

Second Further Amended pursuant to the Order of Mr. Justice Myers,  
pronounced on January 20, 2020  
Further Amended pursuant to the Order of Mr. Justice Myers, pronounced  
on August 4, 2015 and pursuant to Supreme Court Civil Rule 6-1.  
Amended filed on July 6, 2015. Original filed on August 14, 2014

No. S-146293  
Vancouver Registry

**SUPREME COURT  
OF BRITISH COLUMBIA  
VANCOUVER REGISTRY**

*In the Supreme Court of British Columbia*

Between  
**JAN 7 4 2020**



**SARA RAMSAY**

Plaintiff

and

**PANASONIC CORPORATION f/k/a MATSUSHITA ELECTRIC  
INDUSTRIAL CO., LTD.; PANASONIC CORPORATION OF NORTH  
AMERICA; PANASONIC CANADA INC.; SANYO ELECTRIC CO.,  
LTD.; SANYO ELECTRONIC DEVICE (U.S.A.) CORP.; SANYO  
NORTH AMERICA CORPORATION; TAIYO YUDEN CO., LTD.;  
TAIYO YUDEN (USA) INC.; NEC TOKIN CORPORATION; NEC  
TOKIN AMERICA, INC.; KEMET CORPORATION; KEMET  
ELECTRONICS CORPORATION; NIPPON CHEMI-CON  
CORPORATION; UNITED CHEMI-CON, INC.; HITACHI CHEMICAL  
CO., LTD.; HITACHI AIC INC.; HITACHI CHEMICAL CO. AMERICA,  
LTD.; HITACHI CANADA; FUJITSU LTD.; FUJITSU CANADA, INC.;  
NICHICON CORPORATION; FPCAP ELECTRONICS (SUZHOU) CO.,  
LTD.; NICHICON (AMERICA) CORPORATION; AVX  
CORPORATION; RUBYCON CORPORATION; RUBYCON AMERICA  
INC.; ELNA CO., LTD.; ELNA AMERICA INC.; MATSUO ELECTRIC  
CO., LTD.; TOSHIN KOGYO CO., LTD.; HOLY STONE ENTERPRISE  
CO., LTD.; MILESTONE GLOBAL TECHNOLOGY, INC. d/b/a  
HOLYSTONE INTERNATIONAL; VISHAY INTERTECHNOLOGY,  
INC.; VISHAY POLYTECH CO., LTD. f/k/a HOLY STONE POLYTECH  
CO., LTD. ; SAMSUNG ELECTRO-MECHANICS; SAMSUNG  
ELECTRO-MECHANICS AMERICA INC.; SAMSUNG ELECTRONICS  
CANADA INC.; ROHM CO., LTD.; AND ROHM SEMICONDUCTOR  
U.S.A., LLC**

Defendants

BROUGHT UNDER THE *CLASS PROCEEDINGS ACT*, R.S.B.C. 1996, c. 50

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**SECOND FURTHER AMENDED NOTICE OF CIVIL CLAIM**

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This action has been started by the Plaintiff for the relief set out in Part 2 below.

If you intend to respond to this action, you or your lawyer must

- (a) file a response to civil claim in Form 2 in the above-named registry of this court within the time for response to civil claim described below, and
- (b) serve a copy of the filed response to civil claim on the Plaintiff.

If you intend to make a counterclaim, you or your lawyer must

- (c) file a response to civil claim in Form 2 and a counterclaim in Form 3 in the above-named registry of this court within the time for response to civil claim described below, and
- (d) serve a copy of the filed response to civil claim and counterclaim on the Plaintiff and on any new parties named in the counterclaim.

JUDGMENT MAY BE PRONOUNCED AGAINST YOU IF YOU FAIL to file the response to civil claim within the time for response to civil claim described below.

**Time for response to civil claim**

A response to civil claim must be filed and served on the Plaintiff(s),

- (a) if you were served with the notice of civil claim anywhere in Canada, within 21 days after that service,
- (b) if you were served the notice of civil claim anywhere in the United States of America, within 35 days after that service,
- (c) if you were served with the notice of civil claim anywhere else, within 49 days after that service, or

- (d) if the time for response to civil claim has been set by order of the court, within that time.

