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UNITED STATES DISTRICT COURT
 NORTHERN DISTRICT OF CALIFORNIA - SAN FRANCISCO DIVISION

EASTMAN KODAK COMPANY,

Plaintiff,

v.

EPSON IMAGING DEVICES CORPORATION;
 EPSON ELECTRONICS AMERICA, INC.
 TOSHIBA CORPORATION; TOSHIBA
 AMERICA ELECTRONICS COMPONENTS,
 INC.; TOSHIBA MOBILE DISPLAY
 TECHNOLOGY CO., LTD.; TOSHIBA AMERICA
 INFORMATION SYSTEMS, INC.; AU
 OPTRONICS CORPORATION; AU OPTRONICS
 CORPORATION AMERICA, INC.;

Defendants.

CASE No.:

CV 10 5452

Master File No. 07-md-01827-SI

MDL No. 1827

**COMPLAINT FOR
 DAMAGES AND INJUNCTIVE
 RELIEF**

DEMAND FOR JURY TRIAL

Plaintiff Eastman Kodak Company ("Kodak"), for its Complaint against all defendants named herein, alleges as follows:

I. INTRODUCTION

1. Kodak sells digital cameras to customers throughout the United States. Those cameras include thin film transistor liquid crystal display panels ("LCD Panels").

2. From as early as January 1, 1996 through at least December 11, 2006 ("the Conspiracy Period"), defendants and their co-conspirators conspired with the purpose and effect of fixing, raising, stabilizing, and maintaining prices for LCD Panels.

1 3. Multiple LCD Panel manufacturers have admitted in criminal proceedings to
2 participating in and carrying out this conspiracy in the United States and California. The following
3 guilty pleas and indictments have already been entered in this Court relating to the conspiracy. On or
4 about June 18, 2009, Sharp Corporation ("Sharp") pleaded guilty and agreed to pay a \$120 million
5 fine for its role in the conspiracy. On or about June 18, 2009, LG Display Co. Ltd. and LG Display
6 America, Inc. (collectively "LG Display") pleaded guilty and agreed to pay a fine of \$400 million for
7 their role in the conspiracy. On or about August 18, 2009, Chunghwa Picture Tubes, Ltd.
8 ("Chunghwa") pleaded guilty and agreed to pay a fine of \$65 million for its role in the conspiracy.
9 On or about November 11, 2011, Epson Imaging Devices Corporation pleaded guilty and agreed to
10 pay a \$26 million fine for its role in the conspiracy. On or about February 11, 2010, Chi Mei
11 Optoelectronics Corporation ("Chi Mei") pleaded guilty and agreed to pay a \$220 million criminal
12 fine for its role in the conspiracy. On or about June 10, 2010, AU Optronics and AU Optronics
13 Corporation America were indicted in this court for their role in the conspiracy. On or about July 22,
14 2010, HannStar Display Corporation ("HannStar") agreed to plead guilty and pay a \$30 million fine
15 for its role in the conspiracy.

16 4. During the Conspiracy Period Kodak purchased digital cameras for resale which
17 included LCD Panels manufactured by defendants or defendants' co-conspirators, the prices of which
18 were inflated due to the conspiracy, resulting in an inflation in the price of the cameras. Such
19 products are referred to herein as "Cameras." Kodak also purchased products for its own use, and not
20 for resale, containing LCD Panels manufactured by defendants or defendants' co-conspirators, the
21 price of which was inflated due to the conspiracy, resulting in an inflation in the price of the such
22 products. Such items purchased by Kodak are referred to herein as "Products." Examples of
23 Products include computer monitors and laptop/notebook computers. As a result of purchasing
24 Cameras and Products, Kodak suffered damages caused by defendants' conspiracy.

25 **II. JURISDICTION AND VENUE**

26 5. Kodak brings this action under Section 1 of the Sherman Act, 15 U.S.C. § 1, and
27 Section 16 of the Clayton Act, 15 U.S.C. § 26, to obtain injunctive relief against all defendants.
28 Kodak also brings this action under California's Cartwright Act, Cal. Bus. & Prof. Code § 16700 et

1 seq.; Section 598A et seq. of the Nevada Revised Statutes; and Section 340 et seq. of the New York
2 General Business Law for treble damages sustained by Kodak as a result of its purchases of Cameras
3 and Products, as well as for costs of suit, including attorneys' fees.

4 6. The Court has jurisdiction under 28 U.S.C. §§ 1331 and 1337 over Kodak's claims
5 under Section 1 of the Sherman Act and Section 16 of the Clayton Act. The Court has pendent
6 jurisdiction over Kodak's state law claims. The court also has jurisdiction over Kodak's state law
7 claims under 28 U.S.C. § 1332.

8 7. This court has personal jurisdiction over each defendant named in this action under
9 both Section 12 of the Clayton Act, 15 U.S.C. § 22 and Cal. Code of Civil Procedure § 410.10,
10 California's "long arm" statute. Each defendant conducts substantial business in the state of
11 California, and a number of defendants maintain their headquarters in this District or elsewhere in
12 California. In addition, defendants purposefully availed themselves of the laws of the United States
13 and California insofar as they manufactured LCD Panels and LCD Products for sale in the United
14 States and California, they engaged in the conspiracy knowing and intending to affect the prices of
15 LCD Products sold in California, and several of the conspirators have admitted that they engaged in
16 conduct in furtherance of the conspiracy in the Northern District of California.

17 8. Venue is proper in this District under Section 12 of the Clayton Act, 15 U.S.C. §22
18 and 28 U.S.C. § 1391 because each defendant is either an alien corporation, transacts business in this
19 District, or is otherwise found within this District. In addition, venue is proper in this District under
20 28 U.S. § 1391 because a substantial part of the events giving rise to this claim occurred in this
21 district.

