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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

UNITED STATES OF AMERICA)
)
 v.)
)
 AISAN INDUSTRY CO., LTD.,)
)
 Defendant.)
 _____)

Case:2:14-cr-20047
Judge: Battani, Marianne O.
MJ: Randon, Mark A.
Filed: 02-03-2014 At 10:09 AM
INFO USA V AISAN INDUSTRY CO., LTD
(EB)

Violation: 15 U.S.C. § 1

INFORMATION

**COUNT ONE
CONSPIRACY TO RESTRAIN TRADE
(15 U.S.C. § 1)**

THE UNITED STATES, ACTING THROUGH ITS ATTORNEYS, CHARGES:

Defendant and Co-conspirators

1. Aisan Industry Co., Ltd. (“defendant”) is a corporation organized and existing under the laws of Japan, with its principal place of business in Obu, Japan. During the period covered by this Information, defendant and its subsidiaries were engaged in the business of manufacturing and selling electronic throttle bodies to Nissan Motor Co., Ltd. and certain of its subsidiaries (collectively “Nissan”) in the United States and elsewhere, for installation in vehicles manufactured and sold in the United States and elsewhere.

2. Various corporations and individuals, not made defendants in this Information, participated as co-conspirators in the offense charged in this Information and performed acts and made statements in furtherance of it.

3. Whenever in this Information reference is made to any act, deed, or transaction of any corporation, the allegation means that the corporation engaged in the act, deed, or transaction by or through its officers, directors, employees, agents, or other representatives while they were actively engaged in the management, direction, control, or transaction of its business or affairs.

Background of the Offense

4. During the period covered by this Information, defendant, its subsidiaries, and its co-conspirators supplied electronic throttle bodies to automobile manufacturers for installation in vehicles manufactured and sold in the United States and elsewhere. During the period covered by this Information, defendant, its subsidiaries, and its co-conspirators manufactured electronic throttle bodies: (a) in the United States and elsewhere for installation in vehicles manufactured and sold in the United States, (b) in Japan and elsewhere for export to the United States and installation in vehicles manufactured and sold in the United States, and (c) in Japan and elsewhere for installation in vehicles manufactured in Japan and elsewhere for export to and sale in the United States.

5. Electronic throttle bodies are part of the air intake system in an automotive engine that controls the amount of air flowing into an engine's combustion chamber. By controlling air flow within an engine, the electronic throttle body controls engine speed. When purchasing electronic throttle bodies, automobile manufacturers like Nissan typically issue Requests for Quotation ("RFQs") to automotive parts suppliers on a model-by-model basis for model-specific parts. Automotive parts suppliers submit quotations, or bids, to automobile manufacturers in response to RFQs, and automobile manufacturers award the business to the selected automotive parts supplier for the lifespan of the model, which is usually four to six years. Typically, the bidding process for a particular model begins approximately three years prior to the start of

production. Automobile manufacturers procure electronic throttle bodies for U.S.-manufactured vehicles in the United States and elsewhere.

Conspiracy to Restrain Trade

6. From at least as early as October 2003 and continuing until at least February 2010, the exact dates being unknown to the United States, defendant and its co-conspirators participated in a combination and conspiracy to suppress and eliminate competition in the automotive parts industry by agreeing to rig bids for, and to fix, stabilize, and maintain the prices of, electronic throttle bodies sold to Nissan in the United States and elsewhere. The combination and conspiracy engaged in by defendant and its co-conspirators was in unreasonable restraint of interstate and foreign trade and commerce in violation of the Sherman Antitrust Act, 15 U.S.C. § 1.

7. The charged combination and conspiracy consisted of a continuing agreement, understanding, and concert of action among defendant and its co-conspirators, the substantial terms of which were to rig bids for, and to fix, stabilize, and maintain the prices of, electronic throttle bodies sold to Nissan in the United States and elsewhere.

Manner and Means of the Conspiracy

8. For purposes of forming and carrying out the charged combination and conspiracy, defendant and its co-conspirators did those things that they combined and conspired to do, including, among other things:

- a. participating in meetings, conversations, and communications to discuss the bids and price quotations to be submitted to Nissan in the United States and elsewhere;

b. agreeing, during those meetings, conversations, and communications, on bids and price quotations to be submitted to Nissan in the United States and elsewhere;

c. agreeing, during those meetings, conversations, and communications, to allocate RFQs for the supply of electronic throttle bodies sold to Nissan in the United States and elsewhere;

d. agreeing, during those meetings, conversations, and communications, to coordinate price adjustments requested by Nissan in the United States and elsewhere;

e. submitting bids, price quotations, and price adjustments to Nissan in the United States and elsewhere in accordance with the agreements reached;

f. selling electronic throttle bodies to Nissan in the United States and elsewhere at collusive and noncompetitive prices;

g. accepting payment for electronic throttle bodies sold to Nissan in the United States and elsewhere at collusive and noncompetitive prices; and

h. engaging in meetings, conversations, and communications for the purpose of monitoring and enforcing adherence to the agreed-upon bid-rigging and price-fixing scheme.

Trade and Commerce

9. During the period covered by this Information, defendant, its subsidiaries, and its co-conspirators sold substantial quantities of electronic throttle bodies manufactured in the United States and elsewhere to Nissan and shipped substantial quantities of electronic throttle bodies into the United States and from other states in a continuous and uninterrupted flow of interstate and foreign commerce. In addition, substantial quantities of equipment and supplies necessary to the production and distribution of electronic throttle bodies by defendant and its co-

conspirators, as well as payments for the electronic throttle bodies sold by defendant and its co-conspirators, traveled in interstate and foreign trade and commerce. The business activities of defendant and its co-conspirators in connection with the production and sale of electronic throttle bodies that were the subject of the charged conspiracy were within the flow of, and substantially affected, interstate and foreign trade and commerce.

Jurisdiction and Venue

10. The combination and conspiracy charged in this Information was carried out, at least in part, in the Eastern District of Michigan, within the five years preceding the filing of this Information.

ALL IN VIOLATION OF TITLE 15, UNITED STATES CODE, SECTION 1.

Dated: 2/3/2014

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