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**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN FRANCISCO DIVISION**

**IN RE CAPACITORS ANTITRUST  
LITIGATION**

**MDL No. 3:17-md-02801-JD  
Case No. 3:14-cv-03264-JD**

**THIS DOCUMENT RELATES TO:  
ALL INDIRECT PURCHASER ACTIONS**

**[PROPOSED] ORDER GRANTING  
INDIRECT PURCHASER PLAINTIFFS'  
MOTION FOR FINAL APPROVAL OF  
SETTLEMENTS WITH ELNA,  
MATSUO, NICHICON, AND  
PANASONIC**

1 This matter has come before the Court to determine whether there is any cause why this  
2 Court should not approve Indirect Purchaser Plaintiffs' ("IPPs") settlements with Elna  
3 Corporation, Ltd. and Elna America, Inc. ("ELNA"), Matsuo Electric Corporation, Ltd.  
4 ("Matsuo"), Nichicon Corporation and Nichicon America Corporation ("Nichicon"), and  
5 Panasonic Corporation ("Panasonic") (collectively, "Settlements") and approve IPPs' Plan of  
6 Allocation. The Court, having reviewed the motion, the Settlement Agreements, the pleadings  
7 and other papers on file in the above-captioned action ("Action"), and the statements of counsel  
8 and the parties, including at the January 23, 2020 Fairness Hearing, hereby finds that the  
9 Settlements and Plan of Allocation should be approved. Accordingly, the Court enters this Order  
10 of Final Approval.

11 Good cause appearing therefore:

12 **IT IS HEREBY ORDERED, ADJUDGED, AND DECREED THAT:**

13 1. The Court has jurisdiction over the subject matter of this Action, all actions within  
14 this litigation, and the parties to the Settlement Agreements, including all members of the  
15 Settlement Classes and the Settling Defendants.

16 2. For purposes of this Order, except as otherwise set forth herein, the Court  
17 incorporates the definitions contained in the Settlement Agreements (ECF Nos. 698-2, 698-3,  
18 698-4, 698-5).

19 3. The Court hereby finally approves and confirms the settlements set forth in the  
20 Settlement Agreements between Class Representatives and the Settling Defendants and finds that  
21 said settlements are, in all respects, fair, reasonable, and adequate to the Settlement Classes  
22 pursuant to Federal Rules of Civil Procedure ("Rule") 23.

23 4. The following Classes are certified for settlement purposes only, pursuant to Rule  
24 23:

25 **a. ELNA**

26 All persons and entities in the United States who, during the period from April 1,  
27 2002 to February 28, 2014, purchased one or more Electrolytic Capacitor(s) from  
28 a distributor (or from an entity other than a Defendant) that a Defendant or alleged  
co-conspirator manufactured. Excluded from the Class are Defendants, their  
parent companies, subsidiaries and Affiliates, any co-conspirators, Defendants'

1 attorneys in this case, federal government entities and instrumentalities, states and  
2 their subdivisions, all judges assigned to this case, all jurors in this case, and all  
3 persons and entities who directly purchased Capacitors from Defendants.

4 **b. MATSUO**

5 All persons and entities in the United States who, during the period from January  
6 1, 2002 to February 28, 2014, purchased one or more Electrolytic Capacitor(s)  
7 from a distributor (or from an entity other than a Defendant) that a Defendant or  
8 alleged co-conspirator manufactured. Excluded from the Class are Defendants;  
9 their parent companies, subsidiaries and Affiliates; any co-conspirators;  
10 Defendants' attorneys in this case; federal government entities and  
11 instrumentalities, states and their subdivisions; all judges assigned to this case; all  
12 jurors in this case; and all Persons who directly purchased Capacitors from  
13 Defendants.

14 **c. NICHICON**

15 All persons and entities in the United States who, during the period from April 1,  
16 2002 to February 28, 2014, purchased one or more Electrolytic Capacitor(s) from  
17 a distributor (or from an entity other than a Defendant) that a Defendant or alleged  
18 co-conspirator manufactured. Excluded from the Class are Defendants, their  
19 parent companies, subsidiaries and Affiliates, any co-conspirators, Defendants'  
20 attorneys in this case, federal government entities and instrumentalities, states and  
21 their subdivisions, all judges assigned to this case, all jurors in this case, and all  
22 persons and entities who directly purchased Capacitors from Defendant.