## **PART 1: STATEMENT OF FACTS**

1. This action arises from a conspiracy to fix, raise, maintain, or stabilize prices of aluminum and tantalum electrolytic capacitors (“Capacitors”), used in electronic devices sold in Canada including British Columbia, and elsewhere. During the period commencing as early as January 1, 2005 to ~~the December 31, 2014~~present (the “Class Period”), the defendants and their senior executives participated in illegal and secret meetings and made agreements to fix the prices for Capacitors sold in Canada, including British Columbia, and elsewhere.
2. Capacitors are electrical components that serve as one of the fundamental building blocks of all electrical circuits. Virtually every electrical circuit contains one or more capacitor. Generally, a capacitor is used in an electric circuit to store electrical charge. Aluminum capacitors are typically used in larger electronics such as televisions, desktop and laptop computers and video game consoles. Tantalum capacitors are typically used in smaller electronics such as personal computers, mobile phones, smart phones and tablets.
3. During the Class Period, the plaintiff, Sara Ramsay, bought laptop computers and smartphones which contained Capacitors.

### ***The Defendants***

4. The defendants and other co-conspirators manufacture, market, distribute, and sell Capacitors in Canada, including in British Columbia.
5. The defendants and other co-conspirators agreed, combined, and conspired to inflate, fix, raise, maintain, or artificially stabilize prices of Capacitors.
6. The defendants and other co-conspirators are jointly and severally liable for the actions of, and the damages allocable to, their co-conspirators, including unnamed co-conspirators.

7. Where a particular entity within a corporate family of 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.
8. 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 in this Notice of Civil Claim, and have performed acts and made statements in furtherance of the conspiracy or in furtherance of the anticompetitive conduct.

#### **The Panasonic and Sanyo Defendants**

9. The defendant Panasonic Corporation f/k/a Matsushita Electric Industrial Co, Ltd. is a Japanese corporation with its principal place of business in Osaka, Japan. Until October 1, 2008, Panasonic Corporation operated under the name Matsushita Electric Industrial Co., Ltd. During the Class Period, Panasonic Corporation, directly or through its subsidiaries, manufactured, marketed and/or distributed Capacitors for sale, directly and indirectly, in Canada including British Columbia.
10. The defendant Panasonic Corporation of North America is a Delaware corporation with its principal place of business in Newark, New Jersey. It is affiliated with and controlled by Panasonic Corporation. During the Class Period, Panasonic Corporation of North America manufactured, marketed and/or distributed Capacitors for sale, directly and indirectly, in Canada including in British Columbia.
11. Panasonic Canada Inc. is a Canadian corporation with its principal place of business in Mississauga, Ontario. It is affiliated with and controlled by Panasonic Corporation. During the Class Period, Panasonic Canada Inc. manufactured, marketed and/or sold Capacitors in Canada including in British Columbia.

12. The defendant Sanyo Electric Co., Ltd. is a Japanese corporation with its principal place of business in Osaka, Japan. It is affiliated with and controlled by Panasonic Corporation. During the Class Period, Sanyo Electric Group, Ltd. manufactured, marketed and/or distributed Capacitors for sale, directly and indirectly, in Canada including British Columbia.
13. The defendant Sanyo Electronic Device (U.S.A.) Corp. is a Delaware corporation with its principal place of business in San Diego, California. It is affiliated with and controlled by Sanyo Electric Group, Ltd. During the Class Period, Sanyo Electronic Device (U.S.A.) Corp. manufactured, marketed and/or distributed Capacitors for sale, directly and indirectly, in Canada including British Columbia.
14. The defendant Sanyo North America Corporation is a Delaware corporation with its principal place of business in San Diego, California. It is affiliated with and controlled by Sanyo Electric Group, Ltd. During the Class Period, Sanyo North America Corporation manufactured, marketed and/or distributed Capacitors for sale, directly and indirectly, in Canada including British Columbia.
15. The businesses of each of the defendants Panasonic Corporation, Panasonic Corporation of North America, Panasonic Canada Inc., Sanyo Electric Co., Ltd., Sanyo Electronic Device (U.S.A.) Corp., and Sanyo North America Corporation are inextricably interwoven with that of the other and each is the agent of the other for the purposes of the manufacture, marketing, sale and/or distribution of Capacitors.

#### **The Taiyo Yuden Defendants**

16. The defendant Taiyo Yuden Co., Ltd., is a Japanese corporation with its principal place of business in Tokyo, Japan. During the Class Period, Taiyo Yuden Co., Ltd., directly or through its subsidiaries, manufactured, marketed and/or distributed Capacitors for sale, directly and indirectly, in Canada, including British Columbia.

17. The defendant Taiyo Yuden (USA) Inc. is an Illinois corporation, with its principal place of business in Schaumburg, Illinois. It is affiliated with and controlled by Taiyo Yuden Co., Ltd. Taiyo Yuden (USA) Inc. has an office in Waterloo, Ontario located at 55 Northfield Drive East, Suite #265. During the Class Period, Taiyo Yuden (USA) Inc. manufactured, marketed and/or distributed Capacitors for sale, directly and indirectly, in Canada, including British Columbia.
18. The businesses of each of the defendants Taiyo Yuden Co., Ltd. and Taiyo Yuden (USA) Inc. are inextricably interwoven with that of the other and each is the agent of the other for the purposes of the manufacture, marketing, sale and/or distribution of Capacitors.

