

No. S071569
Vancouver Registry

In the Supreme Court of British Columbia

Between:

Kristopher Gruber

Plaintiff

and:

LG Philips LCD Co., Ltd., LG Philips LCD America, Inc.,
Samsung Electronics Co. Ltd., Samsung Electronics Canada Inc.,
NEC Corporation, NEC Electronics America, Inc., NEC LCD
Technologies Ltd., Hitachi Ltd., Hitachi Displays, Ltd., Hitachi
Canada, Ltd., Hitachi America Ltd., Hitachi Electronics Devices
(USA), Inc., IDT International Ltd., International Display
Technology Co., Ltd., International Display Technology USA
Inc., Epson Imaging Devices Corporation fka Sanyo Epson
Imaging Devices Corporation, Sharp Corporation, Sharp
Electronics Corporation, Sharp Electronics of Canada Ltd.,
Toshiba Corporation, Toshiba Matsushita Display Technology Co.,
Ltd., Toshiba America Corporation, Toshiba of Canada Limited,
AU Optronics Corp., AU Optronics Corporation America, Chi Mei
Optoelectronics Corporation, Chi Mei Optoelectronics USA, Inc.,
Chunghwa Picture Tubes, Ltd. and HannStar Display Corporation

Defendants

BROUGHT UNDER THE *CLASS PROCEEDINGS ACT*, R.S.B.C. 1996, c. 50

ORDER

BEFORE THE HONOURABLE) THURSDAY, THE 26TH DAY OF
MR. JUSTICE MYERS)
) JANUARY, 2012.

THE APPLICATION of the Plaintiff coming on for hearing at the Courthouse at 800 Smithe Street, Vancouver, B.C., on the 26th day of January, 2012, and on hearing Sharon Matthews, counsel for the Plaintiff, David Kent, counsel for the Defendant, Epson Imaging Devises Corporation (fka Sanyo Epson Imaging Devices Corporation), J. Kenneth McEwan QC, counsel for the Defendant, AU Optronics Corporation America, David Neave, counsel for the Defendants, Samsung Electronics Canada Inc. and Samsung Electronics Co., Ltd., Katherine Kay, counsel for the Defendants, LG Display Co., Ltd. fka LG Philips LCD Co. Ltd. and LG Display America, Inc. fka LG Philips LCD America, Inc., H. David Edinger, counsel for the

Defendants, Hitachi Canada Ltd., Hitachi Ltd, Hitachi America Ltd., Hitachi Electronic Devices (USA) Inc. and Hitachi Displays Ltd., Michael Brown counsel for the Defendants, Sharp Corporation, Sharp Electronics Corporation and Sharp Electronics of Canada Ltd., Sandra Forbes, counsel for the Defendant Chi Mei Optoelectronics USA, Inc., and on reading the materials filed and on being advised that notice of certification and settlement approval in the within action was provided pursuant to the Order of the British Columbia Supreme Court dated May 21, 2010 in relation to the settlement agreement entered into with Chunghwa Picture Tubes Ltd. ("Chunghwa") (the "Chunghwa Approval Order") and that, pursuant to the Chunghwa Approval Order, the deadline to opt out expired on April 10, 2011 for members of the Chunghwa Settlement Class (as defined below and in the Chunghwa Approval Order):

THIS COURT ORDERS that:

1. for the purposes of this order unless otherwise stated, the defined terms in this Order have the same meaning ascribed to them as they do in the Settlement Agreement dated August 2, 2011, attached as Schedule "A" to this Order (the "Settlement Agreement"). In addition to the definitions in the Settlement Agreement, the following definition shall also apply in this Order:

"Chunghwa Settlement Class" is all persons resident in British Columbia who purchased LCD Products directly or indirectly from a Defendant, an entity affiliated with a Defendant, an Original Equipment Manufacturer or a Distributor in Canada during the Class Period, except Excluded Persons.

2. this action be certified as a class proceeding only as against the Defendant Epson Imaging Devices Corporation fka Sanyo Epson Imaging Devices Corporation (the "Settling Defendant") for settlement purposes only;
3. the Settlement Class be defined as follows:

All persons resident in British Columbia who purchased LCD Large Screen Products during the Class Period, except Excluded Persons.

4. Kristopher Gruber be appointed as the Representative Plaintiff for the Settlement Class;

5. the proceeding be certified on the basis of the following issue which is common to the Settlement Class:

Did the Settling Defendant conspire to fix, raise, maintain or stabilize the prices of, or allocate markets and customers for, LCD Large Screen Panels in Canada during the Class Period? If so, what damages, if any, did the Class members suffer?
6. the putative members of the Settlement Class shall be eligible to opt out of the action only if they are not also members of the Chunghwa Settlement Class;
7. the putative members of the Settlement Class who are eligible to opt out of the action in accordance with paragraph 7 can do so only by sending a written election to opt out to Class Counsel, postmarked on or before the date which is sixty (60) days from the date of the first publication of the settlement approval notice. The written election to opt out shall include the person's name and address, a request to be excluded from the action, and a statement as to whether and in what manner the person falls outside the parameters of the Chunghwa Settlement Class, and shall be signed by the person seeking to opt out;
8. any putative member of the Settlement Class who has validly opted-out of this action in accordance with the Chunghwa Approval Order or this Order will not be bound by the Settlement Agreement and shall no longer participate or have the opportunity to participate in this action;
9. the Settlement Agreement is fair, reasonable and in the best interest of the Settlement Class;
10. the Settlement Agreement is hereby approved pursuant to s. 35 of the *Class Proceedings Act*, R.S.B.C. 1996, c. 50 and shall be implemented in accordance with its terms;
11. the Settlement Agreement is incorporated by reference into and forms part of this Order and is binding upon the representative plaintiff and all Settlement Class Members;
12. this Order, including the Settlement Agreement, is binding upon each Settlement Class Member who has not validly opted-out of this action including those persons who are minors or mentally incapable and the requirements of Rule 20-2 of the British Columbia Rules of Court are dispensed with on this application;

13. each Settlement Class Member who has not validly opted-out of this action shall consent and shall be deemed to have consented to the dismissal as against the Releasees of any Other Actions he, she or it has commenced, without costs and with prejudice;
14. each Other Action commenced in British Columbia by any Settlement Class Member who has not validly opted-out of this action shall be dismissed against the Releasees, without costs and with prejudice;
15. upon the Effective Date, each Releasor has released and shall be conclusively deemed to have forever and absolutely released the Releasees from the Released Claims;
16. each Releasor who has not validly opted-out of this action shall not now or hereafter institute, continue, maintain or assert, either directly or indirectly, whether in Canada or elsewhere, on their own behalf or on behalf of any class or any other person, any action, suit, cause of action, claim or demand against any Releasee or any other person who may claim contribution or indemnity from any Releasee in respect of any Released Claim or any matter related thereto, except for the continuation of the Proceedings against the Non-Settling Defendants or unnamed co-conspirators;
17. upon the Effective Date, the Releasees have released and shall be conclusively deemed to have forever and absolutely released each of the other from any and all claims for contribution and indemnity with respect to the Released Claims;
18. in accordance with Section 7.3 of the Settlement Agreement, the use of the terms "Releasors" and "Released Claims" in this Order does not constitute a release of claims by the Settlement Class Members. Instead, each Settlement Class Member is deemed to covenant and undertake not to make any claim in any way nor to threaten, commence, or continue any proceeding in any jurisdiction against the Releasee in respect of or in relation to the Released Claims;
19. all claims for contribution, indemnity or other claims over, whether asserted, unasserted or asserted in a representative capacity, inclusive of interest, taxes and costs, relating to the Released Claims, which were or could have been brought in a Proceeding, by any Non-Settling Defendant, or any other person or party, against a Releasee; or by a Releasee against any Non-Settling Defendant or any other person or party, are barred,

prohibited and enjoined in accordance with the terms of this Order (unless such claim is made in respect of a claim by a person who has validly opted-out of this action);

20. if the court determines that there is a right of contribution and indemnity or other claim over, whether in equity or in law, by statute or otherwise:

(a) the Settlement Class members shall not be entitled to claim or recover from the Non-Settling Defendants that portion of any damages (including punitive damages, if any), restitutionary award, disgorgements of profits, interest and costs (including investigative costs claimed pursuant to s. 36 of the *Competition Act*) that corresponds to the proportionate liability of the Releasees proven at trial or otherwise. For the purposes of this Order, the phrase “proportionate liability” means that proportion of any judgment that, had they not settled, this Court would have apportioned to the Releasees; and

(b) this Court shall have full authority to determine the proportionate liability of the Releasees at the trial or other disposition of this action, whether or not the Releasees appear at trial or other disposition, and the proportionate liability of the Releasees shall be determined as if the Releasees are parties to this action and any determination by this Court in respect of the proportionate liability of the Releasees shall only apply in this action and shall not be binding on the Releasees in any other proceedings;

21. nothing in this Order is intended to or shall limit, restrict or affect any arguments which the Non-Settling Defendants may make regarding the reduction of any assessment of damages, restitutionary award, disgorgement of profits or judgment against them in this action;

22. if this proceeding against the Non-Settling Defendants has been certified and all appeals or times to appeal related thereto have been exhausted, the Non-Settling Defendants shall be entitled to seek an Order, on motion to the Court, determined as if the Settling Defendant remained a party to the action, and on at least ten (10) days notice to counsel for the Settling Defendant, that provides for the following:

(i) documentary discovery from the Settling Defendant in accordance with the British Columbia Rules of Court;

- (ii) oral discovery of a representative of the Settling Defendant, the transcript of which may be read in at trial;
- (iii) leave to serve a notice to admit on the Settling Defendant in respect of factual matters; and
- (iv) the production of a representative of the Settling Defendant to testify at trial, with such witness to be subject to cross-examination by counsel for the Non-Settling Defendants.

The Settling Defendant retains all right to oppose such motion(s). Notwithstanding any provision in this Order, on any motion brought pursuant to this paragraph 22 the Court may make such Orders as to costs and other terms as it considers appropriate;

- 23. a Non-Settling Defendant may effect service of the motion(s) referred to in paragraph 22 above on the Settling Defendant by service on counsel of record for the Settling Defendant in this action;
- 24. for purposes of enforcement of this Order, this Court will retain an ongoing supervisory role and the Settling Defendant will attorn to the jurisdiction of this Court for these purposes but does not hereby attorn to the jurisdiction of any other court or of this Court for any other purpose;
- 25. except as provided herein, this Order does not affect any claims or causes of action that any Settlement Class Member has or may have against the Non-Settling Defendants or unnamed co-conspirators in this action;
- 26. the Releasees have no responsibility for and no liability whatsoever with respect to the administration of the Settlement Agreement;
- 27. the Settlement Amount be held in trust for the benefit of the Settlement Class, pending further order of the Court, which shall be sought by the Plaintiff on a motion in the action brought on notice to the Settling Defendant;
- 28. any documents provided by the Settling Defendant to the Plaintiffs pursuant to the Settlement Agreement may be designated "CONFIDENTIAL" or "HIGHLY CONFIDENTIAL" by the Settling Defendant (or may have already been so designated in the U.S. Litigation) and that any such designations will be treated in a manner consistent

with the Stipulated Protective Order granted in the U.S. Litigation and attached as Schedule "C" to the Settlement Agreement;

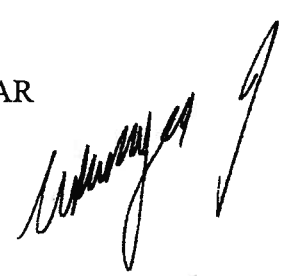
29. this action be dismissed against the Settling Defendant without costs and with prejudice;
30. approval of the Settlement Agreement is contingent upon approval by the Ontario Court and the Quebec Court and that this Order shall have no force and effect if such approval is not secured in Ontario and Quebec;
31. with respect to the Settlement Agreement entered into between the Plaintiffs and Epson Imaging Devices Corporation dated August 2, 2011, class counsel fees in the amount of \$278,400.00 plus applicable taxes, are approved;
32. with respect to the Settlement Agreement entered into between the Plaintiffs and Epson Imaging Devices Corporation dated August 2, 2011, class counsel disbursements in the amount of \$102,287.13, plus applicable taxes, are approved; and
33. the Class Counsel legal fees, disbursements and applicable taxes be paid from the Settlement Funds, payable pursuant to the terms of the Settlement Agreement.

34. The endorsement of this order by the parties is dispensed with. 

BY THE COURT


D/ DISTRICT REGISTRAR

APPROVED AS TO FORM:



Sharon Matthews
Counsel for the Plaintiff, Kristopher Gruber

David Kent
Epson Imaging Devices Corporation

J. Kenneth McEwan QC
Counsel for the Defendant, AU Optronics
Corporation America

David Neave
Counsel for the Defendants, Samsung
Electronics Canada Inc. and Samsung
Electronics Co., Ltd.

Katherine Kay
Counsel for the Defendants, LG Display Co.,
Ltd. *aka* LG Philips LCD Co. Ltd. and LG
Display America, Inc. *aka* LG Philips LCD
America, Inc.

H. David Edinger
Counsel for the Defendants, Hitachi Canada
Ltd., Hitachi Ltd, Hitachi America Ltd.,
Hitachi Electronic Devices (USA) Inc. and
Hitachi Displays Ltd.

Michael Brown
Counsel for the Defendants, Sharp
Corporation, Sharp Electronics Corporation
and Sharp Electronics of Canada Ltd.

Sandra Forbes
Counsel for the Defendant Chi Mei
Optoelectronics USA, Inc.

