



Court File No. 54054CP

**ONTARIO
SUPERIOR COURT OF JUSTICE**

THE HONOURABLE

)

THURSDAY, THE 18th DAY

)

JUSTICE GRACE

)

OF FEBRUARY, 2021

BETWEEN:

THE FANSHAWE COLLEGE OF APPLIED ARTS AND TECHNOLOGY

Plaintiff

- and -

SHARP CORPORATION, SHARP ELECTRONICS CORPORATION, SHARP
ELECTRONICS OF CANADA LTD.

Defendants

Proceeding under the *Class Proceedings Act, 1992*

ORDER

(Approval of Third Distribution Protocol)

THIS MOTION made by the Plaintiff for an Order approving the Third Distribution Protocol was heard this day at the Courthouse, 80 Dundas Street, London, Ontario.

ON READING the materials filed, including the protocol for distribution of settlement funds attached to this Order as Schedule "A" (the "Third Distribution Protocol"), and on hearing the submissions of counsel for the Plaintiff;

ON BEING ADVISED that RicePoint Administration Inc. ("RicePoint") consents to being appointed as the Claims Administrator and agrees to be bound by this Order, including the terms of the Third Distribution Protocol;

AND ON BEING ADVISED that the Plaintiff consents to this Order and the Defendants take no position on this Motion:

1. **THIS COURT ORDERS** that, for the purposes of this Order, the definitions set out in the Third Distribution Protocol apply and are incorporated into this Order.
2. **THIS COURT ORDERS** that RicePoint is appointed as Claims Administrator.
3. **THIS COURT ORDERS** that the Third Distribution Protocol is hereby approved and shall be implemented in accordance with its terms.
4. **THIS COURT ORDERS** that the Third Distribution Protocol shall govern the administration of the Settlement Agreement entered into with Sharp Corporation (the "Settling Defendant), dated September 23, 2020.
5. **THIS COURT ORDERS** that the settlement amount paid in accordance with the Settlement Agreement shall be distributed by the Claims Administrator in accordance with the Third Distribution Protocol.
6. **THIS COURT ORDERS** that all information received from Settlement Class Members collected, used and retained by the Claims Administrator for the purpose of administering the Settlement Agreement, including evaluating the Settlement Class Member's eligibility status under the Settlement Agreement and is protected under the *Personal Information Protection and Electronic Documents Act, SC 2000 c 5 (PIPEDA)*. The information provided by the Settlement Class Members is strictly private and confidential and will not be disclosed without the express written consent of the relevant Settlement Class Member, except in accordance with the Settlement Agreement, orders of this Court and/or the Third Distribution Protocol.
7. **THIS COURT ORDERS** that this Order is contingent upon parallel orders being made by the BC Court and the Quebec Court, and the terms of this Order shall not be effective unless and until such orders are made by the BC Court and the Quebec Court.

Signed: March 11, 2021 ^{DL}


Grace J

THE HONOURABLE JUSTICE GRACE

SCHEDULE "A"

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**DISTRIBUTION PROTOCOL – THIRD DISTRIBUTION
IN THE MATTER OF THE LCD LARGE SCREEN PRODUCTS CLASS ACTION
SETTLEMENTS**

