



SUMMARY

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1. This case involves insider trading and tipping by twelve individuals in the common stock of Xylogics, Inc. All of the trading took place during the two trading days before the public announcement, on September 6, 1995, that Bay Networks, Inc. would acquire Xylogics.

2. While working for Bay Networks, Michael Hendrix learned, before any public announcement, of Bay Networks' agreement to acquire Xylogics. Hendrix then proceeded to purchase 6,215 shares of Xylogics stock in five accounts during the two trading days before the announcement. To fund these purchases, Hendrix sold nearly all the holdings in his, his wife's and their minor children's securities accounts. After the announcement, the 6,215 Xylogics shares Hendrix had purchased increased in value by at least between \$12 and \$14 per share. Hendrix and his family made at least \$104,885.63 from Hendrix's Xylogics trading.

3. Hendrix also contacted several friends and former colleagues who quickly bought Xylogics. Some of these persons, in turn, contacted others who also quickly bought. These individuals purchased at least 43,932 shares of Xylogics on the very day before the merger was announced. Hendrix and others who learned of the merger before its announcement directly or indirectly through him included the following nine defendants: James A. S. Lewis, Jeffrey S. Summerlin, Douglas S. Sawamura, Craig A. Larrew, San H. Mai, Bich Thi Hoang, Linh Ngoc Vu, John H. Oh and Nick S. Park. These ten defendants, and others whose trading stemmed directly or indirectly from Hendrix's

1 recommendation, made at least \$644,000 in illegal profits from  
2 their purchases of Xylogics.

3 4. Separate and apart from Hendrix, while working in Bay  
4 Networks' public relations department, Timothy Helms also learned  
5 of Bay Networks' imminent acquisition of Xylogics. After  
6 learning this information, Helms telephoned his father, Raymond,  
7 who bought 3,000 shares of Xylogics the day before the  
8 announcement, making illegal profits totaling \$36,000.

9 5. By engaging in this conduct, Hendrix and the other  
10 defendants violated the antifraud provisions of the Securities  
11 Exchange Act of 1934 (the "Exchange Act"), and will continue to  
12 do so unless restrained and enjoined by this Court. Accordingly,  
13 the SEC seeks injunctions against future violations, disgorgement  
14 of unlawful trading profits, and statutory money penalties.

15 JURISDICTION

16 6. This Court has jurisdiction over this action pursuant to  
17 Sections 21(d) and (e) and Section 27 of the Exchange Act [15  
18 U.S.C. §§ 78u(d) and (e) and 78aa].

19 INTRA-DISTRICT ASSIGNMENT

20 7. Assignment to the San Jose Division is appropriate  
21 pursuant to Civil Local Rule 3-2(e) because a substantial part of  
22 the conduct alleged herein occurred in the County of Santa Clara,  
23 in the Northern District of California.





1 and traded on the New York Stock Exchange. In 1998, Bay Networks  
2 merged with, and became a wholly-owned subsidiary of, Northern  
3 Telecom Limited, which was renamed Nortel Networks.

4 BACKGROUND

5 22. By the end of August 1995, officers of Bay Networks and  
6 Xylogics had agreed to recommend that their respective boards  
7 approve Bay Networks' acquisition of Xylogics through a stock-  
8 for-stock merger. The officers had also agreed on the price and  
9 share exchange ratios that they would recommend to their boards.

10 23. By Friday, September 1, 1995, the companies had begun to  
11 prepare for the joint public announcement of their anticipated  
12 merger agreement. During the ensuing weekend—which included the  
13 Labor Day holiday—representatives of Xylogics and Bay Networks  
14 completed their due diligence and finalized the terms of the  
15 merger. On the day after Labor Day, Tuesday, September 5<sup>th</sup>, the  
16 boards of each company met and approved the merger.

17 24. Before trading opened on the following day, Wednesday,  
18 September 6<sup>th</sup>, Bay Networks announced that it had signed a  
19 binding agreement to acquire Xylogics in a stock exchange. Until  
20 this announcement, the facts and terms of the merger were both  
21 material and non-public.

22 25. After the announcement, Xylogics' stock opened at  
23 \$50.50—up more than 36%—from its previous trading day's closing  
24 price of \$37. Xylogics' stock reached a high of \$50.75 that day,  
25 before closing at \$48.875 on extremely heavy volume.  
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1 opened with his purchase of Xylogics stock. In one of these  
2 accounts, Sawamura sold all of his holdings and used the  
3 proceeds, approximately \$94,000, to buy Xylogics. In all,  
4 Sawamura invested approximately \$375,000 in Xylogics, and made  
5 \$124,615.38 in profits from his purchases of Xylogics stock.

6 Hendrix Tips Larrew, Who Buys Xylogics Stock

7 38. On the morning of September 5, 1995, Hendrix telephoned  
8 his friend, Craig Larrew. Larrew called his broker just one  
9 minute after getting off the telephone with Hendrix.

