

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

UNITED STATES OF AMERICA

CRIMINAL NO. 16-20394

v.

VIOLATION:

IAV GMBH,

18 U.S.C. § 371

FILED USDC - DT  
2018 DEC 18 AM 10:17

Defendant.

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**SIXTH SUPERSEDING INFORMATION**

The United States Department of Justice, Criminal Division, Fraud Section, the United States Attorney's Office for the Eastern District of Michigan, and the United States Department of Justice, Environment and Natural Resources Division, Environmental Crimes Section, charge:

**GENERAL ALLEGATIONS**

1. IAV GmbH Ingenieurgesellschaft Auto und Verkehr ("IAV") was an automotive engineering company based in Berlin, Germany, which specialized in software, electronics, and technology support for vehicle manufacturers.

2. Volkswagen AG ("VW AG") was a motor vehicle manufacturer based in Wolfsburg, Germany. VW AG owned fifty percent of IAV's shares and was IAV's largest customer. Together with Audi AG and Volkswagen Group of

America, Inc. (“VW GOA”), VW AG is referred to as “VW.”

3. The purpose of the Clean Air Act and its implementing regulations was to protect human health and the environment by, among other things, reducing emissions of pollutants from new motor vehicles, including nitrogen oxides (“NO<sub>x</sub>”).

4. The Clean Air Act required the U.S. Environmental Protection Agency (“EPA”) to promulgate emissions standards for new motor vehicles. The EPA established standards and test procedures for light-duty motor vehicles sold in the United States, including emission standards for NO<sub>x</sub>.

5. The Clean Air Act prohibited manufacturers of new motor vehicles from selling, offering for sale, introducing or delivering for introduction into U.S. commerce, or importing (or causing the foregoing with respect to) any new motor vehicle unless the vehicle complied with U.S. emissions standards, including NO<sub>x</sub> emissions standards, and was issued an EPA certificate of conformity.

6. To obtain a certificate of conformity, a manufacturer was required to submit an application to the EPA for each model year and for each test group of vehicles that it intended to sell in the United States. The application was required to be in writing, to be signed by an authorized representative of the manufacturer, and to include, among other things, the results of testing done pursuant to the published Federal Test Procedures that measure NO<sub>x</sub> emissions, and a description of the

engine, emissions control system, and fuel system components, including a detailed description of each Auxiliary Emission Control Device (“AECD”) to be installed on the vehicle.

7. An AECD was defined under U.S. law as “any element of design which senses temperature, vehicle speed, engine RPM, transmission gear, manifold vacuum, or any other parameter for the purpose of activating, modulating, delaying, or deactivating the operation of any part of the emission control system.” The manufacturer was also required to include a justification for each AECD. If the EPA, in reviewing the application for a certificate of conformity, determined that the AECD “reduced the effectiveness of the emission control system under conditions which may reasonably be expected to be encountered in normal vehicle operation and use,” and that (1) it was not substantially included in the Federal Test Procedure, (2) the need for the AECD was not justified for protection of the vehicle against damage or accident, or (3) it went beyond the requirements of engine starting, the AECD was considered a “defeat device.”

8. The EPA would not certify motor vehicles equipped with defeat devices. Manufacturers could not sell motor vehicles in the United States without a certificate of conformity from the EPA.

9. The California Air Resources Board (“CARB”) (together with the EPA, “U.S. regulators”) issued its own certificates, called executive orders, for the sale of