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Jury Mulls If Russian Is 'Trading GOAT' Or 'Convenient Target'

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

Law360, Boston (February 10, 2023, 3:57 PM EST) -- A Russian national's fate is in the hands of a Boston jury after lawyers on Friday clashed over a \$90 million hacking and insider trading case, with a prosecutor dubbing him the "trading GOAT" and a defense attorney calling his client a "convenient target."

Jurors heard closing statements in the case of Vladislav Klyushin, who allegedly used his technology company, which has done work for the Russian government and offers cybersecurity services, to order hacks into two firms that file quarterly earnings reports for the [U.S. Securities and Exchange Commission](#).

Hacking the firms, [Donnelley Financial Solutions](#) and Toppan Merrill LLC, gave Klyushin and his alleged co-conspirators sneak peeks into the financial reports of a vast array of companies and resulted in unfathomable success in trading on earnings reports, prosecutors claimed.

Using inside information stolen from either DFIN or TM, as the firms were referred to in court, Klyushin and the others turned a \$9 million initial investment into what Assistant U.S. Attorney Seth Kosto described as "a cool \$90 million."

"They were stock-trading nobodies," Kosto told the jury during closing arguments. "And all of a sudden, just as DFIN and TM get hacked, the

defendant became the GOAT of earnings trading. The greatest of all time."

Prosecutors claimed Klyushin traded almost exclusively on earnings reports that were filed with either DFIN or TM, despite the fact that those companies accounted for less than half of the 38,000 earnings reports filed with the SEC from 2018 until 2020, when the alleged conspiracy was going on.

Klyushin also had an uncanny knack for correctly predicting stock movements even when they surprised the rest of the market, the government claimed. Kosto said that success vanished once DFIN and TM discovered the hacks.

"When they were locked out of those companies, they stopped making money and stopped trading on earnings," he said before citing statistics put forth by an SEC witness suggesting Klyushin's trades were not random.

"If there was truly no relationship between surprise information being stored at DFIN and TM, you'd see this trading less than one time in a trillion," Kosto said.

Klyushin's lawyer, Maksim Nemtsev of the Law Offices of [Martin G. Weinberg PC](#), said that the two weeks of testimony showed what he said they would at the start of the trial: that there are [gaping holes](#) in the government's case. Nemtsev said there was not a single message, photo, earnings report or even the words DFIN or Toppan Merrill found anywhere in the trove of information seized by investigators in Klyushin's iCloud account.

The case, Nemtsev said, is built on theories, inferences and "guesses" by the government.

"You don't guess people into prison," he said.

Nemtsev argued that his client was already wealthy before he started trading, and that the government locked onto Klyushin and his company because they were "such a convenient target."

"He's wealthy, he's Russian, and he owns an IT company that provides media monitoring and cybersecurity for the Russian government. Those are the reasons the government targeted him," Nemtsev said. "They predetermined that a hack came from Russia, they worked to fill that story, that theory, and no one more conveniently fit that story than Vlad, a wealthy Russian IT professional."

But prosecutors argued that the digital clues clearly traced back to Klyushin's company, scoffing at the notion that someone else could have been using the IP addresses associated with the hacks.

On rebuttal, Assistant U.S. Attorney Stephen Frank pointed the jury to evidence that showed the timing of the trades made by Klyushin's brokerage account and that they always took place after the relevant earnings reports were downloaded, but before they became publicly available.

Nemtsev claimed that Klyushin did not research stocks or control the brokerage account, and that instead the others accused in the scheme invested money for him. While Klyushin was arrested in Switzerland and extradited to the U.S., his alleged co-conspirators are at large in Russia, beyond the reach of American authorities.

Klyushin has been in custody since 2021 after a judge declared him a flight risk. Prosecutors claim he made about \$21 million in the market on an

initial investment of \$2 million — a 900% return that greatly outpaces the 25% return for the market as a whole during the two years he made his 356 trades on earnings reports. He also took a 60% cut of the money his friends invested, the government claimed.

While the filing firm used by a company with the SEC is a neutral consideration when it comes to trading in that company's stock, it was vital to Klyushin's success, the government said, arguing that 343 of the 356 earnings trades he made were filed with either DFIN and TM by companies that otherwise had no obvious connection.

The likelihood of that happening by chance is the same as Klyushin's record of betting on surprise earnings report, according to the government's expert: less than [one in a trillion](#).

The jury began its deliberations Friday afternoon after hearing legal instructions from U.S. District Judge Patti B. Saris, who spent considerable time instructing the jury on the issue of venue, which Klyushin is challenging.

Prosecutors say a Boston IP address was involved in some of Klyushin's DFIN trades, effectively linking him to Massachusetts and allowing the government to haul him into court here. Nemtsev argued that the government did not provide any concrete evidence establishing the venue and cautioned the jury that this "is not a technicality."

"This is a major conditional problem: It undermines the entire premise of arresting Vlad in Switzerland and forcing him to stand trial in Massachusetts, a place he has never visited, a place he would never imagine in a million years he would be on trial," Nemtsev said.

He told the jury that "this isn't a movie or a game" and "isn't 'Rocky IV,'" referencing the boxing film with Cold War themes and a Soviet fighter as the main antagonist.

"His fate, his freedom, his future are in your hands," Nemtsev said. "He sat here facing false accusations. I'm asking you to lift the burden, the cloud of these false accusations."

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.

The case is U.S. v. 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 Adam LoBelia.

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Case Information

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[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

- [Martin G. Weinberg Attorney at Law](#)

Companies

- [Donnelley Financial Solutions Inc.](#)

Government Agencies

- [U.S. Attorney's Office for the District of Massachusetts](#)
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