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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

UNITED STATES OF AMERICA

v.

NGK Insulators, Ltd.

Defendant.

Case:2:15-cr-20550
Judge: Friedman, Bernard A.
MJ: Patti, Anthony P.
Filed: 09-03-2015 At 11:54 AM
INFORMATION USA V. NGK INSULATORS,
LTD (NA)

Violations: 15 U.S.C. § 1
18 U.S.C. § 1512(c)

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. NGK Insulators, Ltd. (“Defendant”) is a corporation organized and existing under the laws of Japan, with its principal place of business in Nagoya, Japan. During the period covered by this Count, Defendant was engaged in the business of manufacturing and selling ceramic substrates for automotive catalytic converters (“substrates”) directly or indirectly to General Motors Company, Toyota Motor Corporation, Nissan Motor Company, Ltd., and certain of their subsidiaries, affiliates and suppliers (collectively, “automobile manufacturers”) for installation in vehicles manufactured and sold in the United States and elsewhere.
2. A corporation and various individuals, not made defendants in this Count, participated as co-conspirators in the offense charged in this Count and performed acts and made statements in furtherance of it.

3. Whenever in this Count 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

During the period covered by this Count:

4. Defendant and its co-conspirators supplied substrates for installation in vehicles manufactured and sold in the United States and elsewhere. Defendant and its co-conspirators manufactured substrates (a) in the United States for finishing and installation in vehicles manufactured and sold in the United States, (b) in Japan for export to the United States and finishing and installation in vehicles manufactured and sold in the United States, and (c) in Japan for finishing and installation in vehicles manufactured in Japan for export to and sale in the United States.

5. Substrates are uncoated ceramic monoliths with a fine honeycomb structure that, after coating by third parties with a mix of metals and other chemicals, is incorporated into automotive catalytic converters. Catalytic converters are emissions control devices that convert certain pollutants in an exhaust gas stream into less harmful gases through catalytic chemical reactions. When purchasing substrates, automobile manufacturers issue Requests for Quotation (“RFQs”) to automotive parts suppliers. These RFQs are most commonly issued on an engine model by engine model basis for incorporation into catalytic converters for a specific engine model or multiple engine models. Automotive parts suppliers submit quotations, or bids, to the automobile

manufacturers in response to RFQs, and the automobile manufacturers award the business to the selected automotive parts supplier for the production lifespan of the engine model, which is usually from four to six or more years. Typically, the bidding process to procure parts for a particular engine model begins approximately three years prior to the start of production. Automobile manufacturers procure parts for U.S.-manufactured vehicles in the United States and elsewhere.

Conspiracy to Restrain Trade

6. For purposes of this Information, the conspiracy's "relevant period" is that period from at least as early as July 2000 until at least February 2010, the exact dates being unknown to the United States, except for conduct relating solely to Nissan Motor Company, Ltd. and certain of its subsidiaries, affiliates and suppliers, for which the "relevant period" is that period from at least as early as November 2008 through at least February 2010, the exact dates being unknown to the United States. During the relevant period, in the Eastern District of Michigan and elsewhere, 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 substrates supplied to automobile manufacturers 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 substrates supplied to automobile manufacturers 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 in the United States and Japan to discuss the bids and price quotations to be submitted to automobile manufacturers in the United States and elsewhere;
- b. agreeing, during those meetings, conversations, and communications, on bids and price quotations to be submitted to automobile manufacturers in the United States and elsewhere;
- c. agreeing, during those meetings, conversations, and communications, to coordinate price adjustments requested by automobile manufacturers in the United States and elsewhere;
- d. submitting bids, price quotations, and price adjustments to automobile manufacturers in the United States and elsewhere in accordance with the agreements reached;
- e. supplying substrates to automobile manufacturers in the United States and elsewhere at collusive and noncompetitive prices;
- f. accepting payment for substrates supplied to automobile manufacturers in the United States and elsewhere at collusive and noncompetitive prices;

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

h. employing measures to keep their conduct secret, including using code names and choosing meeting places and times to avoid detection.

