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# U.S. Ups Fight Against Agricultural Espionage

FBI used surveillance tactics authorized by anti-spying law to nab Chinese executive accused of stealing seeds



Mo Hailong, a Chinese executive accused of stealing high-tech corn seeds, owned two farms in the U.S., including one near Redfield, Iowa, according to U.S. authorities. *PHOTO: JACOB BUNGE/THE WALL STREET JOURNAL*

By **JACOB BUNGE**

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DES MOINES, Iowa—The criminal trial of a Chinese executive accused of stealing high-tech U.S. corn seeds is turning into a battle over the federal government's use of an anti-spying law to fight industrial espionage.

U.S. prosecutors say Mo Hailong, an official with a Chinese agriculture company, participated in a multiyear scheme to pilfer seeds from test fields of U.S. agribusiness giants Monsanto Co. and DuPont Co. The prosecutors claim that Mr. Mo, who was arrested in December 2013 at his home in Boca Raton, Fla., and several alleged accomplices transported seeds back to China, sometimes secreted in boxes of Orville Redenbacher microwave popcorn.

Prosecutors have charged Mr. Mo, now under house arrest in Des Moines, Iowa, and six alleged co-conspirators—five of whom remain at large—with stealing trade secrets. Mr. Mo, 45, has pleaded not guilty. The prosecutors say they plan to partly rely on evidence collected through surveillance authorized under the Foreign Intelligence Surveillance Act of 1978 in the trial, which is scheduled for September in Des Moines.

The law was designed to catch foreign government spies and terrorists. Mr. Mo's case is the first time the U.S. government has said it would use evidence gathered from surveillance authorized under the law to prosecute trade-secret theft charges, legal experts say—although it is possible such evidence has been used in other cases without the government acknowledging it.

The case comes as U.S. law-enforcement officials say they are conducting a broader examination of corporate espionage targeting U.S. agriculture companies, including multiple cases of possible theft of seeds, pesticides and other farm products.

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Mr. Mo, a Chinese national who has lived in the U.S. since 1998, is the director of international business of Beijing Dabeinong Technology Group Co., a Beijing-based animal-feed company.

To build their case, Federal Bureau of Investigation agents bugged Mr. Mo's Honda CR-V and recorded his activities with hidden cameras outside his Florida home, an Illinois farm he operated and a self-storage facility in suburban

Chicago where corn seeds were allegedly stored, according to legal documents filed by Mr. Mo's attorneys. Prosecutors also combed through thousands of emails and computer files.

The U.S. government declined to comment.

Now Mr. Mo is pushing back. His attorneys argue in court filings that the government has shown little to justify the extensive surveillance. His lawyers argued in court this week for an order requiring the government to divulge exactly what evidence was collected through FISA-related surveillance, which typically requires law-enforcement officials to demonstrate that the subject of the intended surveillance is an agent of a foreign power. In court filings, Mr. Mo argued he isn't, and Dabeinong has no ties to the Chinese government.

Mr. Mo, through his lawyer, declined to comment for this article. Dabeinong officials, through Mr. Mo's lawyer, declined to comment.

"Because the surveillance exceeded what FISA allows...the court should suppress the FISA surveillance and its fruits," Mr. Mo's attorneys wrote in a filing last month.

After years of combating foreign-based industrial espionage aimed at areas like aviation technology, financial data, and paint formulas, U.S. authorities increasingly are guarding against incursions into the seeds and crop chemicals that helped cement the U.S. as the world's top exporter of agricultural commodities. Randall Coleman, assistant director of counterintelligence for the FBI, said that U.S. agriculture companies' expensive research makes them a natural target for corporate espionage.

The Mo case "is not an isolated event," Mr. Coleman said in a recent interview. Agricultural espionage, he said, is "a serious problem."

The alleged seed theft surfaced after a DuPont official in 2011 spotted a man on his knees in the dirt, digging in an Iowa research field while a colleague waited in a nearby vehicle, according to authorities. When confronted, the man—who authorities allege was Mr. Mo—offered a hasty explanation before retreating to the vehicle and speeding off, U.S. officials said.

The bizarre encounter near Tama, Iowa, sparked a 2½ year investigation, with agents monitoring the defendants as they spent days cruising among corn fields, bickered over tactics and devised ways to ship seed to China, according to documents filed by prosecutors. The prosecutors allege the conspirators

discussed buying farmland to plant seeds and identify genetically pure specimens. The prosecutors also claim the men stored and sorted corn in a suburban Chicago storage locker before Mr. Mo was arrested 16 months ago at his Boca Raton home and other defendants went unapprehended.

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*‘The statute gives the U.S. pretty broad authority to intercept communications of foreign nationals.’*

—Christopher Sprigman, a professor at the New York University School of Law

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In 2012, U.S. customs authorities searched the luggage of Ye Jian—one of the five alleged co-conspirators still at large—on a Beijing-bound flight and found corn seeds hidden in two boxes of Orville Redenbacher microwave popcorn, according to the 2013 indictment against Mr. Mo and his co-defendants. The corn seeds were kept by customs authorities, but Mr. Ye was allowed to board the plane.

Mr. Mo’s attorneys say no witnesses identified Mr. Mo trespassing in farm fields and that the government has presented no evidence he removed any corn seeds. The attorneys argue in filings that the government overreached in using FISA-authorized surveillance because there is no evidence that Mr. Mo or Dabeinong serve the Chinese government and there was no national security threat.

U.S. attorneys prosecuting the case declined to comment.

To obtain FISA surveillance approval, U.S. law-enforcement officials would have needed to show probable cause to believe that Mr. Mo or his alleged co-conspirators were acting on behalf of the Chinese government, according to legal experts. U.S. officials could also have gathered information on the defendants as part of a broader surveillance effort directed toward the Chinese government, and then used that evidence to pursue the seed case.

“The statute gives the U.S. pretty broad authority to intercept communications of foreign nationals,” said Christopher Sprigman, a professor at the New York University School of Law.



U.S. authorities increasingly are guarding against incursions into seeds and crop chemicals. PHOTO: SETH PERLMAN/ASSOCIATED PRESS

The investigation comes as debate intensifies in China over how to limit reliance on Western firms for agricultural commodities like corn and for expensive technology as the country revamps its own agricultural sector. China's government is pushing to consolidate roughly 5,200 domestic seed companies to bolster research capabilities and better compete with international players like Monsanto and DuPont.

Dabeinong, founded with a 21,000 yuan (\$3,400) investment two decades ago by a former agricultural academic named Shao Genhuo, has grown rapidly. The company's expansion was fueled by acquisitions of about 30 state-owned animal-feed businesses, to become one of China's biggest agricultural players. Mr. Shao, now Dabeinong chairman, has a net worth estimated by Forbes last month at \$2 billion.

Mr. Shao's wife, Mo Yun—who is also Mr. Mo's sister—was arrested last summer on allegations she helped plan the seed-stealing plot while she worked at Dabeinong. She has pleaded not guilty and remains in the U.S. free on bail. Her attorney declined to comment.

Mr. Mo has submitted filings purporting to show that the company has had private ownership and management since 2011, though funds managing government assets in 2013 and 2014 owned a "tiny share" in the company, which is listed on the Shenzhen Stock Exchange.

China's government can exert influence through means other than equity ownership, according to Scott Kennedy, a director at the Center for Strategic & International Studies.

“You could be officially a private company with no ties to the state but still end up having close relationships with the government and the party,” he said. “It’s not enough on its own by looking at the shareholder registry.”

—Isabella Steger in Hong Kong contributed to this article.

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