

**IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS  
COUNTY DEPARTMENT, CHANCERY DIVISION**

LAWRENCE A. ROSEN, individually and	)	
on behalf of all others similarly situated,	)	
	)	
Plaintiff,	)	
v.	)	NO. 04 CH 15345
INGERSOLL-RAND COMPANY,	)	
a New Jersey Corporation, and KRYPTONITE	)	
CORPORATION, a Massachusetts	)	
Corporation,	)	
Defendants,	)	

**NOTICE OF PENDENCY OF CLASS ACTION,  
PROPOSED SETTLEMENT OF CLASS ACTION,  
PRELIMINARY APPROVAL OF THE SETTLEMENT, AND SETTLEMENT CLASS  
CERTIFICATION**

**TO: ALL CONSUMERS IN THE UNITED STATES OF AMERICA AND CANADA WHO ACQUIRED BY PURCHASE, GIFT, OR ANY OTHER LAWFUL MEANS, FOR USE AND NOT RESALE, A KRYPTONITE U-LOCK DURING PERIOD BEGINNING SEPTEMBER 20, 1998, THROUGH AND INCLUDING SEPTEMBER 20, 2004 (“Class Period”).** “Kryptonite U-Lock” means the following U-shaped bicycle locks with tubular cylinder locking system: Kryptonite, Giant by Kryptonite (USA Product Only), KHS Ultra Cycle by Kryptonite, Raleigh Products by Kryptonite (Avenir U-Locks, Cycle Pro U-Locks, Diamondback U-Locks) (USA Product Only) and Trek by Kryptonite (Ali Baba and Sherlock U-Locks, Dreadlock Armored Cable), Harley-Davidson Brake Disc Lock, and Harley-Davidson Maximum Security Chain and Padlock (applies to padlock only). Defendants’ directors, officers, and employees, and government entities are not part of the Settlement Class (“Excluded Group”).

**PLEASE READ THIS NOTICE CAREFULLY. THIS NOTICE RELATES TO A PROPOSED SETTLEMENT OF THIS CLASS ACTION LAWSUIT. IF YOU ARE A SETTLEMENT CLASS MEMBER, THIS NOTICE CONTAINS IMPORTANT INFORMATION AS TO YOUR RIGHTS CONCERNING THE SETTLEMENT. IF YOU ARE A MEMBER OF THE SETTLEMENT CLASS AND DO NOT SUBMIT A TIMELY REQUEST FOR EXCLUSION, YOU WILL BE BOUND BY THE RELEASE REGARDLESS OF WHETHER YOU SUBMIT A CLAIM.**

Pursuant to an Order of the Circuit Court of Cook County, Chancery Division (the "Court"), dated December 27, 2004, YOU ARE HEREBY NOTIFIED:

Plaintiff in the above-captioned action ("Action"), individually and on behalf of the Settlement Class (defined herein), has entered into a proposed settlement (the "Settlement") with Ingersoll-Rand Company and Schlage Lock Company LLC (sued herein as Kryptonite Corporation) ("Defendants").

This Notice is not intended to be, and should not be construed as, an expression of any opinion by the Court with respect to the truth of the allegations in the Action or the merits of the claims or defenses asserted. This Notice is to advise you of the Settlement of this Action and of your rights with respect to this Action and the Settlement.

## **I. NATURE OF THE LITIGATION**

The Action was filed on September 20, 2004. The complaint alleges that Defendants marketed and sold Kryptonite U-Locks (defined herein) with a defect that would make the Kryptonite U-Locks vulnerable to being opened with a ball-point pen. The complaint alleges that the sale and marketing of such Kryptonite U-Locks was in violation of various laws.

Defendants deny all liability or wrongdoing with respect to any and all of the claims alleged in the Action, but consider it desirable that this matter be settled because such settlement will avoid the risk, expense, inconvenience, and distraction of continued litigation. After arm's-length negotiations, a Settlement has been reached and has been preliminarily approved by the Court.

