

UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

IN RE AUTOMOTIVE PARTS ANTITRUST LITIGATION	CASE NO. 12-MD-02311  HON. MARIANNE O. BATTANI
In Re: HEATER CONTROL PANELS CASES	
THIS RELATES TO:  ALL DIRECT PURCHASER ACTIONS	2:12-cv-00401-MOB-MKM  2:16-cv-11109-MOB-MKM

**SETTLEMENT CLASS COUNSEL’S REPORT ON DISSEMINATION  
OF NOTICE OF PROPOSED SETTLEMENTS WITH THE SUMITOMO, ALPS  
AND TOKAI RIKA DEFENDANTS AND CLASS MEMBERS’ RESPONSE**

Settlement Class Counsel submit the following report concerning the dissemination of notice pursuant to this Court's Order dated July 27, 2018 (2:12-cv-00401, Doc. No. 197) (the “Notice Order”), and Settlement Class members’ response to the notice program. As described more fully below, notice was mailed to 72 potential Settlement Class members and published in accordance with the Notice Order. One request for exclusion was submitted as to each of the Sumitomo and Alps Settlement Classes. As a result of the later request for exclusion, the Alps Settlement Amount has been reduced to \$2,250,000. Under the terms of the Sumitomo settlement, the settlement amount of \$579,000 remains unchanged notwithstanding the request for exclusion from that Settlement Class. No requests for exclusion from the Tokai Rika Settlement Class were submitted; thus, the Tokai Rika settlement amount of \$1,875,000 remains unchanged as well. Accordingly, the total value of the settlement funds is \$4,704,000. No objections were filed to any of the three proposed settlements, to the proposed plan for distribution of settlement funds, or to

Settlement Class Counsel's request for an award of attorneys' fees and reimbursement of litigation costs and expenses, and incentive payments to the Class Representatives.

Settlement Class Counsel respectfully submit that the extremely low number of opt-outs and the complete absence of objections militate strongly in favor of approval of the proposed settlements, the proposed plan for distribution of settlement funds, and the request for attorneys' fees and litigation costs and expenses and incentive payments.

**I. DISSEMINATION OF NOTICE TO THE CLASSES**

Pursuant to the Court's Notice Order, on August 16, 2018, Epiq Class Action & Claims Solutions, Inc. ("Epiq"), the Notice and Claims Administrator retained by Direct Purchaser Plaintiff, mailed 72 copies of the Notice of Proposed Settlements of Direct Purchaser Class Action with the Sumitomo, Alps and Tokai Rika Defendants and Hearing on Final Settlement Approval and Related Matters, and Claim Form (the "Notice") to potential Settlement Class members by first class mail, postage prepaid. Declaration of Ryan Kao, Senior Project Manager for Epiq. Exhibit 1 at ¶ 6. Epiq also re-mailed returned notices for which updated addresses were obtained. *Id.* at ¶ 7. In addition, a copy of the Notice was (and remains) posted online at [www.AutoPartsAntitrustLitigation.com](http://www.AutoPartsAntitrustLitigation.com), a website dedicated to this litigation. *Id.* at ¶ 9.

Also in accordance with the Notice Order, the Summary Notice of Proposed Settlements of Direct Purchaser Class Action with Sumitomo, Alps and Tokai Rika and Hearing on Settlement Approval and Related Matters ("Summary Notice") was published in *Automotive News* on August 27, 2018. *Id.* at ¶ 8. Additionally, an online banner notice appeared for a 21 day period on [www.AutoNews.com](http://www.AutoNews.com), the digital version of *Automotive News*, and an Informational Press Release was issued nationwide on August 27, 2018 via PR Newswire's "Auto Wire," which targets auto industry trade publications. *Id.*

Notice to the Sumitomo, Alps and Tokai Rika Settlement Classes under Fed. R. Civ. P. 23 has, therefore, been provided as ordered by the Court.

**II. ABSENCE OF OBJECTIONS TO THE PROPOSED SETTLEMENTS, THE PROPOSED DISTRIBUTION PLAN, AND REQUESTS FOR AN AWARD OF ATTORNEYS' FEES AND EXPENSES AND INCENTIVE PAYMENTS**

The Notice advised that any objection to the proposed settlements, the proposed plan for distribution of settlement funds or to Settlement Class Counsel's request for an award of attorneys' fees and litigation costs and expenses and incentive payments to the Class Representatives had to be filed with the Clerk by October 5, 2018, with copies mailed to Settlement Class Counsel and to counsel for the Settling Defendants.

As of the date of the filing of this Report, no objection to any of the proposed settlements, the distribution plan, or to the fee and expense request or the incentive payment request has been filed with the Court or received by Settlement Class Counsel.

**III. REQUESTS FOR EXCLUSION**

The Notice further advised that requests for exclusion from the Sumitomo, Alps and Tokai Rika Settlement Classes had to be mailed to Settlement Class Counsel and to counsel for the Settling Defendants, postmarked no later than October 5, 2018. As of this date, Settlement Class Counsel have received one request for exclusion from the Sumitomo Settlement Class and one request for exclusion the Alps Settlement Class. *See* Exhibit 1 at ¶ 11. Both requests were timely submitted by American Honda Motor Co., Inc. No requests were submitted for exclusion from the Tokai Rika Settlement Class.

Settlement Class Counsel respectfully submit that, for the reasons set forth in the Memorandum in Support of Direct Purchaser Plaintiffs' Motion for Final Approval of Proposed Settlements with the Sumitomo, Alps and Tokai Rika Defendants and Proposed Plan for

Distribution of Settlement Funds (the “Final Approval Brief”) (2:12-cv-00401, Doc. No. 211), each of the Sumitomo, Alps and Tokai Rika settlements, is fair, reasonable and adequate under the relevant criteria, and warrants final approval.

**IV. THE REACTION OF MEMBERS OF THE SETTLEMENT CLASSES SUPPORTS APPROVAL OF THE SETTLEMENTS, THE PROPOSED PLAN FOR DISTRIBUTION, AND THE REQUESTS FOR AN AWARD OF FEES AND EXPENSES AND INCENTIVE PAYMENTS**

The reaction of the class has been recognized repeatedly by courts within this Circuit and elsewhere as a factor in evaluating the fairness, reasonableness, and adequacy of a proposed settlement. *See, e.g., Sheick v. Auto. Component Carrier LLC*, No. 2:09-cv-14429, 2010 WL 4136958, at \*22 (E.D. Mich. Oct. 18, 2010) (“scarcity of objections – relative to the number of class members overall – indicates broad support for the settlement among Class Members.”); *In re Cardizem CD Antitrust Litig.*, 218 F.R.D. 508, 527 (E.D. Mich. 2003) (“That the overwhelming majority of class members have elected to remain in the Settlement Class, without objection, constitutes the ‘reaction of the class,’ as a whole, and demonstrates that the Settlement is ‘fair, reasonable, and adequate.’”); *In re Delphi Corp. Sec., Deriv. & “ERISA” Litig.*, 248 F.R.D. 483, 499 (E.D. Mich. 2008) (small number of opt-outs or objections is indicative of the adequacy of the settlement).

Individual notice of the proposed settlements was mailed to 72 potential Settlement Class members identified by Defendants. The Summary Notice was published in *Automotive News* on August 27, 2018, and on that same day an Informational Press Release was issued nationwide via PR Newswire’s “Auto Wire.” Additionally, an online banner notice appeared over a 21-day period on [www.AutoNews.com](http://www.AutoNews.com), the digital version of *Automotive News*. The low number of opt-outs and total absence of objections militates strongly in favor of approval of the proposed settlements, the proposed plan for distribution of settlement funds, and the requests for attorneys’ fees and

reimbursement of litigation costs and expenses and incentive payments.

**V. REQUEST FOR AN AWARD OF ATTORNEYS' FEES**

As of July 31, 2018, Plaintiff's Counsel's lodestar, based upon historical rates, was \$6,210,650.38. Direct Purchaser Plaintiffs' Memorandum in Support of Their Motion for an Award of Attorney's Fees and Litigation Costs and Expenses, at 9 (the "Fee Brief") (2:12-cv-00401, Doc. No. 212). Since that date, Plaintiffs' Counsel have continued their efforts on behalf of the Settlement Classes by, among other things, drafting the final settlement approval submissions and overseeing the dissemination of notice to members of the Settlement Classes in accordance with the Notice Order. As a result of this continued effort, as of September 30, 2018, Plaintiff's Counsel's combined lodestar was \$6,293,914.63. Were the Court to award a fee of 33 $\frac{1}{3}$ % of the combined Sumitomo, Alps and Tokai Rika settlement proceeds of \$4,704,000, less litigation expenses of \$427,495.03, the multiplier on the more current lodestar would be a negative lodestar multiplier of approximately .23.

**VI. CONCLUSION**

Based upon the foregoing, and for the reasons set forth in Direct Purchaser Plaintiff's Final Approval Brief and Fee Brief, it is respectfully requested that the Court grant final approval of the proposed Sumitomo, Alps and Tokai Rika settlements, the proposed plan for distribution of settlement funds, and the requests for attorneys' fees and litigation costs and expenses, and incentive awards to the Class Representatives.

