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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

| | | |
|--------------------------|---|--------------------------|
| UNITED STATES OF AMERICA |) | No. 15-CR-0163-JD |
| |) | |
| v. |) | |
| |) | |
| TOMOHIDE DATE, |) | VIOLATION: 15 U.S.C. § 1 |
| SATORU MIYASHITA, |) | Price Fixing |
| YASUTOSHI OHNO, |) | |
| MASANOBU SHIOZAKI, |) | |
| KIYOAKI SHIROTORI, and |) | |
| TAKURO ISAWA, |) | |
| |) | |
| Defendants. |) | |

SUPERSEDING INDICTMENT

The Grand Jury charges that:

I. DESCRIPTION OF THE OFFENSE

1. The following individuals are hereby indicted and made defendants on the charge contained in this Indictment:

- a) TOMOHIDE DATE;
- b) SATORU MIYASHITA;
- c) YASUTOSHI OHNO;
- d) MASANOBU SHIOZAKI;
- e) KIYOAKI SHIROTORI; and
- f) TAKURO ISAWA.

2. From at least as early as September 1997 and continuing until in or about January 2014, in the Northern District of California and elsewhere, coconspirators of the defendants knowingly entered into and engaged in a combination and conspiracy to suppress and eliminate competition by fixing prices and rigging bids for electrolytic capacitors in the United States and elsewhere.

3. Each defendant knowingly joined and participated in the combination and conspiracy at various times:

- a) Defendant TOMOHIDE DATE knowingly joined and participated in the charged conspiracy from in or about November 2001 until in or about December 2011;
- b) Defendant SATORU MIYASHITA knowingly joined and participated in the charged conspiracy from in or about January 2003 until in or about September 2012;
- c) Defendant YASUTOSHI OHNO knowingly joined and participated in the charged conspiracy from in or about April 2000 until in or about September 2012;
- d) Defendant MASANOBU SHIOZAKI knowingly joined and participated in the charged conspiracy from in or about November 2001 until in or about December 2011;
- e) Defendant KIYOAKI SHIROTORI knowingly joined and participated in the charged conspiracy from in or about April 2006 until in or about December 2011; and
- f) Defendant TAKURO ISAWA knowingly joined and participated in the charged conspiracy from in or about August 2002 until at least March 18, 2010.

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4. The charged combination and conspiracy consisted of a continuing agreement, understanding, and concert of action among the defendants and coconspirators, the substantial terms of which were to fix prices and rig bids for electrolytic capacitors. The combination and conspiracy engaged in by the defendants and coconspirators was in unreasonable restraint of interstate and foreign trade and commerce in violation of Section 1 of the Sherman Act (15 U.S.C. § 1).

II. BACKGROUND

5. Capacitors, also known as condensers, are a fundamental component of electrical circuits and are used primarily to store and regulate electrical current. Electrolytic capacitors, including aluminum and tantalum types, are a major subcategory of capacitors. Electrolytic capacitors are ubiquitous and are found in many products that use electricity, run on a battery, or plug into a socket. Desktop and notebook computers, flat-screen televisions, DVD players, video and still digital cameras, gaming systems, car engine and airbag systems, home appliances, office equipment, and motherboards and other printed circuit boards are some of the products that contain electrolytic capacitors.

III. DEFENDANTS AND COCONSPIRATORS

6. During the time period identified in paragraph 3(a), defendant TOMOHIDE DATE was a resident and citizen of Japan and was employed by NEC TOKIN Corp. as a manager involved in the sale of electrolytic capacitors. During the time period identified in paragraph 2, NEC TOKIN was a corporation organized and existing under the laws of Japan, manufactured electrolytic capacitors sold in the United States and elsewhere, and participated in the charged conspiracy.

7. During the time period identified in paragraph 3(b), defendant SATORU MIYASHITA was a resident and citizen of Japan and was employed by Company C as a manager involved in the sale of electrolytic capacitors. During the time period identified in paragraph 2, Company C was a corporation organized and existing under the laws of Japan.

1 manufactured electrolytic capacitors sold in the United States and elsewhere, and participated in
2 the charged conspiracy.

3 8. During the time period identified in paragraph 3(c), defendant YASUTOSHI
4 OHNO was a resident and citizen of Japan and was employed by Company A as a manager
5 involved in the sale of electrolytic capacitors. During the time period identified in paragraph 2,
6 Company A was a corporation organized and existing under the laws of Japan, manufactured
7 electrolytic capacitors sold in the United States and elsewhere, and participated in the charged
8 conspiracy.

9 9. During the time period identified in paragraph 3(d), defendant MASANOBU
10 SHIOZAKI was a resident and citizen of Japan and was employed by Company B as a manager
11 involved in the sale of electrolytic capacitors. During the time period identified in paragraph 2,
12 Company B was a corporation organized and existing under the laws of Japan, manufactured
13 electrolytic capacitors sold in the United States and elsewhere, and participated in the charged
14 conspiracy.

15 10. During the time period identified in paragraph 3(e), defendant KIYOAKI
16 SHIOTORI was a resident and citizen of Japan and was employed by Company C as a manager
17 involved in the sale of electrolytic capacitors. During the time period identified in paragraph 2,
18 Company C was a corporation organized and existing under the laws of Japan, manufactured
19 electrolytic capacitors sold in the United States and elsewhere, and participated in the charged
20 conspiracy.

21 11. During the time period identified in paragraph 3(f), defendant TAKURO ISAWA
22 was a resident and citizen of Japan and was employed by Company A. While employed at
23 Company A, ISAWA was, at times, a manager involved in the sale of electrolytic capacitors and
24 held the title Global Sales General Manager. During the time period identified in paragraph 2,
25 Company A was a corporation organized and existing under the laws of Japan, manufactured
26 electrolytic capacitors sold in the United States and elsewhere, and participated in the charged
27 conspiracy.

