

1 Mario N. Alioto (56433)  
2 Lauren C. Capurro (241151)  
3 TRUMP, ALIOTO, TRUMP & PRESCOTT LLP  
4 2001 Union Street, Suite 482  
5 San Francisco, CA 94123  
6 Telephone: 415-563-7200  
7 Facsimile: 415- 346-0679  
8 Email: [malioto@tatp.com](mailto:malioto@tatp.com)  
9 [lauren russell@tatp.com](mailto:lauren russell@tatp.com)

10 ***Lead Counsel for the***  
11 ***Indirect Purchaser Plaintiffs***

12 **UNITED STATES DISTRICT COURT**  
13 **NORTHERN DISTRICT OF CALIFORNIA**  
14 **OAKLAND DIVISION**

15 IN RE: CATHODE RAY TUBE (CRT)  
16 ANTITRUST LITIGATION

17 Master File No. 4:07-cv-05944-JST  
18 Case No. 4:17-cv-04067-JST

19 MDL No. 1917

20 This Document Relates to:

21 *Luscher, et al. v. Mitsubishi Electric Corp.*,  
22 No. 4:17-cv-04067-JST

23 **INDIRECT PURCHASER PLAINTIFFS’**  
24 **NOTICE OF MOTION AND MOTION FOR**  
25 **FINAL APPROVAL OF CLASS ACTION**  
26 **SETTLEMENT WITH DEFENDANT**  
27 **MITSUBISHI ELECTRIC CORPORATION;**  
28 **MEMORANDUM OF POINTS AND**  
**AUTHORITIES IN SUPPORT THEREOF**

Hearing Date: June 1, 2023

Time: 2:00 p.m.

Courtroom: 5, 2nd Floor (via Zoom)

Judge: Honorable Jon S. Tigar

**TABLE OF CONTENTS**

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

NOTICE OF MOTION AND MOTION.....i

STATEMENT OF ISSUE TO BE DECIDED.....iii

MEMORANDUM OF POINTS AND AUTHORITIES.....1

I. INTRODUCTION .....1

II. FACTUAL AND PROCEDURAL HISTORY .....2

    A. Factual History.....2

    B. The Settlement Agreement.....3

III. ARGUMENT .....4

    A. The Class Action Settlement Approval Procedure.....4

    B. Legal Standard For Final Approval of Class Action Settlements.....4

    C. The Notice Program Comports With Due Process.....6

    D. The Court Should Finally Certify The Settlement Class.....8

        1. The Settlement Class Satisfies The Requirements of Rule 23(a).....8

        2. The Settlement Class Satisfies The Requirements of Rule 23(b)(3).....10

        3. The Court Should Appoint Trump, Alioto, Trump & Prescott, LLP As  
Settlement Class Counsel For Final Approval.....11

    E. The Court Should Grant Final Approval of the Proposed Settlement.....12

        1. The Class Has Been Adequately Represented.....12

        2. The Proposed Settlement Is The Product of Arm’s Length Negotiations.....13

        3. The Proposed Settlement Provides Substantial Relief For The Class.....14

            a. The Costs, Risks, And Delay of Trial And Appeal Were  
Significant.....15

            b. The Plan of Distribution Is Fair, Adequate And Reasonable.....17

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

- c. IPP Counsel’s Unopposed Attorneys’ Fee Request is Reasonable.....18
- d. Other Related Agreements.....22
- 4. The Settlement Treats Class Members Equitably.....22
- 5. There Are No Objections To The Settlement Or The Attorney Fee Request.....23
- 6. The Settlement Satisfies This District’s Procedural Guidance.....23
  - a. The Number of Undeliverable Class Notices And Claim Packets.....24
  - b. The Number Of Valid Claims To Date.....24
  - c. The Number Of Opt Outs.....24
  - d. The Number Of Objections Or Comments On the Settlement.....25

IV. CONCLUSION .....25

**TABLE OF AUTHORITIES**

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

<b>Federal Cases</b>	<b>Page(s)</b>
<i>Amchem Prods. v. Windsor</i> , 521 U.S. 591 (1997) .....	8, 10, 11
<i>Amgen Inc. v. Conn. Ret. Plans &amp; Tr. Funds</i> , 568 U.S. 455 (2013) .....	10
<i>Animal Sci. Prods. v. China Minmetals Corp.</i> , 654 F.3d 462 (3d Cir. 2011) .....	17
<i>In re AT&amp;T Mobility Wireless Data Servs. Sales Litig.</i> , 270 F.R.D. 330 (N.D. Ill. 2010) .....	18
<i>Bellinghausen v. Tractor Supply Co.</i> , 303 F.R.D. 611 (N.D. Cal. 2014) .....	9
<i>In re Bluetooth Headset Prods. Liab. Litig.</i> , 654 F. 3d 935 (9th Cir. 2011) .....	5
<i>Castillo v. Bank of Am., NA</i> , 980 F.3d 723 (9th Cir. 2020) .....	10
<i>In re Catfish Antitrust Litig.</i> , 826 F. Supp. 1019 (N.D. Miss. 1993) .....	9
<i>In re Cathode Ray Tube Antitrust Litig.</i> , 308 F.R.D. 606 (N.D. Cal. 2015) .....	9
<i>In re Cathode Ray Tube Antitrust Litig.</i> , No. 07-cv-5944-JST, 2013 WL 5429718 (N.D. Cal. June 20, 2013) .....	11
<i>In re Cathode Ray Tube Antitrust Litig.</i> , No. 07-cv-5944-JST, 2013 WL 5391159 (N.D. Cal. Sept. 24, 2013) .....	8, 10, 11
<i>In re Cathode Ray Tube Antitrust Litig.</i> , No. 07-cv-5944-JST, 2016 WL 3648478 (N.D. Cal. July 7, 2016) .....	11, 15, 17
<i>Churchill Vill., L.L.C. v. GE</i> , 361 F.3d 566 (9th Cir. 2004) .....	4, 6, 23
<i>Ellis v. Costco Wholesale Corp.</i> , 657 F.3d 970 (9th Cir. 2011) .....	9
<i>Espinosa v. Ahearn (In re Hyundai &amp; Kia Fuel Econ. Litig.)</i> , 926 F.3d 539 (9th Cir. 2019) (en banc) .....	6, 8, 19

1 *In re Flash Memory Antitrust Litig.*,  
 No. C 07-0086 SBA, 2010 WL 2332081 (N.D. Cal. June 9, 2010) ..... 16

2

3 *In re Graphics Processing Units Antitrust Litig.*,  
 253 F.R.D. 478 (N.D. Cal. 2008) ..... 16

4 *Hanlon v. Chrysler Corp.*,  
 150 F.3d 1011 (9th Cir. 1998) ..... 4, 8, 10

5

6 *Hefler v. Wells Fargo & Co.*,  
 No. 16-cv-05479-JST, 2018 WL 4207245 (N.D. Cal. Sept. 4, 2018) ..... 17-18

7

8 *Hefler v. Wells Fargo & Co.*,  
 No. 16-cv-05479-JST, 2018 WL 6619983 (N.D. Cal. Dec. 18, 2018) ..... 13

9 *In re Lithium Ion Batteries Antitrust Litig.*,  
 No. 13-MD-2420 YGR, 2017 WL 1391491 (N.D. Cal. Apr. 12, 2017) ..... 16

10

11 *In re Lithium Ion Batteries Antitrust Litig.*, No. 4:13-md-02420-YGR (MDL),  
 2019 U.S. Dist. LEXIS 139327 (N.D. Cal. Aug. 16, 2019) ..... 16

12

13 *Lotes Co. v. Hon Hai Precision Indus. Co.*,  
 753 F.3d 395 (2d Cir. 2014) ..... 16

14 *Mazza v. Am. Honda Motor Co.*,  
 666 F.3d 581 (9th Cir. 2012) ..... 10

15

16 *In re Mego Fin. Corp. Sec. Litig.*,  
 213 F. 3d 454 (9th Cir. 2000) ..... 5

17 *Minn-Chem, Inc. v. Agrium Inc.*,  
 683 F.3d 845 (7th Cir. 2012) ..... 16

18

19 *Motorola Mobility L.L.C. v. AU Optronics Corp.*,  
 775 F.3d 816 (7th Cir. 2014) ..... 16

20

21 *In re NASDAQ Mkt.-Makers Antitrust Litig.*,  
 187 F.R.D. 465 (S.D.N.Y. 1998) ..... 17

22 *Officers for Just. v. Civil Serv. Com.*,  
 688 F.2d 615 (9th Cir. 1982) ..... 6

23

24 *In re Omnivision Techs., Inc.*,  
 No. C-04-2297-SC, 2007 WL 4293467 (N.D. Cal. Dec. 6, 2007) ..... 23

25 *In re Online DVD-Rental Antitrust Litig.*,  
 779 F.3d 934 (9th Cir. 2015) ..... 1, 4, 23

26

27 *Rodriguez v. W. Publ’g Corp.*,  
 563 F.3d 948 (9th Cir. 2009) ..... 14

28

1 *Silber v. Mabon*,  
 2 18 F.3d 1449 (9th Cir. 1994) ..... 6

3 *In re Tableware Antitrust Litig.*,  
 4 484 F. Supp. 2d 1078 (N.D. Cal. 2007) ..... 6

5 *Thomas & Thomas Rodmakers, Inc. v. Newport Adhesives & Composites, Inc.*,  
 6 209 F.R.D. 159 (C.D. Cal. 2002) ..... 11

7 *Theodore Broomfield v. Craft Brew All., Inc.*,  
 8 No. 17-cv-01027-BLF, 2020 U.S. Dist. LEXIS 74801 (N.D. Cal. Feb. 5, 2020) ..... 5

9 *U.S. v. Hsiung*,  
 10 778 F.3d 738 (9th Cir. 2015) ..... 16

11 *Viceral v. Mistras Grp., Inc.*,  
 12 2016 WL 5907869, No. 15-cv-02198-EMC (N.D. Cal. Oct. 11, 2016) ..... 13

13 *Wal-Mart Stores, Inc. v. Dukes*,  
 14 564 U.S. 338 (2011) ..... 9

15 *Williams v. MGM-Pathe Commc’ns Co.*,  
 16 129 F.3d 1026 (9th Cir. 1997) ..... 19

17 **Federal Statutes**

18 6 U.S.C. § 15 ..... 16

19 **Rules**

20 Fed. R. Civ. P. 23 ..... *passim*

21 Fed. R. Civ. P. 54 ..... *i*

22 **Other**

23 *Judges’ Class Action Notice and Claims Process Checklist and Plain Language Guide*  
 24 Fed. Judicial Center (2010) ..... 6

25 *Manual for Complex Litigation, 4th ed.*  
 26 (2004) ..... 4

27 4 Newberg on Class Actions (5th ed. 2015) ..... 4

28

**NOTICE OF MOTION AND MOTION**

**TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:**

PLEASE TAKE NOTICE that, on June 1, 2022 at 2:00 p.m., before the Honorable Jon S. Tigar, United States District Court for the Northern District of California, 1301 Clay Street, Oakland, California, Courtroom 6, 2nd Floor, San Francisco, California, via Zoom, the Indirect Purchaser Plaintiffs (“IPPs”) will move the Court, pursuant to Fed. R. Civ. 23 (e), for entry of an Order:

1. Granting final class certification of the Settlement Class;
2. Granting final approval of the proposed class action settlement (“Settlement”) with Defendant Mitsubishi Electric Corporation (“Mitsubishi Electric”);
3. Granting final approval of IPPs’ plan of distribution for the Mitsubishi Electric Settlement (“Plan of Distribution”) among the eligible certified settlement class members (“Class Members”); and
4. Dismissing with prejudice IPPs’ claims against Mitsubishi Electric from the IPP MDL actions (“Actions”) and entering a Final Judgment, with findings under Fed. R. Civ. P. 54(b) as to Mitsubishi Electric.

The Court should grant this motion because (a) the Settlement is fair, reasonable, and adequate and satisfies Rule 23(e); (b) the Settlement is the product of arm’s-length negotiations; (c) the Court-approved notice program satisfies Due Process and Rule 23; and (d) the Plan of Distribution is fair, reasonable, and adequate.

This motion is based on this Notice of Motion and Motion; the supporting Memorandum of Points and Authorities; the accompanying Declarations of Mario N. Alioto and Joseph Fisher in support of the Motion; the Court’s October 31, 2022 Order Granting Preliminary Approval of Class Action Settlement with Defendant Mitsubishi Electric Corporation, ECF No. 6104; the [Proposed] Orders submitted herewith; any further papers filed in support of this Motion; the argument of counsel; and all pleadings and records on file in this matter.

1 Pursuant to the Court's Order Granting Preliminary Approval of Class Action Settlement  
2 With Defendant Mitsubishi Electric Corporation, ECF No. 6104 ¶12(a), the Fairness Hearing will be  
3 conducted via Zoom, with the link available at <https://cand.uscourts.gov/judges/tigar-jon-s-jst/>.

4 Dated: May 11, 2023

Respectfully submitted,

5 /s/ Mario N. Alioto

6 Mario N. Alioto (56433)

7 [malioto@tatp.com](mailto:malioto@tatp.com)

8 Lauren C. Capurro (241151)

9 [lauren russell@tatp.com](mailto:lauren russell@tatp.com)

10 TRUMP, ALIOTO, TRUMP & PRESCOTT LLP

2001 Union Street, Suite 482

San Francisco, CA 94123

Telephone: 415-563-7200

11 Facsimile: 415-346-0679

12 *Lead Counsel for the Indirect Purchaser*  
13 *Plaintiffs*



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

**STATEMENT OF ISSUE TO BE DECIDED**

Whether this Court should certify the Proposed Settlement Class and grant final approval of the unopposed Settlement with Mitsubishi Electric and the Plan of Distribution given that it is fair, reasonable, and adequate, satisfies all applicable requirements and, after proper notice to the proposed settlement class (“Settlement Class”) in accordance with Due Process and Rule 23, no Class Member has objected.

**MEMORANDUM OF POINTS AND AUTHORITIES****I. INTRODUCTION**

Pursuant to Rule 23(e) and the Court’s Order granting preliminary settlement class certification, preliminary approval of the Settlement, and approval of the notice program to potential Class Members (the “Notice Program”), IPPs submit this memorandum in support of final approval of the Settlement with Mitsubishi Electric Corporation (“Mitsubishi Electric”). This memorandum also further supports IPPs’ unopposed Second Motion for an Award of Attorneys’ Fees, Reimbursement of Expenses, and Incentive Awards for Class Representatives, ECF No. 6177.

The Settlement is “fair, reasonable, and adequate,” *In re Online DVD-Rental Antitrust Litig.*, 779 F.3d 934, 945 (9th Cir. 2015), and represents an excellent recovery for the Settlement Class given the amount of Mitsubishi Electric’s CRT commerce involved as compared to the overall commerce at issue in the Action, and the substantial risks and delay IPPs would have faced if this case had proceeded to trial. The Settlement provides for a settlement fund of \$33,000,000 (“Settlement Fund”). Together with the nine previously-approved settlements (the “Prior Settlements”), the total settlement amount recovered for indirect purchasers of Cathode Ray Tubes (“CRTs”) totals Five Hundred Eighty Million Seven Hundred Fifty Thousand (\$580,750,000)—one of the largest recoveries ever on behalf of indirect purchasers. Consistent with the Prior Settlements, there are no coupons or vouchers and there will be no reversion or refund to Mitsubishi Electric. No *cy pres* distribution is contemplated.

The Settlement also includes a substantial cooperation requirement that will assist IPPs in the prosecution of their claims against the Irico Defendants. The Settlement provides considerable relief for the Settlement Class, whose members would otherwise face uncertainty and additional delay in this Action. Despite the strength of IPPs’ claims, the class continues to face litigation risk in the form of summary judgment motions, trial, and potential appeals.

