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9 **UNITED STATES DISTRICT COURT**
10 **FOR THE NORTHERN DISTRICT OF CALIFORNIA**

11 eIQ ENERGY INC., individually
12 and on behalf of all others similarly situated,

13 Plaintiff,

14 v.

15 AVX CORPORATION, ELNA CO., LTD., ELNA
16 AMERICA INC., HITACHI CHEMICAL
17 COMPANY, LTD., HITACHI AIC
18 INCORPORATED, HITACHI CHEMICAL CO.
19 AMERICA, LTD., KEMET CORPORATION,
20 KEMET ELECTRONICS CORPORATION,
21 MATSUO ELECTRIC CO., LTD., MATSUO
22 ELECTRONICS OF AMERICA, INC., NEC TOKIN
CORPORATION, NEC TOKIN AMERICA INC.,
NICHICON CORPORATION, NICHICON
(AMERICA) CORPORATION, NIPPON CHEMI-
CON CORPORATION, UNITED CHEMI-CON,
INC., PANASONIC CORPORATION,
PANASONIC CORPORATION OF NORTH
AMERICA, SANYO ELECTRIC CO., LTD.,
SANYO ELECTRIC DEVICE (U.S.A.)
CORPORATION, ROHM COMPANY LIMITED,
ROHM SEMICONDUCTOR, U.S.A., LLC,
RUBYCON CORPORATION, RUBYCON
AMERICA INC., TDK CORPORATION, TDK-EPC
CORPORATION, TDK U.S.A. CORPORATION,
AND VISHAY INTERTECHNOLOGY, INC.

23 Defendants.

Case No. _____

**ANTITRUST CLASS ACTION
COMPLAINT**

JURY TRIAL DEMANDED

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1 **CLASS ACTION COMPLAINT**

2 Plaintiff, eIQ Energy, Inc., on behalf of itself and all others similarly situated, brings this
3 action for treble damages under the antitrust laws of the United States against Defendants.
4 Plaintiff complains and alleges upon information and belief, except as to those paragraphs
5 applicable to the named Plaintiff, which are based on personal knowledge, as follows:

6 **NATURE OF THE ACTION**

7 1. This action arises from a conspiracy to fix, raise, maintain or stabilize prices for
8 tantalum capacitors, aluminum electrolytic capacitors and film capacitors (collectively,
9 “Capacitor Products”) sold in the United States. Capacitors are passive electronic components
10 that are used to store electricity and release it when required. Capacitors are incorporated into
11 almost every electronic device, including audio/video equipment, telecommunication equipment,
12 computers and automobiles.

13 2. Plaintiff, on behalf of all persons and entities who purchased Capacitor Products
14 in the United States directly from Defendants, their co-conspirators, predecessors or controlled
15 subsidiaries (the “Class”), brings this action to recover treble damages for violations of the
16 United States antitrust laws. At all relevant times herein, Defendants and their co-conspirators
17 were involved in the manufacture, distribution and/or sale of Capacitor Products to customers in
18 the United States and throughout the world. As further alleged herein, during at least the period
19 January 1, 2008 through today (the “Class Period”), Defendants and their co-conspirators agreed,
20 combined and conspired with each other to fix, raise, maintain and/or stabilize the price of
21 Capacitor Products for sale in the United States. As a result of Defendants’ unlawful conduct
22 and conspiracy, Plaintiff and the other members of the Class paid artificially inflated prices for
23 Capacitor Products and have been damaged thereby.

24 **JURISDICTION AND VENUE**

25 3. Plaintiff brings this action under Sections 4 of the Clayton Act, 15 U.S.C. § 15, to
26 recover treble damages and costs of suit, including reasonable attorneys’ fees, against
27 Defendants for the injuries that Plaintiff and the other Class members have suffered from
28 Defendants’ violations of Section 1 of the Sherman Act, 15 U.S.C. § 1.

1 4. This Court has subject matter jurisdiction pursuant to 28 U.S.C. §§ 1331 and 1337
2 and Section 4 of the Clayton Act, 15 U.S.C. § 15(a).

3 5. Venue is proper in this District pursuant to 15 U.S.C. §§ 15(a) and 22, and 28
4 U.S.C § 1391(b), (c) and (d). During the Class Period, Defendants resided, transacted business,
5 were found, or had agents in this District, and a substantial portion of the affected interstate trade
6 and commerce discussed below has been carried out in this District.

7 6. This Court has personal jurisdiction over each Defendant, because each
8 Defendant – throughout the United States and including in this District – transacted business,
9 sold Capacitor Products, maintained substantial contacts, and/or committed overt acts in
10 furtherance of their illegal scheme and price-fixing conspiracy. The conspiracy was directed at,
11 and had the intended effect of, causing injury to persons residing in, located in, or doing business
12 throughout the United States, including in this District.

13 **PARTIES**

14 **Plaintiff**

15 7. Plaintiff eIQ Energy, Inc. (“eIQ”) is a California corporation with its principal
16 place of business at 6389 San Ignacio Avenue, San Jose, California. Plaintiff purchased
17 Capacitor Products directly from one or more of the Defendants or their subsidiaries or affiliates
18 during the Class Period.

19 **Defendants**

20 **AVX**

21 8. Defendant AVX Corporation (“AVX”) is a corporation organized, existing, and
22 doing business under the laws of the State of Delaware, with its headquarters at 1 AVX
23 Boulevard, Fountain Inn, South Carolina 29644. Kyocera Corporation of Japan, headquartered
24 in Kyoto Japan, owns 72% of outstanding AVX common stock. AVX maintains a major global
25 position in tantalum capacitors and a minor competitive position in film capacitors. In 2013,
26 AVX acquired Defendant Nichicon’s tantalum capacitor manufacturing facilities in Japan and
27 China. During the Class Period, AVX, either directly or through its subsidiaries and affiliates,
28

1 manufactured and/or sold tantalum capacitors and/or film capacitors to purchasers in the United
2 States.

3 **Elna**

4 9. Defendant Elna Co., Ltd. is a Japanese corporation with its head office located at
5 3-8-11 Shin-Yokohama, Kouhoku-ku, Yokohama, Kanagawa Pref., Japan. During the Class
6 Period, Elna Co., Ltd. either directly or through its subsidiaries and affiliates, manufactured
7 and/or sold aluminum and/or film capacitors to purchasers in the United States.

8 10. Defendant Elna America, Inc., a wholly owned subsidiary of Elna Co., Ltd., is a
9 California corporation with its corporate headquarters located at 970 W. 190th Street, Suite 920,
10 Torrance, California 90502. Elna America Inc., either directly or through its subsidiaries and
11 affiliates, sold aluminum and/or film capacitors to purchasers in the United States.

12 11. Defendants Elna Co., Ltd. and Elna America, Inc. are referred to collectively
13 herein as “Elna.”

14 **Hitachi**

15 12. Defendant Hitachi Chemical Company, Ltd. is a Japanese corporation with its
16 head office located at Grantokyo South Tower, 1-9-2, Marunouchi, Chiyoda-ku, Tokyo, 100-
17 6606, Japan. During the Class Period, Hitachi Chemical Company, Ltd., either directly or
18 through its subsidiaries and affiliates, manufactured and/or sold tantalum capacitors, aluminum
19 capacitors and/or film capacitors to purchasers in the United States.

20 13. Defendant Hitachi AIC Incorporated, a wholly owned subsidiary of Hitachi
21 Chemical Company, Ltd., is a Japanese corporation with its head office located at 1065, Kugeta,
22 Moka-Shi Tochigi 321-4521, Japan. During the Class Period, Hitachi AIC Incorporated, either
23 directly or through its subsidiaries and affiliates, manufactured and/or sold tantalum capacitors,
24 aluminum capacitors and/or film capacitors to purchasers in the United States.

25 14. Defendant Hitachi Chemical Co. America, Ltd., a wholly owned subsidiary of
26 Hitachi Chemical Company, Ltd., is a California corporation with a principal place of business
27 located at 10080 North Wolfe Road, Suite SW3200, Cupertino, California 95014. As of October,
28 2009, Hitachi Chemical Co. America, Ltd. assumed responsibility for selling Hitachi AIC Inc.

1 capacitors in the U.S. During the Class Period, Hitachi Chemical Co. America, Ltd., either
2 directly or through its subsidiaries and affiliates, manufactured and/or sold tantalum capacitors,
3 aluminum capacitors and/or film capacitors to purchasers in the United States.

4 15. Defendants Hitachi Chemical Company, Ltd., Hitachi AIC Incorporated, and
5 Hitachi Chemical Co. America, Ltd. are referred to collectively herein as “Hitachi.”

6 **KEMET**

7 16. Defendant KEMET Corporation is a corporation organized, existing, and doing
8 business under the laws of the State of Delaware, with its principal executive offices located at
9 2835 Kemet Way, Simpsonville, South Carolina 29681. During the Class Period, KEMET
10 Corporation, either directly or through its subsidiaries and affiliates, manufactured and/or sold
11 tantalum capacitors, aluminum capacitors, and/or film capacitors to purchasers in the United
12 States.

13 17. Defendant KEMET Electronics Corporation is a wholly owned subsidiary of
14 KEMET Corporation with its principal executive offices located at 2835 Kemet Way,
15 Simpsonville, South Carolina 29681. In fiscal year 2013, KEMET Electronics Corporation
16 acquired a 34% economic interest in defendant NEC Tokin Corporation and its tantalum
17 operations. During the Class Period, KEMET Electronics Corporation, either directly or through
18 its subsidiaries and/or affiliates, manufactured and/or sold tantalum capacitors, aluminum
19 capacitors, and/or film capacitors to purchasers in the United States.