Trade and Commerce

9. During the relevant period, Defendant and its co-conspirators substantial quantities of substrates manufactured in the United States, Japan and elsewhere in a continuous and uninterrupted flow of interstate and foreign trade and commerce to automobile manufacturers located in various States in the United States and elsewhere outside the place of origin. In addition, substantial quantities of equipment and supplies necessary to the manufacture and distribution of substrates by Defendant and its co-conspirators, as well as payments for substrates sold by Defendant and its co-conspirators, traveled in interstate and foreign trade and commerce.

10. The business activities of Defendant and its co-conspirators in connection with the production and sale of substrates that are the subject of this Count were within the flow of, and substantially affected, interstate and foreign trade and commerce.

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

COUNT TWO OBSTRUCTION OF JUSTICE (18 U.S.C. § 1512(c))

THE UNITED STATES, ACTING THROUGH ITS ATTORNEYS, CHARGES:

11. Each and every allegation contained in paragraphs 1 through 10 of Count One of this Information is realleged and reasserted here as if fully set forth in this Count.

Background of the Offense

During the period covered by this Count:

12. Defendant and its executives and employees became aware that Defendant may be the subject of a criminal investigation in the United States. Specifically, Defendant and its certain employees first learned in February 2010 that the Federal Bureau of Investigation (“FBI”) had executed a search warrant on the U.S. offices of the corporate co-conspirator of Defendant in the offense alleged in Count One, in connection with an investigation of possible violations of U.S. antitrust law. Subsequently, between July and October 2011, Defendant and certain of its executives and employees learned that Defendant was under investigation by multiple law enforcement authorities, including law enforcement authorities in the U.S., in connection with the offense alleged in Count One.

Obstruction of Justice

13. Starting in or about February 2010 and continuing until in or about July 2012, the exact dates being unknown to the United States, executives and employees of Defendant, acting on Defendant’s behalf, corruptly altered, destroyed, mutilated and concealed records, documents and other objects and attempted to do so, with the intent to impair the objects’ integrity and availability for use in an official proceeding, to wit, the federal grand jury sitting in the Eastern District of Michigan investigating, among other things, possible federal criminal antitrust violations occurring in the automotive parts industry and committed by Defendant and others, and otherwise obstructed, influenced and impeded said official proceeding and attempted to do so, in violation of 18 U.S.C. § 1512(c).

Description of the Offense

14. After becoming aware of the FBI search of U.S. offices of the co-conspirator of Defendant, executives and employees deleted electronic documents and destroyed paper files likely to contain evidence of antitrust crimes in the United States and elsewhere. After becoming aware that Defendant was under investigation by multiple law enforcement authorities, including law enforcement authorities in the U.S. in connection with the offense alleged in Count One, executives and employees of defendant: (i) deleted and attempted to delete electronic files from the defendant's computer systems located in Japan; (ii) destroyed and concealed paper files located in Japan; (iii) removed and replaced office computers located in Japan; (iv) removed and concealed electronic files stored on the office computer system of Defendant's U.S. subsidiary located in the Eastern District of Michigan; (v) attempted to destroy paper files located at Defendant's U.S. subsidiary in the Eastern District of Michigan; and (vi) engaged in misleading conduct and withheld information about the offense alleged in Count One, as well as certain obstructive acts described above, and attempted to cause others to also mislead and withhold such information.

15. Under 18 U.S.C. § 1512(h) there is extraterritorial Federal jurisdiction over the offense charged in this Count.

ALL IN VIOLATION OF TITLE 18, UNITED STATES CODE, SECTION 1512(c).

Dated:

s/Brent C. Snyder
Brent C. Snyder
Deputy Assistant Attorney General
Antitrust Division
United States Department of Justice

s/Marvin N. Price, Jr.
Marvin N. Price, Jr.
Director of Criminal Enforcement
Antitrust Division
United States Department of Justice

s/Lisa M. Phelan
Lisa M. Phelan
Chief, Washington Criminal I Section
Antitrust Division
United States Department of Justice

s/Kenneth W. Gaul
Kenneth W. Gaul
Kathleen Konopka
Jay D. Owen
Michael H. Pine
Attorneys
Antitrust Division
United States Department of Justice
450 5th St. NW, Suite 11300
Washington, DC 20530
(202) 307-6147
kenneth.gaul@usdoj.gov