

FILED

FEB 13 2020

SUSAN Y. SOONG
CLERK, U.S. DISTRICT COURT
NORTH DISTRICT OF CALIFORNIA

1 CHRISTINA J. BROWN (CSBN 242130)
2 MICHAEL T. KOENIG (WiSBN 1053523)
3 U.S. Department of Justice
4 Antitrust Division
5 450 5th Street NW, Suite 11-300
6 Washington, DC 20001
7 Telephone: (202) 598-4000
8 christina.brown@usdoj.gov
9 michael.koenig@usdoj.gov

10 Attorneys for the United States

11 UNITED STATES DISTRICT COURT
12 NORTHERN DISTRICT OF CALIFORNIA
13 SAN FRANCISCO DIVISION

JD

CR20

0070

14 UNITED STATES OF AMERICA

Case No.

15 v.

VIOLATION: 15 U.S.C. § 1
Price Fixing

16 HITOSHI HASHIMOTO and
17 HIROYUKI TAMURA,

18 Defendants.

19
20 **INDICTMENT**

21 The Grand Jury charges that:

22 **INTRODUCTION**

23 At all times relevant to this Indictment, unless otherwise indicated:

24 1. Suspension assemblies are components of hard disk drives, which are used to
25 store information electronically and may be incorporated into computers or sold as stand-alone
26 electronic storage devices. Hard disk drives use magnetic recording heads to read from and
27 write onto rapidly spinning disks. Suspension assemblies hold the recording heads in close
28

1 proximity to the disks and provide the electrical connection from the recording heads to the
2 hard disk drives' circuitry.

3 2. NHK Spring Co., Ltd. ("NHK Spring") is a corporation organized and existing
4 under the laws of Japan, with its principal place of business in Yokohama, Japan. NHK Spring
5 is a producer of suspension assemblies used in hard disk drives ("HDD suspension
6 assemblies") and is engaged in the sale of HDD suspension assemblies in the United States and
7 elsewhere.

8 3. Defendant HITOSHI HASHIMOTO is an employee of NHK Spring and was
9 involved in the sale and pricing of its HDD suspension assemblies. HASHIMOTO was the
10 general manager of NHK Spring's disk drive suspension and component sales department from
11 approximately April 2013 through April 2016.

12 4. Defendant HIROYUKI TAMURA is an employee of NHK Spring and was
13 involved in the sale and pricing of its HDD suspension assemblies. TAMURA was the general
14 manager of NHK Spring's disk drive suspension and component sales department from
15 approximately 2007 through April 2013.

16 **DESCRIPTION OF THE OFFENSE**

17 5. The following individuals are hereby indicted and made defendants on the
18 charge contained in this Indictment:

- 19 a. HITOSHI HASHIMOTO
- 20 b. HIROYUKI TAMURA

21 6. From at least as early as May 2008 and continuing until at least April 2016, the
22 exact dates being unknown to the Grand Jury, in the Northern District of California and
23 elsewhere, the defendants and their co-conspirators knowingly entered into and engaged in a
24 combination and conspiracy to suppress and eliminate competition by agreeing to stabilize,
25 maintain, and fix prices for HDD suspension assemblies sold in the United States and
26 elsewhere. The combination and conspiracy engaged in by the defendants and their co-
27 conspirators was a per se unlawful, and thus unreasonable, restraint of trade and commerce
28

1 among the states and with foreign nations in violation of Section 1 of the Sherman Antitrust
2 Act, 15 U.S.C. § 1.

3 7. The charged combination and conspiracy consisted of a continuing agreement,
4 understanding, and concert of action among defendants and their co-conspirators, the
5 substantial terms of which were to refrain from competing on prices for and to stabilize,
6 maintain, and fix the prices of HDD suspension assemblies to be sold in the United States and
7 elsewhere.

