

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF TEXAS

In re Kitec Plumbing System Products § MDL NO. 2098  
Liability Litigation § Case No. 09-md-2098-F

ONTARIO SUPERIOR COURT OF JUSTICE  
ONTARIO, CANADA

Nicholas Rosati et al. Case No. CV-09-13459  
v. IPEX USA LLC and IPEX INC.

SUPERIOR COURT OF QUÉBEC  
QUÉBEC, CANADA

Karen Cooke Case No. 200-06-000121-098  
v. Ipex Inc.

**NOTICE OF PRELIMINARY APPROVAL OF SETTLEMENT**

**U.S. Hearing Date & Time: November 17, 2011, at 10:00 a.m.**

**Canadian National Class Hearing Date & Time: November 29, 2011, at 10:00 a.m.**

**Quebec Class Hearing Date & Time: December 1, 2011, at 9:30 a.m.**

**BE SURE TO CHECK THE SETTLEMENT WEBSITE [WWW.KITECSETTLEMENT.COM](http://WWW.KITECSETTLEMENT.COM) FOR REGULAR UPDATES AND UPDATES TO HEARING DATES AND TIMES. YOU HAVE A DUTY TO KEEP YOURSELF INFORMED.**

*A court of law authorized this Notice. It is not from a lawyer. You are not being sued.*

**TO: ALL PERSONS THAT OWN, HAVE OWNED, LEASE, OR HAVE LEASED, AND ALL THOSE WHO HAVE OR MAY PURSUE CLAIMS THROUGH OR IN THE NAME OR RIGHT OF THEM, BUILDINGS, HOMES, RESIDENCES, OR ANY OTHER STRUCTURES IN THE UNITED STATES AND CANADA THAT CONTAIN, OR AT ANY TIME CONTAINED, KITEC PLUMBING SYSTEMS AND/OR COMPONENTS. YOUR LEGAL RIGHTS ARE AFFECTED WHETHER YOU ACT OR CHOOSE NOT TO ACT. PLEASE READ THIS ENTIRE NOTICE CAREFULLY.**

**PURPOSE OF THIS NOTICE:** This Notice is being disseminated to all members of certain class actions described below pursuant to Court Orders to notify the classes of a proposed settlement of the lawsuits. **Additional details about this settlement, including a full copy of the Settlement and Release Agreement, can be found at [www.kitecsettlement.com](http://www.kitecsettlement.com) or by calling the claims administrator, toll free at 1-877-337-1293.**

**THE CLASSES:**

For settlement purposes only, the Settling Parties have agreed to the Courts' certification of the following classes of Persons in regard to claims regarding the Kitec System (which may consist of components, individual parts, or as a system, PEX-AL-PEX, PE-AL-PE, PERT-AL-PERT, PEX pipe, valves, fittings, and/or components, manufactured by or on behalf of IPEX whether sold under the names Kitec, PlumbBetter, IPEX AQUA, WarmRite, Kitec XPA, AmbioComfort, XPA, KERR Controls, Plomberie Améliorée or otherwise). Photos of the Kitec System are available for your review at [www.kitecsettlement.com](http://www.kitecsettlement.com).

**1. *In the United States:***

**The United States District Court for the Northern District of Texas, acting under authority from the Judicial Panel for Multi-District Litigation, certified a United States Class for settlement purposes only as follows:**

All Persons that own, have owned, lease, or have leased, and all those who have or may pursue claims through or in the name or right of those who own or have owned, lease or have leased, buildings, homes, residences, or any other structures located in the United States that contain or have ever contained Kitec Systems manufactured and/or sold by the IPEX Defendants, excluding only the Clark County Class. For purposes of this definition, individuals and entities shall include any and all of the individuals' or entities' spouses, joint owners, heirs, executors, administrators, insurers, mortgagees, tenants, creditors, lenders, predecessors, successors, subrogees, assignees, subsequent owners or occupants, trusts and

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DO NOT CALL IPEX OR THE COURT

trustees, attorneys, agents, and assigns and all persons who are entitled to assert a claim on behalf thereof.

