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IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

IN RE: HARD DISK DRIVE
SUSPENSION ASSEMBLIES
ANTITRUST LITIGATION

This Document Relates to:
Seagate Technology, LLC, et al. v.
Headway Technologies, Inc., et al., Case
No. 3:20-cv-01217 MMC

Case No. 19-md-02918-MMC
Case No. 20-cv-01217-MMC

**ORDER GRANTING IN PART AND
DENYING IN PART NHK
DEFENDANTS' MOTION FOR
PARTIAL SUMMARY JUDGMENT
[DOC. NO. 535]**

United States District Court
Northern District of California

Before the Court is the "Motion for Partial Summary Judgment Regarding Foreign
Commerce" (Doc. No. 535), filed August 2, 2022, by defendants NHK Spring Co., Ltd.
("NHK Spring"), NHK International ("NHKI"), NAT Peripheral (Dong Guan) Co., Ltd.
("NAT Peripheral (Dong Guan)"), NAT Peripheral (Hong Kong) Co., Ltd ("NAT Peripheral
(Hong Kong)"), and NHK Spring (Thailand) Co., Ltd ("NHK Spring (Thailand)")
(collectively, "NHK Defendants"), whereby said defendants seek partial summary
judgment as to "certain categories of claims" (see NHK Defs.' Mot. at 1:6-7) asserted by
plaintiffs. On October 14, 2022, plaintiffs Seagate Technology LLC ("Seagate LLC"),
Seagate Technology (Thailand) Ltd. ("Seagate Thailand"), Seagate Singapore
International Headquarters Pte. Ltd. ("Seagate Singapore"), and Seagate Technology
International ("Seagate International") (collectively, "Seagate Plaintiffs") filed opposition,
to which NHK Defendants replied. Thereafter, with leave of court, the parties filed
supplemental briefing. Having read and considered the papers filed in support of and in
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1 opposition to the motion, including the supplemental briefing, the Court rules as follows.¹

2 **BACKGROUND**

3 In the operative pleading, the Second Amended Complaint ("SAC"), Seagate
4 Plaintiffs allege NHK Defendants entered into a conspiracy with defendants TDK
5 Corporation, Hutchinson Technology Inc., Magnecomp Precision Technology Public Co.,
6 Ltd., Magnecomp Corporation, and SAE Magnetics (H.K.) Ltd. (collectively, "TDK
7 Defendants")² to "fix the prices and allocate market shares of suspension assemblies"
8 (see SAC ¶ 5), "an indispensable component of computer hard disk drives" (see SAC
9 ¶ 1). According to Seagate Plaintiffs, Seagate LLC "purchas[ed] affected suspension
10 assemblies directly from [d]efendants at prices illegally fixed by [d]efendants" (see SAC
11 ¶ 32), and Seagate Thailand, Seagate Singapore, and Seagate International "assisted
12 [Seagate LLC] at times with Seagate's purchase of the affected suspension assemblies
13 directly from certain [d]efendants at prices illegally fixed by [d]efendants" (see SAC
14 ¶¶ 33-35). Seagate Plaintiffs further allege that, "[a]s a result of [defendants' conduct],
15 Seagate's business and property were injured, in that Seagate paid more for suspension
16 assemblies than it would have paid in the absence of [d]efendants' unlawful conduct."
17 (See SAC ¶¶ 263, 272, 281; see also SAC ¶ 291.)

18 Based on said allegations, Seagate Plaintiffs assert four claims alleging antitrust
19 violations, specifically, Count I, asserting a violation of the Sherman Act, Count II,
20 asserting a violation of California's Cartwright Act, Count III, asserting a violation of
21 California's Unfair Competition Law, and Count IV, asserting a violation of Minnesota's
22 Antitrust Law of 1971. In addition, Seagate Plaintiffs assert a claim for breach of
23 contract, specifically, Count V, alleging defendants disclosed Seagate Plaintiffs'
24

25 ¹ By order filed February 21, 2023, the Court took the matter under submission.

26 ² On April 8, 2022, Seagate Plaintiffs voluntarily dismissed their claims against the
27 TDK Defendants (see Amended Stipulation and Order of Dismissal With Prejudice by
28 Seagate Plaintiffs and TDK Defendants, filed April 8, 2022), leaving NHK Defendants as
the sole remaining group of defendants.