## **II. SETTLEMENT CLASS**

On December 27, 2004, the Court conditionally certified the Action for the purposes of settlement only. This "Settlement Class" includes all consumers in the United States of America and Canada who acquired by purchase, gift, or any other lawful means, for use and not resale, a Kryptonite U-Lock during the period beginning September 20, 1998, through and including September 20, 2004 (the "Class Period"). Defendants' directors, officers, and employees, and government entities are not part of the Settlement Class ("Excluded Group"). The term "Kryptonite U-Lock(s)" means the following U-shaped bicycle locks with tubular cylinder locking systems: Kryptonite, Giant by Kryptonite (USA product only), KHS Ultra Cycle by Kryptonite, Raleigh products by Kryptonite (Avenir U-Locks, Cycle Pro U-Locks, Diamondback U-Locks) (USA product only) and Trek by Kryptonite (Ali Baba and Sherlock U-Locks, Dreadlock Armored Cable), Harley-Davidson Brake Disc Lock, and Harley-Davidson Maximum Security Chain and Padlock (applies to padlock only).

If you acquired a Kryptonite U-Lock during the Class Period and are not part of the Excluded Group, then you are a member of the Settlement Class. Your rights to participate in the Settlement, object to the Settlement, or exclude yourself from the Settlement Class are described in this Notice.

### **III. SETTLEMENT FAIRNESS HEARING**

The Court, by its Order on December 27, 2004, has preliminarily approved the Settlement as fair, reasonable, and adequate, and has directed that this Notice be provided to members of the Settlement Class. The proposed Settlement, the terms of which are summarized in this Notice, is embodied in a Settlement Agreement (the "Agreement"), dated December 14, 2004, which has been filed with the Court. All terms used in this Notice have the same meanings set forth in the Agreement. The Court has also preliminarily approved of the appointment of Plaintiff Lawrence A. Rosen and Plaintiff Nathaniel Schwartz as Class Representatives and their respective counsel Ben Barnow, of Barnow and Associates, P.C., One North LaSalle Street, Suite 4600, Chicago, Illinois 60602, and Lance A. Harke, of Harke & Clasby LLP, 155 South Miami Ave., Suite 600, Miami, Florida 33130, as Class Counsel.

A Final Fairness Hearing has been scheduled for April 21, 2005, at 10:00 a.m. before the Honorable Julia M. Nowicki at the Circuit Court of Cook County, Illinois, Richard J. Daley Center, Courtroom 2510, 50 W. Washington Street, Chicago, Illinois, to hear any objections to the Settlement; to determine, fully and finally, whether the proposed Settlement is a fair, reasonable, and adequate compromise of the claims of the Settlement Class; and to consider Class Counsel's application for attorneys' fees, reimbursement of costs and expenses, and incentive awards (the "Final Fairness Hearing").

Members of the Settlement Class who do not request exclusion (as described in Section VIII below) ("Class Members") have the right to appear and address the court, either in person or through counsel retained by them, at the Final Fairness Hearing. Attendance at the Final Fairness Hearing is not necessary; however, persons who wish to comment orally on the proposed Settlement must state in writing their intention to appear at the Final Fairness Hearing and the nature of their proposed comment, and must serve that document in the time and manner prescribed for written objections in Section IX below, except as otherwise permitted by the Court.

**IF YOU DO NOT WISH TO OBJECT TO THE PROPOSED SETTLEMENT, OR IF YOU DO NOT DESIRE TO DIRECTLY ADDRESS THE COURT, YOU NEED NOT APPEAR AT THE HEARING.**

**ANY CLASS MEMBER WHO DOES NOT OBJECT IN THE MANNER DESCRIBED HEREIN WILL BE DEEMED TO HAVE WAIVED ANY OBJECTION, AND SHALL BE FOREVER FORECLOSED FROM MAKING ANY OBJECTION TO THE PROPOSED SETTLEMENT.**