23 **d. PANASONIC**

24 All persons and entities in the United States who, during the period from April 1,  
25 2002 to February 28, 2014, purchased one or more Electrolytic Capacitor(s) from  
26 a distributor (or from an entity other than a Defendant) that a Defendant or alleged  
27 co-conspirator manufactured. Excluded from the Class are Defendants, their  
28 parent companies, subsidiaries and Affiliates, any co-conspirators, Defendants'  
attorneys in this case, federal government entities and instrumentalities, states and  
their subdivisions, all judges assigned to this case, all jurors in this case, and all  
persons and entities who directly purchased Capacitors from Defendants; and

All persons and entities in the United States who, during the period from January  
1, 2002 to February 28, 2014, purchased one or more Film Capacitor(s) from a  
distributor (or from an entity other than a Defendant) that a Defendant or alleged  
co-conspirator manufactured. Excluded from the Class are Defendants, their  
parent companies, subsidiaries and Affiliates, and any co-conspirators,  
Defendants' attorneys in this case, federal government entities and  
instrumentalities, states and their subdivisions, all judges assigned to this case, all  
jurors in this case, and all persons and entities who directly purchased Capacitors  
from Defendants.

5. These settlement classes shall be referred to herein as the "Settlement Classes."



1           10.     The persons and entities identified in Exhibit A to this [proposed] Order have  
2 timely and validly requested exclusion from the Settlement Classes and are therefore excluded  
3 from those Settlement Classes identified. Such persons and entities are not included in or bound  
4 by this Order as it relates to the specific settlement or settlements for which they opted-out. Such  
5 persons and entities are not entitled to any recovery of the settlement proceeds obtained through  
6 these Class Settlements.

7           11.     No valid objections were filed regarding any of the Settlements.

8           12.     The Court finds that IPPs' proposed Plan of Allocation, proposing to pay putative  
9 Class Members on a *pro rata* basis based on qualifying purchases of capacitors and on the type  
10 and extent of injury suffered by each class member in those states which permit indirect  
11 purchaser claims is fair, reasonable, and adequate. *In re Citric Acid Antitrust Litig.*, 145 F. Supp.  
12 2d 1152, 1154 (N.D. Cal. 2001). The Plan of Allocation does not unfairly favor any Class  
13 Member, or group of Class Members, to the detriment of others. The Plan of Allocation being  
14 approved herein is the same Plan that has previously been approved by this Court in connection  
15 with earlier settlements in this Action.

16           13.     Without affecting the finality of this Order in any way, this Court hereby retains  
17 continuing jurisdiction over:

- 18           a.     implementation of these settlements and any distribution to Settlement Class
- 19                     Members pursuant to further orders of this Court;
- 20           b.     disposition of the Settlement Fund;
- 21           c.     determining attorneys' fees, costs, expenses, and interest;
- 22           d.     the Action until Final Judgment contemplated hereby has become effective
- 23                     and each and every act agreed to be performed by the parties all have been
- 24                     performed pursuant to the Settlement Agreements;
- 25           e.     hearing and ruling on any matters relating to the plan of allocation of
- 26                     settlement proceeds; and
- 27           f.     all parties to the Action and Releasing Parties, for the purpose of enforcing
- 28                     and administering the Settlement Agreements and the mutual releases and

1 other documents contemplated by, or executed in connection with, the  
2 Agreement.

3 14. The Court finds, pursuant to Rules 54(a) and 54(b), that Final Judgments of  
4 Dismissal with prejudice as to the Settling Defendants (“Judgments”) should be entered  
5 forthwith and further finds that there is no just reason for delay in the entry of the Judgments, as  
6 Final Judgments, in accordance with the Settlement Agreements.

7 **IT IS SO ORDERED.**

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9 Dated: \_\_\_\_\_, 2020

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JAMES DONATO  
United States District Judge