1 confidential material in violation of nondisclosure agreements.

2 **LEGAL STANDARD**

3 Pursuant to Rule 56 of the Federal Rules of Civil Procedure, a "court shall grant
4 summary judgment if the movant shows that there is no genuine issue as to any material
5 fact and that the movant is entitled to judgment as a matter of law." See Fed. R. Civ. P.
6 56(a).

7 The Supreme Court's 1986 "trilogy" of Celotex Corp. v. Catrett, 477 U.S. 317
8 (1986), Anderson v. Liberty Lobby, Inc., 477 U.S. 242 (1986), and Matsushita Electric
9 Industrial Co. v. Zenith Radio Corp., 475 U.S. 574 (1986), requires that a party seeking
10 summary judgment show the absence of a genuine issue of material fact. Once the
11 moving party has done so, the nonmoving party must "go beyond the pleadings and by
12 [its] own affidavits, or by the depositions, answers to interrogatories, and admissions on
13 file, designate specific facts showing that there is a genuine issue for trial." See Celotex,
14 477 U.S. at 324 (internal quotation and citation omitted). "When the moving party has
15 carried its burden under Rule 56[], its opponent must do more than simply show that
16 there is some metaphysical doubt as to the material facts." Matsushita, 475 U.S. at 586.
17 "If the [opposing party's] evidence is merely colorable, or is not significantly probative,
18 summary judgment may be granted." Liberty Lobby, 477 U.S. at 249-50 (citations
19 omitted). "[I]nferences to be drawn from the underlying facts," however, "must be viewed
20 in the light most favorable to the party opposing the motion." See Matsushita, 475 U.S. at
21 587 (internal quotation and citation omitted).

22 **DISCUSSION**

23 By the instant motion, NHK Defendants seek judgment as to Seagate Plaintiffs'
24 "direct purchaser claims arising from component sales" (see NHK Defs.' Mot. at 1:12-14),
25 namely, sales of suspension assemblies ("SAs"),³ "that took place outside the U.S." (see

26 _____
27 ³ In the SAC, Seagate Plaintiffs use no abbreviation for the term "suspension
28 assemblies. In their opposition, however, Seagate Plaintiffs state suspension assemblies
are also known as "trace gimbal assemblies" (see Seagate Pls.' Opp. at 4:15-16) and,
throughout their briefing, refer to such components as "TGAs," whereas NHK

1 NHK Defs.' Mot. at 1:12-14). NHK Defendants argue such claims are barred by the
2 Foreign Trade Antitrust Improvements Act ("FTAIA").⁴

3 The FTAIA, in relevant part, provides:

4 Sections 1 to 7 of this title [the Sherman Act] shall not apply to conduct
5 involving trade or commerce (other than import trade or import commerce)
6 with foreign nations unless--

7 (1) such conduct has a direct, substantial, and reasonably foreseeable
8 effect--

9 (A) on trade or commerce which is not trade or commerce with
10 foreign nations, or on import trade or import commerce with foreign
11 nations; or

12 (B) on export trade or export commerce with foreign nations, of a
13 person engaged in such trade or commerce in the United States;
14 and

15 (2) such effect gives rise to a claim under the provisions of [the Sherman
16 Act].

17 See 15 U.S.C. § 6a.

18 As explained by the Supreme Court, the FTAIA "initially lays down a general rule
19 placing all (nonimport) activity involving foreign commerce outside the Sherman Act's
20 reach," see F. Hoffman-La Roche Ltd. v. Empagran S.A., 542 U.S. 155, 162 (2004); "[i]t
21 then brings such conduct back within the Sherman Act's reach provided that the conduct
22 both (1) sufficiently affects American commerce, i.e., it has a 'direct, substantial, and
23 reasonably foreseeable effect' on American domestic, import, or (certain) export
24 commerce, and (2) has an effect of a kind that antitrust law considers harmful, i.e., the
25 'effect' must 'giv[e] rise to a [Sherman Act] claim,'" see id. (quoting 15 U.S.C. §§ 6a(1),
26 6a(2); alterations in original); see also United States v. Hsiung, 778 F.3d 738, 756 (9th

27 _____
28 Defendants, in their briefing, use the abbreviation "HDD Suspensions." For the sake of
clarity, the Court will refer to the subject components as "SAs."