DATED: October 29, 2018

Respectfully submitted,

/s/David H. Fink  
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*Interim Co-Lead Class Counsel and Settlement Class Co-Lead Counsel*

**CERTIFICATE OF SERVICE**

I hereby certify that on October 29, 2018, I electronically filed the foregoing paper with the Clerk of the court using the ECF system which will send notification of such filing to all counsel of record registered for electronic filing.

FINK + ASSOCIATES LAW

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# **EXHIBIT 1**



3. Epiq has administered more than 1,000 settlements, including some of the largest and most complex cases ever settled. Epiq's class action case administration services include: coordination of all notice requirements; design of direct-mail notices; establishment and implementation of notice fulfillment services; coordination with the United States Postal Service ("USPS"); notice website development and maintenance; dedicated telephone lines with recorded information and/or telephone agents; receipt and processing of opt-outs; claims database management; claim adjudication; funds management; and award calculations and distribution services. Epiq works with the settling parties, the Court, and the Class Members in a neutral facilitation role to implement settlement administration services based on the negotiated terms of a settlement.

### **OVERVIEW OF EPIQ'S RESPONSIBILITIES AS THE SETTLEMENT**

#### **ADMINISTRATOR**

4. Epiq's responsibilities included the following:
  - a. Printing the Court-approved Direct Purchaser Class Notice and Claim Form ("SATR Claim Package") to be sent to putative Class Members;
  - b. Searching the National Change of Address ("NCOA") database for updated addresses, if any, for putative Class Members;
  - c. Mailing the SATR Claim Package by USPS First-class mail to putative Class Members;
  - d. Causing the Summary Publication Notice to be placed in one edition of *Automotive News*, accompanied by an online banner ad that ran for 21 days on *www.AutoNews.com*;
  - e. Issuing an informational press release via *PR Newswire*;

- f. Maintaining a toll-free telephone number with customer service telephone agents and an option to request a call back if reached during non-business hours;
- g. Maintaining an informational website that provides the public access to pertinent documents and settlement information.

### **CLASS NOTICE**

5. In preparation for mailing the SATR Claim Package, Epiq received lists of potential Settlement Class members from Settlement Class Counsel. Epiq then submitted the names and addresses of those potential Class Members to cross-reference with the NCOA database for updated address information. By eliminating duplicate records and invalid mailing addresses, Epiq refined the database to include 72 names and addresses of potential Class Members.

6. On August 16, 2018, Epiq mailed the SATR Claim Package by first class mail, postage prepaid, to the 72 potential Class Members. A copy of the SATR Claim Package is attached hereto as Exhibit A.

7. As of October 25, 2018, Epiq has received a total of 22 SATR Claim Packages returned by the U.S. Postal Service as undeliverable and has remailed 9 SATR Claim Packages to those records. As of October 25, 2018, there are 13 records that remain undeliverable.

### **PUBLICATION NOTICE**

8. Epiq caused the publication of the Summary Publication Notice in one edition of *Automotive News* on August 27, 2018 and in an online banner notice for a 21-day period on *www.AutoNews.com*, the digital version of *Automotive News*. An Informational Press Release was issued via PR Newswire's "Auto Wire" on August 27, 2018. Confirmation of the publication and copies of the Summary Publication Notice as it appeared in *Automotive News* and in the banner ad on *www.AutoNews.com* and the Informational Notice are attached hereto as Exhibit B.

**SETTLEMENT WEBSITE**

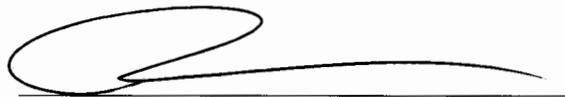
9. On August 16, 2018, Epiq updated portions of the public settlement website to provide Direct Purchase Class Members with information related to the proposed settlements. The domain name for the website is [www.AutoPartsAntitrustLitigation.com/hcp](http://www.AutoPartsAntitrustLitigation.com/hcp). The website provides general case information and links to important documents, including the Settlement Agreements, the SATR Claim Package, and other documents related to the settlements.

10. As of October 25, 2018, there have been 1,456 page views and 138 unique visitors to the settlement website.

**REQUESTS FOR EXCLUSION**

11. Class Members could request exclusion from the Settlement Classes, so long as they did so by submitting a request in writing that was postmarked by October 5, 2018. As of October 25, 2018, Epiq has received one (1) request for exclusion from the Sumitomo Settlement Class and one (1) request for exclusion from the Alps Settlement Class.

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct. Executed on this 26th day of October, 2018 in New York, New York.



Ryan Kao  
Senior Project Manager, Client Services | Epiq

# EXHIBIT A

UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

IN RE AUTOMOTIVE PARTS ANTITRUST  
LITIGATION

CASE NO. 12-MD-02311

In Re: HEATER CONTROL PANELS CASES

HON. MARIANNE O. BATTANI

THIS RELATES TO:

2:12-cv-00401-MOB-MKM

ALL DIRECT PURCHASER ACTIONS

2:17-cv-11109-MOB-MKM

**NOTICE**

**NOTICE OF PROPOSED SETTLEMENTS OF DIRECT PURCHASER CLASS ACTION WITH SUMITOMO, ALPS AND TOKAI RIKA DEFENDANTS, AND HEARING ON:**

- (1) APPROVAL OF PROPOSED SETTLEMENTS;
- (2) PLAN OF DISTRIBUTION OF THE SETTLEMENT FUND; AND
- (3) MOTION OF SETTLEMENT CLASS COUNSEL FOR AWARD OF ATTORNEYS' FEES AND REIMBURSEMENT OF LITIGATION COSTS AND EXPENSES, AND INCENTIVE PAYMENTS TO THE CLASS REPRESENTATIVES

TO: ALL INDIVIDUALS AND ENTITIES THAT PURCHASED HEATER CONTROL PANELS IN THE UNITED STATES DIRECTLY FROM ONE OR MORE DEFENDANTS, ANY CURRENT OR FORMER SUBSIDIARY OF ANY DEFENDANT, OR ANY ALLEGED CO-CONSPIRATORS OF THE DEFENDANTS FROM JANUARY 1, 2000 THROUGH MARCH 23, 2017.

PLEASE READ THIS NOTICE CAREFULLY. YOUR LEGAL RIGHTS MAY BE AFFECTED BY LITIGATION NOW PENDING IN THIS COURT.

**WHAT IS THE PURPOSE OF THIS NOTICE AND WHY WAS IT SENT TO ME?**

This Notice is given pursuant to Rule 23 of the Federal Rules of Civil Procedure and an Order of the United States District Court for the Eastern District of Michigan, Southern Division (the "Court"). The purpose of this Notice is to inform you of a hearing before the Court to consider:

- (1) Proposed settlements with Defendants Sumitomo Electric Industries, Ltd., Sumitomo Wiring Systems, Ltd., and Sumitomo Electric Wiring Systems, Inc. (collectively, "Sumitomo"); Defendants Alps Electric Co., Ltd., Alps Electric (North America), Inc., and Alps Automotive Inc. (collectively, "Alps"); and Defendants Tokai Rika Co., Ltd. and TRAM, Inc. d/b/a Tokai Rika U.S.A. Inc. (collectively, "Tokai Rika") (all Defendants referenced in this paragraph are collectively referred to as the "Settling Defendants");
- (2) A proposed plan of distribution of Sumitomo, Alps and Tokai Rika settlement proceeds to Settlement Class members and a proposed Claim Form that you may submit in order to share in the settlement proceeds; and
- (3) Settlement Class Counsel's motion for an award of attorneys' fees and reimbursement of litigation costs and expenses, and incentive payments to the Class Representatives.

This Notice provides information concerning the proposed settlements, the proposed plan of distribution, and the motion for attorneys' fees and reimbursement of litigation costs and expenses, and incentive payments. The Notice also advises you of your rights to participate in the settlement claims process; exclude yourself from any or all of the Settlement Classes; and object to the terms of the proposed settlements, the plan of distribution, and the requests for fees, costs and expenses, and incentive payments to the Class Representatives in connection with the Court hearing on these matters.

## BACKGROUND

Plaintiff has reached settlements with the Sumitomo Defendants, the Alps Defendants and the Tokai Rika Defendants totaling \$5,704,000. Under the terms of the proposed settlements, Sumitomo will pay a total of \$579,000 (the "Sumitomo Settlement Fund"), Alps will pay a total of \$3,250,000 (the "Alps Settlement Fund"), and Tokai Rika will pay a total of \$1,875,000 (the "Tokai Rika Settlement Fund") (the three settlement funds are collectively referred to as the "HCP Settlement Fund"), and all of the Settling Defendants will provide cooperation to assist Plaintiffs in the prosecution of the claims against the remaining Defendants.

This litigation, and the proposed settlements, are part of coordinated legal proceedings involving a number of parts used in motor vehicles. This litigation and the proposed settlements relate solely to Heater Control Panels purchased in the United States **directly** from a Defendant or any co-conspirator of a Defendant. For purposes of the proposed settlements, Heater Control Panels (also referred to as climate control panels) means the operational panels with buttons and switches controlling the climate of the interior environment of the vehicle and are typically located in the center of a motor vehicle. These proposed settlements do not relate to, and have no effect upon, cases involving any product other than Heater Control Panels.