In addition to the excellent recovery this Settlement represents, the reaction of the Settlement Class has been overwhelmingly and uniformly positive. Despite the large size of the Settlement Class and a comprehensive, Court-approved Notice Program that included direct notice to all Prior

1 Claimants<sup>1</sup>—many of which are sophisticated multinational corporations represented by counsel—not  
 2 a single Class Member has objected to the Settlement. Likewise, no one has objected to IPPs’ requested  
 3 attorneys’ fee award, reimbursement of expenses, or the requested service awards for the Class  
 4 Representatives.<sup>2</sup> In addition, only one individual class member opted out of the Settlement Class.<sup>3</sup>  
 5 The lack of objections and opt outs is a strong indication that the Settlement and the requested attorney  
 6 fee are fair, reasonable, adequate, and warrant final approval.

## 7 **II. FACTUAL AND PROCEDURAL HISTORY**

### 8 **A. Factual History**

9 For a complete factual history regarding this Action, IPPs refer to the Court to the Declaration  
 10 of Mario N. Alioto in Support of IPPs’ Second Motion for Attorneys’ Fees, Expenses, and Service  
 11 Awards (ECF No. 6177-1) ¶¶ 2-56 (detailing IPPs’ efforts in this Action),<sup>4</sup> submitted in connection  
 12 with these final approval proceedings. This Action arises from alleged conspiracies by Defendants to  
 13 fix, raise, maintain, and/or stabilize the price of CRTs sold in the United States. All parties have  
 14 heavily litigated this Action, as evidenced by the more than 6,000 docket entries. The Settlement is  
 15 therefore the result of a fair evaluation of the merits of the Action after over fifteen years of extensive  
 16 litigation and discovery, as well as extensive arm’s-length negotiations between IPP Counsel and  
 17 Mitsubishi Electric’s counsel. *See* Alioto Fee Decl. ¶¶ 18-24.

18 On October 31, 2022, this Court entered an Order preliminarily certifying the Settlement Class,  
 19 preliminarily approving the Settlement and the Notice Program, and setting a deadline by which class  
 20 members could opt-out or object. ECF No. 6104 (“Preliminary Approval Order”). Notice was  
 21

---

22  
 23 <sup>1</sup> “Prior Claimants” includes all class members who submitted valid claims in the Prior Settlements.

24 <sup>2</sup> In accordance with the Preliminary Approval Order, ¶ 22, ECF No. 6104, IPPs’ Second Motion for  
 25 Attorneys’ Fees, Reimbursement of Expenses, and Service Awards, ECF No. 6177, was posted on the  
 website, [www.CRTClaims.com](http://www.CRTClaims.com), on March 10, 2023, the same day it was filed. *See* Decl. of Joseph M.  
 Fisher Re: Mitsubishi Electric Notice Program and Claims Administration ¶ 7 (“Fisher Decl.”).

26 <sup>3</sup> *See* Fisher Decl. ¶ 25, Ex. T.

27 <sup>4</sup> That Alioto Declaration is referred to herein as the “Alioto Fee Decl.” IPPs submit herewith the  
 28 separate Decl. of Mario N. Alioto ISO Motion For Final Approval of this Settlement (“Alioto Decl.”).

1 thereafter published in accordance with the Preliminary Approval Order. Publication consisted of the  
 2 following actions:

- 3 • Publication on the CRT settlement website, [www.CRTClaims.com](http://www.CRTClaims.com), which has received  
 4 more than 1,228,574 unique visitors since February 8, 2023.
- 5 • Digital notice via paid advertisements on Google, Facebook, and other popular  
 6 websites;
- 7 • Print publication notice in magazines and newspapers with collective readership of  
 8 more than 43 million;
- 9 • English and Spanish press releases carried by 457 domestic and foreign websites with  
 10 a total potential audience of approximately 203,600,000;
- 11 • Television ads on various popular cable TV networks; and
- 12 • Direct mailed/mailed notice to almost thirteen million unique addresses, including all  
 13 Prior Claimants, many of which are large, corporate end-users of CRTs in the 31 States;

14 Collectively, these efforts reached an estimated 87% of class members with an estimated frequency of  
 15 3.02, which is well-within the acceptable range. *See generally* Fisher Decl. ¶¶ 4-24. Despite the  
 16 breadth of the Notice Program, only one Class Member has opted out of the Settlement Class (*id.* at  
 17 Ex. T), and even more significantly, no Class Member has objected.

### 18 **B. The Settlement Agreement**

19 The terms of the Settlement are described in detail in IPPs’ preliminary approval motion (ECF  
 20 No. 6053) and the Court’s Preliminary Approval Order (ECF No. 6104), incorporated herein by  
 21 reference. To summarize, in exchange for \$33,000,000 from Mitsubishi Electric, and substantial  
 22 cooperation in the further prosecution of the Action against the non-settling Defendants, the Settlement  
 23 Class releases claims under the laws of 30 States and the District of Columbia for alleged price-fixing  
 24 of CRTs sold indirectly to IPPs. ECF No. 6053-1 ¶¶ 20-28, Ex. A. The Court found that it “would  
 25 likely be able to approve the proposed Settlement Agreement under Fed. R. Civ. P. 23(e)(2)” and it  
 26 would “likely be able to certify the Settlement Class[.]” ECF No. 6104. Thus, it directed IPPs to  
 27 implement the Notice Program.

1 **III. ARGUMENT**

2 **A. The Class Action Settlement Approval Procedure**

3 “The claims, issues, or defenses of a certified class may be settled . . . only with the court’s  
4 approval.” Fed. R. Civ. P. 23(e). The settlement approval procedure includes three steps: (1)  
5 conditional certification of a settlement class and preliminary approval of the proposed settlement; (2)  
6 dissemination of notice to affected class members; and (3) a formal fairness or final approval hearing,  
7 at which class members may be heard regarding the settlement, and at which counsel may present  
8 argument concerning the fairness, adequacy, and reasonableness of the settlements. *See Manual for*  
9 *Complex Litigation, 4th ed.* § 23.63 (2004); 4 Newberg on Class Actions § 13:1 *et seq.* (5th ed. 2015)  
10 (“Newberg”) (describing class action settlement procedure). This procedure safeguards class  
11 members’ Due Process rights and enables the Court to fulfill its role as the guardian of class interests.  
12 *See id.* §§ 13:39–40.

13 The Court completed the first step in the settlement approval procedure when it granted  
14 preliminary approval to the Proposed Settlement. As discussed below, the second step in the process  
15 has been completed as well: The Court-approved Notice Program was fully implemented. IPPs now  
16 request that the Court take the final steps of holding a formal Fairness Hearing, granting final approval  
17 of the Proposed Settlement, and entering Final Judgment.

18 **B. Legal Standard For Final Approval Of Class Action Settlements**

19 Fed. R. Civ. P. 23(e) “requires the district court to determine whether a proposed settlement is  
20 fundamentally fair, adequate, and reasonable.” *Hanlon v. Chrysler Corp.*, 150 F.3d 1011, 1026 (9th  
21 Cir. 1998). To assess a settlement proposal, the Ninth Circuit uses a multi-factor balancing test:

22 (1) the strength of the plaintiff’s case; (2) the risk, expense, complexity, and  
23 likely duration of further litigation; (3) the risk of maintaining class action status  
24 throughout the trial; (4) the amount offered in settlement; (5) the extent of  
25 discovery completed and the stage of the proceedings; (6) the experience and  
26 view of counsel; (7) the presence of a governmental participant; and (8) the  
27 reaction of the class members of the proposed settlement.

28 *In re Online DVD*, 779 F.3d at 944 (quoting *Churchill Vill., L.L.C. v. GE*, 361 F.3d 566, 575 (9th Cir.  
2004)).

1           “Recent amendments to Rule 23 require the district court to consider a similar list of factors  
2 before approving a settlement.” ECF No. 5786 (“2020 Final Approval Order”) at 13-14 (quoting  
3 *Theodore Broomfield v. Craft Brew All., Inc.*, No. 17-cv-01027-BLF, 2020 U.S. Dist. LEXIS 74801,  
4 at \*16-17 (N.D. Cal. Feb. 5, 2020) “These factors include whether: (1) ‘the class representatives and  
5 class counsel have adequately represented the class;’ (2) ‘the proposal was negotiated at arm’s length;’  
6 (3) ‘the relief provided for the class is adequate;’ and (4) ‘the proposal treats class members equitably  
7 relative to each other.’” *Id.* at 14 (quoting Fed. R. Civ. P. 23(e)(2)). The “specific factors added to  
8 Rule 23(e)(2) are not intended to ‘displace’ any factors currently used by the courts, but instead aim  
9 to focus the court and attorneys on ‘the core concerns of procedure and substance that should guide  
10 the decision whether to approve the proposal.’” *Id.* (quoting Advisory Committee Notes to 2018  
11 Amendments, Fed. R. Civ. P. 23(e)(2)). Thus, in analyzing final approval of the Prior Settlements in  
12 its 2020 Final Approval Order, this Court applied the framework set forth in Rule 23 with guidance  
13 from the Ninth Circuit’s precedent. *Id.*

14           Settlements occurring before formal class certification “require a higher standard of fairness.”  
15 *In re Mego Fin. Corp. Sec. Litig.*, 213 F. 3d 454, 458 (9th Cir. 2000). In reviewing such settlements,  
16 the court must ensure that “the settlement is not the product of collusion among the negotiating  
17 parties.” *In re Bluetooth Headset Prods. Liab. Litig.*, 654 F. 3d 935, 946-47 (9th Cir. 2011).

18           Finally, this District’s Procedural Guidance for Class Action Settlements (“Procedural  
19 Guidance”) provides that “[t]he motion for final approval briefing should include information about  
20 the number of undeliverable class notices and claim packets, the number of class members who  
21 submitted valid claims, the number of class members who opted out, and the number of class members  
22 who objected to or commented on the settlement. In addition, the motion for final approval should  
23 respond to any objections.”<sup>5</sup>

24  
25  
26 <sup>5</sup> [Procedural Guidance for Class Action Settlements | United States District Court, Northern District of California \(uscourts.gov\)](#). The Procedural Guidance also includes requirements for class counsel’s  
27 attorneys’ fee motion and requests for service awards for class representatives. *Id.* In compliance with  
28 the Procedural Guidance, IPPs separately filed their motion for attorneys’ fees, which included a  
request for service awards, thirty-five (35) days before the objection deadline. *See* ECF No. 6177.

1           **C.     The Notice Program Comports With Due Process**

2           A court must “direct notice [of a proposed class settlement] in a reasonable manner to all class  
3 members who would be bound by the proposal.” Fed. R. Civ. P. 23(e)(1). “The class must be notified  
4 of a proposed settlement in a manner that does not systematically leave any group without notice.”  
5 *Officers for Just. v. Civil Serv. Com.*, 688 F.2d 615, 624 (9th Cir. 1982) (citation omitted). “Notice is  
6 satisfactory if it ‘generally describes the terms of the settlement in sufficient detail to alert those with  
7 adverse viewpoints to investigate and to come forward and be heard.’” *Espinosa v. Ahearn (In re*  
8 *Hyundai & Kia Fuel Econ. Litig.)*, 926 F.3d 539, 567 (9th Cir. 2019) (en banc) (quoting *Churchill*  
9 *Vill., L.L.C. v. GE*, 361 F.3d at 575). This standard does not require perfection, but rather reasonable  
10 efforts to reach as many class members as possible through either individual or publication means.  
11 *See, e.g.*, Federal Judicial Center, *Judges’ Class Action Notice and Claims Process Checklist and Plain*  
12 *Language Guide* (2010) (“FJC Checklist”), at 3 (“It is reasonable to reach between 70-95%”); *Silber*  
13 *v. Mabon*, 18 F.3d 1449, 1454 (9th Cir. 1994). Publication notice is an acceptable method of providing  
14 notice where the identity of specific class members is not reasonably available. *See In re Tableware*  
15 *Antitrust Litig.*, 484 F. Supp. 2d 1078, 1080 (N.D. Cal. 2007).

16           The Court has held that the content of the Detailed Notice and the Summary Notice (the  
17 “Notices”), as well as the Notice Program proposed by IPP Counsel, “meet the requirements of Rule  
18 23 and due process, and are the best notice practicable under the circumstances and shall constitute  
19 due and sufficient notice to all persons entitled thereto.” Preliminary Approval Order, ¶ 13.

20           The Court-appointed Settlement Administrator, The Notice Company (*id.* ¶ 11), implemented  
21 the Notice Plan in accordance with the Preliminary Approval Order. Fisher Decl. ¶ 4. Pursuant to that  
22 Order, ¶¶ 12-13, indirect purchasers of CRTs were notified of the Settlement through a carefully  
23 designed combination of (1) a case-specific website, [www.CRTClaims.com](http://www.CRTClaims.com), which has received more  
24 than 1,228,574 unique visitors since notice was published on February 8, 2023, (2) extensive  
25 publication notice in print and online, including various popular social media websites and  
26 eMagazines, (3) digital banner ads resulting in more than 471,570,000 impressions, (4) an earned  
27 media plan, (5) press releases in English and Spanish carried by 457 domestic and foreign websites

1 with a total potential audience of 203,600,000, (6) television ads on various popular cable TV  
2 networks, (7) direct mail notice to 22,243 individual and corporate addresses, including Prior  
3 Claimants, and including many of the largest institutional end-users of CRTs, many of whom are  
4 represented by counsel who also received direct notice of the Proposed Settlement via ECF, (8) direct  
5 email notice to almost thirteen million email addresses, including Prior Claimants, and (9) a case-  
6 specific toll-free number. *Id.* ¶¶ 4-24. The notice reached at least 87% of adults aged 35+ who owned  
7 TVs or computers during the relevant period with an estimated frequency of 3.02 times. *Id.* ¶¶ 4, 37.  
8 This reach and frequency for the notice is well within the acceptable range.

9       Moreover, the reach and frequency of the notice to Class Members was effectively greater  
10 since the calculated numbers ignore so-called “organic” notices that cannot be directly traced to a paid  
11 activity. For example, a search result showing the CRT Settlement Website as a paid advertisement  
12 would be included in the calculated reach; but a search result showing the CRT Settlement Website as  
13 an unpaid search result is not included. Both results effectively reach the viewer, but only the paid  
14 search result is counted. Likewise, none of the direct notices by mail or email are included in the reach  
15 and frequency numbers because they only measure paid media-outreach programs. Fisher Decl. ¶ 37.

16       The Notices also advised Class Members that IPPs intended to apply for attorneys’ fees in the  
17 amount of one-third of the Settlement Fund (\$11,000,000), notice costs, litigation expenses, and  
18 \$2,000 incentive awards for the each of the Class Representatives. *Id.*, Ex. D (Detailed Notice) at 10-  
19 11; Alioto Decl. ¶ 2. The Notices further advised how to access the fee petition. *Id.* IPPs posted the  
20 fee petition (ECF No. 6177) to the settlement website, www.CRTclaims.com, on March 10, 2023—  
21 the same day it was filed, and 35 days before the deadline to object. *Id.* ¶ 3; Fisher Decl. ¶ 7. To date,  
22 no Class Member has objected to IPP Counsel’s attorney fee request, the reimbursement of \$13,122.10  
23 in expenses, or the \$2,000 incentive awards for each Class Representative. Alioto Decl. ¶ 4.

24       The Notice Program comports with due process and was the best notice practicable under the  
25 circumstances. Fisher Decl. ¶¶ 35-37.