⁴ NHK Defendants do not seek summary judgment as to claims based on sales of
SAs that were "billed and shipped directly to the U.S.," i.e., claims based on "Seagate's
purchases of unincorporated [SAs] that were imported directly into the U.S." (see NHK
Defs.' Mot. at 6:8-10, 26-27), nor do NHK Defendants make reference to Seagate
Plaintiffs' breach of contract claim.

1 Cir. 2015) (referring to statutory exception as "domestic effects exception"). The Ninth
 2 Circuit has further clarified that the FTAIA's "gives rise to" language "requires a direct or
 3 proximate causal relationship." See In re Dynamic Random Access Memory (DRAM)
 4 Antitrust Litig., 546 F.3d 981, 988 (9th Cir. 2008).

5 Although, on its face, the FTAIA only sets forth limitations with respect to the
 6 Sherman Act, district courts to have considered the matter have found, and this Court
 7 agrees, that state law antitrust claims are "limited by the FTAIA to the same extent as any
 8 federal law claims." See In re Optical Disk Drive Antitrust Litig., 2017 WL 11513316, at
 9 *2 (N.D. Cal. December 18, 2017) (citing cases); see also In re Capacitors Antitrust Litig.,
 10 2016 WL 5724960, at *8 (N.D. Cal. September 30, 2016) (holding reach of state antitrust
 11 laws do not extend "beyond the FTAIA"); In re Static Random Access Memory (SRAM)
 12 Antitrust Litig., 2010 WL 5477313, at *4 (N.D. Cal. December 31, 2010) (rejecting
 13 argument that "FTAIA does not apply to [plaintiffs'] state law claims"; explaining "foreign
 14 commerce is preeminently a matter of national concern on which the federal government
 15 has historically spoken with one voice") (internal quotation and citation omitted).

16 **A. Direct Purchaser**

17 As noted, NHK Defendants seek summary judgment on Seagate Plaintiffs' direct
 18 purchaser claims that arise from sales of SAs outside the United States.⁵ In support of
 19 their motion, NHK Defendants first offer evidence that such foreign sales occurred.
 20 Specifically, NHK Defendants offer evidence that (1) the four NHK Defendants that
 21 engage in sales, specifically, NHK Spring, a Japanese corporation (see Okuma Decl.
 22 ¶¶ 6, 7(a)), NAT Peripheral (Dong Guan), a Chinese corporation (see id. ¶ 7(b)), NAT
 23 Peripheral (Hong Kong), a Hong Kong corporation (see id. ¶ 7(c)), and NHK Spring
 24 (Thailand), a Thai corporation (see id. ¶ 7(d)), "billed and shipped" SAs to Seagate

27 ⁵ To establish a claim for price-fixing under the Sherman Act, the plaintiff must be
 28 a direct purchaser of the price-fixed item. See Illinois Brick Co. v. Illinois, 431 U.S. 720
 (1977).

1 Thailand (see id. ¶ 21, Ex. A),⁶ and (2) two of the TDK Defendants, specifically,
2 Magnecomp Precision Technology Public Co. Ltd., a Thai corporation (see Misuta Decl.
3 ¶ 4), and Hutchinson Technology Inc., a Minnesota corporation (see id. ¶ 6), "sold" and
4 "delivered" SAs to Seagate Thailand and Seagate Singapore (see id. ¶¶ 18, 21, 27, 29-
5 30).

6 Seagate Plaintiffs offer no evidence to the contrary, but, as to sales made to
7 Seagate Thailand, argue the direct purchaser is Seagate LLC, a company located in the
8 United States, under the theory that, when Seagate Thailand purchased SAs from NHK
9 Defendants and TDK Defendants, Seagate Thailand was acting as an agent for Seagate
10 LLC.⁷ In support of thereof, Seagate Plaintiffs rely on In re Cathode Ray Tube (CRT)
11 Antitrust Litig., 2016 WL 7805628 (N.D. Cal. August 4, 2016), in which the district court
12 concluded that, where the "first party to purchase a price-fixed good" is "merely a
13 purchasing agent for the party to whom it later resells the price-fixed good," the "principal
14 will have standing as the direct purchaser, not the agent." See id. at *14.

