

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

UNITED STATES OF AMERICA

vs.

**NOBURU KURUSHIMA and
YOSHIHIRO KURACHI,**

Defendants.

Filed: 4/24/96

Criminal No.: 96-CR-40012-NMG

**Violation:
15 U.S.C. § 1**

Judge: Gorton

INDICTMENT

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

The Grand Jury charges:

1. NOBURU KURUSHIMA and YOSHIHIRO KURACHI are hereby indicted and made defendants on the charge stated below.

DESCRIPTION OF THE OFFENSE

2. Beginning at least as early as June 1991 and continuing at least until December 1991, the exact dates being unknown to the Grand Jury, the defendants and co-conspirators entered into and engaged in a combination and conspiracy to increase the price of fax paper manufactured by Mitsubishi Paper Mills, Co., Ltd. ("MPM") and offered for sale to Rittenhouse, Inc. ("Rittenhouse"). The combination and conspiracy unreasonably restrained interstate trade and commerce in violation of Section One of the Sherman Act (15 U.S.C. §1).

3. Rittenhouse is a converter with its principal place of business located in Park Ridge, Illinois. During the period covered by this indictment, Rittenhouse purchased its fax paper primarily from Kanzaki Specialty Papers, Inc. ("KSP"), a wholly-owned subsidiary of Kanzaki Paper Manufacturing Co., Ltd. ("KSK"), and Mitsubishi International Corporation ("MIC"), a subsidiary of MPM's trading house, Mitsubishi Corporation ("MC"). In 1991, Rittenhouse purchased approximately \$10 million of fax paper.

4. The charged conspiracy consisted of a continuing agreement, understanding and concert of action among the defendants and co-conspirators, the substantial term of which was to increase the price of MPM fax paper offered for sale to Rittenhouse.

DEFENDANTS

5. NOBURU KURUSHIMA is a citizen and resident of Japan. During the period covered by this indictment, he was MPM's Deputy Director and played an oversight role in the management of the MPM section that imports fax paper through trading houses to the United States.

6. YOSHIHIRO KURACHI is a citizen and resident of Japan. During the period covered by this indictment, he was KSK's Deputy Director of Sales Headquarters. As such, he participated in the supervision of KSP and played an oversight role in KSP's pricing decisions for fax paper.

7. Various individuals and corporations, not made defendants in this Indictment, participated as co-conspirators in the offense charged and performed acts and made statements to further it.

8. Whenever this Indictment refers to any act, deed, or transaction of any corporation, it 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.

MEANS AND METHODS OF THE CONSPIRACY

9. For the purpose of forming and carrying out the charged combination and conspiracy, the defendants and co-conspirators did the following things, among others:

- (a) KSK received a complaint from KSP about MIC offering and selling fax paper to Rittenhouse at discounted prices;

- (b) KURACHI and KURUSHIMA held a meeting to discuss whether MIC was selling paper to Rittenhouse at discounted prices;
- (c) KURACHI and KURUSHIMA reached an agreement that MPM, through its trading houses MC and MIC, would withdraw discounted prices offered to Rittenhouse;
- (d) MPM directed MC and MIC to increase their offer price for any additional fax paper sold to Rittenhouse;
- (e) MIC refused to sell any additional fax paper to Rittenhouse at discounted prices; and
- (f) caused Rittenhouse to purchase fax paper at increased prices.

TRADE AND COMMERCE

10. Fax paper is a type of specialty paper with a chemical coating that allows it to produce an image by a transfer of thermal energy from a print head. Fax paper manufacturers produce the paper in bulk rolls, which are commonly referred to as jumbo rolls. Jumbo rolls are approximately 40 to 50 inches in width and weigh up to 2,000 pounds. Converters, the primary customers of fax paper, buy fax paper and cut the jumbo rolls down into smaller finished rolls that are suitable for use in fax paper machines, certain medical printing equipment, and other

uses. In 1991, total sales of fax paper in the United States totalled approximately \$100 million.

11. During the period covered by this Indictment, to import their fax paper to the United States, Japanese manufacturers typically sold their fax paper to unaffiliated trading houses in Japan. The Japanese manufacturers sold discrete quantities of fax paper to the trading houses in Japan, for specific customers in the United States, on condition that such quantities be sold to the customers at specified prices. The Japanese manufacturers largely controlled the prices to be charged to specific United States customers, and monitored the trading houses' transactions with the United States customers to ensure that the agreed upon prices were charged. Once the Japanese trading houses purchased the fax paper, they then shipped it to the United States for sale to their wholly owned U.S. subsidiaries ("U.S. trading houses"). The U.S. trading houses then either sent the fax paper shipments directly to customers throughout the United States or transported the shipments to warehouse facilities for a short period of storage before being transported to the customers. The imported fax paper continued to bear the Japanese manufacturers' names throughout this process.

12. During the period covered by this Indictment, price notices and invoices, shipment reports, and billing documents, all of which were essential to the import of fax paper from Japan to the United States were transmitted between Japan and the United States by co-conspirator trading houses in a continuous and uninterrupted flow of foreign and interstate commerce.

13. During the period covered by this Indictment, the defendants and co-conspirators shipped, or caused to be shipped, in a continuous and uninterrupted flow of foreign and interstate commerce, substantial quantities of fax paper manufactured in Japan into the United States for sale to customers.

14. The business activities of the defendants and co-conspirators that are the subject of this Indictment were within the flow of, and substantially affected, foreign and interstate commerce, and had a direct, substantial and reasonably foreseeable effect on import and domestic commerce.

JURISDICTION AND VENUE

15. The conspiracy charged in this Indictment was carried out, in part, within the District of Massachusetts and within the five years preceding the return of this Indictment.

ALL IN VIOLATION OF TITLE 15 U.S.C. SECTION 1.

A TRUE BILL

Dated:

_____/s/_____
FOREPERSON

_____/s/_____
Anne K. Bingaman
Assistant Attorney General

_____/s/_____
Lisa M. Phelan

_____/s/_____
Gary R. Spratling

_____/s/_____
Sheryl L. Robinson

_____/s/_____
Anthony V. Nanni

_____/s/_____
Reginald K. Tom

_____/s/_____
David A. Blotner

Attorneys, Antitrust Division
U.S. Department of Justice

_____/s/_____
Stacy S. Nelson
Attorneys
U.S. Department of Justice
Antitrust Division
1401 H Street, N.W., Suite 3700
Washington, D.C. 20530
(202) 307-1166

_____/s/_____
Donald K. Stern
United States Attorney
District of Massachusetts