SCHEDULE "A"

CANADIAN LCD PANELS CLASS ACTION NATIONAL SETTLEMENT AGREEMENT

Made as of August 2, 2011

Between

**THE FANSHAWE COLLEGE OF APPLIED ARTS AND TECHNOLOGY,
COMMUNICATION MÉGA-SAT INC., AND KRISTOPHER GRUBER**

(the "Plaintiffs")

and

**EPSON IMAGING DEVICES CORPORATION (FORMERLY KNOWN AS SANYO EPSON
IMAGING DEVICES CORPORATION)**

(the "Settling Defendant")

**CANADIAN LCD PANELS CLASS ACTION
NATIONAL SETTLEMENT AGREEMENT**

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**CANADIAN LCD PANELS CLASS ACTION
NATIONAL SETTLEMENT AGREEMENT**

RECITALS

- A. WHEREAS the Proceedings have been commenced by the Plaintiffs in Ontario, Quebec and British Columbia which allege that the Settling Defendant participated in an unlawful conspiracy to raise, fix, maintain or stabilize the price of LCD Products in Canada and/or to allocate markets and customers for the sale of LCD Products in Canada, contrary to Part VI of the *Competition Act* and the common law;
- B. WHEREAS the Plaintiffs intend to amend their claims and limit the allegations in the Proceedings to those relating only to LCD Large Screen Products;
- C. WHEREAS the Settling Defendant does not admit, through the execution of this Settlement Agreement or otherwise, any allegation of unlawful conduct alleged in the Proceedings;
- D. WHEREAS the Plaintiffs, Class Counsel and the Settling Defendant agree that neither this Settlement Agreement nor any statement made in the negotiation thereof shall be deemed or construed to be an admission by or evidence against the Settling Defendant or evidence of the truth of any of the Plaintiffs' allegations against the Settling Defendant, which the Settling Defendant expressly denies;
- E. WHEREAS the Settling Defendant is entering into this Settlement Agreement in order to achieve a final and nation-wide resolution of all claims asserted or which could have been asserted against it by the Plaintiffs in the Proceedings, and to avoid further expense, inconvenience and the distraction of burdensome and protracted litigation;
- F. WHEREAS the Settling Defendant does not hereby attorn to the jurisdiction of the Courts or any other court or tribunal in respect of any civil, criminal or administrative process except to the extent expressly provided in this Settlement Agreement with respect to the Proceedings;
- G. WHEREAS the Plaintiffs and Class Counsel have reviewed and fully understand the terms of this Settlement Agreement and, based on their analyses of the facts and law applicable to the Plaintiffs' claims, and having regard to the burdens and expense in prosecuting the

Proceedings, including the risks and uncertainties associated with trials and appeals, the Plaintiffs and Class Counsel have concluded that this Settlement Agreement is fair, reasonable and in the best interests of the Plaintiffs and the classes they seek to represent;

H. WHEREAS the Parties therefore wish to, and hereby do, finally resolve on a national basis, without admission of liability, all of the Proceedings as against the Settling Defendant;

I. WHEREAS for the purposes of settlement only and contingent on approvals by the Courts as provided for in this Settlement Agreement, the Parties have consented to certification or authorization of the Proceedings as class proceedings as against the Settling Defendant and have consented to a Settlement Class and a Common Issue in each of the Proceedings;

J. WHEREAS the Plaintiffs assert that they are adequate class representatives for the Settlement Classes and will seek to be appointed representative plaintiffs in their respective Proceedings; and

K. WHEREAS the deadline for Settlement Class Members to opt out of the Proceedings expired on or about April 10, 2011;

NOW THEREFORE, in consideration of the covenants, agreements and releases set forth herein and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, it is agreed by the Parties that the Proceedings be settled and dismissed with prejudice as to the Settling Defendant only, without costs as to the Plaintiffs, the classes they seek to represent or the Settling Defendant, subject to the approval of the Courts, on the following terms and conditions:

SECTION 1 - DEFINITIONS

For the purposes of this Settlement Agreement only, including the Recitals and Schedules hereto:

- (1) *Account* means an interest bearing trust account at a Canadian Schedule 1 bank in Ontario under the control of Siskinds LLP for the benefit of Settlement Class Members.
- (2) *Administration Expenses* means all fees, disbursements, expenses, costs, taxes and any other amounts incurred or payable by the Plaintiffs, Class Counsel or otherwise for the approval,

implementation and operation of this Settlement Agreement, including the costs of notices and claims administration but excluding Class Counsel Fees.

- (3) *BC Counsel* means Camp Fiorante Matthews.
- (4) *BC Court* means the Supreme Court of British Columbia.
- (5) *Claims Administrator* means the firm proposed by Class Counsel and appointed by the Courts to administer the Settlement Amount in accordance with the provisions of this Settlement Agreement, and any employees of such firm.
- (6) *Class Counsel* means Ontario Counsel, Quebec Counsel and BC Counsel.
- (7) *Class Counsel Fees* include the fees, disbursements, costs, interest, and/or charges of Class Counsel, and any GST and other applicable taxes or charges thereon, including any amounts payable by Class Counsel or the Settlement Class Members to any other body or person, including the Fonds d'aide aux recours collectif in Quebec.
- (8) *Class Period* means September 21, 2001 to December 11, 2006.
- (9) *Common Issue* in each Proceeding means: Did the Settling Defendant conspire to fix, raise, maintain or stabilize the prices of, or allocate markets and customers for, LCD Large Screen Panels directly or indirectly in Canada during the Class Period? If so, what damages, if any, did Class Members suffer?
- (10) *Courts* means the Ontario Court, the Quebec Court and the BC Court.
- (11) *Date of Execution* means the date on the cover page hereof as of which the Parties have executed this Settlement Agreement
- (12) *Defendants* means the entities named as defendants in any of the Proceedings as set out in Schedule A, and any Person who is added as defendants in the Proceedings in the future. For greater certainty, Defendants includes the Settling Defendant.
- (13) *Distribution Protocol* means the plan for distributing the Settlement Amount and accrued interest, in whole or in part, as approved by the Courts.

- (14) *Effective Date* means the date when Final Orders have been received from all Courts approving this Settlement Agreement.
- (15) *Excluded Person* means each Defendant, the directors and officers of each Defendant, the subsidiaries or affiliates of each Defendant, the entities in which each Defendant or any of that Defendant's subsidiaries or affiliates have a controlling interest and the legal representatives, heirs, successors and assigns of each of the foregoing, and persons who validly and timely opted-out of the Proceedings in accordance with the order of the Ontario Court dated April 26, 2010, the order of the British Columbia Court dated May 21, 2010 or the order of the Quebec Court dated September 21, 2010, as applicable.
- (16) *Final Order* means a final judgment entered by a Court in respect of the certification or authorization of a Proceeding as a class proceeding and the approval of this Settlement Agreement once the time to appeal such judgment has expired without any appeal being taken, if an appeal lies, or once there has been affirmation of the certification or authorization of a Proceeding as a class proceeding and the approval of this Settlement Agreement upon a final disposition of all appeals.
- (17) *LCD Panels* means liquid crystal display panels or screens of any size.
- (18) *LCD Products* means LCD Panels and products containing LCD Panels.
- (19) *LCD Large Screen Panels* means LCD Panels that are 10 inches or larger, measured diagonally.
- (20) *LCD Large Screen Products* means LCD Large Screen Panels and televisions, computer monitors and laptops containing LCD Large Screen Panels.
- (21) *Non-Settling Defendant* means any Defendant that is not a Settling Defendant or a Settled Defendant.
- (22) *Ontario Counsel* means Siskinds LLP and Sutts, Strosberg LLP.
- (23) *Ontario Court* means the Ontario Superior Court of Justice.

- (24) *Other Actions* means actions or proceedings, other than the Proceedings, relating to Released Claims commenced by a Settlement Class Member either before or after the Effective Date.
- (25) *Parties* means the Plaintiffs, Settlement Class Members and the Settling Defendant.
- (26) *Plaintiffs* means the individuals and entities named as plaintiffs in the Proceedings as set out in Schedule A.
- (27) *Proceedings* means the Ontario Action, the Quebec Action and the BC Action as defined in Schedule A.
- (28) *Purchase Price* means the sale price paid by Settlement Class Members for LCD Large Screen Products purchased during the Class Period, less any rebates, delivery or shipping charges, taxes and any other form of discounts.
- (29) *Quebec Counsel* means Siskinds Desmeules s.e.n.c.r.l.
- (30) *Quebec Court* means the Superior Court of Quebec.
- (31) *Released Claims* means any and all manner of claims, demands, actions, suits, causes of action, whether class, individual or otherwise in nature, whether personal or subrogated, damages whenever incurred, liabilities of any nature whatsoever, including interest, costs, expenses, class administration expenses (including Administration Expenses), penalties, and lawyers' fees (including Class Counsel Fees), known or unknown, suspected or unsuspected, in law, under statute or in equity, relating in any way to any conduct anywhere, from the beginning of time to the date hereof, in respect of the purchase, sale, pricing, discounting, marketing or distributing of LCD Products, or relating to any conduct alleged (or which was previously or could have been alleged) in the Proceedings including, without limitation, any such claims which have been asserted or could have been asserted, whether in Canada or elsewhere. However, nothing herein shall be construed to release any claims that are not related to the allegations made in the Proceedings or Other Actions, including any claims arising from any alleged product defect, breach of contract, or similar claim between the Parties relating to LCD Products.

(32) *Releasees* means, jointly and severally, individually and collectively, the Settling Defendant and all of its present and former, direct and indirect, parents, subsidiaries, divisions, affiliates, partners, insurers, and all other persons, partnerships or corporations with whom any of the former have been, or are now, affiliated, and their respective past, present and future officers, directors, employees, agents, shareholders, attorneys, trustees, servants and representatives; and the predecessors, successors, purchasers, heirs, executors, administrators and assigns of each of the foregoing, excluding always the Non-Settling Defendants.

(33) *Releasers* means, jointly and severally, individually and collectively, the Plaintiffs and the Settlement Class Members and their respective parents, subsidiaries, affiliates, predecessors, successors, heirs, executors, administrators, insurers and assigns.

(34) *Settled Defendant* means Chungghwa Picture Tubes Ltd., unless the settlement agreement entered into between the Plaintiffs and Chungghwa Picture Tubes Ltd., dated May 11, 2009, is terminated in accordance with its terms.

(35) *Settlement Agreement* means this agreement, including the recitals and schedules.

(36) *Settlement Amount* means CDN\$1,200,000.

(37) *Settlement Class* means, in respect of each Proceeding, the settlement class defined in Schedule A.

(38) *Settlement Class Member* means a member of a Settlement Class.

(39) *Settling Defendant* means Epson Imaging Devices Corporation (formerly known as Sanyo Epson Imaging Devices Corporation).

(40) *U.S. Litigation* means the class action proceeding pending in the United States District Court for the Northern District of California, under the caption In re TFT-LCD (Flat Panel) Antitrust Litigation, 07-MDL-1827, and includes all actions transferred by the Judicial Panel for Multidistrict Litigation for coordination, all actions pending such transfer, and all actions that may be transferred in the future.

SECTION 2 - SETTLEMENT APPROVAL

2.1 Best Efforts

The Parties shall use their best efforts to effectuate this settlement and to secure the prompt, complete and final dismissal with prejudice of the Proceedings as against the Settling Defendant.

2.2 Motions for Approval

(1) The Plaintiffs shall bring motions before the Courts, as soon as practicable after the Settlement Agreement is executed, for orders approving the notices described in Section 11, certifying or authorizing each of the Proceedings commenced in their respective jurisdictions as a class proceeding (for settlement purposes) and approving this Settlement Agreement.

(2) Prior to the hearing of the motions for orders certifying or authorizing the Proceedings and approving the Settlement Agreement, the Plaintiffs shall bring motions in the BC Court to amend the BC Action, and in the Quebec Court to amend the Quebec Action, to limit their claims and allegations to those in respect of LCD Large Screen Products. The motion to certify the BC Action and approve the Settlement Agreement shall not proceed until after the motion for an order to amend the BC Action has been granted. The motion to authorize the Quebec Action and approve the Settlement Agreement shall not proceed until after the motion for an order to amend the Quebec Action has been granted.

(3) The Ontario order certifying the Proceeding and approving the Settlement Agreement referred to in Section 2.2(1) shall be substantially in the form attached hereto as Schedule B. The Quebec and British Columbia orders authorizing or certifying the Proceedings and approving the Settlement Agreement referred to in Section 2.2(1) shall be agreed upon by the Parties and shall mirror the substance and, where possible, the form of the Ontario order.

(4) This Settlement Agreement shall only become final on the Effective Date.

2.3 Pre-Motion Confidentiality

Until the first of the motions required by Section 2.2 is brought, the Parties shall keep all of the terms of the Settlement Agreement confidential and shall not disclose them without the prior written consent of counsel for the Settling Defendant and Class Counsel, as the case may

be, except as required for the purposes of financial reporting or the preparation of financial records (including tax returns and financial statements) or as otherwise required by law.

SECTION 3 - SETTLEMENT BENEFITS

3.1 Payment of Settlement Amount

- (1) The Settling Defendant shall pay the Settlement Amount to Siskinds LLP for deposit into the Account, in full satisfaction of the Released Claims against the Releasees.
- (2) The Settling Defendant shall have no obligation to pay any amount in addition to the Settlement Amount, for any reason, pursuant to or in furtherance of this Settlement Agreement or the Proceedings.
- (3) Siskinds LLP shall maintain the Account as provided for in this Settlement Agreement. Siskinds LLP shall not pay out all or any part of the monies in the Account, except in accordance with this Settlement Agreement, or in accordance with an order of the Courts obtained after notice to the Settling Defendant.

