

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

UNITED STATES OF AMERICA

v.

KOITO MANUFACTURING CO., LTD.,

Defendant.

Case: 2:14-cr-20021

Judge: Battani, Marianne O.

MJ: Michelson, Laurie J.

Filed: 01-16-2014 At 10:33 AM

INFO USA v. KOITO MFG CO LTD (dat)

Count I: 15 U.S.C. § 1

Count II: 15 U.S.C. § 1

INFORMATION

COUNT ONE

**CONSPIRACY TO RESTRAIN TRADE
(15 U.S.C. § 1)**

THE UNITED STATES, ACTING THROUGH ITS ATTORNEYS, CHARGES:

Defendant and Co-Conspirators

1. Koito Manufacturing Co., Ltd. ("Defendant") 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 Count, Defendant was engaged in the business of manufacturing and selling automotive lighting fixtures to Toyota Motor Engineering & Manufacturing North America, formerly Toyota Motor Manufacturing North America, for installation in vehicles manufactured and sold in the United States and elsewhere.

2. Other corporations and individuals, not made defendants in this Count, participated as co-conspirators in the offense charged in this Count and performed acts and made statements in furtherance of it.

3. Whenever in this Count 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.

Background of the Offense

During the period covered by this Count:

4. Defendant and its co-conspirators sold automotive lighting fixtures to or for certain automobile manufacturers for installation in vehicles manufactured and sold in the United States and elsewhere. Defendant and its co-conspirators sold automotive lighting fixtures (a) in the United States for installation in vehicles manufactured and sold in the United States, (b) in Japan for export to the United States and installation in vehicles manufactured and sold in the United States, and (c) in Japan for installation in vehicles manufactured in Japan, some of which were then exported to and sold in the United States.

5. Automotive lighting fixtures include automobile headlamps and rear combination lamp assemblies that employ various bulb technologies (i.e., incandescent, light-emitting diode, and high-intensity discharge) and are used for forward illumination, visibility, and to signal various vehicular functions (such as braking, reversing direction, and turning). When purchasing automotive lighting fixtures, automobile manufacturers issue Requests for Quotation (“RFQs”) to manufacturers of automotive lighting fixtures on a model-by-model basis for model-specific parts. Manufacturers of automotive lighting fixtures submit quotations, or bids, to automobile manufacturers in response to RFQs, and automobile manufacturers award the business to the selected manufacturers of automotive lighting fixtures for the lifespan of the model, which is

usually four to six years. Typically, the bidding process for a particular model begins approximately three years prior to the start of production.

Conspiracy to Restrain Trade

6. From at least as early as June 1997 and continuing until on or about July 2011, the exact dates being unknown to the United States, Defendant and its co-conspirators participated in a combination and conspiracy to suppress and eliminate competition in the automotive parts industry by agreeing to rig bids for, and to fix, stabilize, and maintain the prices of, automotive lighting fixtures sold to automobile manufacturers in the United States and elsewhere. The combination and conspiracy engaged in by Defendant and its co-conspirators was in unreasonable restraint of interstate and foreign trade and commerce in violation 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 rig bids for, and to fix, stabilize, and maintain the prices of, automotive lighting fixtures sold to certain automobile manufacturers in the United States and elsewhere.

Manner and Means of the Conspiracy

8. For purposes of forming and carrying out the charged combination and conspiracy, Defendant and/or its co-conspirators did those things that they combined and conspired to do, including, among other things:

- a. participating in meetings, conversations, and communications in Japan to discuss the bids and price quotations to be submitted to certain automobile manufacturers in the United States and elsewhere;

- b. agreeing, during those meetings, conversations, and communications, on bids and price quotations to be submitted to certain automobile manufacturers;
- c. agreeing, during those meetings, conversations, and communications, to allocate the supply of automotive lighting fixtures sold to certain automobile manufacturers in the United States and elsewhere on a model-by-model basis;
- d. agreeing, during those meetings, conversations, and communications, to coordinate price adjustments requested by certain automobile manufacturers in Japan;
- e. submitting bids, price quotations, and price adjustments to certain automobile manufacturers in Japan in accordance with the agreements reached;
- f. selling automotive lighting fixtures to certain automobile manufacturers in the United States and elsewhere at collusive and noncompetitive prices;
- g. accepting payment for automotive lighting fixtures sold to certain automobile manufacturers in the United States and elsewhere at collusive and noncompetitive prices;
- h. engaging in meetings, conversations, and communications in Japan for the purpose of monitoring and enforcing adherence to the agreed-upon bid-rigging and price-fixing scheme; and
- i. employing measures to keep their conduct secret, including using code names and choosing meeting places and times to avoid detection.

Trade and Commerce

9. During the period covered by this Information, Defendant and its co-conspirators sold to certain automobile manufacturers in the United States and elsewhere substantial quantities of automotive lighting fixtures manufactured in Japan and shipped into the United

States and from other states in a continuous and uninterrupted flow of interstate and foreign trade and commerce. In addition, substantial quantities of equipment and supplies necessary to the production and distribution of automotive lighting fixtures by Defendant or its co-conspirators, as well as payments for automotive lighting fixtures sold by Defendant or its co-conspirators, traveled in interstate and foreign trade and commerce. The business activities of Defendant or its co-conspirators in connection with the production and sale of automotive lighting fixtures that were the subject of the charged conspiracy were within the flow of, and substantially affected, interstate and foreign trade and commerce.