If you are a member of the Sumitomo, Alps or Tokai Rika Settlement Classes (defined below), you have the rights and options summarized here:

- You may remain in any or all of the Sumitomo, Alps and Tokai Rika Settlement Classes and be eligible to share in the Sumitomo, Alps and/or Tokai Rika Settlement Funds under a claims procedure that will be instituted in the future;
- You may exclude yourself from the any or all of the Sumitomo, Alps and Tokai Rika Settlement Classes, in which case you will **not** be bound by any settlement from which you exclude yourself and will **not** be eligible to share in the proceeds of that settlement;
- If you remain in the Sumitomo or Alps or Tokai Rika Settlement Classes, you may object to that proposed settlement, to the proposed plan of distribution of the HCP Settlement Fund, or to Settlement Class Counsel's request for an award of attorneys' fees and reimbursement of litigation costs and expenses, and incentive payments to the Class Representatives. You may also appear at the hearing where the Court will consider these matters;
- You may enter an appearance in the litigation through your own counsel at your own expense; and
- Any Settlement Class member who wishes to participate in the distribution of the Sumitomo, Alps and Tokai Rika Settlement Funds must complete and submit a copy of the Claim Form, **postmarked no later than November 21, 2018**.

## WHO IS IN THE SETTLEMENT CLASSES?

The Court has provisionally certified a Direct Purchaser Sumitomo Settlement Class ("Sumitomo Settlement Class"), Direct Purchaser Alps Settlement Class (the "Alps Settlement Class"), and a Direct Purchaser Tokai Rika Settlement Class (the "Tokai Rika Settlement Class") for the purpose of disseminating notice of the proposed Sumitomo, Alps and Tokai Rika settlements.

The Sumitomo Settlement Class is defined as follows:

All individuals and entities (excluding Defendants and their present and former parents, subsidiaries, and affiliates) that purchased Heater Control Panels in the United States directly from one or more Defendants, any current or former subsidiary of any Defendant, or any alleged co-conspirator of the Defendants from January 1, 2000 through December 13, 2016.

The Alps Settlement Class is defined as follows:

All individuals and entities (excluding Defendants and their present and former parents, subsidiaries, and affiliates) that purchased Heater Control Panels in the United States direct from one or more Defendants from January 1, 2000 through March 23, 2017.

The Tokai Rika Settlement Class is defined as follows:

All individuals and entities who purchased Heater Control Panels in the United States directly from one or more of the Defendants or their co-conspirators (or their controlled subsidiaries, affiliates, or joint ventures) from January 1, 2000 through March 23, 2017. Excluded from the Settlement Class are Defendants, their present and former parent companies, subsidiaries, and affiliates, federal governmental entities and instrumentalities of the federal government, and states and their subdivisions, agencies and instrumentalities.

For purposes of the Settlement Class definitions set forth above, the Defendants are Alps Electric Co., Ltd.; Alps Electric (North America), Inc.; Alps Automotive Inc.; Denso Corporation; Denso International America, Inc.; Sumitomo Electric Industries, Ltd.; Sumitomo Wiring Systems, Ltd.; Sumitomo Electric Wiring Systems, Inc.; Tokai Rika Co., Ltd.; and TRAM, Inc.

Plaintiff Tiffin Motor Homes, Inc. has been appointed by the Court to serve as “Class Representative” for the Sumitomo, Alps and Tokai Rika Settlement Classes. The Court has appointed the law firms of Freed Kanner London & Millen LLC, Kohn, Swift & Graf, P.C., Preti, Flaherty, Beliveau & Pachios LLP, and Spector Roseman & Kodroff, P.C. to serve as “Settlement Class Counsel” for the Settlement Classes.

## WHAT IS THIS LITIGATION ABOUT?

In 2012, Plaintiff filed a class action lawsuit against Denso on behalf of a class of direct purchasers of Heater Control Panels, alleging that Denso engaged in a conspiracy to suppress and eliminate competition by agreeing to fix, maintain, or stabilize prices, rig bids and allocate the supply of Heater Control Panels sold in the United States. Plaintiff further alleged that as a result of the conspiracy, it and other direct purchasers of Heater Control Panels were injured by paying more than they would have paid in the absence of the alleged illegal conduct. In 2013, Plaintiff filed an Amended Class Action Complaint naming Sumitomo and Tokai Rika as additional defendants. In 2017, Plaintiff filed a separate Class Action Complaint, naming the Alps defendants.

Sumitomo, Alps and Tokai Rika all deny Plaintiff’s allegations and liability, and have asserted defenses to Plaintiff’s claims. Defendants have agreed to settle this matter to avoid the expense and burden of further litigation. The Court has not issued any findings or rulings with respect to the merits of Plaintiff’s claims or Defendants’ defenses. These settlements are with Sumitomo, Alps and Tokai Rika only. Plaintiff is continuing to prosecute the case against the Denso Defendants.

## WHAT RELIEF DO THE PROPOSED SETTLEMENTS PROVIDE?

Plaintiff, on behalf of the Sumitomo Settlement Class, entered into a settlement agreement with Sumitomo on December 13, 2016 (the “Sumitomo Settlement Agreement”), under which Sumitomo has agreed to pay \$579,000. Pursuant to the Sumitomo Settlement Agreement, Sumitomo also agreed to cooperate with Plaintiff in the prosecution of the lawsuit against non-settling Defendants.

Plaintiff, on behalf of the Alps Settlement Class, entered into a settlement with Alps on March 23, 2017 (the “Alps Settlement Agreement”), under which Alps agreed to pay \$3,250,000. The Alps Settlement Agreement gives Alps the right to reduce the amount of the settlement, but in no event to an amount less than \$500,000, based on valid requests for exclusion by certain members of the Alps Settlement Class. Alps has also agreed to cooperate with Plaintiff in the continuing prosecution of non-settling Defendants.

Plaintiff, on behalf of the Tokai Rika Settlement Class, entered into a settlement agreement with Tokai Rika on February 27, 2018 (the “Tokai Rika Settlement Agreement”), under which Tokai Rika has agreed to pay \$1,875,000. The Tokai Rika Settlement Agreement gives Tokai Rika the right to reduce the amount of the settlement, but in no event to an amount less than \$1,650,000, based on valid requests for exclusion by certain members of the Tokai Rika Settlement Class. Tokai Rika has also agreed to cooperate with Plaintiff in the continuing prosecution of non-settling Defendants.

This Notice is only a summary of the terms of the proposed settlements. The Sumitomo, Alps and Tokai Rika Settlement Agreements contain other important provisions, including the release of certain claims against Sumitomo, Alps and Tokai Rika (and companies and people affiliated with them). For the complete terms of the settlements, you are referred to the settlement agreements, which are on file with the Clerk of Court and are available on-line at [www.AutoPartsAntitrustLitigation.com](http://www.AutoPartsAntitrustLitigation.com). The proposed settlements must receive final approval by the Court to become effective.

If you wish to object to the approval of any of the settlements, you may do so, but only in accordance with the procedures set forth below. If you do not object to a settlement, you do not need to take any action at this time to indicate your support for, or lack of objection to, that settlement.

**HOW DO I REMAIN IN THE SETTLEMENT CLASSES, WHAT HAPPENS IF I DO, AND HOW DO I FILE A CLAIM FORM?**

If you are a member of any of the Sumitomo, Alps or Tokai Rika Settlement Classes as defined above, you will automatically remain in that Settlement Class unless you elect to be excluded. If you wish to remain in a Settlement Class, you do not need to take any action at this time with respect to that Settlement Class and your interests will be represented by the Class Representatives and by Settlement Class Counsel. **In order to share in the proceeds of any of the Sumitomo, Alps or Tokai Rika settlements, however, you must complete and timely return a copy of the Claim Form that is included with this Notice. Any Claim Form submitted electronically must be submitted on or before November 21, 2018. Any Claim Form submitted via mail must be postmarked on or before November 21, 2018.** You will have no responsibility to individually pay attorneys' fees or expenses. Any such fees and expenses will be paid solely from amounts obtained from the Defendants, whether by settlement or judgment, and must be approved by the Court after notice to you and a hearing. If you choose, you may also have your own attorney enter an appearance on your behalf and at your expense.

If you remain in any of the Sumitomo, Alps or Tokai Settlement Classes and the proposed settlement with that Defendant is approved and becomes effective, you will be bound by its terms, including the release provisions, whether or not you receive a share of the settlement proceeds attributable to that settlement.

**HOW WILL THE SETTLEMENT FUNDS BE DISTRIBUTED?**

The HCP Settlement Fund, with accrued interest, less any amounts approved by the Court for payment of attorneys' fees, litigation and settlement administration costs and expenses, and incentive payments to Class Representatives, and less any reductions based upon valid requests for exclusion by members of the Alps or Tokai Rika Settlement Classes (the "Net HCP Settlement Fund"), will be distributed among the members of the Settlement Classes who complete and timely return a copy of the Claim Form that is included with this Notice. Any Claim Form submitted electronically must be submitted **on or before November 21, 2018**. Any Claim Form submitted via mail must be **postmarked on or before November 21, 2018**. The Net HCP Settlement Fund will be distributed pro rata to all Claimants based upon their **direct** purchases in the United States from Defendants or their co-conspirators during the applicable Class Period(s). The distribution will take place as soon as practicable after review, determination, and audit of the Claim Forms by the Settlement Administrator and approval by the Court of the Settlement Administrator's recommendations as to the amounts to be paid to the Claimants.