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PREVIOUS DISTRIBUTIONS

1. A first distribution (the “**First Distribution**”) occurred in the context of the following settlements:
 - (a) Chunghwa Picture Tubes Ltd., dated May 11, 2009;
 - (b) Epson Imaging Devices Corporation (formerly known as Sanyo Epson Imaging Devices Corporation), dated August 2, 2011;
 - (c) Samsung Electronics Co., Ltd. and Samsung Electronics Canada Inc., dated April 29, 2013;
 - (d) Innolux Corporation (successor to Chi Mei Optoelectronics Corporation), which also releases claims against Chi Mei Corporation, Chi Mei Optoelectronics USA, Inc, Chi Mei Optoelectronics Japan Co., Ltd., Nexgen Mediatech, Inc., and Nexgen Mediatech, dated September 5, 2013; and
 - (e) Japan Display Inc. (successor to Hitachi Displays, Ltd.) on its behalf and on behalf of Hitachi Ltd., Hitachi Canada, Ltd., Hitachi America Ltd., Hitachi Electronics Devices (USA) Inc., dated September 10, 2013.
2. As part of the First Distribution, eligible Settlement Class Members were paid 2.45% of their Eligible LCD Product Purchases.
3. A second distribution (the “**Second Distribution**”) occurred in the context of the following settlements:
 - (a) Toshiba Corporation, Toshiba Mobile Display Co., Ltd. (formerly known as Toshiba Matsushita Display Technology Co., Ltd. and subsequently known as Japan Display Central Inc. and now part of Japan Display Inc.), Toshiba America Inc. (incorrectly named as Toshiba America Corporation), and Toshiba of Canada Limited, dated May 12, 2016; and

- (b) AU Optronics Corporation and AU Optronics Corporation America, dated May 17, 2016.
 - (c) LG Display Co., Ltd., LG Philips LCD Co., Ltd., LG Display America, Inc. and LG Philips LCD America, Inc., dated November 3, 2016.
 - (d) HannStar Display Corporation, dated February 7, 2017.
4. As part of the Second Distribution, New Claimants were paid 2.45% of their Eligible LCD Product Purchases. Both Original Claimants and New Claimants were paid an additional 1.25% of their Eligible LCD Product Purchases, except that Original Claimants whose entitlement would have resulted in a payment of less than \$10 did not receive any additional payment.
5. The procedures set forth herein are intended to govern the administration of the settlement agreement entered into with the following Defendants (the “**Third Distribution**”):
- (a) Sharp Corporation (the “Settling Defendant”), Sharp Electronics Corporation, and Sharp Electronics of Canada Ltd., dated September __, 2020 (the “**Settlement Agreement**”).

DEFINITIONS

6. The definitions set out in the Settlement Agreement apply to and are incorporated herein.
7. In addition to the terms defined above, the following definitions apply in this Distribution Protocol:
- (a) *Claim* means the paper or electronic form that a Settlement Class Member submitted in the First Distribution or the Second Distribution.

- (b) ***Eligible LCD Products Purchases*** means the value of the Settlement Class Member's LCD Product Purchases in respect of which the Settlement Class Member was entitled to settlement benefits in accordance with the First Distribution Protocol and/or the Second Distribution Protocol.
- (c) ***Eligible Settlement Class Members*** means the top 500 claimants from the First Distribution and the Second Distribution based on claim value, and Late Claimants.
- (d) ***First Distribution Protocol*** means the distribution protocol governing the First Distribution.
- (e) ***Late Claimants*** means Settlement Class Members who filed a Claim in the Second Distribution after the Claim Filing Deadline (as defined in the Second Distribution Protocol) and whose Claim was approved by the Claims Administrator.
- (f) ***Net Settlement Amount*** means the aggregate of: (i) residual funds from the Second Distribution; (ii) \$1 million of the holdback from the Second Distribution to account for litigation expenses; (iii) any costs awards issued in favour of the Plaintiffs (net of any amounts applied by Class Counsel against disbursements and/or adverse costs awards); (iv) the Settlement Amount recovered pursuant to the Settlement Agreement; and (v) interest accrued on the foregoing; less: (i) Class Counsel Fees as approved by the Courts; (ii) Administration Expenses; and (iii) taxes (including interest and penalties) payable with respect to accrued interest.
- (g) ***Second Distribution Protocol*** means the distribution protocol governing the Second Distribution.

DISTRIBUTION OF NET SETTLEMENT FUNDS

Calculation of Payments

8. Late Claimants will be paid up to 3.70% of their Eligible LCD Product Purchases.
9. After Late Claimants are paid 3.70% of their Eligible LCD Product Purchases, the remaining Net Settlement Amount will be distributed *prorata* to Eligible Settlement Class Members who were in the top 500 claimants from the First Distribution and the Second Distribution based on claim value, based on the Eligible Settlement Class Members' Eligible LCD Product Purchases.

