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5 Co-Lead Counsel for Plaintiffs  
and the Certified Plaintiff Class

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7

SUPERIOR COURT FOR THE STATE OF CALIFORNIA

8

COUNTY OF SAN FRANCISCO

9

10 JOEL I. ROOS and TOM SANTOS, on  
behalf of themselves and all others  
11 similarly situated,

12 Plaintiffs,

13 v.

14 HONEYWELL INTERNATIONAL  
15 INC. and DOES 1-100, inclusive,

16 Defendants.

17

Case No. CGC 04-436205

**SUPPLEMENTAL DECLARATION OF  
APRIL HYDUK IN SUPPORT OF  
PLAINTIFFS' MOTION FOR FINAL  
APPROVAL OF CLASS ACTION  
SETTLEMENT**

Date: May 2, 2014

Time: 9:00 am

Dept: 304

Judge: Hon. Curtis E. A. Karnow

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CGC-04-436205

**SUPPLEMENTAL DECLARATION OF APRIL HYDUK IN SUPPORT OF  
PLAINTIFFS' MOTION FOR FINAL APPROVAL OF CLASS ACTION SETTLEMENT**

1 I, April Hyduk, hereby declare as follows:

2 1. I am a Senior Project Administrator at Rust Consulting, Inc. (“Rust”). Rust was  
3 retained as the Settlement Administrator to assist in the process of providing notice to Class  
4 members in this action, *Roos v. Honeywell International Inc.* I submit this declaration in order  
5 to provide the Court with the information regarding the claims administration process in this  
6 case. I am over 21 years of age and am not a party to this Action. I have personal knowledge of  
7 the facts set forth herein and, if called as a witness, could and would testify competently hereto.

8 2. As noted above, Rust was retained to assist in the process of providing notice to the  
9 Class, specifically to: (a) establish a post office box and website for the purpose of  
10 communicating with class members; (b) disseminate notice to the class; and (c) accept and  
11 maintain documents sent from Class members. The claims administration process is outlined in  
12 the Declaration of April Hyduk in Support of Plaintiffs’ Motion for Final Approval of Class  
13 Action Settlement dated April 25, 2014 (the “Hyduk Declaration”), previously filed with the  
14 Court.

15 3. The Hyduk Declaration stated that no requests to be excluded from the Settlement had  
16 been received. Rust has not since received a request to be excluded from the Settlement.

17 4. The Hyduk Declaration stated two [2] timely objections had been received, which  
18 were attached as Exhibits. It is Rust’s understanding that a third objection by a Richard Moser  
19 has been filed with the Court. The Hyduk Declaration stated that Mr. Moser had not submitted  
20 his objection to Rust. Rust has not since received an objection from Mr. Moser.

21 5. After the filing of the Hyduk Declaration, Rust received an additional objection to the  
22 Settlement from an Art Rogers. The objection was received by Rust’s mailroom on April 28th,  
23 processed as an objection by Rust on April 29<sup>th</sup>, and sent to Plaintiff’s Counsel on April 30th.  
24 Rust has not received a claim form from Mr. Rogers. A true and correct copy of Mr. Rogers’  
25 objection is attached hereto as Exhibit A. A true and correct copy of Rust’s email to Plaintiffs’  
26 Counsel informing them of Mr. Rogers’ objection is attached hereto as Exhibit B.

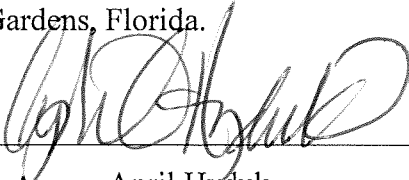
27 6. Mr. Rogers’ objection is considered late, or untimely submitted. In order for an  
28 objection to be considered timely, it must have been postmarked by April 18, 2014. The  
envelope of the objection received contained a meter printed stamp dated April 18, 2014 as well  
as a printed date from the post office of April 22, 2014. Rust determined the printed date from  
the post office of April 22, 2014 is the correct postmarked date. The United States Postal  
Service defines a postmark as, “...an official Postal Service™ imprint applied in black ink on

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the address side of a stamped mail piece. A postmark indicates the location and date the Postal Service accepted custody of a mail piece, and it cancels affixed postage.” This information was obtained from the United States Postal Services website: [http://about.usps.com/handbooks/po408/ch1\\_003.htm](http://about.usps.com/handbooks/po408/ch1_003.htm).