**Do not dispose of any document that reflects your purchases of Heater Control Panels in the United States directly from any Defendant during the period from January 1, 2000 through March 23, 2017. You may need those documents to complete and substantiate your Claim Form, which will be subject to inquiry and verification.**

**WHAT IF I DO NOT WANT TO REMAIN IN ONE OR MORE OF THE SETTLEMENT CLASSES?**

You may exclude yourself from any or all of the three Settlement Classes. If you wish to exclude yourself from any or all of the Settlement Classes, you must send a request for exclusion, in writing, by certified mail, return receipt requested, **postmarked no later than October 5, 2018**, to Settlement Class Counsel, and to counsel for Settling Defendants, at the addresses set forth below, and to the following address:

Heater Control Panels Direct Purchaser Antitrust Litigation  
P.O. Box 3518  
Portland, OR 97208-3518

Your request for exclusion must identify the Settlement Class or Classes from which you are seeking exclusion and must include the full name and address of the purchaser (including any predecessor or successor entities and any trade names). You are also requested to identify the Defendant(s) from which you purchased Heater Control Panels during the Class Period for the Settlement Class from which you seek exclusion, the Heater Control Panels purchased during the Class Period, and the dollar amount of your purchases. If you validly exclude yourself from any or all of the three Settlement Classes, you will not be bound by any decision concerning the Settlement Class or Classes from which you exclude yourself and you may pursue individually any claims you may have against that Defendant (at your own expense), but you will not be eligible to share in the settlement proceeds attributable to that Defendant.

### REQUEST FOR ATTORNEYS' FEES AND EXPENSES, AND INCENTIVE PAYMENTS

The Court has appointed the law firms identified above as Settlement Class Counsel. These law firms, together with other firms that have worked on this litigation, will file a petition for an award of attorneys' fees and reimbursement of their costs and expenses in prosecuting the case. The request of Settlement Class Counsel for attorneys' fees will not exceed 33 1/3 percent of the HCP Settlement Fund.

Settlement Class Counsel will also request incentive payments to Tiffin Motor Homes, Inc. and SLTNTRST LLC, who were appointed by the Court to serve as Class Representatives for the Sumitomo and Alps Settlement Classes, in the total amount of \$75,000.

The application for attorneys' fees and litigation costs and expenses and incentive payments will be filed on or before September 17, 2018. If you remain a member of any of the three Settlement Classes and you wish to object to the requests for fees and expenses or incentive payments, you must do so in writing in accordance with the procedures for objections set forth below. If you do not oppose any of these requests, you do not need to take any action in that regard.

### WHEN WILL THE COURT CONSIDER THESE MATTERS AND HOW CAN I TELL THE COURT WHAT I THINK ABOUT THE SETTLEMENTS?

The Court will hold a hearing on **November 8, 2018, at 12:00 p.m.**, at the Theodore Levin United States Courthouse, 231 West Lafayette Boulevard, Detroit, MI 48226, Courtroom 737 (or such other courtroom as may be assigned for the hearing), to determine whether to approve the proposed Sumitomo, Alps and Tokai Rika settlements; the proposed plan of distribution of the HCP Settlement Fund; and Settlement Class Counsel's requests for an award of attorneys' fees and reimbursement of litigation costs and expenses and incentive payments. The hearing may be rescheduled, continued or adjourned, and the courtroom assigned for the hearing may be changed, without further notice to you.

If you remain a member of the Sumitomo, Alps or Tokai Rika Settlement Classes and you wish to object to that proposed settlement, or to the proposed plan of distribution of the HCP Settlement Fund, or to Settlement Class Counsel's requests for an award of attorneys' fees and reimbursement of litigation costs and expenses, and incentive payments, you must do so in writing and at your own expense. Any such objection must include the caption of this litigation, must be signed, and must be **filed no later than October 5, 2018**, with the Clerk of Court, United States District Court for the Eastern District of Michigan, Southern Division, Theodore Levin United States Courthouse, 231 West Lafayette Boulevard, Detroit, MI 48226, and mailed to the following counsel, **postmarked no later than October 5, 2018**:

Steven A. Kanner  
FREED KANNER LONDON  
& MILLEN LLC  
2201 Waukegan Road, Suite 130  
Bannockburn, IL 60015  
Telephone: (224) 632-4500

Joseph C. Kohn  
KOHNSWIFT & GRAF, P.C.  
1600 Market Street, Suite 2500  
Philadelphia, PA 19103  
Telephone: (215) 238-1700

Gregory P. Hansel  
PRETI, FLAHERTY, BELIVEAU  
& PACHIOS LLP  
One City Center, P.O. Box 9546  
Portland, ME 04112-9546  
Telephone: (207) 791-3000

Eugene A. Spector  
SPECTOR ROSEMAN & KODROFF, P.C.  
1818 Market Street, Suite 2500  
Philadelphia, PA 19103  
Telephone: (215) 496-0300

*Co-Lead Counsel for the Direct Purchaser Settlement Classes*

Marguerite M. Sullivan  
LATHAM & WATKINS LLP  
555 Eleventh Street NW, Suite 1000  
Washington, D.C. 20004  
Telephone: (202) 637-1027

*Counsel for the Sumitomo Defendants*

Anita F. Stork  
COVINGTON & BURLING LLP  
One Front Street  
35<sup>th</sup> Floor  
San Francisco, CA 94111  
Telephone: (415) 591-6000

*Counsel for the Alps Defendants*

W. Todd Miller  
BAKER & MILLER PLLC  
2401 Pennsylvania Ave., NW  
Suite 300  
Washington, D.C. 20037  
Telephone: (202) 663-7820

*Counsel for the Tokai Rika Defendants*

If you do not object to any of the proposed settlements, or to the related matters set forth above, you do not need to appear at the hearing or take any other action at this time. **You must, however, complete and timely submit a Claim Form if you wish to share in the distribution of the HCP Settlement Fund.**

**WHAT SHOULD I DO IF I WANT ADDITIONAL INFORMATION OR IF MY ADDRESS CHANGES?**

If this Notice reached you at an address other than the one on the mailing label, or if your address changes, please send your correct address to Heater Control Panels Direct Purchaser Antitrust Litigation, P.O. Box 3518, Portland, OR 97208-3518.

The Settlement Agreements, Complaints, and other public documents filed in this litigation are available for review during normal business hours at the offices of the Clerk of Court, United States District Court for the Eastern District of Michigan, Southern Division, Theodore Levin United States Courthouse, 231 West Lafayette Boulevard, Detroit, MI 48226, and through the Court's Public Access to Court Electronic Records (PACER) system after registration and payment of a modest fee. Copies of the Settlement Agreements and certain other documents relevant to this litigation are available at [www.AutoPartsAntitrustLitigation.com](http://www.AutoPartsAntitrustLitigation.com). Questions concerning the proposed Sumitomo and/or Alps and/or Tokai Rika settlements, this Notice, or the litigation may be directed to any of the Settlement Class Counsel identified above.

**Please do not contact the Clerk of the Court or the Judge.**

Dated: August 16, 2018

BY ORDER OF:

The United States District Court for the Eastern  
District of Michigan, Southern Division

UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

IN RE AUTOMOTIVE PARTS ANTITRUST LITIGATION
In Re: HEATER CONTROL PANELS
THIS RELATES TO: ALL DIRECT PURCHASER ACTIONS

CASE NO. 12-MD-02311  
HON. MARIANNE O. BATTANI

2:12-cv-00401-MOB-MKM  
2:17-cv-11109-MOB-MKM

IMPORTANT NOTICE TO PURCHASERS OF HEATER CONTROL PANELS  
PLEASE READ THIS ENTIRE DOCUMENT CAREFULLY

YOU MUST COMPLETE AND MAIL A CLAIM FORM, POSTMARKED ON OR BEFORE NOVEMBER 21, 2018, TO BE ELIGIBLE TO SHARE IN THE DISTRIBUTION OF THE PROCEEDS OF SETTLEMENTS WITH THE SUMITOMO, ALPS AND TOKAI RIKA DEFENDANTS

**INSTRUCTIONS FOR COMPLETING A CLAIM FORM**

If you are a **direct** purchaser of Heater Control Panels (and you have remained in any or all of the Sumitomo, Alps and Tokai Rika Settlement Classes), you may be entitled to share in the distribution of the proceeds of settlements with those Defendants (the "Settlement Fund"). To receive your share of the Settlement Fund, you or a person you have authorized to act on your behalf must submit a timely and valid Claim Form in accordance with the instructions set forth herein.

Please note that if you have chosen to be excluded from any of the Sumitomo, Alps or Tokai Rika Settlement Classes you may not participate in the distribution of the settlement funds attributable to the settlement with that Defendant.

**Eligibility:** You are eligible to submit a claim seeking to share in the distribution of the Settlement Fund if, during the period from January 1, 2000 through March 23, 2017 (the "Class Period"), you purchased Heater Control Panels in the United States **directly** from one or more of the following companies: (1) Alps Electric Co., Ltd.; (2) Alps Electric (North America), Inc.; (3) Alps Automotive Inc.; (4) Denso Corporation; (5) Denso International America, Inc.; (6) Sumitomo Electric Industries, Ltd.; (7) Sumitomo Wiring Systems, Ltd.; (8) Sumitomo Electric Wiring Systems, Inc.; (9) Tokai Rika Co., Ltd.; and (10) TRAM, Inc.

