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NORTH DISTRICT OF CALIFORNIA

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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

UNITED STATES OF AMERICA

v.

HITOSHI HASHIMOTO and
HIROYUKI TAMURA,

Defendants.

Case No.

CR20

0070

VIOLATION: 15 U.S.C. § 1
Price Fixing

INDICTMENT

The Grand Jury charges that:

INTRODUCTION

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

1. 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. Suspension assemblies hold the recording heads in close

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.

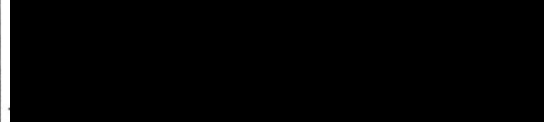
22 11. During the period covered by this Indictment, the defendants and their co-
23 conspirators also sold foreign-manufactured HDD suspension assemblies outside the United
24 States for incorporation into products—namely, hard disk drives—that were sold in, or for
25 delivery to, the United States. 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

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

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

Dated: 13 FEBRUARY 2020

A TRUE BILL



FOREPERSON

Handwritten signature of Makan Delrahim in blue ink.

MAKAN DELRAHIM
Assistant Attorney General

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JAMES J. FREDRICKS
Chief, Washington Criminal II

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BERNARD A. NIGRO JR.
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DAVID L. ANDERSON
United States Attorney
Northern District of California