

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

UNITED STATES OF AMERICA	) Criminal No. 00-033
	)
v.	) Judge Marvin Katz
	)
MITSUBISHI CORPORATION,	) Violations: 15 U.S.C. § 1 and 18 U.S.C. § 2 (a)
	)
Defendant.	) Filed: 02-01-01

GOVERNMENT’S REPLY TO SUBMISSION OF DEFENDANT  
IN OPPOSITION TO INTRODUCTION OF 1990 DOCUMENTS  
THROUGH ICHIRO FUKUSHIMA

Pursuant to the Court’s Order of February 1, 2001, the Government respectfully submits this reply to the Submission of Defendant Mitsubishi Corporation in Opposition to Introduction of 1990 Documents through Ichiro Fukushima.

As it has advised this Court and the Defendant, the Government plans to introduce certain documents of defendant Mitsubishi created in 1990 into evidence as soon as possible. The Government advised Defendant this morning that it intends to introduce these documents through Ichiro Fukushima, former General Manager of Mitsubishi’s Business Development Group.

The documents at issue are key Government evidence establishing that when Mitsubishi decided to acquire UCAR, it did so with the intention and plan to encourage and facilitate the industry-wide collusion that ultimately occurred. These documents also show that, even in 1990, Mitsubishi had already begun to implement its plan through discussions with graphite electrode manufacturers. Further, while defendant in both its opening and throughout this trial has attempted to create the false impression that Mr. Fukushima and Mr. Kimura were the only Mitsubishi employees who participated in or knew of the conspiracy, these documents clearly

establish that numerous individuals throughout Mitsubishi knew about Mitsubishi's plan to cartelize the electrode industry. Moreover, the documents clearly establish that Mitsubishi was well aware of the illegality of such a plan under U.S. antitrust laws.

In its efforts to exclude these documents, Defendant has claimed they are irrelevant because they predate the conspiracy. Defendant's claim is the same as it made in its motion to exclude Government Exhibits GX-2 and GX-3. The Court rejected Defendant's contention with regard to those documents, which also predated the conspiracy. Defendant also contends this critical evidence should be excluded because of the time it will take Defendant in its attempt to refute both their apparent meaning and the Government's translations. Highly relevant evidence should not be excluded simply because Defendant may feel compelled to attempt to refute it. All trials could be shortened if the parties are not permitted to introduce relevant evidence. Moreover, the Defendant has resisted not only the Government's requests that it identify its objections to the Government's translations thereby precluding any attempt by the Government to resolve or narrow any issues concerning their accuracy, but also resisted the Court's efforts to prompt Defendant to provide the Government with its translations for the same purpose. It is patently unfair for the defendant to now claim that its efforts to challenge our translations will unduly lengthen this trial.

Although Defendant has previously conceded in its memorandum in support of its motion to exclude the 1990 documents that these exhibits are "internal Mitsubishi documents analyzing the proposed [acquisition of UCAR]" (Defendant's Memorandum, p.4), it now seeks to preclude the Government from even attempting to establish their admissibility through Mr. Fukushima, a former high-ranking Mitsubishi employee. The Government intends to question Mr. Fukushima about the identity and positions of the various Mitsubishi officials who both sent and received

these 1990 documents in order to authenticate the documents and establish them as Mitsubishi admissions or business records. Mr. Fukushima has direct knowledge of both the existence of the Investment Committee and the identity and positions of the individuals. His knowledge of the substance of the documents is unnecessary to establish their admissibility.

Dated: 02-01-01

Respectfully submitted,

---

ROBERT E. CONNOLLY  
JOSEPH MUOIO  
WENDY BOSTWICK NORMAN  
ROGER L. CURRIER  
Attorneys, Antitrust Division  
U.S. Department of Justice  
Philadelphia Office  
The Curtis Center, Suite 650W  
170 S. Independence Mall West  
Philadelphia, PA 19106  
Tel.: (215) 597-7405

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

UNITED STATES OF AMERICA                    ) Criminal No. 00-033  
  )  
  ) Judge Marvin Katz  
  )  
MITSUBISHI CORPORATION,                    ) Violations: 15 U.S.C. § 1 and 18 U.S.C. § 2 (a)  
  )  
  ) Filed: 02-01-01  
Defendant.

**CERTIFICATE OF SERVICE**

This is to certify that on the 1<sup>st</sup> day of February 2001, a copy of the Government's Reply to Submission of Defendant in Opposition to Introduction of 1990 Documents through Ichiro Fukushima, has been hand delivered to counsel of record for the defendant as follows:

Theodore V. Wells, Esquire  
Paul Weiss Rifkind Wharton & Garrison  
Rittenhouse Hotel, Room 1306  
210 West Rittenhouse Square  
Philadelphia, PA 19103

---

ROBERT E. CONNOLLY  
Attorney, Philadelphia Office  
Antitrust Division  
U.S. Department of Justice  
The Curtis Center, Suite 650W  
170 S. Independence Mall West  
Philadelphia, PA 19106  
Tel. No.: (215) 597-7405