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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 Before the Court is the Indirect Purchaser Plaintiffs’ (“IPPs”) motion for final approval of
2 settlements with Elna Corporation, Ltd. and Elna America, Inc. (“ELNA”), Matsuo Electric
3 Corporation, Ltd. (“Matsuo”), Nichicon Corporation and Nichicon America Corporation
4 (“Nichicon”), and Panasonic Corporation (“Panasonic”) (collectively, “Settlements”). MDL
5 Dkt. No. 1063. The Court, having reviewed the motion, the Settlement Agreements, the
6 pleadings and other papers on file in the above-captioned action (“Action”), finds that the motion
7 should be granted for good cause.

8 It is consequently ordered that:

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

12 2. For purposes of this Order, except as otherwise set forth herein, the Court
13 incorporates the definitions contained in the Settlement Agreements (MDL Dkt. Nos. 698-2,
14 698-3, 698-4, 698-5).

15 3. The Court hereby finally approves and confirms the settlements set forth in the
16 Settlement Agreements between Class Representatives and the Settling Defendants, and finds
17 that the settlements are in all respects fair, reasonable, and adequate to the Settlement Classes
18 pursuant to Federal Rule of Civil Procedure (“Rule”) 23.

19 4. The following Classes are certified for settlement purposes only, pursuant to Rule
20 23:

21 **a. ELNA**

22 All persons and entities in the United States who, during the period from April 1,
23 2002 to February 28, 2014, purchased one or more Electrolytic Capacitor(s) from
24 a distributor (or from an entity other than a Defendant) that a Defendant or alleged
25 co-conspirator manufactured. Excluded from the Class are Defendants, their
26 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.

27 **b. MATSUO**

28 All persons and entities in the United States who, during the period from January
1, 2002 to February 28, 2014, purchased one or more Electrolytic Capacitor(s)

1 from a distributor (or from an entity other than a Defendant) that a Defendant or
 2 alleged co-conspirator manufactured. Excluded from the Class are Defendants;
 3 their parent companies, subsidiaries and Affiliates; any co-conspirators;
 4 Defendants' attorneys in this case; federal government entities and
 5 instrumentalities, states and their subdivisions; all judges assigned to this case; all
 6 jurors in this case; and all Persons who directly purchased Capacitors from
 7 Defendants.

8 **c. NICHICON**

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

17 **d. PANASONIC**

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

26 All persons and entities in the United States who, during the period from January
 27 1, 2002 to February 28, 2014, purchased one or more Film Capacitor(s) from a
 28 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 will be referred to as the "Settlement Classes."

6. The Court finds the prerequisites to a class action under Rule 23(a) have been
 satisfied for settlement purposes by each of the Settlement Classes in that:

a. there are at least thousands of geographically dispersed Settlement Class
 Members, making joinder of all members impracticable;

1 persons and entities are not entitled to any recovery of the settlement proceeds obtained through
2 these Class Settlements.

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

4 12. The Court finds that the IPPs' proposed Plan of Allocation, proposing to pay
5 putative Class Members on a *pro rata* basis based on qualifying purchases of capacitors and on
6 the type and extent of injury suffered by each class member in those states which permit indirect
7 purchaser claims is fair, reasonable, and adequate. The Plan of Allocation does not unfairly favor
8 any Class Member, or group of Class Members, to the detriment of others. The Plan of
9 Allocation being approved herein is the same Plan that has previously been approved by this
10 Court in connection with earlier settlements in this Action.

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

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

26 14. The Court finds, pursuant to Rules 54(a) and 54(b), that Final Judgments of
27 Dismissal with prejudice as to the Settling Defendants ("Judgments") should be entered
28

1 forthwith and further finds that there is no just reason for delay in the entry of the Judgments, as
2 Final Judgments, in accordance with the Settlement Agreements.

3 **IT IS SO ORDERED.**

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5 Dated: July 17, 2020

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8 JAMES DONATO
9 United States District Judge
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EXHIBIT A**Exclusions from Settlement Class(es)**

<u>Name</u>	<u>Exclusion Request Timely</u>	<u>Settlement Class(es) Excluded From</u>
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 Sveta	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