker's "chief scientist."

Gongda Xue had no formal role in Renopharma. Since moving to Switzerland in 1999, he has worked at a string of universities and attained status as a legal permanent resident. Before his arrest, he lived in Basel with his wife and son.

Still, U.S. prosecutors say he reviewed several of the documents his sister stole and shared equally privileged information from the Friedrich Miescher Institute, a biomedical research institute funded by Novartis that employed him from 2008 to 2014.

He launched his own firm in Switzerland four months before his sister's arrest in 2015. Authorities allege that he also intended to profit from stolen information.

"Both Gongda Xue and Yu Xue knew that a successful anticancer product could reap billions of dollars per year in revenue," Assistant U.S. Attorney Robert J. Livermore wrote in recent court filings. "While working for their respective entities, [both] secretly formed their own companies in hopes of profiting from their research."

Like his sister's, Gongda Xue's fate could swing less on the question of whether he possessed stolen proprietary documents than on a debate over how much the information contained within them was worth.

Federal prosecutors have said the information could be worth from \$550 million to more than \$1 billion. Despite her guilty plea, Yu Xue maintains that the material had virtually no value to GSK.

Her lawyers have argued that much of it was already in the public domain and that the pharmaceutical giant already had patents on several of the therapies discussed within them, meaning that Renopharma could not profit simply by copying them.

Her defense has pointed to GSK's own news releases in the wake of her 2015 arrest, which stated that the breach had no "material impact on the company's business or R&D activity."

"To the extent that any information in the GSK documents were trade secrets, they were fragmented and akin to having a single puzzle piece in a 1,000-piece jigsaw puzzle," attorneys Peter R. Zeidenberg and John N. Joseph wrote in a filing last year. "The information was useless to a person trying to replicate GSK's work product."

A federal judge has yet to issue a ruling on that debate, which could play a determinative factor in the sentence Yu Xue ultimately receives.

But as she sat in the gallery of a federal courtroom Monday in support of her brother, a different - but equally complex - question faced the court.

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Gongda Xue's lawyers have sought his release on house arrest while he awaits trial. His brother-in-law has obtained an apartment for him in Wilmington, and family members are willing to stake property should he fail to show up to court.

U.S. authorities have filed an immigration detainer against him. That means that even if a judge were to grant his bail request, he would not be released but instead be transferred to an immigration detention facility - an unusual circumstance for a man who had no desire to come to the U.S. and who was brought here after fighting for more than a year to remain in Switzerland.

U.S. Magistrate Judge David R. Strawbridge scheduled a March 16 hearing to further consider the issue.
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