

ORIGINAL

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN

UNITED STATES OF AMERICA

v.

D-1: NHK SPRING CO., LTD.,

Defendant.

Case:2:19-cr-20503
Judge: Goldsmith, Mark A.
MJ: Grand, David R.
Filed: 07-29-2019 At 12:23 PM
INFO USA V NHK SPRING CO., LTD (LG)
violation: 15 U.S.C. § 1
Sherman Act Conspiracy

Maximum Fine: Greater of \$100 million,
twice the gross gain, or twice the gross loss
(15 U.S.C. § 1; 18 U.S.C. § 3571(c) and (d))

Maximum Period of Probation: Five years

INFORMATION

THE UNITED STATES CHARGES:

COUNT ONE

(15 U.S.C. § 1: Sherman Act Conspiracy)

Defendant and Co-Conspirators

1. NHK Spring Co., Ltd. (“Defendant”) is a corporation organized and existing under the laws of Japan, with its principal place of business in Yokohama, Japan. During the period covered by this Information, Defendant was a producer of hard disk drive suspension assemblies (“HDD suspension assemblies”) and was engaged in the sale of HDD suspension assemblies in the United States and elsewhere.

2. Another corporation and various 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, agents, employees, or other representative while they were actively engaged in the management, direction, control, or transaction of that corporation's business.

Background

4. HDD suspension assemblies are components of hard disk drives, which are used to store information electronically and may be incorporated into computers or sold as stand-alone electronic storage devices. Hard disk drives use magnetic recording heads to read from and write onto rapidly spinning disks. HDD suspension assemblies hold the recording heads in close proximity to the disks and provide the electrical connection from the recording heads to the hard disk drives' circuitry.

5. During the period covered by this Information, Defendant and its co-conspirators manufactured HDD suspension assemblies outside the United States and sold them in, or for delivery to, the United States. During the period covered by this Information, Defendant and its co-conspirators also sold foreign-manufactured HDD suspension assemblies outside the United States for incorporation into products—namely, hard disk drives—that were sold in, or for delivery to, the United States.

Description of the Offense: Conspiracy to Restrain Trade

6. From at least as early as May 2008 and continuing until at least April 2016 (the "Relevant Period"), the exact dates being unknown to the United States, in the Eastern District of Michigan and elsewhere, Defendant and its co-conspirators knowingly entered into and engaged

in a conspiracy to suppress and eliminate competition by fixing prices for HDD suspension assemblies sold in the United States and elsewhere. The combination and conspiracy engaged in by Defendant and its co-conspirators was a per se unlawful, and thus unreasonable, restraint of trade and commerce among the states and with foreign nations in violation of Section 1 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 refrain from competing on prices for, fix the prices of, and allocate their respective market shares for, HDD suspension assemblies to be sold in the United States and elsewhere.

Means and Methods of the Conspiracy

8. For the purpose 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) engaging in discussions and attending meetings during which they reached agreements to refrain from competing on prices for, fix the prices of, and allocate their respective market shares for, HDD suspension assemblies to be sold in the United States and elsewhere;
- (b) exchanging HDD suspension assemblies pricing information, including anticipated pricing quotes, in the United States and elsewhere;
- (c) relying on their agreements not to compete and using the exchanged pricing information to inform their negotiations with U.S. and foreign customers that

purchased HDD suspension assemblies and produced hard disk drives for sale in, or delivery to, the United States and elsewhere;

(d) selling HDD suspension assemblies in, or for delivery to, the United States and elsewhere at collusive and noncompetitive prices; and

(e) accepting payment for HDD suspension assemblies sold in, or for delivery to, the United States and elsewhere at collusive and noncompetitive prices.

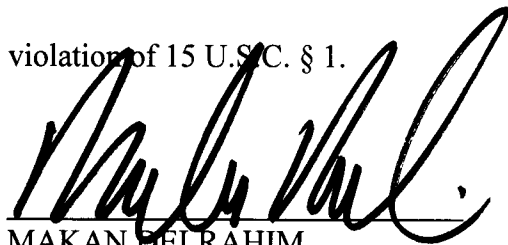
Trade and Commerce

9. During the Relevant Period, the business activities of Defendant and its co-conspirators that are the subject of this Information and the charged conspiracy occurred within the flow of, and substantially affected, interstate and import trade and commerce. During the Relevant Period, Defendant's and its co-conspirators' manufacture and sale of HDD suspension assemblies occurred in a continuous and uninterrupted flow of interstate and import trade and commerce.