10 39. On or before September 5<sup>th</sup>, Hendrix communicated,  
11 directly or indirectly, material, non-public information  
12 concerning Bay Networks' acquisition of Xylogics to Larrew.  
13 Larrew knew or was reckless in not knowing that Hendrix had  
14 communicated this information pursuant to a breach of Hendrix's  
15 duties to Bay Networks.

16 40. After receiving the information, on September 5, 1995,  
17 Larrew purchased 2,980 shares of Xylogics. To finance these  
18 purchases, like Hendrix, Larrew sold all of the securities in his  
19 securities accounts and used the proceeds, over \$108,000, to  
20 purchase Xylogics shares. Larrew made profits of \$36,838.78 from  
21 his purchases of Xylogics stock.

22 Hendrix Recommends the Purchase of  
23 Xylogics to His Broker, William Gerdts,  
24 Who Buys and Recommends that His Clients Buy

25 41. On or before September 5, 1995, Hendrix recommended that  
26 his stockbroker, William Gerdts, purchase Xylogics stock. At the  
27 time, Hendrix knew or was reckless in not knowing that it was



1 46. Hoang, Vu, Oh, and Park each knew or was reckless in not  
2 knowing that he or she had received information concerning Bay  
3 Networks' acquisition of Xylogics pursuant to a breach of duty.

4 47. On September 5, 1995, beginning at 6:41 a.m., just  
5 eleven minutes after the market opened, Hoang bought 500 shares  
6 of Xylogics in one joint account with her brother-in-law Vu (an  
7 account which was opened that very day), and 100 shares in  
8 another joint account with Vu. On an investment of \$22,000,  
9 Hoang made a profit of \$7,375.

10 48. Also on September 5<sup>th</sup>, beginning at 6:35 a.m., just five  
11 minutes after the market opened, Vu used four different accounts  
12 (including his two joint accounts with Hoang) at three different  
13 brokerage firms to buy 2,600 shares of Xylogics. Vu's Xylogics  
14 profits—not including profits from his joint trading with  
15 Hoang—totaled \$24,625.

16 49. On September 5<sup>th</sup>, at 8:41 a.m., a call was placed to  
17 Mai's direct office line from the computer retail business where  
18 Mai's friend John Oh worked, and where Oh's boss and friend, Nick  
19 Park, also worked. Immediately after this call, at 8:43 a.m., Oh  
20 purchased 2,500 shares of Xylogics on margin in an account that  
21 he opened with this buy. Eight minutes later, Oh opened another  
22 account and purchased an additional 250 shares of Xylogics on  
23 margin. To pay for his margined purchase of approximately  
24 \$100,000 worth of Xylogics stock, Oh borrowed \$51,000 from Park.  
25 Oh made profits of \$34,437.50 from his purchases of Xylogics  
26 stock.



1 55. By reason of the foregoing, the defendants each violated  
2 Section 10(b) of the Exchange Act [15 U.S.C. § 78j(b)] and Rule  
3 10b-5 thereunder [17 C.F.R. § 240.10b-5].

4 PRAYER FOR RELIEF

5 WHEREFORE, the Commission respectfully requests that this  
6 Court:

7 I.

8 permanently enjoin the defendants from violating Section  
9 10(b) of the Exchange Act [15 U.S.C. § 78j(b)] and Rule 10b-5 [17  
10 C.F.R. § 240.10b-5] promulgated thereunder;

11 II.

12 order Hendrix to disgorge his illegal trading profits and  
13 the trading profits of Gerdts and Gerdts' clients as described  
14 herein (plus prejudgment interest thereon) and to jointly and  
15 severally disgorge the illegal trading profits of Sawamura,  
16 Summerlin, Lewis, and Larrew (plus prejudgment interest thereon);

17 III.

18 order Lewis to disgorge his illegal trading profits and the  
19 trading profits of his friend described herein (plus prejudgment  
20 interest thereon);

21 IV.

22 order Mai to disgorge his illegal trading profits as  
23 described herein (plus prejudgment interest thereon) and to  
24 jointly and severally disgorge the illegal trading profits of  
25 Hoang, Vu, Oh, and Park (plus prejudgment interest thereon);  
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V.

1  
2 order Sawamura, Summerlin, Lewis, and Larrew to each  
3 disgorge his respective illegal trading profits as described  
4 herein (plus prejudgment interest thereon), jointly and severally  
5 with Hendrix;

6 VI.

7 order Hoang, Vu, Oh, and Park to each disgorge his or her  
8 respective illegal trading profits as described herein (plus  
9 prejudgment interest thereon), jointly and severally with Mai;

10 VII.

11 order Vu to jointly and severally disgorge the illegal  
12 trading profits of Hoang as described herein (plus prejudgment  
13 interest thereon);

14 VIII.

15 order the defendants to pay civil penalties pursuant to  
16 Section 21A of the Exchange Act [15 U.S.C. § 78u-1];