**2. *In all of the provinces and territories of Canada:***

**The Ontario Superior Court of Justice certified a Canadian National Class for settlement purposes only as follows:**

All Persons that own, have owned, lease, or have leased, and all those who have or may pursue claims through or in the name or right of those who own or have owned or lease or have leased, buildings, homes, residences, or any other structures located in Canada, excluding only the members of the Quebec Class, that contain or have ever contained Kitec Systems manufactured and/or sold by the IPEX Defendants. For purposes of this definition, individuals and entities shall include any and all of the individuals' or entities' spouses, joint owners, heirs, executors, administrators, insurers, mortgagees, tenants, creditors, lenders, predecessors, successors, subrogees, assignees, subsequent owners or occupants, trusts and trustees, attorneys, agents, and assigns and all persons who are entitled to assert a claim on behalf thereof.

**3. *For certain owners and lessees in the Province of Quebec, Canada:***

**The Superior Court of Québec certified a Quebec Class for settlement purposes only as follows:**

All natural persons, as well as all legal persons established for a private interest, partnerships and associations having no more than 50 persons bound to it by contract of employment under its direction or control during the 12-month period preceding the motion for authorization, that own, have owned, lease or have leased, and all those who have or may pursue claims through or in the name or right of those who own or have owned, lease or have leased, buildings, homes, residences, or any other structures located in Quebec that contain or have ever contained Kitec Systems manufactured and/or sold by the IPEX Defendants. For purposes of this definition, "persons" shall include all such individuals and entities and any and all of the individuals' or entities' spouses, joint owners, heirs, executors, administrators, insurers, mortgagees, tenants, creditors, lenders, predecessors, successors, subrogees, assignees, subsequent owners or occupants, trusts and trustees, attorneys, agents, and assigns and all persons who are entitled to assert a claim on behalf thereof.

Note: If you own, have owned, lease, or have leased buildings, homes, residences, or structures in the Province of Quebec and you have more than 50 employees or are a government entity or legal person established in the public interest, you cannot be part of the Quebec Class, but you are part of the Canadian National Class.

For purposes of this Notice, the United States Class, the Canadian National Class, and the Quebec Class are referred to as the Class as created or to be proposed for creation by the respective Courts set forth above.

- A Settlement Agreement ("Settlement") resolving Class claims in the cases has been negotiated on behalf of the Class by Class Counsel and with Defendants IPEX Inc. and IPEX USA LLC and its predecessor IPEX USA Inc. and IPEX Distribution Inc. (collectively, "IPEX Defendants") and related entities.
- The Settlement involves a one hundred and twenty five million U.S. dollar (US\$125,000,000) Settlement Fund (including attorneys' fees and costs set forth below) to be used for the benefit of Class Members to pay for the repair of buildings, homes, residences, or any other structures with a Kitec System.

**FAIRNESS & GOOD FAITH SETTLEMENT HEARINGS:** The Courts have issued Orders of Preliminary Approval of the Settlement in the United States and approved this notice and other related matters in Canada, and have set Fairness and Good Faith Settlement Hearings ("Formal Fairness Hearings") to consider the fairness, adequacy, and reasonableness of the Kitec Settlement. In the U.S., the hearing will be held on November 17, 2011, at 10:00 a.m., at the United States District Court for the Northern District of Texas (the "U.S. Court"), 1100 Commerce Street, Dallas, Texas 75242.

In Canada, the hearing for the Canadian National Class will be held on November 29, 2011, at 10:00 a.m., at the Ontario Superior Court of Justice (the "Canadian Court"), Windsor Courthouse, 245 Windsor Avenue, Windsor, Ontario, N9A 1J2.

The hearing for the Quebec Class will be held on December 1, 2011, at 9:30 a.m., in Room 3.37, at the Superior Court of Québec (the "Quebec Court"), Palais de Justice, 300, boul. Jean-Lesage, Québec (Québec) G1K 8K6.

