



Court File No.: 1272/16 CP

ONTARIO
SUPERIOR COURT OF JUSTICE

The Honourable

Mr. Justice R. Raikes

CB) *WCB* *30th*
) ~~Tuesday~~ *Wednesday*, the ~~29th~~ day
)
) of November, 2016

B E T W E E N:

SEAN ALLOTT

Plaintiff

- and -

AVX CORPORATION; ELNA CO., LTD.; ELNA AMERICA INC.; HITACHI CHEMICAL CO., LTD.; HITACHI CHEMICAL COMPANY AMERICA, LTD.; HITACHI CANADA; HITACHI AIC INC.; KEMET CORPORATION; KEMET ELECTRONICS CORPORATION; MATSUO ELECTRIC CO., LTD.; NICHICON CORPORATION; NICHICON (AMERICA) CORPORATION; NIPPON CHEMI-CON CORPORATION; UNITED CHEMI-CON CORPORATION; NISSEI ELECTRIC CO. LTD.; NITSUKO ELECTRONICS CORPORATION; OKAYA ELECTRIC INDUSTRIES CO., LTD.; OKAYA ELECTRIC AMERICA, INC.; PANASONIC CORPORATION; PANASONIC CORPORATION OF NORTH AMERICA; PANASONIC CANADA INC.; SANYO ELECTRIC CO., LTD.; SANYO ELECTRONIC DEVICE (U.S.A.) CORP.; SANYO NORTH AMERICA CORPORATION; ROHM CO., LTD.; ROHM SEMICONDUCTOR U.S.A., LLC f/k/a ROHM ELECTRONICS U.S.A., LLC; RUBYCON CORPORATION; RUBYCON AMERICA INC.; SHINYEI KAISHA; SHINYEI TECHNOLOGY CO., LTD.; SHINYEI CAPACITOR CO., LTD.; SHINYEI CORPORATION OF AMERICA; SHIZUKI ELECTRIC CO., LTD.; AMERICAN SHIZUKI CORPORATION; SOSHIN ELECTRIC CO., LTD.; SOSHIN ELECTRONICS OF AMERICA INC.; TAITSU CORPORATION; TAITSU AMERICA, INC.; TOSHIN KOGYO CO., LTD.; HOLY STONE ENTERPRISE CO., LTD.; MILESTONE GLOBAL TECHNOLOGY, INC. d/b/a HOLYSTONE INTERNATIONAL; VISHAY INTERTECHNOLOGY, INC.; and VISHAY POLYTECH CO., LTD. f/k/a HOLYSTONE POLYTECH CO., LTD.

Defendants

ORDER

THIS MOTION, made by the plaintiff for an Order that: (i) the within proceeding be discontinued, without prejudice and without costs, as against Vishay Intertechnology Inc. ("Vishay") in accordance with the tolling and standstill agreement reached between the plaintiff and Vishay (the "Tolling and Standstill Agreement"); and, (ii) the within proceeding be discontinued as against Sanyo Electric Co., Ltd., Sanyo Electronic Device (U.S.A.) Corp. and Sanyo North

America Corporation (collectively "Sanyo") was heard this day at the court house, 80 Dundas St., London, Ontario, N6A 6A3.

ON READING the materials filed and on hearing the submissions of the lawyers for the plaintiff, Vishay and Sanyo:

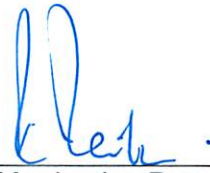
ON BEING ADVISED that the plaintiff, Vishay and Sanyo consent to the relief requested and the remaining defendants take no position on the motion:

1. **THIS COURT ORDERS** that the action is hereby discontinued, without prejudice and without costs, against Vishay Intertechnology Inc. pursuant to section 29 of the *Class Proceedings Act, 1992*, S.O. 1992, c. 6.
2. **THIS COURT ORDERS** that the action is hereby discontinued with prejudice against Sanyo Electric Co., Ltd., Sanyo Electronic Device (U.S.A.) Corp. and Sanyo North America Corporation pursuant to section 29 of the *Class Proceedings Act, 1992*, S.O. 1992, c. 6.
3. **THIS COURT ORDERS** that leave is granted to file the Amended Statement of Claim attached as Schedule "A".
4. **THIS COURT ORDERS** that notice under sections 19 and 29 of the *Class Proceedings Act, 1992*, S.O. is not required, however, the web page maintained by plaintiff's counsel shall be updated to:
 - (a) attach a copy of this order;
 - (b) set out the information provided to this Court with respect to the standstill agreement related to the order at paragraph 1 above; and,
 - (c) set out the information provided to this Court related to the order at paragraph 2 above.

5. **THIS COURT ORDERS** that the foregoing order is without prejudice to all remaining and future defendants.

Date:

Nov 30/16.



Mr. Justice Russell Raikes



Schedule "A"

Court File No.: 1272/16 CP

ONTARIO SUPERIOR COURT OF JUSTICE

BETWEEN:

SEAN ALLOTT

Plaintiff

- and -

AVX CORPORATION; ELNA CO., LTD.; ELNA AMERICA INC.; HITACHI CHEMICAL CO., LTD.; HITACHI CHEMICAL COMPANY AMERICA, LTD.; HITACHI CANADA; HITACHI AIC INC.; KEMET CORPORATION; KEMET ELECTRONICS CORPORATION; MATSUO ELECTRIC CO., LTD.; NICHICON CORPORATION; NICHICON (AMERICA) CORPORATION; NIPPON CHEMI-CON CORPORATION; UNITED CHEMI-CON CORPORATION; NISSEI ELECTRIC CO. LTD.; NITSUKO ELECTRONICS CORPORATION; OKAYA ELECTRIC INDUSTRIES CO., LTD.; OKAYA ELECTRIC AMERICA, INC.; PANASONIC CORPORATION; PANASONIC CORPORATION OF NORTH AMERICA; PANASONIC CANADA INC.; ~~SANYO ELECTRIC CO., LTD.; SANYO ELECTRONIC DEVICE (U.S.A.) CORP.; SANYO NORTH AMERICA CORPORATION;~~ ROHM CO., LTD.; ROHM SEMICONDUCTOR U.S.A., LLC f/k/a ROHM ELECTRONICS U.S.A., LLC; RUBYCON CORPORATION; RUBYCON AMERICA INC.; SHINYEI KAISHA; SHINYEI TECHNOLOGY CO., LTD.; SHINYEI CAPACITOR CO., LTD.; SHINYEI CORPORATION OF AMERICA; SHIZUKI ELECTRIC CO., LTD.; AMERICAN SHIZUKI CORPORATION; SOSHIN ELECTRIC CO., LTD.; SOSHIN ELECTRONICS OF AMERICA INC.; TAITSU CORPORATION; TAITSU AMERICA, INC.; TOSHIN KOGYO CO., LTD.; HOLY STONE ENTERPRISE CO., LTD.; MILESTONE GLOBAL TECHNOLOGY, INC. d/b/a HOLYSTONE INTERNATIONAL; ~~VISHAY INTERTECHNOLOGY, INC.;~~ and VISHAY POLYTECH CO., LTD. f/k/a HOLYSTONE POLYTECH CO., LTD.