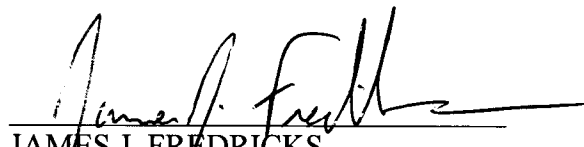
10. During the Relevant Period, Defendant and its co-conspirators manufactured HDD suspension assemblies outside the United States and sold them in, or for delivery to, the United States. Defendant and its co-conspirators also sold foreign-manufactured HDD suspension assemblies outside the United States for incorporation into products—namely, hard disk drives—that were sold in, or for delivery to, the United States. During the Relevant Period, HDD suspension assemblies and certain hard disk drives incorporating affected HDD suspension assemblies traveled in, and substantially affected, interstate and import trade and commerce. During the Relevant Period, the conspiracy involved and had a direct, substantial, and reasonably foreseeable effect on interstate and import trade and commerce, including in HDD suspension

assemblies and certain hard disk drives incorporating affected HDD suspension assemblies, all in

violation of 15 U.S.C. § 1.



MAKAN DELRAHIM
Assistant Attorney General
Antitrust Division
U.S. Department of Justice



JAMES J. FREDRICKS
Chief, Washington Criminal II
Antitrust Division
U.S. Department of Justice



ANDREW C. FINCH
Principal Deputy Assistant Attorney General
Antitrust Division
U.S. Department of Justice



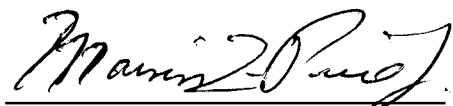
MARK C. GRUNDTVIG
Assistant Chief, Washington Criminal II
Antitrust Division
U.S. Department of Justice



RICHARD A. POWERS
Deputy Assistant Attorney General
Antitrust Division
U.S. Department of Justice



CHRISTINA J. BROWN
MICHAEL T. KOENIG
Trial Attorneys, Washington Criminal II
Antitrust Division
U.S. Department of Justice
450 5th Street NW, Suite 11-300
Washington, DC 20001
Tel: 202-598-8839
christina.brown@usdoj.gov



MARVIN N. PRICE, JR.
Director of Criminal Enforcement
Antitrust Division
U.S. Department of Justice

Date: July 1, 2019

ORIGINAL

United States District Court
Eastern District of Michigan

Criminal Case Cov

Case:2:19-cr-20503
Judge: Goldsmith, Mark A.
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NOTE: It is the responsibility of the Assistant U.S. Attorney signing this form to complete

Companion Case Information		Companion Case Number:
This may be a companion case based upon LCrR 57.10 (b)(4) ¹ :		Judge Assigned:
<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No	AUSA's Initials: <u>CSB</u>

Case Title: USA v. NHK Spring Co., Ltd.

County where offense occurred : Oakland

Check One: Felony Misdemeanor Petty

 Indictment/ Information --- no prior complaint.
 Indictment/ Information --- based upon prior complaint [Case number:]
 Indictment/ Information --- based upon LCrR 57.10 (d) [Complete Superseding section below].

Superseding Case Information


Superseding to Case No: _____ Judge: _____

- Corrects errors; no additional charges or defendants.
- Involves, for plea purposes, different charges or adds counts.
- Embraces same subject matter but adds the additional defendants or charges below:

<u>Defendant name</u>	<u>Charges</u>	<u>Prior Complaint (if applicable)</u>
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Please take notice that the below listed Assistant United States Attorney is the attorney of record for the above captioned case.

July 29, 2019
Date


 Christina J. Brown, US DOJ Antitrust Division
 Assistant United States Attorney
 211 W. Fort Street, Suite 2001
 Detroit, MI 48226-3277
 Phone: 202-598-8839
 Fax: 202-598-2428
 E-Mail address: christina.brown@usdoj.gov
 Attorney Bar #: CA 242130

¹ Companion cases are matters in which it appears that (1) substantially similar evidence will be offered at trial, or (2) the same or related parties are present, and the cases arise out of the same transaction or occurrence. Cases may be companion cases even though one of them may have already been terminated.