15 As to issues of agency, district courts have held, and this Court agrees, that
16 federal common law is "guided by [the] principles set forth in the Restatement of Agency.
17 See Sun Microsystems Inc. v. Hynix Semiconductor Inc., 622 F. Supp. 2d 890, 899 (N.D.
18 Cal. 2009) (citing cases). Under the Restatement of Agency, the party seeking to
19 establish a principal-agent relationship must demonstrate: "(1) a manifestation by the
20

21 ⁶ Seagate Plaintiffs' objection to the above statement, on grounds of lack of
22 personal knowledge, improper lay opinion testimony, and hearsay, is hereby
23 OVERRULED. The declarant is the current Director of the Disk Drive Suspension,
24 Component & Microcontactor Sales Department of NHK Spring. (See id. ¶ 1.) From
25 1992 to the present, he has held a position with an NHK entity and, with the exception of
26 a couple of interstitial periods, has held a position as an officer in NHK Spring's sales
27 department during the entire period of the alleged conspiracy. (See id. ¶¶ 1-2.) Under
28 such circumstances, one would expect he would be familiar both with NHK Spring's sales
and sales by its subsidiaries, particularly given the challenged statement is based on his
own personal observations and experience (see id. ¶ 4), as well as records maintained
by NHK Spring, such as orders from customers (see id. Ex. A).

⁷ Seagate Plaintiffs do not contend Seagate Singapore, when purchasing SAs or
engaging in any other activity, acted as the agent of Seagate LLC.

1 principal that the agent shall act for him; (2) that the agent has accepted the undertaking;
2 and (3) that there is an understanding between the parties that the principal is to be in
3 control of the undertaking." See id. (citing Restatement (Third) of Agency, § 1.01).)

4 Here, as to the question of agency, Seagate Plaintiffs offer evidence that Seagate
5 LLC employees negotiated with each seller of SAs the "price, allocation, and other terms"
6 of the "purchase process" to be applied to that seller's sales of SAs for a specified period
7 of time (see Floeder Decl. ¶¶ 31, 54; see also id. ¶¶ 32-53, Exs. F, L, N),⁸ that both sides
8 acted through U.S. based employees (see id. ¶¶ 15, 31), and that, once an agreement
9 with a seller was reached, the terms were memorialized in a written agreement (see id.
10 ¶¶ 55-60, Exs. F-Q), which governed the sales when "purchase orders" for SAs were
11 placed by Seagate Thailand (see id. ¶¶ 63-72; Tangwongchai Decl. ¶¶ 10-13;
12 VanHooreweghe Decl. Ex. 4 at 389:16-20). Seagate Plaintiffs also offer evidence that
13 Seagate LLC, rather than Seagate Thailand, addressed any questions from sellers about
14 receiving payment for the SAs (see Tangwongchai Decl. ¶¶ 20-22), that Seagate LLC
15 directed Seagate International to transfer to Seagate Thailand the funds needed to pay
16 for the SAs (see Floeder Decl. ¶ 62; Choi Decl. ¶¶ 7, 9), and that Seagate International
17 transferred to Seagate Thailand the necessary funds, using money held in Seagate
18 International's accounts (see Floeder Decl. ¶ 62).

19 The Court finds the evidence offered by Seagate Plaintiffs is insufficient to create a
20 triable issue as to whether Seagate Thailand, when purchasing and paying for SAs, acted
21 as an agent for Seagate LLC. Although Seagate Plaintiffs analogize the relationship
22 between Seagate Thailand and Seagate LLC to that of a stockbroker purchasing
23 securities for investors, there is no evidence to support a finding that, similar to a
24

25 ⁸ Because the Court has granted Seagate Plaintiffs' request to file under seal the
26 details of the purchase process, as well as the manner by which Seagate Thailand
27 placed orders for SAs, the manner in which Seagate Thailand paid for the SAs it ordered,
28 and the use Seagate Thailand and other Seagate companies in foreign countries made of
the SAs, the Court has not set forth those details, and, instead, has described them in the
above paragraph and elsewhere herein using general terms.

