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

**IN RE: CAPACITORS ANTITRUST  
LITIGATION**

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

**This Document Relates to:**

**ALL INDIRECT PURCHASER ACTIONS**

**~~PROPOSED~~ ORDER GRANTING  
PRELIMINARY APPROVAL OF CLASS  
ACTION SETTLEMENT WITH  
DEFENDANTS NEC TOKIN, NITSUKO,  
AND OKAYA**

1 On October 6, 2016, Indirect Purchaser Plaintiffs (“**IPPs**”) filed a Motion for  
2 Preliminary Approval of Class Action Settlement with Defendants (1) NEC TOKIN  
3 Corp./NEC TOKIN America Inc. (collectively “**NEC TOKIN**”), (2) Nitsuko Electronics  
4 Corporation (“**Nitsuko**”), and (3) Okaya Electric Industries Co, Ltd. (“**Okaya**”). Dkt.  
5 No. 1305. The Court heard the argument of counsel on October 14, 2016, and requested  
6 further briefing. The Court, having reviewed the motion and the further briefing, the  
7 settlement agreements, the pleadings and other papers on file in this action, and the statements  
8 of counsel and the parties, hereby finds that the motion should be GRANTED.  
9

10 NOW, THEREFORE, IT IS HEREBY ORDERED THAT:

- 11 1. For purposes of this Order, except as otherwise set forth herein, the Court adopts  
12 and incorporates the definitions contained in the settlement agreements (Dkt. Nos.  
13 1305-3, 4, 5), to the extent not contradictory or mutually exclusive.  
14  
15 2. The Court hereby preliminarily approves the settlement agreements.  
16  
17 3. The Court finds that the settlements fall within the range of possible final approval  
18 and that there is a sufficient basis for notifying the settlement classes and for setting  
19 a Fairness Hearing.  
20  
21 4. Pursuant to Federal Rule of Civil Procedure 23, the Court certifies the following  
22 settlement classes for purposes of this Motion only:

23 a. **NEC TOKIN**

24 All persons and entities in the United States who, during, the period  
25 from April 1, 2002 to July 15, 2016, purchased directly from a  
26 distributor one or more Capacitor(s) that a Defendant manufactured.  
27 Excluded from the Class are Defendants, their parent companies,  
28 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.

1           **b. NITSUKO**

2           All persons and entities in the United States who, during, the period  
3           from January 1, 2003 to March 29, 2016, purchased one or more  
4           Capacitor(s) from a distributor that a Defendant manufactured.  
5           Excluded from the Class are Defendants, their parent companies,  
6           subsidiaries and affiliates, any co-conspirators, Defendants'  
7           attorneys in this case, federal government entities and  
8           instrumentalities, states and their subdivisions, all judges assigned to  
9           this case, all jurors in this case, and all persons and entities who  
10          directly purchased capacitors from Defendants.

11           **c. OKAYA**

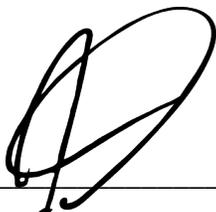
12          All persons and entities in the United States who, during, the period  
13          from January 1, 2002 to April 14, 2016, purchased one or more  
14          Capacitor(s) from a distributor (or from an entity other than a  
15          Defendant) that a Defendant or alleged co-conspirator manufactured.  
16          Excluded from the Class are Defendants, their parent companies,  
17          subsidiaries and affiliates, any co-conspirators, Defendants'  
18          attorneys in this case, federal government entities and  
19          instrumentalities, states and their subdivisions, all judges assigned to  
20          this case, all jurors in this case, and all persons and entities who  
21          directly purchased capacitors from Defendants.

- 22          5. The Court further finds that the prerequisites to certifying settlement classes under  
23          Rule 23 are satisfied for settlement purposes in that (a) there are at least thousands  
24          of geographically dispersed settlement class members, making joinder of all  
25          members impracticable; (b) there are questions of law and fact common to the  
26          settlement classes which predominate over individual issues; (c) the claims or  
27          defenses of the class representatives are typical of the claims or defenses of the  
28          settlement classes; (d) the Indirect Purchaser Plaintiffs will fairly and adequately  
29          protect the interests of the settlement classes, and have retained counsel experienced  
30          in antitrust class action litigation who have, and will continue to, adequately  
31          represent the settlement classes; and (e) resolution through class settlements is  
32          superior to individual settlements.

- 1 6. The Court hereby appoints the Plaintiffs named in the Indirect Purchaser Plaintiffs’  
2 Fourth Consolidated Complaint (March 18, 2016) (ECF No. 1168) (“FCC”) as  
3 Representative Plaintiffs of the settlement classes.  
4  
5 7. The Court hereby appoints the law firm Cotchett, Pitre & McCarthy, LLP as  
6 Settlement Class Counsel.  
7  
8 8. IPPs’ Class Counsel and their designees are authorized to expend funds from the  
9 escrow accounts to pay taxes, tax expenses, notice, and administration costs as set  
10 forth in the Settlement Agreement.  
11  
12 9. All further Indirect Purchaser class proceedings as to Defendants NEC TOKIN,  
13 Nitsuko, and Okaya are hereby stayed except for any actions required to effectuate  
14 the settlement.  
15  
16 10. The Court retains exclusive jurisdiction over this action to consider all further  
17 matters arising out of or connected with the settlement, except that, as provided in  
18 paragraph 36 of the IPPs’ settlement agreement with NEC TOKIN, any disputes  
19 regarding the interpretation or enforcement of any terms of this Settlement  
20 Agreement relating to future cooperation by NEC TOKIN, or about the triggering  
21 of the threshold specified in the Confidential Termination Agreement described in  
22 ¶39(b), shall be submitted for binding resolution by former United States District  
23 Judge Layn Phillips or another neutral mutually agreed upon by the IPPs and NEC  
24 TOKIN.

25 IT IS SO ORDERED.

26 Dated: January 30, 2017

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28 \_\_\_\_\_  
The Honorable James Donato  
UNITED STATES DISTRICT JUDGE