Defendants

PROCEEDING UNDER THE *CLASS PROCEEDINGS ACT, 1992*, S.O. 1992, c.6

AMENDED STATEMENT OF CLAIM

TO THE DEFENDANTS

A LEGAL PROCEEDING HAS BEEN COMMENCED AGAINST YOU by the Plaintiff. The claim made against you is set out in the following pages.

IF YOU WISH TO DEFEND THIS PROCEEDING, you or an Ontario lawyer acting for you must prepare a statement of defence in Form 18A prescribed by the Rules of Civil Procedure, serve it

on the Plaintiff's lawyer or, where the Plaintiff does not have a lawyer, serve it on the Plaintiff, and file it, with proof of service, in this court office, **WITHIN TWENTY DAYS** after this statement of claim is served on you, if you are served in Ontario.

If you are served in another province or territory of Canada or in the United States of America, the period for serving and filing your statement of defence is forty days. If you are served outside Canada and the United States of America, the period is sixty days.

Instead of serving and filing a statement of defence, you may serve and file a notice of intent to defend in Form 18B prescribed by the Rules of Civil Procedure. This will entitle you to ten more days within which to serve and file your statement of defence.

IF YOU FAIL TO DEFEND THIS PROCEEDING, JUDGMENT MAY BE GIVEN AGAINST YOU IN YOUR ABSENCE AND WITHOUT FURTHER NOTICE TO YOU.

If you wish to defend this proceeding but are unable to pay legal fees, legal aid may be available to you by contacting a local legal aid office.

Date:

Issued by: _____
80 Dundas Street
London, Ontario
N6A 6K1

TO: AVX CORPORATION
One AVX Boulevard
Fountain Inn, South Carolina 29644-9039
United States

AND TO: ELNA CO., LTD.
3-8-11 Shin-Yokohama
Kohoku-ku, Yokohama, Kanagawa Prefecture, 222-0033
Japan

AND TO: ELNA AMERICA INC.
970 W. 190 Street, Suite 920
Torrance, California 90502
United States

AND TO: HITACHI CHEMICAL CO., LTD.
Grantokyo South Tower, 6F 1-9-2 Marunouchi
Chiyoda-ku, Tokyo, 100-0005
Japan

AND TO: HITACHI CHEMICAL COMPANY AMERICA, LTD.
10080 North Wolfe Road, Suite SW3-200
Cupertino, California 95014
United States

- AND TO: HITACHI CANADA**
5450 Explorer Drive, Suite 501
Mississauga, Ontario, L4W 5M1
Canada
- AND TO: HITACHI AIC INC.**
1065, Kugeta
Moka-shi, Tochigi 321-4521
Japan
- AND TO: KEMET CORPORATION**
2835 Kemet Way
Simpsonville, South Carolina 29681
United States
- AND TO: KEMET ELECTRONICS CORPORATION**
2835 Kemet Way
Simpsonville, South Carolina 29681
United States
- AND TO: MATSUO ELECTRIC CO., LTD.**
3-5-3 Sennari-cho
Toyonaka-shi, Osaka 561-0829
Japan
- AND TO: NICHICON CORPORATION**
511, Nijoudenchou, Kkarasumadori Oike-agaru
Nakagyo-ku, Kyoto, 604-0845
Japan
- AND TO: NICHICON (AMERICA) CORPORATION**
927 East State Parkway
Schaumburg, Illinois 60173
United States
- AND TO: NIPPON CHEMI-CON CORPORATION**
5-6-4, Osaki
Shinagawa-ku, Tokyo 141-8305
Japan
- AND TO: UNITED CHEMI-CON CORPORATION**
1701 Golf Rd, Suite 1-1200
Rolling Meadows, Illinois 60008
United States
- AND TO: NISSEI ELECTRIC CO. LTD.**
201 Motodate
Hanamaki, Iwate, 025-0061
Japan

AND TO: NITSUKO ELECTRONICS CORPORATION
2031-1, Ogawara
Suzaka-shi, Nagano-ken, 382-0071
Japan

AND TO: OKAYA ELECTRIC INDUSTRIES CO., LTD.
16-9, Todorki 6 chome
Setagaya-ku, Tokyo 158-8543
Japan

AND TO: OKAYA ELECTRIC AMERICA, INC.
52 Marks Road, Suite 1
Valparaiso, Indiana 46383
United States

AND TO: PANASONIC CORPORATION
1006, Oaza Kadoma
Kadoma-shi, Osaka 571-8501
Japan

AND TO: PANASONIC CORPORATION OF NORTH AMERICA
Two Riverfront Plaza
Newark, New Jersey 07102
United States

AND TO: PANASONIC CANADA INC.
5770 Ambler Drive
Mississauga, Ontario L4W 2T3
Canada

~~**AND TO: SANYO ELECTRIC CO., LTD.**~~
~~2-5-5, Keihan Hondori,~~
~~Moriguchi City, Osaka 570-8677~~
~~Japan~~

~~**AND TO: SANYO ELECTRONIC DEVICE (U.S.A.) CORP.**~~
~~2710 Gateway Oaks Dr., Suite 100~~
~~Sacramento, California 95833~~
~~United States~~

~~**AND TO: SANYO NORTH AMERICA CORPORATION**~~
~~2710 Gateway Oaks Dr.~~
~~Sacramento, California, 95833~~
~~United States~~

AND TO: ROHM CO., LTD.
21 Saiin Mizosaki-cho
Ukyo-ku, Kyoto 615-8585
Japan

AND TO: ROHM SEMICONDUCTOR U.S.A., LLC f/k/a ROHM ELECTRONICS U.S.A., LLC
2323 Owen Street, Suite 150
Santa Clara, California 95054
United States

AND TO: RUBYCON CORPORATION
1938-1, Nishi-Minowa
Ina-Shi, Nagano Prefecture 399-4593
Japan

AND TO: RUBYCON AMERICA INC.
4293 Lee Avenue
Gurnee, Illinois 60031
United States

AND TO: SHINYEI KAISHA
77-1 Kyomachi
Chuo-ku, Kobe 651-0178
Japan

AND TO: SHINYEI TECHNOLOGY CO., LTD.
77-1 Kyomachi
Chuo-ku, Kobe 651-0178
Japan

AND TO: SHINYEI CAPACITOR CO., LTD.
Shinagawa Crystal Square 11F
1-6-41 Konan, Minato-ku, Tokyo 108-0075
Japan

AND TO: SHINYEI CORPORATION OF AMERICA
1120 Avenue of the Americas, 4th Floor
New York, New York 10036
United States

AND TO: SHIZUKI ELECTRIC CO., LTD.
10-45 Taisha-cho
Nishinomiya-shi, Hyogo 662-0867
Japan