As used here, "Heater Control Panels" (also referred to as climate control panels) means the operational panels with buttons and switches controlling the climate of the interior environment of the vehicle and are typically located in the center of a motor vehicle.

**Submission of Claim:** If you are submitting a paper Claim Form, the Claim Form must be signed and verified by the claimant or a person authorized to act on behalf of the claimant, and must be **postmarked no later than November 21, 2018**. Paper Claim Forms should be addressed to:

Settlement Administrator  
Heater Control Panels Direct Purchaser Antitrust Litigation  
P.O. Box 3518  
Portland, OR 97208-3518

Claim Forms may also be submitted electronically via the settlement website, [www.AutoPartsAntitrustLitigation.com/HCP](http://www.AutoPartsAntitrustLitigation.com/HCP). If you submit an electronic Claim Form you will be given a submission confirmation number and the ability to provide a digital version of the Schedule of Purchases. Electronic Claim Forms must be **submitted no later than November 21, 2018**.

Unique Identifier: <#####>

Do **not** send your Claim Form to the Court or to any of the parties or their counsel. If you receive multiple copies of the Claim Form, complete only one Claim Form covering all of your qualifying purchases. Do not submit more than one claim, and do not submit duplicate claims.

A Claim Form received by the Settlement Administrator shall be deemed to have been submitted (1) when it is submitted online, or (2) when it is posted, if it is addressed in accordance with the above instructions and mailed by **November 21, 2018**, and a postmark is indicated on the envelope. In all other cases, the Claim Form shall be deemed to have been submitted when it is actually received by the Settlement Administrator.

Please note that it will take a significant amount of time to process all of the Claim Forms and to administer the Settlement Fund. This work will be completed as promptly as time permits, given the need to review each Claim Form. Accurate claims processing takes a significant amount of time. Thank you for your patience.

**REMINDER: YOU MAY SUBMIT YOUR CLAIM ELECTRONICALLY AT  
WWW.AUTOPARTSANTITRUSTLITIGATION.COM/HCP.**

**Photocopies of Form:** A claim may be submitted on a photocopy of the Claim Form. Other forms, or altered versions of the Claim Form, will not be accepted. Additional copies of the Claim Form may be requested from the Settlement Administrator or obtained at the settlement website [www.AutoPartsAntitrustLitigation.com/HCP](http://www.AutoPartsAntitrustLitigation.com/HCP).

**Completion and Support of Claim:** Please type or neatly print all requested information. Failure to complete all parts of the Claim Form may result in denial of the claim, delay its processing, or otherwise adversely affect the claim. All information submitted in a Claim Form is subject to further inquiry and verification. The Settlement Administrator may ask you to provide supporting information. Failure to provide requested information also might delay, adversely affect, or result in denial of the claim.

The Claim Form asks for certain information relating to your purchases of Heater Control Panels, a description of available documentation that supports your claimed purchases, and summary totals of your purchases from each Defendant and for each year during the class period.

**ONLY INCLUDE IN YOUR CLAIM FORM PURCHASES OF HEATER CONTROL PANELS IN THE UNITED STATES *DIRECTLY* FROM ONE OR MORE OF THE COMPANIES LISTED ABOVE UNDER THE "ELIGIBILITY" HEADING DURING THE PERIOD FROM JANUARY 1, 2000 TO MARCH 23, 2017.**

**INDIRECT PURCHASES ARE NOT ELIGIBLE.**

**Schedule of Purchases: General Worksheet:** Please fill out the Schedule of Purchases: General Worksheet with the company names, products purchased, and purchase totals for each year of the Class Period (January 1, 2000 through March 23, 2017) in which you directly purchased Heater Control Panels in the United States. If you have questions regarding the completion of the Schedule of Purchases, please contact the Settlement Administrator via email at [info@AutoPartsAntitrustLitigation-hcp.com](mailto:info@AutoPartsAntitrustLitigation-hcp.com), or by calling 1-888-721-6285.

**Claims of Separate Entities:** Each corporation, trust, or other business entity making a claim must submit its claim on a separate Claim Form.

**Taxpayer Identification Number:** A Claim Form is not complete without the federal taxpayer identification number of the claimant.

**Keep a Copy:** You should keep a copy of your completed Claim Form for your records. You should also retain all of your documents and records relating to **direct** purchases of Heater Control Panels in the United States from any of the listed companies during the period from January 1, 2000 through March 23, 2017. As part of the claims administration process, you may be required to verify certain information about your Heater Control Panels purchases such as the product(s) purchased, the dollar amount(s), the date(s) of the purchases, and the company(ies) from which you **directly** purchased the Heater Control Panels. You may be asked to submit purchase records to verify your claim.

**Confirmation of Receipt of Claim:** The receipt of paper Claim Forms will not be confirmed or acknowledged automatically by the Settlement Administrator. If you wish to have confirmation that your Claim Form has been received, send it by certified mail, return receipt requested. If you submit an electronic Claim Form through the settlement website you will receive a confirmation code.

Unique Identifier: <#####>

**Assistance:** If you have any questions concerning this Claim Form or need additional copies, contact the Settlement Administrator at Heater Control Panels Direct Purchaser Antitrust Litigation, P.O. Box 3518, Portland, OR 97208-3518, via email at info@AutoPartsAntitrustLitigation-hcp.com, or by calling 1-888-721-6285. You may also contact your own attorney or other person to assist you, at your own expense.

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**NOTICE REGARDING SOLICITATIONS FROM CLAIMS ASSISTANCE COMPANIES: THERE ARE COMPANIES THAT CONTACT CLASS MEMBERS TO OFFER ASSISTANCE IN FILING A CLAIM IN EXCHANGE FOR A PORTION OF ANY SETTLEMENT FUNDS THE CLASS MEMBER MAY RECOVER. THESE COMPANIES ARE NOT AFFILIATED WITH PLAINTIFFS OR DEFENDANTS OR THEIR COUNSEL, AND YOU DO NOT NEED TO USE THEM TO FILE A CLAIM.**

Unique Identifier: <#####>





**III. THIRD PARTY FILER INFORMATION**

Only complete this section if you selected “Third Party Filer” at the start of Section I. Please note: As a Third Party Filer, you are required to provide supporting documents demonstrating the authorization to file on behalf of the claimant. If no documentation is provided upon submission of this claim, the Settlement Administrator will request the documentation prior to completion of processing.

Filer Entity (if applicable):

Filer Contact Name:

Address 1:

Address 2:

City:  State:  ZIP Code:

Country:

Contact Person:

Contact Person E-Mail Address:

Contact Person Phone Number:  
 -  -

**PLEASE PROMPTLY NOTIFY THE SETTLEMENT ADMINISTRATOR OF ANY CHANGE IN THE INFORMATION SET FORTH ABOVE.**

**IV. PURCHASES**

On the attached Schedule of Purchases: General Worksheet, list the total amount of **direct** purchases of Heater Control Panels in the United States from each company listed in the “**Eligibility**” section above for each year<sup>1</sup> during the period from January 1, 2000 through March 23, 2017. **The purchase amounts must be the net amounts paid after deducting any discounts, rebates, price reductions, taxes, or delivery and freight charges. Purchases from companies that are not listed above should not be included.**

When records are available to allow you to calculate and document the dollar amount of your purchases, you must base your purchase information on these records.

When records are not available, you may submit purchase information based on estimates. Estimates can be based on extrapolation from similar circumstances in analogous contexts in the same year (for which you have documentation), or extrapolation from the same or nearly the same circumstances, but in other years (for which you have documentation), or from reports of actual or estimated vehicle production and your records or estimates of the value of Heater Control Panels content per vehicle. For example, if you have no records allowing you to calculate your purchases in 2004, you may calculate those purchases by using available records dated as close to that year as possible (e.g., 2003 or 2005), adjusting for appropriate volume differences and any inflationary unit costs.

<sup>1</sup> For purchases during 2016 only, please separately list purchases made from January 1, 2016 through and including December 13, 2016, and purchases made from December 14, 2016 through and including December 31, 2016.

Unique Identifier: <#####>





**SCHEDULE OF PURCHASES: GENERAL WORKSHEET**

Please fill out the charts on both sides (front and back) of the Schedule of Purchases: General Worksheet, listing the products purchased and purchase totals for each Defendant and year of the Class Period (January 1, 2000 through March 23, 2017) in which you directly purchased Heater Control Panels in the United States. **An electronic version of this worksheet is available for electronic submissions through the settlement website [www.AutoPartsAntitrustLitigation.com/HCP](http://www.AutoPartsAntitrustLitigation.com/HCP).** If you have questions regarding the completion of the Schedule of Purchases, please contact the Settlement Administrator via email at [info@AutoPartsAntitrustLitigation-hcp.com](mailto:info@AutoPartsAntitrustLitigation-hcp.com), or by calling 1-888-721-6285.

