

6 March 2017

It has been decided to issue a rejoinder to INFINEON's response. Attached please find the response **authored by Charles Hector, Syed Shahir bin Syed Mohamud, Mohd Roszeli bin Majid, Pranom Somwong via Good Electronics with the support of 54 organisations, trade unions and groups.**

As an attachment to the response, a document containing documentary evidence is included (Zulfadlee – WRONG DISMISSAL INFINEON DOC fin).

The respondents will also like to highlight to INDINEON that:

"1 – The matter has not yet referred to the courts at this time. What is upcoming are attempts at conciliation. It is our hope that this matter can be speedily resolved, and justice will prevail. Even, if and when the matter reaches the courts, there is always the possibility to resolve this matter without waiting for the end of the court processes, which in Malaysia takes a very long time. Justice delayed is justice denied.

2 - After further investigations of the available evidence(including documentary evidence), we believe that your action in dismissing the said Union leader maybe by reason of you not having the benefit of all the available facts of the case, and the applicable law.

3 – Briefly, we want to highlight the following few points:-

a) Charged with a misconduct, i.e. "act of malingering" – which is not even in the list of INFINEON's list of misconducts that covers both expressed and implied breaches of contract.

b) The main element that need to shown to justify an act of malingering is that the employee had feigned illness for the purposes of avoiding work. This was not even clear in the charge. Attending a union activity whilst on sick leave only raises grounds for suspicion that there may be an 'act of malingering' – it certainly is not proof that the misconduct was committed.

c) Zulfadlee also seem to have misunderstood the said charge – it seems that he believed that his wrongdoing was attending union activities whilst on sick leave, which he did, but that does not make him guilty of committing an act of malingering. He says that the decision to go was made after he was on sick leave – i.e. he did not apply for sick leave for the purpose of going to the union activity. His admission, if there is any real admission in law, is more likely to the 'mistake' of participating in union activity whilst on sick leave, and certainly not an admission to committing the 'act of malingering' misconduct. A paid sick leave is also legally a non-working day, and as you stated INFINEON does not prevent its employees from participating in union activities on such 'non-working days'.

d) It is alas proven that he had a stone in the kidney(See the radiology report), and his sick leave was granted by doctors. Hence, the possibility of him 'feigning illness' is most unlikely.

e) Victimization and/or Discrimination by reason of being a Union leader – 40 over attended. Disciplinary action against just the Union President, and thereafter 6 Union Committee members – and not against any other employees. Infineon's letter in reply to the letter of appeal against dismissal strongly suggest that he was disciplined/terminated not simply as an employee, but the fact that he was Union President had strongly influenced the cause of action.

f) INFINEON's attempt to keep him away from the discussions concerning the Collective Bargaining Agreement, despite the fact he still remains, according to Malaysian law also, the Union President even after termination until his courts cases are finally disposed of, is also wrong. Infineon Melaka sent emails about this.

INFINEON headquarters may not have been provided the full facts of this case from Infineon Melaka or your Asia Pacific office, and we hope that you will take a serious look again at the facts and the applicable law. We are now enclosing a document of Zulfadlee, which have been perused by us, that contains relevant information that may change INFINEONs position.

We respect INFINEON's position of not wanting to violate human rights or worker rights, and as such your prompt action is appreciated. Matters can be quickly resolved with the reinstatement of the Union President, and ceasing of disciplinary actions against the other Union leaders"