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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

UNITED STATES OF AMERICA,

v.

SHINICHI KOTANI,

Defendant.

Case:2:13-cr-20700
Judge: Murphy, Stephen J.
MJ: Randon, Mark A.
Filed: 09-24-2013 At 11:11 AM
INDI USA V SHINICHI KOTANI (LG)

Violation: 15 U.S.C. § 1
(conspiracy to restrain trade)

INDICTMENT

The Grand Jury Charges:

The Defendant and Co-conspirators

At all times relevant to this Indictment:

1. The defendant, SHINICHI KOTANI, was a citizen of Japan.
2. KOTANI was employed by Panasonic Automotive Systems Corporation (“Panasonic”) as Group Manager of the Toyota Sales Group from at least as early as January 2004 until at least March 2008.
3. In April 2008, KOTANI transferred to the United States and was employed by Panasonic Automotive Systems Company of America, Panasonic’s U.S. subsidiary, as Vice President of the Automotive Systems Group.
4. In July 2009, KOTANI returned to Japan and was promoted to Director of Global Auto Marketing and Sales.
5. Panasonic was a Japanese company with its principal place of business in Osaka, Japan.

6. Panasonic was engaged in the business of manufacturing and selling automotive parts, including steering wheel switches, turn switches, wiper switches, and combination switches (collectively, “switches”), and steering angle sensors, to Toyota Motor Corporation (“TMC”) and Toyota Motor Engineering & Manufacturing North America, Inc. (“TEMA”) (collectively, “Toyota”) for installation in vehicles manufactured and sold in the United States and elsewhere.

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

8. Whenever in this Indictment 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

9. KOTANI and his co-conspirators supplied switches and steering angle sensors to Toyota for installation in vehicles manufactured and/or sold in the United States and elsewhere.

10. KOTANI and his co-conspirators supplied switches and steering angle sensors (a) in the United States for installation in vehicles manufactured and sold in the United States, (b) in Japan for export to the United States and installation in vehicles manufactured and sold in the United States, and (c) in Japan for installation in vehicles manufactured in Japan for export to and sale in the United States.

11. A steering wheel switch is a switch installed in the steering wheel of a vehicle that the driver operates to control various functions within the vehicle, such as the volume of the audio system.

12. A turn switch is a lever switch installed behind the steering wheel of a vehicle that the driver of the vehicle operates to signal a left or right turn and to control high/low beam selection.

13. A wiper switch is a lever switch installed behind the steering wheel of a vehicle that the driver of the vehicle uses to activate the vehicle's windshield wipers.

14. A combination switch is a combination of the turn and wiper switches as one unit, sold together as a pair.

15. A steering angle sensor is installed on the steering column of a vehicle and may be connected to, and part of, a combination switch. It detects the angle of the vehicle's wheels during turns and sends signals to the vehicle stability control system, which maintains the vehicle's stability during turns.

16. When purchasing steering wheel switches, turn switches, wiper switches, combination switches, and steering angle sensors, Toyota issues Requests for Quotation ("RFQs") to automotive parts suppliers. Automotive parts suppliers submit quotations, or bids, to Toyota in response to RFQs. Toyota awards 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 begins approximately three years prior to the start of production of the model that is the subject of the RFQ. Toyota procures parts for U.S.-manufactured vehicles both in Japan and in the United States.

Conspiracy to Restrain Trade

17. From at least as early as January 2004 and continuing until at least February 2010, the exact dates being unknown to the Grand Jury, in the Eastern District of Michigan and elsewhere, KOTANI and his 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, switches and steering angle sensors sold to Toyota in the United States and elsewhere. The combination and conspiracy engaged in by KOTANI and his 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).

18. The charged combination and conspiracy consisted of a continuing agreement, understanding, and concert of action among KOTANI and his co-conspirators, the substantial terms of which were to rig bids for, and to fix, stabilize, and maintain the prices of, switches and steering angle sensors sold to Toyota in the United States and elsewhere.

Manner and Means of the Conspiracy

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

a. participating in, and directing, authorizing, or consenting to the participation of subordinate employees in, meetings, conversations, and communications in the United States and Japan to discuss the bids and price quotations to be submitted to Toyota in the United States and elsewhere;

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

- c. agreeing, during those meetings, conversations, and communications, to allocate the supply of switches and steering angle sensors sold to Toyota in the United States and elsewhere on a model-by-model basis;
- d. approving collusive and noncompetitive prices agreed upon by subordinates during those meetings, conversations, and communications in the United States and elsewhere;
- e. submitting bids and price quotations to Toyota in the United States and elsewhere in accordance with the agreements reached;
- f. selling switches and steering angle sensors to Toyota in the United States and elsewhere at collusive and noncompetitive prices;
- g. accepting payment for switches and steering angle sensors sold to Toyota in the United States and elsewhere at collusive and noncompetitive prices; and
- h. engaging in meetings, conversations, and communications in the United States and Japan for the purpose of monitoring and enforcing adherence to the agreed-upon bid-rigging and price-fixing scheme.

Trade and Commerce

22. During the period covered by this Indictment, Panasonic and its co-conspirators sold to Toyota, located in various states in the United States, substantial quantities of switches and steering angle sensors shipped from outside the United States and from other states in a continuous and uninterrupted flow of interstate and foreign trade and commerce. In addition, substantial quantities of equipment and supplies necessary to the production and distribution of switches and steering angle sensors by Panasonic and its co-conspirators, as well as payments for switches and steering angle sensors sold by Panasonic and its co-conspirators, traveled in

interstate and foreign trade and commerce. The business activities of KOTANI and his co-conspirators in connection with the production and sale of switches and steering angle sensors 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

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

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

A TRUE BILL.

s/Grand Jury Foreperson
Grand Jury Foreperson

Dated: 9-24-13

s/Scott D. Hammond
Scott D. Hammond
Deputy Assistant Attorney General
Antitrust Division
United States Department of Justice

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Chief, National Criminal Enforcement Section
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