26 //

27 //

28



1           **D.       The Court Should Finally Certify The Settlement Class**

2           In its Preliminary Approval Order, the Court analyzed the requirements for class certification  
3 of a Settlement Class under Fed. R. Civ. P. 23(a) and (b) and found that “it is likely to be able to certify  
4 the Settlement Class.” Preliminary Approval Order, ¶¶ 2-9. The grounds for certification articulated  
5 in the Preliminary Approval Order are unchanged, and final certification is warranted. In 2020, the  
6 Court finally approved a similarly defined Settlement Class for IPPs’ Prior Settlements (ECF No.  
7 5786), and in 2013, certified 22 state classes which are defined similarly to the Settlement Class  
8 proposed here. *See In re Cathode Ray Tube (CRT) Antitrust Litig.*, No. 07-cv-5944-JST, 2013 WL  
9 5391159 (N.D. Cal. Sept. 24, 2013).

10           The Court may certify a settlement class where plaintiffs demonstrate that the proposed class  
11 and proposed class representatives meet the four prerequisites listed in Fed. R. Civ. P. 23(a)—  
12 numerosity, commonality, typicality, and adequacy of representation—and one of the three  
13 requirements of Rule 23(b). *Hanlon*, 150 F.3d at 1019. Class certification under Rule 23(b)(3) requires  
14 a showing that “questions of law and fact common to the members of the class predominate over any  
15 questions affecting only individual members, and that a class action is superior to other available  
16 methods for the fair and efficient adjudication of the controversy.” Fed. R. Civ. P. 23(b)(3). In  
17 certifying a settlement class, the Court is not required to determine whether the action, if tried, would  
18 present intractable management problems, “for the proposal is that there be no trial.” *Amchem Prods.*  
19 *v. Windsor*, 521 U.S. 591, 620 (1997). *See also In re Hyundai & Kia Fuel Econ. Litig.*, 926 F.3d at  
20 556 (instructing that “[t]he criteria for class certification are applied differently in litigation and  
21 settlement classes.”).

22           **1.       The Settlement Class Satisfies The Requirements Of Rule 23(a)**

23           The requirements of Fed. R. Civ. P. 23(a), which this Court extensively examined at  
24 preliminary approval, are satisfied here.<sup>6</sup> *First*, it is undisputed that the members of the Settlement  
25

26 \_\_\_\_\_  
27 <sup>6</sup> IPPs’ motion for preliminary approval contains a detailed discussion of the requirements of Rule  
28 23(a) (ECF No. 6053), which IPPs incorporate herein by reference.

1 Class number in the millions,<sup>7</sup> making joinder impracticable.<sup>8</sup> *Second*, the claims of the proposed  
 2 Settlement Class are common, as they “depend upon a common contention . . . of such a nature that it  
 3 is capable of classwide resolution.”<sup>9</sup> Here, as this Court has found, a central, common, question  
 4 underlying each of IPPs’ claims in this case is “whether Mitsubishi Electric violated the antitrust  
 5 and/or various other laws of the [31] states . . . .”<sup>10</sup> *Third*, the claims of the class representatives are  
 6 “typical of the claims . . . of the class.” Rule 23(a)(3). The typicality requirement is easily satisfied  
 7 where, as here, “it is alleged that the defendants engaged in a common [price-fixing] scheme relative  
 8 to all members of the class.”<sup>11</sup> The Class Representatives have no interests that conflict with the  
 9 Settlement Class and have a common interest in obtaining compensation for a shared injury.<sup>12</sup>

10 *Finally*, the Named Plaintiffs have fairly and adequately represented the Settlement Class and  
 11 should be confirmed as Settlement Class Representatives. Fed. R. Civ. P. 23(a)(4). A representative  
 12 plaintiff is an adequate representative of the class if he or she: (1) does not have interests antagonistic  
 13 to or in conflict with the interests of the class; and (2) is represented by qualified counsel who will  
 14 vigorously prosecute the class’s interests.<sup>13</sup> Here, the interests of Named Plaintiffs and Class Members  
 15 are aligned because (a) they all claim similar injury in the form of higher CRT Product prices due to  
 16

17 \_\_\_\_\_  
 18 <sup>7</sup> See ECF No. 5695 at 8 (adopting prior findings that “millions of people in the United States  
 purchased CRT products during the class period.”).

19 <sup>8</sup> See *Bellinghausen v. Tractor Supply Co.*, 303 F.R.D. 611, 616 (N.D. Cal. 2014) (where “general  
 20 knowledge and common sense” indicate a large class, “numerosity is satisfied.”).

21 <sup>9</sup> *Wal-Mart Stores, Inc. v. Dukes*, 564 U.S. 338, 350 (2011); Fed. R. Civ. P. 23(a)(2).

22 <sup>10</sup> ECF No. 6104 ¶ 5; see also ECF No. 4351 at 18 (“there are undeniably questions of law and fact  
 23 common to the Class, including whether the Defendants engaged in a price-fixing conspiracy that  
 injured Plaintiffs when they paid more for CRT Products than they would have absent the alleged  
 price-fixing conspiracy.”); ECF No. 5695 at 8 (same).

24 <sup>11</sup> *In re Cathode Ray Tube Antitrust Litig.*, 308 F.R.D. 606, 613 (N.D. Cal. 2015) (quoting *In re Catfish  
 Antitrust Litig.*, 826 F. Supp. 1019, 1035 (N.D. Miss. 1993))

25 <sup>12</sup> See ECF No. 5695 at 9-10 (granting preliminary approval of Prior Settlements and adopting prior  
 26 finding that “the claims of the representative parties are typical of the claims of the class . . . because  
 27 they all indirectly purchased CRT products at supra-competitive levels as a result of the alleged  
 price-fixing conspiracy during the relevant time period.”).

28 <sup>13</sup> *Hanlon*, 150 F.3d at 1020; *Ellis v. Costco Wholesale Corp.*, 657 F.3d 970, 985 (9th Cir. 2011).

1 the alleged conspiracy, and (b) they each seek the same relief as the class members in their state under  
 2 their respective state statutes. By proving their own claims, representative Plaintiffs would necessarily  
 3 prove the claims of their fellow Class Members. The Named Plaintiffs understand the allegations in  
 4 this Action and have reviewed pleadings, responded to discovery, and produced the documents  
 5 requested. The majority of them have been actively involved in the Action for more than fifteen  
 6 years,<sup>14</sup> and have previously been found to be adequate representatives of their respective state  
 7 classes.<sup>15</sup> The thirteen new Class Representatives have likewise been found to be adequate  
 8 representatives. ECF No. 6104, ¶ 7. Nothing has changed in the interim to alter these findings.

9 In sum, the Settlement Class satisfies the requirements of Rule 23(a).

## 10 2. The Settlement Class Satisfies The Requirements Of Rule 23(b)(3)

11 “Under Rule 23(b)(3), a plaintiff must demonstrate the superiority of maintaining a class action  
 12 and show ‘that the questions of law or fact common to class members predominate over any questions  
 13 affecting only individual members.’” *Mazza v. Am. Honda Motor Co.*, 666 F.3d 581, 596 (9th Cir.  
 14 2012) (quoting Fed. R. Civ. P. 23(b)(3)). “[T]he focus of the predominance inquiry” is whether “a  
 15 proposed class is ‘sufficiently cohesive to warrant adjudication by representation.’” *Amgen Inc. v.*  
 16 *Conn. Ret. Plans & Tr. Funds*, 568 U.S. 455, 469 (2013) (quoting *Amchem Prods. v. Windsor*, 521  
 17 U.S. 591, 623 (1997)). “But the rule ‘does not require a plaintiff seeking class certification to prove  
 18 that each element of their claim is susceptible to classwide proof,’ so long as one or more common  
 19 questions predominate.” *Castillo v. Bank of Am., NA*, 980 F.3d 723, 730 (9th Cir. 2020) (citing *Amgen*  
 20 *Inc. v. Conn. Ret. Plans & Tr. Funds*, 568 U.S. 455, 469 (2013)). As this Court previously noted, “in  
 21 price-fixing cases, such as this, ‘courts repeatedly have held that the existence of the conspiracy is the  
 22 predominant issue and warrants certification even when significant individual issues are present.’”

23  
 24  
 25 <sup>14</sup> ECF No. 6053-1, ¶¶ 57-59 (Alioto Declaration ISO Preliminary Approval, describing how 21 of  
 26 the 34 class representatives have been involved in this MDL since inception and were appointed as  
 27 representatives of the litigated class and settlement class for the Prior Settlements).

28 <sup>15</sup> See *In re CRT*, 2013 WL 5391159, at \*3 (concluding that the named plaintiffs were adequate class  
 representatives); ECF No. 5695 at 10-11 (Preliminary Approval Order for Prior Settlements finding  
 named plaintiffs are adequate class representatives); ECF No. 6104, ¶ 7 (same).

1 ECF No. 5695 at 8 (quoting *Thomas & Thomas Rodmakers, Inc. v. Newport Adhesives & Composites,*  
 2 *Inc.*, 209 F.R.D. 159, 167 (C.D. Cal. 2002)); *see also Amchem Prods.*, 521 U.S. at 625 (predominance  
 3 under Rule 23(b)(3) is “readily met” in antitrust cases).

4 Resolution of IPPs’ claims here depends principally on whether Defendants participated in a  
 5 price-fixing conspiracy that increased the price of CRT Products. This Court has already found that  
 6 the predominance requirement of Fed. R. Civ. P. 23(b)(3) was met for an almost identical class during  
 7 the litigation,<sup>16</sup> an almost identical Settlement Class in connection with the Prior Settlements (ECF  
 8 No. 5695 at 8), and in its Order preliminarily approving this Proposed Settlement. ECF No. 6104 ¶ 8.

9 In addition, resolution of IPPs’ claims through a class action is unquestionably superior.  
 10 Litigating every Class Member’s claims separately would waste judicial and party resources, given  
 11 that the vast majority of evidence would be identical.<sup>17</sup> Further, individual Class Members would lack  
 12 incentive to bring their own cases given that their alleged damages are small relative to the enormous  
 13 costs necessary to litigation complex antitrust cases. Thus, the requirements of Rule 23(b)(3) are also  
 14 satisfied here.

### 15 3. The Court Should Appoint Trump, Alioto, Trump & Prescott, LLP As 16 Settlement Class Counsel For Final Approval

17 Fed. R. Civ. P. 23(g) separately requires this Court to appoint class counsel to represent the  
 18 Settlement Class. Considering IPP Lead Counsel’s work in this action, its expertise and experience  
 19 in handling this Action for the past fifteen years, and the resources it has committed to representing  
 20 the class, it should be appointed as class counsel for the proposed Settlement Class under Rule  
 21 23(g)(3) and confirmed under Rule 23(g)(1), as this Court already ordered.<sup>18</sup>

22 \_\_\_\_\_  
 23 <sup>16</sup> *See In re CRT*, 2013 WL 5391159, at \*6 (finding common questions predominated and certifying  
 24 twenty-two statewide classes of indirect purchasers of CRTs).

25 <sup>17</sup> *See In re Cathode Ray Tube Antitrust Litig.*, No. 07-cv-5944-JST, 2013 WL 5429718, at \*23 (N.D.  
 26 Cal. June 20, 2013).

27 <sup>18</sup> *See* ECF No. 6104, ¶ 9 (finding that Mario N. Alioto and Trump, Alioto, Trump & Prescott, LLP  
 28 have protected and will continue to fairly and adequately protect the interests of the Settlement  
 Class.”); *In re Cathode Ray Tube Antitrust Litig.*, No. 07-cv-5944-JST, 2016 WL 3648478, at \*5 (N.D.  
 Cal. July 7, 2016) (“the entire record of the litigation viewed fairly demonstrates that Class Counsel

1           **E.       The Court Should Grant Final Approval Of The Proposed Settlement**

2           Under Rule 23(e)(2), the Court “may approve [a class action settlement] only after a hearing  
3 and only on finding that it is fair, reasonable, and adequate after considering whether:

4                   (A) The class representatives and class counsel have adequately represented the class;

5                   (B) The proposal was negotiated at arm’s length;

6                   (C) The relief provided for the class is adequate, taking into account:

7                           i.    The costs, risks, and delay of trial and appeal;

8                           ii.   The effectiveness of any proposed method of distributing relief to the class,  
9 including the method of processing class member claims;

10                          iii.   The terms of any proposed award of attorneys’ fees, including timing of  
11 payment; and

12                          iv.   Any agreement required to be identified under Rule 23(e)(3); and

13                   (D) The proposal treats class members equitably relative to each other.

14 Fed. R. Civ. P. 23(e)(2). In granting preliminary approval of the Settlement, this Court concluded that  
15 these Rule 23(e)(2) factors had been satisfied, and that it would likely be able to approve the  
16 Settlement. ECF No. 6104 ¶ 1. No contrary evidence has emerged.

17           As demonstrated below, all the Rule 23(e)(2) factors favor final approval of the Settlement,  
18 which also satisfies the Northern District of California’s guidelines. Thus, the Court should approve  
19 the Settlement as fair, reasonable, and adequate.

20                   **1.       The Class Has Been Adequately Represented**

21           Rule 23(e)(2)(A), in conjunction with subsection (B), requires the court to “identify matters  
22 that might be described as ‘procedural’ concerns, looking to the conduct of the litigation and of the  
23 negotiations leading up to the proposed settlement.” Fed. R. Civ. P. 23(e)(2) Advisory Comm. Notes,  
24 Paragraphs (A) and (B) (2018). As an “example, the nature and amount of discovery in this or other

25  
26 \_\_\_\_\_  
27 managed this case diligently and efficiently for the benefit of the class[.]” and “Class Counsel was  
28 superb at coordinating the class effort.”); ECF No. 5695 at 10 (“IPP Lead Counsel has “invested  
considerable time in this case and ha[s] substantial experience with class action litigation.”).

1 cases, or the actual outcomes of other cases, may indicate whether counsel negotiating on behalf of  
 2 the class had an adequate information base.” *Id.*

3 Here, as detailed in the preliminary approval motion (ECF No. 6053) and fee motion (ECF No.  
 4 6177), the class representatives and counsel have vigorously represented the interests of class members  
 5 for more than fifteen years, including full case development for trial. *See* Alioto Fee Decl. ¶¶ 4-49.<sup>19</sup>  
 6 Thus, IPPs negotiated the Settlement with detailed knowledge of the factual and legal issues  
 7 underlying the parties’ claims and defenses, and their strengths and weaknesses. *Id.* ¶¶ 35-41.

8 In its July 2020 Final Approval Order (affirmed on appeal), this Court reaffirmed its findings  
 9 that: (1) “IPPs and Class Counsel have vigorously prosecuted this action . . . through extensive  
 10 discovery[,] including the “review of millions of documents and the taking of hundreds of depositions,  
 11 all conducted over eight-plus years”; and (2) IPP Lead Counsel has ‘invested considerable time in this  
 12 case and has substantial experience with class action litigation.” ECF No. 5786 at 17. The Court  
 13 concluded, therefore, that “counsel ‘possessed sufficient information to make an informed decision  
 14 about settlement.” *Id.* (quoting *Hefler v. Wells Fargo & Co.*, No. 16-cv-05479-JST, 2018 WL  
 15 6619983, at \*6 (N.D. Cal. Dec. 18, 2018)). These findings apply with equal force to the Settlement  
 16 with Mitsubishi Electric. Thus, the Court should affirm its finding in its Preliminary Approval Order  
 17 that “[t]he class representatives and counsel have vigorously represented the interests of the Settlement  
 18 Class.” ECF No. 6104 ¶ 1(a).