1 stockbroker, Seagate Thailand's only part in the transaction was the purchase of
 2 products that then were to be transferred to another person or entity who was the
 3 intended owner of the products. Rather, it is undisputed that Seagate Thailand, upon
 4 paying for the SAs with funds not belonging to Seagate LLC (see Shay Decl. second
 5 ¶ 2),⁹ used the SAs for its own purposes, namely, to manufacture "head gimbal
 6 assemblies" ("HGAs") (see Floeder Decl. ¶¶ 1, 77-78; Lee Decl. Ex. 3 at 101:10-18,
 7 102:14-103:4), a step in the manufacturing of HDDs (see Floeder Decl. ¶¶ 77-82) that
 8 was one of Seagate Thailand's corporate "functions" (see Lee Decl. Ex 1 at 82:3-22,
 9 84:23-85:8, Ex. 2). Further, it is undisputed that, after Seagate Thailand completed its
 10 part of the HDD manufacturing process, it issued an "invoice" to Seagate Singapore and
 11 received payment in return. (See Shay Decl. ¶ 17 and n.3; id. ¶ 20.)

12 Under such circumstances, Seagate Plaintiffs have not shown a trier of fact
 13 reasonably could find Seagate Thailand's purchases of SAs constituted acts "for"
 14 Seagate LLC, see Restatement (Third) of Agency, § 1.01, as opposed to acts on its own
 15 behalf. See Sun Microsystems Inc. v. Hynix Semiconductor, Inc., 608 F. Supp. 2d 1166,
 16 1188-89 (N.D. Cal. 2009) (holding where plaintiff negotiated prices pursuant to "global
 17 procurement strategy," thus "control[ling]" prices its subsidiaries paid for price-fixed
 18 components, subsidiaries were not plaintiff's agents when they purchased price-fixed
 19 components; finding subsidiaries "took delivery of the [components] they purchased, and
 20 used [those components] to manufacture finished . . . products that were sold through the
 21 subsidiaries' own . . . sales offices").

22 Accordingly, as the plaintiffs with standing to assert the claims challenged by the
 23 instant motion are Seagate Thailand and Seagate Singapore, their purchases constitute
 24 international commerce, and, in the absence of a showing that such conduct constitutes
 25 import activity or that the FTAIA "brings [it] back within the Sherman Act's reach," see F.
 26 Hoffmann-La Roche, 542 U.S. at 162, claims based thereon are barred. The Court next

27
 28 ⁹ The Shay Declaration contains two paragraphs denominated "¶ 2."

1 turns to whether either such showing has been made.¹⁰

2 **B. Applicability of FTAIA**

3 As noted, the instant motion seeks summary judgment as to claims based on
4 direct sales of SAs by NHK Defendants or their alleged conspirators to foreign
5 purchasers, i.e., sales to Seagate Thailand and Seagate Singapore.

6 For purposes of analysis, NHK Defendants contend there are four "categories" of
7 claims based on such direct sales: " 1. [c]laims based on component sales between a
8 foreign defendant manufacturer and a foreign direct purchaser, where the direct
9 purchaser incorporated the component into a product that it sold to a foreign indirect
10 purchaser and that did not enter the United States; 2. [c]laims based on component
11 sales between a foreign defendant manufacturer and a foreign direct purchaser, where
12 the direct purchaser incorporated the component into a product that it sold to a foreign
13 indirect purchaser, who then incorporated the component into a product that entered the
14 United States; 3. [c]laims based on component sales between a foreign defendant
15 manufacturer and a foreign direct purchaser, where the direct purchaser incorporated the
16 component into a product that it imported into the United States; and 4. [c]laims based on
17 component sales exported from the United States by a domestic defendant manufacturer
18 to a foreign direct purchaser." (See NHK Defs.' Mot. at 12:1-9.) Seagate Plaintiffs
19 contend there are two categories of claims based on direct sales, namely claims based
20 on "purchases of [SAs] that *do not* enter the United States (Category A)" and "purchases
21 of [SAs] that *do* enter the United States (Category B)." (See Seagate Pls.' Opp. at 14:6-8
22

