

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

IN RE CAPACITORS ANTITRUST
LITIGATION
THIS DOCUMENT RELATES TO:
ALL DIRECT PURCHASER ACTIONS

Master File No. 3:14-cv-03264-JD

**[PROPOSED] ORDER GRANTING FINAL
APPROVAL OF CLASS ACTION
SETTLEMENTS WITH DEFENDANTS
FUJITSU LIMITED, NEC TOKIN,
NITSUKO, THE OKAYA DEFENDANTS,
AND ROHM**

On January 31, 2017, Direct Purchaser Plaintiffs (“Plaintiffs”) filed a Motion for Final Approval of Proposed Settlements with Defendants Fujitsu Limited, NEC TOKIN Corporation and NEC TOKIN America, Inc. (“NEC TOKIN”), Nitsuko Electronics Corporation (“Nitsuko”), Okaya Electric Industries Co., Ltd. and Okaya Electric America, Inc. (“Okaya Defendants”), and ROHM Co., Ltd. and ROHM Semiconductor U.S.A., LLC (“ROHM”) (collectively, the “Settling Defendants”) [ECF No. 1461]. On March 30, 2017, Plaintiffs filed a Supplemental Report renewing their Motion [ECF No. 1586]. The Court, having reviewed the motion and affidavits in support thereof, the settlement agreements with Settling Defendants (“Settlement Agreements” or the “Settlements”), the pleadings and other papers on file in this action, and the arguments of counsel and the parties at the hearing held on April 6, 2017, hereby finds that final approval of the Settlements should be GRANTED.

1 NOW, THEREFORE, IT IS HEREBY ORDERED THAT:

2 1. The Court has jurisdiction over the subject matter of the Action and over all parties to
3 the Settlement Agreements, including all members of the Settlement Class.

4 2. For purposes of this Order, except as otherwise set forth herein, the Court adopts and
5 incorporates the definitions contained in the Settlement Agreements [ECF Nos. 1461-2 – 1461-6].

6 3. Pursuant to Fed. R. Civ. P. 23(g), the Court appoints the Joseph Saveri Law Firm as
7 counsel for the Settlement Class. This firm has and will fairly and competently represent the
8 interests of the Settlement Class.

9 4. By Order dated January 27, 2017 [ECF No. 1455], the Court provisionally certified for
10 settlement a Settlement Class defined as follows:

11 All persons in the United States that purchased Capacitors (including through
12 controlled subsidiaries, agents, affiliates or joint-ventures) directly from any of the
13 Defendants, their subsidiaries, agents, affiliates or joint ventures from January 1,
14 2002 through July 22, 2015. Excluded from the settlement class are Defendants (and
15 their subsidiaries, agents or affiliates), any co-conspirator, all governmental entities
and the judges and chambers staff in this case assigned to hear any aspect of this
action, and each member of the class action who timely requested exclusion.

16 5. The persons/entities identified in the “Summary of Entities Requesting Exclusion as
17 of April 5, 2017” attached as Exhibit A, have validly requested exclusion from the Settlement Class
18 and, therefore, are excluded, except that: (a) Hon Hai Precision Industry Co. Ltd. requested to be
19 excluded only with respect to the settlement relating to NEC TOKIN; (b) Arrow Electronics, Inc.
20 requested to be excluded only with respect to the settlements relating to Fujitsu, Nitsuko, the Okaya
21 Defendants, and ROHM; and (c) Dell Inc. and EMC Corporation requested to be excluded only with
22 respect to the settlements relating to NEC TOKIN, Nitsuko, the Okaya Defendants, and ROHM.
23 Such persons/entities, and only such persons/entities, are not included in or bound by this Order
24 with respect to the Settling Defendants from whose settlements they have requested exclusion. Such
25 persons/entities are not entitled to any recovery of the settlement proceeds obtained through the
26 Settlement Agreements with respect to the Settling Defendants from whose settlements they have
27 requested exclusion.

28

1 6. The Settlement Class definition as set forth above and as used in this Order is for
2 settlement purposes only. It has no binding effect on the Court, Plaintiffs, or on the indirect-
3 purchaser plaintiffs for any other purpose, including but not limited to the filing or resolution of any
4 motion(s) for class certification pursuant to Fed. R. Civ. Proc. 23.