## 19 **2. The Proposed Settlement Is The Product Of Arm’s Length Negotiations**

20 Fed. R. Civ. P. 23(e)(2)(B) instructs courts to consider whether “the proposal was negotiated  
 21 at arm’s length.” A class action settlement is entitled to an initial presumption of fairness where it is  
 22 the result of arm’s-length negotiations among experienced counsel. *See, e.g., Vicerol v. Mistras Grp.,*  
 23 *Inc.*, No. 15-cv-02198-EMC, 2016 WL 5907869, at \*8 (N.D. Cal. Oct. 11, 2016). Further, “the  
 24 involvement of a neutral or court-affiliated mediator or facilitator in those negotiations may bear on  
 25 whether they were conducted in a manner that would protect and further the class interests.” Fed. R.

26  
 27  
 28 <sup>19</sup> *See also* ECF No. 4071-1 (Alioto Decl. in support of September 23, 2015 attorney fee motion).

1 Civ. P. 23(e)(2) Advisory Comm. Notes, Paragraph (B) (2018).

2 The Settlement with Mitsubishi Electric was reached after months of hard-fought and highly  
3 adversarial negotiations, including multiple telephone conferences, an in-person meeting attended by  
4 counsel for all parties and representatives of Mitsubishi Electric from the United States and Japan, and  
5 an in-person mediation before Judge Corley. A settlement in principle was reached during that  
6 mediation and indeed, was the result of the mediator's proposal. Alioto Fee Decl. ¶ 21. Thus, the  
7 settlement was not the product of collusion. *See* Final Approval Order (ECF No. 5786) at 18  
8 (mediation sessions supervised by a former judge are an indication of arm's length negotiations).

9 Courts should also consider the "treatment of any award of attorney's fees, with respect to both  
10 the manner of negotiating the fee award and its terms." R. 23(e). Advisory Comm. Notes, Para. (B)  
11 (2018). While the Settlement provides that Mitsubishi Electric will not object to attorneys' fees of up  
12 to one-third of the Settlement Fund, there is no agreement on the amount of attorneys' fees Class  
13 Counsel will receive. ECF No. 6053-1, Ex. A, ¶ 34. As in the Prior Settlements, any award of  
14 attorneys' fees remains within the discretion of the Court and will be awarded from the common fund.  
15 See ECF No. 5786 at 19 ("Although the agreements contain a "clear sailing" provision, the Court finds  
16 no cause for concern because Class Counsel's fee will be awarded from the same common fund as the  
17 recovery to the class.") (citing *Rodriguez v. W. Publ'g Corp.*, 563 F.3d 948, 961 n.5 (9th Cir. 2009)).

18 Based on the foregoing, this Court concluded that "[t]he Settlement Agreement was negotiated  
19 by arm's-length, informed, and non-collusive negotiations between counsel for IPPs and Mitsubishi  
20 Electric under the supervision of a Magistrate Judge." ECF No. 6104 ¶ 1(b). No class member has  
21 objected to this conclusion and no contrary evidence has emerged.

### 22 3. The Proposed Settlement Provides Substantial Relief For The Class

23 Rule 23(e)(2)(C) instructs courts to consider whether "the relief provided for the class is  
24 adequate" considering (i) the costs, risks, and delay of trial and appeal; (ii) the proposed distribution  
25 plan; (iii) the terms of any proposed award of attorneys' fees; and (iv) any agreement required to be  
26 identified under Rule 23(e)(3). As this Court has already concluded, the Proposed Settlement is fair  
27 when evaluated against these standards. ECF No. 6104 ¶ 1(c).

1                                    **a.        The Costs, Risks, And Delay Of Trial And Appeal Were**  
 2                                    **Significant**

3                    The first factor—“the costs, risks, and delay of trial and appeal” (Rule 23(e)(2)(C)(i))—is  
 4 analogous to the Ninth Circuit’s traditional consideration of the risk, expense, complexity, and likely  
 5 duration of further litigation, while also examining the strength of plaintiffs’ case, the risk of  
 6 maintaining class action status throughout the trial, and the amount offered in settlement. *See In re*  
 7 *Online DVD-Rental*, 779 F.3d at 944 (listing factors).

8                    First, as explained in detail at preliminary approval and in IPPs’ fee motion, the \$33 million  
 9 settlement amount is 5.6% of the total \$580,750,000 Settlement Fund, which is more than Mitsubishi  
 10 Electric’s market share (less than 5%) and is consistent with the previously-approved IPP settlements  
 11 with other similarly situated Japanese defendants. Alioto Fee Decl. ¶ 41. Second, based on the damage  
 12 study by IPPs’ expert, Dr. Netz,<sup>20</sup> the damages attributable to Mitsubishi Electric would be  
 13 approximately \$168 million (5.6% of \$3.36 billion).<sup>21</sup> Thus, the \$33 million settlement is  
 14 approximately 19.6% of the damages attributable to Mitsubishi Electric. *Id.* ¶¶ 38-40. Such a result  
 15 represents a reasonable compromise of the parties’ positions and is well within the range of possible  
 16 final approval. *See In re CRT*, 2016 WL 3648478, at \*6-7 (finding that 20% of single damages was  
 17 “without question a good recovery and firmly in line with the recovery in other cases”). Likewise,  
 18 when combined with the Prior Settlement amounts, the total recovery to date is \$580,750,000, which  
 19 is almost 20% of the \$3.36 billion in single damages. When compared to other *indirect* purchaser cases  
 20  
 21  
 22

---

23                    <sup>20</sup> IPPs’ expert, Dr. Netz, estimated single damages to members of the 22 state classes to be \$2.78  
 24 billion. *Id.* ¶ 36. After adjusting this estimate to account for the nine additional states included in the  
 25 Proposed Settlement Class, the single damages to class members in the 30 states and the District of  
 Columbia would be \$3.36 billion. *Id.* ¶ 37.

26                    <sup>21</sup> Mitsubishi Electric would have strongly contested IPPs’ damages claims. The other Defendants’  
 27 experts opined that indirect purchasers suffered little or no damages as a result of the alleged CRT  
 28 conspiracy. One defense expert estimated the total class damages to be approximately \$61 million.  
 Other defense experts maintained that the total class damages were zero. *See Alioto Fee Decl.* ¶ 39.



1 (some of which never make it past class certification<sup>22</sup>), this is an excellent result.<sup>23</sup>

2 Third, the risks to IPPs at trial and on appeal would have been significant and support the  
3 reasonableness of the Settlement. For example, IPPs faced a substantial risk that the jury would find  
4 Mitsubishi Electric did not participate in the alleged conspiracy. Among other things, Mitsubishi  
5 Electric would have argued at trial that it did not attend a single “glass meeting”; that it ceased  
6 manufacture of CPTs in 1998 and CDTs in 2004; that most of its CDTs used a different technology  
7 and were marketed to different customers than those of the other alleged conspirators; and that because  
8 its market share was very small—substantially less than 5%— it was therefore always a minor player  
9 in the market, with little or no incentive to join the conspiracy. The Court’s ruling precluding Samsung  
10 SDI’s litigation statements against Mitsubishi Electric would also have made IPPs’ case more difficult  
11 to prove. ECF No. 4982. Alioto Fee Decl. ¶ 45.

12 Mitsubishi Electric would also likely have asserted that even if it had participated in the  
13 conspiracy, it withdrew when it stopped manufacturing CRTs in 2004,<sup>24</sup> and that the majority of IPPs’  
14 damages are barred by the Foreign Trade Antitrust Improvements Act, 6 U.S.C. § 15 (“FTAIA”).<sup>25</sup> It  
15 would also have contested IPPs’ evidence of antitrust standing, and pass-through of the overcharge to  
16

---

17  
18 <sup>22</sup> See, e.g., *In re Lithium Ion Batteries Antitrust Litig.*, No. 13-MD-2420 YGR, 2017 WL 1391491, at  
19 \*1 (N.D. Cal. Apr. 12, 2017) (denying class certification to indirect purchasers of lithium ion batteries  
20 in part because they were unable to prove impact (i.e., pass-through of the overcharge) on a class-wide  
21 basis); *In re Flash Memory Antitrust Litig.*, No. C 07-0086 SBA, 2010 WL 2332081, at \*19 (N.D. Cal.  
22 June 9, 2010) (same); *In re Graphics Processing Units Antitrust Litig.*, 253 F.R.D. 478, 507 (N.D.  
23 Cal. 2008) (same).

24 <sup>23</sup> See *In re Lithium Ion Batteries Antitrust Litig.*, No. 4:13-md-02420-YGR (MDL), 2019 U.S. Dist.  
25 LEXIS 139327, at \*53 (N.D. Cal. Aug. 16, 2019) (finding indirect purchaser settlements amounting  
26 to 11.7 percent of single damages were an “excellent result” for the class).

27 <sup>24</sup> See ECF No. 4786 (granting Philips’ summary judgment motion on withdrawal grounds).

28 <sup>25</sup> The other Defendants moved for summary judgment on IPPs’ claims on FTAIA grounds. See ECF  
Nos. 3006 and 3008. Even though the Court denied these motions in the DAP case, the FTAIA would  
still have been an issue at trial and is frequently an issue on appeal. See, e.g., *Lotes Co. v. Hon Hai  
Precision Indus. Co.*, 753 F.3d 395, 412-13 (2d Cir. 2014); *Animal Sci. Prods. v. China Minmetals  
Corp.*, 654 F.3d 462 (3d Cir. 2011); *Minn-Chem, Inc. v. Agrium Inc.*, 683 F.3d 845 (7th Cir. 2012);  
*Motorola Mobility L.L.C. v. AU Optronics Corp.*, 775 F.3d 816 (7th Cir. 2014); and *U.S. v. Hsiung*,  
778 F.3d 738 (9th Cir. 2015).

1 indirect purchasers.<sup>26</sup> Moreover, IPPs could prevail on liability and still obtain no net recovery given  
 2 the large settlement offset (\$547,750,000) that would be applied as a result of the other  
 3 settlements.<sup>27</sup> And, any jury award would also have to withstand appellate review. While IPPs remain  
 4 confident in the strength of the evidence supporting their claims, a successful jury verdict remained a  
 5 risky proposition. *See In re NASDAQ Mkt.-Makers Antitrust Litig.*, 187 F.R.D. 465, 475-76 (S.D.N.Y.  
 6 1998) (“[T]he history of antitrust litigation is replete with cases in which antitrust plaintiffs succeeded  
 7 at trial on liability, but recovered no damages, or only negligible damages, at trial, or on appeal.”).

8 Finally, even if IPPs were to win at every subsequent stage, continued litigation would delay  
 9 recovery for years, in a case where the damage period already extends back twenty-five years.  
 10 Settlement eliminates the risk of litigation, providing substantial and certain relief to the Settlement  
 11 Class now. *AT&T Mobility Wireless Data Servs. Sales Litig.*, 270 F.R.D. 330, 347 (N.D. Ill. 2010)  
 12 (“[A] future victory is not as valuable as a present victory”). In sum, the all-cash recovery of  
 13 \$33,000,000 is a substantial result that avoids the meaningful risks IPPs faced at trial and on appeal.

14 **b. The Plan Of Distribution Is Fair, Adequate And Reasonable**

15 Rule 23(e)(2)(C) also instructs courts to take into account the “effectiveness of any proposed  
 16 method of distributing relief to the class, including the method of processing class-member claims.”  
 17 “Approval of a plan of allocation of settlement proceeds in a class action . . . is governed by the same  
 18 standards of review applicable to approval of the settlement as a whole: the plan must be fair,  
 19 reasonable and adequate.” *Hefler v. Wells Fargo & Co.*, No. 16-cv-05479-JST, 2018 WL 4207245, at  
 20 \*12 (N.D. Cal. Sept. 4, 2018) (citation omitted); *see also In re CRT*, 2016 WL 3648478, at \*11. A  
 21

22 \_\_\_\_\_  
 23 <sup>26</sup> *See, e.g.*, ECF Nos. 2012, 3050, 3585 & 3585 (motions relating to these issues filed by the other  
 Defendants).

24 <sup>27</sup> Alioto Fee Decl. ¶ 46. In *LCD*, for example, the jury awarded the direct purchaser class plaintiffs  
 25 \$87 million in damages against Toshiba, but they recovered nothing because the award was offset by  
 26 their \$443 million obtained in settlements. Likewise, Best Buy recovered nothing at trial against  
 27 Toshiba and Hannstar. The jury found that Toshiba did not participate in the conspiracy and awarded  
 only \$7.5 million against Hannstar. Once Best Buy’s settlements with the other defendants in *LCD*  
 had been offset, Hannstar owed nothing to Best Buy. Likewise here, if IPPs had gone to trial against  
 28 Mitsubishi Electric, there would have been an offset of \$547,750,000. *Id.* ¶ 47.

1 plan of distribution that compensates class members based on the type and extent of their injuries is  
2 generally considered reasonable. *See id.*

3 IPPs will use the same weighted pro rata distribution for the Settlement that the Court approved  
4 for the Prior Settlements,<sup>28</sup> and which the Court has preliminarily approved for this Settlement. ECF  
5 No. 6104 ¶ 1(c). The Detailed Notice provided a detailed description of the Plan of Distribution,  
6 including how each claimant's pro rata share of the net settlement fund would be calculated, the  
7 proposed \$10 minimum payment, instructions for how to file a claim, and a link to the Court-approved  
8 online Claim Form. Alioto Decl. ¶ 5; Fisher Decl., Exs. D & E (Detailed Notice). Millions of potential  
9 claimants received direct notice of the Plan of Distribution, including many large corporations which  
10 are represented by counsel. *Id.* ¶¶ 16-20. To date, no objection to the proposed Plan of Distribution  
11 has been received (Alioto Decl. ¶ 5), and nothing has changed since the Court's previous conclusions.  
12 Thus, the Court should finally approve the Plan of Distribution.

13 **c. IPP Counsel's Unopposed Attorneys' Fee Request Is Reasonable**

14 A third factor to be considered under Rule 23(e)(2)(C) is "the terms of any proposed award of  
15 attorney's fees, including timing of payment." Fed. R. Civ. P. 23(e)(2)(C)(iii).

16 At preliminary approval, IPPs informed the Court that they intended to request an attorney fee  
17 award of \$11,000,000, which together with the IPP Counsel's first fee award, would equate to 24.2%  
18 of the total settlement fund, or one-third of the Mitsubishi Electric Settlement Fund. *See* ECF No. 6053  
19 at 21. The Court concluded that "the reasonableness of the anticipated request for an award of  
20 attorneys' fees and reimbursement of litigation expenses," supported the finding that the relief  
21 provided for the Settlement Class is adequate. ECF No. 6104 ¶ 1(c).

22 Since then, IPPs have filed their motion for attorneys' fees requesting an award of \$11,000,000,  
23 or 24.2% of the total settlement fund. *See generally* ECF No. 6177. Pursuant to the Preliminary  
24 Approval Order, ECF No. 6104 ¶ 22, IPPs filed their motion with the Court on March 10, 2023 (ECF  
25 No. 6177) and posted it to the website, www.CRTclaims.com, thirty-five (35) days before the deadline  
26

27 \_\_\_\_\_  
28 <sup>28</sup> ECF No. 5786 at 20 (adopting reasoning from original order approving the Prior Settlements).

1 for objections to give Class Members an opportunity to review the attorney fee motion and either  
 2 support or file objections to it. Alioto Decl. ¶ 3. The motion is noticed for June 1, 2023, the same date  
 3 as the final approval hearing.<sup>29</sup> To date, despite the comprehensive notice program—including direct  
 4 mail, email and ECF notice to Prior Claimants, many of which are sophisticated corporate claimants  
 5 represented by counsel—no one has objected to IPPs’ fee motion, the request for reimbursement of  
 6 litigation expenses, or the requested incentive awards for the Class Representatives. Alioto Decl. ¶ 4.