**EXHIBIT A****Exclusions from Settlement Class(es)**

<b><u>Name</u></b>	<b><u>Exclusion Request Timely</u></b>	<b><u>Settlement Class(es) Excluded From</u></b>
Jeanne Pogorzelski	Yes	Did not specify any Settling Defendants by name
Bruce Young	Yes	Did not specify any Settling Defendants by name
Rick Smith	Yes	Did not specify any Settling Defendants by name
Jonathan C Neisch	Yes	ELNA Matsuo Nichicon Panasonic  *also listed request for exclusion from previous settlements with NEC TOKIN, OEI, Nitsuku, Hitachi, Soshin, Rubycon, Holy Stone and NCC/UCC
Erik M Sauber	Yes	ELNA Matsuo Nichicon Panasonic  *also listed request for exclusion from previous settlements with NEC TOKIN, OEI, Nitsuku, Hitachi, Soshin, Rubycon, Holy Stone and NCC/UCC
Donald G. Becker	Yes	ELNA Matsuo Nichicon Panasonic
William B Higinbotham	Yes	Did not specify any Settling Defendants by name
Mike Svela	Yes	Did not specify any Settling Defendants by name
Perry Jennings	Yes	ELNA Matsuo Nichicon Panasonic  *also listed request for exclusion from previous settlements with NEC TOKIN, OEI, Nitsuku, Hitachi, Soshin, Rubycon, Holy Stone and NCC/UCC
Larry Kiser	Yes	Did not specify any Settling Defendants by name
Ed Polakoff	Yes	Did not specify any Settling Defendants by name
Michael Gillette	Yes	Did not specify any Settling Defendants by name

<u>Name</u>	<u>Exclusion Request Timely</u>	<u>Settlement Class(es) Excluded From</u>
AssetGenie, Inc dba AGiRepair	Yes	ELNA Matsuo Nichicon Panasonic  *also listed request for exclusion from previous settlements with NEC TOKIN, OEI, Nitsuku, Hitachi, Soshin, Rubycon, Holy Stone and NCC/UCC
Dell Inc on behalf of itself and its wholly- owned subsidiaries (collectively "Dell")	Yes	ELNA Matsuo Nichicon Panasonic
Eleanor Mae Wolf	Yes	Did not specify any Settling Defendants by name
Jeff Hoffman	Yes	Did not specify any Settling Defendants by name
Greg Bower	Yes	ELNA Matsuo Nichicon Panasonic  *also listed request for exclusion from previous settlements with NEC TOKIN, OEI, Nitsuku, Hitachi, Soshin, Rubycon, Holy Stone and NCC/UCC
Michael DeSoto	Yes	Did not specify any Settling Defendants by name  *did request for exclusion from previous settlements with NEC TOKIN, OEI, Nitsuku, Hitachi, Soshin, Rubycon, Holy Stone and NCC/UCC; and for future activity with Nissei Electric Co., Shinyei Technology Co., Ltd., Taitso Corp., and Toshin Kogyo Co., Ltd.
Pyramid One, Inc	Yes	Did not specify any Settling Defendants by name
DeSoto Labs	Yes	Did not specify any Settling Defendants by name  *did request for exclusion from previous settlements with NEC TOKIN, OEI, Nitsuku, Hitachi, Soshin, Rubycon, Holy Stone and NCC/UCC; and for future activity with Nissei Electric Co., Shinyei Technology Co., Ltd., Taitso Corp., and Toshin Kogyo Co., Ltd.
Stanley W Vikla	Yes	Did not specify any Settling Defendants by name
James M. Tylman, Sr.	Yes	Did not specify any Settling Defendants by name  *previously requested exclusion from future settlements with ELNA, Matsuo, Nichicon, Panasonic, Nissei Electric Co., Shinyei Technology Co., Ltd., Taitso Corp., and Toshin Kogyo Co., Ltd.



<u>Name</u>	<u>Exclusion Request Timely</u>	<u>Settlement Class(es) Excluded From</u>
Bourgeois & Associates, Inc	Yes	ELNA Matsuo Nichicon Panasonic  *also listed request for exclusion from previous settlements with NEC TOKIN, OEI, Nitsuku, Hitachi, Soshin, Rubycon, Holy Stone and NCC/UCC
Burge Trucking	Yes	Did not specify any Settling Defendants by name
Group Spectral	Yes	Did not specify any Settling Defendants by name
Jacob Swary	Yes	ELNA Matsuo Nichicon Panasonic  *also listed request for exclusion from previous settlements with NEC TOKIN, OEI, Nitsuku, Hitachi, Soshin, Rubycon, Holy Stone and NCC/UCC  **also indicated he objects to the settlements
Tech 22	Yes	ELNA Matsuo Nichicon Panasonic  *also listed request for exclusion from previous settlements with NEC TOKIN, OEI, Nitsuku, Hitachi, Soshin, Rubycon, Holy Stone and NCC/UCC
Panasonic Automotive Systems Company of America	Yes	ELNA Matsuo Nichicon Panasonic  *also listed request for exclusion from previous settlements with NEC TOKIN, OEI, Nitsuku, Hitachi, Soshin, Rubycon, Holy Stone and NCC/UCC