AND TO: AMERICAN SHIZUKI CORPORATION
301 West O Street
Ogallala, Nebraska 69153
United States

AND TO: SOSHIN ELECTRIC CO., LTD.
3-13-16 Mita
Minato-ku, Tokyo, 108-8322
Japan

- AND TO: SOSHIN ELECTRONICS OF AMERICA INC.**
2520 Mission College Boulevard, Suite 104
Santa Clara, California 95054
United States
- AND TO: TAITSU CORPORATION**
2-23-20, Kizuki
Nakahara-ku, Kawasaki, Kanagawa 211-0025
Japan
- AND TO: TAITSU AMERICA, INC.**
6153 Fairmont Ave, Suite 100
San Diego, California 92120
United States
- AND TO: TOSHIN KOGYO CO., LTD.**
Tsukasa Bldg. 2F 2-15-4 Uchikanda
Chiyoda-ku, Tokyo 101-0047
Japan
- AND TO: HOLY STONE ENTERPRISE CO., LTD.**
62, Sec.2. Huang Shan R.
Nei HU Sist., Taipei
Taiwan
- AND TO: MILESTONE GLOBAL TECHNOLOGY, INC. d/b/a HOLYSTONE INTERNATIONAL**
41700 Ivy St. #D
Murrieta, California 92562
United States
- ~~**AND TO: VISHAY INTERTECHNOLOGY, INC.**~~
~~63 Lancaster Avenue~~
~~Malvern, Pennsylvania 19355-2143~~
~~United States~~
- AND TO: VISHAY POLYTECH CO., LTD. f/k/a HOLYSTONE POLYTECH CO., LTD.**
16 Ohdaira Kumagami Miharumachi
Tamura-gun, Fukushima 963-7704
Japan

CLAIM

1. The Plaintiff claims on behalf of himself and the class:
 - a. an Order pursuant to the *Class Proceedings Act, 1992*, S.O. 1992, c. 6 (the "CPA"), certifying this action as a class proceeding and appointing the plaintiff as the representative plaintiff for the Class;
 - b. general damages calculated on an aggregate basis or otherwise for breach of the *Competition Act*, RSC 1985 c. C-34 (the "*Competition Act*"), conspiracy, unlawful means tort and unjust enrichment, in an amount sufficient to compensate the plaintiff and the class members for the harm done to them as a result of the defendants' unlawful conduct;
 - c. punitive damages in an amount to be determined at trial;
 - d. an equitable rate of interest on all sums found due and owing to the plaintiff and the other class members and, further, or in the alternative, post-judgment interest pursuant to the *Courts of Justice Act*, R.S.O. 1990, Chapter C.43;
 - e. an accounting, restitution, and disgorgement for common law conspiracy, unjust enrichment, waiver of tort and unlawful means tort;
 - f. an Order compelling the creation of a litigation trust to hold and distribute the monetary relief awarded pursuant to a plan of administration and distribution under sections 25 and 26 of the CPA;
 - g. an injunction enjoining the defendants from conspiring or agreeing with each other, or others, to raise, maintain, fix, or stabilize the price of Film Capacitors;

- h. an Order compelling the creation of a conspicuous notice program to class members pursuant to section 19 of the *CPA* in order to facilitate the plan of distribution claimed herein;
- i. costs of investigation and prosecution of this proceeding pursuant to section 36 of the *Competition Act*;
- j. costs for the administration of the plan of distribution for relief obtained in this action;
- k. costs of this action on a substantial indemnity scale including applicable taxes; and
- l. such further and other relief as this court deems just.

NATURE OF THE ACTION

- 2. This action arises from a conspiracy between the defendants to fix, raise, maintain, or stabilize prices of film capacitors ("Film Capacitors") in Canada during the class period.
- 3. The defendants and their unnamed co-conspirators manufactured, marketed, distributed, and/or sold Film Capacitors in Canada and throughout the world. The defendants had market power in the market for Film Capacitors in Canada throughout the class period.
- 4. Capacitors are electronic components that serve as one of the fundamental building blocks of all types of electrical circuits. Virtually every electrical circuit contains one or more capacitor. Generally, a capacitor is used in an electric circuit to store an electrical charge.
- 5. In its basic form, a capacitor consists of one or more pairs of conductors, separated by an insulator, with wires connected to the two conducting plates. Film Capacitors use

insulating plastic film and one of two conductive materials, propylene or polyester. Film Capacitors include the following four generations: (1) film and aluminum foil capacitors, (2) film and other metal capacitors, (3) layered capacitors, and (4) surface-mount capacitors.

6. Film Capacitors are used in appliances, lighting, power supply, digital AV, communications devices, games, direct current (DC) links for inverters, snubbers for inverters, battery filters, and electric compressors, among other electronics.
7. The defendants manufactured, sold, and distributed Film Capacitors to original equipment manufacturers ("OEMs") and others in Canada, Asia, Europe, the United States, and elsewhere.
8. During the period commencing as early as January 1, 2007 and continuing up to the present (the "Class Period"), it is alleged that the defendants and their senior executives participated in illegal and secretive meetings and made unlawful agreements relating to the prices for Film Capacitors.
9. The conduct of the defendants and their co-conspirators caused injury to the plaintiff and the other class members, namely that they were compelled to pay, and did pay, artificially inflated prices, directly or indirectly, for Film Capacitors (the "Overcharge").
10. Damages and equitable remedies are claimed. The application of the doctrine of waiver of tort is also sought.

THE PLAINTIFF AND THE CLASS

11. The plaintiff, Sean Allott, is an individual resident of the City of London, in the Province of Ontario. Sean Allott is an IT professional and a significant consumer of electronic

products. During the Class Period, Sean Allott was a purchaser of Film Capacitors manufactured by the defendants. Specifically, Sean Allott purchased microwave ovens and Macbooks (including Macbook chargers) during the class period, which contained Film Capacitors.

12. The plaintiff seeks to represent a class consisting of:

All persons and entities in Canada who purchased Film Capacitors or a product containing a Film Capacitor between January 1, 2007 and the present.

DEFENDANTS

13. The defendants are jointly and severally liable for the actions of and damages allocable to the co-conspirators, including unnamed co-conspirators.
14. Where a particular entity within a corporate family of the defendants engaged in anti-competitive conduct, it did so on behalf of all entities within that corporate family. The individual participants in the conspiratorial meetings and discussions entered into agreements on behalf of, and reported these meetings and discussions to, their respective corporate families.
15. Various persons, partnerships, sole proprietors, firms, corporations, and individuals not named as defendants in this lawsuit, the identities of which are presently unknown, have participated as co-conspirators with the defendants in the unlawful behaviour alleged herein, and have performed acts and made statements in furtherance of the conspiracy or in furtherance of the anticompetitive conduct.