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed this 15<sup>th</sup> day of May, 2014 in Palm Beach Gardens, Florida.

  
\_\_\_\_\_  
April Hyduk

# **EXHIBIT A**

1 Art Rogers  
102 Northcott St  
2 Nocona, Tx 76255  
940-841-0279 ph  
3 Ncracer69@yahoo.com

4 Objector Pro Se

5  
6  
7 **SUPERIOR COURT FOR THE STATE OF CALIFORNIA**  
8 **COUNTY OF SAN FRANCISCO**  
9

10 JOEL I. ROOS and TOM SANTOS, On Behalf of )  
Themselves and All Others Similarly Situated, )

11 Plaintiffs, )

12 v. )

13 HONEYWELL INTERNATIONAL, INC., and )  
14 DOES 1-100, inclusive )

15 Defendant. )  
16

Case No. CGC-04-436205 (RAK)

**OBJECTION TO PROPOSED SETTLEMENT  
AND NOTICE OF INTENT TO APPEAR**

Date: May 2, 2014  
Time: 9:00 a.m.  
Place: Dept. 304  
Judge: Hon. Curtis E.A. Karnow

17  
18 I bought a Honeywell round thermostat in California during the class period and filed a claim.

19 ***A. The Class Notice is Misleading and Improperly Discourages Objections by Stating that a Proof***  
20 ***of Purchase Must be Attached to the Objection***

21 I do not have proof of purchase of the Honeywell Thermostat. This settlement covers purchases  
22 since June 30, 1986 so most class members not have a proof of their purchase. I submitted a claim form  
23 which only required proof of purchase for more than two thermostats. The instructions for objections  
24 found in the Notice state that a proof of purchase should be included with any objections. This  
25 discourages class members without proof of purchase from objecting. Any class member has a right to  
26 object to a class action settlement requiring court approval. Class counsel cannot differentiate between  
27 the subclasses; class counsel must allow all class members to object.  
28

1 ***B. The Attorneys' Fee Request is Excessive***

2 Class counsel want 37.5% of the total settlement fund. 25% of the net fund would be more than  
3 enough. I also object that the attorneys are asking for a percentage of the whole settlement fund, rather  
4 than the amount that actually benefits the class. The class should not pay a surcharge on administrative  
5 costs. This is not a cost plus arrangement.  
6

7 The attorneys claim they are asking for only a fraction of their lodestar. See Memorandum Of  
8 Points And Authorities In Support Of Their Supplemental And Revised Motion For Preliminary  
9 Approval Of Class Action Settlement (Transaction Id # 54882141), page 20 lines 17-18. Unfortunately,  
10 Plaintiffs have not yet filed their Motion in Support of Attorneys' Fees, so class members are unable to  
11 evaluate these claims.  
12

13 ***C. Class Members should have an opportunity to review the Attorneys' Fee Motion prior to the***  
14 ***deadline to object or opt out of the Settlement***

15 Class members should have an opportunity to review the Attorneys' Fee Motion prior to the  
16 deadline to object or opt out of the Settlement. Although the deadline to object to the Settlement is April  
17 18, 2014, the fee motion unavailable for class member review. Hiding the fee application from the class  
18 is prejudicial to the class. Federal courts in California have found that class members should be given  
19 the opportunity to review attorneys' fee motions prior to the deadline for filing objections. In *In re*  
20 *Mercury Interactive Corp. Sec. Litig.*, 618 F.3d 898 (2010), for example, the Ninth Circuit found that  
21 "the district court abused its discretion when it erred as a matter of law by misapplying Rule 23(h) in  
22 setting the objection deadline for class members on a date before the deadline for lead counsel to file  
23 their fee motion. Moreover, the practice borders on a denial of due process because it deprives objecting  
24 class members of a full and fair opportunity to contest class counsel's fee motion." The due process  
25 rights the court referred to need to be observed in California superior courts as well as in federal courts.  
26 The attorneys' fee motion should be made available for class members to review prior to the deadline  
27  
28

1 for filing an objection. Without detailed information and billing records to support their claims, it is  
2 impossible to review the fairness of the settlement.