#### **The NEC Tokin Defendants**

19. The defendant NEC Tokin Corporation is a Japanese corporation with its principal place of business in Miyagi, Japan. During the Class Period, NEC Tokin Corporation, directly or through its subsidiaries, manufactured, marketed and/or distributed Capacitors for sale, directly and indirectly, in Canada, including British Columbia.
20. The defendant NEC Tokin America, Inc., is a California corporation, with its principal place of business in San Jose, California. It is affiliated with and controlled by NEC Tokin Corporation. During the Class Period, NEC Tokin America, Inc., manufactured, marketed and/or distributed Capacitors for sale, directly and indirectly, in Canada, including British Columbia.
21. The businesses of each of the defendants NEC Tokin Corporation and NEC Tokin America, Inc. are inextricably interwoven with that of the other and each is the agent of the other for the purposes of the manufacture, marketing, sale and/or distribution of Capacitors.

#### **The KEMET Defendants**

22. The defendant KEMET Corporation is a Delaware corporation with its principal place of business in Simpsonville, South Carolina. During the Class Period,

KEMET Corporation, directly or through its subsidiaries, manufactured, marketed and/or distributed Capacitors for sale, directly and indirectly, in Canada, including British Columbia.

23. The defendant KEMET Electronics Corporation is a Delaware corporation, with its principal place of business in Simpsonville, South Carolina. It is affiliated with and controlled by KEMET Corporation. During the Class Period, KEMET Electronics Corporation, manufactured, marketed and/or distributed Capacitors for sale, directly and indirectly, in Canada, including British Columbia.
24. The businesses of each of the defendants KEMET Corporation and KEMET Electronics Corporation are inextricably interwoven with that of the other and each is the agent of the other for the purposes of the manufacture, marketing, sale and/or distribution of Capacitors.

#### **The Nippon Chemi-Con Defendants**

25. The defendant Nippon Chemi-Con Corporation is a Japanese corporation with its principal place of business in Tokyo, Japan. During the Class Period, Nippon Chemi-Con Corporation, directly or through its subsidiaries, manufactured, marketed and/or distributed Capacitors for sale, directly and indirectly, in Canada, including British Columbia.
26. The defendant United Chemi-Con, Inc., is an Illinois corporation, with its principal place of business in Rosemont, Illinois. It is affiliated with and controlled by Nippon Chemi-Con Corporation. During the Class Period, United Chemi-Con, Inc., manufactured, marketed and/or distributed Capacitors for sale, directly and indirectly, in Canada, including British Columbia.
27. The businesses of each of the defendants Nippon Chemi-Con Corporation and United Chemi-Con, Inc. are inextricably interwoven with that of the other and each is the agent of the other for the purposes of the manufacture, marketing, sale and/or distribution of Capacitors.

### **The Hitachi Chemical Defendants**

28. The defendant Hitachi Chemical Co., Ltd., is a Japanese corporation with its principal place of business in Tokyo, Japan. During the Class Period, Hitachi Chemical Co., Ltd., directly or through its subsidiaries, manufactured, marketed and/or distributed Capacitors for sale, directly and indirectly, in Canada, including British Columbia.
29. The defendant Hitachi AIC Inc. is a Japanese corporation with its principal place of business in Moka-Shi Tochigi, Japan. It is affiliated with and controlled by Hitachi Chemical Co., Ltd. During the Class Period, Hitachi AIC Inc., directly or through its subsidiaries, manufactured, marketed and/or distributed Capacitors for sale, directly and indirectly, in Canada, including British Columbia. Hitachi AIC Inc. sold a 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 Holy Stone Polytech Co., Ltd., which is a Japanese corporation and wholly owned subsidiary of Holy Stone Enterprise Co., Ltd.
30. The defendant Hitachi Chemical Co. America, Ltd., is a New York corporation, with its principal place of business in Cupertino, California. It is affiliated with and controlled by Hitachi Chemical Co., Ltd. During the Class Period, Hitachi Chemical Co. America, Ltd., manufactured, marketed and/or distributed Capacitors for sale, directly and indirectly, in Canada, including British Columbia.
31. The defendant Hitachi Canada is a Canadian corporation, with its principal place of business in Mississauga, Ontario. It is affiliated with and controlled by Hitachi Chemical Co., Ltd. During the Class Period, Hitachi Canada manufactured, distributed and/or sold Capacitors in Canada, including British Columbia.
32. The businesses of each of the defendants Hitachi Chemical Co., Ltd., Hitachi AIC Inc., Hitachi Chemical Co. America, Ltd. and Hitachi Canada are inextricably interwoven with that of the other and each is the agent of the other for the purposes of the manufacture, marketing, sale and/or distribution of Capacitors.