AVX

16. The defendant AVX Corporation is a Delaware Corporation with its principal place of business located at One AVX Boulevard, Fountain Inn, South Carolina 29644-9039, United States. It is a subsidiary of Kyocera Corporation, a Japanese corporation that owns approximately 72% of the outstanding common stock in AVX Corporation. During the Class Period, AVX Corporation manufactured, marketed, sold, and/or distributed Film Capacitors either directly or through its subsidiaries, agents or affiliates to customers throughout Canada.
17. The defendant AVX Corporation is referred to herein as "AVX."

ELNA

18. The defendant ELNA Co., Ltd. is a Japanese corporation with its principal place of business located at 3-8-11 Shin-Yokohama, Kohoku-ku, Yokohama, Kanagawa Prefecture, 222-0033, Japan. During the Class Period, ELNA Co., Ltd. manufactured, marketed, sold, and/or distributed Film Capacitors either directly or through its subsidiaries, agents or affiliates to customers throughout Canada.
19. The defendant ELNA America Inc., a California corporation, is a wholly owned subsidiary of ELNA Co., Ltd. with its principal place of business located at 970 W. 190 Street, Suite 920, Torrance, California 90502, United States. During the Class Period, ELNA America Inc. manufactured, marketed, sold, and/or distributed Film Capacitors, either directly or indirectly, to customers throughout Canada.
20. The defendants ELNA Co., Ltd. and ELNA America Inc. are together referred to herein as "ELNA."

Hitachi Chemical

21. The defendant Hitachi Chemical Co., Ltd. is a Japanese corporation with its principal place of business located at Grantokyo South Tower, 6F 1-9-2 Marunouchi Chiyoda-ku, Tokyo, 100-0005 Japan. During the Class Period, Hitachi Chemical Co., Ltd. manufactured, marketed, sold, and/or distributed Film Capacitors either directly or through its subsidiaries, agents or affiliates to customers throughout Canada.
22. The defendant Hitachi Chemical Company America, Ltd., a New York corporation, is a wholly owned subsidiary of Hitachi Chemical Co., Ltd. with its principal place of business located at 10080 North Wolfe Road, Suite SW3-200, Cupertino, California 95014, United States. During the Class Period, Hitachi Chemical Company America, Ltd. manufactured, marketed, sold, and/or distributed Film Capacitors, either directly or indirectly, to customers throughout Canada.
23. The defendant Hitachi Canada, a subsidiary of Hitachi Chemical Company America, Ltd. is a Canadian Corporation with its principal place of business located at 5450 Explorer Drive, Suite 501, Mississauga, Ontario, L4W 5M1, Canada. During the Class Period, Hitachi Canada manufactured, marketed, sold, and/or distributed Film Capacitors, either directly or indirectly, to customers throughout Canada.
24. The defendant Hitachi AIC Inc. is a Japanese corporation with its principal place of business located at 1065 Kugeta, Moka-Shi Tochigi, 321-4521 Japan. It is affiliated with and controlled by Hitachi Chemical Co., Ltd. During the Class Period, Hitachi AIC Inc. manufactured, marketed, sold, and/or distributed Film Capacitors, either directly or indirectly, to customers throughout Canada. Hitachi AIC Inc. sold its capacitors division to Holy Stone Enterprise Co., Ltd. in or around December 2009. The acquisition was

completed in or around April 2010 and the newly acquired division was renamed HolyStone Polytech Co., Ltd.

25. The defendants Hitachi Chemical Co., Ltd., Hitachi Chemical Company America, Ltd., Hitachi Canada, and Hitachi AIC Inc. are all part of the Hitachi Group, and are together referred to herein as "Hitachi."

KEMET

26. The defendant KEMET Corporation is a Delaware corporation with its principal place of business located at 2835 Kemet Way, Simpsonville, South Carolina 29681, United States. During the Class Period, KEMET Corporation manufactured, marketed, sold, and/or distributed Film Capacitors directly or through its subsidiaries, agents or affiliates to customers throughout Canada.
27. The defendant KEMET Electronics Corporation, a Delaware corporation, is a wholly owned subsidiary of KEMET Corporation with its principal place of business located at 2835 Kemet Way, Simpsonville, South Carolina 29681, United States. During the Class Period, KEMET Electronics Corporation manufactured, marketed, sold, and/or distributed Film Capacitors directly or through its subsidiaries, agents or affiliates to customers throughout Canada.
28. The defendants KEMET Corporation and KEMET Electronics Corporation are together referred to herein as "KEMET."

Matsuo

29. The defendant Matsuo Electric Co., Ltd. is a Japanese corporation with its principal place of business located at 3-5-3 Sennari-cho, Toyonaka-shi, Osaka 561-0829, Japan. During the Class Period, Matsuo Electric Co., Ltd., manufactured, marketed, sold, and/or

distributed Film Capacitors either directly or through its subsidiaries, agents or affiliates to customers throughout Canada.

30. The defendant Matsuo Electric Co., Ltd. is referred to herein as "Matsuo."

Nichicon

31. The defendant Nichicon Corporation is a Japanese corporation with its principal place of business located at 511, Nijoudenchou, Kkarasumadori Oike-agaru, Nakagyo-ku, Kyoto, 604-0845 Japan. During the Class Period, Nichicon Corporation manufactured, marketed, sold, and/or distributed Film Capacitors either directly or through its subsidiaries, agents or affiliates to customers throughout Canada.

32. The defendant Nichicon (America) Corporation, an Illinois corporation, is a wholly owned subsidiary of Nichicon Corporation with its principal place of business located at 927 East State Parkway, Schaumburg, Illinois 60173, United States. Nichicon (America) Corporation manufactured, marketed, sold, and/or distributed Film Capacitors either directly or through its subsidiaries, agents or affiliates to customers throughout Canada.

33. The defendants Nichicon Corporation and Nichicon (America) Corporation are together referred to herein as "Nichicon."

Nippon Chemi-Con

34. The defendant Nippon Chemi-Con Corporation is a Japanese corporation with its principal place of business located at 5-6-4, Osaki, Shinagawa-ku, Tokyo 141-8305, Japan. During the Class Period, Nippon Chemi-Con Corporation manufactured, marketed, sold, and/or distributed Film Capacitors either directly or through its subsidiaries, agents or affiliates to customers throughout Canada.

35. The defendant United Chemi-Con Corporation, an Illinois Corporation, is a wholly owned subsidiary of Nippon Chemi-Con Corporation with its principal place of business located at 1701 Golf Rd., Suite 1-1200, Rolling Meadows, Illinois 60008, United States. During the Class Period, United Chemi-Con manufactured, marketed, sold, and/or distributed Film Capacitors either directly or through its subsidiaries, agents or affiliates to customers throughout Canada.
36. The defendants Nippon Chemi-Con Corporation and United Chemi-Con Corporation are together referred to herein as "Nippon Chemi-Con."