23 ¹⁰ In their supplemental briefing, Seagate Plaintiffs assert Seagate LLC was injured
24 in ways other than paying supracompetitive prices for SAs. In particular, Seagate
25 Plaintiffs argue, defendants "depressed the quality of the [SAs]" (see Seagate Pls.'
26 Response, filed January 20, 2023, at 5:6) and also that, if Seagate LLC is not deemed a
27 direct purchaser, it nonetheless is entitled to assert injuries as an "indirect purchaser"
28 (see id. at 6:18-19). Given that the instant motion seeks judgment solely on direct
purchaser claims arising from defendants' sales of SAs outside the United States, the
Court does not further consider herein any other asserted claims and thus has not
considered at this time NHK Defendants' argument that such other claims have not been
timely disclosed.

1 (emphasis in original)).¹¹

2 As NHK Defendants acknowledge in their reply, NHK Defendants' Category 1 and
3 Seagate Plaintiffs' Category A cover the same set of sales, NHK Defendants' Categories
4 2 and 3 together cover the same set of sales as Seagate Plaintiffs' Category B, and the
5 sales comprising NHK Defendants' Category 4 can be split into Seagate Plaintiffs'
6 Categories A and B, depending on whether the SAs sold by exporter Hutchinson
7 Technology, Inc. were incorporated into products that did or did not enter the United
8 States. In light thereof, and given both parties focus on whether products containing SAs
9 enter or do not enter the United States, the Court has analyzed the direct sales claims
10 based on two categories, namely, products that did enter and products that did not enter
11 the United States, and begins with the former.

12 **1. Products Entering the United States**

13 With regard to products containing SAs that entered the United States, the parties
14 dispute whether claims based on sales of the SAs incorporated in those products are
15 claims "involving . . . import trade or import commerce," and thus exempt from the
16 prohibition set forth in the FTAIA. See 15 U.S.C. § 6a. As discussed below, the Court
17 finds a trier of fact could conclude such claims are not barred by the FTAIA.

18 The Court does agree with NHK Defendants that the following facts are
19 undisputed: that, after Seagate Thailand purchased SAs, it incorporated them into HGAs
20 (see Lee Decl. Ex. 3 at 101:10-18, 102:14-103:4; Floeder Decl. ¶¶ 1, 77-78), that the
21 HGAs were next incorporated into head stack assemblies ("HSAs") in a Seagate facility
22 in Thailand or in another foreign country (see Lee Decl. Ex. 3 at 103:20-104:16; Floeder
23 Decl. ¶¶ 80-81), that the HSAs were then assembled with other components into HDDs in
24 a Seagate facility in Thailand or in another foreign country (see Misuta Decl. ¶ 35;

25
26 ¹¹ Although Seagate Plaintiffs identify, as a third category, "Seagate LLC's internal
27 purchase of HDDs in the United States for sale in the United States" (see id. at 14:8-9),
28 those purchases constitute Seagate LLC's purchases of HDDs from Seagate Singapore,
and, as noted above, the Court has not addressed herein Seagate LLC's indirect
purchaser claims.

1 Floeder Decl. ¶¶ 82-83),¹² that the manufactured HDDs were shipped by Seagate
2 Singapore to its customers and to four other Seagate entities, one being Seagate LLC,
3 and that those four entities, in turn, shipped the HDDs to their customers (see Lee Decl.
4 Ex. 3 at 104:17-20; Shay Decl. ¶¶ 10-11, 18-19).¹³

5 NHK Defendants, citing the above evidence and pointing to an absence of
6 evidence that, other than shipments of SAs not challenged by the instant motion, any
7 SAs or any products containing SAs were shipped by any defendant to the United States,
8 argue Seagate Plaintiffs cannot establish the applicability of the import trade or
9 commerce exclusion. Case authority, however, is to the contrary, in that district courts
10 have found the import trade or commerce exclusion can be established without a
11 showing that the defendants themselves shipped price-fixed goods into the United
12 States.