7 As demonstrated in IPPs’ fee motion, the requested fee award is reasonable under the  
 8 circumstances of this case. Together with the \$129,606,250 in attorneys’ fees already awarded to IPP  
 9 Counsel, IPPs’ proposed \$11,000,000 fee award would result in a total fee of \$140,606,250, which  
 10 constitutes 24.2% of the \$580,750,000 total settlement fund, and an overall multiplier of 1.735. As  
 11 this Court has noted, the Ninth Circuit has set the “benchmark for an attorneys’ fee award in a  
 12 successful class action [at] twenty-five percent of the entire common fund.”<sup>30</sup> The Court also found  
 13 that a multiplier of 1.6 is “well within the range of acceptable multipliers.” *Id.* at 24. Thus, IPPs’  
 14 requested fee would still be *below* the Ninth Circuit’s 25% benchmark and would only increase the  
 15 already-approved multiplier by a small amount to 1.735—still well within the range of acceptable  
 16 multipliers. *See, e.g., In re Hyundai & Kia Fuel Econ. Litig.*, 926 F.3d at 572 (affirming “modest”  
 17 multipliers of 1.22 and 1.5521 and citing cases affirming multipliers up to 3.65). A lodestar cross-  
 18 check also confirms the reasonableness of the requested fee award. *See* ECF No. 6177 at 28-32.

19 In the Preliminary Approval Order, the Court stated that it “will typically withhold between  
 20 10% and 25% of the attorney’s fees granted at final approval until after the post-distribution  
 21 accounting has been filed. The final approval motion should specify what percentage class counsel  
 22 believes it is appropriate to withhold and why.” ECF No. 6104 ¶ 27. This language is echoed by the  
 23 Court’s Standing Order.<sup>31</sup>

24 \_\_\_\_\_  
 25 <sup>29</sup> *See* Procedural Guidance, Final Approval (2) (“Regardless of when they are filed, requests for  
 26 attorneys’ fees must be noticed for the same date as the final approval hearing.”).

27 <sup>30</sup> ECF No. 5786 at 22-23 (quoting *Williams v. MGM-Pathe Commc’ns Co.*, 129 F.3d 1026, 1027 (9th  
 28 Cir. 1997)).

<sup>31</sup> [Standing Order for All Civil Cases Before District Judge Jon S. Tigar \(uscourts.gov\)](#).

1 The Advisory Committee’s Notes to Rule 23 provide that in some cases deferral of “some  
2 portion” of an attorney fee award “may be appropriate” where the relief to the class is composed of  
3 “future payments” and “may not result in significant actual payments to class members.”<sup>32</sup> These  
4 concerns are not present here. This Settlement does not involve coupons or vouchers, and it is not a  
5 “claims made” settlement, wherein the settling defendant only pays the claims that are made. In such  
6 cases, it makes sense to defer the award of attorneys’ fees until after the claims process so that the  
7 court knows the value of the settlement. Here, the value of the Settlement is known—it is an all-cash  
8 settlement for \$33 million, which was paid into escrow by Mitsubishi Electric in 2017 and has been  
9 earning interest for the benefit of the Settlement Class since then. In addition, most of the claimants  
10 are already known because Prior Claimants’ valid claims were automatically submitted against this  
11 Settlement.<sup>33</sup> Thus, their claims have already been vetted and approved by the Claims Administrator.

12 Moreover, these Prior Claimants have recently cashed their checks from the Prior Settlements  
13 so there is little concern that they will not cash their checks for this Settlement. To date, claimants in  
14 the Prior Settlements have cashed \$402,666,291.52 of the \$410,503,806.60 net settlement fund  
15 available for distribution, with 21,114 checks remaining uncashed.<sup>34</sup> Because the residual is less than  
16 \$12 million, it will be distributed to Late Claimants whose claims in the Prior Settlements were  
17  
18  
19

---

20 <sup>32</sup> See Fed. R. Civ. P. 23(h), Advisory Committee’s Notes to 2003 Amendment (“In many instances,  
21 the court may need to proceed with care in assessing the value conferred on class members. Settlement  
22 regimes that provide for future payments, for example, may not result in significant actual payments  
23 to class members. In this connection, the court may need to scrutinize the manner and operation of any  
24 applicable claims procedure. In some cases, it may be appropriate to defer some portion of the fee  
25 award until actual payouts to class members are known. Settlements involving nonmonetary  
26 provisions for class members also deserve careful scrutiny to ensure that these provisions have actual  
27 value to the class. On occasion the court’s Rule 23(e) review will provide a solid basis for this sort of  
28 evaluation, but in any event it is also important to assessing the fee award for the class.”).

<sup>33</sup> Only valid claims by end user claimants were submitted in this Settlement; reseller claims were excluded because resellers are not included in the Settlement Class. Fisher Decl. ¶ 28.

<sup>34</sup> Fisher Decl. ¶ 30. A \$10 million reserve fund was withheld from high-value claims, with remaining amounts to be distributed at the conclusion of the administration process. ECF No. 6040 ¶ 14.

1 discounted by 50%.<sup>35</sup> Accordingly, this is not a case where the Court need be concerned that anything  
2 other than a *de minimis* portion of the net settlement fund will remain unclaimed. Alioto Decl. ¶ 6.

3         Deferral of a portion of the attorneys' fees could also be appropriate if there is a concern that,  
4 once paid, class counsel may no longer be incentivized to serve the class through final distribution.  
5 Here again, there is no basis for concern. IPP Counsel are well-funded, experienced class action  
6 litigators who are continuing to prosecute this case against the Irico Defendants. In this case and others,  
7 they have served the Class's interests through final distribution with no need for deferral of fees.  
8 Indeed, IPP Counsel filed the motion to distribute the net settlement fund for the Prior Settlements to  
9 claimants *within ten days* of the United States Supreme Court's denial of certiorari and the Prior  
10 Settlements becoming final.<sup>36</sup> The same will be true here – IPP Counsel will devote whatever time is  
11 necessary to ensure the distribution is completed accurately and in a timely fashion. Alioto Decl. ¶ 7.

12         However, the post-distribution accounting is dependent upon the completion of the claims  
13 processing, which is largely beyond the control of IPP Counsel. Claims processing is handled  
14 primarily by the Claims Administrator. It is not uncommon for issues to arise between the Claims  
15 Administrator and claimants that delay the completion of claims processing. Oftentimes, large  
16 claimants and large groups of claimants are represented by claims aggregators and counsel. That is the  
17 case here. It is also not uncommon for such claimants to litigate (and appeal) claims determinations,  
18 further delaying completion of the claims process. For example, in this Action, claims aggregators  
19 objected to the treatment of late claims in the Prior Settlements necessitating mediations before Special  
20 Master Walker and Judge Corley. ECF Nos. 5296 & 5715. As to matters within their control, IPP  
21 Counsel have every incentive to complete the claims process as soon as possible since counsel will  
22 continue to incur fees and expenses in claims processing, which usually go uncompensated. Alioto  
23 Decl. ¶ 8.

24  
25 \_\_\_\_\_  
26 <sup>35</sup> ECF No. 6040 ¶ 8. Late Claimants' claims were automatically submitted in the Settlement and are  
therefore timely and will be paid in full.

27 <sup>36</sup> *Compare* ECF No. 6023 with ECF No. 6025 (IPPs' Motion for Order Appointing Fund  
28 Administrator and Authorizing Distribution of Settlement Funds).

1 The case could be made—based on the foregoing, IPP Counsel’s performance, and the results  
 2 achieved to date—that the Court should not withhold a portion of the attorney fee award. If, however,  
 3 the Court is inclined to do so, IPP Counsel believes that the withholding should be no more than 5%.

4 **d. Other Related Agreements**

5 Pursuant to Fed. R. Civ. P. 23(e)(2)(C)(iv), IPPs disclosed in the motion for preliminary  
 6 approval<sup>37</sup> agreements whereby certain objectors voluntarily dismissed their appeals of the original  
 7 settlements in March and April 2018 in exchange for monetary consideration to be paid by IPP Counsel  
 8 from their attorney fee award. These agreements also provided that the objectors would not object to  
 9 this Settlement.<sup>38</sup> No payment is due to the objectors until all fee proceedings relating to the Prior  
 10 Settlements are final,<sup>39</sup> at which time Lead Counsel will present these agreements to the Court.

11 **4. The Settlement Treats Class Members Equitably**

12 Rule 23(e)(2)(D) requires that the Court consider whether the Settlement “treats class members  
 13 equitably relative to each other.” Matters of concern for the Court may include “whether the  
 14 apportionment of relief among class members takes appropriate account of differences among their  
 15 claims.” Fed. R. Civ. P. 23(e)(2) 2018 Advisory Committee Notes.

16 Here, the Settlement provides for a lump-sum cash payment to the Settlement Class. ECF No.  
 17 6053-1, Ex A, ¶ 25. The Settlement’s terms do not distinguish between class members in any way and  
 18 treat all class members equally. All Class Members are entitled to file claims to receive their pro-rata  
 19 share of the Settlement, and IPPs propose to distribute the settlement funds to Class Members  
 20 according to the same weighted pro-rata distribution that this Court already examined and approved  
 21 as fair, adequate, and reasonable in connection with the Prior Settlements. *See* ECF No. 5786 at 21  
 22 (quoting *In re Omnivision Techs., Inc.*, No. C-04-2297 SC, 2007 WL 4293467, at \*7 (N.D. Cal. Dec.  
 23 6, 2007)) (“It is reasonable to allocate the settlement funds to class members based on . . . the strength of  
 24 \_\_\_\_\_

25 <sup>37</sup> *See* ECF No. 6053 at 22-23; *see also* ECF Nos. 5587 at 9; 6001 at 5, n.5.

26 <sup>38</sup> ECF No. 6053-1 (Alioto Decl.) ¶¶ 62-63, Exs. B - E (copies of objector settlement agreements).

27 <sup>39</sup> This Court’s Order approving the allocation of the aggregate fee award, ECF No. 6078, has been  
 28 appealed by settlement objectors Cooper & Kirkham, P.C. and the Law Offices of Francis O. Scarpulla. *See* ECF Nos. 6079, 6080, 6081. Thus, the fee proceedings are not yet final.

1 their claims on the merits.”). In addition, class representatives will be treated no differently than absent  
 2 class members. While IPPs have sought modest \$2,000 incentive award for the Class Representatives,  
 3 and no one has objected to the proposed awards, any such award will be within the Court’s discretion.

#### 4 **5. There Are No Objections To The Settlement Or The Attorney Fee Request**

5 In ruling on final approval of a class action settlement, the Court should also consider “the  
 6 reaction of the class members of the proposed settlement.” *In re Online DVD-Rental Antitrust Litig.*,  
 7 779 F.3d at 944 (quoting *Churchill Vill., L.L.C. v. Gen. Elec.*, 361 F.3d at 575). Here, as noted, there  
 8 are no objections to the Settlement or the attorney fee request. The Court should give this factor more  
 9 weight than usual because large numbers of claimants in this case are represented by claims  
 10 aggregators, each with their own separate counsel, or are represented directly by their own counsel.  
 11 These claimants represent approximately 95% of the dollar value of all claims in the Prior Settlements  
 12 and will likely represent a similar percentage in this Settlement. *See* Fisher Decl. ¶ 29. These claimants  
 13 have had extensive contact with IPP Lead Counsel through their counsel, have formally appeared and  
 14 filed motions and other briefs in the case,<sup>40</sup> and have participated in mediations before the Hon.  
 15 Vaughn Walker (Ret.) and the Hon. Jacqueline Scott Corley on a wide variety of issues. *See* ECF Nos.  
 16 5296 & 5715. Indeed, IPP Lead Counsel provided the settlement papers to counsel for these claimants  
 17 in advance of the formal notice. In addition, they received direct formal notice via mail and/or email,  
 18 and their counsel was served with all filings via the Court’s ECF system. Alioto Decl. ¶ 10.

19 Thus, approximately 95% of the total prior claims by value are represented by informed  
 20 counsel who have no objection to this Settlement or the fee request. This should weigh strongly in  
 21 favor of final approval of the Settlement and the fee request.

#### 22 **6. The Settlement Satisfies This District’s Procedural Guidance**

23 As noted, this District’s Procedural Guidance provides that “[t]he motion for final approval  
 24 briefing should include information about the number of undeliverable class notices and claim packets,  
 25 the number of class members who submitted valid claims, the number of class members who opted  
 26

27 \_\_\_\_\_  
 28 <sup>40</sup> *See, e.g.*, ECF Nos. 5252, 5256, 5269, 5588, 5608, 5609, 5696, 5697, 5698, 5706.



1 out, and the number of class members who objected to or commented on the settlement. In addition,  
2 the motion for final approval should respond to any objections.”

3 **a. The Number Of Undeliverable Class Notices And Claim Packets**

4 The Claims Administrator mailed or emailed notice directly to 84,571 Prior Claimants, of  
5 which 3,556 bounced or were returned undeliverable. Fisher Decl. ¶¶ 17-18. In addition, 54,098  
6 claimants representing 95% of the value of all prior claims were reached indirectly via their third-party  
7 representative or legal counsel, none of which were returned. *Id.* ¶¶ 16 & 18. The Claims Administrator  
8 also mailed the notice directly to 1,755 large businesses, academic institutions, and hospitals, of which  
9 71 were returned undeliverable. *Id.* ¶ 19. Direct email notice was sent to a list of approximately 12.9  
10 million email addresses for consumers and small businesses with a high interest in computers,  
11 consumer electronics, and televisions, resulting in a deliverability rate of 94%. *Id.* ¶ 20.

12 **b. The Number Of Valid Claims To Date**

13 After reviewing and auditing the claims received in the Prior Settlements, the Settlement  
14 Administrator ultimately approved a total of 143,373 valid claims for purchases of 95,277,199 CRT  
15 Products, representing 273,146,112 CRT Weighted Units. *See* ECF No. 6031. All eligible end-user  
16 claims (resellers are not included in this Settlement Class) were automatically submitted in this  
17 Settlement and the claimants will receive their pro rata share of the Settlement.

18 The deadline to file a claim against the Settlement is June 13, 2023. As of May 3, 2023, the  
19 Claims Administrator has received 1,022,192 new claim submissions, of which 135,130 have passed  
20 an initial screening for validity. Fisher Decl. ¶ 30. To date, the Claims Administrator has identified  
21 9,515 duplicate claims and 640,902 potentially invalid claims, as well as an additional 225,310 claims  
22 that warrant further review. *Id.* & ¶¶ 31-32. After the claims deadline passes and at the conclusion of  
23 its claims review, the Settlement Administrator will propose, for the Court’s review and approval,  
24 appropriate processes for managing and excluding invalid claim submissions. Fisher Decl. ¶ 33.

25 **c. The Number Of Opt Outs**

26 The Claims Administrator received one opt out request from one individual: Ali Ratzel of  
27 Jefferson City, Missouri. Fisher Decl. ¶ 25.

1                                    **d.        The Number Of Objections Or Comments On The Settlement**

2                    To date, no objections or comments on the Settlement have been received or filed with the  
3 Court. Alioto Decl. ¶ 11; Fisher Decl. ¶ 26.

4 **IV.    CONCLUSION**

5                    IPPs respectfully request that the Court enter an Order: (1) finally approving the Settlement;  
6 (2) certifying the Settlement Class; (3) finally approving the Notice Plan as complying with due  
7 process and Rule 23, and constituting “the best notice practicable under the circumstances”; (4)  
8 appointing Trump, Alioto, Trump & Prescott, LLP as Settlement Class Counsel; and (5) appointing  
9 the Named Plaintiffs as Settlement Class Representatives for their respective state classes.