20 18. Defendants KEMET Corporation and KEMET Electronics Corporation are
21 referred to collectively herein as “KEMET.”

22 **Matsuo**

23 19. Defendant Matsuo Electric Co., Ltd. is a Japanese corporation with its
24 headquarters located at 3-5-3 Sennari-cho, Toyonaka-shi, Osaka, 561-8558 Japan. During the
25 Class Period, Matsuo Electric Co., Ltd., either directly or through its subsidiaries and affiliates,
26 manufactured and/or sold tantalum capacitors, aluminum capacitors and/or film capacitors to
27 purchasers in the United States.
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1 20. Defendant Matsuo Electronics of America, Inc., a wholly owned subsidiary of
2 Matsuo Electric Co., Ltd., is a California corporation with a principal place of business located at
3 2134 Main Street, Suite 200, Huntington Beach, CA 92648. During the Class Period, Matsuo
4 Electronics of America, Inc., either directly or through its subsidiaries and/or affiliates,
5 manufactured and/or sold tantalum capacitors, aluminum capacitors, and/or film capacitors to
6 purchasers in the United States.

7 21. Defendants Matsuo Electric Co., Ltd. and Matsuo Electronics of America, Inc. are
8 referred to collectively herein as “Matsuo.”

9 **NEC Tokin**

10 22. Defendant NEC Tokin Corporation is a Japanese corporation with its headquarters
11 located at 7-1, Kohriyama 6-chome, Takhaku-ku, Sendai-shi, Miyagi 982-8510, Japan. On
12 March 12, 2012, KEMET and NEC-Tokin Corporation entered into an agreement whereby
13 KEMET acquired 51% of NEC Tokin Corporation stock. Under the terms of the alliance,
14 KEMET and NEC-Tokin would cross-sell both companies’ products. During the Class Period,
15 NEC Tokin Corporation, either directly or through its subsidiaries and affiliates, manufactured
16 and/or sold tantalum capacitors to purchasers in the United States.

17 23. Defendant NEC-Tokin America Inc., a wholly owned subsidiary of NEC-Tokin
18 Corporation, is a California corporation with a principal place of business located at 2460 North
19 First Street, Suite 220, San Jose, California 95131. During the Class Period, NEC-Tokin
20 America Inc., either directly or through its subsidiaries and/or affiliates, manufactured and/or
21 sold tantalum capacitors to purchasers in the United States.

22 24. Defendants NEC-Tokin Corporation and NEC-Tokin America Inc. are referred to
23 collectively herein as “NEC-Tokin.”

24 **Nichicon**

25 25. Defendant Nichicon Corporation is a Japanese corporation with its head office
26 located at Karasumadori Oike-agaru, Nakagyo-ku, Kyoto, 604-0845 Japan. Nichicon designs,
27 manufactures, and supplies capacitors and capacitor-related products on a global scale. Nichicon
28 is primarily an aluminum capacitor producer, but it also produces plastic film capacitors.

1 Nichicon also had a significant line of tantalum capacitors, the combination of its own operations
2 and the former Tianjin factory of Matsushita Electric Industrial (Tantalum). However, in fiscal
3 year 2013, Nichicon sold its tantalum operations to defendant AVX and exited the tantalum
4 market. During the Class Period, Nichicon Corporation, either directly or through its
5 subsidiaries and affiliates, manufactured and/or sold tantalum capacitors, aluminum capacitors,
6 and/or film capacitors to purchasers in the United States.

7 26. Defendant Nichicon (America) Corporation, a wholly owned subsidiary of
8 Nichicon Corporation, is an Illinois corporation with a principal place of business located at 927
9 East State Parkway, Schaumburg, Illinois 60173. During the Class Period, Nichicon (America)
10 Corporation, either directly or through its subsidiaries and/or affiliates, manufactured and/or sold
11 tantalum capacitors, aluminum capacitors, and/or film capacitors to purchasers in the United
12 States.

13 27. Defendants Nichicon Corporation and Nichicon (America) Corporation are
14 referred to collectively herein as “Nichicon.”

15 NCC

16 28. Defendant Nippon Chemi-Con Corporation is a Japanese corporation with its
17 head office located at 5-6-4, Osaki, Shinagawa-ku, Tokyo 141-8605, Japan. Nippon Chemi-Con
18 Corporation has maintained the number one global market share position for aluminum
19 electrolytic capacitors for more than 20 years. Nippon Chemi-Con Corporation also sells film
20 capacitors. During the Class Period, Nippon Chemi-Con Corporation, either directly or through
21 its subsidiaries and affiliates, manufactured and/or sold aluminum capacitors and film capacitors
22 to purchasers in the United States.

23 29. Defendant United Chemi-Con, Inc., a wholly owned subsidiary of Nippon Chemi-
24 Con Corporation, is an Illinois corporation with a principal place of business located at 1701
25 Golf Road, Suite 1-1200, Rolling Meadows, Illinois 60008. During the Class Period, United
26 Chemi-Con, Inc., either directly or through its subsidiaries and/or affiliates, manufactured and/or
27 sold aluminum capacitors, and/or film capacitors to purchasers in the United States.
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1 30. Defendants Nippon Chemi-Con Corporation and United Chemi-Con, Inc. are
2 referred to collectively herein as “NCC.”

3 *Panasonic*

4 31. Defendant Panasonic Corporation is a Japanese corporation with its head office
5 located at 1006, Oaza Kadoma, Kadoma-shi, Osaka 571-8501, Japan. During the Class Period,
6 Panasonic Corporation, either directly or through its subsidiaries and affiliates, manufactured
7 and/or sold tantalum capacitors, aluminum capacitors and film capacitors to purchasers in the
8 United States.

9 32. Defendant Panasonic Corporation of North America, a wholly owned subsidiary
10 of Panasonic Corporation, is a Delaware corporation with its principal place of business located
11 at 2 Riverfront Plaza, Newark, New Jersey 07102. During the Class Period, Panasonic
12 Corporation of North America, either directly or through its subsidiaries and/or affiliates,
13 manufactured and/or sold tantalum capacitors, aluminum capacitors, and/or film capacitors to
14 purchasers in the United States.

15 33. Defendant Sanyo Electric Co., Ltd., a wholly owned subsidiary of Panasonic
16 Corporation, is a Japanese corporation with a head office located at 5-5, Keihan-Hondori 2-
17 Chome, Moriguchi City, Osaka 570-8677, Japan. During the Class Period, Sanyo Electric Co.,
18 Ltd., either directly or through its subsidiaries and/or affiliates, manufactured and/or sold
19 tantalum capacitors, aluminum capacitors, and/or film capacitors to purchasers in the United
20 States.

21 34. Defendant Sanyo Electronic Device (U.S.A.) Corporation, a Delaware
22 corporation, is a wholly owned subsidiary of Sanyo Electric Group, Ltd. and a member of the
23 Panasonic Group, with its principal place of business located at 2055 Sanyo Avenue, San Diego,
24 California 92154. During the Class Period, Sanyo Electronic Device (U.S.A.) Corporation,
25 either directly or through its subsidiaries and/or affiliates, manufactured and/or sold tantalum
26 capacitors, aluminum capacitors, and/or film capacitors to purchasers in the United States.

1 35. Defendants Panasonic Corporation, Panasonic Corporation of North America,
2 Sanyo Electric Co., Ltd., and Sanyo Electronic Device (U.S.A.) Corporation are referred to
3 collectively herein as “Panasonic.”

4 **ROHM**

5 36. Defendant ROHM Company Limited is a Japanese corporation with its head
6 office located at 21 Saiin Mizosaki-cho, Ukyo-ku, Kyoto 615-8585 Japan. During the Class
7 Period, ROHM Company Limited, either directly or through its subsidiaries and/or affiliates,
8 manufactured and/or sold tantalum capacitors to purchasers in the United States.

9 37. Defendant ROHM Semiconductor, U.S.A., LLC, a Delaware limited liability
10 corporation, is a subsidiary of ROHM Co., Ltd. with its head office located at 2323 Owen Street,
11 Santa Clara, California 95054. During the Class Period, ROHM Semiconductor, U.S.A., LLC,
12 either directly or through its subsidiaries and/or affiliates, manufactured and/or sold tantalum
13 capacitors to purchasers in the United States.

14 38. Defendants ROHM Company Limited and ROHM Semiconductor U.S.A., LLC,
15 are referred to collectively herein as “ROHM.”

16 **Rubycon**

17 39. Defendant Rubycon Corporation is a Japanese corporation with its principal place
18 of business located at 1938-1, Nishi-Minowa, Ina-City, Nagano 399-4593, Japan. During the
19 Class Period, Rubycon Corporation, either directly or through its subsidiaries and/or affiliates,
20 manufactured and/or sold aluminum capacitors and/or film capacitors to purchasers in the United
21 States.

22 40. Defendant Rubycon America Inc., a wholly owned subsidiary of Rubycon
23 Corporation, is an Illinois corporation with its principal place of business located at 4293 Lee
24 Avenue, Gurnee, Illinois 60031. During the Class Period, Rubycon America Inc., either directly
25 or through its subsidiaries and/or affiliates, manufactured and/or sold aluminum capacitors
26 and/or film capacitors to purchasers in the United States.

27 41. Rubycon Corporation and Rubycon America Inc. are referred to collectively
28 herein as “Rubycon.”