| <b>YOUR LEGAL RIGHTS AND CHOICES</b>                    |   | <b>POST MARK ON OR BEFORE</b>                    |
|---|---|--|
| <b>REQUEST FOR EXCLUSION FROM THE CLASS (“OPT-OUT”)</b> | You do not have to take part in the Settlement or be a Member of the Class. You can exclude yourself or opt out. If you exclude yourself, you cannot get a payment from the Settlement Fund and you cannot object to the Settlement. Any Court orders will not apply to you. By excluding yourself, you keep any right to file or proceed with a lawsuit as an individual concerning the Kitec System that you may have. (see No. 9 below)  | <b>September 30, 2011</b>                        |
| <b>OBJECT TO SETTLEMENT</b>                             | You can submit a written objection, raising any concerns you have about this Settlement. (see No. 10 below)   | <b>September 30, 2011</b>                        |
| <b>APPEAR AT FAIRNESS HEARING</b>                       | You can ask to speak to the appropriate Court (that is being asked to certify the class that you are a member of) about the fairness of the Settlement at the Formal Fairness Hearing by submitting a written Notice of Appearance. (see No. 14 below)  | <b>September 30, 2011</b>                        |
| <b>SEND IN A CLAIM FORM</b>                             | If your Kitec System appears to be faulty prior to the expiration of the warranty period and prior to the claim filing deadline, send in a Claim Form. <b>You will not receive a payment if you do not submit a Claim Form.</b> The claim filing deadline of January 1, 2020 is an estimate. Please refer to the settlement website, <a href="http://www.KitecSettlement.com">www.KitecSettlement.com</a> , for the actual claim filing deadline once the Settlement becomes final in early 2012. | <b>Now through January 1, 2020</b><br>(Estimate) |
| <b>DO NOTHING</b>                                       | If you do nothing, <b>you will be bound by the Kitec Settlement.</b> You will be eligible to receive the benefits of the Kitec Settlement if you submit a properly completed and timely claim form and if you satisfy the conditions to present a claim. <b>You should regularly check the Settlement website <a href="http://www.kitecsettlement.com">www.kitecsettlement.com</a> for updates on the status of the litigation and you have a duty to keep yourself informed.</b>                 | <b>N/A</b>                                       |

- Your rights and options – **and the deadlines for each** – are explained in this Notice.
- The respective Courts set forth above must still decide whether to approve the proposed Settlement.
- This Notice is not an opinion of the Courts about the merits of the claims or defenses of the parties in the lawsuits. Instead, this notice is sent to you to tell you about legal rights you may have with respect to this proposed Settlement.

## **BASIC INFORMATION**

### **1. Why did I get this Notice?**

This Notice is published pursuant to Orders by the Courts. You received this Notice because our records indicate that you may be a member of the Class. If you are a tenant or occupant of a building at the address this Notice was sent, please read it and ensure that a copy of the Notice is also provided to the landlord or owner of the building. You have legal rights and choices to make before the Courts decide whether to finally approve this Settlement. This Notice summarizes:

- What the lawsuits are about.
- Your legal rights.
- What the benefits and consequences of this Settlement are for eligible recipients.

**You are urged to look at the complete Agreement to understand all of its terms. You can find it at [www.kitecsettlement.com](http://www.kitecsettlement.com). This Notice is not intended to alter the Agreement.**

### **2. What are the lawsuits about?**

The lawsuits arise from allegedly defective Kitec Systems manufactured or distributed by or on behalf of the IPEX Defendants, and installed within buildings, residences, homes, and other structures in various places in the United States and Canada. Plaintiffs who brought the lawsuits and who seek to represent the Class are property owners in the United States and Canada with buildings, residences, homes, or other structures that have or had the Kitec System specified or installed by various builders, developers, general contractors and/or plumbers. Plaintiffs who originally brought the lawsuits allege that the Kitec System is or may be defective because it could prematurely fail over time resulting in leaks or damage to the structure. The Class Actions seek money damages together with attorneys' fees and costs of suit from the IPEX Defendants on behalf of all Class Members. **The Class Actions do not seek any damages for personal injury, and the Settlement does not affect claims for such damages.** Proceeds from the Kitec Settlement, after attorneys' fees and costs have been paid, will be used for the benefit of Class Members under Court supervision.