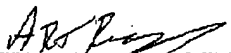
3 ***D. Much of the Settlement is likely to benefit unnamed Cy Pres recipients.***  
4

5 It is possible much of the settlement fund will be distributed to cy pres recipients. This device  
6 should be a last resort. The court should require a second distribution to class members and like the fee  
7 application, the *cy pres* nominees should be disclosed before the objection deadline. All such nominees  
8 should have a connection to the underlying claims and the class, factually supported by evidence and  
9 class members should have an opportunity to object. *Dennis v. Kellogg*, 697 F.3d 858, 865 (9th Cir.  
10 2012)  
11

12 I have obtained assistance from an attorney in the preparation of this document. See ABA  
13 Opinion 07-446. I do not seek any advantage in presenting this document myself.

14 I respectfully request the settlement be rejected until these issues are resolved.  
15

16  
17 Dated: April 18, 2014

By:   
Art Rogers

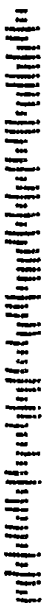
18  
19 Sent via U.S. Mail, Postage Prepaid to:  
20 Honeywell Objections  
21 P.O. Box 3053  
22 Faribault, MN 55021-2653  
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ART ROGERS  
102 NORTHCOTT ST  
NOCONA TX 76255

544 01850  
CA 920  
22 APR '14  
PM 2 1

Honeywell Objections  
P.O. Box 3053  
Faribault, MN 55021-2653

55021265353



U.S. POSTAGE  
**\$1.50**  
92024  
Date of sale  
04/18/14  
06 2500  
08353448  
A B C



# **EXHIBIT B**

## Hyduk, April

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**From:** Atilus, Roslyne  
**Sent:** Wednesday, April 30, 2014 11:11 AM  
**To:** 'Jodie Williams'  
**Cc:** 'Dan Mogin'; 'Lela Mazzeo'; Hyduk, April; Hama, Sali; 'Robert Taylor-Manning'; Wheatman, Shannon; 'Christine Craig (CCraig@Shaheengordon.com)'; 'mtubach@omm.com'; 'cjbrown@omm.com'  
**Subject:** Honeywell Weekly Stats and Objection  
**Attachments:** Rogers (no claim filed) objection received 4.22.14.pdf  
**Importance:** High

Jodie,

Below are the weekly stats for Honeywell. We have received one timely objection, however, it is not Mr. Moser's. I have attached it for your review. Please let me know if you have any questions.

### HONEYWELL WEEKLY STATS

4/23/14 - 4/29/14

<b>Calls to Hotline</b>	<b>Weekly Total</b>	<b>California</b>	<b>Vermont</b>	<b>CA/VT Total</b>	<b>Disconnected/Ot</b>
Calls To Toll-Free Hotline:	7	5	2	7	
<b>Website</b>					
Number of Unique Visits:	614	265	12	277	
<b>Requests for Notice Packet</b>					
Number of Requests:	4	4	-	4	
<b>Requests for Exclusions</b>					
Exclusions Received:	-	-	-	-	
<b>Objections</b>					
Objections Received:	1	1	-	1	
<b>Claims Received</b>					
Online Claims	501	459	42	501	
Paper Claims	27	24	3	27	
<b>Total Claims</b>	<b>528</b>				

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Rust Consulting, Inc.  
5210 Hood Road  
Palm Beach Gardens, FL 33418  
561.253.7717 Direct  
[ratilus@rustconsulting.com](mailto:ratilus@rustconsulting.com)