Jurisdiction and Venue

10. The combination and conspiracy charged in this Count was carried out within the United States, at least in part, within the five years preceding the filing of this Information. ALL IN VIOLATION OF TITLE 15, UNITED STATES CODE, SECTION 1.

COUNT TWO **CONSPIRACY TO RESTRAIN TRADE** **(15 U.S.C. § 1)**

THE UNITED STATES, ACTING THROUGH ITS ATTORNEYS, CHARGES:

Defendant and Co-Conspirators

11. Koito Manufacturing Co., Ltd. (“Defendant”) 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 Count, Defendant was engaged in the business of manufacturing and/or supplying automotive high intensity discharge (“HID”) ballasts to certain automobile manufacturers for installation in vehicles manufactured and sold in the United States and elsewhere.

12. Other corporations and individuals, not made defendants in this Count, participated as co-conspirators in the offense charged in this Count and performed acts and made statements in furtherance of it.

13. Whenever in this Count 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.

Background of the Offense

During the period covered by this Count:

14. Defendant and its co-conspirators sold and/or supplied automotive HID lamp ballasts to or for certain automobile manufacturers for installation in vehicles manufactured and sold in the United States and elsewhere. Defendant and its co-conspirators sold and/or supplied automotive HID lamp ballasts (a) in the United States for installation in vehicles manufactured and sold in the United States, (b) in Japan for export to the United States and installation in vehicles manufactured and sold in the United States, and (c) in Japan for installation in vehicles manufactured in Japan, some of which were then exported to and sold in the United States.

15. An automotive HID lamp ballast is an electrical device that is essential for the operation of an HID headlamp. It regulates the electrical current used to ignite and control the electrical arc that generates the intensely bright light emitted by an automotive HID headlamp fixture. When purchasing automotive HID lamp ballasts, certain automobile manufacturers issue Requests for Quotation (“RFQs”) to manufacturers of automotive HID lamp ballasts on a model-by-model basis for model-specific parts. Manufacturers of automotive HID lamp ballasts submit quotations, or bids, in response to these RFQs, and the automobile manufacturers issuing the

RFQs award the business to the selected manufacturer of automotive HID lamp ballasts for the lifespan of the model, which is usually four to six years. Typically, the bidding process for a particular model begins approximately three years prior to the start of production.

Conspiracy to Restrain Trade

16. From at least as early as July 1998 and continuing until at least February 2010, the exact dates being unknown to the United States, Defendant and its co-conspirators participated in a combination and conspiracy to suppress and eliminate competition in the automotive parts industry by agreeing to rig bids for, and to fix, stabilize, and maintain the prices of, automotive HID lamp ballasts sold to certain automobile manufacturers in the United States and elsewhere. The combination and conspiracy engaged in by Defendant and its co-conspirators was in unreasonable restraint of interstate and foreign trade and commerce in violation of the Sherman Antitrust Act, 15 U.S.C. § 1.

17. 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 rig bids for, and to fix, stabilize, and maintain the prices of, automotive HID lamp ballasts sold to certain automobile manufacturers in the United States and elsewhere.

Manner and Means of the Conspiracy

18. For purposes of forming and carrying out the charged combination and conspiracy, Defendant and/or its co-conspirators did those things that they combined and conspired to do, including, among other things:

- a. participating in meetings, conversations, and communications in Japan to discuss the bids and price quotations to be submitted to certain automobile manufacturers in the United States and elsewhere;

- b. agreeing, during those meetings, conversations, and communications, on bids and price quotations to be submitted to certain automobile manufacturers;
- c. agreeing, during those meetings, conversations, and communications, to allocate the supply of automotive HID lamp ballasts sold to certain automobile manufacturers in the United States and elsewhere on a model-by-model basis;
- d. agreeing, during those meetings, conversations, and communications, to coordinate price adjustments requested by certain automobile manufacturers in Japan;
- e. submitting bids, price quotations, and price adjustments to certain automobile manufacturers in Japan in accordance with the agreements reached;
- f. selling automotive HID lamp ballasts to certain automobile manufacturers in the United States and elsewhere at collusive and noncompetitive prices;
- g. accepting payment for automotive HID lamp ballasts sold to certain automobile manufacturers in the United States and elsewhere at collusive and noncompetitive prices;
- h. engaging in meetings, conversations, and communications in Japan for the purpose of monitoring and enforcing adherence to the agreed-upon bid-rigging and price-fixing scheme; and
- i. employing measures to keep their conduct secret, including using code names and choosing meeting places and times to avoid detection.

Trade and Commerce

19. During the period covered by this Information, Defendant and its co-conspirators sold and/or supplied to certain automobile manufacturers in the United States and elsewhere substantial quantities of automotive HID lamp ballasts manufactured in Japan and shipped into

the United States and from other states in a continuous and uninterrupted flow of interstate and foreign trade and commerce. In addition, substantial quantities of equipment and supplies necessary to the production and distribution of automotive HID lamp ballasts by Defendant or its co-conspirators, as well as payments for automotive HID lamp ballasts sold by Defendant or its co-conspirators, traveled in interstate and foreign trade and commerce. The business activities of Defendant or its co-conspirators in connection with the production and sale of automotive HID lamp ballasts that were the subject of the charged conspiracy were within the flow of, and substantially affected, interstate and foreign trade and commerce.

Jurisdiction and Venue

20. The combination and conspiracy charged in this Count was carried out within the United States, at least in part, within the five years preceding the filing of this Information.

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

Dated: January 16, 2014

s/Brent C. Snyder

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