

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

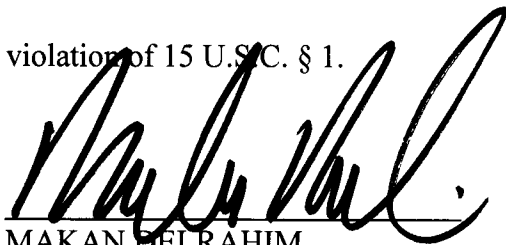
(e) accepting payment for HDD suspension assemblies sold in, or for delivery to, the United States and elsewhere at collusive and noncompetitive prices.

Trade and Commerce

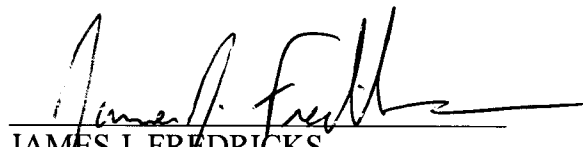
9. During the Relevant Period, the business activities of Defendant and its co-conspirators that are the subject of this Information and the charged conspiracy occurred within the flow of, and substantially affected, interstate and import trade and commerce. During the Relevant Period, Defendant's and 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.



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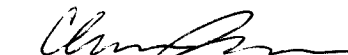
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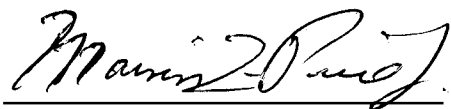
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