Nissei

37. The defendant Nissei Electric Co. Ltd. is a Japanese corporation with its principal place of business located at 201, Motodate, Hanamaki, Iwate, 025-0061, Japan. During the Class Period, Nissei Electric Co. Ltd. manufactured, marketed, sold, and/or distributed Film Capacitors either directly or through its subsidiaries, agents or affiliates to customers throughout Canada.
38. The defendant Nissei Electric Co. Ltd. is referred to herein as "Nissei."

Nitsuko

39. The defendant Nitsuko Electronics Corporation is a Japanese corporation with its principal place of business located at 2031-1, Ogawara, Suzaka-shi, Nagano-ken, 382-0071, Japan. During the Class Period, Nitsuko Electronics Corporation manufactured, marketed, sold, and/or distributed Film Capacitors either directly or through its subsidiaries, agents or affiliates to customers throughout Canada.
40. The defendant Nitsuko Electronics Corporation is referred to herein as "Nitsuko."

Okaya

41. The defendant Okaya Electric Industries Co., Ltd. is a Japanese corporation with its principal place of business at 16-9, Todorki 6 chome, Setagaya-ku, Tokyo 158-8543, Japan. During the Class Period, Okaya Electric Industries Co., Ltd. manufactured, marketed, sold, and/or distributed Film Capacitors, directly and through its subsidiaries or affiliates, to customers throughout Canada.
42. The defendant Okaya Electric America, Inc., an Indiana corporation, is a wholly owned subsidiary of Okaya Electric Industries Co., Ltd. with its principal place of business located at 52 Marks Road, Suite 1, Valparaiso, Indiana 46383, United States. During the Class Period, Okaya Electric America, Inc. manufactured, marketed, sold, and/or distributed Film Capacitors, either directly or indirectly, to customers through Canada.
43. The defendants Okaya Electric Industries Co., Ltd. and Okaya Electric America, Inc. are together referred to herein as "Okaya".

~~Panasonic and Sanyo~~

44. The defendant Panasonic Corporation is a Japanese corporation with its principal place of business located at 1006, Oaza Kadoma, Kadoma-shi, Osaka 571-8501, Japan. Until October 1, 2008, Panasonic Corporation operated under the name of Matsushita Electric Industrial Co., Ltd. During the Class Period, Panasonic Corporation, in its own capacity and in its capacity as Matsushita Electric Industrial Co., Ltd. manufactured, marketed, sold, and/or distributed Film Capacitors either directly or through its subsidiaries, agents or affiliates to customers throughout Canada.
45. The defendant Panasonic Corporation of North America, a wholly owned subsidiary of Panasonic Corporation, is a Delaware corporation with its principal place of business

located at Two Riverfront Plaza, Newark, New Jersey 07102, United States. During the Class Period, Panasonic Corporation of North America manufactured, marketed, sold, and/or distributed Film Capacitors, either directly or indirectly, to customers throughout Canada.

46. The defendant Panasonic Canada Inc., a subsidiary of Panasonic Corporation of North America, is a Canadian corporation with its principal place of business located at 5770 Ambler Drive, Mississauga, Ontario, L4W 2T3, Canada. During the Class Period, Panasonic Corporation-Canada Inc. manufactured, marketed, sold, and/or distributed Film Capacitors, either directly or indirectly, to customers throughout Canada.

~~47. The defendant Sanyo Electric Co., Ltd., a Japanese corporation, is, as of December 2009, a wholly owned subsidiary of Panasonic Corporation, with its principal place of business located at 2-5-5, Keihan-Hondori, 2-Chome, Moriguchi City, Osaka 570-8677, Japan. During the Class Period, Sanyo Electric Co., Ltd. manufactured, marketed, sold, and/or distributed Film Capacitors either directly or through its subsidiaries, agents or affiliates to customers throughout Canada.~~

~~48. The defendant Sanyo Electronic Device (U.S.A.) Corp. is a Delaware corporation with its principal place of business located at 2710 Gateway Oaks Dr., Suite 100, Sacramento, California 95833, United States. It is affiliated with and controlled by Sanyo Electric Group Ltd. During the Class Period, Sanyo Electronic Device (U.S.A.) Corp. manufactured, marketed, sold, and/or distributed Film Capacitors, either directly or indirectly, to customers throughout Canada.~~

~~49. The defendant Sanyo North America Corporation is a Delaware corporation with its principal place of business located at 2710 Gateway Oaks Dr., Sacramento, California 95833, United States. It is affiliated with and controlled by Sanyo Electric Group Ltd.~~

~~During the Class Period, Sanyo North America Corporation manufactured, marketed, sold, and/or distributed Film Capacitors, either directly or indirectly, to customers throughout Canada.~~

~~50-47.~~ The defendants Panasonic Corporation, Panasonic Corporation of North America, and Panasonic Canada Inc., ~~Sanyo Electric Co., Ltd., Sanyo Electronic Device (U.S.A.) Corp., and Sanyo North America Corporation~~ are collectively referred to herein as "Panasonic."

ROHM

~~51-48.~~ The defendant ROHM Co., Ltd. is a Japanese corporation with its principal place of business located at 21 Saiin Mizosaki-cho, Ukyo-ku, Kyoto 615-8585 Japan. During the Class Period, ROHM Co., Ltd. manufactured, marketed, sold, and/or distributed Film Capacitors either directly or through its subsidiaries, agents or affiliates to customers throughout Canada.

~~52-49.~~ The defendant ROHM Semiconductor U.S.A., LLC, a Delaware limited liability corporation, is a subsidiary of ROHM Co., Ltd. with its principal place of business located at 2323 Owen Street, Suite 150, Santa Clara, California 95054, United States. Rohm Semiconductor U.S.A., LLC formerly operated as ROHM Electronics U.S.A., LLC prior to January 1, 2009. During the Class Period, ROHM Semiconductor U.S.A., LLC manufactured, marketed, sold, and/or distributed Film Capacitors, either directly or indirectly, to customers throughout Canada.

~~53-50.~~ The defendants ROHM Co., Ltd. and ROHM Semiconductor U.S.A., LLC f/k/a ROHM Electronics U.S.A., LLC are together referred to herein as "ROHM."

Rubycon

~~54-51.~~ The defendant Rubycon Corporation is a Japanese corporation with its principal place of business located at 1938-1, Nishi-Minowa, Ina-Shi, Nagano Prefecture 399-4593, Japan. During the Class Period, Rubycon Corporation manufactured, marketed, sold, and/or distributed Film Capacitors either directly or through its subsidiaries, agents or affiliates to customers throughout Canada.

~~55-52.~~ The defendant Rubycon America Inc., an Illinois corporation, is a wholly owned subsidiary of Rubycon Corporation with its principal place of business located at 4293 Lee Avenue, Gurnee, Illinois 60031, United States. During the Class Period, Rubycon America Inc. manufactured, marketed, sold, and/or distributed Film Capacitors, either directly or indirectly, to customers throughout Canada.

~~56-53.~~ The defendants Rubycon Corporation and Rubycon America Inc. are together referred to herein as "Rubycon."