### **3. What will the Kitec Settlement provide homeowners or property owners if approved by the Courts?**

If approved by the Courts, the Kitec Settlement will create a one hundred and twenty five million U.S. dollar (US\$125,000,000) Settlement Fund (less attorneys' fees and costs set forth below) to be used for the benefit of the Class to pay for the repair of buildings, residences, homes or other structures plumbed with the Kitec System. Before any money can be paid out, the Kitec Settlement must first receive final approval from the Courts and survive any appeal, if any, that may be filed. Any money paid from the Settlement Fund to members of the Settlement Classes will be paid in the class member's local currency. The Plan of Allocation accompanying this Notice describes the amounts and conditions of the benefits to the Class. **NOTE: To be eligible to receive any money from the Settlement Fund, you must complete and submit the Claims Form accompanying this Notice by January 1, 2020 (the estimated claims deadline).** Class Counsel estimates the Settlement will become final in early 2012, so the deadline will be in early 2020 or as otherwise ordered by the Court. The settlement website, [www.kitecsettlement.com](http://www.kitecsettlement.com), will be updated with the actual claim filing deadline once the Settlement becomes final in early 2012. After the Claims Deadline, any funds remaining in the Settlement Fund after all payments to those Class Members filing proper Claim Forms will be returned to the IPEX Funding Entities. Claims made after the Claims Deadline will be rejected.

### **4. What is a class action?**

In a class action lawsuit, one or more people called "representative plaintiffs" sue on behalf of other people who are similarly situated. This group of people together is referred to as the "class" or "class members." One court decides all the issues in the lawsuit for all class members, except for those who exclude themselves from the class.

In the United States, the judge hearing the class action lawsuit is the Honorable Royal Furgeson. The presently-named Representative Plaintiffs in the Multidistrict Litigation Proceedings (*IN RE KITEC PLUMBING SYSTEM PRODUCTS LIABILITY LITIGATION*, Case No. 09-md-2098 (N.D. Tex.)) are: Melvin Burns, Thomas Olsen, Eugene A. Ehler, Larry Ward, Frank Cordes, Shivani Singh, John Fliss, Kelly Moysh, James Eddins, Gil Oetting, Cecil Oetting, Robert M. Nelson, Ulrich Waldburger, Jean M. Waldburger, Kevin Lykens, Jeffrey Eisenman, Todd Covington, Theresa J. Bryant, Mindi Campbell, Trent Campbell, Ardy Johnson, Anessa Johnson, Jonnie M. Bryant, Thomas S. Brashier, Richard Clark, Patrice Clark, Rebecca Steiner, William Burns, Lily Burns, Steven Cassano, Nathaniel Hillary, and Sarah Hoehn.

In Ontario, the judge hearing the class action lawsuit on behalf of the Canadian National Class is Justice Terrence Patterson. The presently-named Representative Plaintiffs in the Ontario proceeding (*Rosati et al. v. IPEX USA LLC and IPEX INC.*, Case No. CV-09-13459 (Ont. SJC)) are: Nicholas Rosati and Anthony Bellissimo.

In the Province of Quebec, the judge hearing the class action lawsuit is Justice Jean-Francois Émond. The presently-named Representative Plaintiffs in the Quebec proceeding (*Cooke et al. v. IpeX Inc.*, Case No. 200-06-000121-098 (Sup.Ct., Dist. of Québec)) are: Coopérative d'habitation Lézarts and its designated person.

### **5. Who does the Kitec Settlement involve? What disputes does the Kitec Settlement resolve?**

The Kitec Settlement includes all persons who are in the Classes described above who have not previously opted-out of the Class Action. The proposed Kitec Settlement seeks to resolve all past, present and future, known and unknown, direct or contingent Class claims against the IPEX Defendants and related entities, which include IPEX Inc., IPEX USA Inc. and IPEX USA LLC, IPEX's sales agents, wholesalers, distributors, builders, suppliers and any other third parties involved with the Kitec System (collectively, the "Released Parties"). However, the Settlement does not affect Class Member claims for personal injury or certain specific claims against builders or plumbers due to the following specific installation failures: (1) a penetration of the pipe from a foreign object such as a nail; (2) improper attachment of the pipe fittings to plumbing fixtures or appliances; (3) improper stress on the Kitec System due to improper installation of pipe in framing members; (4) leaks at fittings due to a plumber-supplied malfunctioning pressure reducing valve not manufactured or sold by the IPEX Defendants and not part of the Kitec System; (5) leaks at fittings to plumbing fixtures interface due to age of fixture sealant components supplied or provided by a plumber; and (6) any similar installation issue wholly unrelated to the design, manufacture, or performance of the Kitec System.