1 **AGENTS AND UNNAMED CO-CONSPIRATORS**

2 47. The acts taken by Defendants, as alleged herein, were authorized, ordered and
3 condoned by their respective parent companies and authorized, ordered and performed by their
4 officers, directors, agents, employees or representatives while engaged in the management,
5 direction, control or transaction of their business affairs.

6 48. Various other persons, corporations, or firms not named as Defendants herein
7 have participated in the violations alleged herein and may have performed acts and made
8 statements in furtherance thereof.

9 **INTERSTATE TRADE AND COMMERCE**

10 49. Defendants' conduct, as described in this Complaint, was within the flow of, was
11 intended to, and did have a substantial, direct and reasonably foreseeable effect on, the interstate
12 commerce of the United States, including in this District.

13 50. During the Class Period, Defendants manufactured, sold and shipped Capacitor
14 Products in a continuous and uninterrupted flow of interstate commerce.

15 51. The price-fixing conspiracy in which the Defendants participated had a direct,
16 substantial and reasonably foreseeable effect on interstate commerce.

17 **CLASS ALLEGATIONS**

18 52. Plaintiff brings this action pursuant to Rules 23(a) and 23(b)(3) of the Federal
19 Rules of Civil Procedure on behalf of a class of plaintiffs (the "Class") consisting of:

20 All persons that purchased Capacitor Products in the United States
21 directly from any of the Defendants, their subsidiaries, affiliates or
22 joint-ventures from January, 2008 through the present (the "Class
23 Period"). Excluded from the Class are Defendants, their parent
companies, subsidiaries and affiliates, any co-conspirators, and
governmental entities.

24 53. Because such information is in the exclusive control of Defendants and/or their
25 co-conspirators, Plaintiff does not know the exact number of Class members. Due to the nature
26 of the trade and commerce involved, however, Plaintiff believes that the Class numbers in the
27 hundreds, if not thousands, and that members of the Class are geographically dispersed
28 throughout the United States so that joinder of all Class members is impracticable.

1 54. Plaintiff's claims are typical of the claims of the members of the Class because
2 Plaintiff and all Class members share the same injury, as they were all damaged by the actions of
3 Defendants, which caused them to pay artificially inflated prices for Capacitor Products.

4 55. Plaintiff will fairly and adequately represent and protect the interests of the Class.
5 Plaintiff is a direct purchaser of Capacitor Products and its interests are coincident with and not
6 antagonistic to those of other members of the Class. Plaintiff is represented by counsel who are
7 competent and experienced in the prosecution of antitrust and class action litigation.

8 56. This case presents many common questions of law and fact that will predominate
9 over any questions that may affect individual members of the Class, such as:

- 10 • Whether the Defendants engaged in a conspiracy to raise, fix, and
11 maintain prices of Capacitor Products sold in the United States;
- 12 • The duration and extent of the conspiracy;
- 13 • Whether each Defendant was a participant in any such conspiracy;
- 14 • Whether the actions of Defendants in so conspiring violated Section 1 of
15 the Sherman Act;
- 16 • Whether the conspiracy had the effect of artificially inflating the price of
17 Capacitor Products sold in the United States during the Class Period;
- 18 • Whether the conduct of the Defendants caused injury to Class members;
- 19 • The measure and amount of damages incurred by the Class; and
- 20 • Whether Defendants fraudulently concealed their conspiracy

21 57. Adjudicating the claims of the Class members as a class action is superior to the
22 alternative, because it allows for the fair and efficient adjudication of the controversy alleged in
23 this Complaint, while avoiding the risk that the prosecution of separate actions by individual
24 members of the Class would create inconsistent or varying adjudications, establishing
25 incompatible standards of conduct for Defendants. Class treatment will also permit the
26 adjudication of relatively small claims by many class members who otherwise could not afford to
27 litigate an antitrust claim such as is asserted in this Complaint. This class action presents no
28 difficulties in management that would preclude maintenance as a class action. Finally, the Class

1 is readily definable and is one for which records of the names and addresses of the Class exist in
2 the files of Defendants.

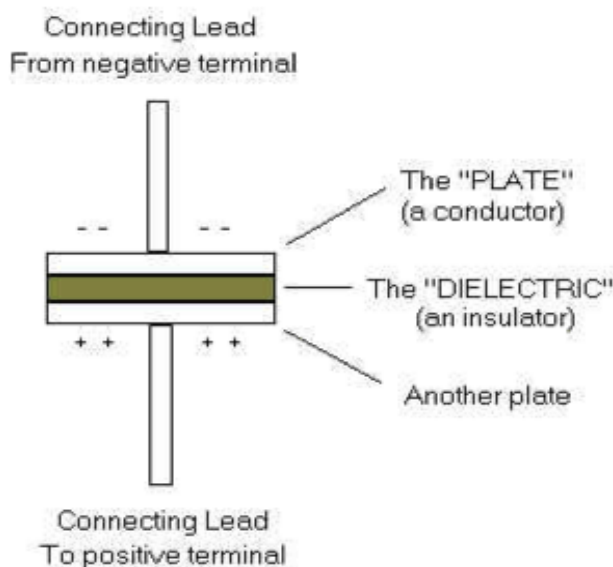
3 **FACTUAL ALLEGATIONS**

4 **CAPACITORS**

5 58. Capacitors, sometimes referred to as condensers, are passive electronic
6 components that store, filter and regulate electrical energy and current flow. Capacitors are
7 passive in that they do not add electrical charge to a circuit (like a battery). A capacitor has the
8 ability or “capacity” to store energy in the form of an electrical charge producing a potential
9 difference (static voltage) across its plates, much like a small rechargeable battery.

10 59. Principal uses for capacitors include storing electrical charges, conducting
11 alternating current (AC current), and blocking or separating different voltage levels of direct
12 current (DC current) sources. Capacitors are differentiated based on their construction, with
13 different materials providing unique characteristics.

14 60. All capacitors have the same basic structure. Two parallel metal electrode plates
15 are separated by a non-conductive “dielectric.” When there is a potential difference across the
16 conductors (e.g., when a capacitor is attached to a power source), an electric field develops
17 across the dielectric, causing a positive charge to collect on one plate and a negative charge to
18 collect on the other plate (see figure 1).



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28 (Figure 1).

1 61. Capacitors can store electric charges for long periods of time, and can hold onto
2 a charge even when disconnected from a power source. Capacitors can charge and discharge
3 fully and instantaneously.

4 62. Capacitors are ubiquitous, almost every electronic circuit in the world
5 incorporates capacitors (along with other passive electronic components such as resistors and
6 sometimes inductors). Products incorporating capacitors include consumer electronics (*e.g.*,
7 TV's, stereos, MP3 players, digital cameras), telecommunications electronics (*e.g.*, cell phones,
8 landlines, office telecom equipment), computers and business machines (*e.g.*, motherboards,
9 monitors, hard disc drives), automotive (*e.g.*, engine control units, ABS cards, entertainment and
10 driver navigation systems), and power and industrial products (*e.g.*, large home appliances,
11 power supplies, power transmission and distribution equipment, solar converters). Many of
12 these devices contain hundreds of capacitors. For example, a single Smartphone may have as
13 many as 500 capacitors.

14 63. The worldwide demand for capacitors is massive. In 2013, global sales of
15 capacitors exceeded 1.3 trillion units and global revenue for capacitors exceeded \$16 billion.
16 Capacitor demand and revenue are projected to increase significantly over the next several years.
17 By 2019, it is estimated that over 2 trillion capacitors will be sold globally for over \$22 billion.

18 64. Capacitors are typically categorized by their form factor and the dielectric
19 material used in the capacitor. Based on the dielectric, the four main categories of capacitors are:
20 ceramic; aluminum; tantalum; and film. Each type of capacitor has a set of characteristics and
21 properties that make them suitable for certain applications, environments, and products.

22 65. While there are no meaningful substitutes for capacitors, capacitors are generally
23 considered to be commodity product, meaning that capacitors with similarly rated characteristics
24 (dielectric, capacitance, temperature, voltage, form factor, etc.) can usually be substituted for
25 each other.

26 66. Tantalum, the dielectric in tantalum capacitors, is a rare earth mineral and
27 tantalite, the raw material refined to derive tantalum, is considered by the United Nations and
28

1 named in the Dodd-Frank Act of the U.S. as a “conflict mineral,” making the market
2 environment unique and the supply chain subject to rapid price and supply fluctuations.

3 67. Although tantalum capacitors have been significantly more expensive than most
4 other types of capacitors, they have traditionally offered high capacitance in a small package,
5 which is particularly useful for compact electronic applications such as smart phones and tablet
6 computers.

7 68. Aluminum electrolytic capacitors are constructed from two conducting aluminum
8 foils, one of which is coated with an insulating oxide layer, separated by an electrolytic layer.
9 The foil insulated by the oxide layer is the anode while the liquid electrolyte and the second foil
10 acts as the cathode. This stack is then rolled up, fitted with lead wires and placed in a housing,
11 typically an aluminum cylinder.

12 69. The capacitance of an aluminum capacitor is proportionate to the surface area of
13 the aluminum foil plates. Accordingly, to make capacitors with higher capacitance requires
14 larger plates that are then rolled and placed in larger cylindrical aluminum casings. Aluminum
15 capacitors usually have a larger form factor than tantalum capacitors and are used in devices that
16 require higher capacitance with fewer space restrictions, such as televisions, video consoles, and
17 desktop computers.