### **IV. THE PROPOSED SETTLEMENT**

The terms of the proposed Settlement areas follows:

#### **A. Free Product-Exchange Offer**

Defendants shall offer members of the Settlement Class who do not opt out of the Settlement as described in Section VIII below ("Class Members") who currently have Kryptonite

U-Lock(s) an opportunity to exchange said lock(s) for comparable Kryptonite lock(s) without tubular cylinders (non-tubular locks), with no charge to Class Members (hereinafter referenced as the “free product-exchange offer”). To participate in the free product-exchange offer, you must register your claim and comply with the instructions for returning your Kryptonite U-Lock(s), as described in Section VII(A) below, including returning the Kryptonite U-Lock and at least one working key for the lock. The free product-exchange offer includes and covers associated shipping charges.

**B. Retain Lock**

A Class Member who chooses to keep his or her Kryptonite U-Lock and not participate in the free product-exchange offer may instead obtain a voucher with a face value of \$10.00 (US) toward the purchase of any Kryptonite product, redeemable for a period of one year from the date of issuance. The vouchers shall be transferable and stackable up to \$40.00 (US). To participate in this voucher offer, you must register your claim and supply eligibility information, as described in Section VII(B) below.

**C. Stolen Bicycles**

As set forth below, Defendants shall provide relief to eligible Class Members whose bicycles were stolen during the Class Period and while the Class Member’s Kryptonite U-Lock was properly engaged (in lock mode) on the bicycle and the theft was caused by violation of the lock mechanism. Those Class Members deemed eligible will receive the lesser of the amount set forth below (in US dollars), according to the type of lock, or the amount of the loss remaining unreimbursed after insurance coverage payments or other settlements and payments regarding the stolen bicycle.

Kryptonite New York Chain and EV Disc Lock	\$3,000
Evolution 2000 U-Lock	\$2,000
KryptoLok Plus U-Lock	\$1,500
KryptoLok U-Lock	\$1,250
Kryptonite Bike Trap U-Lock	\$500
Kryptonite U-Lock	\$250
Giant by Kryptonite U-Lock	\$1,000
KHS Ultra Cycle U-Lock	\$1,000
Trek Ali Baba U-Lock	\$1,000
Trek Sherlock U-Lock	\$1,500
Raleigh Cycle Pro U-Lock	\$500
Avenir U-Lock	\$500
Diamondback U-Lock	\$500
Harley-Davidson Locks	\$500

To be considered eligible for this relief, you must register your claim and supply eligibility information, as described in Section VII(C) below.

**D. Injunctive Relief**

Defendants will, for a period of 10 years, cease the production and distribution of Kryptonite U-shaped bicycle locks with tubular cylinder locking systems, including Kryptonite,

Giant by Kryptonite (USA product only), KHS Ultra Cycle by Kryptonite, Raleigh products by Kryptonite (Avenir U-Locks, Cycle Pro U-Locks, Diamondback U-Locks) (USA product only) and Trek by Kryptonite (Ali Baba and Sherlock U-Locks, Dreadlock Armored Cable), Harley-Davidson Brake Disc Lock, and Harley-Davidson Maximum Security Chain and Padlock (applies to padlock only). Nothing herein shall preclude Defendants from providing replacement keys to consumers who opt to retain their Kryptonite U-Locks and request such replacement keys.

