

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION

UNITED STATES OF AMERICA )  
 ) **Criminal No.: 96-CR 520**  
 v. )  
 ) **Filed: [8/27/96]**  
 AJINOMOTO CO., INC.; )  
 KYOWA HAKKO KOGYO CO. LTD.; ) **Violation: 15 U.S.C. § 1**  
 SEWON AMERICA, INC.; )  
 KANJI MIMOTO; ) **Judge: Castillo**  
 MASARU YAMAMOTO; and )  
 JHOM SU KIM, )  
 )  
 )  
 )  
 Defendants. )

INFORMATION

The United States of America, acting through its attorneys, charges:

I.

DESCRIPTION OF THE OFFENSE

1. The following companies and individuals are made defendants on the charge stated below:

- (a) AJINOMOTO CO., INC.;
- (b) KYOWA HAKKO KOGYO CO. LTD.;
- (c) SEWON AMERICA, INC.;
- (d) KANJI MIMOTO;
- (e) MASARU YAMAMOTO; and
- (f) JHOM SU KIM.

2. Beginning in or about June 1992 and continuing until approximately June 27, 1995, the exact dates being unknown to the United States, the defendants and co-conspirators entered into and engaged in a combination and conspiracy to suppress and eliminate competition by fixing the price and, later during that time period, allocating the sales volumes of lysine offered for sale to customers in the United States and elsewhere. The combination and conspiracy, engaged in by the defendants and co-conspirators, was in unreasonable restraint of interstate trade and commerce in violation of Section 1 of the Sherman Act (15 U.S.C § 1).

3. The charged combination and conspiracy consisted of a continuing agreement, understanding, and concert of action among the conspirators, the substantial terms of which were:

- (a) to agree to fix and maintain prices and to coordinate price increases for the sale of lysine in the United States and elsewhere; and
- (b) to agree to allocate the volumes of sales of lysine among the corporate conspirators.

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

- (a) participating in meetings and conversations to discuss the prices and volumes of sales of lysine sold in the United States and elsewhere;

- (b) agreeing, during those meetings and conversations, to charge prices at certain levels and otherwise to increase and maintain prices of lysine sold in the United States and elsewhere;
- (c) agreeing, during those meetings and conversations, to allocate among the corporate conspirators the volume of sales of lysine to be sold by each corporate conspirator in the United States and elsewhere;
- (d) issuing price announcements and price quotations in accordance with the agreements reached; and
- (e) participating in meetings and conversations to discuss prices and volumes of sales of lysine sold in the United States and elsewhere for the purpose of monitoring and enforcing adherence to the agreed-upon prices and sales volumes.

## II.

### DEFENDANTS AND CO-CONSPIRATORS

5. AJINOMOTO CO., INC. ("AJINOMOTO") is a corporation organized and existing under the laws of Japan with its principal place of business in Tokyo, Japan. During the period covered by this Information, KANJI MIMOTO was either the Deputy General Manager or the General Manger of the Feed Additives Division of AJINOMOTO. AJINOMOTO operates a wholly owned American subsidiary, Heartland Lysine, Inc., which has headquarters in Chicago, Illinois. AJINOMOTO, through Heartland Lysine, sells and distributes lysine in the United States produced at Heartland Lysine's plant in Eddyville, Iowa. During the period covered by this Information, AJINOMOTO and KANJI MIMOTO

were engaged in the business of producing, selling, and distributing lysine to customers in the United States and elsewhere.

6. KYOWA HAKKO KOGYO CO. LTD. ("KYOWA") is a corporation organized and existing under the laws of Japan with its principal place of business in Tokyo, Japan. During the period covered by this Information, MASARU YAMAMOTO was either the Deputy General Manager or General Manager of the Agricultural Products Department, Bio-Products Division, of KYOWA. KYOWA operates a wholly owned American subsidiary, BioKyowa, Inc., which has headquarters in Cape Girardeau, Missouri. KYOWA, through BioKyowa, sells and distributes lysine in the United States produced at BioKyowa's plant in Cape Girardeau. During the period covered by this Information, KYOWA and MASARU YAMAMOTO were engaged in the business of producing, selling, and distributing lysine to customers in the United States and elsewhere.

7. SEWON AMERICA, INC. is a corporation organized and existing under the laws of Delaware with its principal place of business in Paramus, New Jersey. During part of the period covered by this Information, JHOM SU KIM was the president of SEWON AMERICA, INC. During the period covered by this Information, SEWON AMERICA, INC. and JHOM SU KIM were engaged in the business of selling and distributing lysine to customers in the United States.

8. Various corporations and individuals, not made defendants in this Information, participated as co-conspirators in the offense charged herein and performed acts and made statements in furtherance of it.

9. 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, employees, agents, or other representatives while they were actively engaged in the management, direction, control, or transaction of its business or affairs.

### III.

#### TRADE AND COMMERCE

10. Lysine is an amino acid produced through a fermentation process and used primarily as a protein additive in swine and poultry feeds. Lysine is used by swine and poultry farmers to supplement a diet of corn and thereby ensure proper growth of swine and poultry.

11. During the period covered by this Information, the defendants and co-conspirators sold and distributed lysine in a continuous and uninterrupted flow of interstate commerce to customers located in states other than the states or countries in which the defendants and co-conspirators produced lysine.

12. The business activities of the defendants and co-conspirators that are the subject of this Information were within the flow of, and substantially affected, interstate trade and commerce.

### IV.

#### JURISDICTION AND VENUE

13. The combination and conspiracy charged in this Information was carried out, in part, in the Northern District of Illinois, Eastern Division, within the five years preceding the filing of this Information.

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

Dated: August 27, 1996

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