5 7. The Court further finds that the prerequisites to a class action under Rule 23 are
6 satisfied for settlement purposes in that: (a) there are hundreds of geographically dispersed class
7 members, making joinder of all members impracticable; (b) there are questions of law and fact
8 common to the class which predominate over individual issues; (c) the claims or defenses of the class
9 plaintiffs are typical of the claims or defenses of the class; (d) the plaintiffs will fairly and adequately
10 protect the interests of the class, and have retained counsel experienced in antitrust class action
11 litigation who have, and will continue to, adequately represent the class; and (e) a class action is
12 superior to individual actions.

13 8. The Court hereby finally approves and confirms the settlements set forth in the
14 Settlement Agreements and finds that said settlements are, in all respects, fair, reasonable, and
15 adequate to the Class pursuant to Rule 23 of the Federal Rules of Civil Procedure.

16 9. This Court hereby dismisses on the merits and with prejudice the Action in favor of
17 Settling Defendants, with all parties to bear their own costs and attorneys' fees.

18 10. Settling Defendants are hereby and forever released and discharged with respect to
19 the Released Claims as defined in the Settlement Agreements [ECF Nos. 1461-2 - 1461-6].

20 11. The notice given to the members of the Settlement Class was the best notice
21 practicable under the circumstances, including individual notice to all members of the Settlement
22 Class who could be identified through reasonable efforts. Said notice met the requirements of due
23 process and provided due and adequate notice of those proceedings and of the matters set forth
24 therein, including the proposed settlements set forth in the Settlement Agreements, to all persons
25 entitled to such notice, and said notice fully satisfied the requirements of Rules 23(c)(2) and 23(e)(1)
26 of the Federal Rules of Civil Procedure and the requirements of due process.

27 12. The plan of allocation described in Plaintiffs' Motion is, in all respects, fair, adequate,
28 and reasonable. Accordingly, the Court hereby grants final approval of the plan of allocation.

1 13. Without affecting the finality of the Judgments in any way, this Court hereby retains
2 continuing jurisdiction over: (a) the Settlements and Settlement Agreements, including all future
3 proceedings concerning the administration, interpretation, consummation, and enforcement of the
4 Settlement Agreements; (b) disposition of the Settlement Fund; (c) hearing and determining
5 applications by Plaintiffs' counsel for attorneys' fees, costs, expenses, interest, and incentive awards;
6 (d) hearing and ruling on any matters relating to the plan of allocation of settlement proceeds; and
7 (e) all parties to the Action and Releasors for the purpose of enforcing and administering the
8 Settlement Agreements and the mutual releases and other documents contemplated by, or executed
9 in connection with the Settlement Agreements, except that, as provided in paragraph 22 of the
10 plaintiffs' Settlement Agreement with NEC TOKIN, all disputes regarding the extent of NEC
11 TOKIN's cooperation obligations or its performance of those obligations shall be submitted to the
12 Hon. Layn R. Phillips (ret.) for resolution.

13 14. In the event that a party exercises a right to terminate a Settlement Agreement as
14 provided by the terms of that Settlement Agreement, then the Judgment entered as to that
15 Defendant shall be rendered null and void and shall be vacated, and in such event, all orders entered
16 and releases delivered in connection herewith as to that Defendant shall be null and void and the
17 parties shall be returned to their respective positions *ex ante*.

18 15. The Court finds, pursuant to Rules 54(a) and (b) of the Federal Rules of Civil
19 Procedure, that Final Judgments of Dismissal with prejudice as to Settling Defendants
20 ("Judgments") should be entered and further finds that there is no just reason for delay in the entry
21 of the Judgments, as Final Judgments, in accordance with the terms of the Settlement Agreements.