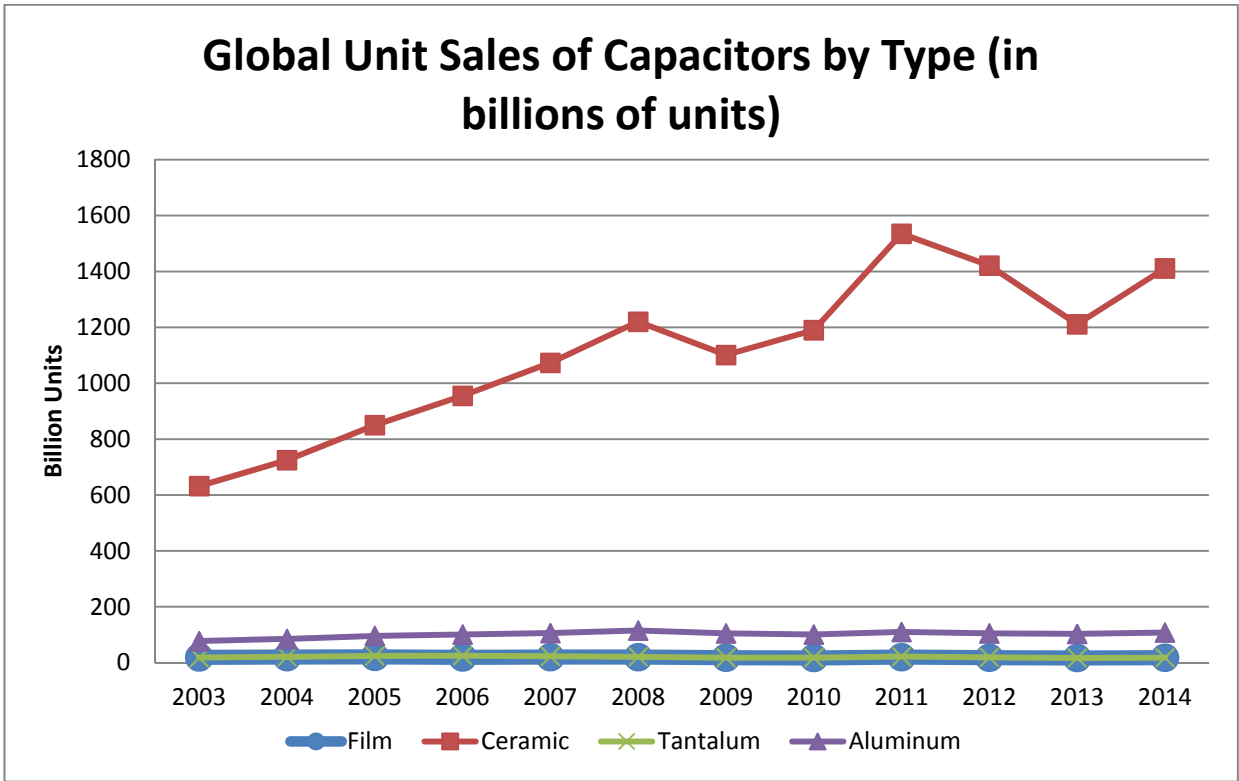
18 70. Film capacitors are electrical capacitors with an insulating plastic film as
19 the dielectric, sometimes combined with paper as a carrier of the electrodes. The dielectric films,
20 depending on the desired dielectric strength, are drawn in a special process to an extremely thin
21 thickness, and are then provided with electrodes. The electrodes of film capacitors may be
22 metalized aluminum or zinc applied directly to the surface of the plastic film, or a separate
23 metallic foil overlying the film. Two of these conductive layers are wound into a cylinder shaped
24 winding, usually flattened to reduce mounting space requirements on a printed circuit board, or
25 layered as multiple single-layers stacked together, to form a capacitor body.

26 71. Ceramic capacitors are made from two or more alternating layers of ceramic and
27 metal where the ceramic acts as the dielectric and the metal acts as the electrodes. The most
28 popular type of ceramic capacitor is the multilayer ceramic capacitor (“MLCC”) which is

1 constructed with alternating layers. This stacking allows for increased capacitance and allows
2 for smaller form factors than were previously possible. Technological advances in
3 manufacturing of MLCC capacitors have allowed manufacturers to increase the number of
4 layers, thereby creating MLCC's with volumetric efficiencies greater than aluminum or film
5 capacitors and, in some instances, competing with tantalum capacitors for small form factor
6 applications.

7 72. Ceramic capacitors are significantly less expensive than other capacitors. For
8 example, in 2013, average pricing per thousand units for ceramic capacitors was \$6.57 versus
9 \$106.18 for tantalum, \$48.53 for film and \$38.12 for aluminum. Recent advances in technology
10 have allowed for less expensive MLCC's to replace more expensive tantalum, aluminum and
11 film capacitors for some applications.

12 73. Although MLCC's are increasingly encroaching on tantalum, aluminum and film
13 capacitor applications, manufacturers cannot quickly transition from one type of capacitor to
14 another because circuit boards are designed to incorporate specific types of capacitors with
15 specific technical and operational characteristics. However, as products are re-engineered, new
16 versions of the products can be designed to incorporate less expensive MLCC's to take the place
17 of more expensive tantalum, aluminum and film capacitors. This accounts for the fact that
18 between 2003 and 2013, almost all the growth in capacitor unit sales has been for ceramic
19 capacitors (*see* figure 2) and market share for ceramic capacitors has increased from 85% to 90%
20 while tantalum has decreased from 2% to 1%, aluminum has decreased from 10% to 8% and film
21 has decreased from 3% to 1% (*see* figure 3).



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Figure 2

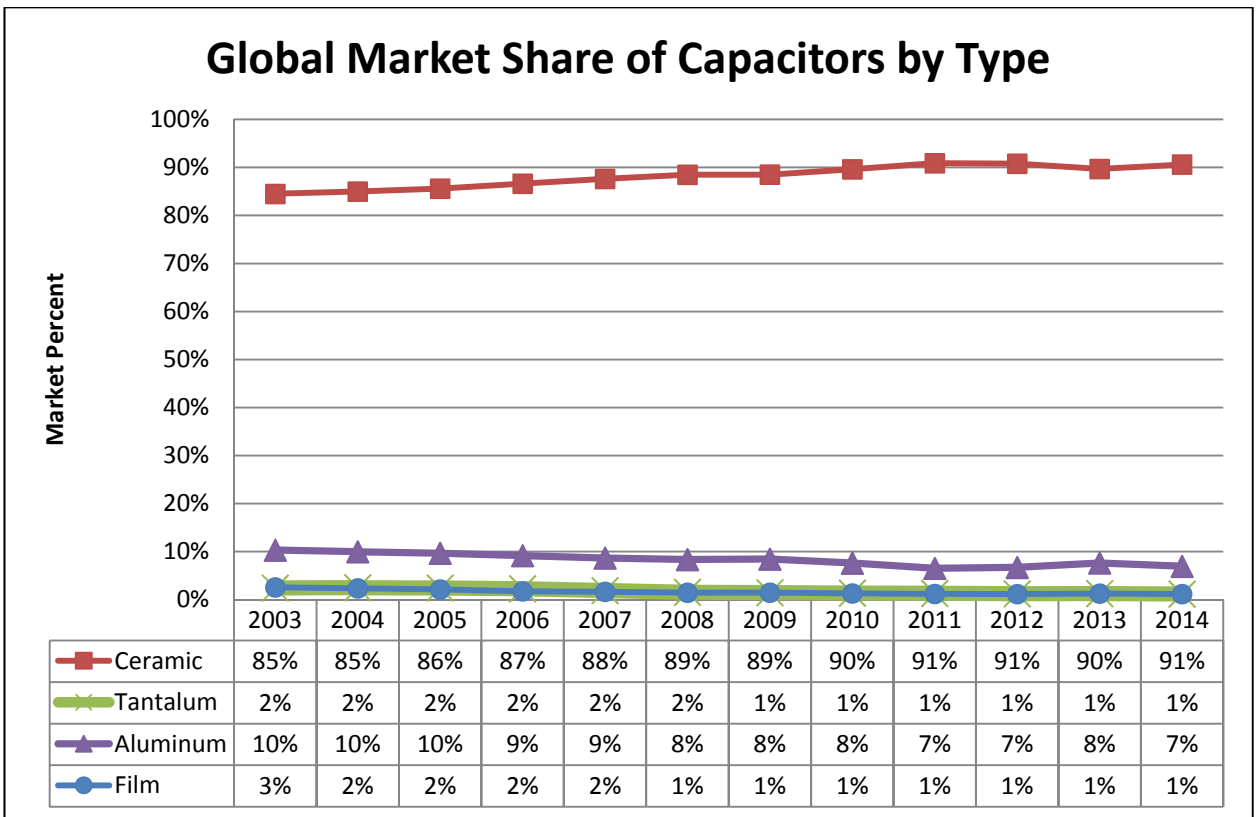


Figure 3

1 74. As a result of the increasing and dominant market position of ceramic capacitors,
2 Japanese and American manufacturers of tantalum, aluminum and film capacitors, conspired (as
3 explained below) to fix and stabilize the prices that they charged U.S. purchasers for Capacitor
4 Products.

5 **THE CAPACITOR MARKET IS CONDUCTIVE TO COLLUSION**

6
7 **1. Sales Of Capacitors Are Conducive To Collusion Because They Are
Controlled By Only A Limited Number Of Producers.**

8 75. A highly concentrated market is more susceptible to collusion and other
9 anticompetitive practices.

10 76. The capacitor market is concentrated. Defendants collectively account for a
11 significant percentage of the global capacitor market.