10                    IPPs also respectfully request that the Court grant IPPs’ unopposed motion for attorneys’ fees,  
11 reimbursement of expenses and incentive awards for the Class Representatives, ECF No. 6177, and  
12 award IPP Counsel attorneys’ fees in the amount of \$11,000,000 plus interest, \$13,122.10 in  
13 reimbursement of expenses, and \$2,000 to each of the Settlement Class Representatives for their time  
14 and effort representing the Class throughout the litigation.

15 Dated: May 11, 2023

Respectfully submitted,

17                                    /s/ Mario N. Alioto

Mario N. Alioto (56433)

[malioto@tatp.com](mailto:malioto@tatp.com)

Lauren C. Capurro (241151)

[lauren russell@tatp.com](mailto:lauren russell@tatp.com)

TRUMP, ALIOTO, TRUMP & PRESCOTT LLP

2001 Union Street, Suite 482

San Francisco, CA 94123

Telephone: 415-563-7200

Facsimile: 415-346-0679

23                                    *Lead Counsel for the Indirect Purchaser Plaintiffs*

1 MARIO N. ALIOTO (56433)  
LAUREN C. CAPURRO (241151)  
2 TRUMP, ALIOTO, TRUMP & PRESCOTT, LLP  
2001 Union Street, Suite 482  
3 San Francisco, CA 94123  
4 Telephone: (415) 563-7200  
Facsimile: (415) 346-0679  
5 E-mail: [malioto@tatp.com](mailto:malioto@tatp.com)  
[lauren russell@tatp.com](mailto:lauren russell@tatp.com)  
6

7 *Lead Counsel for the Indirect Purchaser Plaintiffs*

8 **UNITED STATES DISTRICT COURT**  
9 **NORTHERN DISTRICT OF CALIFORNIA**  
10 **OAKLAND DIVISION**

11  
12 IN RE: CATHODE RAY TUBE (CRT)  
ANTITRUST LITIGATION

Master File No. 07-cv-05944-JST  
Case No. 17-cv-04067-JST

13 MDL No. 1917

14 This Document Relates to:  
15 *Luscher, et al. v. Mitsubishi Electric Corp.,*  
16 17-cv-04067-JST

**DECLARATION OF MARIO N. ALIOTO  
IN SUPPORT OF MOTION FOR FINAL  
APPROVAL OF CLASS ACTION  
SETTLEMENT WITH MITSUBISHI  
ELECTRIC CORPORATION**

17  
18 Hearing Date: June 1, 2023  
Time: 2:00 p.m.  
19 Courtroom: 6, 2nd Floor (via Zoom)  
20 Judge: Honorable Jon S. Tigar

1 I, Mario N. Alioto, declare:

2 1. I am an attorney duly licensed by the State of California and am admitted to practice  
3 before this Court. I am a partner with the law firm Trump, Alioto, Trump & Prescott, LLP and my  
4 firm serves as the Court-appointed Lead Counsel for the Indirect Purchaser Plaintiffs (“IPPs”) in  
5 the above-captioned action. I submit this Declaration in support of the IPPs’ Motion for Final  
6 Approval of Class Action Settlement with Defendant Mitsubishi Electric Corporation (“Mitsubishi  
7 Electric”), filed herewith. The matters set forth herein are within my personal knowledge and if  
8 called upon and sworn as a witness I could competently testify regarding them.

9 2. The Notices advised Class Members that IPPs intended to apply for attorneys’ fees  
10 in the amount of one-third of the Settlement Fund (\$11,000,000), notice costs, litigation expenses,  
11 and \$2,000 incentive awards for each of the Class Representatives. The Notices further advised  
12 how to access the fee petition when it was filed.

13 3. My firm filed IPPs’ attorney fee motion on March 10, 2023 (ECF No. 6177), and  
14 the Settlement Administrator posted it to the settlement website, [www.CRTclaims.com](http://www.CRTclaims.com), that same  
15 day, which was 35 days before the deadline to object. This gave Class Members an opportunity to  
16 review the attorney fee motion and either support or file objections to it.

17 4. To date, no Class Member has objected to IPP Counsel’s attorney fee request, the  
18 reimbursement of \$13,122.10 in expenses, or the \$2,000 incentive awards for each Class  
19 Representative.

20 5. The Detailed Notice provided a detailed description of the Plan of Distribution,  
21 including how each claimant’s pro rata share of the net settlement fund would be calculated, the  
22 proposed \$10 minimum payment, instructions for how to file a claim, and a link to the Court-  
23 approved online Claim Form. To date, no objection to the Plan of Distribution has been received.

24 6. Even though the claims proceeding is ongoing, many of the claimants in this  
25 Settlement are already known because Prior Claimants’ valid claims were automatically submitted  
26 against this Settlement. Thus, their claims have already been vetted and approved by the Claims  
27 Administrator. These Prior Claimants have recently been paid from the Prior Settlements so there  
28 is little concern that they will not cash their checks for this Settlement. I am informed and believe

1 that, to date, claimants in the Prior Settlements have cashed \$402,666,291.52 of the  
2 \$410,503,806.60 net settlement fund available for distribution, with 21,114 checks remaining  
3 uncashed. Because the residual is less than \$12 million, it will be distributed to Late Claimants  
4 whose claims in the Prior Settlements were discounted by 50%.<sup>1</sup> Accordingly, this is not a case  
5 where the Court need be concerned that anything other than a *de minimis* portion of the net  
6 settlement fund will remain unclaimed.

7 7. My firm and my co-counsel firms are well-funded, experienced class action  
8 litigators that are continuing to prosecute this case against the remaining Irico Defendants. In this  
9 case and others, we have served the Class's interests through final distribution with no need for  
10 deferral of fees. Indeed, my firm filed the motion to distribute the net settlement fund for the Prior  
11 Settlements to claimants *within ten days* of the United States Supreme Court's denial of certiorari  
12 and the Prior Settlements becoming final.<sup>2</sup> The same will be true here – I and my co-counsel will  
13 devote whatever time is necessary to ensure the distribution is completed accurately and in a timely  
14 fashion.

15 8. Post-distribution accounting is dependent upon the completion of the claims  
16 processing, which—in my experience—is largely beyond the control of IPP Counsel. Claims  
17 processing is handled primarily by the Claims Administrator. It is not uncommon for issues to arise  
18 between the Claims Administrator and claimants that delay the completion of claims processing.  
19 Oftentimes, large claimants and large groups of claimants are represented by claims aggregators  
20 and counsel. That is the case here. It is also not uncommon for such claimants to litigate (and  
21 appeal) claims determinations, further delaying completion of the claims process. For example, in  
22 this Action, claims aggregators objected to the treatment of late claims in the Prior Settlements  
23 necessitating mediations before Special Master Walker and Judge Corley. *See* ECF Nos. 5296 &

---

24  
25  
26 <sup>1</sup> ECF No. 6040 ¶ 8. Late Claimants' claims were automatically submitted in the Settlement and  
are therefore timely and will be paid in full.

27 <sup>2</sup> *Compare* ECF No. 6023 *with* ECF No. 6025 (IPPs' Motion for Order Appointing Fund  
28 Administrator and Authorizing Distribution of Settlement Funds).

1 5715. As to matters within our control, my co-counsel and I have every incentive to complete the  
2 claims process as soon as possible since we will continue to incur fees and expenses in claims  
3 processing, which usually go uncompensated.

4 9. If the Court is inclined to withhold a portion of IPP Counsel's fee award, I believe  
5 that the withholding should be no more than 5%.

6 10. My co-counsel and I have had extensive contact with certain Prior Claimants and  
7 claims aggregators through their counsel. Their counsel have formally appeared and filed motions  
8 and other briefs in the case,<sup>3</sup> and have participated in mediations before the Hon. Vaughn Walker  
9 (Ret.) and the Hon. Jacqueline Scott Corley on a wide variety of issues. *See* ECF Nos. 5296 &  
10 5715. I provided the settlement papers to counsel for these claimants in advance of the formal  
11 notice. In addition, they received direct formal notice via mail and/or email, and their counsel were  
12 served with all filings via the Court's ECF system.

13 11. To date, no objections or comments on the Settlement have been received or filed  
14 with the Court.

15  
16 I declare under penalty of perjury that the foregoing is true and correct. Executed this  
17 11th day of May 2023 at San Francisco, California.

18  
19 /s/ Mario N. Alioto

20 Mario N. Alioto

21 ***Lead Counsel for the Indirect Purchaser Plaintiffs***

22  
23  
24  
25  
26  
27 \_\_\_\_\_  
28 <sup>3</sup> *See, e.g.*, ECF Nos. 5252, 5256, 5269, 5588, 5608, 5609, 5696, 5697, 5698, 5706.

1 Mario N. Alioto (56433)  
2 Lauren C. Capurro (241151)  
3 TRUMP, ALIOTO, TRUMP & PRESCOTT LLP  
4 2001 Union Street, Suite 482  
5 San Francisco, CA 94123  
6 Telephone: 415-563-7200  
7 Facsimile: 415- 346-0679  
8 Email: [malioto@tatp.com](mailto:malioto@tatp.com)  
9 [lauren russell@tatp.com](mailto:lauren russell@tatp.com)

6 *Lead Counsel for the*  
7 *Indirect Purchaser Plaintiffs*

9 UNITED STATES DISTRICT COURT  
10 NORTHERN DISTRICT OF CALIFORNIA  
11 OAKLAND DIVISION

12 IN RE: CATHODE RAY TUBE (CRT)  
13 ANTITRUST LITIGATION

MASTER FILE NO. 4:07-cv-5944-JST  
Case No.: 4:17-cv-04067-JST

14 MDL NO. 1917

15 This Document Relates to:

16 *Luscher, et al. v. Mitsubishi Electric Corp.,*  
17 No. 4:17-cv-04067-JST

**DECLARATION OF JOSEPH M. FISHER**  
**RE: MITSUBISHI ELECTRIC**  
**NOTICE PROGRAM AND CLAIMS**  
**ADMINISTRATION**

Hearing Date: June 1, 2023  
Time: 2:00 p.m.  
Courtroom: 5, 2<sup>nd</sup> Floor  
Judge: Honorable Jon S. Tigar

1 I, Joseph M. Fisher, declare:

2 **INTRODUCTION**

3 1. Identification. I am the president of The Notice Company, Inc., a Massachusetts  
4 corporation with offices at 94 Station Street, Hingham, MA 02043 (“The Notice Company” or  
5 “Settlement Administrator”). The Notice Company is principally engaged in the administration of  
6 class action settlements and lawsuits pending in courts around the United States, including the  
7 dissemination of notice to class members, administering the claims process, and distributing the  
8 proceeds of the litigation to the class. I have over 19 years of experience assisting attorneys with class  
9 action notices and claims administration. I am also a member in good standing of the bars of the  
10 Commonwealth of Massachusetts, the District of Columbia, and the Commonwealth of Virginia. I  
11 am over 21 years of age and not a party to this action. I have personal knowledge of the facts set forth  
12 herein and, if called as a witness, could and would testify thereto under oath.

13 2. Purpose of Declaration. On October 31, 2022, the Court approved the Notice Plan and  
14 appointed The Notice Company as the Settlement and Claims Administrator. *Order Granting*  
15 *Preliminary Approval of Class Action Settlement with Defendant Mitsubishi Electric Corporation*  
16 (“Preliminary Approval Order”, ECF 6104). This Declaration confirms the implementation of the  
17 Notice Program for the proposed settlement with Mitsubishi Electric Corporation (“Mitsubishi  
18 Electric”) as authorized by the Court and reports on exclusion requests and claims.

19 3. Settlement Class. For purposes of the proposed Settlement, the Court determined that  
20 it is likely to be able to certify a “Settlement Class” defined as follows:

- 21 a. All persons or entities who or which indirectly purchased in an Indirect Purchaser  
22 Jurisdiction,<sup>1</sup> other than Missouri, Montana, and Rhode Island, for their own use and  
23 not for resale, CRTs or CRT Products manufactured and/or sold by any Mitsubishi  
24

25 \_\_\_\_\_  
26 <sup>1</sup> “Indirect Purchaser Jurisdictions,” as defined in Paragraph 5 of the Settlement Agreement, means:  
27 Arizona, Arkansas, California, District of Columbia, Florida, Hawaii, Iowa, Kansas, Maine,  
28 Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Montana, Nebraska, Nevada, New  
Hampshire, New Mexico, New York, North Carolina, North Dakota, Oregon, Rhode Island, South  
Carolina, South Dakota, Tennessee, Utah, Vermont, West Virginia, and Wisconsin. *See* Preliminary  
Approval Order ¶ 2.a at note 1.



1 Electric Releasee, or any Alleged Co-Conspirator, where such purchase took place  
2 during the following time periods:

3 i. From March 1, 1995 through November 25, 2007 for purchases in Arizona,  
4 Arkansas, California, District of Columbia, Florida, Iowa, Kansas, Maine,  
5 Massachusetts, Michigan, Minnesota, Mississippi, New Hampshire, New  
6 Mexico, New York, North Carolina, North Dakota, Oregon, South Carolina,  
7 South Dakota, Tennessee, Utah, Vermont, West Virginia, and Wisconsin;

8 ii. From June 25, 2002 through November 25, 2007 for purchases in Hawaii;

9 iii. From July 20, 2002 through November 25, 2007 for purchases in Nebraska;

10 iv. From February 4, 1999 through November 25, 2007 for purchases in Nevada;

11 b. All persons who or which indirectly purchased in Missouri from March 1, 1995 through  
12 November 25, 2007, for their own use and not for resale, and primarily for personal,  
13 family or household purposes, CRTs or CRT Products manufactured and/or sold by  
14 any Mitsubishi Electric Releasee, or any Alleged Co-Conspirator;

15 c. All persons who or which indirectly purchased in Montana from March 1, 1995 through  
16 November 25, 2007, for their own use and not for resale, and primarily for personal,  
17 family or household purposes, CRTs or CRT Products manufactured and/or sold by  
18 any Mitsubishi Electric Releasee, or any Alleged Co-Conspirator; and

19 d. All natural persons who indirectly purchased in Rhode Island from March 1, 1995  
20 through November 25, 2007, for their own use and not for resale, and primarily for  
21 personal, family, or household purposes, CRTs or CRT Products manufactured and/or  
22 sold by any Mitsubishi Electric Releasee, or any Alleged Co-Conspirator;

23 e. Specifically excluded from the Settlement Class are Mitsubishi Electric Releasees,  
24 Alleged Co-Conspirators, any federal, state or local government entities, and any  
25 judicial officer presiding over this action and the members of his/her immediate family  
26 and judicial staff.

**NOTICE PROGRAM RESULTS**

4. Summary. In the *Declaration of Joseph M. Fisher Re: Mitsubishi Notice Program* (“Fisher Declaration-2022,” ECF 6059-1) filed on August 23, 2022, I proposed a Notice Program in compliance with Rule 23 of the Federal Rules of Civil Procedure (“FRCP 23”) that consisted of the following elements:

- (a) Settlement Website;
- (b) Digital Media;
- (c) Print Media;
- (d) Press Release;
- (e) Magazine eNewsletters;
- (f) Cable Television; and
- (f) Direct Notice by mail and email;

The proposed Notice Program was designed to reach a high percentage of the Target Audience<sup>2</sup> across multiple channels.<sup>3</sup> As implemented, the Notice Program delivered a calculated reach of 87% with an average frequency of 3.02.<sup>4</sup>

5. Prior Settlements. As described below, the Notice Program for the Settlement with Mitsubishi Electric included a direct outreach to those members of the Settlement Class who had previously been identified in connection with the prior settlements with Chunghwa, LG, Hitachi, Panasonic, Philips, Samsung, Toshiba, Thomson and TDA involving indirect purchasers of CRT products (collectively the “Prior Settlements”). Claimants in the Prior Settlements are referred to as “Prior Claimants”.