13 For example, in In re Capacitors Antitrust Litig., 2018 WL 4558265 (N.D. Cal.
14 September 20, 2018), the district court found a triable issue of fact existed as to the
15 import trade or commerce exclusion, where the defendants sold price-fixed components
16 to foreign purchasers, which in turn incorporated the components into products that were
17 shipped to the United States. In so holding, the district court pointed to evidence that the
18 defendants had negotiated in the United States the prices the foreign purchasers would
19 pay for the components and that the defendants thereafter sold the components to
20 plaintiff's foreign affiliates, "knowing [the components] would be incorporated into goods
21 that were intended to be (and were) shipped to the U.S." for "specific U.S. customers"
22 whose identities were known to defendants. See id. at *4-5.

23

24 ¹² According to Seagate Plaintiffs, some HDDs were manufactured by a Seagate
25 entity in the United States. (See Floeder Decl. ¶ 82.) As noted, however, the instant
26 motion does not challenge claims arising from sales of SAs defendants shipped to the
United States.

27 ¹³ As to SAs purchased by Seagate Singapore, said plaintiff's "involvement" in the
28 HDD manufacturing process "was similar to that of [Seagate Thailand]." (See Floeder
Decl. ¶ 9.)

1 Similarly, in Optical Disk Drive, the defendants sold price-fixed components to
2 foreign purchasers and the components were incorporated into consumer products that
3 the purchasers and their "affiliates" shipped to the United States; the district court found a
4 triable issue of fact existed as to the import commerce exclusion, in light of evidence that
5 the defendants negotiated in United States the prices the foreign purchasers would pay
6 and defendants "knew that [the price-fixed components] they sold to [foreign direct
7 purchasers] would be sold for the purpose of incorporation into [products] sold [in the
8 United States]." See Optical Disk Drive, 2017 WL 11513316, at *4; see also In re Lithium
9 Ion Batteries Antitrust Litig., 2017 WL 2021361, at *4 (May 12, 2017) (finding, at pleading
10 stage, where plaintiff alleged its "affiliates" purchased price-fixed components for
11 "purpose of manufacturing goods for their U.S. customers" and defendants "knew or
12 should have known that a substantial portion of the products they sold to affiliates would
13 be manufactured into goods sold to U.S. consumers," plaintiff "alleged a plausible basis
14 for import trade or commerce") (internal quotation and citation omitted).

15 Here, similar to the evidence found sufficient in Capacitors and Optical Disk Drive,
16 Seagate Plaintiffs, in addition to the above-cited evidence to which NHK Defendants cite,
17 offer evidence that, during the negotiations, the alleged conspirators "required" Seagate
18 LLC to disclose the names of Seagate customers, which included large companies
19 located in the United States. (See VanHooreweghe Decl. Ex. 6 at 411:17-412:6, 413:15-
20 415:7; see also id. Ex. 95 at 334:8-15, 338:3-5, 340:5-16 (NHK executive's testimony
21 that, during negotiations, he learned from Seagate LLC identities of Seagate customers
22 located in United States that were or would be using Seagate HDDs in their products).)

23 Accordingly, NHK Defendants have not shown they are entitled to summary
24 judgment as to Seagate Plaintiffs' antitrust claims that are predicated on direct purchases
25 of SAs made by Seagate Thailand and Seagate Singapore, where products containing
26 those SAs were then shipped to the United States.

27 //

28 //

1 **2. Products Not Entering the United States**

2 NHK Defendants assert, and Seagate Plaintiffs do not disagree, that products
3 containing SAs not entering the United States do not involve import trade or commerce.
4 Consequently, claims based on direct purchases of SAs by Seagate Thailand and
5 Seagate Singapore, where the SAs are components of products that do not enter the
6 United States, are barred by the FTAIA unless the domestic effects exception set forth in
7 the FTAIA applies.

8 As noted, the domestic effects exception applies where the conduct on which the
9 plaintiff's claim is based has a "'direct, substantial, and reasonably foreseeable effect' on
10 American domestic, import, or (certain) export commerce," see Empagran, 542 U.S. at
11 162 (quoting 15 U.S.C. § 6(a)(1)), "the 'effect'" gives rise to a Sherman Act claim, see id.
12 (quoting 15 U.S.C. § 6(a)(2)), and there is a "direct or proximate causal relationship"
13 between the effect and the plaintiff's claim, see Dynamic Random Access Memory, 546
14 F.3d at 988.

