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

**IN RE CAPACITORS ANTITRUST  
LITIGATION**

**MDL Case No. 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 PRELIMINARY  
APPROVAL OF SETTLEMENTS WITH  
HOLYSTONE, NCC/UCC, AND  
RUBYCON AND FOR APPROVAL OF  
THE PLAN OF ALLOCATION**

1 Indirect Purchaser Plaintiffs (“IPPs”) filed a Motion for Preliminary Approval of  
2 Settlements with Defendants (1) Holystone Enterprise Co., Ltd., Holy Stone Holdings Co., Ltd.,  
3 Holy Stone Polytech Co., Ltd., and Milestone Global Technology, Inc. (together, “Holystone”),  
4 (2) Nippon Chemi-con Corp. and United Chemi-con Corp. (together, “NCC/UCC”), and (3)  
5 Rubycon Corp. and Rubycon America Inc. (together, “Rubycon”) (collectively, “Settling  
6 Defendants”), and for Approval of the Plan of Allocation relating to the above-referenced  
7 settlements as well as settlements with Defendants (4) Hitachi Chemical Co., Ltd., Hitachi AIC  
8 Inc., and Hitachi Chemical Co. America, Ltd., (together, “Hitachi Chemical”), and (5) Soshin  
9 Electric Co., Ltd. and Soshin Electronics of America, Inc. (together, “Soshin”) (collectively, “Round  
10 2 settlements”).

11 The Court heard the argument of counsel and, having reviewed the pleadings, the  
12 settlement agreements, other papers on file in this action, and the statements of counsel and the  
13 parties, hereby finds that the motion should be **GRANTED**.

14 **NOW, THEREFORE, IT IS HEREBY ORDERED THAT:**

- 15 1. For purposes of this Order, except as otherwise set forth herein, the Court adopts  
16 and incorporates the definitions contained in the settlement agreements.
- 17 2. The Court preliminarily approves the settlement agreements with Holystone,  
18 NCC/UCC and Rubycon.
- 19 3. The Court finds that the Holystone, NCC/UCC and Rubycon settlements fall  
20 within the range of possible final approval;
- 21 4. Pursuant to Federal Rule of Civil Procedure (“Rule”) 23, the Court certifies the  
22 following settlement classes for purposes of this motion only:

23 With regards to NCC/UCC and Rubycon:

- 24 a. All persons and entities in the United States who, during the period from  
25 April 1, 2002 to February 28, 2014, purchased one or more Electrolytic  
26 Capacitor(s) from a distributor (or from an entity other than a Defendant)  
27 that a Defendant or alleged co-conspirator manufactured. Excluded from  
28

1 the Class are Defendants, their parent companies, subsidiaries and  
2 Affiliates, any co-conspirators, Defendants' attorneys in this case, federal  
3 government entities and instrumentalities, states and their subdivisions,  
4 all judges assigned to this case, all jurors in this case, and all persons and  
5 entities who directly purchased Capacitors from Defendants.

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

15 With regards to Holystone:

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

25 5. The Court further finds that the prerequisites to certifying settlement classes under  
26 Rule 23 are satisfied for settlement purposes in that (a) there are at least thousands  
27 of geographically dispersed settlement class members, making joinder of all  
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1 members impracticable; (b) there are questions of law and fact common to the  
2 settlement classes which predominate over individual issues; (c) the claims or  
3 defenses of the class representatives are typical of the claims or defenses for the  
4 settlement classes; (d) IPPs will fairly and adequately protect the interests of the  
5 settlement classes and have retained counsel experienced in antitrust class action  
6 litigation who have, and will continue to, adequately represent the settlement  
7 classes; and (e) resolution throughout class settlements is superior to individual  
8 settlements.

9 6. The Court hereby appoints the Class Representatives named in the Indirect  
10 Purchaser Plaintiffs' Fifth Consolidated Complaint (February 2, 2017) (ECF No.  
11 1589) as Representative Plaintiffs of the settlement classes.

12 7. The Court hereby appoints the law firm Cotchett, Pitre & McCarthy, LLP as  
13 Settlement Class Counsel.

14 8. Settlement Class Counsel and their designees are authorized to expend funds from  
15 the escrow accounts to pay taxes, tax expenses, notice, and administration costs  
16 as set forth in the Settlement Agreements.

17 9. All further Indirect Purchaser class proceedings as to Defendants Holystone,  
18 NCC/UCC and Rubycon are hereby stayed except for any actions required to  
19 effectuate the settlements.

20 10. The Court retains exclusive jurisdiction over this action to consider all further  
21 matters arising out of or connected with the settlements.

22 11. The Court finds that there is a sufficient basis for notifying the settlement classes  
23 of the proposed settlements.

24 12. The Court will conduct a Fairness Hearing on \_\_\_\_\_, 2018 at 10:00 a.m., at  
25 the United States Courthouse, 450 Golden Gate Avenue, Courtroom 11, 19th  
26 Floor, San Francisco, California 94102. The Fairness Hearing will be conducted  
27 to determine the following:  
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- 1 a. Whether the proposed settlements are fair, reasonable, and adequate and  
2 should be granted final approval;
- 3 b. Whether final judgment should be entered dismissing with prejudice the  
4 claims of the settlement classes against Holystone, NCC/UCC, Rubycon,  
5 Hitachi, and Soshin; and
- 6 c. Such other matters as the Court may deem appropriate.

7 13. Each member of the settlement classes shall retain all rights and causes of action  
8 with respect to claims against the remaining Defendants other than Holystone,  
9 NCC/UCC, Rubycon, Hitachi, and Soshin regardless of whether such member of  
10 the settlement classes decides to remain in the settlement classes or to exclude  
11 itself from the settlement classes.

12 14. All briefs, memoranda, and papers in support of final approval of the settlement  
13 shall be filed no later than \_\_\_\_\_.

14 15. The Court finds that IPPs' proposed plan of allocation, proposing to pay putative  
15 class members on a *pro rata* basis based on qualifying purchases of capacitors, is  
16 fair, reasonable, and adequate. *In re Citric Acid Antitrust Litig.*, 145 F. Supp. 2d  
17 1152, 1154 (N.D. Cal. 2001). The Plan of Allocation does not unfairly favor any  
18 Class Member, or group of Class Members, to the detriment of others.

19  
20 **IT IS SO ORDERED.**

21 Dated: \_\_\_\_\_

22  
23 \_\_\_\_\_  
24 JAMES DONATO  
25 United States District Judge  
26  
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1 Proposed Order Submitted By:

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