3.2 Taxes and Interest

- (1) Except as hereinafter provided, all interest earned on the Settlement Amount shall accrue to the benefit of the Settlement Classes and shall become and remain part of the Account.
- (2) Subject to Section 3.2(3), all Canadian taxes payable on any interest which accrues on the Settlement Amount in the Account or otherwise in relation to the Settlement Amount shall be the responsibility of the Settlement Classes. Class Counsel shall be solely responsible to fulfill all tax reporting and payment requirements arising from the Settlement Amount in the Account, including any obligation to report taxable income and make tax payments. All taxes (including interest and penalties) due with respect to the income earned by the Settlement Amount shall be paid from the Account.
- (3) The Settling Defendant shall have no responsibility to make any filings relating to the Account and will have no responsibility to pay tax on any income earned by the Settlement Amount or pay any taxes on the monies in the Account, unless this Settlement Agreement is terminated, in which case the interest earned on the Settlement Amount in the Account shall be

paid to the Settling Defendant who, in such case, shall be responsible for the payment of all taxes on such interest.

SECTION 4 - COOPERATION

4.1 Extent of Cooperation

(1) Within thirty (30) days of the Date of Execution, or at a time mutually agreed upon by the Parties, the Settling Defendant shall:

- (a) make reasonable best efforts to provide existing electronic transactional data for sales by the Settling Defendant of LCD Large Screen Products delivered in Canada, if any, during the Class Period, to the extent that such data has not previously been provided pursuant to Section 12.2(1). Counsel for the Settling Defendant agree to be reasonably available as necessary to respond to Class Counsel's questions regarding the electronic transactional data produced by the Settling Defendant; and
- (b) produce any pre-existing business documents produced by the Settling Defendant in the U.S. Litigation including, but not limited to, (i) any documents provided to counsel for the plaintiffs in the U.S. Litigation pursuant to any settlement agreement entered into between the plaintiffs in the U.S. Litigation and the Settling Defendant and (ii), to the extent not included in the foregoing, provided by the Settling Defendant to the United States Department of Justice, the European Commission, the Competition Bureau, or any other state, federal or international government or administrative agency, without geographic limitation, concerning the allegations raised in the Proceedings, provided that the Settling Defendant shall not be required to produce any such documents pursuant to this Settlement Agreement until 30 days after they have been produced by the Settling Defendant in the U.S. Litigation.

(2) The obligation to produce documents pursuant to this Section shall be a continuing obligation to the extent documents are produced by the Settling Defendant in the U.S. Litigation following the initial productions pursuant to this Settlement Agreement. The Settling Defendant makes no representation that it has, can or will produce a complete set of documents within any

of the categories of information or documents described herein, and the failure to do so shall not constitute a breach or violation of this Settlement Agreement.

(3) Nothing in this Settlement Agreement shall be construed to require the Settling Defendant to perform any act, including the transmittal or disclosure of any information, which would violate any federal, provincial, state, local privacy law, or any other law of any jurisdiction.

(4) Nothing in this Settlement Agreement shall require, or shall be construed to require, the Settling Defendant to disclose or produce any documents or information prepared by or for counsel for the Settling Defendant, or to disclose or produce any documents or information in breach of any order, regulatory directive, rule or law of this or any jurisdiction, or subject to solicitor-client privilege, litigation privilege, or any other privilege, or to disclose or produce any information or documents they obtained on a privileged or co-operative basis from any party to any action or proceeding who is not a Settling Defendant.

(5) If any documents protected by any privilege and/or any privacy law or other rule or law of this or any applicable jurisdiction are accidentally or inadvertently produced, such documents shall be promptly returned to the Settling Defendant and the documents and the information contained therein shall not be disclosed or used directly or indirectly, except with the express written permission of the Settling Defendant, and the production of such documents shall in no way be construed to have waived in any manner any privilege or protection attached to such documents.

(6) The Settling Defendant's obligations to cooperate as particularized in this Section shall not be affected by the release provisions contained in Section 7 of this Settlement Agreement. The Settling Defendant's obligations to cooperate shall cease at the date of final judgment in the Proceedings against all Defendants. In the event the Settling Defendant materially breaches this Section, Class Counsel may move before the Courts to either enforce the terms of this Settlement Agreement or set aside the approval of this Settlement Agreement or part thereof.

(7) A material factor influencing the Settling Defendant's decision to execute this Settlement Agreement is its desire to limit the burden and expense of this litigation. Accordingly, Class Counsel agree to exercise good faith in seeking cooperation from the Settling Defendant and to

avoid seeking information that is unnecessary, cumulative or duplicative and agree otherwise to avoid imposing undue or unreasonable burden or expense on the Settling Defendant.

4.2 Limits on Use of Documents

(1) It is understood and agreed that all documents provided by the Settling Defendant to Plaintiffs and Class Counsel under this Settlement Agreement shall be used only in connection with the prosecution of the claims in the Proceedings, and shall not be used directly or indirectly for any other purpose. Plaintiffs and Class Counsel agree they will not publicize the documents and information provided by the Settling Defendant beyond what is reasonably necessary for the prosecution of the Proceedings or as otherwise required by law.

(2) It is further understood and agreed that any documents provided by the Settling Defendant may be confidential and may be designated "CONFIDENTIAL" or "HIGHLY CONFIDENTIAL" by the Settling Defendant (or may have already been so designated in the U.S. Litigation). Any such documents will be treated in a manner consistent with the Stipulated Protective Order granted in the U.S. Litigation and attached hereto as Schedule C.

SECTION 5 - DISTRIBUTION OF THE SETTLEMENT AMOUNT AND ACCRUED INTEREST

5.1 Distribution Protocol

(1) After the Effective Date, at a time wholly within the discretion of Class Counsel, but on notice to the Settling Defendant, Class Counsel will make an application seeking orders from the Courts approving the Distribution Protocol.

(2) The Distribution Protocol shall require Settlement Class Members seeking compensation to give credit for any compensation received through other proceedings or in private out-of-class settlements, unless by such proceedings or private out-of-class settlements the Settlement Class Member's claim was released in its entirety, in which case the Settlement Class Member shall be deemed ineligible for any further compensation.

5.2 No Responsibility for Administration or Fees

The Settling Defendant shall not have any responsibility, financial obligations or liability whatsoever with respect to the investment, distribution or administration of monies in the Account including, but not limited to, Administration Expenses and Class Counsel Fees.

SECTION 6 - TERMINATION OF SETTLEMENT AGREEMENT

6.1 Right of Termination

(1) In the event that:

- (a) any Court declines to approve this Settlement Agreement or any material part hereof;
- (b) any Court approves this Settlement Agreement in a materially modified form; or
- (c) any orders approving this Settlement Agreement made by the Ontario Court, the British Columbia Court or the Quebec Court do not become Final Orders;

this Settlement Agreement shall be terminated and, except as provided for in Section 6.4, it shall be null and void and have no further force or effect, shall not be binding on the Parties, and shall not be used as evidence or otherwise in any litigation.

(2) Any order, ruling or determination made (or rejected) by any Court with respect to

- (a) Class Counsel's fees and disbursements,
- (b) the Distribution Protocol,
- (c) documentary confidentiality as provided in Section 4.2(2) above, or
- (d) the provisions of the bar order set out in Section 8.1(b) below

shall not be deemed to be a material modification of all, or a part, of this Settlement Agreement and shall not provide any basis for the termination of this Settlement Agreement.

6.2 If Settlement Agreement is Terminated

(1) If this Settlement Agreement is terminated:

- (a) no motion to certify or authorize any of the Proceedings as a class action on the basis of this Settlement Agreement or to approve this Settlement Agreement, which has not been heard, shall proceed;
- (b) any order certifying or authorizing a Proceeding as a class action on the basis of the Settlement Agreement or approving this Settlement Agreement shall be set aside and declared null and void and of no force or effect, and anyone shall be estopped from asserting otherwise;
- (c) any prior certification or authorization of a Proceeding as a class proceeding, including the definitions of the Settlement Class and the Common Issue, shall be without prejudice to any position that any of the Parties may later take on any issue in the Proceedings or any other litigation; and
- (d) within ten (10) days of such termination having occurred, Class Counsel shall destroy all documents or other materials provided by the Settling Defendant or containing or reflecting information derived from such documents or other materials received from the Settling Defendant and, to the extent Class Counsel has disclosed any documents or information provided by the Settling Defendant to any other person, shall recover and destroy such documents or information. Class Counsel shall provide the Settling Defendant with a written certification by Class Counsel of such destruction. Nothing contained in this paragraph shall be construed to require Class Counsel to destroy any of their work product. However, any documents or information provided by the Settling Defendant, or received from the Settling Defendant in connection with this Settlement Agreement, may not be disclosed to any person in any manner or used, directly or indirectly, by Class Counsel or any other person in any way for any reason, without the express prior written permission of the Settling Defendant. Class Counsel shall take appropriate steps and precautions to ensure and maintain the confidentiality of such documents, information and any work product of Class Counsel.

6.3 Allocation of Monies in the Account Following Termination

If the Settlement Agreement is terminated, Siskinds LLP shall return to the Settling Defendant all monies in the Account including interest, but less the costs of notice expended in accordance with Sections 11 and 13, within thirty (30) business days of the relevant termination event in Section 6.1.

6.4 Survival of Provisions After Termination

(1) If this Settlement Agreement is terminated the provisions of Sections 3.2(3), 4.1(5), 6.2(1), 6.3, 6.4, 9.1, 9.2 and 12.2(4), and the definitions and Schedules applicable thereto shall survive the termination and continue in full force and effect. The definitions and Schedules shall survive only for the limited purpose of the interpretation of Sections 3.2(3), 4.1(5), 6.2(1), 6.3, 6.4, 9.1, 9.2 and 12.2(4) within the meaning of this Settlement Agreement, but for no other purposes. All other provisions of this Settlement Agreement and all other obligations pursuant to this Settlement Agreement shall cease immediately.

(2) The Settling Defendant and Plaintiffs expressly reserve all of their respective rights if this Settlement Agreement does not become effective or if this Settlement Agreement is terminated.

SECTION 7 - RELEASES AND DISMISSALS

7.1 Release of Releasees

Upon the Effective Date, and in consideration of payment of the Settlement Amount, and for other valuable consideration set forth in the Settlement Agreement, the Releasers forever and absolutely release the Releasees from the Released Claims that any of them, whether directly, indirectly, derivatively, or in any other capacity, ever had, now have, or hereafter can, shall, or may have.

7.2 Release by Releasees

Upon the Effective Date, each Releasee forever and absolutely releases each of the other Releasees from any and all claims for contribution or indemnity with respect to the Released Claims.

7.3 Covenant Not To Sue

Notwithstanding Section 7.1, for any Settlement Class Members resident in any province or territory where the release of one tortfeasor is a release of all other tortfeasors, the Releasors do not release the Releasees but instead covenant and undertake not to make any claim in any way or to threaten, commence, or continue any proceeding in any jurisdiction against the Releasees in respect of or in relation to the Released Claims.

7.4 No Further Claims

The Releasors shall not now or hereafter institute, continue, maintain or assert, either directly or indirectly, whether in Canada or elsewhere, on their own behalf or on behalf of any class or any other person, any action, suit, cause of action, claim or demand against any Releasee or any other person who may claim contribution or indemnity from any Releasee in respect of any Released Claim or any matter related thereto, except for the continuation of the Proceedings against the Non-Settling Defendants or unnamed co-conspirators.

7.5 Dismissal of the Proceedings

The Proceedings shall be dismissed with prejudice and without costs as against the Settling Defendant.

7.6 Dismissal of Other Actions

- (1) Each Settlement Class Member shall be deemed to consent to the dismissal, without costs and with prejudice, of his, her or its Other Actions against the Releasees.
- (2) All Other Actions commenced in British Columbia, Ontario or Quebec by any Settlement Class Member shall be dismissed against the Releasees, without costs and with prejudice.