### **6. Why have the Class and IPEX Defendants decided to settle?**

The Courts have not decided in favor of the Class or the IPEX Defendants. The IPEX Defendants deny any fault, wrongdoing, illegal conduct, or liability whatsoever on their part, and have asserted numerous affirmative defenses to the facts and causes of action alleged in the U.S. and Canadian actions. The IPEX Defendants also deny any and all allegations of fault, wrongdoing, or liability made by any of the plaintiffs in other actions against them. Both sides, however, have agreed to a settlement in order to avoid the risks and costs associated with trial. Class Counsel believes that the amount paid in this Settlement reflects an evaluation of the claims and potential recovery, considering the facts as known to Class Counsel after careful investigation over many years, the likelihood of prevailing at trial, and the likelihood that the litigation, if not settled now, would be further protracted, involve complex issues of fact and law, extra large costs and expenses, and the risk the Class could lose at trial.

**7. What happens if this Settlement is not approved by the Courts?**

If the Kitec Settlement is not approved by the Courts at the Formal Fairness Hearings, then the Kitec Settlement will terminate and all Class Members and Parties will be restored to the position they were in before the Kitec Settlement was signed.

**KITEC SYSTEM DESCRIPTION**

**8. How do I know if I have a Kitec System?**

The Kitec pipe is typically blue in color for cold water applications and orange in color for hot water applications. The pipe is usually marked with one of the following brand names; Kitec, PlumbBetter, IPEX AQUA, WarmRite, Kitec XPA, AmbioComfort, XPA, KERR Controls or Plomberie Améliorée. Where the fittings are visible; look for the words Kitec or KTC on them. The terms CSA B137.9/10 or ATSM F1974 could also indicate that you have a Kitec system. Often, the best places to look for the Kitec system are near the hot water tank or in the mechanical room where the pipe is connected to or exits the walls. Also look under kitchen sinks or bathroom vanities, where the pipe and/or fitting exits the wall. The settlement website, [www.kitecsettlement.com](http://www.kitecsettlement.com), has photos of typical Kitec Systems available for your review.

**YOUR RIGHTS – OPTING OUT OF THE CLASS ACTIONS**

**9. How do I inform the Courts if I want to exclude myself or opt out of the Settlement?**

You do not have to take part in the Kitec Settlement or be a Member of the Class. You can exclude yourself or opt out of the Settlement. If you exclude yourself, you cannot get a payment from the Settlement Fund and you cannot object to the Settlement. Any Court orders will not apply to you. By excluding yourself, you keep any right to file or proceed with a lawsuit about Kitec Systems that you may have.

**To exclude yourself, you must complete and send the attached Opt-Out Form to request exclusion by September 30, 2011 via first class mail to the Claims Administrator, and to the designated counsel for Class Counsel and the IPEX Defendants at:**

|  |   |  |
|--|---|--|
| <b><u>Class Members with claims related to property(ies) in the United States, should mail opt-out forms to:</u></b><br><i>IN RE KITEC PLUMBING SYSTEM PRODUCTS LIABILITY LITIGATION</i> , Case No. 09-md-2098 (N.D. Tex.)   |   |  |
| Kitec Claims Administrator<br>P.O. Box 6001<br>Larkspur, CA 94977-6001   | <b>Co-lead counsel for U.S. Plaintiffs</b><br>Charles J. LaDuca<br>Cuneo Gilbert & LaDuca, LLP<br>507 C Street, NE<br>Washington, DC 20002  | <b>U.S. Counsel for IPEX Defendants</b><br>Richard L. Josephson<br>Van H. Beckwith<br>Baker Botts L.L.P.<br>2001 Ross Avenue<br>Suite 600<br>Dallas, Texas 75201 |
| <b><u>Class Members with claims related to property(ies) in Canada (outside of the Province of Quebec and those with buildings in the Province of Quebec who employ more than 50 employees or were established in the public interest), should mail opt-out forms to:</u></b><br><i>Rosati et al. v. IPEX USA LLC et al.</i> , Ontario Superior Court of Justice, No. CV-09-13459 (the “Canadian National Action”) |   |  |
| Canadian Kitec Claims Administrator<br>P.O. Box 3355<br>London, Ontario N6A 4K3  | <b>Co-lead counsel for Canadian Plaintiffs</b><br>Charles Wright<br>Siskinds LLP<br>680 Waterloo Street<br>London, ON N6A 3V8   | <b>Canadian Counsel for IPEX Defendants</b><br>Benjamin Zarnett<br>Goodmans LLP<br>Bay Adelaide Centre<br>333 Bay Street, Suite 3400<br>Toronto, ON M5H 2S7      |
| <b><u>For Class Members with claims related to property(ies) in the Province of Quebec (except those who employ more than 50 people or were established in the public interest), should mail opt-out forms to:</u></b><br><i>Cooke et al. v. IPEX Inc.</i> , Superior Court of Québec, No. 200-06-000121-098 (the “Quebec Action”)   |   |  |
| Canadian Kitec Claims Administrator<br>P.O. Box 3355<br>London, Ontario N6A 4K3  | <b>Co-lead counsel for Quebec Plaintiffs</b><br>Simon Hébert<br>Siskinds, Desmeules LLP<br>Les Promenades du Vieux-Québec<br>43, rue de Buade, Suite 320<br>Québec (Québec) G1R 4A2 | <b>Quebec Counsel for IPEX Defendants</b><br>Christopher Richter<br>Woods LLP<br>2000, boul. McGill College, Suite 1700<br>Montréal (Québec) H3A 3H3             |