Year Purchased	Alps Defendants <sup>2</sup>		Denso Defendants <sup>3</sup>		Sumitomo Defendants <sup>4</sup>		Tokai Rika Defendants <sup>5</sup>	
	Products Purchased	Amount Purchased	Products Purchased	Amount Purchased	Products Purchased	Amount Purchased	Products Purchased	Amount Purchased
2000		(\$)		(\$)		(\$)		(\$)
2001		(\$)		(\$)		(\$)		(\$)
2002		(\$)		(\$)		(\$)		(\$)
2003		(\$)		(\$)		(\$)		(\$)
2004		(\$)		(\$)		(\$)		(\$)
2005		(\$)		(\$)		(\$)		(\$)
2006		(\$)		(\$)		(\$)		(\$)
2007		(\$)		(\$)		(\$)		(\$)
2008		(\$)		(\$)		(\$)		(\$)

List the products purchased and dollar amount of **direct purchases** of Heater Control Panels from each of the Defendants for each year during the class period. The purchase amounts must be the net amounts paid after deducting any discounts, rebates, taxes, delivery and freight charges. **INDIRECT PURCHASES ARE NOT ELIGIBLE.**

<sup>2</sup> Alps Electric Co., Ltd.; Alps Electric (North America), Inc.; and/or Alps Automotive Inc.

<sup>3</sup> Denso Corporation; and/or Denso International America, Inc.

<sup>4</sup> Sumitomo Electric Industries, Ltd.; Sumitomo Wiring Systems, Ltd.; and/or Sumitomo Electric Wiring Systems, Inc.

<sup>5</sup> Tokai Rika Co., Ltd.; and/or TRAM, Inc.

Year Purchased (cont.)	Alps Defendants		Denso Defendants		Sumitomo Defendants		Tokai Rika Defendants	
	Products Purchased	Amount Purchased	Products Purchased	Amount Purchased	Products Purchased	Amount Purchased	Products Purchased	Amount Purchased
2009		(\$)		(\$)		(\$)		(\$)
2010		(\$)		(\$)		(\$)		(\$)
2011		(\$)		(\$)		(\$)		(\$)
2012		(\$)		(\$)		(\$)		(\$)
2013		(\$)		(\$)		(\$)		(\$)
2014		(\$)		(\$)		(\$)		(\$)
2015		(\$)		(\$)		(\$)		(\$)
01/01/2016 <sup>6</sup> - 12/13/2016		(\$)		(\$)		(\$)		(\$)
12/14/2016- 12/31/2016		(\$)		(\$)		(\$)		(\$)
2017		(\$)		(\$)		(\$)		(\$)
<b>TOTAL AMOUNT PURCHASED (Required)</b>		(\$)		(\$)		(\$)		(\$)

<sup>6</sup> For purchases during 2016, please separately list purchases made from January 1, 2016 through and including December 13, 2016, and purchases made from December 14, 2016 through and including December 31, 2016.

# EXHIBIT B

## CONFIRMATION OF PUBLICATION

IN THE MATTER OF: *Auto Parts – Heating Control Panels*

I, Kathleen Komraus, hereby certify that

(a) I am the Media & Design Manager at Epiq Class Action & Claims Solutions, a noticing administrator, and;

(b) The Notice of which the annexed is a copy was published in the following publications on the following date:

*8.27.18 – Automotive News*

*8.27.18 – Auto Wire (Press Release)*

(c) Banner advertisements appeared on the following digital properties on the following dates:

*8.27.18 – 9.16.18 – Automotive News (AutoNews.com)*

x Kathleen Komraus  
(Signature)

Media & Design Manager  
(Title)

# Automotive News

AUGUST 27, 2018

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\$159/YEAR; \$6/COPY



## WHEN HONDA MEETS BMW

Mass-market and luxury brands are increasingly pushing their lineups into each other's territory. | PAGES 24-25 |

## California hands GM's dealer scoring another loss

Rejection of RSI as grounds for termination follows N.Y. case

Michael Wayland  
mwayland@crain.com

General Motors may have to reconsider the way it measures and enforces dealership sales effectiveness in the nation's largest vehicle market after a ruling that the company's system violates a state law.

California's New Motor Vehicle Board ruled Aug. 13 against GM's use of a benchmark called the retail sales index as grounds to terminate the franchise agreement of Folsom Chevrolet, a Sacramento-area dealership owned by Marshal Crossan.

The decision capped a long-running battle between Folsom and GM, which had concluded that Folsom failed to meet sales expectations and sought to revoke its franchise in late 2016.

Attorneys representing Folsom Chevrolet argued that GM's reliance on RSI was a violation because it failed to account for various market conditions, including brand preference, geography and demographics.

The decision follows a similar case in New York, where the state's highest court ruled in 2016, on

see SCORING, Page 37



## future product pipeline

SIXTH IN A 10-PART SERIES

Ford intends to create one of the industry's freshest lineups by dropping sedans, reviving the Ranger pickup, adding a pair of off-road utility vehicles and creating hybrid versions of its crossovers and SUVs. | PAGES 22-23 |

## Ford aims to spread Mustang's DNA

Lone survivor of brand's car cull takes on a bigger role

Michael Martinez  
mdmartinez@crain.com

**D**ETROIT — After 10 million vehicles over 54 years, the Mustang remains one of the most vital nameplates in Ford Motor Co.'s stable.

It's Exhibit A for what the Ford brand wants to stand for: bold, emotional designs that elicit passion among its customers.

The rest of its cars lack that cachet, which is why, after the Fusion sedan dis-

appears from showrooms early next decade, the Mustang effectively will be Ford's last car standing as the brand shifts to a lineup dominated by pickups and utility vehicles.

Now, Ford is trying to re-create that Mustang magic in its crossover and SUV lineup. One vehicle in particular, a yet-to-be-named battery-electric crossover, was heavily inspired by the Mustang; Ford floated the name Mach

see MUSTANG, Page 33



An automaker with an irreplaceable CEO such as Musk is a throwback.

## Could Tesla survive without Elon Musk?

Edward Niedermeyer  
eniedermeyer@crain.com

With coverage of Tesla increasingly dominated by the personality and peccadilloes of CEO Elon Musk, a question that has long lurked around the edges of discourse on the company is becoming harder to ignore: What would happen if Musk was no longer Tesla's CEO?

For many investors, Tesla without

CEO is brash and erratic, but he's a force

Musk is like mornings without coffee: Why bother?

"Why would you invest in Tesla without Elon Musk?" asked Ross Gerber of wealth management firm Gerber Kawasaki, a vocal Tesla supporter and investor. "It doesn't make sense."

And yet, replacing Musk has be-

come a hot topic in the past week, following an emotional and, at times, painful-to-read interview Musk gave *The New York Times* this month. The newspaper quoted sources saying the Tesla board, concerned in part about Musk's use of sedative Ambien and recreational drugs, is searching for a new No. 2 executive to take

some pressure off Musk. And that interview came after revelations that the U.S. Securities and Exchange Commission has been investigating Tesla for its disclosures around production problems and for Musk's tweet this month claiming the company had secured financing to go private.

see TESLA, Page 36

## CHIP Tesla sticks with its own hardware

continued from Page 18

Tesla can create self-driving hardware that is “dramatically more efficient and has dramatically more performance than what you can buy today.”

It’s unclear whether Tesla’s benchmarks for chip performance match with the rest of the industry. Musk says the new chip can process 2,000 frames of sensor data a second, compared with the current Nvidia chip, which can process 200 frames a second.

Nvidia says those claims are not fair. Danny Shapiro, senior director of automotive for Nvidia, says Musk is comparing Tesla’s chip with Nvidia’s

3-year-old Drive PX2.

“A more accurate comparison would have been to our current generation, Drive Xavier, which was designed from the ground up to be an autonomous vehicle processor,” Shapiro says.

Nvidia has become the leading source of processors for self-driving neural net algorithms, which run more efficiently on the firm’s graphics processing unit, or GPU, architecture than traditional central processing units, or CPUs. The company supplies Toyota, Volkswagen, Volvo, BMW, Daimler, Honda, Renault-Nissan, Bosch, Baidu and others.

Musk said Tesla figured out what was slowing down the Nvidia Drive PX2 board: There was a bottleneck



Shapiro: Claims aren’t fair.

between the CPU and GPU.

But Shapiro said Nvidia already figured that out and saw a tenfold improvement in data processing when it tested the Drive Xavier boards. Bandwidth improved from 2 gigabytes per second to 20 gigabytes per second. Xavier is also Nvidia’s most efficient automated driving board to date, achieving 30 trillion operations per second, or TOPS, with just 30 Watts, compared with Drive PX2’s peak of 24 TOPS at 150 Watts. Tesla’s custom version of the PX2 produces between 8 and 10 TOPS.

Next year, Nvidia will make a board called Drive Pegasus publicly available, which integrates two Xavier chips each with current Volta-generation in-

tegrated GPUs and adds two next-generation discrete GPUs as well as two deep-learning accelerators, for a staggering 320 TOPS at 500 Watts.

“Our performance has gone up by more than a factor of 10, generation over generation,” Shapiro says.

Just as importantly, Shapiro says, Nvidia has been making sure that its performance gains don’t come at the expense of flexibility.

“Development of these neural nets is so new and is changing so rapidly ... if you lock in a particular type of neural network you have no flexibility to take advantage of these innovations,” Shapiro said.

### Intel’s approach

Nvidia’s archrival Intel takes an approach closer to Tesla’s, co-developing processors that are optimized for integrated software applications.

“We do software-hardware co-design,” says Jack Weast, Intel’s chief systems architect of autonomous driving solutions. “We let the needs of the software algorithm drive what goes into the hardware. You can do a much, much more efficient implementation of portions of an algorithm if you know what that algorithm is in advance.”