SECTION 8 - BAR ORDER AND OTHER CLAIMS

8.1 Bar Order

A bar order shall be granted by each of the Courts providing for the following:

- (a) all claims for contribution, indemnity or other claims over, whether asserted, unasserted or asserted in a representative capacity, inclusive of interest, taxes and costs, relating to the Released Claims, which were or could have been brought in

the Proceedings, by any Non-Settling Defendant or any other person or party, against a Releasee, or by a Releasee against any Non-Settling Defendant, are barred, prohibited and enjoined in accordance with the terms of this Section (unless such claim is made in respect of a claim by a person who has validly opted out of the Proceedings);

- (b) if the Courts ultimately determine that there is a right of contribution and indemnity among the Defendants, the Plaintiffs and the Settlement Class Members shall restrict their joint and several claims against the Non-Settling Defendants such that the Plaintiffs and the Settlement Class Members shall be entitled to claim and recover from the Non-Settling Defendants on a joint and several basis only those damages (including punitive damages) arising from and allocable to the sales and/or conduct of the Non-Settling Defendants;
- (c) a Non-Settling Defendant may, on motion to the Courts determined as if the Settling Defendant remained party to the Proceedings, and on at least ten (10) days notice to counsel for the Settling Defendant, and not to be brought unless and until the action against the Non-Settling Defendants has been certified and all appeals or times to appeal have been exhausted, seek Orders for the following:
 - (A) documentary discovery and an affidavit of documents in accordance with the *Rules of Civil Procedure* O.Reg. 194 from the Settling Defendant;
 - (B) oral discovery of a representative of the Settling Defendant, the transcript of which may be read in at trial;
 - (C) leave to serve a request to admit on the Settling Defendant in respect of factual matters; and/or
 - (D) the production of a representative of the Settling Defendant to testify at trial, with such witness to be subject to cross-examination by counsel for the Non-Settling Defendant.
- (d) The Settling Defendant retains all rights to oppose any motion brought pursuant to Section 8.1(c), including any such motion brought at trial seeking an order requiring the Settling Defendant to produce a representative to testify at trial;

- (e) on any motion brought pursuant to Section 8.1(c), the Court may make such Orders as to costs and other terms as it considers appropriate;
- (f) to the extent that such an order is granted and discovery is provided to a Non-Settling Defendant, a copy of all discovery provided, whether oral or documentary in nature, shall timely be provided by the Settling Defendant to the Plaintiffs and Class Counsel to the extent and on the terms set out in the order;
- (g) the Courts will retain an ongoing supervisory role over the discovery process and the Settling Defendant will attorn to the jurisdiction of the Courts for these (but no other) purposes; and
- (h) a Non-Settling Defendant may effect service of the motion(s) referred to in Section 8.1(c) on a Settling Defendant by service on counsel of record for the Settling Defendant in the Proceedings.

8.2 Claims Against Other Entities Reserved

Except as provided herein, this Settlement Agreement does not settle, compromise, release or limit in any way whatsoever any claim by Settlement Class Members against any person other than the Releasees.

SECTION 9 - EFFECT OF SETTLEMENT

9.1 No Admission of Liability

Whether or not this Settlement Agreement is terminated, this Settlement Agreement and anything contained herein, and any and all negotiations, documents, discussions and proceedings associated with this Settlement Agreement, and any action taken to carry out this Settlement Agreement, shall not be deemed, construed or interpreted to be an admission of any violation of any statute or law, or of any wrongdoing or liability by the Settling Defendant, or of the truth of any of the claims or allegations contained in the Proceedings or any other pleading filed by the Plaintiffs.

9.2 Agreement Not Evidence

The Parties agree that, whether or not it is terminated, this Settlement Agreement and anything contained herein, and any and all negotiations, documents, discussions and proceedings

associated with this Settlement Agreement, and any action taken to carry out this Settlement Agreement, shall not be referred to, offered as evidence or received in evidence in any pending or future civil, criminal or administrative action or proceeding, except in a proceeding to approve and/or enforce this Settlement Agreement, or to defend against the assertion of Released Claims, or as otherwise required by law.

9.3 No Further Litigation

No Class Counsel, nor anyone currently or hereafter employed by, associated with, or a partner with Class Counsel, may directly or indirectly participate or be involved in or in any way assist with respect to any claim made or action commenced by any person which relates to or arises from the Released Claims, except in relation to the continued prosecution of the Proceedings against any Non-Settling Defendant or unnamed co-conspirators. Moreover, these persons may not divulge to anyone for any purpose any information obtained in the course of the Proceedings or the negotiation and preparation of this Settlement Agreement, except to the extent such information is otherwise publicly available or unless ordered to do so by a court.

SECTION 10 - CERTIFICATION OR AUTHORIZATION FOR SETTLEMENT ONLY

- (1) The Parties agree that the Proceedings shall be certified or authorized as class proceedings solely for purposes of settlement of the Proceedings and the approval of this Settlement Agreement by the Courts.
- (2) The Plaintiffs agree that, in the motions for certification or authorization of the Proceedings as class proceedings and for the approval of this Settlement Agreement, the only common issue that they will seek to define is the Common Issue and the only classes that they will assert are the Settlement Classes.

SECTION 11- NOTICE TO SETTLEMENT CLASSES

11.1 Notices Required

The proposed Settlement Classes shall be given notice of (i) hearings at which the Courts will be asked to certify or authorize the Proceedings as class proceedings and approve the Settlement Agreement; and (ii) the certification or authorization of the Proceedings as class proceedings and the approval of this Settlement Agreement if granted by the Courts.

11.2 Form and Distribution of Notices

- (1) The notices shall be in a form agreed upon by the Parties and approved by the Courts or, if the Parties cannot agree on the form of the notices, the notices shall be in a form ordered by the Courts.
- (2) The notices shall be disseminated by a method agreed upon by the Parties and approved by the Courts or, if the Parties cannot agree on a method for disseminating the notices, the notices shall be disseminated by a method ordered by the Courts.

SECTION 12 - ADMINISTRATION AND IMPLEMENTATION

12.1 Mechanics of Administration

Except to the extent provided for in this Settlement Agreement, the mechanics of the implementation and administration of this Settlement Agreement and Distribution Protocol shall be determined by the Courts on motions brought by Class Counsel.

12.2 Information and Assistance

- (1) The Settling Defendant will make reasonable best efforts to compile a list of the names and addresses of persons, if any, in Canada who purchased LCD Large Screen Products from it or the Releasees during the Class Period and the Purchase Price paid by each of its customers in Canada during the Class Period.
- (2) The information required by Section 12.2(1) shall be delivered to the Class Counsel within fifteen (15) business days of the Date of Execution, or at least five (5) days in advance of the first publication of the notices required in Section 11.1, whichever is earlier.
- (3) Class Counsel may use the information provided under Section 12.2(2) to advise persons in Canada who purchased LCD Large Screen Products from the Settling Defendant or the Releasees during the Class Period of this Settlement Agreement and the date of the approval hearings before the Courts, to facilitate the claims administration process established in accordance with Section 5 of this Settlement Agreement, or as otherwise authorized in Section 4.
- (4) All information provided by the Settling Defendant pursuant to Section 12.2(1) shall be dealt with in accordance with Section 4. If this Settlement Agreement is terminated, all information provided by the Settling Defendant pursuant to Section 12.2(1) shall be dealt with in

accordance with Section 6.2(1)(d) and no record of the information so provided shall be retained by Class Counsel in any form whatsoever.

SECTION 13 - CLASS COUNSEL FEES AND ADMINISTRATION EXPENSES

- (1) The costs of the notices referred to in Section 11 of this Settlement Agreement shall be paid by Class Counsel or the Claims Administrator, if one has been appointed by the Courts, out of the Account.
- (2) Class Counsel may seek the Courts' approval to pay Class Counsel Fees and Administration Expenses contemporaneous with seeking approval of this Settlement Agreement.
- (3) Except as provided in Section 13(1), Class Counsel Fees and Administration Expenses may only be paid out of the Account after the Effective Date.
- (4) Class Counsel reserve the right to bring motions to the Courts for payment out of the Account for any future adverse cost awards to a maximum of CDN\$250,000 and future disbursements to a maximum of CDN\$250,000.
- (5) The Settling Defendant shall not be liable for any fees, disbursements or taxes of any of Class Counsel's, the Plaintiffs' or Settlement Class Members' respective lawyers, experts, advisors, agents, or representatives.

SECTION 14 - MISCELLANEOUS

14.1 Motions for Directions

- (1) Class Counsel or the Settling Defendant may apply to the Ontario Court and/or such other Courts as may be required by the Courts for directions in respect of the interpretation, implementation and administration of this Settlement Agreement. Unless the Courts order otherwise, motions for directions that do not relate specifically to the matters affecting the BC Action, BC Settlement Class Members, the Quebec Action or/and Quebec Settlement Class Members shall be determined by the Ontario Court.
- (2) All motions contemplated by this Settlement Agreement shall be on notice to the Parties.

14.2 Releasees Have No Liability for Administration

The Releasees have no responsibility for and no liability whatsoever with respect to the administration of the Settlement Agreement or Distribution Protocol.

14.3 Headings, etc.

In this Settlement Agreement:

- (a) the division of the Settlement Agreement into sections and the insertion of headings are for convenience of reference only and shall not affect the construction or interpretation of this Settlement Agreement; and
- (b) the terms "this Settlement Agreement", "hereof", "hereunder", "herein", and similar expressions refer to this Settlement Agreement and not to any particular section or other portion of this Settlement Agreement.

14.4 Computation of Time

In the computation of time in this Settlement Agreement, except where a contrary intention appears,

- (a) where there is a reference to a number of days between two events, the number of days shall be counted by excluding the day on which the first event happens and including the day on which the second event happens, including all calendar days; and
- (b) only in the case where the time for doing an act expires on a holiday, the act may be done on the next day that is not a holiday.

14.5 Ongoing Jurisdiction

- (1) Each of the Courts shall retain exclusive jurisdiction over each Proceeding commenced in its jurisdiction, the Parties thereto and the Class Counsel Fees in those Proceedings.
- (2) No Party shall ask a Court to make any order or give any direction in respect of any matter of shared jurisdiction unless that order or direction is conditional upon a complimentary

order or direction being made or given by the other Court(s) with which it shares jurisdiction over that matter.

14.6 Governing Law

This Settlement Agreement shall be governed by and construed and interpreted in accordance with the laws of the Province of Ontario.

14.7 Entire Agreement

This Settlement Agreement constitutes the entire agreement among the Parties, and supersedes all prior and contemporaneous understandings, undertakings, negotiations, representations, promises, agreements, agreements in principle and memoranda of understanding in connection herewith. None of the Parties will be bound by any prior obligations, conditions or representations with respect to the subject matter of this Settlement Agreement, unless expressly incorporated herein.

14.8 Amendments

This Settlement Agreement may not be modified or amended except in writing and on consent of all Parties hereto and any such modification or amendment must be approved by the Courts with jurisdiction over the matter to which the amendment relates.

14.9 Binding Effect

This Settlement Agreement shall be binding upon, and enure to the benefit of, the Plaintiffs, the Settling Defendant, the Releasees and all of their successors and assigns. Without limiting the generality of the foregoing, each and every covenant and agreement made herein by the Plaintiffs shall be binding upon all Releasors and each and every covenant and agreement made herein by the Settling Defendant shall be binding upon all of the Releasees.

14.10 Counterparts

This Settlement Agreement may be executed in counterparts, all of which taken together will be deemed to constitute one and the same agreement, and a facsimile signature shall be deemed an original signature for purposes of executing this Settlement Agreement..

14.11 Negotiated Agreement

This Settlement Agreement has been the subject of negotiations and discussions among the undersigned, each of which has been represented and advised by competent counsel, so that any statute, case law, or rule of interpretation or construction that would or might cause any provision to be construed against the drafter of this Settlement Agreement shall have no force and effect. The Parties further agree that the language contained in or not contained in previous drafts of this Settlement Agreement, or any agreement in principle, shall have no bearing upon the proper interpretation of this Settlement Agreement.

14.12 Language

The Parties acknowledge that they have required and consented that this Settlement Agreement and all related documents be prepared in English; les parties reconnaissent avoir exigé que la présente convention et tous les documents connexes soient rédigés en anglais.

14.13 Transaction

The present Settlement Agreement constitutes a transaction in accordance with Articles 2631 and following of the *Civil Code of Quebec*, and the Parties are hereby renouncing to any errors of fact, of law and/or of calculation.

14.14 Recitals

The recitals to this Settlement Agreement are true and form part of the Settlement Agreement.

14.15 Schedules

The Schedules annexed hereto form part of this Settlement Agreement.

14.16 Acknowledgements

Each of the Parties hereby affirms and acknowledges that:

- (a) he, she or a representative of the Party with the authority to bind the Party with respect to the matters set forth herein has read and understood the Settlement Agreement;

- (b) the terms of this Settlement Agreement and the effects thereof have been fully explained to him, her or the Party's representative by his, her or its counsel;
- (c) he, she or the Party's representative fully understands each term of the Settlement Agreement and its effect; and
- (d) no Party has relied upon any statement, representation or inducement (whether material, false, negligently made or otherwise) of any other Party with respect to the first Party's decision to execute this Settlement Agreement.

14.17 Authorized Signatures

Each of the undersigned represents that he or she is fully authorized to enter into the terms and conditions of, and to execute, this Settlement Agreement.

14.18 Notice

Where this Settlement Agreement requires a Party to provide notice or any other communication or document to another, such notice, communication or document shall be provided by email, facsimile or letter by overnight delivery to the representatives for the Party to whom notice is being provided, as identified below:

For Plaintiffs and for Class Counsel:

Charles M. Wright

Siskinds LLP
Barristers and Solicitors
680 Waterloo Street
London, ON N6A 3V8

Telephone: 519-660-7753
Facsimile: 519-672-6065
Email: charles.wright@siskinds.com

Reidar Mogerman

Camp Fiorante Matthews
#400 - 856 Homer Street
Vancouver, BC V6B 2W5

Telephone: 604-689-7555

Simon Hébert

Siskinds Desmeules s.e.n.c.r.l.
Les promenades du Vieux-Quebec
43 rue Buade, bureau 320
Quebec City, QC G1R 4A2

Facsimile: 604-689-7554
Email: rmogerman@cfmlawyers.ca

Telephone: 418-694-2009
Facsimile: 418-694-0281
Email: simon.hebert@siskindsdesmeules.com

For Settling Defendant:

David Kent

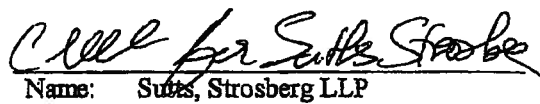
McMillan LLP
Brookfield Place, Suite 4400
181 Bay Street
Toronto, ON M5J 2T3

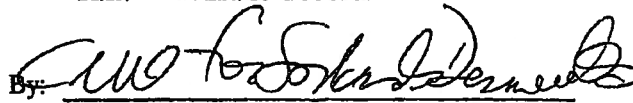
Telephone: 416.865.7000
Facsimile: 416.865.7048
Email: david.kent@mcmillan.ca

14.19 Date of Execution

The Parties have executed this Settlement Agreement as of the date on the cover page.