**V. EFFECT OF SETTLEMENT—RELEASE OF CLAIMS**

Upon the date of the approved Settlement, all Class Members shall be deemed to have, and by operation of the Judgment and Order of Dismissal shall have, fully, finally, and forever released, relinquished, and discharged all claims against Defendants, their parents, subsidiaries, and affiliates, and each of those other entities that have manufactured, designed, sold, marketed, or distributed the Kryptonite U-Locks, including, without limitation, any and all claims, actions, demands, rights, liabilities, suits, complaints, causes of action (including, but not limited to, violations of the Illinois Consumer Fraud and Deceptive Business Practices Act and consumer fraud laws of other states; breach of the implied warranty of merchantability under the Magnuson-Moss Warranty Act; violations of the California Business and Professions Code §17200 *et seq.* and § 17500 *et seq.*, and California Civil Code § 1750 *et seq.*, the Quebec Civil Code; the Quebec Consumer Protection Act, and the Ontario Sale of Goods Act; contract; unjust enrichment; and any and all other claims arising under laws of any other jurisdiction that have been or could or might have been alleged by any Class Member in any forum in the United States of America or in Canada, as part of the present action or as any other action, arbitration, or proceeding), requests for damages, requests for injunctive relief, disgorgement of monies, requests for declaratory relief, requests for equitable relief of every nature and description whatsoever, requests for attorneys' fees and expenses, and any other matters and issues of any nature whatsoever, whether known or unknown, whether suspected or unsuspected, whether contingent or non-contingent, whether concealed or hidden, whether asserted or that could or might have been asserted in any pleading or amended pleading by or on behalf of any member of the Settlement Class against Defendants, related to or arising out of, directly or indirectly, the claims that were made or that could have been made in any jurisdiction or forum in the United States of America or in Canada regarding the Kryptonite U-Locks, but not bodily injury claims (collectively, the "Released Claims").

Further, to the fullest extent permitted by law, Class Members shall, either directly, indirectly, representatively, as a member of or on behalf of the general public, or in any capacity, be permanently barred and enjoined from commencing, prosecuting, or participating in any recovery in any action in this or any other forum (other than participation in the Settlement as provided herein) in which any of the Released Claims is asserted.

With respect to any and all Released Claims, the Class Members shall be deemed to have waived and relinquished, to the fullest extent permitted by law, the provisions, rights, and benefits of California Civil Code § 1542 (and any other similar provisions under applicable law), which provides:

A general release does not extend to claims which the creditor does not know or suspect to exist in his favor at the time of executing the release, which if known by him must have materially affected his settlement with the debtor.

Also, with respect to any and all Released Claims, upon entry of the Judgment and Order of Dismissal, the Class Members waive any rights or benefits afforded by any similar statute or law or principle of common law of California, including, without limitation, claims under California Business and Professions Code §17200 *et seq.* and §17500 *et seq.*, and California Civil Code §1750 *et seq.* (Consumer Legal Remedies Act or “CLRA”), or any other jurisdiction or forum in the United States of America or Canada.

**VI. APPLICATION FOR ATTORNEYS’ FEES, COSTS, AND EXPENSES, CLASS REPRESENTATIVE AWARDS, AND NAMED-PLAINTIFF AWARDS**

At the Final Fairness Hearing, Class Counsel will make an application for an award by the Court of attorneys’ fees, costs, and expenses, including Class Representative and named-plaintiff incentive awards, in the total amount not to exceed \$690,000.00, which are to be paid by Defendants over and above any relief to the Class identified herein. Defendants have agreed not to object to this application up to said amount and to pay any award by the Court up to that amount.

**VII. FILING A CLAIM**

IN ORDER TO BE ELIGIBLE TO RECEIVE ANY SHARE OF THE SETTLEMENT DESCRIBED IN SECTIONS IV(A), (B), OR (C) OF THIS NOTICE, YOU MUST SUBMIT A CLAIM IN ACCORDANCE WITH THE RESPECTIVE CLAIMS PROCEDURE DESCRIBED BELOW.

CLASS MEMBERS WHO DO NOT SUBMIT A CLAIM ARE NOT ENTITLED TO ANY SHARE OF THE SETTLEMENT. IF YOU ARE A MEMBER OF THE SETTLEMENT CLASS AND DO NOT PROPERLY EXCLUDE YOURSELF FROM THE CLASS PURSUANT TO SECTION VIII, BELOW, YOU WILL BE BOUND BY THE SETTLEMENT AND THE FINAL JUDGMENT OF THE COURT DISMISSING THIS ACTION, EVEN IF YOU DO NOT SUBMIT A CLAIM. IF YOU EXCLUDE YOURSELF, PURSUANT TO SECTION VIII, BELOW, YOU WILL NOT BE BOUND BY THE JUDGMENT AND YOU WILL NOT BE ENTITLED TO ANY OF THE SETTLEMENT BENEFITS.