### **The Fujitsu Defendants**

33. The defendant Fujitsu Ltd. is a Japanese corporation with its principal place of business in Tokyo, Japan. During the Class Period, Fujitsu Ltd., directly or through its subsidiaries, manufactured, marketed and/or distributed Capacitors for sale, directly and indirectly, in Canada, including British Columbia.
34. Fujitsu Media Devices, Ltd. was a wholly owned subsidiary of Fujitsu Ltd. formed in or about October 1998 following the consolidation of Fujitsu Ltd. and Fujitsu Towa Electron Limited. In or around April 2009, Fujitsu Media Devices, Ltd.'s business unit responsible for manufacturing, selling and distributing Capacitors was acquired by Nichicon Corporation, as described below.
35. The defendant Fujitsu Canada, Inc. is a Canadian corporation with its principal place of business at 155 University Avenue, Suite 1600, Toronto, Ontario. It is affiliated with and controlled by Fujitsu Ltd. During the Class Period, Fujitsu Canada, Inc. manufactured, marketed and/or distributed Capacitors for sale, directly and indirectly, in Canada, including British Columbia.
36. The businesses of each of the defendants Fujitsu Ltd. and Fujitsu Canada, Inc. are inextricably interwoven with that of the other and each is the agent of the other for the purposes of the manufacture, marketing, sale and/or distribution of Capacitors. Further, during the period when Fujitsu Media Devices, Ltd. was part of the Fujitsu group of companies, it was similarly an agent of its affiliates.

### **The Nichicon Defendants**

37. The defendant Nichicon Corporation, is a Japanese corporation with its principal place of business in Kyoto, Japan. During the Class Period, Nichicon Corp., directly or through its subsidiaries, manufactured, marketed and/or distributed Capacitors for sale, directly and indirectly, in Canada, including British Columbia.
38. In or about April 2009, Nichicon Corporation acquired Fujitsu Media Devices, Ltd.'s Capacitor business division which was thereafter renamed FPCAP Electronics (Suzhou) Co., Ltd. From in or about April 2009 to present, the

defendant FPCAP Electronics (Suzhou) Co., Ltd. manufactured manufactured, marketed and/or distributed Capacitors for sale, directly and indirectly, in Canada, including British Columbia.

39. The defendant Nichicon (America) Corporation, is an Illinois corporation, with its principal place of business in Schaumburg, Illinois. It is affiliated with and controlled by Nichicon Corporation. During the Class Period, Nichicon (America) Corporation, manufactured, marketed and/or distributed Capacitors for sale, directly and indirectly, in Canada, including British Columbia.
40. The businesses of each of the defendants Nichicon Corporation, FPCAP Electronics (Suzhou) Co., Ltd. and Nichicon (America) Corporation are inextricably interwoven with that of the other and each is the agent of the other for the purposes of the manufacture, marketing, sale and/or distribution of Capacitors.

#### **The AVX Defendant**

41. The defendant AVX Corporation, is a Delaware corporation with its principal place of business in Fountain Inn, South Carolina. During the Class Period, AVX Corporation, directly or through its subsidiaries, manufactured, marketed and/or distributed Capacitors for sale, directly and indirectly, in Canada, including British Columbia. In or about February 2013, AVX Corporation acquired Nichicon Corporation's tantalum capacitor production facilities in Japan and China.

#### **The Rubycon Defendants**

42. The defendant Rubycon Corporation, is a Japanese corporation with its principal place of business in Nagano, Japan. During the Class Period, Rubycon Corporation, directly or through its subsidiaries, manufactured, marketed and/or distributed Capacitors for sale, directly and indirectly, in Canada, including British Columbia.
43. The defendant Rubycon America Inc., is an Illinois corporation, with its principal place of business in Gurnee, Illinois. It is affiliated with and controlled by

Rubycon Corporation. During the Class Period, Rubycon America Inc., manufactured, marketed and/or distributed Capacitors for sale, directly and indirectly, in Canada, including British Columbia.

44. The businesses of each of the defendants Rubycon Corporation and Rubycon America Inc. are inextricably interwoven with that of the other and each is the agent of the other for the purposes of the manufacture, marketing, sale and/or distribution of Capacitors.