By: 
Name: Siskinds LLP
Title: Ontario Counsel

By: 
Name: Suits, Strosberg LLP
Title: Ontario Counsel

By: 
Name: Siskinds Desmeules s.e.n.c.r.l.
Title: Quebec Counsel

By: _____
Name: Camp Fiorante Matthews
Title: BC Counsel

EPSON IMAGING DEVICES CORPORATION
(FORMERLY KNOWN AS SANYO EPSON)

Facsimile: 604-689-7554
Email: rmogerman@cfmlawyers.ca

Telephone: 418-694-2009
Facsimile: 418-694-0281
Email: simon.hebert@siskindsdesmeules.com

For Settling Defendant:

David Kent

McMillan LLP
Brookfield Place, Suite 4400
181 Bay Street
Toronto, ON M5J 2T3

Telephone: 416.865.7000
Facsimile: 416.865.7048
Email: david.kent@mcmillan.ca

14.19 Date of Execution

The Parties have executed this Settlement Agreement as of the date on the cover page.

By: _____
Name: Siskinds LLP
Title: Ontario Counsel

By: _____
Name: Sutts, Strosberg LLP
Title: Ontario Counsel

By: _____
Name: Siskinds Desmeules s.e.n.c.r.l
Title: Quebec Counsel

By:  _____
Name: Camp Fiorante Mathews
Title: BC Counsel

EPSON IMAGING DEVICES CORPORATION
(FORMERLY KNOWN AS SANYO EPSON)

IMAGING DEVICES CORPORATION)

By: David Kent
for Name: McMillan LLP
Title: Canadian Counsel

SCHEDULE A - PROCEEDINGS

Proceeding	Plaintiffs	Defendants	Settlement Class
<p>Ontario Superior Court of Justice Court File No. 54054 CP (the "Ontario Action")</p>	<p>The Fanshawe College of Applied Arts and Technology</p>	<p>LG Philips LCD Co., Ltd., L.G. Philips LCD America, Inc., Samsung Electronics Co. Ltd., Samsung Electronics Canada Inc., NEC Corporation, NEC Electronics America, Inc., NEC LCD Technologies Ltd., Hitachi Ltd., Hitachi Displays, Ltd., Hitachi Canada, Ltd., Hitachi America Ltd., Hitachi Electronics Devices (USA) Inc., Sharp Corporation, Sharp Electronics Corporation, Sharp Electronics of Canada Ltd., Toshiba Corporation, Toshiba Matsushita Display Technology Co., Ltd., Toshiba America Corporation, Toshiba of Canada Limited, AU Optronics Corporation America, Chi Mei Optoelectronics USA, Inc., CHI Mei Optoelectronics Japan Co., Ltd., and Chunghwa Picture Tubes Ltd.</p>	<p>All persons in Canada who purchased LCD Large Screen Products during the Class Period, except the Excluded Persons and persons who are included in the Quebec Class and the BC Class.</p>
<p>Superior Court of Quebec (District of Québec), File No. 200-06-00082-076 (the "Quebec Action")</p>	<p>Communication Méga-Sat Inc.</p>	<p>LG Philips LCD Co., Ltd., LG Philips LCD America, Inc., Samsung Electronics Co. Ltd., Samsung Electronics Canada Inc., NEC Corporation, NEC LCD Technologies Ltd., NEC Electronics America, Inc., Hitachi Ltd., Hitachi Canada, Ltd., Hitachi America Ltd., Hitachi Displays, Ltd., Hitachi Electronics Devices (USA) Inc., IDT International Ltd., International Display Technology Co., Ltd, International Display Technology USA Inc., Epson Imaging Devices Corporation, Sharp Corporation, Sharp Electronics Corporation, Sharp Electronics of Canada Ltd.,</p>	<p>All (i) individuals in Quebec and (ii) legal persons resident in Quebec established for a private interest, partnership or association which had under its direction or control no more than 50 persons bound to it by a contract of employment who purchased LCD Large Screen Products during the Class Period, except Excluded Persons.</p>

Proceeding	Plaintiffs	Defendants	Settlement Class
		Toshiba Corporation, Toshiba of Canada Limited, Toshiba America Corporation, Toshiba Matsushita Display Technology Co., Ltd., AU Optronics Corporation America, Chi Mei Optoelectronics USA, Inc., and Chunghwa Picture Tubes, Ltd.	
British Columbia Supreme Court File No. S071569 (Vancouver Registry) (the "BC Action")	Kristopher Gruber	LG Philips LCD Co., Ltd., L.G. Philips LCD America, Inc., Samsung Electronics Co. Ltd., Samsung Electronics Canada Inc., NEC Corporation, NEC Electronics America, Inc., NEC LCD Technologies Ltd., Hitachi Ltd., Hitachi Displays, Ltd., Hitachi Canada, Ltd., Hitachi America Ltd., Hitachi Electronics Devices (USA) Inc., IDT International Ltd., International Display Technology Co., Ltd, International Display Technology USA Inc., Epson Imaging Devices Corporation fka Sanyo Epson Imaging Devices Corporation, Sharp Corporation, Sharp Electronics Corporation, Sharp Electronics of Canada Ltd., Toshiba Corporation, Toshiba Matsushita Display Technology Co., Ltd., Toshiba America Corporation, Toshiba of Canada Limited, AU Optronics Corp., AU Optronics Corporation America, Chi Mei Optoelectronics Corporation, Chi Mei Optoelectronics USA, Inc., Chunghwa Picture Tubes, Ltd., and HannStar Display Corporation	All persons in British Columbia who purchased LCD Large Screen Products during the Class Period, except the Excluded Persons.

SCHEDULE B

Court File No. 54054 CP

**ONTARIO
SUPERIOR COURT OF JUSTICE**

The Honourable) , the day
Justice Tausendfreund) of , 2011

BETWEEN:

THE FANSHAWE COLLEGE OF APPLIED ARTS AND TECHNOLOGY

Plaintiffs

- and -

LG PHILIPS LCD CO., LTD., L.G. PHILIPS LCD AMERICA, INC., SAMSUNG ELECTRONICS CO. LTD., SAMSUNG ELECTRONICS CANADA INC., NEC CORPORATION, NEC ELECTRONICS AMERICA, INC., NEC LCD TECHNOLOGIES LTD., HITACHI LTD., HITACHI DISPLAYS, LTD., HITACHI CANADA, LTD., HITACHI AMERICA LTD., HITACHI ELECTRONICS DEVICES (USA) INC., SHARP CORPORATION, SHARP ELECTRONICS CORPORATION, SHARP ELECTRONICS OF CANADA LTD., TOSHIBA CORPORATION, TOSHIBA MATSUSHITA DISPLAY TECHNOLOGY CO., LTD., TOSHIBA AMERICA CORPORATION, TOSHIBA OF CANADA LIMITED, AU OPTRONICS CORPORATION AMERICA, CHI MEI OPTOELECTRONICS USA, INC., CHI MEI OPTOELECTRONICS JAPAN CO, LTD., and CHUNGHWA PICTURE TUBES LTD.

Defendants

Proceeding under the *Class Proceedings Act, 1992*

ORDER

THIS MOTION made by the Plaintiffs for an Order certifying this action as a class proceeding for settlement purposes as it relates to Epson Imaging Devices Corporation (formerly known as Sanyo Epson Imaging Devices Corporation) (the "Settling Defendant"), and approving the Settlement Agreement entered into with the Settling Defendant was heard this day at the Court House, 80 Dundas Street, London, Ontario.

ON READING the materials filed, including the settlement agreement attached to this Order as Schedule "A" (the "Settlement Agreement"), and on hearing the submissions of counsel for the Plaintiffs and counsel for the Settling Defendant:

1. **THIS COURT ORDERS AND DECLARES** that for the purposes of this Order the definitions set out in the Settlement Agreement apply to and are incorporated into this Order.
2. **THIS COURT ORDERS** that the Settling Defendant be added as a party defendant to this action.
3. **THIS COURT ORDERS** that this action be certified as a class proceeding as against the Settling Defendant for settlement purposes only.
4. **THIS COURT ORDERS** that the Settlement Class be defined as:

All persons in Canada who purchased LCD Large Screen Products during the Class Period, except the Excluded Persons and persons who are included in the Quebec Class and the BC Class.
5. **THIS COURT ORDERS** that The Fanshawe College of Applied Arts and Technology be appointed as the representative plaintiff for the Settlement Class.
6. **THIS COURT ORDERS** that the following issue is common to the Settlement Class:

Did the Settling Defendant conspire to fix, raise, maintain or stabilize the prices of, or allocate markets and customers for, LCD Large Screen Panels in Canada during the Class Period? If so, what damages, if any, did the Class Members suffer?
7. **THIS COURT DECLARES** that the Settlement Agreement is fair, reasonable and in the best interests of the Settlement Class.
8. **THIS COURT ORDERS** that the Settlement Agreement is hereby approved pursuant to s. 29 of the *Class Proceedings Act, 1992* and shall be implemented in accordance with its terms.
9. **THIS COURT DECLARES** that the Settlement Agreement is incorporated by reference into and forms part of this Order and is binding upon the representative plaintiff and all Settlement Class Members.

10. **THIS COURT ORDERS AND DECLARES** that each Settlement Class Member shall consent and shall be deemed to have consented to the dismissal as against the Releasees of any Other Actions he, she or it has commenced, without costs and with prejudice.
11. **THIS COURT ORDERS AND DECLARES** that each Other Action commenced in Ontario by any Settlement Class Member shall be and is hereby dismissed against the Releasees, without costs and with prejudice.
12. **THIS COURT ORDERS AND DECLARES** that this Order, including the Settlement Agreement, is binding upon each Settlement Class Member including those persons who are minors or mentally incapable and the requirements of Rules 7.04(1) and 7.08(4) of the Rules of Civil Procedure are dispensed with in respect of this action.
13. **THIS COURT ORDERS AND DECLARES** that each Releasor has released and shall be conclusively deemed to have forever and absolutely released the Releasees from the Released Claims.
14. **THIS COURT ORDERS** that each Releasor shall not now or hereafter institute, continue, maintain or assert, either directly or indirectly, whether in Canada or elsewhere, on their own behalf or on behalf of any class or any other person, any action, suit, cause of action, claim or demand against any Releasee or any other person who may claim contribution or indemnity from any Releasee in respect of any Released Claim or any matter related thereto, except for the continuation of the Proceedings against the Non-Settling Defendants or unnamed co-conspirators.
15. **THIS COURT ORDERS AND DECLARES** that the Releasees have released and shall be conclusively deemed to have forever and absolutely released each of the other from any and all claims for contribution and indemnity with respect to the Released Claims.
16. **THIS COURT ORDERS AND DECLARES** that the use of the terms "Releasors" and "Released Claims" in this Order does not constitute a release of claims by those Settlement Class Members who are resident in any province or territory where the release of one tortfeasor is a release of all tortfeasors.

17. **THIS COURT ORDERS AND DECLARES** that each Settlement Class Member who is resident in any province or territory where the release of one tortfeasor is a release of all tortfeasors covenants and undertakes not to make any claim in any way nor to threaten, commence, or continue any proceeding in any jurisdiction against the Releasees in respect of or in relation to the Released Claims.
18. **THIS COURT ORDERS** that all claims for contribution, indemnity or other claims over, whether asserted, unasserted or asserted in a representative capacity, inclusive of interest, taxes and costs, relating to the Released Claims, which were or could have been brought in a Proceeding, by any Non-Settling Defendant or any other person or party, against a Releasee, or by a Releasee against any Non-Settling Defendant or any other person or party, are barred, prohibited and enjoined in accordance with the terms of this Order (unless such claim is made in respect of a claim by a person who has validly opted-out of this action).
19. **THIS COURT ORDERS** that if the Court determines that there is a right of contribution and indemnity or other claim over, whether in equity or in law, by statute or otherwise:
 - (a) the Settlement Class Members shall not be entitled to claim or recover from the Non-Settling Defendants that portion of any damages (including punitive damages, if any), restitutionary award, disgorgements of profits, interest and costs (including investigative costs claimed pursuant to s. 36 of the *Competition Act*) that corresponds to the proportionate liability of the Releasees proven at trial or otherwise. For the purposes of this Order, the phrase "proportionate liability" means that proportion of any judgment that, had they not settled, this Court would have apportioned to the Releasees; and
 - (b) this Court shall have full authority to determine the proportionate liability of the Releasees at the trial or other disposition of this action, whether or not the Releasees appear at trial or other disposition, and the proportionate liability of the Releasees shall be determined as if the Releasees are parties to this action and any determination by this Court in respect of the proportionate liability of the Releasees shall only apply in this action and shall not be binding on the Releasees in any other proceedings.

