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6 Attorneys for the United States
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8 UNITED STATES DISTRICT COURT
9 NORTHERN DISTRICT OF CALIFORNIA
10

11 UNITED STATES OF AMERICA)	CR 04-0235 PJH
)	
12 v.)	INFORMATION
)	
13 BAYER AG,)	VIOLATION:
)	Title 15, United States Code,
14 Defendant.)	Section 1 (Price Fixing)
)	
15 _____)	San Francisco Venue

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

17 I.

18 DESCRIPTION OF THE OFFENSE

19 1. BAYER AG is made a defendant on the charge stated below.

20 2. Beginning in or about July 1995 and continuing until in or about December 2001,
21 defendant and co-conspirators participated in a combination and conspiracy to suppress and
22 eliminate competition by maintaining and increasing the price of certain rubber chemicals sold in
23 the United States and elsewhere. The combination and conspiracy engaged in by the defendant
24 and co-conspirators was in unreasonable restraint of interstate and foreign trade and commerce
25 in violation of Section 1 of the Sherman Act (15 U.S.C. § 1).

26 3. The charged combination and conspiracy consisted of a continuing agreement,

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1 understanding, and concert of action among the defendant and co-conspirators, the substantial
2 term of which was to suppress and eliminate competition by maintaining and increasing the price
3 of certain rubber chemicals in the United States and elsewhere.

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

- 7 (a) participating in conversations and meetings to discuss prices of certain rubber
8 chemicals to be sold in the United States and elsewhere;
- 9 (b) agreeing, during those conversations and meetings, to raise and maintain prices of
10 certain rubber chemicals to be sold in the United States and elsewhere;
- 11 (c) participating in conversations and attending meetings concerning implementation
12 of and adherence to the agreements reached;
- 13 (d) issuing price announcements and price quotations in accordance with the
14 agreements reached; and
- 15 (e) exchanging information on the sale of certain rubber chemicals in the United
16 States and elsewhere.

17 II.

18 DEFENDANT AND CO-CONSPIRATORS

19 5. The defendant is an entity organized and existing under the laws of Germany,
20 with its principal place of business in Leverkusen, Germany. During the period covered by this
21 Information, the defendant engaged in the business of producing and selling certain rubber
22 chemicals in the United States and elsewhere.

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

26 7. Whenever in this Information reference is made to any act, deed, or transaction of

1 any corporation, the allegation means that the corporation engaged in the act, deed, or
2 transaction by or through its officers, directors, employees, agents, or other representatives while
3 they were actively engaged in the management, direction, control, or transaction of its business
4 or affairs.

5 III.

6 TRADE AND COMMERCE

7 8. Rubber chemicals are a group of additives used to improve the elasticity, strength,
8 and durability of rubber products. Rubber chemicals are used primarily in the manufacture of
9 tires, outdoor furniture, hoses, belts, and footwear.

10 9. During the period covered by this Information, the defendant and co-conspirators
11 manufactured, sold, and distributed rubber chemicals in a continuous and uninterrupted flow of
12 interstate and foreign trade and commerce to customers located in states or countries other than
13 the states or countries in which the defendant and co-conspirators produced rubber chemicals.

14 10. The business activities of the defendant and co-conspirators that are the subject of
15 this Information were within the flow of, and substantially affected, interstate and foreign trade
16 and commerce.

17 IV.

18 JURISDICTION AND VENUE

19 11. The combination and conspiracy charged in this Information was carried out, in
20 part, in the Northern District of California within the five years preceding the filing of this
21 Information.

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

3 Dated: 7/13/04

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5
6 /s/
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Assistant Attorney General

/s/
Phillip H. Warren
Chief, San Francisco Office

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9 /s/
James M. Griffin
Deputy Assistant Attorney General

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