- A. To make a claim under paragraph IV(A) above, you must submit a claim indicating: (1) your full name; (2) your address; (3) your phone number; (4) the quantity of Kryptonite U-Locks you wish to exchange; (5) the model(s) of your Kryptonite U-Lock(s); (6) the identification number on the key(s) to that/those Lock(s); and (7) the date of purchase / acquisition of your Kryptonite U-Lock(s). Alternatively, you may complete and submit the lock exchange claim form available at [www.kryptonitesettlement.com](http://www.kryptonitesettlement.com) and follow the instructions included at the web site. Your claim must be postmarked (or submitted by email as directed in the stated web site) no later than 180 days from the Effective Date of the Settlement and sent to:

Settlement Administrator  
Kryptonite U-Lock Product-Exchange Program  
Wall Street Station  
P.O. Box 1103  
New York, NY 10269-1103

Upon receipt of your claim, the Settlement Administrator will send to you a postage-paid UPS call tag. In response, you must use the postage-paid UPS call tag to send the following to the provided address: (1) the Kryptonite U-Lock(s) you identified in your claim and (2) one working key for each such Kryptonite U-Lock.

- B. To make a claim under paragraph IV(B) above, you must submit a claim indicating: (1) your full name; (2) your address; (3) your phone number; (4) the quantity of Kryptonite U-Locks for which you wish to obtain a \$10.00 (US) voucher; (5) proof of purchase for each such Kryptonite U-Lock(s), said proof including evidence of original form of payment, check, credit card bill, or receipt for cash; and (6) the identification number on the key(s) to that/those Lock(s). Alternatively, you may complete and submit the voucher claim form available at **[www.kryptonitesettlement.com](http://www.kryptonitesettlement.com)** and follow the instructions included at the website. Your claim must be postmarked (or submitted by email as directed in the stated website) no later than 180 days from the Effective Date of the Settlement and sent to:

Settlement Administrator  
Kryptonite U-Lock Voucher Program  
Wall Street Station  
P.O. Box 1103  
New York, NY 10269-1103

- C. In addition to making a claim pursuant to paragraphs IV(A) or (B), you can make a claim under paragraph IV(C) above. To make such a claim, you must submit your claim postmarked no later than 180 days from the Effective Date of the Settlement to:

Settlement Administrator  
Kryptonite Theft-Claim Program  
Wall Street Station  
P.O. Box 1103  
New York, NY 10269-1103

Your claim must include all of the following: (1) proof of purchase of a Kryptonite U-Lock, said proof including evidence of original form of payment, check, credit card bill, or receipt for cash; (2) proof of purchase of the stolen bicycle, said proof including evidence of original form of payment, check, credit card bill, or receipt for cash; (3) a copy of a police report that was filed contemporaneously with the occurrence of the theft of the bicycle; (4) return of the lock that was used to lock the bicycle that was stolen or, in the alternative, proof (for example, police report or other contemporaneous document referencing same) that the bicycle was stolen because the locking mechanism of the bicycle was violated; (5) a statement regarding whether the bicycle was covered by insurance, and if so, the amount of the deductible and whether an insurance claim was made and paid and the amount of any such payment; (6) a statement as to whether any

other form of compensation was received for part or all of the loss; (7) the net amount claimed due after any of said payments (insurance payments, etc.); and (8) a sworn and verified (i.e., your signature attested to by a notary public) statement by you that (a) the bicycle was stolen while it was locked with the concerned Kryptonite U-Lock, and (b) that all of the information and material provided is true and correct, under the penalty of perjury.