20. **THIS COURT ORDERS** that nothing in this Order is intended to or shall limit, restrict or affect any arguments which the Non-Settling Defendants may make regarding the reduction of any assessment of damages, restitutionary award, disgorgement of profits or judgment against them in this action.
21. **THIS COURT ORDERS** that a Non-Settling Defendant may, on motion to the Court determined as if the Settling Defendant remained a party to this action, and on at least ten (10) days notice to counsel for the Settling Defendant, and not to be brought unless and until the action against the Non-Settling Defendants has been certified and all appeals or times to appeal have been exhausted, seek Orders for the following:
- (i) documentary discovery and an affidavit of documents in accordance with the Rules of Civil Procedure O.Reg. 194 from the Settling Defendant;
 - (ii) oral discovery of a representative of the Settling Defendant, the transcript of which may be read in at trial;
 - (iii) leave to serve a request to admit on the Settling Defendant in respect of factual matters; and/or
 - (iv) the production of a representative of the Settling Defendant to testify at trial, with such witness to be subject to cross-examination by counsel for the Non-Settling Defendant.
- The Settling Defendant retains all rights to oppose such motion(s). Notwithstanding any provision in this Order, on any motion brought pursuant to this paragraph 21, the Court may make such Orders as to costs and other terms as it considers appropriate.
22. **THIS COURT ORDERS** that a Non-Settling Defendant may effect service of the motion(s) referred to in paragraph 21 above on the Settling Defendant by service on counsel of record for the Settling Defendant in this action.
23. **THIS COURT ORDERS** that, for purposes of enforcement of this Order, this Court will retain an ongoing supervisory role and the Settling Defendant will attorn to the jurisdiction of this Court for these purposes but does not hereby attorn to the jurisdiction of any other court or of this Court for any other purpose.

24. **THE COURT ORDERS** that, except as provided herein, this Order does not affect any claims or causes of action that any Settlement Class Member has or may have against the Non-Settling Defendants or unnamed co-conspirators in this action.
25. **THIS COURT ORDERS** that the Releasees have no responsibility for and no liability whatsoever with respect to the administration of the Settlement Agreement.
26. **THIS COURT ORDERS** that the Settlement Amount be held in trust for the benefit of the Settlement Class, pending further order of the Court, which shall be sought by the Plaintiff on a motion in the action brought on notice to the Settling Defendant.
27. **THIS COURT ORDERS** that any documents provided by the Settling Defendant to the Plaintiffs pursuant to the Settlement Agreement may be designated "CONFIDENTIAL" or "HIGHLY CONFIDENTIAL" by the Settling Defendant (or may have already been so designated in the U.S. Litigation) and that any such documents will be treated in a manner consistent with the Stipulated Protective Order granted in the U.S. Litigation and attached hereto as Schedule B.
28. **THIS COURT ORDERS AND ADJUDGES** that this action be and is hereby dismissed against the Settling Defendant without costs and with prejudice.
29. **THIS COURT ORDERS** that approval of the Settlement Agreement is contingent upon approval by the Quebec Court and the British Columbia Court and this Order shall have no force and effect if such approval is not secured in Quebec and British Columbia.

Date:

(Signature of judge, officer or registrar)

Schedule "C"

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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

In Re TFT-LCD (FLAT PANEL))	No.: M-07-1827 SI
ANTITRUST LITIGATION)	MDL NO. 1827
_____)	STIPULATED PROTECTIVE ORDER
This Document Relates to:)	
ALL ACTIONS.)	
_____)	

1. PURPOSES AND LIMITATIONS.

Disclosure and discovery activity in this action may involve production of trade secrets or other confidential research, development, or commercial information, within the meaning of Fed.R.Civ.P. 26(c); or other private or competitively sensitive information for which special protection from public disclosure and from use for any purpose other than prosecuting this litigation would be warranted. Accordingly, the parties hereby stipulate to and petition the Court to enter the following Stipulated Protective Order. The parties acknowledge that this Order does not confer blanket protections on all disclosures or responses to discovery and that the protection it affords extends only to the limited information or items that are entitled under the applicable legal principles to confidential treatment. The parties further acknowledge, as set forth in Section 10, below, that this Stipulated Protective Order creates no entitlement to file confidential information under seal. Civil Local Rule 79-5 sets forth the

STIPULATED PROTECTIVE ORDER

1 procedures that must be followed and reflects the standards that will be applied when a party
2 seeks permission from the Court to file material under seal, and is hereby incorporated by
3 reference.

4 2. **DEFINITIONS.**

5 2.1 Party: any party to this action, including all of its officers, directors,
6 and employees.

7 2.2 Disclosure or Discovery Material: all items or information, regardless
8 of the medium or manner generated, stored, or maintained (including, among other things,
9 documents, testimony, transcripts, or tangible things) that are produced or generated in
10 disclosures or responses to discovery in this matter.

11 2.3 Confidential Information or Items: information (regardless of how
12 generated, stored or maintained) or tangible things that qualify for protection under standards
13 developed under Fed.R.Civ.P. 26(c).

14 2.4 Highly Confidential Information or Items: extremely sensitive
15 Confidential Information or Items whose disclosure to another Party or non-party would create
16 a substantial risk of injury that could not be avoided by less restrictive means.

17 2.5 Receiving Party: a Party that receives Disclosure or Discovery Material
18 from a Producing Party.

19 2.6 Producing Party: a Party or non-party that produces Disclosure or
20 Discovery Material in this action.

21 2.7 Designating Party: a Party or non-party that designates information or
22 items that it produces in disclosures or in responses to discovery as "Confidential" or "Highly
23 Confidential."

24 2.8 Protected Material: any Disclosure or Discovery Material that is
25 designated as "Confidential" or as "Highly Confidential."

26 2.9 Outside Counsel: attorneys, along with their paralegals, and other
27 support personnel, who are not employees of a Party but who are retained to represent or
28 advise a Party in this action.

1 2.10 In House Legal Personnel: attorneys and other personnel employed by
2 a Party to perform legal functions who are responsible for overseeing this litigation for the
3 Party.

4 2.11 Counsel (without qualifier): Outside Counsel and In House Legal
5 Personnel (as well as their support staffs, including but not limited to attorneys, paralegals,
6 secretaries, law clerks, and investigators).

7 2.12 Expert and/or Consultant: a person with specialized knowledge or
8 experience in a matter pertinent to the litigation, along with his or her employees and support
9 personnel, who has been retained by a Party or its Counsel to serve as an expert witness or as
10 a consultant in this action, and who is not currently an employee, nor has been an employee
11 within four years of the date of entry of this Order, of a Party or of a TFT-LCD business unit
12 of a non-party, and who, at the time of retention, is not anticipated to become an employee of
13 a Party or of a TFT-LCD business unit of a non-party. This definition includes a professional
14 jury or trial consultant retained in connection with this litigation.

15 2.13 Professional Vendors: persons or entities that provide litigation support
16 services (e.g., photocopying; videotaping; translating; preparing exhibits or demonstrations;
17 organizing, storing, retrieving data in any form or medium; *etc.*) and their employees and
18 subcontractors.

19 3. **SCOPE.**

20 The protections conferred by this Stipulated Protective Order cover not only
21 Protected Material (as defined above), but also any information copied or extracted therefrom,
22 as well as all copies, excerpts, summaries, or compilations thereof, plus testimony,
23 conversations, or presentations by Parties or Counsel in settings that might reveal Protected
24 Material. However, this Order shall not be construed to cause any Counsel to produce, return,
25 and/or destroy their own attorney work product, or the work product of their co-counsel.

26 4. **DURATION.**

27 The confidentiality obligations imposed by this Order shall remain in effect until
28 the Designating Party agrees otherwise in writing or this Court orders otherwise.

1 5. **DESIGNATING PROTECTED MATERIAL.**

2 5.1 Exercise of Restraint and Care in Designating Material for Protection.

3 Each Party or non-party that designates information or items for protection under this Order
4 must take care to limit any such designation to specific material that qualifies under the
5 appropriate standards and avoid indiscriminate designations.

6 If it comes to a Designating Party's attention that information or items that it
7 designated for protection do not qualify for protection at all, or do not qualify for the level of
8 protection initially asserted, that Designating Party must promptly notify all Receiving Parties
9 that it is withdrawing or changing the mistaken designation.

10 5.2 Manner and Timing of Designations. Except as otherwise provided in
11 this Order (*see, e.g.*, section 5.2(b), below), or as otherwise stipulated or ordered, material
12 that qualifies for protection under this Order must be clearly so designated before the material
13 is disclosed or produced. Notwithstanding the preceding sentence, should a Producing Party
14 discover that it produced material that was not designated as Protected Material or that it
15 produced material that was designated as Protected Material but had designated that Protected
16 Material in the incorrect category of Protected Material, the Producing Party may notify all
17 Parties, in writing, of the error and identifying (by bates number or other individually
18 identifiable information) the affected documents and their new designation or re-designation.
19 Thereafter, the material so designated or re-designated will be treated as Protected Material.
20 Promptly after providing such notice, the Producing Party shall provide re-labeled copies of
21 the material to each Receiving Party reflecting the change in designation. The Receiving Party
22 will replace the incorrectly designated material with the newly designated materials and will
23 destroy the incorrectly designated materials.

24 Designation in conformity with this Order requires:

25 (a) for information in documentary form (apart from transcripts of
26 depositions or other pretrial or trial proceedings), that the Producing Party affix the
27 legend "CONFIDENTIAL" or "HIGHLY CONFIDENTIAL" on each page that
28 contains protected material.

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(b) for testimony given in deposition, that a Party, or a non-party that sponsors, offers, gives, or elicits the testimony, designate any portion of the testimony as "CONFIDENTIAL" or "HIGHLY CONFIDENTIAL," either on the record before the deposition is concluded, or in writing on or before the later of (i) fourteen days after the final transcript is received or (ii) the date by which any review by the witness and corrections to the transcript are to be completed under Fed. R. Civ. P. 30(e). Only those portions of the testimony that are designated for protection in accordance with the preceding sentence shall be covered by the provisions of this Stipulated Protective Order. The entire testimony shall be deemed to have been designated Highly Confidential until the time within which the transcript may be designated has elapsed. If testimony is not designated within the prescribed time period, then such testimony shall not be deemed Confidential or Highly Confidential except as ordered by the Court.

Transcript pages containing Protected Material must be separately bound by the court reporter, who must affix to each such page the legend "CONFIDENTIAL" or "HIGHLY CONFIDENTIAL," as instructed by the Party or nonparty sponsoring, offering, giving or eliciting the witness' testimony.

(c) for information produced in electronic or video format, and for any other tangible items, that the Producing Party affix in a prominent place on the exterior of the container or containers in which the information or item is stored the legend "CONFIDENTIAL" or "HIGHLY CONFIDENTIAL."

5.3 Inadvertent Failures to Designate. If corrected, an inadvertent failure to designate qualified information or items as "Confidential" or "Highly Confidential" does not, standing alone, waive the Designating Party's right to secure protection under this Order for such material. If material is re-designated as "Confidential" or "Highly Confidential" after the material was initially produced, the Receiving Party, upon notification of the designation, must make reasonable efforts to assure that the material is treated in accordance with the provisions of this Order.

1 5.4 Increasing the Designation of Information or Items Produced by Other
2 Parties or Non-Parties. Subject to the standards of paragraph 5.1, a Party may increase the
3 designation (*i. e.*, change any Disclosure or Discovery Material produced without a designation
4 to a designation of "CONFIDENTIAL" or "HIGHLY CONFIDENTIAL" or designate any
5 Disclosure or Discovery Material produced as "CONFIDENTIAL" to a designation of
6 "HIGHLY CONFIDENTIAL") of any Discovery Material produced by any other Party or
7 non-Party, provided that said Discovery Material contains the upward Designating Party's own
8 Confidential or Highly Confidential Information. Any such increase in the designation of a
9 document shall be made within 90 days of the date of its production, unless good cause is
10 shown for a later increase in the designation.

11 Increasing a designation shall be accomplished by providing written notice to all
12 Parties identifying (by bates number or other individually identifiable information) the
13 Disclosure or Discovery Material whose designation is to be increased. Promptly after
14 providing such notice, the upward Designating Party shall provide re-labeled copies of the
15 material to each Receiving Party reflecting the change in designation. The Receiving Party
16 will replace the incorrectly designated material with the newly designated materials and will
17 destroy the incorrectly designated materials. Any Party may object to the increased
18 designation of Disclosure or Discovery Materials pursuant to the procedures set forth in
19 paragraph 6 regarding challenging designations. The upward Designating Party shall bear the
20 burden of establishing the basis for the increased designation.

21 6. **CHALLENGING CONFIDENTIALITY DESIGNATIONS.**

22 6.1 Timing of Challenges. A Party does not waive its right to challenge a
23 confidentiality designation by electing not to mount a challenge promptly after the original
24 designation is disclosed.

25 6.2 Meet and Confer. A Party that elects to initiate a challenge to a
26 Designating Party's confidentiality designation must do so in good faith and must begin the
27 process by notifying the Designating Party in writing, by telephone or in person of its challenge
28 and identify the challenged material, then conferring directly in voice to voice dialogue (other

1 forms of communication are not sufficient) with counsel for the Designating Party. The Parties
2 must then meet and confer in good faith. Each Party must explain the basis for its respective
3 position about the propriety of the challenged confidentiality designations. The parties shall
4 have fourteen (14) days from the initial notification of a challenge to complete this meet and
5 confer process.

6 6.3 Judicial Intervention. In any judicial proceeding challenging a
7 confidentiality designation, the burden of persuasion with respect to the propriety of the
8 confidentiality designation shall remain upon the Designating Party. If the parties are not able
9 to resolve a dispute about a confidentiality designation within the time provided in paragraph
10 6.2, above, the parties shall, within fourteen (14) days thereafter, prepare and present to the
11 Special Master a joint letter brief that identifies the challenged material and sets forth the
12 respective positions of the parties about the propriety of the challenged confidentiality
13 designations. Until the ruling on the dispute becomes final pursuant to the provisions of
14 Pre-Trial Order No. 4, all parties shall continue to afford the material in question the level of
15 protection to which it is entitled under the Designating Party's designation.