**The Court-required Opt-Out Form that you must fill out if you want to be excluded or to opt-out is attached to this Notice. It is also available at [www.kitecsettlement.com](http://www.kitecsettlement.com). You must fill out and serve the Opt-Out Form to be excluded.**

**Do not send Opt-Out Forms to the Court. Counsel will provide the Opt-Outs to the Court.**

QUESTIONS? VISIT [WWW.KITECSETTLEMENT.COM](http://WWW.KITECSETTLEMENT.COM) OR CALL (877) 337-1293  
DO NOT CALL IPEX OR THE COURT

## YOUR RIGHTS – OBJECTING TO THE SETTLEMENT

### 10. How do I inform the Courts if I do not like the Settlement?

If you are a member of the Class, then you can inform the Courts that you do not like the Kitec Settlement or some part of it. This is called objecting to the Settlement. You also have the option and right to hire your own lawyer at your own expense. To object, you or your lawyer must send a letter stating your reasons for objecting or stating that you intend to appear at the appropriate Formal Fairness Hearing, as the case may be. Members with claims relating to buildings located in the United States may only object before the U.S. Court and appear at the U.S. Formal Fairness Hearing. Members with claims relating to buildings located in Canada may only object before the applicable Canadian Court and appear at the appropriate Canadian Formal Fairness Hearing. **The Courts, however, are entitled and empowered to approve the Kitec Settlement in spite of any objections and then all members of the Class will be bound by the Kitec Settlement.**

The letter to the appropriate Court must:

- State in the caption of the letter: NOTICE OF OBJECTION OR APPEARANCE
- Include the name and title of the lawsuit:
  - Members of the U.S. Class should mention: *IN RE KITEC PLUMBING SYSTEM PRODUCTS LIABILITY LITIGATION*, Case No. 09-md-2098 (N.D. Tex.).
  - Members of the Canadian National Class (**outside of the Province of Quebec and those with buildings in the Province of Quebec who employ more than 50 employees or were established in the public interest**) should mention: *Rosati et al. v. IPEX USA LLC and IPEX INC.*, Ontario Superior Court of Justice, Case No. CV-09-13459 (Ont. SJC).
  - Members of the Class in the Province of Quebec (**except those who employ more than 50 people or were established in the public interest**) should mention: *Cooke et al. v. IpeX Inc.*, Case No. 200-06-000121-098 (Sup.Ct., District of Quebec).
- State that the letter is concerning the Kitec Settlement.
- Include your signature (even if you are represented by counsel), and the signature of your attorney if you have retained one.
- Your current address and telephone number.
- Include your current address and the address of the property(ies) that may contain or have contained the Kitec System.
- Include a description of the property at each address (e.g., Unit of Residential Property, Unit of High Rise Residential Property, Unit of Hospital and Hotel Property, Unit of Other Residential Property or Commercial Structure). See the agreement ¶ 88 at [www.kitecsettlement.com](http://www.kitecsettlement.com) for definitions of these terms.
- State the exact nature of the objection you have, a summary of the basis for these objections and a description of any law or case supporting your objections.
- State whether you or your lawyer will appear at the appropriate Fairness Hearing to speak on your objections, and if so, how long you will require to present your objections.
- Provide copies of any documents that you or your lawyer wish to present at the appropriate Fairness Hearing.