---

<sup>2</sup> The Target Audience is a qualitative target of adults 35 years and older in the United States that own a television or computer. Fisher Declaration-2022 at ¶ 9.

<sup>3</sup> Fisher Declaration-2022 at ¶ 31. The Notice Company was assisted by Postlethwaite & Netterville, APAC, including Brandon Schwartz, its Director of Notice, in the Notice Program’s development and implementation.

<sup>4</sup> This reach exceeds the standard set out by the Federal Judicial Center, which states that a notice plan that reaches at least 70% of class members is one that reaches a “high percentage” and is within the “norm.” Barbara J. Rothstein & Thomas E. Willging, Federal Judicial Center, “Managing Class Action Litigation: A Pocket Guide for Judges,” at 27 (3d ed. 2010).

**Settlement Website**

1  
2 6. Updated Website. On February 8, 2023, the Settlement Administrator updated the  
3 existing website for the Prior Settlements, at [www.CRTClaims.com](http://www.CRTClaims.com) (“Settlement Website”), to focus  
4 on the Mitsubishi Electric Settlement, while retaining key updates and documents for the Prior  
5 Settlements. The Settlement Website provides information about the Settlement and the Plan of  
6 Distribution, including key dates, the class definition, guidance on how to file a claim (including the  
7 option to submit a claim online), guidance on how to exclude/opt-out of the Settlement and how to  
8 object to the Settlement, information on attending the Fairness Hearing, answers to Frequently Asked  
9 Questions (FAQs), Spanish translation documents, and contact information for the Settlement  
10 Administrator. A copy of the Settlement Website’s home page is attached hereto as Exhibit A.

11 7. Website Documents. The Settlement Website provides access to several documents,  
12 including the Summary (Short-Form) Notice of Settlement in the form attached hereto as Exhibit B  
13 (English) and Exhibit C (Spanish), Detailed (Long-Form) Notice of Settlement in the form attached  
14 hereto as Exhibit D (English) and Exhibit E (Spanish), mail-in Claim Form and Instructions for  
15 Individuals (Natural Persons) in the form attached hereto as Exhibit F (English) and Exhibit G  
16 (Spanish), and mail-in Claim Form and Instructions for Businesses in the form attached hereto as  
17 Exhibit H (English) and Exhibit I (Spanish). Also available on the Settlement Website are the Motion  
18 for Preliminary Approval (ECF 6053), Order Granting Preliminary Approval (ECF 6104) and  
19 Stipulation and Order Extending Deadline to Publish Notice (ECF 6114). On March 10, 2023, the  
20 Motion for Award of Attorneys’ Fees, Reimbursement of Litigation Expenses, and Incentive Awards  
21 to Class Representatives (ECF 6177) was posted to the Settlement Website. A copy of the Settlement  
22 Website’s page for Settlement Documents is attached hereto as Exhibit J.

23 8. Website Visits. For the period commencing on February 8, 2023, when the Settlement  
24 Website began to focus on the Mitsubishi Electric Settlement, through May 3, 2023, the Settlement  
25 Website has been visited by 1,228,574 unique visitors who made 5,395,698 page views.<sup>5</sup>

26  
27 \_\_\_\_\_  
28 <sup>5</sup> The Settlement Website’s home page focuses on the Settlement with Mitsubishi Electric, although  
visitors may click through to obtain information on the Prior Settlements as well.

### Paid Media - Digital

9. Digital Campaign. Beginning on February 8, 2023, and continuing through March 15, 2023, the Settlement Administrator caused digital media notices to run across Google Display Network, Yahoo!, Facebook, YouTube, LinkedIn, and AARP as well as search ads on Google.com. The digital notices were targeted to the Target Audience<sup>6</sup> and allowed website visitors to identify themselves as potential Class Members and click through to the Settlement Website. In addition, digital banner notices were translated into Spanish and served to users that chose Spanish as their preferred browser language and/or appeared on language appropriate websites. More than 471,570,000 impressions were generated during the campaign, which is substantially consistent with anticipated total impressions.<sup>7</sup>

<b>Table 1: Summary of Digital Media</b>		
	<b>Expected Impressions</b>	<b>Actual Impressions</b>
<i>Google Display Network</i>	186,200,000	193,717,521
<i>Yahoo</i>	67,800,000	61,203,208
<i>Facebook</i>	127,000,000	122,170,359
<i>LinkedIn</i>	29,000,000	30,216,189
<i>YouTube</i>	63,000,000	61,387,593
<i>Google Ads</i>	TBD	85,531
<i>AARP</i>	754,000	2,791,839
<b>Total:</b>	<b>473,754,000</b>	<b>471,572,240</b>

Screenshots of the digital media notices are attached as Exhibit K.

### Paid Media - Print

10. Print Publications. The Settlement Administrator originally proposed publication of Summary Notice in two magazines: *People Magazine* and *Readers Digest*.<sup>8</sup> In order to accommodate publishers' ad-submission schedules and to enhance the Notice Program, a third major print

<sup>6</sup> Digital media audiences were targeted as described in the Fisher Declaration-2022 at ¶17.

<sup>7</sup> See Fisher Declaration-2022 at ¶¶ 17 to 23.

<sup>8</sup> Fisher Declaration-2022 at ¶¶ 24 to 26.

1 publication was added: *Us Weekly*. On February 10, 2023, the Settlement Administrator caused the  
 2 Summary Notice to appear in *People Magazine* and *Us Weekly*.<sup>9</sup> On April 18, 2023, the Settlement  
 3 Administrator caused the Summary Notice to appear in *Readers Digest*.<sup>10</sup> A copy of the print notice  
 4 as it appeared in each publication is attached hereto as Exhibit L. Table 2 below summarizes the  
 5 circulation and readership of these print publications.<sup>11</sup>

6

7 **Table 2: Summary of Print Publications**

8 Magazine	9 Circulation	10 Readership
11 <i>People</i>	2,500,000	25,393,000
12 <i>Us Weekly</i>	1,950,000	7,052,000
13 <i>Readers Digest</i>	3,000,000	14,200,000

14 **Press Release**

15 11. National Distribution. On February 13, 2023, the Settlement Administrator  
 16 disseminated a nationwide release in English and Spanish over Cision's PR Newswire US1 & National  
 17 Hispanic Newswire. The press release was also distributed across Cision's consumer electronics  
 18 microlist of influencers and posted on Cision's Twitter feed focused on consumer electronics. The  
 19 release resulted in 457 pickups by media outlets and a total potential audience of 203,600,000. A copy  
 20 of the release in English and Spanish as well as the visibility report is attached hereto as Exhibit M.

21 \_\_\_\_\_  
 22 <sup>9</sup> Summary Notice was published in the February 20, 2023, edition of *People Magazine* and *Us Weekly*,  
 which were on sale to the public as of February 10, 2023.

23 <sup>10</sup> Summary Notice appeared in the May edition of *Readers Digest* which was available to the public  
 24 on April 18, 2023. *Readers Digest* did not publish a stand-alone April 2023 edition. Instead, it earlier  
 25 published a combined March-April edition with a December closing date for advertising submissions  
 26 that preceded our submission of the Summary Notice. Thus, notice publication in *Readers Digest* was  
 helpful for promoting claim submissions by Class Members but did not factor into my analysis for  
 informing Class Members of their exclusion and objection rights.

27 <sup>11</sup> Circulation refers to the number of copies of the magazine that are distributed. Readership refers to  
 28 the number of people who read the magazine. The readership number is an estimate of how many  
 hands a copy of the magazine goes into. For example, if a household subscribes to a magazine, it is  
 read by multiple people in that household.

**Magazine eNewsletters**

12. Digital Dissemination. Commencing on February 13, 2023, the Settlement Administrator disseminated notice through the digital newsletter publications of *Dotdash Meredith* (magazine titles include *Better Homes & Gardens* and *Southern Living*), *Golf Magazine*, and *Kiplinger*.

13. Digital Program. Notice in *DotDash Meredith* digital newsletter was provided by a custom email and was sent to an average opt-in audience of 252,857 over seven newsletters. Notice in *Golf Magazine* digital newsletter was provided by 300x250, 970x250, and 300x600 ad units as well as a companion digital banner in the same ad sizes that ran on [www.golfmagazine.com](http://www.golfmagazine.com). In total, 1,008,404 impressions ran over a one-month period across all channels. Notice in *Kiplinger* ran four times in *Kiplinger Today* and three times in *A Step Ahead* digital newsletters for a total of seven insertions. Notice was provided by custom created content alongside a 600x400 image and was sent to an average opt-in audience of 600,547 and 603,192 for *Kiplinger Today* and *A Step Ahead*, respectively.

14. Screenshots. Screenshots of the digital newsletter notices and companion banners are attached hereto as Exhibit N.

**Cable Television**

15. TV Ads. Beginning on February 13, 2023 and continuing through March 3, 2023, the Settlement Administrator caused notice via television ads on cable TV networks including MSNBC, Hallmark, The Weather Channel, COMET, and The Action Channel, among others. The cable television ads aired 604 times, which was 500 more airings than originally anticipated.<sup>12</sup>

**Direct Notice**

16. Direct Notice to Claimant Representatives. On February 10, 2023, the Settlement Administrator sent the Summary Notice to 68 representatives from third-party claim submission companies or law firms that had contacted the Settlement Administrator in connection with the Prior Settlements. Claims received from such entities accounted for approximately 95% of the dollar value

<sup>12</sup> See Fisher Declaration-2022 at ¶ 30.

of all claims submitted by claimants in the Prior Settlements. Summary Notice was sent via email substantially in the form attached hereto as Exhibit O, which included directions for notice distribution by the third-party claim submission companies and law firms to their respective clients.

17. Direct Notice to Claimants in the Prior Settlements. Commencing on March 1, 2023, and continuing through March 10, 2023, the Settlement Administrator sent the Summary Notice in the form attached hereto as Exhibit P, or the Email Notice in the form attached hereto as Exhibit Q, to all other persons and businesses who had submitted indirect purchaser claims in the Prior Settlements. The Email Notice was used when an email address was available for the claimant. The Summary Notice was mailed when email addresses were not available or when an attempted email was returned as undeliverable.

18. Summary of Direct Notice. Table 3 below summarizes the results of the direct notice sent to Prior Claimants.

<b>Table 3: Summary of Direct Notice to Prior Claimants</b>		
<b>Description</b>	<b>Volume of Notices Sent (#)</b>	<b>Percentage of Notices Sent (%)</b>
<b>Email Notice - Prior Claimants</b>		
Total Email Notices Sent	64,083	75.8%
Total Email Notices Delivered	62,519	73.9%
Total Email Notices Bounced/Undeliverable	1,564	1.8%
<b>Mail Notice - Prior Claimants</b>		
Total Notices Mailed	20,488	24.2%
Total Notices Delivered	18,496	21.9%
Total Notices Returned as Undeliverable	1,992	2.4%
<b>Direct Notice Program Reach – Prior Claimants</b>		
Received Direct Notice	81,015	95.8%
Did Not Receive Direct Notice	3,556	4.2%

In addition to the totals reported above, 54,098 Prior Claimants were reached indirectly via their third-party representative or legal counsel.<sup>13</sup>

19. Direct Notice by Mail: Compiled Lists of Businesses and Organizations. Commencing on March 10, 2023, the Settlement Administrator sent the Summary Notice in postcard format,

<sup>13</sup> See ¶ 16, *supra*.

1 substantially in the form attached hereto as Exhibit R, to the businesses, academic institutions and  
2 hospitals identified as follows:<sup>14</sup>

- 3 (a) Every Fortune 500 Company for each year from 1995 to 2007;
- 4 (b) 406 largest Private Colleges and Universities in the United States located in the  
5 Indirect Purchaser Jurisdictions;
- 6 (c) 666 largest Private Schools (secondary schools) in the United States located in the  
7 Indirect Purchaser Jurisdictions; and
- 8 (d) 48 largest Hospitals in the United States (not owned by any federal, state or local  
9 governmental entity) located in the Indirect Purchaser Jurisdictions.

10 The results of this direct-notice outreach is summarized in Table 4 below.

11 **Table 4: Summary of Direct Notice by Mail to Compiled List of Businesses and**  
12 **Organizations**

Description	Volume of Notices Sent (#)	Percentage of Notices Sent (%)
Total Notices Mailed	1,755	100.0%
Total Notices Delivered	1,550	88.3%
Total Notices Returned as Undeliverable	205	11.7%

16 20. Direct Notice by Email: Lists of Small Businesses and Consumers: The Settlement  
17 Administrator identified a list of email addresses for small business owners (businesses typically  
18 ranging from five to twenty-five employees) consisting of 673,041 entries, and a list of consumers  
19 aged 30 and older with a high interest in computers, consumer electronics, and televisions comprised  
20 of 13,711,043 entries.<sup>15</sup> The combined email list totaled approximately 14.3 million. As a first step,  
21 the Settlement Administrator “scrubbed” the list to improve deliverability by removing emails that  
22 could readily be identified as bad,<sup>16</sup> resulting in an email list of approximately 12.9 million. The  
23

24 <sup>14</sup> See Fisher Declaration-2022 at ¶ 13. Before mailing, the lists were processed to remove entities that  
25 otherwise were receiving notice as Prior Claimants.

26 <sup>15</sup> Fisher Declaration-2022 at ¶¶ 14 & 15.

27 <sup>16</sup> The Emailable platform was used to remove bad emails and improve email deliverability.  
28 <https://emailable.com/>. Bad or invalid email addresses may arise due to data-entry typos or improper  
formatting. Other examples of invalid email addresses include use of an expired domain name  
extension or use of an Internet Service Provider (ISP) that is no longer in business.



1 Settlement Administrator commenced on March 10, 2023, sending the Email Notice, substantially in  
2 the form of Exhibit S attached hereto, to these addresses with a resulting deliverability rate of 94%.

3 **Email Support**

4 21. Dedicated Email Address. The Settlement Administrator continues to use the  
5 established [info@crtclaims.com](mailto:info@crtclaims.com) email address to provide email support to Class Members, including  
6 answering specific questions and requests to the Administrator. The email address is included in all  
7 Notices and displayed on the Settlement Website.

8 **Settlement Post Office Box**

9 22. Dedicated P.O. Box. The Settlement Administrator continues to use its established  
10 Post Office Box (“P.O. Box”) for purposes of the Mitsubishi Electric Settlement:

11 CRT Claims  
12 c/o The Notice Company  
13 P.O. Box 778  
14 Hingham, MA 02043

15 23. Mail Service. The P.O. Box serves as a location for Class Members to submit Claim  
16 Forms, exclusion request forms, and other Settlement related correspondences. The P.O. Box appears  
17 on all Notices and in multiple locations on the Settlement Website. The Settlement Administrator  
18 monitors the P.O. Box daily.

19 **Dedicated Toll-Free Hotline**

20 24. Telephone Service. The Settlement Administrator continues to use the established toll-  
21 free hotline, 1-800-649-0962, dedicated to this Settlement. The toll-free hotline is accessible 24 hours  
22 per day, seven days per week and utilizes an interactive voice response (“IVR”) system where Class  
23 Members can obtain essential information regarding the Settlement and be provided responses to  
24 frequently asked questions. Class Members have the option to leave a voicemail and receive a call  
25 back from the call center representative. The toll-free hotline appeared in all Notices and in multiple  
26 locations on the Settlement Website. For the period commencing on February 8, 2023, when the Notice  
27 Program commenced with the Settlement Website focusing on the Mitsubishi Electric Settlement,  
28 through May 3, 2023, the toll-free hotline has received 1,895 calls and 425 voicemails, totaling 15,909  
minutes.