Shinyei

~~57-54.~~ The defendant Shinyei Kaisha is a Japanese corporation with its principal place of business located at 77-1 Kyomachi, Chuo-ku, Kobe 651-0178, Japan. During the Class Period, Shinyei Kaisha manufactured, marketed, sold, and/or distributed Film Capacitors either directly or through its subsidiaries, agents or affiliates to customers throughout Canada.

~~58-55.~~ The defendant Shinyei Technology Co., Ltd. is a Japanese corporation and a corporate affiliate of Shinyei Kaisha with its principal place of business located at 77-1 Kyomachi, Chuo-ku, Kobe 651-0178, Japan. Until in or around February 2011, Shinyei Technology

Co., Ltd. manufactured, marketed, sold, and/or distributed Film Capacitors either directly or indirectly, to customers throughout Canada.

~~59-56.~~ The defendant Shinyei Capacitor Co., Ltd. is a Japanese corporation and a corporate affiliate of Shinyei Kaisha with its principal place of business located at Shinagawa Crystal Square 11F, 1-6-41 Konan, Minato-ku, Tokyo 108-0075, Japan. Starting in or around February 2011, Shinyei Capacitor Co., Ltd. was established by Shinyei Kaisha to acquire the Film Capacitors business of Shinyei Technology Co., Ltd. After in or around February 2011, Shinyei Capacitor Co., Ltd. manufactured, marketed, sold, and/or distributed Film Capacitors, either directly or indirectly, to customers throughout Canada.

~~60-57.~~ The defendant Shinyei Corporation of America, a Delaware corporation and a wholly owned subsidiary of Shinyei Kaisha with its principal place of business located at 1120 Avenue of the Americas, 4th Floor, New York, New York 10036, United States. During the Class Period, Shinyei Corporation of America manufactured, marketed, sold, and/or distributed Film Capacitors, either directly or indirectly, to customers throughout Canada.

~~64-58.~~ The defendants Shinyei Kaisha, Shinyei Technology Co., Ltd., Shinyei Capacitor Co., Ltd., and Shinyei Corporation of America are together referred to herein as "Shinyei."

Shizuki

~~62-59.~~ The defendant Shizuki Electric Co., Ltd. is a Japanese corporation with its principal place of business located at 10-45 Taisha-cho, Nishinomiya-shi, Hyogo 662-0867, Japan. During the Class Period, Shizuki Electric Co., Ltd. manufactured, marketed, sold, and/or distributed Film Capacitors either directly or through its subsidiaries, agents or affiliates to customers throughout Canada.

63-60. The defendant American Shizuki Corporation is a Nebraska corporation with its principal place of business located at 301 West O Street, Ogallala, Nebraska 69153, United States. It is affiliated with and controlled by Shizuki Electric Co., Ltd. During the Class Period, American Shizuki Corporation manufactured, marketed, sold, and/or distributed Film Capacitors, either directly or indirectly, to customers throughout Canada.

64-61. The defendants Shizuki Electric Co., Ltd. and American Shizuki Corporation are together referred to herein as "Shizuki".

Soshin

65-62. The defendant Soshin Electric Co., Ltd. is a Japanese corporation with its principal place of business located at 3-13-16 Mita, Minato-ku, Tokyo 108-8322 108-8322, Japan. During the Class Period, Soshin Electric Co., Ltd. manufactured, marketed, sold, and/or distributed Film Capacitors either directly or through its subsidiaries, agents or affiliates to customers throughout Canada.

66-63. The defendant Soshin Electronics of America Inc., a California corporation, is a wholly owned subsidiary of Soshin Electric Co., Ltd. with its principal place of business located at 2520 Mission College Boulevard, Suite 104, Santa Clara, California 95054, United States. During the Class Period, Soshin Electronics of America Inc. manufactured, marketed, sold, and/or distributed Film Capacitors throughout Canada.

67-64. The defendants Soshin Electric Co., Ltd. and Soshin Electronics of America Inc. are together referred to herein as "Soshin".

Taitso

68-65. The defendant Taitso Corporation is a Japanese corporation with its principal place of business located at 2-23-20, Kizuki, Nakahara-ku, Kawasaki, Kanagawa 211-0025,

Japan. During the Class Period, Taitso Corporation manufactured, marketed, sold, and/or distributed Film Capacitors either directly or through its subsidiaries, agents or affiliates to customers throughout Canada.

~~69-66.~~ The defendant Taitso America, Inc., a California corporation, is a wholly owned subsidiary of Taitso Corporation with its principal place of business located at 6153 Fairmont Ave, Suite 100, San Diego, California 92120, United States. During the Class Period, Taitso America, Inc. manufactured, sold, and/or distributed Film Capacitors, either directly or indirectly, to customers throughout Canada.

~~70-67.~~ The defendants Taitso Corporation and Taitso America, Inc. are together referred to herein as "Taitso".

Toshin Kogyo

~~74-68.~~ The defendant Toshin Kogyo Co., Ltd., is a Japanese corporation with its principal place of business located at 101-0047 Tsukasa Bldg, 2-15-4 Uchikanda Chiyoda-ku, Tokyo, Japan. During the Class Period, Toshin Kogyo Co., Ltd. manufactured, marketed, sold, and/or distributed Film Capacitors either directly or through its subsidiaries or affiliates to customers throughout Canada.

~~72-69.~~ The defendant Toshin Kogyo Co., Ltd. is referred to herein as "Toshin Kogyo."

Holy Stone

~~73-70.~~ The defendant Holy Stone Enterprise Co., Ltd. is a foreign corporation with its principal place of business located at 62, Sec.2. Huang Shan R., Nei HU Sist., Taipei, Taiwan. During the Class Period, Holy Stone Enterprise Co., Ltd. manufactured, marketed, sold, and/or distributed Film Capacitors either directly or through its subsidiaries, agents or affiliates to customers throughout Canada.

~~74-71.~~ In or about December 2009, Holy Stone Enterprise Co., Ltd. acquired Hitachi AIC Inc.'s capacitors division and renamed it HolyStone Polytech Co., Ltd., which was a Japanese corporation and wholly owned subsidiary of Holy Stone Enterprise Co., Ltd. with its principal place of business in Fukushima, Japan. Until in or about June 2014, HolyStone Polytech Co., Ltd. manufactured, marketed, sold, and/or distributed Film Capacitors, either directly or indirectly, to customers throughout Canada.

~~75-72.~~ The defendant Milestone Global Technology, Inc. d/b/a Holy Stone International is a California corporation with its principal place of business located at 41700 Ivy St. #D, Murrieta, California 92562, United States. Milestone Global Technology, Inc. is a subsidiary of the defendant Holy Stone Enterprise Co., Ltd. and the direct sales office for North America. During the Class Period, Milestone Global Technology, Inc. manufactured, marketed, sold, and/or distributed Film Capacitors, either directly or indirectly, to customers throughout Canada.