### **The Elna Defendants**

45. The defendant Elna Co., Ltd., is a Japanese corporation with its principal place of business in Kanagawa Prefecture, Japan. During the Class Period, Elna Co., Ltd., directly or through its subsidiaries, manufactured, marketed and/or distributed Capacitors for sale, directly and indirectly, in Canada, including British Columbia.
46. The defendant Elna America Inc., is a California corporation, with its principal place of business in Gardena, California. It is affiliated with and controlled by Elna Co., Ltd. During the Class Period, Elna America Inc., manufactured, marketed and/or distributed Capacitors for sale, directly and indirectly, in Canada, including British Columbia.
47. The businesses of each of the defendants Elna Co., Ltd. and Elna America Inc. are inextricably interwoven with that of the other and each is the agent of the other for the purposes of the manufacture, marketing, sale and/or distribution of Capacitors.

### **The Matsuo Defendant**

48. The defendant Matsuo Electric Co., Ltd., is a Japanese corporation with its principal place of business in Osaka, Japan. During the Class Period, Matsuo Electric Co., Ltd., directly or through its subsidiaries, manufactured, marketed and/or distributed Capacitors for sale, directly and indirectly, in Canada, including British Columbia.

**The Toshin Kogyo Defendant**

49. The defendant Toshin Kogyo Co., Ltd., is a Japanese corporation with its principal place of business in Tokyo, Japan. During the Class Period, Toshin Kogyo Co., Ltd., directly or through its subsidiaries, manufactured, marketed and/or distributed Capacitors for sale, directly and indirectly, in Canada, including British Columbia.

**The Holy Stone Defendants**

50. The defendant Holy Stone Enterprise Co., Ltd. is a foreign corporation. During the Class Period, Holy Stone Enterprise Co., Ltd., directly or through its subsidiaries, manufactured, marketed and/or distributed Capacitors for sale, directly and indirectly, in Canada, including British Columbia.
51. In or about December 2009, HolyStone Enterprise Co., Ltd. acquired Hitachi AIC Inc.'s Capacitors division and the Capacitors division was renamed Holy Stone Polytech Co., Ltd., which is 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, Holy Stone Polytech Co., Ltd. manufactured, marketed and/or distributed Capacitors for sale, directly and indirectly, in Canada, including British Columbia.
52. In or about June 2014, Vishay Intertechnology, Inc. acquired Holy Stone Polytech Co., Ltd. from Holy Stone Enterprise Co., Ltd., as described below.
53. The defendant Milestone Global Technology, Inc. d/b/a HolyStone International is a business entity with its principal place of business located in Murrieta, California. 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 and/or distributed Capacitors for sale, directly and indirectly, in Canada, including British Columbia.

54. The businesses of each of the defendants Holy Stone Enterprise Co., Ltd. and Milestone Global Technology, Inc. are inextricably interwoven with that of the other and each is the agent of the other for the purposes of the manufacture, marketing, sale and/or distribution of Capacitors. Further, during the period when Holy Stone Polytech Co., Ltd. was part of the Holy Stone group of companies, it was similarly an agent of its affiliates.

### **The Vishay Defendant**

55. The defendant Vishay Intertechnology, Inc., is a Delaware corporation with its principal place of business in Malvern, Pennsylvania. During the Class Period, Vishay Intertechnology, Inc., directly or through its subsidiaries, manufactured, marketed and/or distributed Capacitors for sale, directly and indirectly, in Canada, including British Columbia.
56. On or about June 11, 2014, Vishay Intertechnology, Inc. acquired Holy Stone 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 in Fukushima, Japan. Vishay Polytech Co., Ltd. is affiliated with and controlled by Vishay Intertechnology, Inc. During the Class Period, Vishay Polytech Co., Ltd. manufactured, marketed and/or distributed Capacitors for sale, directly and indirectly, in Canada, including British Columbia.
57. The businesses of each of the defendants Vishay Intertechnology, Inc. and Vishay Polytech Co., Ltd. f/k/a Holy Stone Polytech Co., Ltd. are inextricably interwoven with that of the other and each is the agent of the other for the purposes of the manufacture, marketing, sale and/or distribution of Capacitors.

### **The SEMCO Defendants**

58. The defendant Samsung Electro-Mechanics is a South Korean corporation with its principal place of business in Maetan-Dong, South Korea. During the Class Period, Samsung Electro-Mechanics, directly or through its subsidiaries, manufactured, marketed and/or distributed Capacitors for sale, directly and

indirectly, in Canada, including British Columbia. Samsung Electro-Mechanics is affiliated with Samsung Electronics, Inc.