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1 12. Various business organizations and individuals, not made defendants in this
2 Indictment, participated as coconspirators in the offense charged in this Indictment and
3 performed acts and made statements in furtherance of it. The defendants' coconspirators
4 included business organizations other than Company A, Company B, Company C, and NEC
5 TOKIN that manufactured electrolytic capacitors sold in the United States and elsewhere.

6 13. Whenever in this Indictment reference is made to any act, deed, or transaction of
7 any business organization, the allegation means that the business organization engaged in the act,
8 deed, or transaction by or through its officers, directors, agents, employees, or other
9 representatives, or by or through the officers, directors, agents, employees, or other
10 representatives of its majority-owned and controlled subsidiaries, while they were actively
11 engaged in the management, direction, control, or transaction of its business or affairs.

12
13 IV. MEANS AND METHODS OF THE CONSPIRACY

14 14. For the purpose of forming and carrying out the charged combination and
15 conspiracy, the defendants and coconspirators did those things that they combined and conspired
16 to do, including, among other things:

17 a) participated in meetings, conversations, and communications with each
18 other in various locations, including in the United States, to discuss prices and bids for
19 electrolytic capacitors;

20 b) agreed during various meetings, conversations, and communications to
21 fix, increase, maintain, and stabilize prices and rig bids of electrolytic capacitors;

22 c) negotiated prices, submitted bids, and issued price announcements for
23 electrolytic capacitors in accordance with the agreements reached;

24 d) manufactured electrolytic capacitors in accordance with the agreements
25 reached;

26 e) sold, distributed, and accepted payments for electrolytic capacitors at
27 collusive, noncompetitive prices and bids in accordance with the agreements reached;

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1 f) collected, exchanged, monitored, and discussed information on prices,
2 bids, sales, supply, demand, shipping, and the production of electrolytic capacitors for the
3 purpose of reaching agreements on prices and bids and monitoring and enforcing
4 adherence to the agreements reached;

5 g) authorized, ordered, and consented to the participation of subordinate
6 employees in the conspiracy; and

7 h) took steps to conceal the conspiracy and conspiratorial meetings,
8 conversations, and communications through various means, such as using code names to
9 refer to coconspirators, limiting and discouraging retention and distribution of documents
10 reflecting conspiratorial contacts, and providing misleading justifications for prices and
11 bids provided to customers to cover up their collusive conduct.

12 These means and methods of the conspiracy all involved electrolytic capacitors sold to customers
13 located within the United States and elsewhere, including to customers that manufactured and/or
14 sold in the United States, under major United-States and other brands, significant quantities of
15 electronic goods containing electrolytic capacitors, such as computers, televisions, and gaming
16 systems.

17
18 V. TRADE AND COMMERCE

19 15. During the time period identified in paragraph 2, Company A, Company B,
20 Company C, NEC TOKIN, and their coconspirators manufactured electrolytic capacitors in
21 Japan, Thailand, China, the United States, and elsewhere and sold them in the United States or
22 for delivery to the United States. The charged combination and conspiracy involved trade or
23 commerce within the United States and U.S. import trade or commerce in electrolytic capacitors.

24 16. During the time period identified in paragraph 2, Company A, Company B,
25 Company C, NEC TOKIN, and their coconspirators also sold foreign-manufactured electrolytic
26 capacitors outside the United States for incorporation into other products, including computers,
27 televisions, and gaming systems, that were sold in or for delivery to the United States. The
28 charged combination and conspiracy had a direct, substantial, and reasonably foreseeable effect

1 on trade or commerce within the United States or U.S. import trade or commerce in these
2 electrolytic capacitor-containing products, and that effect, in part, gives rise to this charge.

3 17. During the time period identified in paragraph 2, Company A, Company B,
4 Company C, NEC TOKIN, and their coconspirators sold and shipped substantial quantities of
5 electrolytic capacitors in a continuous and uninterrupted flow of interstate and U.S. import trade
6 or commerce from the United States and foreign countries to customers located in various states
7 in the United States, including states other than where the electrolytic capacitors were
8 manufactured. In addition, substantial quantities of equipment and supplies necessary for the
9 manufacture, sale, and distribution of electrolytic capacitors, as well as substantial payments for
10 such electrolytic capacitors sold by Company A, Company B, Company C, NEC TOKIN, and
11 their coconspirators, traveled in interstate and U.S. import trade or commerce. During the time
12 period identified in paragraph 2, the business activities of Company A, Company B, Company C,
13 NEC TOKIN, and their coconspirators that are the subject of this Indictment were within the
14 flow of, and substantially affected, interstate and U.S. import trade or commerce. During the
15 time period identified in paragraph 2, the charged combination and conspiracy had a substantial
16 and intended effect in the United States, including on trade or commerce within the United States
17 and U.S. import trade or commerce in electrolytic capacitors and products containing electrolytic
18 capacitors.

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

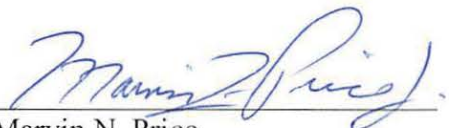
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3 Dated: November 2, 2016.

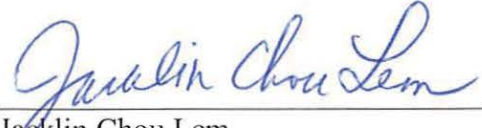
A TRUE BILL.


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