**Objections and Exclusion Requests**

25. Exclusion Requests. The deadline for Class Members to request exclusion from the Settlement was April 14, 2023. The Settlement Administrator received one (1) request for exclusion from the Settlement. A copy of the exclusion request is attached as Exhibit T.

26. No Objections. The deadline for Class Members to object to the Settlement was April 14, 2023. Consistent with the Court’s orders, the notice documents directed that objections must be filed with the Court. The Settlement Administrator has not received notice of any objections to the Settlement.

**Claim Form Submissions**

27. Ongoing Claim Submissions. The deadline for claim submissions is June 13, 2023. Claims are continuing to be received and claim review is ongoing. A supplemental declaration will be filed with the Court once claim review is complete.

28. Prior Claimants. As described in the Detailed Notice of Settlement and Summary Notice of Settlement,<sup>17</sup> all eligible End-User claimants from the Prior Settlements were automatically entered into the Mitsubishi Electric Settlement. As described at ¶ 9, *supra*, the Settlement Administrator sent direct notice to these claimants and informed them of their previously-approved quantities. If a claimant had additional units to add to their claim, they were instructed to submit a new claim with a full report of all units claimed for the New Settlement. Once the claims deadline has passed, the Settlement Administrator will review all claims submitted to ensure that eligible Prior Claimants have a timely, non-duplicated claim submission.

29. Claimants Represented by Third-Party Claim Submission Companies. As previously noted,<sup>18</sup> claims submitted through third-party claim submission companies or law firms accounted for approximately 95% of the dollar value of all claims submitted by claimants in the Prior Settlements. Although the claims process remains ongoing for the Mitsubishi Electric Settlement, I expect that such

---

<sup>17</sup> See Exhibits B through E attached hereto.

<sup>18</sup> Fisher Declaration-2022 at ¶ 16.

1 claims will account for between 85% and 95% of the dollar value of claims submitted in the Mitsubishi  
2 Electric Settlement.

3 30. Amounts Paid to Prior Claimants. As of May 3, 2023, claimants in the Prior Settlements  
4 have cashed \$402,666,291.52 of the \$410,503,806.60 net settlement fund available for distribution,  
5 with 21,114 checks remaining uncashed. In addition, a \$10 million reserve fund was withheld from  
6 high-value claims with remaining amounts to be distributed at the conclusion of the administration  
7 process. *See* Order Granting Motion for Order Authorizing Distribution of Settlement Funds ¶ 14 (ECF  
8 6040).

9 31. New Claimants. New claimants have the option of submitting a paper claim via USPS  
10 or completing the online claim form available at [www.CRTClaims.com](http://www.CRTClaims.com). As of May 3, 2023, The  
11 Notice Company has received 1,022,192 new claim submissions of which 135,130 have passed an  
12 initial screening for validity. Table 5 below provides a summary of the claims received to date.

13

Table 5: Claims Statistics (as of May 3, 2023)	
Description	Volume (#)
<b>Total Claims Received</b>	<b>1,022,192</b>
(-) Duplicate Claims Identified	9,515
(-) Potentially Invalid Claims: Likely Bot Generated	877,547
<b>Net Claims</b>	<b>135,130</b>

14  
15  
16  
17  
18 32. Claim Review. In reviewing the claims received, the Settlement Administrator has  
19 identified duplicate claims and potentially invalid claims. Duplicate claims currently identified are  
20 limited to claims where the claimant name, address, email and phone number are exact match  
21 duplicates. A broader duplicate analysis will be completed after the claims deadline.

22 33. “Bot” Submissions. The Settlement Administrator suspects that many claims have  
23 been and are being programmatically generated and submitted by “bots” (short for robots).<sup>19</sup> The  
24 Settlement Administrator has been identifying characteristics of these suspected bot-generated claims  
25

26  
27 <sup>19</sup> *See* Merriam-Webster, Inc.: “bot” is defined as “(1) Robot; (2) a computer program that performs  
28 automatic, repetitive, and sometimes harmful tasks; (3) a computer program or character that mimics  
human actions.” <https://www.merriam-webster.com/dictionary/bot> (last visited May 4, 2023).

1 in order to detect potentially invalid submissions.<sup>20</sup> The Settlement Administrator promptly took the  
2 following three steps to minimize the impact of bot-generated submissions:

3 a. A reCAPTCHA (Completely Automated Public Turing test to tell Computers  
4 and Humans Apart) (“reCAPTCHA verification”) was added to the claim form and required  
5 of claimants prior to claim submission.<sup>21</sup>

6 b. Five (5) IP addresses with over 3,000 submissions each were blocked from  
7 accessing the claim form.

8 c. Attempts to access the Settlement Website from IP addresses located outside of  
9 the United States and Canada were presented with a challenge as a condition to gaining access  
10 to the claim form. These are dynamically-generated challenge chosen by software based on  
11 the characteristics of the request received. Challenges may be passive (completed by  
12 JavaScript in the user browser), a simple checkbox or require a short puzzle to complete.<sup>22</sup>

13 To date, the Settlement Administrator has identified 877,547 potentially invalid claims that warrant  
14 further review.

15 34. Recommended Next Steps. After the claims deadline passes and the conclusion of its  
16 claims review, the Settlement Administrator will present a report to the Court with recommended  
17 courses of action concerning bot-generated deficient or invalid claims.

#### 18 **Notice and Administration Costs**

19 35. Settlement Administrator’s Costs. The Settlement Administrator has incurred  
20 \$979,000 in fees and costs for completing the Notice Program. Further administration of the  
21 Settlement, including claims review and issuing payments to claimants, is estimated to cost an  
22 additional \$700,000 to \$950,000.

23  
24 \_\_\_\_\_  
25 <sup>20</sup> Guidance in recognizing Bot behavior is offered in "Social Media Bots", Cybersecurity and  
26 Infrastructure Security Agency, U.S. Department of Homeland Security.  
[https://www.cisa.gov/sites/default/files/publications/social\\_media\\_bots\\_infographic\\_set\\_508.pdf](https://www.cisa.gov/sites/default/files/publications/social_media_bots_infographic_set_508.pdf)  
(last visited May 4, 2023).

27 <sup>21</sup> See Google reCAPTCHA at <https://www.google.com/recaptcha/about/> (last visited May 4, 2023).

28 <sup>22</sup> See Cloudflare challenge documentation at <https://developers.cloudflare.com/fundamentals/get-started/concepts/cloudflare-challenges/#js-challenge> (last visited May 4, 2023).

1 **Conclusion**

2 36. The Notice Program Satisfies Due Process Requirements. In class action notice  
3 planning, execution, and analysis, the Settlement Administrator has been guided by due process  
4 considerations as dictated by the FRCP 23. In my opinion, the above-described Notice Program  
5 satisfies the requirements of due process.

6 37. Reach and Frequency of the Notice Program. In total, the Notice Program delivered an  
7 87% reach with an average frequency of 3.02.<sup>23</sup> The measurable reach of the Notice Program ignores  
8 unpaid or “organic” forms of notice.<sup>24</sup> The measurable reach also excludes the impact of digital  
9 newsletters and other forms of direct notice, cable TV, the Settlement Website, toll-free hotline and  
10 press release, as it is difficult to quantify the impact of such activity on the reach and frequency  
11 numbers. Those media vehicles, however, meaningfully strengthened the reach and frequency of the  
12 Notice Plan and enhanced claim submissions.

13 38. Best Notice Practicable. It is my opinion, based on my expertise and experience and  
14 that of my team, that the methods of notice dissemination implemented by the Notice Program  
15 provided effective notice of the Settlement, provided the best notice that is practicable, adhered to  
16 FRCP 23, is consistent with the “Procedural Guidance for Class Action Settlements” as published by  
17 the United States District Court for the Northern District of California, followed the orders of the Court  
18 in this action and met the requirements of due process.

19  
20  
21  
22  
23 \_\_\_\_\_  
24 <sup>23</sup> As noted at footnote 10, *supra*, publication of notice in *Readers Digest* was helpful for promoting  
25 claim submissions but did not factor into my analysis of the effectiveness of the Notice Program.  
26 Addition of *Readers Digest* to the notice calculation would have increased the estimated reach of the  
27 Notice Program from 87% to 88% with a frequency of 3.06.

28 <sup>24</sup> Examples of organic contributions to notice are: (A) online searches on Google or Bing that show  
the Settlement Website as an unadvertised search result, (B) unpaid Facebook posts that discuss or  
point to CRT settlements, and (C) unsolicited email blasts and website features that highlight the  
Mitsubishi Electric Settlement; *see, e.g.*, [https://openclassactions.com/settlement\\_crt.php](https://openclassactions.com/settlement_crt.php) (last visited  
May 8, 2023).

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

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge.

Executed at Hingham, Massachusetts, this 11<sup>th</sup> day of May, 2023.



JOSEPH M. FISHER

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

**UNITED STATES DISTRICT COURT**  
**NORTHERN DISTRICT OF CALIFORNIA**  
**OAKLAND DIVISION**

**IN RE: CATHODE RAY TUBE (CRT)  
ANTITRUST LITIGATION**

Master File No. 07-cv-5944-JST  
Case No. 17-cv-04067-JST

MDL No. 1917

This document relates to:

*Luscher v. Mitsubishi Electric Corp.*,  
No. 17-cv-04067-JST

**[PROPOSED] ORDER GRANTING FINAL  
APPROVAL OF CLASS ACTION  
SETTLEMENT WITH DEFENDANT  
MITSUBISHI ELECTRIC CORPORATION**

Hon. Jon S. Tigar

1 The Indirect Purchaser Plaintiffs' ("IPPs") have filed a Motion for Final Approval of  
2 Class Action Settlement with Defendant Mitsubishi Electric Corporation ("Mitsubishi Electric").  
3 The Court, having reviewed the motion, the settlement agreement between IPPs and Mitsubishi  
4 Electric ("Settlement Agreement"), the pleadings and other papers on file in this Action, and the  
5 statements of counsel and the parties, hereby finds that the motion should be GRANTED.

6 NOW, THEREFORE, IT IS HEREBY ORDERED:

7 1. The Court has jurisdiction over the subject matter of this litigation, and all actions  
8 within this litigation and over the parties to the Settlement Agreement, including all members of  
9 the Settlement Class and Mitsubishi Electric.

10 2. For purposes of this Order, except as otherwise set forth herein, the Court adopts  
11 and incorporates the definitions contained in the Settlement Agreement.

12 3. Pursuant to Rule 23(e)(2) of the Federal Rules of Civil Procedure, after a hearing,  
13 the Court hereby finally approves and confirms the Settlement set forth in the Settlement  
14 Agreement and finds that said Settlement is, in all respects, fair, reasonable, and adequate to the  
15 Settlement Class within the meaning of Rule 23 and directs its consummation according to its  
16 terms. Specifically:

17 a. The class representatives and counsel have vigorously represented the  
18 interests of the Settlement Class;

19 b. The Settlement Agreement was negotiated by arm's-length, informed, and  
20 non-collusive negotiations between counsel for IPPs and Mitsubishi Electric under the  
21 supervision of a Magistrate Judge;

22 c. The relief provided for the Settlement Class is adequate, considering: (i)  
23 the costs, risks, and delay of trial and appeal, particularly in light of the complex nature of IPPs'  
24 case; (ii) the effectiveness and straightforwardness of the proposed claims process, which is  
25 similar to the process this Court previously approved; and (iii) the reasonableness of the request  
26 for an award of attorneys' fees and reimbursement of litigation expenses.



1           d.       The Settlement Agreement treats class members equitably relative to each  
2 other. IPPs propose to use the same weighted pro-rata plan of distribution that this Court has  
3 approved for the prior settlements in this case. This Court thus finds IPPs' Plan of Distribution is  
4 fair, reasonable, and adequate.

5           5.       The Plan of Distribution set forth in the Class notice is, in all respects, fair,  
6 adequate, and reasonable. Accordingly, the Court hereby grants final approval of the Plan of  
7 Distribution.

8           6.       The Court does hereby find, for the reasons set forth in its October 31, 2022  
9 Preliminary Approval Order, ECF No. 6104, and for purposes of judgment on the Settlement  
10 Agreement only, that the Settlement Class defined in that Order satisfies the requirements for  
11 class certification under Federal Rule of Civil Procedure 23(a) and 23(b)(3).

12           7.       The Court hereby confirms the appointment of Mario N. Alioto and Trump,  
13 Alioto, Trump & Prescott, LLP as Settlement Class Counsel pursuant to Rule 23(g), and finds  
14 that these Settlement Class Counsel have protected and will continue to fairly and adequately  
15 protect the interests of the Settlement Class.

16           8.       The notice given to the Class of the Settlements set forth in the Settlement  
17 Agreement and other matters set forth therein was the best notice practicable under the  
18 circumstances. Said notice provided due and adequate notice of the proceedings and of the  
19 matters set forth therein, including the Settlement set forth in the Settlement Agreement, to all  
20 persons entitled to such notice, and said notice fully satisfied the requirements of Rule 23 of the  
21 Federal Rules of Civil Procedure, the requirements of due process, and all applicable state laws.

22           9.       Ali Ratzel of Jefferson City, Missouri, the class member who made a timely  
23 request to opt out of the Settlement, is excluded from the Settlement Class.

24           10.      The Court hereby dismisses on the merits and with prejudice the claims asserted  
25 by the IPPs against Mitsubishi Electric, which were certified as a settlement class in the Court's  
26  
27

1 Order Granting Final Approval, with IPPs and Mitsubishi Electric to bear their own costs and  
2 attorneys' fees except as provided for in the Settlement Agreement.

3 11. The Mitsubishi Electric Releasees are hereby and forever released and discharged  
4 with respect to any and all claims or causes of action which the Releasors had or have arising out  
5 of or related to any of the Released Claims as defined in the Settlement Agreement.

6 12. The United States District Court for the Northern District of California shall retain  
7 jurisdiction, which shall be exclusive to the extent permitted by law, over the implementation,  
8 enforcement, and performance of the Settlement Agreement, and shall have exclusive jurisdiction  
9 over any suit, action, proceeding, or dispute arising out of or relating to the Settlement  
10 Agreement or the applicability of the Settlement Agreement that cannot be resolved by  
11 negotiation and agreement by IPPs and Mitsubishi Electric. The Settlement Agreement shall be  
12 governed by and interpreted according to the substantive laws of the State of California without  
13 regard to its choice of law or conflict of laws principles.

14 13. Without affecting the finality of the Judgment in any way, this Court hereby  
15 retains continuing jurisdiction over: (a) any distribution to Class Members pursuant to further  
16 orders of this Court; (b) disposition of the Settlement Fund; (c) hearing and determining  
17 applications by IPPs for attorneys' fees, costs, expenses, interest, and incentive awards; (d) the  
18 Action until the Final Judgment contemplated hereby have become effective and each and every  
19 act agreed to be performed by the parties all have been performed pursuant to the Settlement  
20 Agreement; (e) hearing and ruling on any matters relating to the Plan of Distribution of  
21 settlement proceeds; and (f) all parties to the Action and Releasors for the purpose of enforcing  
22 and administering the Settlement Agreement and the mutual releases and other documents  
23 contemplated by, or executed in connection with, the Settlement Agreement.

24 14. The Court determines under Rule 54(b) of the Federal Rules of Civil Procedure,  
25 that Final Judgment should be entered and further finds that there is no just reason for delay in  
26 the entry of Judgment, as Final Judgment, as to the parties to the Settlement Agreement.

1           15.     Accordingly, the Clerk is hereby directed to enter Judgment forthwith against  
2 Mitsubishi Electric.

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

SO ORDERED this \_\_\_\_\_ day of \_\_\_\_\_, 2023.

\_\_\_\_\_  
Hon. Jon S. Tigar  
United States District Judge