59. The defendant Samsung Electro-Mechanics America Inc., is a California corporation, with its principal place of business in Irvine, California. It is affiliated with and controlled by Samsung Electro-Mechanics. During the Class Period, Samsung Electro-Mechanics America Inc., manufactured, marketed and/or distributed Capacitors for sale, directly and indirectly, in Canada, including British Columbia.
60. The defendant Samsung Electronics Canada Inc. is a Canadian corporation, with its principal place of business in Mississauga, Ontario. It is affiliated with and controlled by Samsung Electronics, Inc. During the Class Period, Samsung Electronics Canada Inc., manufactured, distributed and/or sold Capacitors in Canada, including British Columbia
61. The businesses of each of the defendants Samsung Electro-Mechanics, Samsung Electro-Mechanics America Inc. and Samsung Electronics Canada Inc. are inextricably interwoven with that of the other and each is the agent of the other for the purposes of the manufacture, marketing, sale and/or distribution of Capacitors.

#### **The ROHM Defendants**

62. The defendant ROHM Co., Ltd., is a Japanese corporation with its principal place of business in Kyoto, Japan. During the Class Period, ROHM Co., Ltd., directly or through its subsidiaries, manufactured, marketed and/or distributed Capacitors for sale, directly and indirectly, in Canada, including British Columbia.
63. The defendant ROHM Semiconductor U.S.A., LLC, is a Delaware corporation, with its principal place of business in Santa Clara, California. It is affiliated with and controlled by ROHM Co., Ltd. During the Class Period, ROHM Semiconductor U.S.A., LLC, manufactured, marketed and/or distributed Capacitors for sale, directly and indirectly, in Canada, including British Columbia.

64. The businesses of each of the defendants ROHM Co., Ltd. and ROHM Semiconductor U.S.A., LLC are inextricably interwoven with that of the other and each is the agent of the other for the purposes of the manufacture, marketing, sale and/or distribution of Capacitors.

***The Class and Class Period***

65. This action is brought on behalf of members of the class (the "Class Members") consisting of the plaintiff and all British Columbia resident persons who, during the Class Period commencing as early as January 1, 2005 ~~and continuing to the present~~ to December 31, 2014, purchased a Capacitor or a product containing a Capacitor.

***The Capacitors Industry***

66. The defendants sold Capacitors, directly and indirectly, to original equipment manufacturers ("OEMs") who install capacitors directly into their products, electronic manufacturing service providers ("EMS Providers") who manufacture electric circuit products that contain Capacitors and are integrated into end-use products manufactured by others, third-party electronics distributors that sell capacitors to various consumers, and the Class Members, among others.
67. The structure of the Capacitors manufacturing industry is conducive to the conspiracy alleged in this Notice of Civil Claim. There are substantial barriers that preclude, reduce, or make more difficult entry into the Capacitors market. The market is subject to high manufacturing and technological barriers to entry.
68. There are no close substitutes for Capacitors. Capacitors are electronic components that serve as one of the fundamental building blocks of all types of electrical circuits. There is no alternative product that can replace Capacitors.
69. Capacitors are a commodity product that is interchangeable among the defendants. Capacitors of like technical and operational specification are mutually interchangeable.

70. By virtue of their market shares, the defendants and their co-conspirators are the dominant manufacturers and suppliers of Capacitors in Canada, including in British Columbia, and around the world.

***The Conspiracy to Fix Prices of Capacitors***

71. The acts alleged under this heading are, collectively, the “Conspiratorial Acts”.

72. During the Class Period, the defendants and unnamed co-conspirators conspired and/or agreed with each other to fix, maintain, increase, and control the price for the supply of Capacitors and/or to enhance unreasonably the prices of Capacitors and/or to lessen unduly competition in the sale of Capacitors in Canada including British Columbia and elsewhere.

73. 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 attended 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 Capacitors in Canada, including in British Columbia, and elsewhere;
- (b) fix, maintain, increase, or control the prices of Capacitors in Canada, including in British Columbia, and elsewhere;
- (c) monitor and enforce adherence to an agreed-upon pricing scheme for Capacitors; and
- (d) lessen unduly competition in the sale of Capacitors in Canada, including in British Columbia, and elsewhere.

74. 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 Capacitors in Canada, including in British Columbia, and elsewhere;
- (b) communicated secretly, in person and by telephone, to discuss and fix prices of Capacitors;
- (c) made formal agreements with respect to the prices of Capacitors;
- (d) exchanged information regarding the prices of Capacitors for the purposes of monitoring and enforcing adherence to the agreed-upon prices;
- (e) allocated sales, territories, customers or markets for supply of Capacitors;
- (f) fixed, maintained, controlled, prevented or lessened the supply of Capacitors; and
- (g) disciplined any conspirator which failed to comply with the conspiracy.

75. 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.

76. The defendants were motivated to conspire and their predominant purposes and predominant concerns were to harm the plaintiff and other Class Members by requiring them to pay unlawfully high prices for Capacitors.