~~76-73.~~ The defendants Holy Stone Enterprise Co., Ltd. and Milestone Global Technology, Inc. d/b/a Holystone International are together referred to herein as "Holy Stone."

Vishay

~~77.~~ The defendant Vishay Intertechnology, Inc. is a Delaware corporation with its principal place of business located at 63 Lancaster Avenue, Malvern, Pennsylvania 19355-2143, United States. During the Class Period, Vishay Intertechnology, Inc. manufactured, marketed, sold, and/or distributed Capacitors either directly or through its subsidiaries, agents or affiliates to customers throughout Canada.

~~78-74.~~ On or about June 11, 2014, Vishay Intertechnology, Inc. acquired HolyStone Polytech Co., Ltd. and renamed it Vishay Polytech Co., Ltd. The defendant Vishay Polytech Co.,

Ltd. is a Japanese corporation with its principal place of business located at 16 Ohdaira Kumagami Miharu-machi, Tamura-gun Fukushima 963-7704 Japan. During the Class Period, Vishay Polytech Co., Ltd. manufactured, marketed, sold, and/or distributed Film Capacitors, either directly or indirectly, to customers throughout Canada.

~~79-75.~~ The defendants ~~Vishay Intertechnology, Inc. and Vishay Polytech Co., Ltd. f/k/a HolyStone Polytech Co., Ltd.~~ are together is referred to herein as "Vishay".

~~80-76.~~ Collectively, the defendants named in paragraphs 16 to ~~75~~2 are referred to herein as the "Defendants".

FACTUAL BACKGROUND

The Film Capacitors Industry

~~81-77.~~ The structure and characteristics of the market for Film Capacitors in Canada are conducive to the conspiracy alleged herein.

~~82-78.~~ There are substantial barriers that preclude, reduce or make more difficult entry into the Film Capacitors market. New fabrication operations are required to meet the market demand and to adjust to technological changes. The industry also requires the establishment of a necessary supply chain for all raw materials. The Defendant manufacturers have developed longstanding relationships and their own processing capabilities for these raw materials.

~~83-79.~~ There are no close substitutes for Film Capacitors in Canada. Film Capacitors are one of the fundamental components found in electrical circuits in many electronic devices that are used today. There is no alternative to Film Capacitors in Canada.

84-80. Film Capacitors are commodity products that are interchangeable among the Defendants. Film Capacitors of like technical and operational specification are mutually interchangeable. A specific Film Capacitor manufactured by one of the Defendants can be exchanged for a Film Capacitor manufactured by another Defendant so long as it has the same technical and operational specifications.

85-81. The price of Film Capacitors provided to OEMs and their subsidiaries is reflected, in whole or in part, in the price of electronics purchased in Canada.

86-82. The Defendants dominate the global Film Capacitors market, including the sale of Film Capacitors in Canada.

The Conspiracy to Fix the Price of Film Capacitors

87-83. The acts alleged under this heading are, collectively, the "Conspiracy Acts."

88-84. During the Class Period, the Defendants and unnamed co-conspirators conspired and/or agreed with each other to fix, maintain, increase or control the price for the supply of Film Capacitors and/or to enhance unreasonably the prices of Film Capacitors and /or to lessen unduly competition in the sale of Film Capacitors in Canada.

89-85. During the Class Period, senior executives and employees of the Defendants, acting in their capacities as agents for the Defendants, engaged in communications, conversations, and meetings with each other at times and places, some of which are unknown to the plaintiff. As a result of the communications and meetings, the Defendants and unnamed co-conspirators unlawfully conspired and/or agreed to:

- a. unreasonably enhance the prices of Film Capacitors in Canada;
- b. fix, maintain, increase, and/or control the prices of Film Capacitors in Canada;

- c. monitor and/or enforce adherence to an agreed-upon pricing scheme;
- d. restrain trade in the sale of Film Capacitors in Canada; and
- e. lessen unduly competition in the sale of Film Capacitors in Canada.

~~90-86.~~ In furtherance of the conspiracy, during the Class Period the Defendants and/or their servants and agents:

- a. fixed, maintained, increased, controlled, and/or enhanced unreasonably the prices of Film Capacitors in Canada;
- b. communicated secretly, in person, by telephone, and by e-mail, to discuss and fix prices of Film Capacitors;
- c. made formal agreements with respect to the prices of Film Capacitors;
- d. exchanged information regarding the prices of Film Capacitors for the purposes of monitoring and enforcing adherence to the agreed-upon prices;
- e. rigged bids for the sale of Film Capacitors to OEMs and their subsidiaries;
- f. allocated sales, territories, customers, and/or markets for supply of Film Capacitors;
- g. fixed, maintained, controlled, prevented, and/or lessened the production and/or supply of Film Capacitors; and
- h. disciplined any conspirator which failed to comply with the conspiracy.

~~94-87.~~ During the Class Period and continuing to the present, the Defendants and/or their servants and agents, took active steps to, and did, conceal the unlawful conspiracy from the class members.

92-88. The Defendants were motivated to conspire and their predominant purposes and predominant concerns were to harm the plaintiff and the other class members who purchased Film Capacitors by requiring them to pay unlawfully high prices for Film Capacitors.

93-89. The Canadian subsidiaries of the foreign Defendants participated in and furthered the objectives of the conspiracy by knowingly modifying their competitive behaviour in accordance with instructions received from their respective parent companies and thereby acted as their agents in carrying out the conspiracy and are liable for such acts.

94-90. The Conspiracy Acts alleged in this claim to have been done by each Defendant were authorized, ordered, and/or done by each Defendant's officers, directors, agents, employees or representatives while engaged in the management, direction, control or transaction of its business affairs.

REGULATORY INVESTIGATIONS

95-91. Commencing in or around 2014, regulatory authorities in a number of jurisdictions announced investigations into price-fixing of the capacitors industry.

96-92. The Brazilian antitrust authority, the Administrative Counsel for Economic Defense, stated in a press release in 2014 that it had established an administrative proceeding to investigate the alleged price-fixing of both electrolytic and Film Capacitors.

97-93. In or around April 2014, the Antitrust Division of the United States Department of Justice ("DOJ") confirmed to industry sources that the government had opened an investigation

into price fixing in the capacitors industry. The San Francisco division of the FBI is assisting with this investigation, which is ongoing.

~~98-94.~~ On or about July 2, 2014, the People's Republic of China's National Development and Reform Commission ("NDRC"), an agency which regulates price-related anticompetitive activity by the Chinese State Council, confirmed its investigation into the capacitors industry through a report published in the China Supervision and Antitrust Journal and written by Xu Kunlin, Director-General of the NDRC's Price Supervision and Antimonopoly Bureau. In this report, Xu Kunlin revealed that one Japanese capacitor company self-reported its conspiracy activity in March, 2014, and that this company and other Japanese capacitor manufacturers held regular conferences to exchange market information related to their products.