12 77. The five largest Defendants collectively control more than 76% of the global
13 market for tantalum capacitors. KEMET has a 23% share of the global market, AVX has a 21%
14 share, NEC-Tokin has an 11% share, Vishay has an 11% share and Panasonic has a 10% share.
15 Additionally, Defendant Hitachi has a 6% share, Nichicon has a 4% share and Rohm has a 4%
16 share. Combined, these eight defendants control approximately 90% of the global market.

17 78. The five largest Japanese aluminum capacitor manufacturers account for
18 approximately 60% of the global market for aluminum capacitors. NCC has a 19% share of the
19 global market, Nichicon has a 16% share, Rubycon has a 13% share, Panasonic has an 8% share
20 and Elna has a 3% share.

21 79. With respect to capacitor sales to U.S. customers, these market shares are higher.
22 As explained below, U.S. manufacturers tend to make higher priced, value added products and
23 have sought to source more of their aluminum capacitors and other capacitors from Japanese and
24 U.S. capacitor manufacturers.

25 80. Defendants collectively also control a significant share of the market for film
26 capacitors. Panasonic has a 9% share of the global market, KEMET has an 8% share, TDK has a
27 7% share, Vishay has a 5% share and AVX has a 3% share. In addition, Defendants NCC,
28 Nichicon, Rubycon, Hitachi, Matsuo and Elna also sell significant quantities of film capacitors

1 worldwide. These eleven Defendants control well over 50% of the U.S. market for film
2 capacitors and by virtue of the overlap in sales of Capacitor Products and the marketing power
3 derived therefrom, their market power is substantially stronger.

4 81. The trend is toward increasing market concentration. As noted above, KEMET,
5 one of the largest manufacturers, is already in the process of acquiring NEC-Tokin and AVX is
6 in the process of acquiring Nichicon.

7
8 **2. High Barriers To Entry In The Capacitor Market Make The Industry
Susceptible To Collusion.**

9 82. A collusive arrangement that raises product prices above competitive levels
10 would, under normal circumstances, attract new entrants to the market. Where there are
11 significant barriers to entry, however, new entrants are less likely. With regard to the capacitor
12 market, high barriers to entry have prevented new entrants into the market despite the artificial
13 inflation of prices.

14 83. The capacitor industry is mature and is dominated by established corporations
15 with diverse product portfolios, multi-national operations and global reach. These companies
16 have significant experience in the global capacitors industry, and have established reputations
17 with sellers of raw materials and purchasers of finished capacitors.

18 84. Entry into the capacitor market involves significant start-up costs. A new entrant
19 would need to finance construction of large scale manufacturing facilities capable of producing
20 the millions of capacitors that would be necessary to compete against the established companies.
21 A new entrant would also need to absorb the costs of acquiring the necessary production
22 technology, including establishing substantial research and development capabilities in order to
23 create and manufacture a broad product portfolio of Capacitor Products, hiring skilled employees
24 and obtaining adequate stockpiles of raw materials. These costs are likely to run into the
25 hundreds of millions of dollars. For that reason, there have been no new entrants during the
26 Class Period. Instead, companies have traded production facilities among themselves.

27 85. Moreover some of the necessary raw materials to manufacture capacitors, such as
28 niobium, platinum, palladium, and tantalum are produced in only a limited number of regions

1 around the world or available from only a limited number of suppliers. For example, tantalum is
2 the principal feedstock used to make tantalum capacitors. Conversely, fabrication of tantalum
3 capacitors accounts for over 60% of tantalum demand in the U.S. Tantalum is only mined in a
4 few regions in the world, principally South America (Brazil), central Africa (the Democratic
5 Republic of Congo), and Australia. However, although the Congo is rich in ores containing
6 tantalum, rebels there illegally mine the ore and then sell it to finance their bloody civil war. As
7 a result, the U.S. passed the Dodd-Frank Wall Street Reform and Consumer Protection Act,
8 Section 1502 of which designates tantalum as a “conflict mineral,” and requires that companies
9 using tantalum ensure that their tantalum is not sourced from a conflict region such as the Congo.
10 These restrictions have resulted in additional supply shortages and price shocks. Accordingly,
11 potential new tantalum capacitor manufacturers would likely have difficulty securing adequate
12 supplies of tantalum.

13 86. The plastic film used to make film capacitors may also be difficult for a new
14 entrant to source. The dielectric grade resins used to make film capacitors come from a limited
15 number of suppliers in the world, principally DuPont, Teijin, Toray, Mitsui, and Borealis. These
16 manufacturers make dielectric grade resins in large batches only a few times a year. Likewise,
17 the converters who apply special conductive coatings to the resin usually only run large batches a
18 few times a year. For some specialty film coatings, batches are usually run only once a year.
19 Accordingly, potential new film capacitor manufacturers will also have difficulty securing the
20 necessary adequate raw material inputs.

21 87. Even if a new entrant were able to acquire the means to manufacture capacitors
22 (including securing adequate supplies of the necessary raw materials), to compete effectively, the
23 new entrant would also need an established sales network. The major manufacturers already
24 maintain networks of global distribution centers. This downstream capability is imperative to
25 competing successfully in the Capacitor Products market.

26 88. Finally, the structure of the Capacitor Products market would make it difficult for
27 a new entrant who did not have its own funds to obtain lender financing. The demand for
28 Capacitor Products has been impacted by the industry-wide move toward the use of ceramic

1 capacitors. Therefore, a new entrant seeking financing would need to convince lenders to loan it
2 hundreds of millions of dollars to enter a market for low-profit-margin products where
3 profitability depends on achieving large economies of scale despite waning demand.

4
5 **3. Price Inelasticity For Capacitors Makes The Industry Susceptible To Collusion.**

6 89. “Elasticity” is a term used to describe the sensitivity of supply and demand to
7 changes in one or the other. For example, demand is said to be “inelastic” if an increase in the
8 price of a product results in no more than a small decline in the quantity sold of that product. In
9 other words, customers have nowhere to turn for alternative, cheaper products of similar quality,
10 and so continue to purchase despite a price increase. Price inelasticity facilitates collusion,
11 allowing producers to raise their prices collectively without triggering customer substitution and
12 lost sales revenue.

13 90. Pricing for capacitors is highly inelastic in large part because there are no
14 adequate substitutes. As noted above, capacitors are used in virtually every electric circuit and
15 there are no other passive electric components (such as resistors or inducers) that can replicate
16 the function or replace the demand for capacitors.

17 91. A hypothetical small but significant increase in the price of capacitors by a cartel
18 would not cause a significant number of purchasers to utilize other materials in lieu of capacitors,
19 nor would such a hypothetical price increase cause so much switching to other products that the
20 increase would be unprofitable. Capacitors cannot be replaced with other passive components
21 and capacitors usually represent a small input cost for the high value products in which they are
22 incorporated so that a manufacturer will pay the increased capacitor price so that it can continue
23 to sell its products incorporating the capacitors.

24 **4. Defendants’ Capacitor Products Are Interchangeable**

25 92. While there are no meaningful substitutes for capacitors, capacitors are generally
26 considered to be a commodity product, meaning that Defendants’ Capacitor Products with
27 similarly rated characteristics (dielectric, capacitance, temperature, voltage, form factor, etc.) can
28 usually be substituted for each other.

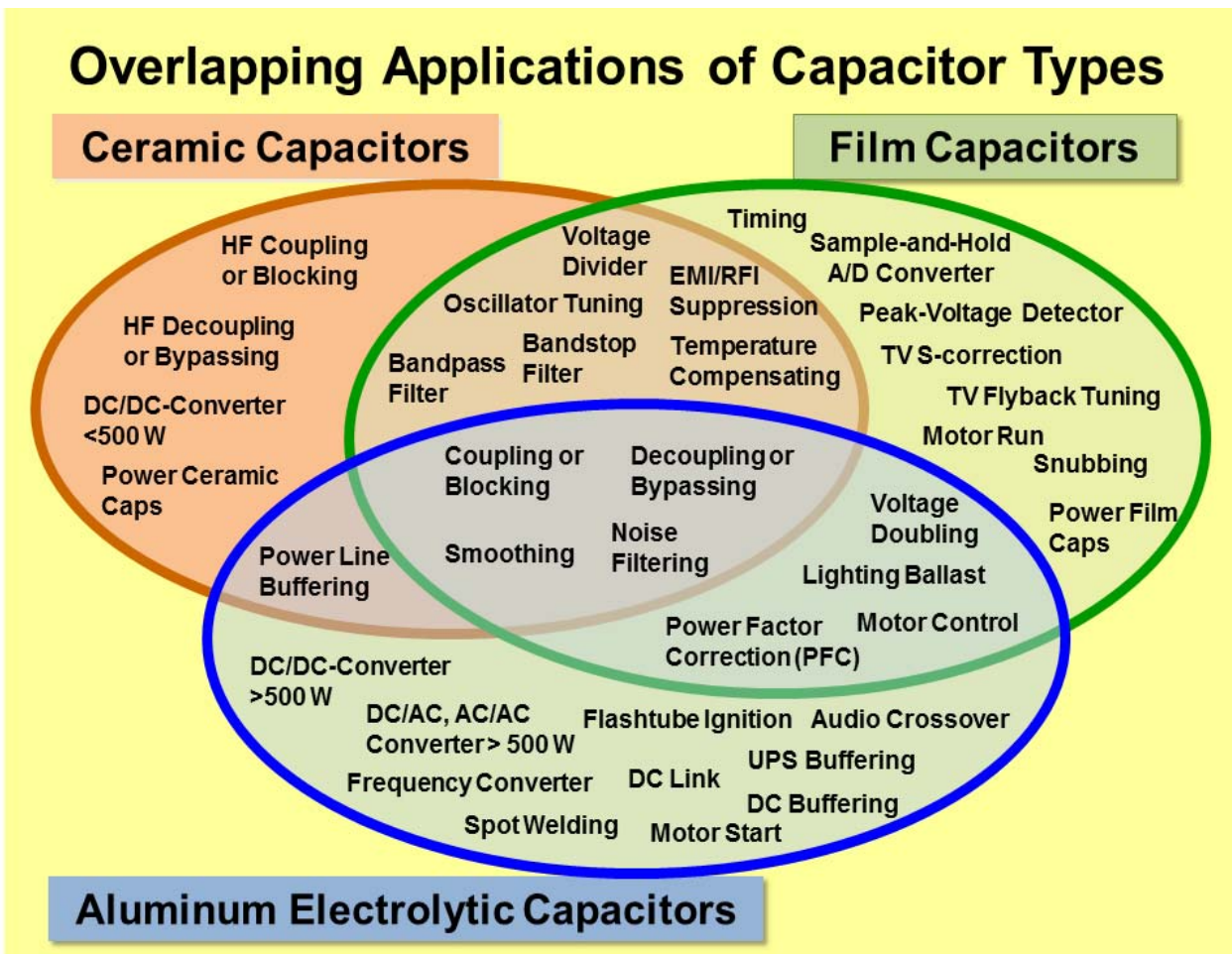
1 93. As explained below, the Defendants have been able to differentiate their
2 Capacitor Products from the offerings of other non-U.S. and non-Japanese manufacturers whose
3 products were viewed as inferior. However, among themselves, the Defendants' Capacitor
4 Products were viewed as fungible. A purchaser choosing between a Capacitor Product offered
5 by one Defendant versus a similar Capacitor Product offered by another Defendant would choose
6 based primarily on price considerations.