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

### ***Damages***

78. As a result of the Conspiratorial Acts:

- (a) the prices of Capacitors have been, directly or indirectly, enhanced unreasonably and/or fixed at artificially high and non-competitive levels; and
  - (b) competition in the sale of Capacitors has been lessened.
79. During the Class Period, the Class Members purchased Capacitors both directly and indirectly. By reason of the alleged violations of the *Competition Act*, RSC 1985, c 19 (2nd Suppl.) (the "*Competition Act*") and the common law, the plaintiff and the other Class Members have been overcharged for 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 (the "Overcharge").
80. The Overcharge is capable of being quantified on an aggregate basis as the difference between the actual prices for Capacitors and the prices which would have been paid in the absence of the unlawful conspiracy. The defendants are jointly and severally liable for the Overcharge.

## **PART 2: RELIEF SOUGHT**

81. The plaintiff, on her own behalf, and on behalf of the Class Members, claims against the defendants:
- (a) a declaration that the defendants, and each of them, conspired each with the other to raise, maintain, fix, and stabilize the price of Capacitors during the Class Period, in violation of statutory, common law, and equitable laws as alleged in this claim;
  - (b) a declaration that the defendants, and each of them, conspired, combined, agreed or arranged to prevent or lessen, unduly, competition in the manufacture or production of Capacitors or to enhance unreasonably the price of Capacitors;

- (c) an order certifying this action as a class proceeding against the defendants and appointing the plaintiff as representative plaintiff in respect of the Class Members;
- (d) general damages for conspiracy and unlawful interference with economic interests;
- (e) a declaration that the defendants account for and make restitution to the plaintiff and the other Class Members in an amount equal to the Overcharge;
- (f) a declaration that the defendants have each been unjustly enriched by the receipt of the Overcharge an order that the defendants disgorge and make restitution of the Overcharge;
- (g) judgment in the amount of the Overcharge;
- (h) general damages for conduct that is contrary to Part VI of the *Competition Act*;
- (i) punitive damages;
- (j) an injunction enjoining the defendants from conspiring or agreeing with each other, or others, to raise, maintain, fix, or stabilize the price of Capacitors;
- (k) costs of investigation and prosecution of this proceeding pursuant to section 36 of the *Competition Act*;
- (l) pre-judgment and post-judgment interest pursuant to the *Court Order Interest Act*, RSBC 1996, c 78, s 128; and
- (m) such further and other relief as to this Honourable Court may seem just.

### **PART 3: LEGAL BASIS**

82. The plaintiff pleads and relies upon the *Class Proceedings Act*, RSBC, 1996 c 50, the *Competition Act*, and the *Court Jurisdiction and Proceedings Transfer Act*, RSBC 2003, c 28 (the "CJPTA").

#### ***Causes of Action***

##### **Breach of the Competition Act**

83. The Conspiratorial Acts are in breach of section 45 of Part VI of the *Competition Act*, as amended from time to time, caused injury to the plaintiff and the other Class Members and render the defendants jointly and severally liable to pay damages and costs of investigation pursuant to section 36 of the *Competition Act*. Further, the Canadian subsidiaries of the foreign defendants are jointly and severally liable to the plaintiff and the other Class Members pursuant to s. 36 of the *Competition Act* for acts in contravention of s. 46(1) of the *Competition Act*.

##### **Civil Conspiracy**

84. Further, or alternatively, the Conspiratorial Acts were unlawful acts directed towards the plaintiff and the other Class Members, which unlawful acts the defendants knew in the circumstances would likely cause injury to the plaintiff and 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 Conspiratorial Acts was to injure the plaintiff and other Class Members, and the defendants are jointly and severally liable for the tort of conspiracy to injure.

85. The plaintiff and other Class Members suffered damages as a result of the defendants' conspiracy.

##### **Unlawful Means Tort**

86. Further, or alternatively, the Conspiratorial Acts were unlawful acts intended to cause the plaintiff and the other Class Members economic loss as an end in itself or as a necessary means of enriching the defendants.

87. The Conspiratorial Acts were unlawful under the laws of the jurisdictions where the Conspiratorial Acts took place and are actionable by third parties, including OEMs, EMS Providers and third-party electronics distributors located outside of British Columbia who directly purchased Capacitors, or would be actionable by those third parties if those third parties had suffered a loss. As such, the defendants are jointly and severally liable for the unlawful means tort.
88. 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 and Waiver of Tort**

89. Further, and in the alternative, the plaintiff and the other Class Members are entitled to claim and recover based on equitable and restitutionary principles.
90. 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.
91. Since the Overcharge that was received by the defendants from the plaintiff and the 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.
92. Equity and good conscience require the defendants to make restitution to the plaintiff and the other Class Members of all of the Overcharge and/or disgorge that amount to the plaintiff and the other Class Members.
93. Further, or alternatively, the plaintiff waives the tort and elects to pursue restitutionary remedies against the defendants as set out above.