Payment of Approved Claims

10. The Claims Administrator shall report to Class Counsel the particulars of the proposed distribution to each Eligible Settlement Class Member.
11. The Claims Administrator shall make arrangements to pay approved Claims as expeditiously as possible. Payments will be issued by cheque.

Residual Funds

12. To the extent that the full Net Settlement Amount is not paid out due to uncashed cheques, residual interest or otherwise:
 - (a) If the amount is equal to or less than \$20,000, such monies shall be paid to Pro Bono Canada, less any amounts payable to the Quebec Fonds d'aide aux actions collectives, as calculated pursuant to paragraph 13.
 - (b) If the amount is greater than \$20,000, further direction of the Ontario Court will be sought.
13. The *cy pres* payments shall be less any amounts payable to the Fonds d'aide aux actions collectives, pursuant to section 42 of the *Act respecting the Fonds d'aide aux actions collectives*, CQLR c. F-3.2.0.1.1 and calculated in accordance with Article 1. (1°) of the

Regulation respecting the percentage withheld by the *Fonds d'aide aux actions collectives*, R.S.Q. c. F-3.2.0.1.1, r. 2. For the purposes of calculating the amount payable to the *Fonds d'aide aux actions collectives*, 23.6%¹ of the *cy pres* payment will be notionally allocated to Quebec.

Undeliverable Mail

14. The Claims Administrator shall have no responsibility for locating Settlement Class Members for any mailing returned to the Claims Administrator as undeliverable.
15. The Claims Administrator shall have the discretion, but is not required, to reissue payments to Settlement Class Members returned as undeliverable under such policies and procedures as the Claims Administrator deems appropriate. Any costs associated with locating current address information for the Settlement Class Member and/or reissuing payment shall be deducted from that Settlement Class Member's settlement benefits.

THE CLAIMS ADMINISTRATOR'S DUTIES

Supervisory Powers of the Ontario Court

16. The Claims Administrator shall administer this Distribution Protocol under the ongoing authority and supervision of the Ontario Court.

Communication

17. The Claims Administrator shall dedicate sufficient personnel to respond to Settlement Class Members' inquiries in English or French, as the Settlement Class Member elects.

Reporting

18. The Claims Administrator shall provide regular reports to Class Counsel regarding the administration.

¹ 23.6% represents that portion of the Canadian population that resides in Quebec based on information from Statistics Canada's website.

19. The Claims Administrator shall provide any reports requested by the Ontario Court.

CONFIDENTIALITY & DISPOSITION OF CLAIM SUBMISSIONS

20. Subject to paragraph 21, the Claims Administrator shall preserve, in hard copy or electronic form, as the Claims Administrator deems appropriate, Claim Forms, documents relating to the Claim Forms, and documents relating to the claims administration, including customer and sales information provided by the Defendants, until three (3) years after the Net Settlement Amount has been paid out to Settlement Class Members, and at such time shall destroy such documents by shredding, deleting, or such other means as will render the materials permanently illegible.
21. If, as part of the First Distribution or Second Distribution, a Settlement Class Member consented to its information being preserved and used by the Claims Administrator in the future administration of settlement agreements relating to alleged price-fixing of other electronic components, the Claims Administrator may retain the information. The information shall continue to be treated as strictly private and confidential and subject to the protections of the *Personal Information Protection and Electronic Documents Act*, SC 2000 c 5, and shall not be disclosed without the express written consent of the Settlement Class Member, except in accordance with the Settlement Agreement, orders of the Courts and/or this Distribution Protocol.

ONTARIO
SUPERIOR COURT OF JUSTICE

Proceeding commenced at London

Proceeding under the *Class Proceedings Act, 1992*

ORDER
Approval of Third Distribution Protocol

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