



# *United States v. Lu*

## A CASE STUDY

JENNIE WANG

DEPUTY CHIEF, CYBER & IP CRIMES SECTION

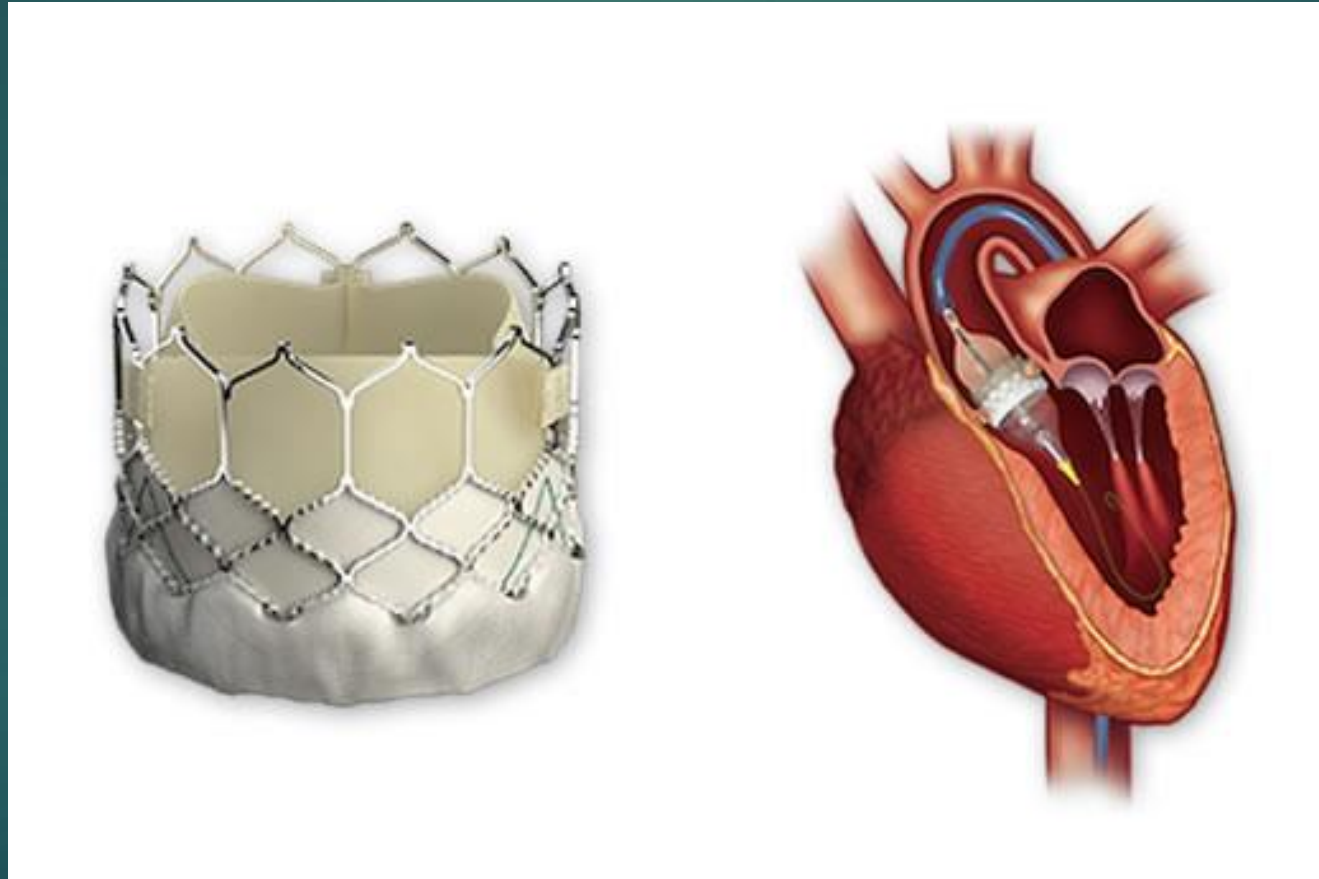
U.S. ATTORNEY'S OFFICE FOR THE CENTRAL DISTRICT OF CALIFORNIA

# Medical Device Companies



Edwards Lifesciences

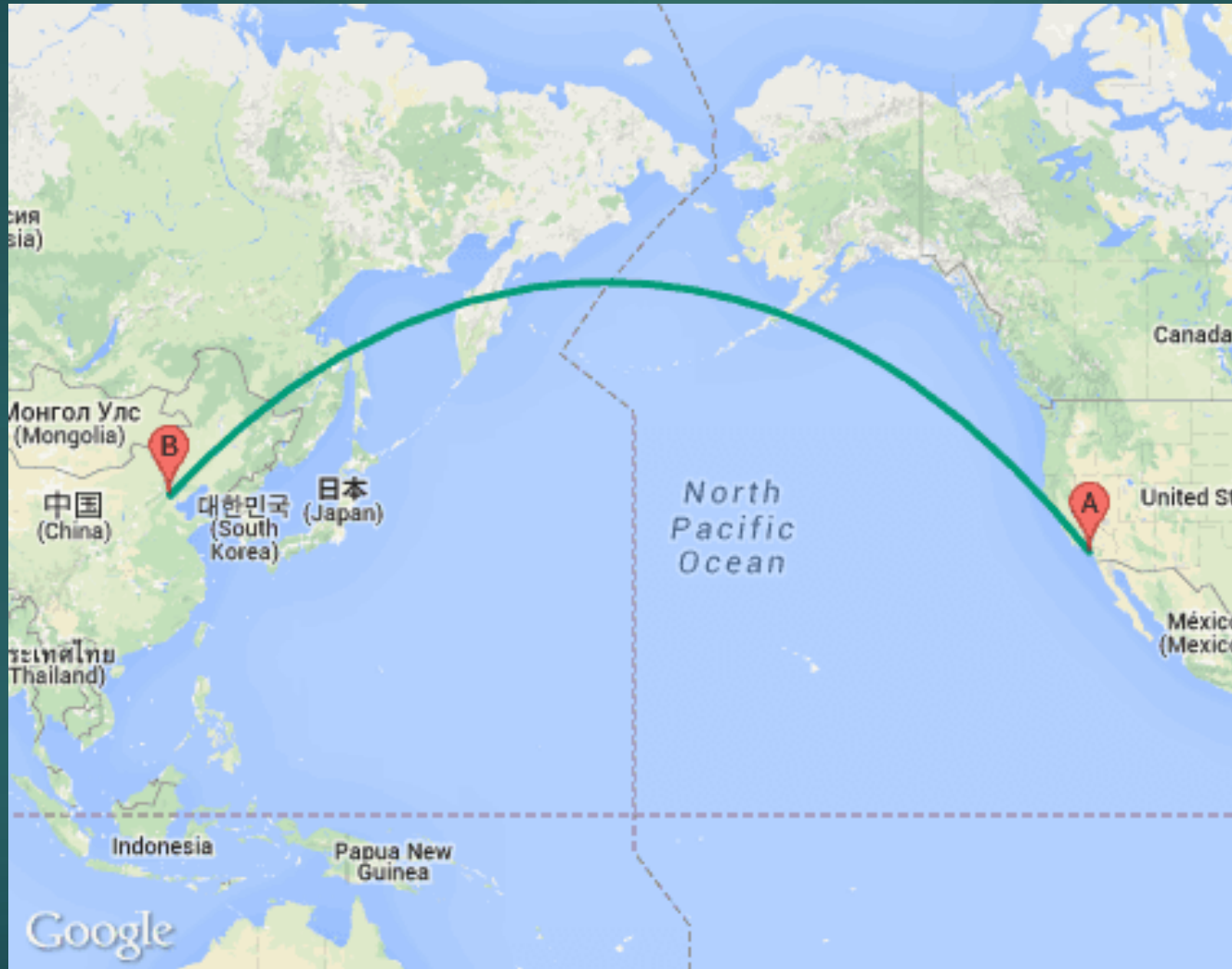
# Heart Valve Technology



# China

- ▶ November 2012: Started business in China
- ▶ Nanjing 321 Program
  - ▶ \$328,000 USD
  - ▶ Free rent for 3 years for lab
- ▶ Patents in China

# Arrested at LAX



# Elements of Theft of Trade Secrets (18 U.S.C. § 1832)

- ▶ Intent to convert TS to economic benefit of person who is not owner;
- ▶ TS related to product/service in interstate/foreign commerce;
- ▶ Intent/knowledge that TS owner would be injured;
- ▶ Δ knowingly:
  - ▶ [stole] [appropriated] [took] [carried away] [concealed] [obtained by fraud] [obtained by artifice] [obtained by deception] TS;
  - ▶ [copied] [duplicated] [sketched] [drew] [photographed] [downloaded] [uploaded] [altered] [destroyed] [photocopied] [replicated] [transmitted] [delivered] [sent] [mailed] [communicated] [conveyed] TS; or
  - ▶ [received] [bought] [possessed] TS, knowing TS was [stolen] [appropriated without authorization] [obtained without authorization] [converted without authorization].

# Economic Espionage (18 U.S.C. § 1831 )

- ▶ Intent/knowledge that actions would benefit foreign government

# Charges

- ▶ November 2015: Third Superseding Indictment
- ▶ 9 counts of violating 18 U.S.C. § 1832(a)
  - ▶ Unauthorized Possession of TSs
  - ▶ Attempted Possession of TSs
- ▶ 5 of ev3's TSs; 4 of Edwards' TSs



# Sentencing

- ▶ Pleaded guilty to 6 counts of Theft of Trade Secrets and Attempted Theft of Trade Secrets
- ▶ Agreed to forfeit/assign foreign & domestic patents
- ▶ January 2019: 27 months' imprisonment