**Your objection letter must be mailed and postmarked before September 30, 2011, to the following addresses:**

|   |  |   |
|---|--|---|
| <b>Class Members with claims relating to residences, buildings or other structures located in the United States should mail objections to the addresses below.</b>  |  |   |
| <b>Co-lead counsel for U.S. Plaintiffs</b><br>Charles J. LaDuca<br>Cuneo Gilbert & LaDuca, LLP<br>507 C Street, NE<br>Washington, DC 20002  | <b>U.S. Counsel for IPEX Defendants</b><br>Richard L. Josephson<br>Van H. Beckwith<br>Baker Botts L.L.P.<br>2001 Ross Avenue, Suite 600<br>Dallas, Texas 75201 | <b>U.S. Court</b><br>Honorable Royal Furgeson<br>United States District Court for the<br>Northern District of Texas, 1100<br>Commerce Street, Dallas, Texas 75242 |
| <b>Class Members with claims relating to residences, buildings or other structures located in Canada (outside of the Province of Quebec and those with buildings in the Province of Quebec who employ more than 50 employees or were established in the public interest) should mail objections to the addresses below.</b> |  |   |
| <b>Co-lead counsel for Canadian Plaintiffs</b><br>Charles Wright<br>Siskinds LLP<br>680 Waterloo Street<br>London, ON N6A 3V8   | <b>Canadian Counsel for IPEX Defendants</b><br>Benjamin Zarnett<br>Goodmans LLP<br>Bay Adelaide Centre<br>333 Bay Street, Suite 3400<br>Toronto, ON M5H 2S7    | <b>Do Not Send Objections to the Court. Counsel will provide objections to the Court.</b>   |

**Class Members with claims relating to residences, buildings or other structures located in the Province of Quebec (except those who employ more than 50 people or were established in the public interest) should mail objections to the addresses below.**

|   |  |   |
|---|--|---|
| <b>Co-lead counsel for Quebec Plaintiffs</b><br>Simon Hébert<br>Siskinds, Desmeules LLP<br>Les Promenades du Vieux-Québec<br>43, rue de Buade, suite 320<br>Québec (Québec) G1R 4A2 | <b>Quebec Counsel for IPEX Defendants</b><br>Christopher Richter<br>Woods LLP<br>2000, boul. McGill College<br>Suite 1700<br>Montréal (Québec) H3A 3H3 | <b>Do Not Send Objections to the Court. Counsel will provide objections to the Court.</b> |
|---|--|---|

**THE LAWYERS WHO REPRESENT THE CLASS AND WHO NEGOTIATED THIS SETTLEMENT**

**11. Do I have a lawyer in the Class Actions and who is Class Counsel?**

The United States District Court for the Northern District of Texas has entered an order concerning the organization of counsel and the case and appointed the below listed attorneys to represent all members of the Class in this case. Together, these attorneys are called Class Counsel. *You will not be individually billed or charged for these lawyers.* If you have any question regarding the Kitec Settlement, then you should contact Class Counsel to discuss your concerns. The names and addresses of Class Counsel are as follows:

|   |   |
|---|---|
| <b>Co-lead counsel for U.S. Plaintiffs</b><br>Charles J. LaDuca<br>Cuneo Gilbert & LaDuca, LLP<br>507 C Street, NE<br>Washington, DC 20002                  | <b>Co-lead counsel for U.S. Plaintiffs</b><br>Robert K. Shelquist, Esquire<br>Lockridge Grindal Nauen, P.L.L.P.<br>100 Washington Avenue South, Suite 2200<br>Minneapolis, MN 55401 |
| <b>Co-lead counsel for U.S. Plaintiffs</b><br>Michael McShane, Esquire<br>Audet & Partners, LLP<br>221 Main Street<br>Suite 1460<br>San Francisco, CA 94105 | <b>Co-lead counsel for U.S. Plaintiffs</b><br>Jeffrey B. Cereghino, Esquire<br>Merrill, Nomura & Molineux, LLP<br>350 Rose Avenue<br>Danville, CA 94526                             |
| <b>Co-lead counsel for U.S. Plaintiffs</b><br>Michael F. Ram, Esquire<br>Levy Ram & Olsen LLP<br>639 Front Street, Fourth Floor<br>San Francisco, CA 94111  | <b>Co-lead counsel for Canadian Plaintiffs</b><br>Charles Wright<br>Siskinds LLP<br>680 Waterloo Street<br>London, ON N6A 3V8   |
| <b>Co-lead counsel for Canadian Plaintiffs</b><br>Harvey Strosberg, QC<br>Sutts, Strosberg LLP<br>600 - 251 Goyeau Street<br>Windsor, Ontario N9A 6V4       | <b>Co-lead counsel for Quebec Plaintiffs</b><br>Simon Hébert<br>Siskinds, Desmeules LLP<br>Les Promenades du Vieux-Québec<br>43, rue de Buade, suite 320<br>Québec (Québec) G1R 4A2 |