### **Punitive Damages**

94. The plaintiff asserts that the defendants' conduct was high-handed, outrageous, reckless, wanton, entirely without care, deliberate, callous, disgraceful, wilful, in contumelious disregard of the plaintiff's rights and the rights of the Class

Members, and as such renders the defendants liable to pay aggravated and punitive damages.

**Jurisdiction**

95. There is a real and substantial connection between British Columbia and the facts alleged in this proceeding. The plaintiff and other Class Members plead and rely upon the *CJPTA* in respect of the defendants. Without limiting the foregoing, a real and substantial connection between British Columbia and the facts alleged in this proceeding exists pursuant to sections 10 (f) – (i) of the *CJPTA* because this proceeding:

- (a) concerns restitutionary obligations that, to a substantial extent, arose in British Columbia;
- (b) concerns a tort committed in British Columbia;
- (c) concerns a business carried on in British Columbia; and
- (d) is a claim for an injunction ordering a party to do or refrain from doing anything in British Columbia.

Plaintiff's address for service:

**CAMP FIORANTE MATTHEWS MOGERMAN**  
#400 – 856 Homer Street  
Vancouver, BC V6B 2W5

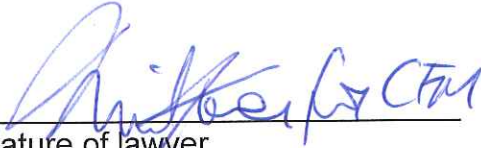
Tel: (604) 689-7555  
Fax: (604) 689-7554

Email: [service@cfmlawyers.ca](mailto:service@cfmlawyers.ca)

Place of trial: Vancouver Law Courts

Address of the registry: 800 Smithe Street, Vancouver, BC V6Z 2E1

Date: August 14, 2014

  
\_\_\_\_\_  
Signature of lawyer  
for Plaintiff

J.J. Camp, Q.C.

ENDORSEMENT ON ORIGINATING PLEADING OR PETITION FOR SERVICE  
OUTSIDE BRITISH COLUMBIA

The plaintiff, Sara Ramsay, claims the right to serve this pleading on the defendants, outside British Columbia on the ground that there is a real and substantial connection between British Columbia and the facts alleged in this proceeding and the plaintiff and other Class Members plead and rely upon the *CJPTA* in respect of these defendants. Without limiting the foregoing, a real and substantial connection between British Columbia and the facts alleged in this proceeding exists pursuant to ss.10 (f) –(i) of the *CJPTA* because this proceeding:

- (f) concerns restitutionary obligations that, to a substantial extent, arose in British Columbia;
- (g) concerns a tort committed in British Columbia;
- (h) concerns a business carried on in British Columbia; and
- (i) is a claim for an injunction ordering a party to do or refrain from doing anything in British Columbia.

Rule 7-1 (1) of the Supreme Court Civil Rules states:

- (1) Unless all parties of record consent or the court otherwise orders, each party of record to an action must, within 35 days after the end of the pleading period,
  - (a) prepare a list of documents in Form 22 that lists
    - (i) all documents that are or have been in the party's possession or control and that could, if available, be used by any party at trial to prove or disprove a material fact, and

(ii) all other documents to which the party intends to refer at trial, and

(b) serve the list on all parties of record.

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**APPENDIX**

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**CONCISE SUMMARY OF NATURE OF CLAIM:**

This action arises from a conspiracy to fix, raise, maintain, or stabilize prices of Capacitors sold in Canada and worldwide. During the Class Period, the defendants and their senior executives participated in illegal and secretive meetings and made agreements relating to the prices for Capacitors. The plaintiff and the Class Members suffered damages as a result.

**THIS CLAIM ARISES FROM THE FOLLOWING:**

A personal injury arising out of:

- a motor Vehicle accident
- medical malpractice
- another cause

A dispute concerning:

- contaminated sites
- construction defects
- real property (real estate)
- personal property
- the provision of goods or services or other general commercial matters
- investment losses
- the lending of money
- an employment relationship



- a will or other issues concerning the probate of an estate
- a matter not listed here

THIS CLAIM INVOLVES:

- a class action
- maritime law
- aboriginal law
- constitutional law
- conflict of laws
- none of the above
- do not know

1. *Class Proceedings Act*, RSBC, 1996 c 50;
2. *Competition Act*, RSC 1985, c 19 (2nd Suppl.); and
3. *Court Jurisdiction and Proceedings Transfer Act*, RSBC 2003, c 28.