15 Here, NHK Defendants argue that, where products containing SAs never entered
16 the United States, any effect resulting from the direct purchases of SAs by Seagate
17 Thailand or Seagate Singapore occurred overseas. Seagate Plaintiffs, by contrast, argue
18 that the requisite domestic effect existed by reason of the direct purchasers' having paid
19 prices that were determined during the "rigged" pricing negotiations in the United States.
20 (See Seagate Pls.' Opp. at 25:12-13.)

21 At least two district courts in this district have considered claims substantially
22 similar to those asserted here by Seagate Plaintiffs, i.e., claims based on direct
23 purchases by foreign plaintiffs of price-fixed components that were incorporated into
24 products that did not enter the United States, and found such claims barred by the FTAIA
25 even though those foreign plaintiffs had purchased the components at prices negotiated
26 in the United States. See Optical Disk Drive, 2017 WL 11513316, at *6 (distinguishing
27 "conduct" from "effects"; finding purchases of products not entering the United States and
28 purchases of products entering the United States "may be subject to the same conduct

1 by [d]efendants — collusion and price negotiation in the United States by U.S.-based
2 employees" — but the "effects" of the former "are foreign sales of [price-fixed
3 components] to foreign [purchasers] for incorporation into computers that were sold to
4 foreign consumers"); Capacitors, 2018 WL 4558265, at *6-7 (finding price-fixed goods
5 purchased abroad and then incorporated into finished goods sold outside United States
6 had "no impact on a U.S. purchaser or consumer"; characterizing as "infirm" plaintiffs'
7 argument that price agreements made in United States setting global price for component
8 constituted "proximate cause" of foreign plaintiffs' claimed injuries).

9 The Court finds the reasoning in the above-cited cases persuasive and that the
10 conclusions reached therein are in "accord[] with the policy behind the FTAIA," see
11 Optical Disk Drive, 2017 WL 11513316, at *6, namely, "that U.S. antitrust laws concern
12 the protection of American consumers and American exporters, not foreign consumers or
13 producers," see Dynamic Random Access Memory, 546 F.3d at 986. Here, as to HDDs
14 manufactured by Seagate entities outside the United States that never entered the United
15 States, the direct purchaser claims arise from "wholly foreign transactions," as the subject
16 products "never wind up in this country's stream of commerce," see Optical Disk Drive,
17 2017 WL 11513316, at *6-7, and, at least on the record presented, have not been shown
18 to have "affected domestic U.S. commerce" such as to "g[i]ve rise to a cause of action
19 under the Sherman Act," see Motorola Mobility LLC v. AU Optronics Corp., 775 F.3d 816,
20 819 (7th Cir. 2015); see also Empagran, 542 U.S. at 165 (noting "America's antitrust
21 laws, when applied to foreign conduct, can interfere with a foreign nation's ability
22 independently to regulate its own commercial affairs").

23 Accordingly, as to Seagate Plaintiffs' antitrust claims that are predicated on direct
24 purchases of SAs by Seagate Thailand and Seagate Singapore, where products
25 containing those SAs did not enter the United States, the motion will be granted.

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1 **CONCLUSION**


2 For the reasons stated above, NHK Defendants' motion for partial summary
3 judgment is hereby GRANTED in part and DENIED in part:

4 1. To the extent NHK Defendants seek summary judgment as to Seagate
5 Plaintiffs' antitrust claims that are predicated on direct purchases of SAs by Seagate
6 Thailand and Seagate Singapore, where products containing those SAs did not enter the
7 United States, the motion is GRANTED.

8 2. To the extent NHK Defendants seek summary adjudication as to Seagate
9 Plaintiffs' antitrust claims that are predicated on direct purchases of SAs by Seagate
10 Thailand and Seagate Singapore, where products containing those SAs were then
11 shipped to the United States, the motion is DENIED.

12 **IT IS SO ORDERED.**

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14 Dated: May 15, 2023

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16 MAXINE M. CHESNEY
17 United States District Judge

United States District Court
Northern District of California

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