

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

UNITED STATES OF AMERICA,

v.

MITSUBA CORPORATION

Defendant.

Violations:

Count I: 15 U.S.C. § 1

Count II: 18 U.S.C. § 1519

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. Mitsuba Corporation (“Defendant”) is a corporation organized and existing under the laws of Japan with its principal place of business in Gunma, Japan. During the period covered by this Count, Defendant was engaged in the business of manufacturing and selling various automotive parts, including windshield wiper systems and components thereof, windshield washer systems and components thereof, starter motors, power window motors, and fan motors to Honda Motor Company Ltd., Fuji Heavy Industries Ltd., Nissan Motor Company Ltd., Toyota Motor Corporation, and Chrysler Group, LLC, and certain of their subsidiaries, affiliates, suppliers and others (collectively, “automobile manufacturers”) for installation in vehicles manufactured and sold in the United States and elsewhere.

2. Various 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

4. During the period covered by this Count, Defendant and its co-conspirators supplied automotive parts to automobile manufacturers for installation in vehicles manufactured and sold in the United States and elsewhere. During the period covered by this Count, Defendant and its co-conspirators manufactured automotive parts: (a) in the United States and elsewhere for installation in vehicles manufactured and sold in the United States; (b) in Japan and elsewhere for export to the United States and installation in vehicles manufactured and sold in the United States; and (c) in Japan and elsewhere for installation in vehicles manufactured in Japan and elsewhere for export to and sale in the United States.

5. The defendant manufactured various automotive parts, including windshield wiper systems, windshield washer systems, starter motors, power window motors, and fan motors. Windshield wiper systems include the motor, linkage, arm and blade necessary to clear water or snow from vehicle windows. Windshield washer systems include the pump, hoses, nozzle and tank necessary to deliver washer fluid to vehicle windows. Starter motors are small electric motors used in starting internal combustion engines. Power window motors are small electric motors used to raise and lower vehicle windows. Fan motors are small electric motors used to turn radiator cooling fans. When purchasing automotive parts, automobile manufacturers typically issue Requests for Quotation (“RFQs”) to automotive parts suppliers on a model-by-model basis for model specific parts. Automotive parts suppliers submit quotations, or bids, to the automobile manufacturers in response to RFQs, and the automobile manufacturers award the

business to the selected automotive parts supplier 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. Automobile manufacturers procure parts for U.S.-manufactured vehicles in the United States and elsewhere.

Conspiracy to Restrain Trade

6. From at least as early as January 2000 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 allocate the supply of, rig bids for, and to fix, stabilize, and maintain the price of, certain automotive parts 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, certain automotive parts, including windshield wiper systems, windshield washer systems, starter motors, power window motors, and fan motors, sold to 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 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 the United States and elsewhere to discuss the bids and price quotations to be submitted to 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 automobile manufacturers in the United States and elsewhere;
- c. agreeing, during those meetings, conversations, and communications, to allocate the supply of certain automotive parts sold to automobile manufacturers in the United States and elsewhere;
- d. agreeing, during those meetings, conversations, and communications, to coordinate price adjustments requested by automobile manufacturers in the United States and elsewhere;
- e. submitting bids, price quotations, and price adjustments to automobile manufacturers in the United States and elsewhere in accordance with the agreements reached;
- f. selling certain automotive parts to automobile manufacturers in the United States and elsewhere at collusive and noncompetitive prices;
- g. accepting payment for certain automotive parts sold to automobile manufacturers in the United States and elsewhere at collusive and noncompetitive prices;
- h. engaging in meetings, conversations, and communications in the United States and elsewhere 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, but not limited to, using code names and meeting at remote locations.

Trade and Commerce

9. During the period covered by this Count, Defendant and its co-conspirators sold to automobile manufacturers located in various states in the United States substantial quantities of various automotive parts shipped from outside 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 various automotive parts sold by Defendant and its co-conspirators, as well as payments for various automotive parts sold by Defendant and its co-conspirators, traveled in interstate and foreign trade and commerce. The business activities of Defendant and its co-conspirators in connection with the production and sale of certain automotive parts 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, at least in part, in the Eastern District of Michigan within the five years preceding the filing of this Information.

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

COUNT TWO OBSTRUCTION OF JUSTICE (18 U.S.C. § 1519)

THE UNITED STATES, ACTING THROUGH ITS ATTORNEYS, FURTHER CHARGES:

11. Each and every allegation contained in paragraphs 1 through 10 of Count One of this Information is realleged and reasserted here as if fully set forth in this Count.

Background of the Offense

During the period covered by this Count:

12. In or about February 2010, Defendant and its executives and employees became aware that Defendant may be the subject of a criminal investigation in the United States. Specifically, on or about February 24, 2010, Executive A, a senior executive of Defendant and of a U.S. subsidiary of Defendant with offices in the Eastern District of Michigan, learned that the previous day the FBI had searched the U.S. offices of a co-conspirator of the defendant in the offense alleged in Count One, in connection with an investigation of possible violations of U.S. antitrust law.

Obstruction of Justice

13. In or about February 2010, Executive A, acting on Defendant's behalf, knowingly altered, destroyed, mutilated, concealed, covered up, falsified and made false entries in records, documents and tangible objects with the intent to impede, obstruct, and influence the investigation and proper administration of a matter within the jurisdiction of a department and agency of the United States, to wit, an investigation by the FBI and the United States Department of Justice of possible violations of U.S. antitrust law, in relation to and contemplation of such matter and case, and furthermore did order and command other employees of the Defendant to do so, in violation of 18 U.S.C. § 1519.

Description of the Offense

14. After becoming aware of the FBI search of Defendant's co-conspirator's U.S. offices, Executive A informed certain of his subordinates employed at the U.S. subsidiary of Defendant about the FBI search, and instructed such subordinates, as well as other employees of Defendant, to locate, conceal and destroy documents and electronic files that were likely to contain evidence of antitrust crimes in the United States and elsewhere.

15. Executive A concealed and destroyed documents and electronic files in his possession, custody and control in the Eastern District of Michigan that were likely to contain

evidence of antitrust crimes in the United States and elsewhere. Certain of Executive A's subordinates and other employees of Defendant took acts in the Eastern District of Michigan and elsewhere to endeavor to conceal and destroy such documents and electronic files in the possession, custody and control of Defendant, and did conceal and destroy such documents and electronic files.

Jurisdiction and Venue

16. The offense charged in this Count was carried out, at least in part, in the Eastern District of Michigan within the five years preceding the filing of this Information.

ALL IN VIOLATION OF TITLE 18, UNITED STATES CODE, SECTION 1519.

Dated: SEPTEMBER 26, 2013

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