16 In the event that the final ruling is that the challenged material is not confidential
17 or that its designation should be changed, the Designating Party shall reproduce copies of all
18 materials with their designations removed or changed in accordance with the ruling within
19 thirty (30) days at the expense of the Designating Party.

20 7. **ACCESS TO AND USE OF PROTECTED MATERIAL.**

21 7.1 Basic Principles. A Receiving Party may use Protected Material that is
22 disclosed or produced by a Producing Party only in connection with this action for prosecuting,
23 defending, or attempting to settle this action. Such Protected Material may be disclosed only
24 to the categories of persons and under the conditions described in this Order. When the
25 litigation has been terminated, a Receiving Party must comply with the provisions of section 11,
26 below (FINAL DISPOSITION).

27 Protected Material must be stored and maintained by a Receiving Party at a
28 location and in a secure manner that ensures that access is limited to the persons authorized

1 under this Order. For purposes of this Order, a secure website, or other internet-based
2 document depository with adequate security, shall be deemed a secure location.

3 7.2 Disclosure of "CONFIDENTIAL" Information or Items. Unless
4 otherwise ordered by the Court or permitted in writing by the Designating Party, a Receiving
5 Party may disclose any information or item designated "CONFIDENTIAL" only to:

6 (a) the Receiving Party's Outside Counsel of record in this action, as well as
7 employees of said counsel to whom it is reasonably necessary to disclose the
8 information for this litigation;

9 (b) current or former officers, directors, and employees of Parties to whom
10 disclosure is reasonably necessary for this litigation and who have signed the
11 "Agreement To Be Bound by Protective Order" (Exhibit A);

12 (c) Experts and/or Consultants with respect to each of whom (1) disclosure
13 is reasonably necessary for this litigation, and (2) an "Agreement To Be Bound by
14 Protective Order" (Exhibit A) has been signed;

15 (d) the Court and its personnel;

16 (e) stenographers, their staffs, and professional vendors to whom disclosure
17 is reasonably necessary for this litigation and who have signed the "Agreement To Be
18 Bound by Protective Order" (Exhibit A);

19 (f) the author, addressees, or recipients of the document, or any other
20 natural person who would have likely reviewed such document during his or her
21 employment as a result of the substantive nature of his or her employment position, or
22 who is specifically identified in the document, or whose conduct is purported to be
23 specifically identified in the document;

24 (g) witnesses in the action to whom disclosure is reasonably necessary for
25 this litigation and who have signed the "Agreement To Be Bound by Protective Order"
26 (Exhibit A); provided that, Confidential Information may be disclosed to a witness
27 during their deposition, but only if they have executed the "Agreement to Be Bound by
28 Protective Order" (Exhibit A), which shall be made an exhibit to the deposition

1 transcript, or have agreed on the record to keep the information confidential and not to
2 use it for any purpose, or have been ordered to do so; and provided further that, pages
3 of transcribed deposition testimony or exhibits to depositions that reveal Confidential
4 Information must be marked "Confidential" and separately bound by the court reporter
5 and not included in the main deposition transcript and exhibit binder, and may not be
6 disclosed to anyone except as permitted under this Stipulated Protective Order; and

7 (h) any other person to whom the Designating Party agrees in writing or on
8 the record, and any other person to whom the Court compels access to the Confidential
9 Information.

10 7.3 Disclosure of "HIGHLY CONFIDENTIAL" Information or Items.

11 Unless otherwise ordered by the Court or permitted in writing by the Designating Party, a
12 Receiving Party may disclose any information or item designated "HIGHLY
13 CONFIDENTIAL" only to:

14 (a) the Receiving Party's Outside Counsel of record in this action, as well as
15 employees of said counsel to whom it is reasonably necessary to disclose the
16 information for this litigation;

17 (b) Experts and/or Consultants with respect to each of whom (1) disclosure
18 is reasonably necessary for this litigation, and (2) an "Agreement To Be Bound by
19 Protective Order" (Exhibit A) has been signed;

20 (c) the Court and its personnel;

21 (d) stenographers, their staffs, and professional vendors to whom disclosure
22 is reasonably necessary for this litigation and who have signed the "Agreement to Be
23 Bound by Protective Order" (Exhibit A);

24 (e) the author, addressees or recipients of the document, or any other
25 natural person who would have likely reviewed such document during his or her
26 employment as a result of the substantive nature of his or her employment position, or
27 who is specifically identified in the document, or whose conduct is purported to be
28 specifically identified in the document;

1 (f) deposition witnesses but only during their depositions and only if they
2 have executed the "Agreement to Be Bound by Protective Order" (Exhibit A), which
3 shall be made an exhibit to the deposition transcript, or have agreed on the record to
4 keep the information confidential and not to use it for any purpose, or have been
5 ordered to do so; and in addition, if the witness is an employee of a Party or is a former
6 employee of a Party, then In House Legal Personnel of the Party in attendance at the
7 deposition of such a witness, may also be present during that portion of the deposition
8 but only if the In House Legal Personnel has signed the "Agreement to Be Bound by
9 Protective Order" (Exhibit A); provided that, pages of transcribed deposition testimony
10 or exhibits to depositions that reveal Highly Confidential Information must be marked
11 "Highly Confidential" and separately bound by the court reporter and not included in
12 the main deposition transcript and exhibit binder, and may not be disclosed to anyone
13 except as permitted under this Stipulated Protective Order; and provided, further that,
14 the parties will meet and confer if the Designating Party believes a particular document
15 requires different treatment for use at deposition; and

16 (g) any other person to whom the Designating Party agrees in writing or on
17 the record, and any other person to whom the Court compels access to the Highly
18 Confidential Information.

19 7.4 Retention of Exhibit A. Outside Counsel for the Party that obtains the
20 signed "Agreements To Be Bound by Protective Order" (Exhibit A), as required above, shall
21 retain them for one year following the final termination of this action, including any appeals,
22 and shall make them available to other Parties upon good cause shown.

23 7.5 Retention of Protected Material. Persons who have been shown
24 Protected Material pursuant to Section 7.2(b), (f), or (g), or Section 7.3(e) or (f) shall not
25 retain copies of such Protected Material.

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2 **8. PROTECTED MATERIAL SUBPOENAED OR ORDERED**
3 **PRODUCED IN OTHER LITIGATION.**

4 If a Receiving Party is served with a discovery request, subpoena or an order
5 issued in other litigation that would compel disclosure of any information or items designated
6 in this action as "CONFIDENTIAL" or "HIGHLY CONFIDENTIAL," the Receiving Party
7 must so notify the Designating Party, in writing (by fax or electronic mail, if possible), along
8 with a copy of the discovery request, subpoena or order, as soon as reasonably practicable.

9 The Receiving Party also must immediately inform the party who caused the
10 discovery request, subpoena or order to issue in the other litigation that some or all the material
11 covered by the subpoena or order is the subject of this Protective Order. In addition, the
12 Receiving Party must deliver a copy of this Stipulated Protective Order promptly to the party
13 in the other action that caused the discovery request, subpoena or order to issue.

14 The purpose of imposing these duties is to alert the interested parties to the
15 existence of this Stipulated Protective Order and to afford the Designating Party in this case an
16 opportunity to try to protect its confidentiality interest in the court from which the discovery
17 request, subpoena or order is issued. The Designating Party shall bear the burdens and the
18 expenses of seeking protection in that court of its confidential or highly confidential material.
19 Nothing in these provisions should be construed as authorizing or encouraging a Receiving
20 Party in this action to disobey a lawful directive from another court.

21 **9. UNAUTHORIZED DISCLOSURE OF PROTECTED**
22 **MATERIAL.**

23 If a Receiving Party learns that, by inadvertence or otherwise, it has disclosed
24 Protected Material to any person or in any circumstance not authorized under this Stipulated
25 Protective Order, the Receiving Party must immediately (a) notify in writing the Designating
26 Party of the unauthorized disclosures, (b) use its best efforts to retrieve all copies of the
27 Protected Material, (c) inform the person or persons to whom unauthorized disclosures were
28 made of all the terms of this Order, and (d) request such person or persons to execute the
"Acknowledgment and Agreement To Be Bound" that is attached hereto as Exhibit A.

1 **10. FILING PROTECTED MATERIAL.**

2 Without written permission from the Designating Party or a court order secured
3 after appropriate notice to all interested persons, a Party may not file in the public record in this
4 action any Protected Material. A Party that seeks to file under seal any Protected Material
5 must comply with Civil Local Rule 79-5.

6 **11. FINAL DISPOSITION.**

7 Unless otherwise ordered or agreed in writing by the Producing Party, within
8 thirty days after the final termination of this action, including any appeals, each Receiving
9 Party must return all Protected Material to the Producing Party. As used in this subdivision,
10 "Protected Material" includes all copies, abstracts, compilations, summaries or any other form
11 of reproducing or capturing any of the Protected Material. The Receiving Party may destroy
12 some or all of the Protected Material instead of returning it. Whether the Protected Material
13 is returned or destroyed, the Receiving Party must submit a written certification to the
14 Producing Party (and, if not the same person or entity, to the Designating Party) by the thirty
15 day deadline that identifies (by category, where appropriate) all the Protected Material that was
16 returned or destroyed and that affirms that the Receiving Party has not retained any copies,
17 abstracts, compilations, summaries or other forms of reproducing or capturing any of the
18 Protected Material. Notwithstanding this provision, counsel are entitled to retain an archival
19 copy of all pleadings, motion papers, transcripts, legal memoranda, correspondence or
20 attorney work product, even if such materials contain Protected Material. Any such archival
21 copies that contain or constitute Protected Material remain subject to this Protective Order as
22 set forth in Section 4 (DURATION), above.

23 **12. INADVERTENTLY PRODUCED DOCUMENTS.**

24 If a Party at any time notifies any other Party that it inadvertently produced
25 documents, testimony, information, and/or things that are protected from disclosure under the
26 attorney-client privilege, work product doctrine, and/or any other applicable privilege or
27 immunity from disclosure, or the Receiving Party discovers such inadvertent production, the
28 inadvertent production shall not be deemed a waiver of the applicable privilege or protection.

1 The Receiving Party shall immediately return all copies of such documents, testimony,
2 information and/or things to the inadvertently producing Party and shall not use such items for
3 any purpose until further order of the Court. In all events, such return must occur within three
4 (3) business days of receipt of notice or discovery of the inadvertent production. The return of
5 any discovery item to the inadvertently producing Party shall not in any way preclude the
6 Receiving Party from moving the Court for a ruling that the document or thing was never
7 privileged.

8 **13. ATTORNEY RENDERING ADVICE**

9 Nothing in this Protective Order will bar or otherwise restrict an attorney from
10 rendering advice to his or her client with respect to this matter or from relying upon or
11 generally referring to "CONFIDENTIAL" or "HIGHLY CONFIDENTIAL" Disclosure or
12 Discovery Material in rendering such advice; provided however, that in rendering such advice
13 or in otherwise communicating with his or her client, the attorney shall not reveal or disclose
14 the specific content thereof if such disclosure is not otherwise permitted under this Protective
15 Order.

16 **14. DISPOSITIVE MOTION HEARINGS AND TRIAL**

17 The terms of this Protective Order shall govern in all circumstances except for
18 presentations of evidence and argument at hearings on dispositive motions and at trial. The
19 parties shall meet and confer in advance of such proceedings and seek the guidance of the Court
20 as to appropriate procedures to govern such proceedings.

21 **15. MISCELLANEOUS.**

22 **15.1 Right to Further Relief.** Nothing in this Order abridges the right of any
23 person to seek its modification by the Court in the future.

24 **15.2 Right to Assert Other Objections.** By stipulating to the entry of this
25 Protective Order no Party waives any right it otherwise would have to object to disclosing or
26 producing any information or item on any ground not addressed in this Stipulated Protective
27 Order. Similarly, no Party waives any right to object on any ground to use in evidence of any
28 of the material covered by this Protective Order.

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IT IS SO STIPULATED.

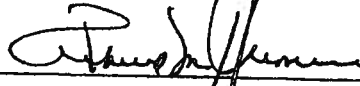
PEARSON, SIMON, SOTER, WARSHAW &
PENNY, LLP

By: 
Bruce L. Simon

Bruce L. Simon (State Bar No. 96241)
44 Montgomery Street, Suite 1200
San Francisco, CA 94104
Telephone: (415) 433-9000
Facsimile: (415) 433-9008

Interim Co-Lead Counsel for the Direct Purchaser
Plaintiffs

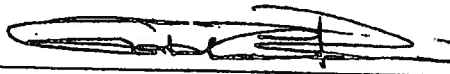
LIEFF, CABRASER, HEIMANN & BERNSTEIN, LLP

By: 
Richard M. Heimann

Richard M. Heimann (State Bar No. 63607)
275 Battery Street, 30th Floor
San Francisco, CA 94111-3339
Telephone: (415) 956-1000
Facsimile: (415) 956-1008

Interim Co-Lead Counsel for the Direct Purchaser
Plaintiffs

GIRARD GIBBS, LLP


By: 
Elizabeth C. Pritzker

Elizabeth C. Pritzker (State Bar No. 146267)
601 California Street, Suite 1400
San Francisco, CA 94108
Telephone: (415) 981-4800
Facsimile: (415) 981-4846

Interim Liaison Counsel for the Direct Purchaser
Plaintiffs

1
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ZELLE HOFMANN VOELBEL MASON &
GETTE LLP

By: 
Francis O. Scarpulla

Francis O. Scarpulla (State Bar No. 41059)
44 Montgomery Street, Suite 3400
San Francisco, CA 94104
Telephone: (415) 693-0700
Facsimile: (415) 693-0770

Interim Co-Lead Counsel for the Indirect Purchaser
Plaintiffs

ALIOTO LAW FIRM

By: 
Joseph M. Alioto

Joseph M. Alioto (State Bar No. 42680)
555 California Street, Suite 3160
San Francisco, CA 94104
Telephone: (415) 434-8900
Facsimile: (415) 434-9200

Interim Co-Lead Counsel for the Indirect Purchaser
Plaintiffs

MINAMI TAMAKI LLP

By: 
Jack W. Lee

Jack W. Lee (State Bar No. 71626)
360 Post Street, 8th Floor
San Francisco, California 94108
Telephone: (415) 788-0204
Facsimile: (415) 398-3887

Interim Liaison Counsel for the Indirect Purchaser
Plaintiffs

1
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PILLSBURY WINTHROP SHAW PITTMAN LLP

By: Albert J. Boro, Jr.
Albert J. Boro, Jr.

