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Convicted Russian Says Feds' Venue 'Own Goal' Nixes Verdict

By [Chris Villani](#) · [Listen to article](#)

Law360 (April 10, 2023, 8:56 PM EDT) -- A Kremlin-linked Russian national convicted of running a \$90 million hack-and-trade scheme on Monday tore into the government's attempt to link the alleged crimes to Boston, saying prosecutors essentially scored an "own goal" by bringing a venue headache upon themselves.

Vladislav Klyushin's attorneys colorfully pushed back against the [government's argument](#) that his attempts to have the jury's verdict tossed on technical venue grounds do not stand up.

In an [11-page response](#) that at various points accused the government of "gaslighting" and making a "phantom venue case," Klyushin's lawyers argued that the U.S. attorney's office is trying to distract U.S. District Judge Patti B. Saris "by pretending Vladislav Klyushin's trial never happened — and conjuring a wishful one its lawyers have lately come to prefer."

At the center of the issue is whether the crimes alleged — namely that Klyushin and several accomplices hacked into two firms that file earnings reports for companies with the [U.S. Securities and Exchange Commission](#) and traded on the ill-gotten information — have a link to Boston.

Prosecutors claim Klyushin and the others hacked [Donnelley Financial Solutions](#) and Toppan Merrill LLC several times in October and November 2018 using Boston IP addresses and argued his legal team "whistles past the venue evidence" in their motion to set aside the verdict.

Klyushin's lawyers fired back in Monday's response, which included a footnote highlighting prosecutors "whistles past the venue evidence" remark and adds, "See? Two can play at wordsmithing."

Boston, Klyushin argued, is not even close to being integral to the alleged conspiracy, and the IP address traced to the city was purely coincidental.

"Indeed, the government cannot — and does not — plausibly deny that Beantown played nothing more than a bit part or cameo role in this case: one of a chance locale that allegedly happened to associate to an intermediate IP address assigned at random by a virtual private network," the response states.

Prosecutors lucked into any Boston connection, the filing adds, and could have tried the case in locations with stronger ties to DFIN or TM, but chose Boston instead.

"The government — not Klyushin — thus created and brought this venue headache on itself, by opting to proceed at its peril," the response states. "To put it more bluntly, the whole venue mess amounts to a classic unforced error or self-inflicted wound, akin to an own goal in soccer or hockey."

Under the government's logic with such a low bar to establish venue, Klyushin added, a case like this could theoretically be brought in any of the 94 federal districts in the United States.

"That sort of breathtaking dragnet is a recipe for forum shopping, giving free rein to prosecutors' whims," the document states.

Both a government representative and Klyushin's attorney declined to comment on the filing Monday evening.

Prosecutors claim Klyushin and his co-conspirators, all of whom are still at large in Russia, hacked into DFIN and TM and were able to use the earnings reports to trade with unfathomable success rates. As a group, they turned a \$9 million investment into nearly \$90 million in profits, the government claimed.

Klyushin's attorney argued at trial that the defendant made for a "convenient target" due to his nationality and ownership of an IT company that provides media monitoring and cybersecurity for the Kremlin. A Boston jury [convicted the Russian national](#) on all counts in February.

The government is represented by Seth Kosto and Stephen E. Frank of the [U.S. Attorney's Office for the District of Massachusetts](#).

Klyushin is represented by Maksim Nemtsev of the Law Offices of Martin G. Weinberg PC and Marc Fernich of the [Law Office of Marc Fernich](#).

The case is USA v. Vladislav Klyushin et al., case number [1:21-cr-10104](#), in the [U.S. District Court for the District of Massachusetts](#).

--Additional reporting by Brian Dowling. Editing by Dave Trumbore.

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Marc Fernich

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Case Information

Case Title

[USA v. Klyushin et al](#)

Case Number

[1:21-cr-10104](#)

Court

Massachusetts

Nature of Suit

Judge

[Patti B. Saris](#)

Date Filed

April 06, 2021

Law Firms

- [Law Office of Marc Fernich](#)
- [Martin G. Weinberg Attorney at Law](#)

Companies

- [Donnelley Financial Solutions Inc.](#)

Government Agencies

- [U.S. Attorney's Office for the District of Massachusetts](#)
- [U.S. District Court for the District of Massachusetts](#)
- [U.S. Securities and Exchange Commission](#)

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