Alternatively, you may complete and submit the stolen-bicycle claim form available at [www.kryptonitesettlement.com](http://www.kryptonitesettlement.com) and follow the instructions included at the website.

The Settlement Administrator shall promptly review each claim and approve such claims without requiring further documentation, unless there is reasonable cause to suspect that the claim is fraudulent, duplicative, or otherwise invalid. If further documentation is required or the claim or documentation is rejected, the Settlement Administrator will mail to you written notice.

You shall then have 30 days (must be postmarked no later than the thirtieth day) from the mailing (postmark) of the written notice to provide the further documentation requested by the Settlement Administrator. If the further documentation is presented, the Settlement Administrator shall have 30 days from the mailing (postmark) of the additional material to issue the ruling, which shall be final.

#### **VIII. OPTING OUT OF THE SETTLEMENT CLASS**

If you wish to opt out of the Settlement Class and forego any of the Settlement benefits, you must individually sign and submit a written notice clearly manifesting your intent to be excluded from the Settlement Class. Your request must set forth: (1) your full name; (2) your address; (3) your phone number; (4) the name and number of the Action (*Rosen v. Ingersoll-Rand Co., et al.*, No. 04 CH 15345); (5) your request for exclusion from the Settlement Class; and (6) your signature. In the event you are not able to sign on your own behalf, signature by a duly authorized representative (including attorney) is authorized and shall be acceptable. The written notice must be postmarked no later than April 11, 2005, and sent to:

Kryptonite U-Lock Opt-out  
Wall Street Station  
P.O. Box 1103  
New York, NY 10269-1103

California residents who opt out of the proposed settlement in *Lawrence A. Rosen v. Ingersoll-Rand Company and Kryptonite Corporation*, No. 04 CH 15345 (Circuit Court of Cook County, Illinois) can pursue their claims for defective Kryptonite locks in the Kryptonite Lock Cases, JCCP Nos. 4393 and 4394 (California Superior Court). Residents of other states who opt out of the proposed settlement may pursue their claims concerning allegedly defective Kryptonite locks.

#### **IX. OBJECTING TO THE SETTLEMENT**

If you do not request exclusion from the Settlement Class under Section VIII, above, and you oppose the proposed Settlement, you may object to the Settlement. If you wish to object to the Settlement, you must file a timely written notice of your objection, setting forth the reasons for your objection. You or your duly authorized representative must sign the objection and provide information identifying yourself as a Class Member (such as proof of purchase of a



Kryptonite U-Lock), your address, and whether you intend on appearing at the Final Fairness Hearing. If proof of purchase is not available, an affidavit to that effect and setting forth the fact of purchase, the approximate date of said purchase, and the place of purchase as detailed as you recall, must be included. You must file your objection with the Clerk of the Circuit Court of Cook County, Room 802, Richard J. Daley Center, Chicago, Illinois 60602, by no later than April 11, 2005. Additionally, you must serve, by said date, one copy of your written objection upon each of the following counsel:

Class Counsel: Ben Barnow  
Barnow and Associates, P.C.,  
One North LaSalle Street, Suite 4600,  
Chicago, IL 60602

Defendants' Counsel: Robert A. Bourque  
Simpson Thacher & Bartlett LLP,  
425 Lexington Avenue,  
New York, NY 10017

**X FURTHER INFORMATION**

For a more detailed statement of the claims in this Action and the Settlement, you are referred to the papers on file in this Action, including the Settlement Agreement, which may be inspected during regular business hours at the office of the Clerk of the Circuit Court of Cook County, Chancery Division, Richard J. Daley Center, Room 802, Chicago, Illinois 60602. The Settlement Agreement, as well as this notice, is also posted on [www.kryptonitesettlement.com](http://www.kryptonitesettlement.com).

**PLEASE DO NOT CONTACT THE COURT**

By Order of the Honorable Julia M. Nowicki, Judge of the Circuit Court of  
Cook County, Illinois, County Department, Chancery Division