7 94. Defendants admit that their Capacitor Products are fungible. In particular, most
8 Defendants provide cross reference guides to potential customers that specify the Defendant's
9 Capacitor Products either by product number or specifications and then identify interchangeable
10 products manufactured by its competitors.

11 95. In addition to the ability to substitute capacitors with identical specifications,
12 there are guidelines allowing for substitution among capacitors with different form factor,
13 dielectric, or specifications so that, for example, a tantalum capacitor can be replaced with an
14 aluminum capacitor provided that certain guidelines are met. In many cases: increasing to a
15 higher capacitance is acceptable; a component with a tighter (better) tolerance can replace a
16 capacitor with a lower tolerance; a capacitor with a higher voltage rating may be used in place of
17 or as a substitute for one with a lower rating; a capacitor with a higher (better) temperature rating
18 can replace one with a lower rating; and in many instances, electrostatic capacitors such as film,
19 can be considered as replacements for electrolytic capacitors such as aluminum and tantalum.

20 96. There is also significant overlap among the different applications calling for
21 capacitors so that manufacturers can often choose among the competing Capacitor Products
22 when engineering their products. The below diagram illustrates some of the numerous
23 overlapping applications between ceramic, film and aluminum capacitors.

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97. As described above, the Defendants’ Capacitor Products were sufficiently interchangeable so that price was a significant purchasing factor.

5. The Defendants Had Many Opportunities To Collude.

98. The capacitor industry provides ample opportunities for Defendants to collude and fix the price of capacitors through industry contacts.

99. Every Defendant is a member of numerous trade associations, including, for example, the Electronic Components Industry Association (the “ECIA”) and the Power Sources Manufacturers Association (“PSMA”). Additionally, Defendants regularly attend the yearly Applied Power Electronics Conference and Exposition (“APEC”), which has been held yearly since 1986 and is co-sponsored by other organizations, including the PSMA.

GOVERNMENT INVESTIGATIONS

1
2
3 100. Global coordinated antitrust investigations are taking place in the United States,
4 China, Korea, Japan, Taiwan and Europe regarding price-fixing of capacitors by Japanese
5 manufacturers.

6 101. The Antitrust Division of the U.S. Department of Justice (the “DOJ”) confirmed
7 that it is conducting an investigation into price fixing of capacitors. The DOJ investigation is
8 focused on tantalum capacitors, aluminum capacitors, plastic film capacitors, and carbon
9 capacitors. The DOJ initiated its investigation after a leniency applicant, widely reported to be
10 Panasonic, approached regulators in the United States and China regarding its participation in a
11 worldwide capacitor price-fixing conspiracy.

12 102. In 2004, the United States enacted the Antitrust Criminal Penalty Enhancement
13 and Reform Act (“ACPERA”). As an enhancement to the DOJ’s leniency program, ACPERA is
14 intended to encourage more companies and individuals to self-report criminal antitrust violations
15 by offering the first company or individual who self-reports a criminal antitrust violation full
16 immunity from criminal prosecution and limitations from liability in related civil proceedings,
17 provided that the ACPERA applicant provides substantial cooperation in the civil proceedings.

18 103. As the ACPERA applicant, Panasonic had to admit to participating in a cartel to
19 fix prices in the Capacitor industry. Panasonic is fully aware of the criminal and civil costs faced
20 by an antitrust defendant and the benefits of being the ACPERA applicant. Over the past several
21 years, Panasonic has been the subject of numerous governmental investigations and civil suits
22 regarding antitrust violations. Panasonic recently pled guilty to DOJ charges that it participated
23 in a widespread conspiracy regarding automotive parts. In particular, Panasonic agreed to pay a
24 criminal fine of \$45.8 million for fixing prices for automotive switches, sensors and HID light
25 ballasts. Panasonic remains a defendant in the related civil antitrust proceedings. Panasonic’s
26 Sanyo Electric Co. Ltd. subsidiary separately agreed to pay a DOJ criminal fine of \$10.73
27 million for participating in a conspiracy to fix prices for lithium ion batteries. In or about 2010,
28 Panasonic agreed to pay a \$49.1 million DOJ fine for fixing prices for household compressors.

1 Over the past several years, Panasonic has also been named as a defendant by the EU in an
2 investigation into CRT televisions and monitors. In related U.S. civil litigation regarding price-
3 fixing of CRT televisions and monitors, Panasonic agreed to pay \$17.3 million to settle claims
4 brought by direct purchasers. Panasonic has also been named as a defendant in U.S. civil
5 antitrust litigation regarding price fixing among Optical Disc Drive manufacturers and TFT-LCD
6 flat panel display manufacturers.

7 104. The DOJ is not the only competition authority investigating price-fixing among
8 Japanese capacitor manufacturers. The Policy and Regulatory Report (the “PaRR”) issued a
9 special report about an ABA conference held in Beijing May 21-23, 2014. In the PaRR special
10 report, an article by Lisha Zhou noted that Xu Kunlin, the director general of the Price
11 Supervision and Antimonopoly Bureau, part of China’s National Development and Reform
12 Commission (“NDRC”), confirmed that the NDRC had nearly finished its cartel investigation
13 into the electronic capacitor industry. Xu stated that the NDRC had concluded two rounds of
14 interviews and inquiries into the target companies, all of which are Japanese. Further, Xu
15 confirmed that the NDRC investigation was triggered by a leniency application filed by a
16 Japanese company.

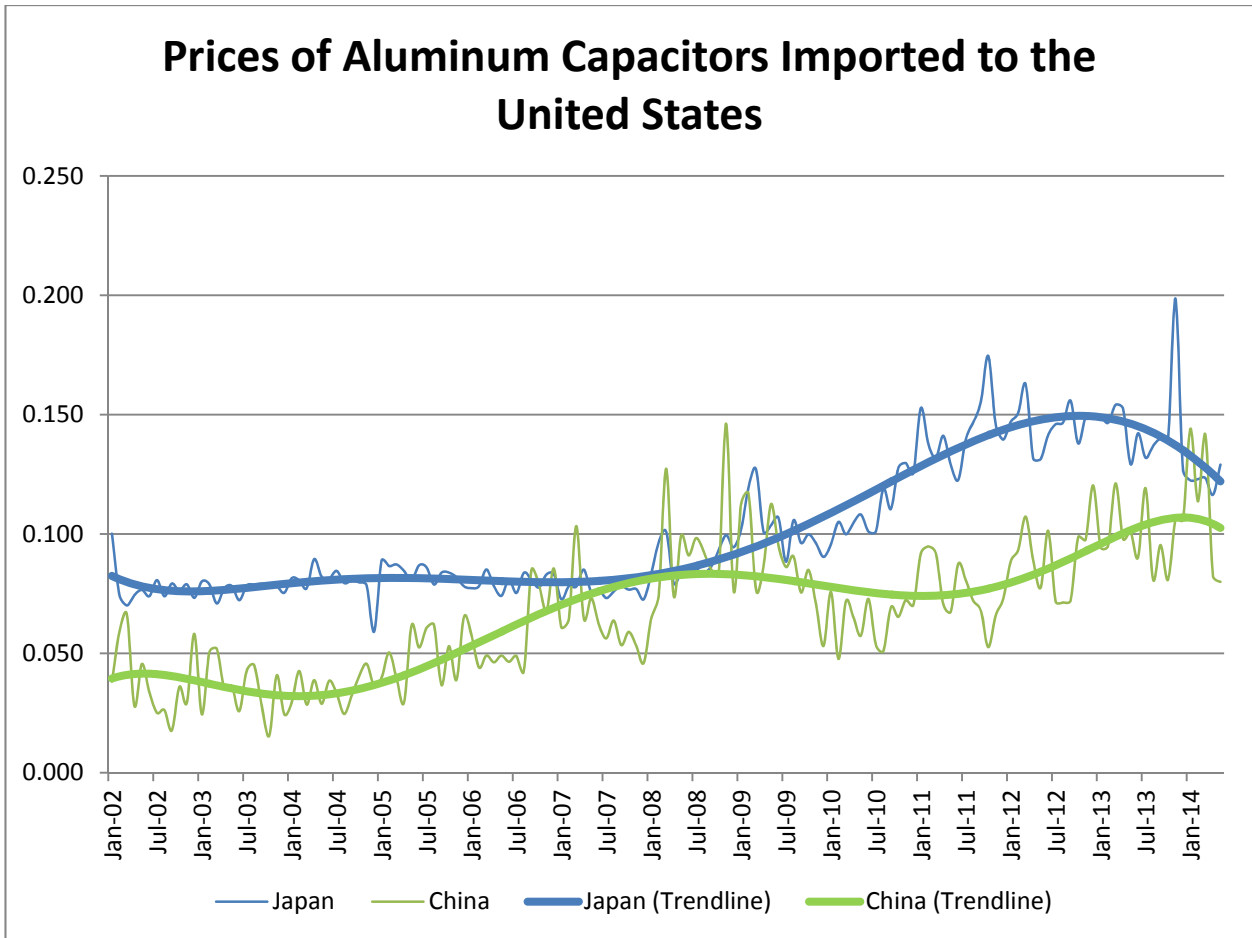
17 105. The Korean Fair Trade Commission is also investigating price-fixing of
18 capacitors by Japanese companies, and as part of its investigation, in early May, it inspected the
19 Korean facilities of Defendant Panasonic.