22 Accordingly, the Court directs the Clerk to enter Judgment forthwith for Settling
23 Defendants.

24 IT IS SO ORDERED.

25 Dated: June 27, 2017

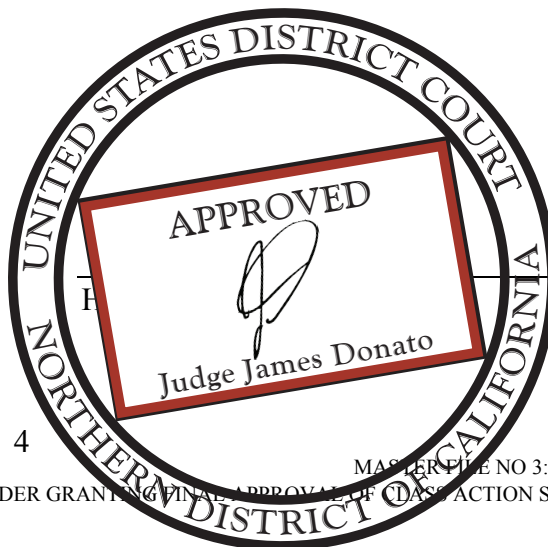


Exhibit A

Entity	Name1	City	State
AASI	ALL AMERICAN / MASTER DIS	LOS ANGELES	CA
AASI	ALL AMERICAN SEMICONDUCTOR	HIALEAH	FL
AASI	AASI BENEFICIARIES TRUST	HOLLYWOOD	FL
ACER	ACER INC	SAN JOSE	CA
AVNET	AVNET	PHOENIX	AZ
AVNET	AVNET INC	RICHARDSON	TX
AVNET	AVNET INC	CHANDLER	AZ
AVNET	INTERACTIVE TECHNOLOGIES INC	CUMMING	GA
AVNET	NEWARK ELECTRONICS	PALATINE	IL
AVNET	PREMIER FARNELL	CHICAGO	IL
BENCHMARK	BENCHMARK ELECTRONICS	WINONA	MN
BENCHMARK	BENCHMARK ELECTRONICS - HUNTSVILLE	HUNTSVILLE	AL
BENCHMARK	BENCHMARK ELECTRONICS - N	HUNTSVILLE	AL
BENCHMARK	BENCHMARK ELECTRONICS DE MEXICO	HUNTSVILLE	AL
BENCHMARK	BENCHMARK ELECTRONICS INC	DUNSEITH	ND
BENCHMARK	BENCHMARK ELECTRONICS INC	ANGLETON	TX
BENCHMARK	EFTC CORPORATION	PHOENIX	AZ
BENCHMARK	SUNTRON CORPORATION	PHOENIX	AZ
BLACKBERRY	BLACKBERRY CORPORATION	PLEASANTON	CA
DELL / EMC	DELL COMPUTER CORPORATION	ROUND ROCK	TX
DELL / EMC	EMC CORPORATION	HOPKINTON	MA
DELL / EMC	WYSE TECHNOLOGY	ROUND ROCK	TX
FLEXTRONICS	DOVATRON	CLEARWATER	FL
FLEXTRONICS	FLEX INTL / FINE PITCH TECNOLOGY	MILPITAS	CA
FLEXTRONICS	FLEXTRONICS	AUSTIN	TX
FLEXTRONICS	FLEXTRONICS AMERICA NC MR BOB BALLARD	CHARLOTTE	NC
FLEXTRONICS	FLEXTRONICS INTERNATIONAL USA INC	SAN JOSE	CA
FLEXTRONICS	1021FLEXTRONICS INTL EUROPE B V STH		
FLEXTRONICS	SOLECTRON	MILPITAS	CA
FLEXTRONICS	SOLECTRON INVOTRONICS INC	LAREDO	TX
FLEXTRONICS	SOLECTRON MANUFACTURA DE MEXICO - N		
FLEXTRONICS	SOLECTRON/LUCENT	MILPITAS	CA
FLEXTRONICS	STELLAR MICROELECTRONICS INC	VALENCIA	CA
MICROSOFT MOBILE	MICROSOFT MOBILE	REDMOND	WA
MICROSOFT MOBILE	NOKIA	SAN DIEGO	CA
MICROSOFT MOBILE	NOKIA	ARLINGTON HEIGHTS	IL
PLEXUS	PLEXUS	NAMPA	ID
PLEXUS	PLEXUS CORP	APPLETON	WI
PLEXUS	PLEXUS CORP	NEENAH	WI
PLEXUS	PLEXUS CORPORATION	NEENAH	WI
PLEXUS	PLEXUS INT SALES & LOGISTICS	NEENAH	WI
PLEXUS	PLEXUS SERVICES CORP - N	NEENAH	WI
TECH 2000	TECH 2000	VISTA	CA

Entities Requesting Partial Exclusion (NEC TOKIN only)

HON HAI	HON HAI PRECISION INDUSTRY CO LTD	HOUSTON	TX
---------	-----------------------------------	---------	----

Entities Requesting Partial Exclusion (Fujitsu, Nitsuko, the Okaya Defendants, and ROHM only)

ARROW	ARROW ELECTRONICS INC.	ENGLEWOOD	CO
-------	------------------------	-----------	----

Entities Requesting Partial Exclusion (NEC TOKIN, Nitsuko, the Okaya Defendants, and ROHM only)

DELL / EMC	DELL COMPUTER CORPORATION	ROUND ROCK	TX
DELL / EMC	EMC CORPORATION	HOPKINTON	MA
DELL / EMC	WYSE TECHNOLOGY	ROUND ROCK	TX