Intel’s recent acquisition of the Israeli automotive computer vision company Mobileye, whose EyeQ3 chip powered Tesla’s first generation of Autopilot hardware, gives Intel a significant head start, Weast says.

“Unlike some companies who are delivering their first deep-learning accelerator chip to market, we’re actually on our third generation,” he says. The latest chip, called EyeQ5, will start appearing in cars on the road in 2019. A recent Reuters report said the chip will be in as many as 8 million automated vehicles starting in 2021.

Intel and Nvidia’s different approaches highlight how divergent autonomous vehicle development strategies can be, with some automakers seeking an efficiently optimized hardware-software package like Intel’s, and others preferring the

raw power and flexibility of Nvidia’s chips and boards.

The history of Tesla’s relationships with both companies suggests that it bristles at both, having publicly complained about the limitations of both Mobileye’s relatively mature products as well as the relative inefficiency of Nvidia’s.

### Tesla’s preferences

Perhaps the biggest question about Tesla’s move toward more specialized silicon is whether it has really reached a point of software maturity where it makes sense to start optimizing its hardware. And even if it has, there are questions about its ability to keep pace with the powerhouse firms that dedicate massive R&D budgets to continuously improving their offerings.

“Tesla is not a giant chip company,” Ramsey says. “Nvidia is spending billions of dollars investing in this technology, mostly subsidized by its incredibly healthy video game business. Intel, similarly, can pour massive resources into the design and validation of the chips. They both either own or have good relationships with huge chip manufacturers. Tesla is unlikely to save money and could produce a product that doesn’t perform as well in the field.”

Some scrappier startups are rethinking the way chips are placed in the vehicle, putting deep-learning chips near the sensors rather than near the centralized stack. Orr Danon, founder and CEO of one such company called Hailo Technologies, sees great opportunities for “fresh thinking about how we imagine a computer operating” in the autonomous vehicles of the future. But, he warns, there are challenges of trying to prematurely sell rapidly changing cutting-edge technologies.

“This is an exciting and essential step, but we all have to be aware that the road ahead to a stable technology is long, and do our best to understand how to make the overall path as smooth as possible,” he says. **AN**

#### LEGAL NOTICE

### IF YOU PURCHASED HEATER CONTROL PANELS IN THE UNITED STATES DIRECTLY FROM SUMITOMO, ALPS, TOKAI RIKA OR DENSO FROM JANUARY 1, 2000 THROUGH MARCH 23, 2017, YOUR LEGAL RIGHTS MAY BE AFFECTED BY PROPOSED SETTLEMENTS WITH THE SUMITOMO, ALPS AND TOKAI RIKA DEFENDANTS

Proposed settlements totaling approximately \$5.7 million have been reached in *In re Automotive Parts Antitrust Litigation*, Master File No. 12-md-02311, 2:12-cv-00401, 2:17-cv-11109 (E.D. Mich.), with the Sumitomo, Alps and Tokai Rika Defendants (collectively, the “Settling Defendants”).

**What is the lawsuit about?** This class action is part of coordinated legal proceedings involving Heater Control Panels purchased in the United States directly from a Defendant (as defined below). These proceedings do not relate to, and have no effect upon, cases involving any other product.

“Heater Control Panels,” for purposes of the settlements, are the operational panels with buttons and switches controlling the climate of the interior environment of the vehicle and are typically located in the center of a motor vehicle.

Direct Purchaser Plaintiff alleges that Defendants entered into a conspiracy to suppress and eliminate competition for Heater Control Panels by agreeing to fix, maintain, or stabilize prices, rig bids, and allocate the supply of Heater Control Panels, in violation of federal antitrust laws. Plaintiff further alleges that as a result of the conspiracy, they and other direct purchasers of Heater Control Panels were injured by paying more for those products than they should have paid, and seek recovery of treble damages, together with reimbursement of costs and an award of attorneys’ fees. Defendants deny Direct Purchaser Plaintiff’s allegations.

Plaintiff has reached settlements with the Sumitomo Defendants, the Alps Defendants and the Tokai Rika Defendants totaling \$5,704,000. Under the terms of the proposed settlements, Sumitomo will pay a total of \$579,000 (the “Sumitomo Settlement Fund”), Alps will pay a total of \$3,250,000 (the “Alps Settlement Fund”), and Tokai Rika will pay a total of \$1,875,000 (the “Tokai Rika Settlement Fund”) (the three settlement funds are collectively referred to as the “HCP Settlement Fund”), and all of the Settling Defendants will provide cooperation to assist Plaintiff’s in the prosecution of the claims against the remaining Defendants.

**Who is included?** The Court has preliminarily approved, and has provisionally certified the Sumitomo, Alps and Tokai Rika Settlement Classes. You are a member of one or more of these Settlement Classes if you purchased Heater Control Panels in the United States directly from any of the following Defendants during the period from January 1, 2000 through March 23, 2017: Alps Electric Co., Ltd.; Alps Electric (North America) Inc.; Alps Automotive Inc.; Denso Corporation; Denso International America, Inc.; Sumitomo Electric Industries, Ltd.; Sumitomo Wiring Systems, Ltd.; Sumitomo Electric Wiring Systems, Inc.; Tokai Rika Co., Ltd.; and TRAM, Inc.

A Notice of Proposed Settlement and Claim Form (the “Notice”) was mailed to potential Sumitomo, Alps and Tokai Rika Settlement Class members on or about August 16, 2018. The Notice describes the litigation and options available to Settlement Class members with respect to the Sumitomo, Alps and Tokai Rika settlements in more detail. If you did not receive the Notice you may obtain a copy on the internet at [www.AutoPartsAntitrustLitigation.com](http://www.AutoPartsAntitrustLitigation.com), or by calling or writing to any of the following Settlement Class Counsel:

Gregory P. Hansel  
PRETI, FLAHERTY, BELIVEAU & PACHIOS LLP  
One City Center, P.O. Box 9546  
Portland, ME 04112-9546  
Telephone: (207) 791-3000

Joseph C. Kohn  
KOHN, SWIFT & GRAF, P.C.  
1600 Market Street, Suite 2500  
Philadelphia, PA 19103  
Telephone: (215) 238-1700

Steven A. Kanner  
FREED KANNER LONDON & MILLEN LLC  
2201 Waukegan Road, Suite 130  
Bannockburn, IL 60015  
Telephone: (224) 632-4500

Eugene A. Spector  
SPECTOR ROSEMAN & KODROFF, P.C.  
1818 Market Street, Suite 2500  
Philadelphia, PA 19103  
Telephone: (215) 496-0300

**What does the settlement provide?** Sumitomo, Alps and Tokai Rika have agreed to pay a total of \$5,704,000 (the “HCP Settlement Fund”) to settle the Class Members’ claims against them. As described in more detail in the Notice, the Alps and Tokai Rika settlements are subject to reduction in the event of valid requests for exclusion by Settlement Class members. As part of the settlements all of the Settling Defendants have agreed to provide cooperation in the prosecution of claims against the remaining Defendants.

**Your rights may be affected.** If you are a member of the Sumitomo, Alps or Tokai Rika Settlement Classes (defined above) you will automatically remain a member of those Settlement Classes unless you elect to be excluded. If you wish to remain in a Settlement Class, you do not need to take any action at this time and your interests will be represented by the Class Representatives and by Settlement Class Counsel. **In order to share in the proceeds of any of the Sumitomo, Alps or Tokai Rika settlements, however, you must complete and timely return a copy of the Claim Form that was recently mailed to potential Settlement Class members along with the Notice. Any Claim Form submitted electronically must be submitted on or before November 21, 2018. Any Claim Form submitted via mail must be postmarked on or before November 21, 2018.**

If you wish to exclude yourself from any of the Sumitomo, Alps or Tokai Rika Settlement Classes (or all of them), you must send a request for exclusion, in writing, by certified mail, return receipt requested, **postmarked no later than October 5, 2018**, in accordance with the procedures set forth in the Notice. If you validly exclude yourself from any of the Sumitomo, Alps or Tokai Rika Settlement Classes (or all of them), you will not be bound by any decision concerning that settlement class and you can pursue individually any claims you may have against that Defendant (at your own expense), but you will not be eligible to share in the settlement proceeds attributable to that Defendant.

If you remain a member of the Sumitomo, Alps or Tokai Rika Settlement Class, you have the right to object to that proposed settlement, or to the proposed plan of distribution of the HCP Settlement Fund, or to Settlement Class Counsel’s requests for an award of attorneys’ fees and litigation costs and expenses, and incentive payments to the Class Representatives, by following the procedures set forth in the Notice. Your objection must be **filed no later than October 5, 2018**.

The Court has scheduled a hearing on November 8, 2018, to consider whether to approve: the proposed settlements; the proposed plan of distribution of settlement funds; and Settlement Class Counsel’s requests for an award of attorneys’ fees and litigation costs and expenses, and incentive payments to the Class Representatives. The hearing may be continued without further notice to you.

If you believe you are a member of any of the Sumitomo, Alps or Tokai Rika Settlement Classes, you are urged to obtain a copy of the Notice, which explains your rights regarding the settlements and related matters.

