

## Maxwell Technologies, Inc.

**Case ID:**

ST-269

**Case Cluster :**

Maxwell Technologies Inc.

**Jurisdiction of Settlement:**

United States

**Jurisdiction of Settlement / Enforcement Agency:**

Securities and Exchange Commission

**Jurisdiction of Foreign Public Official(s) :**

China

**Year of Settlement:**

2011

**Month/Day of Settlement (or Notes):**

01/31

**Other Jurisdictions of Settlement:**

Unknown

**Settlement with Individual or Legal Person?:**

Legal Person

**Type of Settlement:**

Civil

**Legal Form of Settlement:**

Consent to Final Judgment

**Monetary Sanctions (Types):**

Disgorgement of Profits, Prejudgment Interest

**Total Monetary Sanctions (US\$):**

\$6,350,890.00

**Civil Disgorgement of Profits (US\$) :**

\$5,654,576

**Civil Prejudgment Interest (US\$) :**

\$696,314

**Civil Fine / Penalty (US\$):**

\$0

**Monetary Sanctions Returned / Ordered Returned (US\$):**

\$0

**UNCAC Articles(s) Implicated:**

Art.16

Art.26

**OECD Anti-Bribery Convention Articles Implicated:**

Art. 1, Art. 2, Art. 8

**Offenses - Alleged:**

Bribery of foreign officials, improper internal controls, books and records

**Offenses - Settled:**

No admission or denial of allegations

**Public Procurement Contract / SOE Involved?:**

Yes

**Summary:**

According to the US Department of Justice Deferred Prosecution Agreement, Maxwell Technologies accepted the following Statement of Facts: the company's wholly-owned subsidiary Maxwell Technologies S.A. (incorporated and headquartered in Switzerland) manufactured and sold high-voltage capacitors in several countries, including China. "Agent 1," a Chinese national, was a third-party agent responsible for Maxwell S.A.'s Chinese customers (listed in the Statement of Facts as (1) Pinggao Group Co. Ltd, a state-owned manufacturer of electric-utility infrastructure in Henan Province, (2) New Northeast Electric Shenyang HV Switchgear Co., Ltd., a state-owned manufacturer of electric-utility infrastructure in Liaoning Province, and (3) Xi-an XD High Voltage Apparatus Co., Ltd., a state-owned manufacturer of electric-utility infrastructure in Shaanxi Province. From at least 2002 to 2009, Maxwell and its subsidiaries paid approximately \$2,789,131 to Agent 1 to be distributed to Chinese foreign officials, in return for securing contracts that profited Maxwell, namely by using a kick-back scheme in which Agent 1 requested quotes from Maxwell S.A. on behalf of prospective Chinese state-owned entities and then upon Agent 1's instruction, Maxwell S.A. added an "extra" 20 percent to the quoted amounts to arrive at a higher price for Maxwell S.A.'s equipment. Maxwell S.A. then invoiced the Chinese state-owned entities for equipment at the higher-priced rate, which the entities paid. Agent 1 distributed the "extra amounts" to officials at the Chinese state-owned entities, including employees at Pinggao Group, shenyang HV, and Xi-an XD. (Source: US v. Maxwell Technologies, Inc., Case no. 3:11-cr-00329-JM (C.D. Cal.), Deferred Prosecution Agreement and Appendix A: Statement of Facts, filed January 31, 2011).

**Sources :**

US v. Maxwell Technologies, Inc., Case No. 11-cr-329-JM (D.D.C. 2011), Information filed January 31, 2011 and Deferred Prosecution Agreement (and Appendix A: Statement of Facts), filed January 31, 2011, both accessed at <http://www.justice.gov/criminal/fraud/fcpa/cases/maxwell-tech.html>; SEC v. Maxwell Technologies, Inc., Case No. 1:11-cv-00258 (D.D.C.), Complaint filed January 31, 2011, accessed at <http://www.sec.gov/litigation/complaints/2011/comp21832.pdf>; U.S. Securities and Exchange Commission, Litigation Release No. 21832 / January 31, 2011, U.S. Securities and Exchange Commission v. Maxwell Technologies Inc., Civil Action No. 1:11-CV-00258 (DDC) (BAH), accessed at <http://www.sec.gov/litigation/litreleases/2011/lr21832.htm>.