20 106. On June 24, 2014, *The Manichi*, one of Japan’s three largest newspapers, reported
21 that the Japan Fair Trade Commission (the “JFTC”) raided approximately eight Japanese
22 companies suspected of forming a price cartel for capacitors. The companies raided include
23 Defendants Nippon Chemi-Con, Nichicon, Hitachi, NEC Tokin and Panasonic. Nippon Chemi-
24 Con and Panasonic have each confirmed that they are being investigated by the JFTC.

25 107. JFTC sources disclosed that the JFTC suspects that the companies under
26 investigation formed a cartel extending overseas from Japan to boost the prices charged for
27 capacitors. According to those sources, sales executives and other officials from the companies
28 discussed and decided on price increases for capacitors and the timing of price hikes.

1 products can result in significant repair costs. For example, by 2005, Dell spent approximately
 2 \$420 million to fix problems caused by faulty capacitors it had installed in a three year period in
 3 over 11 million computers. Considering that capacitors are a comparatively small cost, U.S.
 4 manufacturers have been willing to pay a premium in order to protect their reputations and
 5 ensure product longevity.

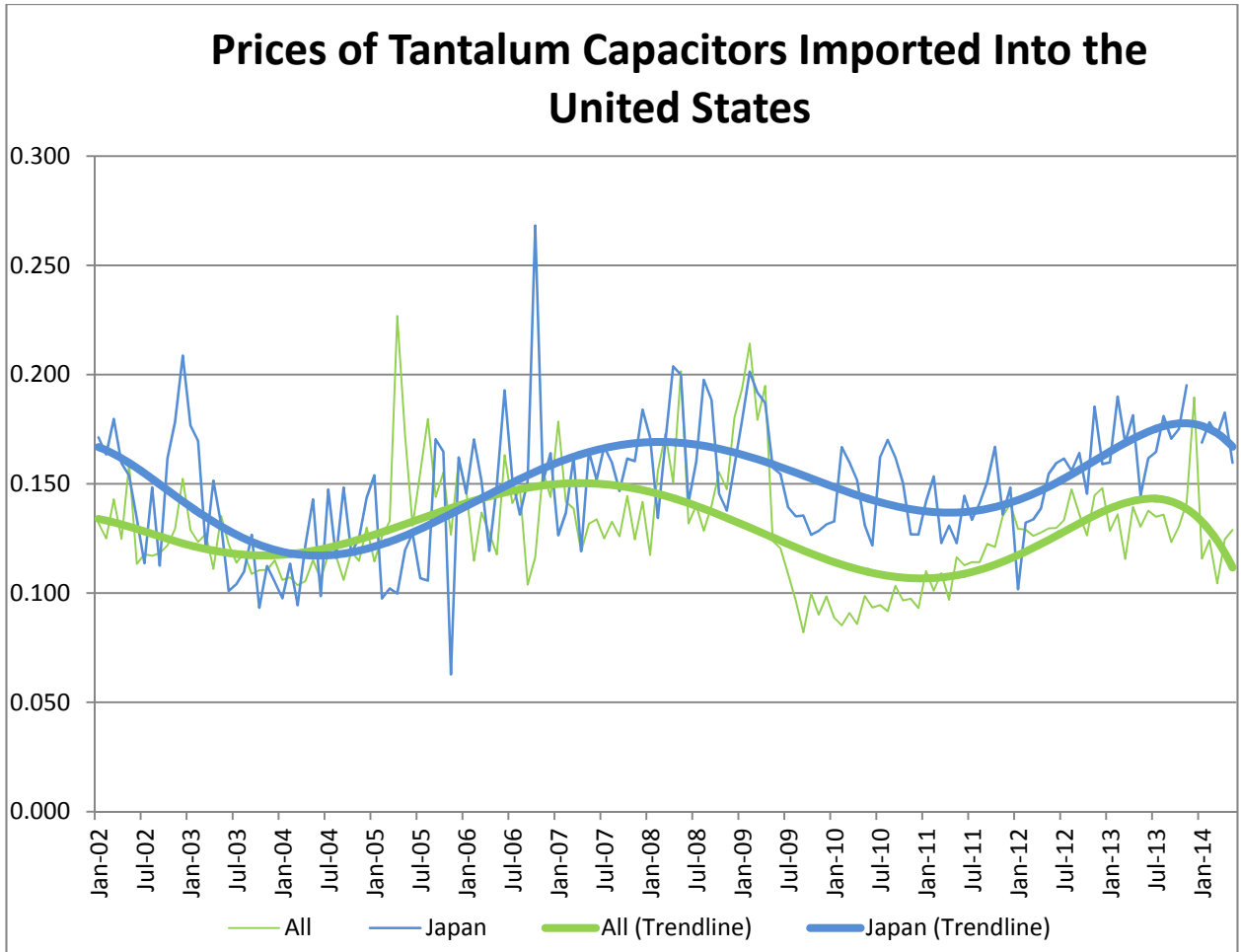
6 113. While Japanese and U.S. manufacturers had enjoyed a price premium over their
 7 Chinese counterparts, their ability to charge a premium began to falter in the wake of the 2007
 8 economic downturn. As a result, the Japanese and U.S. manufacturers sought to take advantage
 9 of their market position by agreeing among themselves to raise the prices of their capacitors.
 10 The chart below demonstrates the increasing premium Japanese manufacturers were able to
 11 charge for their aluminum capacitors as a result of their anticompetitive conspiracy. U.S.
 12 manufacturers were also able to charge similar premiums for their aluminum capacitors.



28 *Source: U.S. International Trade Commission*

1 114. The foregoing chart shows that beginning in approximately January, 2008,
2 following the recession, the price gap between Japanese sourced aluminum capacitors and
3 Chinese sourced capacitors significantly widened. This gap was the result of the collusion
4 alleged in this Complaint.

5 115. A similar price gap occurred with respect to the spread between Japanese sourced
6 tantalum capacitors and capacitors sourced from other foreign manufacturers, as illustrated in the
7 chart below:



23 *Source: U.S. International Trade Commission*

24
25 116. Because of the correlation in pricing among tantalum capacitors and film
26 capacitors, by no later than 2009, Defendants were also able to impose supra-competitive prices
27 for their film Capacitor Products.
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FRAUDULENT CONCEALMENT

117. Plaintiff and members of the Class did not discover, and could not have discovered through the exercise of reasonable diligence, the existence of the alleged conspiracy until approximately March 2014, when governmental investigations about the conspiracy were publicly revealed in the press.

118. Defendants engaged in a successful, illegal price-fixing conspiracy that, by its nature, was inherently self-concealing.

119. Plaintiff and the Class members could not have discovered the alleged contract, combination or conspiracy at an earlier date by the exercise of reasonable diligence, which they did exercise, because of the deceptive practices and techniques secretly employed by Defendants and their co-conspirators to avoid detection of, and to fraudulently conceal, their contract, combination or conspiracy. While holding themselves out as honest competitors, Defendants fraudulently concealed the contract, combination or conspiracy herein alleged by various means and methods, including, but not limited to, secret meetings and surreptitious communications.

120. At the same time, Defendants made public statements attributing price increases to market forces, including increased raw material costs and shortages caused by natural disasters, rather than attributing price increases to the effective implementation of their anticompetitive agreement.

121. The affirmative actions of the Defendants herein alleged were wrongfully concealed and carried out in a manner that precluded detection.

122. By virtue of the fraudulent concealment by Defendants and their co-conspirators, the running of any statute of limitations has been tolled and suspended with respect to any claims that Plaintiff and the Class members have as a result of the unlawful contract, combination or conspiracy alleged in this Complaint.

VIOLATIONS ALLEGED

123. Plaintiff incorporates by reference as if fully set forth herein the allegations contained in the preceding paragraphs of this Complaint.