If you have questions concerning this litigation, you may contact any one of the Settlement Class Counsel identified above. **Do not contact the Clerk of the Court or the Judge.**

Dated: August 27, 2018

BY ORDER OF:  
The United States District Court for the Eastern District of Michigan, Southern Division

## Bird tackles hometown’s rental-scooter complaints

Edward Niedermeyer  
[eniedermeyer@crain.com](mailto:eniedermeyer@crain.com)

Electric-scooter startup Bird is exploring several new technological tools aimed at eliminating common complaints in cities where the company operates.

Bird and competitor Lime have been protesting that they did not win a municipal contract with Santa Monica, Calif., to run a pilot program for shared bikes and scooters.

Bird — which is headquartered in Santa Monica and operates in more than two dozen U.S. metropolitan areas, plus Paris and Tel Aviv, Israel — released a 134-page report explaining its efforts to limit the abuses that have made scooters a hot-button issue.

Bird scooters, which the company present as a “last mile” compliment to public transit, cost \$1, plus 10 to 15 cents per minute of use, and users can leave them anywhere they want after they’re done. Customers use a smartphone app to find a scooter, activate it and pay for the service.

The growth of scooter rental companies has confounded cities such as Santa Monica, where scooters have shown up practically overnight. San-

ta Monica filed a criminal complaint against Bird late last year, and earlier this year passed a law saying the scooters could be impounded.

Bird said there may be some tech answers to address complaints.

To deal with rogue riders, the Bird app could add a “citizen mode,” which would allow users to photograph and report unacceptable rider behavior. Three complaints would result in a ban from the service.

Bird is working to stop users from dumping scooters throughout the city, and said it could expand the use of the geofencing, which currently stops riders from going into prohibited areas. The technology could be used to alert riders to use designated parking spaces.

Scooters will also be equipped with a tip-over sensor to alert the company to a scooter that may be taking up unnecessary curb or parking space, and a lock would secure scooters to one of the new designated parking zones.

But Bird is still trying to figure out how to get people to stop riding on the sidewalk, which it calls an “extremely difficult issue.” **AN**

# Consumers who Purchased Heater Control Panels in the United States Directly from Sumitomo, Alps, Tokai Rika or Denso from January 1, 2000 through March 23, 2017, may have their Legal Rights Affected by Proposed Settlements with the Defendants

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NEWS PROVIDED BY

**The United States District Court for the Eastern District of Michigan, Southern Division →**

08:00 ET

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DETROIT, Aug. 27, 2018 /PRNewswire/ -- Proposed settlements totaling approximately \$5.7 million have been reached in *In re Automotive Parts Antitrust Litigation*, Master File No.12-md-02311, 2:12-cv-00401, 2:17-cv-11109 (E.D. Mich.), with the Sumitomo, Alps and Tokai Rika Defendants (collectively, the "Settling Defendants").

**What is the lawsuit about?** This class action is part of coordinated legal proceedings involving Heater Control Panels purchased in the United States **directly** from a Defendant (as defined below). These proceedings do not relate to, and have no effect upon, cases involving any other product.

"Heater Control Panels," for purposes of the settlements, are the operational panels with buttons and switches controlling the climate of the interior environment of the vehicle and are typically located in the center of a motor vehicle.

Direct Purchaser Plaintiff alleges that Defendants entered into a conspiracy to suppress and eliminate competition for Heater Control Panels by agreeing to fix, maintain, or stabilize prices, rig bids, and allocate the supply of Heater Control Panels, in violation of federal antitrust laws. Plaintiff further alleges that as a result of the conspiracy, they and other direct purchasers of Heater Control Panels were injured by paying more for those products than they should have paid, and seek recovery of treble damages, together with reimbursement of costs and an award of attorneys' fees. Defendants deny Direct Purchaser Plaintiff's allegations.

Plaintiff has reached settlements with the Sumitomo Defendants, the Alps Defendants and the Tokai Rika Defendants totaling \$5,704,000. Under the terms of the proposed settlements, Sumitomo will pay a total of \$579,000 (the "Sumitomo Settlement Fund"), Alps will pay a total of \$3,250,000 (the "Alps Settlement Fund"), and Tokai Rika will pay a total of \$1,875,000 (the "Tokai Rika Settlement Fund") (the three settlement funds are collectively referred to as the "HCP Settlement Fund"), and all of the Settling Defendants will provide cooperation to assist Plaintiffs in the prosecution of the claims against the remaining Defendants.

**Who is Included?** The Court has preliminarily approved, and has provisionally certified, the Sumitomo, Alps and Tokai Rika Settlement Classes. Included as members of one or more of these Settlement Classes is anyone who purchased Heater Control Panels in the United States directly from any of the following Defendants during the period from January 1, 2000 through March 23, 2017: Alps Electric Co., Ltd.; Alps Electric (North America) Inc.; Alps Automotive Inc.; Denso Corporation; Denso International America, Inc.; Sumitomo Electric Industries, Ltd.; Sumitomo Wiring Systems, Ltd.; Sumitomo Electric Wiring Systems, Inc.; Tokai Rika Co., Ltd.; and TRAM, Inc.

A Notice of Proposed Settlement and Claim Form (the "Notice") was mailed to potential Sumitomo, Alps and Tokai Rika Settlement Class members on or about August 16, 2018. The Notice describes the litigation and options available to Settlement Class members with respect to the Sumitomo, Alps and Tokai Rika settlements in more detail. Anyone who did not receive the Notice may obtain a copy on the internet at [www.AutoPartsAntitrustLitigation.com](http://www.AutoPartsAntitrustLitigation.com), or by calling or writing to any of the following Settlement Class Counsel:

Gregory P. Hansel PRETI, FLAHERTY, BELIVEAU & PACHIOS LLP One City Center, P.O. Box 9546 Portland, ME 04112-9546 Telephone: (207) 791-3000	Joseph C. Kohn KOHN, SWIFT & GRAF, P.C. 1600 Market Street, Suite 2500 Philadelphia, PA 19103 Telephone: (215) 238-1700
Steven A. Kanner FREED KANNER LONDON & MILLEN LLC 2201 Waukegan Road, Suite 130 Bannockburn, IL 60015 Telephone: (224) 632-4500	Eugene A. Spector SPECTOR ROSEMAN & KODROFF, P.C. 1818 Market Street, Suite 2500 Philadelphia, PA 19103 Telephone: (215) 496-0300

**What does the settlement provide?** Sumitomo, Alps and Tokai Rika have agreed to pay a total of \$5,704,000 (the "HCP Settlement Fund") to settle the Class Members' claims against them. As described in more detail in the Notice, the Alps and Tokai Rika settlements are subject to reduction in the event of valid requests for exclusion by Settlement Class members. As part of the settlements all of the Settling Defendants have agreed to provide cooperation in the prosecution of claims against the remaining Defendants.

**Rights of Class members may be affected.** Anyone who is a member of the Sumitomo, Alps or Tokai Rika Settlement Classes (defined above) will automatically remain a member of those Settlement Classes unless they elect to be excluded. Class members who wish to remain in a Settlement Class do not need to take any action at this time and their interests will be represented by the Class Representatives and by Settlement Class Counsel. **In order to share in the proceeds of any of the Sumitomo, Alps or Tokai Rika settlements, however, individuals must complete and timely return a copy of the Claim Form that was recently mailed to potential Settlement Class members along with the Notice. Any Claim Form submitted electronically must be submitted on or before November 21, 2018. Any Claim Form submitted via mail must be postmarked on or before November 21, 2018.**

Class members who wish to exclude themselves from any of the Sumitomo, Alps or Tokai Rika Settlement Classes (or all of them) must send a request for exclusion, in writing, by certified mail, return receipt requested, **postmarked no later than October 5, 2018**, in accordance with the procedures set forth in the Notice. If Class members validly exclude themselves from any of the Sumitomo, Alps or Tokai Rika Settlement Classes (or all of them), they will not be bound by

Case 2:12-cv-00401-MOB-MKW-ECF No. 213-1 filed 10/28/18 PageID.3215 Page 29 of 30  
any decision concerning that settlement class and can pursue individually any claims they may have against that Defendant (at their own expense), but they will not be eligible to share in the settlement proceeds attributable to that Defendant.

Class members who remain a member of the Sumitomo, Alps or Tokai Rika Settlement Class have the right to object to that proposed settlement, or to the proposed plan of distribution of the HCP Settlement Fund, or to Settlement Class Counsel's requests for an award of attorneys' fees and litigation costs and expenses, and incentive payments to the Class Representatives, by following the procedures set forth in the Notice. **Objections must be filed no later than October 5, 2018.**

The Court has scheduled a hearing on November 8, 2018, to consider whether to approve: the proposed settlements; the proposed plan of distribution of settlement funds; and Settlement Class Counsel's requests for an award of attorneys' fees and litigation costs and expenses, and incentive payments to the Class Representatives. The hearing may be continued without further notice to Class members.

Class members who believe they are a member of any of the Sumitomo, Alps or Tokai Rika Settlement Classes are urged to obtain a copy of the Notice, which explains their rights regarding the settlements and related matters.

For any questions concerning this litigation, Class members may contact any one of the Settlement Class Counsel identified above. **Do not contact the Clerk of the Court or the Judge.**

Dated: August 27, 2018 BY ORDER OF:  
The United States District Court for the Eastern  
District of Michigan, Southern Division

SOURCE The United States District Court for the Eastern District of Michigan, Southern Division

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