**12. How will these attorneys be paid?**

Class Counsel will seek an award of attorneys' fees and expenses in the amount not to exceed U.S. \$25,000,000.00.

**THE COURTS' FORMAL FAIRNESS HEARINGS**

**13. When and where will the Courts decide whether to approve the Kitec Settlement?**

The U.S. Court will hold a Formal Fairness Hearing on **November 17, 2011, at 10:00 a.m.** The Ontario Court will hold a Formal Fairness Hearing for the Canadian National Class on **November 29, 2011, at 10:00 a.m.** The Quebec Court will hold a Formal Fairness Hearing for the Quebec Class on **December 1, 2011, at 9:30 a.m.** At these hearings, the Courts will consider whether the Kitec Settlement is fair and adequate. If there are objections, the Courts will consider them. The Courts will also listen to people who have asked to speak at the hearings. After the hearings, the Courts will decide whether to approve the Kitec Settlement. During these hearings, the Courts will also consider any objection to the amount of Class Counsel's fees and expenses.

The U.S. Formal Fairness Hearing will be held at:

United States District Court for the Northern District of Texas  
100 Commerce Street, Dallas, Texas 75242

The Formal Fairness Hearing for the Canadian National Class will be held at:

Ontario Superior Court of Justice  
Windsor Courthouse, 245 Windsor Avenue, Windsor, ON N9A 1J2

The Formal Fairness Hearing for the Quebec Class will be held at:

Superior Court of Québec, Room 3.37  
Palais de Justice, 300, boul. Jean-Lesage, Québec (Québec) G1K 8K6

**14. Do I have to attend the Formal Fairness Hearings?**

No, you are not required to attend the Fairness Hearings if you have no objection to the Kitec Settlement. But you are welcome to attend if you wish to. If you want to object, you must send a letter but you are not required to attend the hearing to talk about it. As long as you mailed your written objection on time, the Courts will consider it (see No. 10 above). You may also pay your own lawyer to review the Kitec Settlement or attend the appropriate Formal Fairness Hearing on your behalf.

**15. May I speak at the Formal Fairness Hearings?**

You will be allowed to speak at the appropriate Formal Fairness Hearing if you send a Notice of Appearance which specifies the subjects you wish to be heard on with the Court holding the Formal Fairness Hearing at which you intend to appear and with the Claims Administrator by no later than the objection deadline (see No. 10 above). Class Counsel and Counsel for the IPEX Defendants must also be served with copies of the Notice of Appearance, postmarked no later than the objection deadline. Failure to abide by the obligation to file a Notice of Appearance and to describe in detail the subjects on which you intend to be heard shall constitute a waiver of any right to be heard at the Formal Fairness Hearing.

**Getting More Information**

**16. Where can I receive more information about this settlement?**

This Notice is given to inform you of the Courts' preliminary approval of the Kitec Settlement. You may obtain specific details about the Agreement itself by contacting Class Counsel at the addresses listed above (see No. 11) or by viewing the Kitec Settlement on the website [www.kitecsettlement.com](http://www.kitecsettlement.com) maintained by Class Counsel to provide information to the Class. If you do not have internet access, you can also review and copy legal documents in the class actions, including all Kitec Settlement documents, during regular office hours at the office of the United States District Court for the Northern District of Texas, Clerk's Office, Room 1452, 100 Commerce Street, Dallas, Texas 75242, or the office of the Ontario Superior Court of Justice, Windsor Courthouse, 245 Windsor Avenue, Windsor, ON N9A 1J2, or the Office of the Clerk of the Superior Court of Québec, District of Québec, Palais de Justice, 300, boul. Jean-Lesage, Québec (Québec) G1K 8K6.