8 **MEANS AND METHODS OF THE CONSPIRACY**

9 8. For the purpose of forming and carrying out the charged combination and
10 conspiracy, the defendants and their co-conspirators did those things that they combined and
11 conspired to do, including, among other things:

- 12 a. attended meetings and engaged in other communications concerning
13 their sales of, pricing of, and market shares for HDD suspension assemblies to
14 be sold in the United States and elsewhere;
- 15 b. agreed during those meetings and communications to refrain from
16 competing on prices for and stabilize, maintain, and fix the prices of HDD
17 suspension assemblies to be sold in the United States and elsewhere;
- 18 c. agreed during those meetings and communications to allocate their
19 respective market shares for HDD suspension assemblies to be sold in the
20 United States or elsewhere;
- 21 d. discussed and exchanged HDD suspension assemblies pricing
22 information, including anticipated pricing quotes, in the United States and
23 elsewhere;
- 24 e. communicated with sales employees in the United States and elsewhere
25 and directed those employees to exchange HDD suspension assemblies pricing
26 information, including anticipated pricing quotes, in the United States and
27 elsewhere;
- 28

1 f. relied on their agreements not to compete and used the exchanged
2 pricing information to inform their negotiations with U.S. and foreign customers
3 that purchased HDD suspension assemblies and produced hard disk drives for
4 sale in, or delivery to, the United States and elsewhere;

5 g. sold HDD suspension assemblies in, or for delivery to, the United States
6 and elsewhere at collusive and noncompetitive prices; and

7 h. accepted payment for HDD suspension assemblies sold in, or for
8 delivery to, the United States and elsewhere at collusive and noncompetitive
9 prices.

10 **TRADE AND COMMERCE**

11 9. During the period covered by this Indictment, the business activities of the
12 defendants and their co-conspirators that are the subject of this Indictment and the charged
13 conspiracy occurred with the flow of, and substantially affected, interstate and U.S. import
14 trade and commerce. During the period covered by this Indictment, the defendants and their
15 co-conspirators manufactured and sold HDD suspension assemblies in a continuous and
16 uninterrupted flow of interstate and U.S. import trade and commerce.

17 10. During the period covered by this Indictment, the defendants and their co-
18 conspirators manufactured HDD suspension assemblies outside the United States and sold
19 them in, or for delivery to, the United States. The charged combination and conspiracy
20 involved interstate commerce and U.S. import trade and commerce in HDD suspension
21 assemblies.

22 11. During the period covered by this Indictment, the defendants and their co-
23 conspirators also sold foreign-manufactured HDD suspension assemblies outside the United
24 States for incorporation into products—namely, hard disk drives—that were sold in, or for
25 delivery to, the United States. During the period covered by this Indictment, the charged
26 conspiracy had a direct, substantial, and reasonably foreseeable effect on interstate and U.S.
27 import trade and commerce, including in HDD suspension assemblies and certain hard disk
28

1 drives incorporating affected HDD suspension assemblies, and that effect, in part, gives rise to
2 this charge.

3 All in violation of Title 15, United States Code, Section 1.

4
5 Dated: 13 FEBRUARY 2020

6 A TRUE BILL



7
8 FOREPERSON

9

10
11 MAKAN DELRAHIM
12 Assistant Attorney General

13
14 JAMES J. FREDRICKS
15 Chief, Washington Criminal II

16

17
18 BERNARD A. NIGRO JR.
19 Principal Deputy Assistant Attorney General

20
21 CHRISTINA J. BROWN
22 MICHAEL T. KOENIG
23 Trial Attorneys, Washington Criminal II

24

25
26 RICHARD A. POWERS
27 Deputy Assistant Attorney General

28
Antitrust Division
U.S. Department of Justice
450 5th Street NW, Suite 11-300
Washington, DC 20001
Tel: 202-598-4000

MARVIN N. PRICE, JR.
Director of Criminal Enforcement

Antitrust Division
U.S. Department of Justice

DAVID L. ANDERSON
United States Attorney
Northern District of California