1 124. Beginning by no later than January 2008, and continuing through the present,
2 Defendants have engaged in a continuing agreement, understanding, and conspiracy in restraint
3 of trade to artificially raise, fix, maintain, or stabilize the prices of Capacitor Products in the
4 United States.

5 125. Defendants engaged in anticompetitive activities, the purpose and effect of which
6 were to artificially raise, fix, maintain, or stabilize the price of Capacitor Products sold in the
7 United States. These activities included:

- 8 a. participating in meetings, conversations, and communications to discuss the
9 price and pricing terms for the sale of Capacitor Products in the United States;
- 10 b. agreeing during those meetings, conversations, and communications to charge
11 prices at specified levels and otherwise to fix, raise, maintain, or stabilize
12 prices of Capacitor Products sold in the United States;
- 13 c. discussing and deciding on price increases for Capacitor Products and the
14 timing of the price increases;
- 15 d. charging supra-competitive prices in accordance with their agreement for
16 Capacitor Products sold in the United States; and
- 17 e. taking numerous steps, as set forth above, to implement and maintain their
18 conspiracy.

19 126. Defendants and their co-conspirators engaged in the activities described above for
20 the purpose of effectuating the unlawful agreements described in this Complaint.

21 127. Throughout the Class Period, Plaintiff and the other Class members purchased
22 Capacitor Products from Defendants (or their subsidiaries or controlled affiliates) at supra-
23 competitive prices.

24 128. Defendants' contract, combination or conspiracy constitutes an unreasonable
25 restraint of interstate trade and commerce in violation of Section 1 of the Sherman Act, 15
26 U.S.C. § 1.

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ANTI-COMPETITIVE EFFECTS

129. As a direct and proximate result of Defendants’ unlawful conduct, Plaintiff and the other Class members have been injured in their business and property because they have paid more for Capacitor Products than they would have paid in the absence of the illegal conspiracy.

130. Defendants’ unlawful contract, combination, or conspiracy has had at least the following effects:

- a. price competition in the markets for Capacitor Products has been artificially restrained;
- b. prices for Capacitor Products sold by Defendants have been raised, fixed, maintained, or stabilized at supra-competitive levels; and
- c. purchasers of Capacitor Products from Defendants have been deprived of the benefit of free and open competition in the markets for Capacitor Products.

131. The foregoing allegations are likely to have evidentiary support after a reasonable opportunity for discovery.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff demands judgment against Defendants as follows:

- a. Declaring this action to be a proper class action pursuant to Rules 23(a) and (b)(3) of the Federal Rules of Civil Procedure on behalf of the Class as defined herein;
- b. That the contract, combination, or conspiracy, and the acts done in furtherance thereof by Defendants be adjudged to have violated Section 1 of the Sherman Act, 15 U.S.C. § 1.
- c. That judgment be entered for Plaintiff and Class members against Defendants for three times the amount of damages sustained by Plaintiff and the Class, as allowed by law.
- d. That Plaintiff and the Class recover pre-judgment and post-judgment interest, as permitted by law.

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- e. That Plaintiff and the Class recover their costs of the suit, including attorneys’ fees, as provided by law.
- f. For such other and further relief as is just and proper under the circumstances.

DEMAND FOR JURY TRIAL

Pursuant to Rule 38(b) of the Federal Rules of Civil Procedure, Plaintiff demands a jury trial as to all issues triable by a jury.

Dated: September 11, 2014 /s/ Joseph R. Saveri

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Attorneys for Plaintiff eIQ Energy, Inc.

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

elQ Energy Inc., Plaintiff, and on behalf of all others similarly situated

(b) County of Residence of First Listed Plaintiff Santa Clara (EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number) See Attachment A

DEFENDANTS

AVX Corporation; Elna Co., Ltd.; Elna America Inc.; Hitachi Chemical Company, Ltd.; Hitachi AIC Incorporated; Hitachi Chemical Co. America, Ltd.; Kemet Corporation; et al. (See Attachment B)

County of Residence of First Listed Defendant Greenville, S.C. (IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- 1 U.S. Government Plaintiff, 2 U.S. Government Defendant, 3 Federal Question (U.S. Government Not a Party), 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- Citizen of This State, Citizen of Another State, Citizen or Subject of a Foreign Country, PTF DEF, Incorporated or Principal Place of Business In This State, Incorporated and Principal Place of Business In Another State, Foreign Nation

IV. NATURE OF SUIT (Place an "X" in One Box Only)

Table with 5 columns: CONTRACT, REAL PROPERTY, TORTS, CIVIL RIGHTS, PRISONER PETITIONS, FORFEITURE/PENALTY, LABOR, IMMIGRATION, BANKRUPTCY, SOCIAL SECURITY, FEDERAL TAX SUITS, OTHER STATUTES. Includes various legal categories like Insurance, Airplane, Assault, etc.

V. ORIGIN (Place an "X" in One Box Only)

- 1 Original Proceeding, 2 Removed from State Court, 3 Remanded from Appellate Court, 4 Reinstated or Reopened, 5 Transferred from Another District, 6 Multidistrict Litigation

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity): Sherman Act, 15 U.S.C. §1 and Clayton Act, 15 U.S.C. § 15. Brief description of cause: Antitrust class action arising from a conspiracy to fix, raise, maintain or stabilize prices for capacitor products.

VII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P. DEMAND \$ CHECK YES only if demanded in complaint: JURY DEMAND: Yes No

VIII. RELATED CASE(S) IF ANY

(See instructions): JUDGE Hon. James Donato DOCKET NUMBER 3:14-cv-03264

DATE 09/11/2014 SIGNATURE OF ATTORNEY OF RECORD /s/ Joseph R. Saveri

IX. DIVISIONAL ASSIGNMENT (Civil L.R. 3-2)

(Place an "X" in One Box Only) SAN FRANCISCO/OAKLAND SAN JOSE EUREKA

INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS 44

Authority For Civil Cover Sheet

The JS 44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and service of pleading or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. The attorney filing a case should complete the form as follows:

- I.(a) Plaintiffs-Defendants.** Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use only the full name or standard abbreviations. If the plaintiff or defendant is an official within a government agency, identify first the agency and then the official, giving both name and title.
- (b) County of Residence.** For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing. (NOTE: In land condemnation cases, the county of residence of the "defendant" is the location of the tract of land involved.)
- (c) Attorneys.** Enter the firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section "(see attachment)".
- II. Jurisdiction.** The basis of jurisdiction is set forth under Rule 8(a), F.R.Cv.P., which requires that jurisdictions be shown in pleadings. Place an "X" in one of the boxes. If there is more than one basis of jurisdiction, precedence is given in the order shown below.
- United States plaintiff. (1) Jurisdiction based on 28 U.S.C. 1345 and 1348. Suits by agencies and officers of the United States are included here.
- United States defendant. (2) When the plaintiff is suing the United States, its officers or agencies, place an "X" in this box.
- Federal question. (3) This refers to suits under 28 U.S.C. 1331, where jurisdiction arises under the Constitution of the United States, an amendment to the Constitution, an act of Congress or a treaty of the United States. In cases where the U.S. is a party, the U.S. plaintiff or defendant code takes precedence, and box 1 or 2 should be marked.
- Diversity of citizenship. (4) This refers to suits under 28 U.S.C. 1332, where parties are citizens of different states. When Box 4 is checked, the citizenship of the different parties must be checked. (See Section III below; **NOTE: federal question actions take precedence over diversity cases.**)
- III. Residence (citizenship) of Principal Parties.** This section of the JS 44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.
- IV. Nature of Suit.** Place an "X" in the appropriate box. If the nature of suit cannot be determined, be sure the cause of action, in Section VI below, is sufficient to enable the deputy clerk or the statistical clerk(s) in the Administrative Office to determine the nature of suit. If the cause fits more than one nature of suit, select the most definitive.
- V. Origin.** Place an "X" in one of the six boxes.
- Original Proceedings. (1) Cases which originate in the United States district courts.
- Removed from State Court. (2) Proceedings initiated in state courts may be removed to the district courts under Title 28 U.S.C., Section 1441. When the petition for removal is granted, check this box.
- Remanded from Appellate Court. (3) Check this box for cases remanded to the district court for further action. Use the date of remand as the filing date.
- Reinstated or Reopened. (4) Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.
- Transferred from Another District. (5) For cases transferred under Title 28 U.S.C. Section 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.
- Multidistrict Litigation. (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C. Section 1407. When this box is checked, do not check (5) above.
- VI. Cause of Action.** Report the civil statute directly related to the cause of action and give a brief description of the cause. **Do not cite jurisdictional statutes unless diversity.** Example: U.S. Civil Statute: 47 USC 553 Brief Description: Unauthorized reception of cable service
- VII. Requested in Complaint.** Class Action. Place an "X" in this box if you are filing a class action under Rule 23, F.R.Cv.P.
- Demand. In this space enter the actual dollar amount being demanded or indicate other demand, such as a preliminary injunction.
- Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded.
- VIII. Related Cases.** This section of the JS 44 is used to reference related pending cases, if any. If there are related pending cases, insert the docket numbers and the corresponding judge names for such cases.
- Date and Attorney Signature.** Date and sign the civil cover sheet.

ATTACHMENT A

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3. ELNA AMERICA, INC.
Address: 970 W. 190th Street, Suite 920, Torrance, California 90502
4. HITACHI CHEMICAL COMPANY, LTD.
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19. SANYO ELECTRIC CO., LTD.
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21. ROHM COMPANY LIMITED
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23. RUBYCON CORPORATION
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25. TDK CORPORATION
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26. TDK-EPC CORPORATION
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27. TDK U.S.A. CORPORATION
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