~~99-95.~~ Since early 2014, investigations into the capacitors industry have also been opened by the Japanese Fair Trade Commission, the South Korean Fair Trade Commission, the Taiwanese Fair Trade Commission, the Singapore Competition Commission, and the European Commission's competition authority.

CAUSES OF ACTION

Breach of the Competition Act

~~100-96.~~ The Defendants are in breach of section 45 of Part VI of the *Competition Act* and caused injury to the plaintiff and the other class members which renders the Defendants jointly and severally liable to pay damages and costs of investigation pursuant to section 36 of the *Competition Act*.

~~401.97.~~ Further, or in the alternative, the defendants Hitachi Canada and Panasonic Canada Inc. (the "Canadian Defendants") are in breach of section 46(1) of the Part VI of the *Competition Act* and caused injury to the plaintiff and the other class members which renders the Canadian Defendants jointly and severally liable to pay damages and costs of investigation pursuant to section 36 of the *Competition Act*.

~~402.98.~~ The plaintiff and the other class members did not discover, and could not discover through the exercise of reasonable diligence, the existence of the claims sued upon until recently because the Defendants and their co-conspirators actively, intentionally, and purposively concealed the existence of the combination and conspiracy from the plaintiff and others.

Civil Conspiracy

~~403.99.~~ Further, or in the alternative, the Conspiracy Acts were unlawful acts under the *Competition Act* and/or in restraint of trade directed towards the plaintiff and the other class members. The Defendants and their co-conspirators knew that the unlawful acts alleged herein would likely cause injury to the plaintiff and the other class members and, as such, the Defendants are jointly and severally liable for the tort of civil conspiracy. Further, or alternatively, the predominant purpose of the Conspiracy Acts was to injure the plaintiff and the other class members and the Defendants are jointly and severally liable for the tort of conspiracy to injure.

~~404.100.~~ The plaintiff and the other class members suffered damages as a result of the Defendants' conspiracy.

Unlawful Means Tort

~~405~~-101. Further, or in the alternative, the Conspiracy Acts were unlawful acts intended to cause the plaintiff and the other class members economic loss, either as an end in itself or as a necessary means of enriching the Defendants.

~~406~~-102. The Conspiracy Acts taken by the Defendants were unlawful under the laws of the jurisdictions where the Conspiracy Acts took place and are actionable by third party OEMs of Film Capacitors located outside of Canada, or would be actionable by the OEMs located outside of Canada if they had suffered a loss. As such, the Defendants are jointly and severally liable for the unlawful means tort.

~~407~~-103. The plaintiff and the other class members suffered damages as a result of the Defendants' unlawful means tort and each of the Defendants is jointly and severally liable to pay the resulting damages.

Unjust Enrichment

~~408~~-104. The Defendants have each been unjustly enriched by the receipt of the Overcharge. The plaintiff and the other class members have suffered a corresponding deprivation in the amount of such Overcharge.

~~409~~-105. Since the Overcharge that was received by the Defendants from the plaintiff and the other class members resulted from the Defendants' wrongful or unlawful acts, there is and can be no juridical reason justifying the Defendants retaining any part of it.

Waiver of Tort

~~440~~-106. Further, or in the alternative, the plaintiff pleads and relies on the doctrine of waiver of tort and states that the Defendants' conduct, including the alleged breaches of the

Competition Act, constitutes conduct which can be waived in favour of an election to receive restitutionary or other equitable remedies.

REMEDIES

Damages

~~411-107~~. As a result of the Conspiracy Acts:

- a. the prices of Film Capacitors and products containing Film Capacitors have been enhanced unreasonably and/or fixed at artificially high and non-competitive levels; and
- b. competition in the sale of Film Capacitors has been unduly restrained.

~~412-108~~. During the Class Period, the plaintiff and the other class members purchased Film Capacitors and products containing Film Capacitors. By reason of the alleged violations of the *Competition Act* and the common law, the plaintiff and the other class members have been overcharged for those Film Capacitors and products containing Film Capacitors by paying more than they would have paid in the absence of the illegal conspiracy and, as a result, the plaintiff and the other class members have suffered damages.

~~413-109~~. The plaintiff asserts that the Overcharge is capable of being quantified on an aggregate basis as the difference between the prices actually paid by the class members and the prices which would have been paid in the absence of the unlawful conspiracy.

~~414-110~~. All amounts payable to the class on account of damages and disgorgement should be calculated on an aggregated basis pursuant to s. 24 of the *Class Proceedings Act, 1992*, or otherwise.

Punitive Damages

~~445.111.~~The plaintiff asserts that the Defendants' conduct was high-handed, outrageous, reckless, wanton, entirely without care, deliberate, callous, disgraceful, willful, and in contemptuous disregard of the plaintiff's rights and the rights of the other class members, and as such renders the Defendants liable to pay aggravated, exemplary, and punitive damages.

Plan of Distribution

~~446.112.~~Such damages ought to be held in a litigation trust and distributed pursuant to a plan of distribution under sections 25 and 26 of the *Class Proceedings Act, 1992*.

Injunction

~~447.113.~~The plaintiff claims for the Defendants to be permanently enjoined from carrying on business in contravention of the applicable laws.

Conspicuous Notice Plan

~~448.114.~~The plaintiff requests the creation of a conspicuous and comprehensive notice program affording notice to the class members of the illegality of the Overcharge, interest, and other amounts paid by them and the amounts owing to them by the Defendants pursuant to section 19 of the *Class Proceedings Act, 1992*.

STATUTES RELIED UPON

~~449.115.~~The plaintiff pleads and relies upon the *Class Proceedings Act, 1992*, S.O. 1992, c.6 as amended, the *Competition Act*, R.S.C. 1985, c.34 as amended, and the *Courts of Justice Act*, R.S.O. 1990, c. C.43.

SERVICE OUTSIDE ONTARIO

~~420.116~~ This originating process may be served without Court order outside of Ontario in that the claim is:

- a. in respect of a tort committed in Ontario (Rule 17.02 (g));
- b. in respect of damages sustained in Ontario arising from a tort or a breach of contract wherever committed (Rule 17.02 (h));
- c. against a person outside of Ontario who is a necessary and proper party to this proceeding properly brought against another person served in Ontario (Rule 17.02 (o)); and
- d. against a person carrying on business in Ontario (Rule 17.02 (p)).

~~424.117~~ The Plaintiff proposes that this action be tried in the City of London, in the Province of Ontario.

May 13, 2016

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SEAN ALLOT
Plaintiff

v.

AVX CORPORATION, ET AL.
Defendants

Court File No. 1272/16 CP

**ONTARIO
SUPERIOR COURT OF JUSTICE**

PROCEEDINGS COMMENCED AT LONDON

Proceeding Under the *Class Proceedings Act, 1992*

AMENDED STATEMENT OF CLAIM

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Defendants

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**ONTARIO
SUPERIOR COURT OF JUSTICE**

PROCEEDINGS COMMENCED AT LONDON

Proceeding Under the *Class Proceedings Act, 1992*

**ORDER
(Discontinuances)**

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