Albert J. Boro, Jr. (State Bar No. 126657)
50 Fremont Street
San Francisco, CA 94105
Telephone: (415) 983-1000
Facsimile: (415) 983-1200

Attorneys for Defendants Sharp Corporation and
Sharp Electronics Corporation

SEDGWICK, DETERT, MORAN & ARNOLD LLP

By: _____
Michael Healy

Michael Healy (State Bar No. 95098)
One Market Plaza
Steuart Tower, 8th Floor
San Francisco, CA 94105
Tel: (415) 781-7900
Fax: (415) 781-2635

Attorneys for Defendant
AU Optronics Corporation America

WILMER CUTLER PICKERING HALE AND DORR
LLP

By: _____
Steven F. Cherry

Steven F. Cherry (*pro hac vice*)
1875 Pennsylvania Avenue NW
Washington, DC 20006
Tel: (202) 663-6000
Fax: (202) 663-6363

Attorneys for Defendants Chi Mei Optoelectronics USA,
Inc., CMO Japan Co., Ltd., and Nexgen Mediatech USA,
Inc.

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SEDGWICK, DETERT, MORAN & ARNOLD LLP

By: Michael F. Healy
Michael Healy

Michael Healy (State Bar No. 95098)
One Market Plaza
Steuart Tower, 8th Floor
San Francisco, CA 94105
Tel: (415) 781-7900
Fax: (415) 781-2635

Attorneys for Defendant
AU Optronics Corporation America

WILMER CUTLER PICKERING HALE AND DORR
LLP

By: _____
Steven F. Cherry

Steven F. Cherry (*pro hac vice*)
1875 Pennsylvania Avenue NW
Washington, DC 20006
Tel: (202) 663-6000
Fax: (202) 663-6363

Attorneys for Defendants Chi Mei Optoelectronics
USA, Inc., CMO Japan Co., Ltd., and Nexgen
Mediatech USA, Inc.
PAUL, HASTINGS, JANOFKY & WALKER LLP

By: _____
Kevin C. McCann

Kevin C. McCann (State Bar No. 120874)
55 Second Street, 24th Floor
San Francisco, CA 94105
Tel: (415) 856-7000
Fax: (415) 856-7100

Attorneys for Defendants Epson Electronics America,
Inc. and Epson Imaging Devices Corporation

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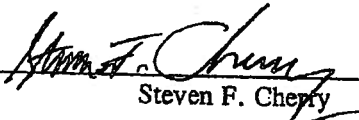
SEDGWICK, DETERT, MORAN & ARNOLD LLP

By: _____
Michael Healy

Michael Healy (State Bar No. 95098)
One Market Plaza
Steuart Tower, 8th Floor
San Francisco, CA 94105
Tel: (415) 781-7900
Fax: (415) 781-2635

Attorneys for Defendant
AU Optronics Corporation America

WILMER CUTLER PICKERING HALE AND DORR
LLP

By: 
Steven F. Cherry

Steven F. Cherry (*pro hac vice*)
1875 Pennsylvania Avenue NW
Washington, DC 20006
Tel: (202) 663-6000
Fax: (202) 663-6363

Attorneys for Defendants Chi Mei Optoelectronics
USA, Inc., CMO Japan Co., Ltd., and Nexgen
Mediatech USA, Inc.
PAUL, HASTINGS, JANOFSKY & WALKER LLP

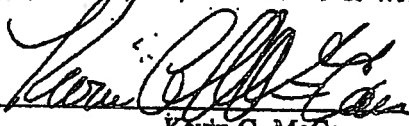
By: _____
Kevin C. McCann

Kevin C. McCann (State Bar No. 120874)
55 Second Street, 24th Floor
San Francisco, CA 94105
Tel: (415) 856-7000
Fax: (415) 856-7100

Attorneys for Defendants Epson Electronics America,
Inc. and Epson Imaging Devices Corporation

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PAUL, HASTINGS, JANOFSKY & WALKER LLP

By: 
Kevin C. McCann

Kevin C. McCann (State Bar No. 120874)
55 Second Street, 24th Floor
San Francisco, CA 94105
Tel: (415) 856-7000
Fax: (415) 856-7100

Attorneys for Defendants Epson Electronics America, Inc. and Epson Imaging Devices Corporation

MORGAN, LEWIS & BOCKIUS LLP

By: _____
Kent M. Roger

Kent M. Roger (State Bar No. 95987)
One Market
Spear Street Tower
San Francisco, CA 94105
Tel.: (415) 442-1000
Fax: (415) 442-1001

Attorneys for Defendants Hitachi Electronic Devices (USA), Inc., Hitachi, Ltd., and Hitachi Displays, Ltd.

WINSTON & STRAWN LLP

By: _____
Lawrence R. Desideri

Lawrence R. Desideri (*pro hac vice*)
35 W. Wacker Drive
Chicago, Illinois 60601
Tel: (312) 558-7883
Fax: (312) 558-5700

Attorneys for Defendant
LG Electronics USA, Inc.

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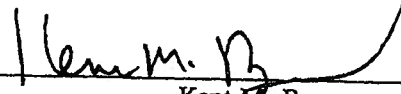
PAUL, HASTINGS, JANOFSKY & WALKER LLP

By: _____
Kevin C. McCann

Kevin C. McCann (State Bar No. 120874)
55 Second Street, 24th Floor
San Francisco, CA 94105
Tel: (415) 856-7000
Fax: (415) 856-7100

Attorneys for Defendants Epson Electronics America,
Inc. and Epson Imaging Devices Corporation

MORGAN, LEWIS & BOCKIUS LLP

By:  _____
Kent M. Roger

Kent M. Roger (State Bar No. 95987)
One Market
Spear Street Tower
San Francisco, CA 94105
Tel.: (415) 442-1000
Fax: (415) 442-1001

Attorneys for Defendants Hitachi Electronic Devices
(USA), Inc., Hitachi, Ltd., and Hitachi Displays, Ltd.

WINSTON & STRAWN LLP

By: _____
Lawrence R. Desideri

Lawrence R. Desideri (*pro hac vice*)
35 W. Wacker Drive
Chicago, Illinois 60601
Tel: (312) 558-7883
Fax: (312) 558-5700

Attorneys for Defendant
LG Electronics USA, Inc.

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2
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PAUL, HASTINGS, JANOFSKY & WALKER LLP

By: _____

Kevin C. McCann

Kevin C. McCann (State Bar No. 120874)
55 Second Street, 24th Floor
San Francisco, CA 94105
Tel: (415) 856-7000
Fax: (415) 856-7100

Attorneys for Defendants Epson Electronics America,
Inc. and Epson Imaging Devices Corporation

MORGAN, LEWIS & BOCKIUS LLP

By: _____

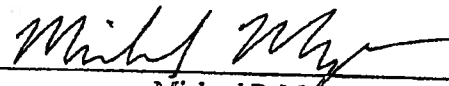
Kent M. Roger

Kent M. Roger (State Bar No. 95987)
One Market
Spear Street Tower
San Francisco, CA 94105
Tel: (415) 442-1000
Fax: (415) 442-1001

Attorneys for Defendants Hitachi Electronic Devices
(USA), Inc., Hitachi, Ltd., and Hitachi Displays, Ltd.

WINSTON & STRAWN LLP

By: _____



Michael P. Mayer

Lawrence R. Desideri (*pro hac vice*)
Michael P. Mayer (*pro hac vice*)
35 W. Wacker Drive
Chicago, Illinois 60601
Tel: (312) 558-7883
Fax: (312) 558-5700

Attorneys for Defendant
LG Electronics USA, Inc.

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MORGAN, LEWIS & BOCKIUS LLP

By: _____

Kent M. Roger

Kent M. Roger (State Bar No. 95987)
One Market
Spear Street Tower
San Francisco, CA 94105
Tel.: (415) 442-1000
Fax: (415) 442-1001

Attorneys for Defendants Hitachi Electronic Devices
(USA), Inc., Hitachi, Ltd., and Hitachi Displays, Ltd.

WINSTON & STRAWN LLP

By: _____

Lawrence R. Desideri

Lawrence R. Desideri (*pro hac vice*)
35 W. Wacker Drive
Chicago, Illinois 60601
Tel: (312) 558-7883
Fax: (312) 558-5700

Attorneys for Defendant
LG Electronics USA, Inc.

CLEARY GOTTlieb STEEN & HAMILTON LLP

By: _____

Michael R. Lazerwitz (Signature)

Michael R. Lazerwitz

Michael R. Lazerwitz (*pro hac vice*)
2000 Pennsylvania Avenue NW
Washington, DC 20006
Tel.: (202) 974-1680
Fax: (202) 974 1999

Attorneys for Defendants LG.Philips LCD America,
Inc. and LG.Philips LCD Co., Ltd.

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CLEARY GOTTLEB STEEN & HAMILTON LLP

By: _____

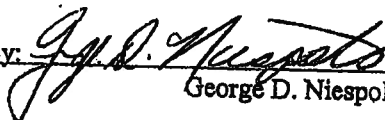
Michael R. Lazerwitz

Michael R. Lazerwitz (*pro hac vice*)
2000 Pennsylvania Avenue NW
Washington, DC 20006
Tel.: (202) 974-1680
Fax: (202) 974 1999

Attorneys for Defendants LG.Philips LCD America, Inc.
and LG.Philips LCD Co., Ltd.

DUANE MORRIS LLP

By: _____


George D. Niespolo

George D. Niespolo (State Bar No. 72107)
One Market Street
Spear Tower, 20th Floor
San Francisco, CA 94105
Tel.: (415) 957-3013
Fax: (415) 957-3001

Attorneys for Defendants NEC Electronics America, Inc.

SHEPPARD MULLIN RICHTER & HAMPTON LLP

By: _____

James L. McGinnis

James L. McGinnis (State Bar No. 95788)
4 Embarcadero Center, 17th Floor
San Francisco, CA 94111-4109
Tel: (415) 434-9100
Fax: (415) 434-3947

Attorneys for Defendants Samsung Electronics America,
Inc., Samsung Semiconductor, Inc. and Samsung
Electronics Co., Ltd.

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CLEARY GOTTLIEB STEEN & HAMILTON LLP

By: _____
Michael R. Lazerwitz

Michael R. Lazerwitz (*pro hac vice*)
2000 Pennsylvania Avenue NW
Washington, DC 20006
Tel.: (202) 974-1680
Fax: (202) 974 1999

Attorneys for Defendants LG.Philips LCD America, Inc.
and LG.Philips LCD Co., Ltd.

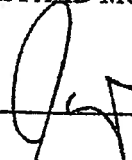
DUANE MORRIS LLP

By: _____
George D. Niespolo

George D. Niespolo (State Bar No. 72107)
One Market Street
Spear Tower, 20th Floor
San Francisco, CA 94105
Tel.: (415) 957-3013
Fax: (415) 957-3001

Attorneys for Defendants NEC Electronics America, Inc.

SHEPPARD MULLIN RICHTER & HAMPTON LLP

By:  _____
James L. McGinnis

James L. McGinnis (State Bar No. 95788)
4 Embarcadero Center, 17th Floor
San Francisco, CA 94111-4109
Tel: (415) 434-9100
Fax: (415) 434-3947

Attorneys for Defendants Samsung Electronics America,
Inc., Samsung Semiconductor, Inc. and Samsung
Electronics Co., Ltd.

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WHITE & CASE LLP

By: _____
Wayne A. Cross

Wayne A. Cross (*pro hac vice*)
1155 Avenue of the Americas
New York, NY 10036
Tel: (212) 819-8200
Fax: (212) 354-8113

Attorneys for Defendants Toshiba America Electronic
Components, Inc., Toshiba America Information
Systems, Inc., Toshiba Corporation, and Toshiba
Matsushita Display Technology Co., Ltd.

SULLIVAN & CROMWELL LLP

By: Garrard R. Beeney / iso
Garrard R. Beeney

Garrard R. Beeney (*pro hac vice*)
125 Broad Street
New York, NY 10004
Tel: (212) 558-4000
Fax: (212) 558-3588

Attorneys for Defendant
Koninklijke Philips Electronics N.V.

PURSUANT TO STIPULATION, IT IS SO ORDERED.

DATED: _____

Hon. Susan Illston
United States District Judge