22 9. This action concerns substantially the same parties, transactions and events as In re
23 TFT-LCD Antitrust Litigation action, Case No. M:07-cv-1827 SI, Case No. M:07-cv-1827, presently
24 assigned to Judge Susan Illston in the Northern District of California. Pursuant to Pretrial Order #1
25 in M:07-cv-1827 SI, this case is automatically consolidated with M:07-cv-1827 SI for all pretrial
26 proceedings without any further motion or order.

27 **III. DEFINITIONS**

28 10. Liquid crystal display panels sandwich a liquid crystal compound between two glass

1 plates called "substrates." The resulting screen contains hundreds or thousands of electrically charged
2 dots, or pixels, that form an image. As used herein, the term "LCD Panel" refers to thin film
3 transistor liquid crystal display panels and modules consisting of such panels combined with a
4 backlight unit, a driver, and other equipment that allow the panel to operate and be integrated into a
5 television, laptop computer, computer monitor, or handheld devices such as cameras and mobile
6 phones.

7 11. As used herein, the term "LCD Products" means any product containing an LCD
8 Panel, including, without limitation, digital cameras, cell phones, computer monitors, notebook and
9 laptop computers, and televisions ("TVs").

10 12. "Cameras" and "Products" are defined in paragraph 4, above.

11 13. As used herein, the term "OEM" means any original equipment manufacturer of an
12 LCD Product, including Cameras and Products.

13 14. As used herein, the term "Conspiracy Period" refers to the time period beginning
14 January 1, 1996 and continuing at least until December 11, 2006.

15 **IV. THE PARTIES**

16 15. Plaintiff Kodak is incorporated in the state of New Jersey and maintains its principal
17 place of business in Rochester, New York.

18 **AU Optronics**

19 16. Defendant AU Optronics Corporation is one of the world's largest manufacturers of
20 LCD Panels, with its corporate headquarters at No. 1, Li-Hsin Rd. 2, Hsinchu Science Park, Hsinchu
21 30078, Taiwan. During the Conspiracy Period, said defendant manufactured, marketed, sold and/or
22 distributed LCD Panels incorporated into LCD Products sold in the United States. It is referred to
23 herein as "AUO."

24 17. Defendant AU Optronics Corporation America, Inc. is a wholly-owned and controlled
25 subsidiary of defendant AUO, with its corporate headquarters at 9720 Cypresswood Drive, Suite 241,
26 Houston, Texas and facilities located in San Diego and Cupertino, California. It is incorporated in
27 California. During the Conspiracy Period, said defendant manufactured, marketed, sold and/or
28 distributed LCD Panels incorporated into LCD Products sold in the United States. It is referred to

1 herein as "AUOA."

2 18. Defendants AUO and AUOA are referred to collectively herein as "AU Optronics."
3 The AU Optronics companies were members of the conspiracy that is the subject of this Complaint
4 through the actions of their respective officers, employees, and representatives acting with actual or
5 apparent authority. Alternatively, defendant AUOA was a member of the conspiracy by virtue of its
6 status during the Conspiracy Period as the alter ego or agent of AUO. AUO dominated or controlled
7 AUOA regarding conspiracy activities and used that domination or control to charge artificially high
8 prices for LCD Panels.

9 **Epson**

10 19. Defendant Epson Imaging Devices Corporation ("Epson Japan") is a Japanese
11 corporation with its principal place of business at 4F Annex, World Trade Center Building, 2-4-1
12 Hamamatsu-cho, Minato-ku, Tokyo 105-6104 Japan. The company is now a wholly-owned
13 subsidiary of Seiko Epson Corporation. During the Conspiracy Period, Epson Japan manufactured,
14 marketed, sold and/or distributed LCD Panels and/or LCD Products throughout the United States and
15 elsewhere.

16 20. Defendant Epson Electronics America, Inc. ("Epson America") is a wholly-owned and
17 controlled subsidiary of Seiko Epson Corporation. Its principal place of business is at 2580 Orchard
18 Parkway, San Jose, California. It is incorporated in California. During the Conspiracy Period, Epson
19 America sold and distributed LCD Products containing LCD Panels manufactured by Epson Japan to
20 customers in the United States.

21 21. Defendants Epson Japan and Epson America are referred to collectively herein as
22 "Epson." The Epson companies were members of the conspiracy that is the subject of this Complaint
23 by virtue of the actions of their respective officers, employees, and representatives acting with actual
24 or apparent authority. Alternatively, defendant Epson America was a member of the conspiracy by
25 virtue of its status during the Conspiracy Period as the alter ego or agent of Epson Japan. Epson Japan
26 dominated or controlled Epson America regarding conspiracy activities and used that domination or
27 control to charge artificially high prices for LCD Panels and LCD Products.

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1 **Toshiba**

2 22. Defendant Toshiba Corporation is a Japanese company located at 1-1, Shibaura 1-
3 chome, Minato-ku, Tokyo, 105-8001, Japan. During the Conspiracy Period, said defendant
4 manufactured, marketed, sold and/or distributed LCD Panels and LCD Products sold in the United
5 States.

6 23. Defendant Toshiba Mobile Display Technology, Co., Ltd. ("Toshiba Mobile
7 Display"), f/k/a Toshiba Matsushita Display Technology Co., Ltd., is a Japanese company located at
8 Rivage Shinagawa, 1-8, Konan 4-chome, Minato-ku, Tokyo, 108-0075, Japan. During the Conspiracy
9 Period, said defendant manufactured, marketed, sold and/or distributed LCD Panels and LCD
10 Products sold in the United States.

11 24. Toshiba America Electronic Components, Inc. is a wholly-owned and controlled
12 subsidiary of defendant Toshiba Corporation with its corporate headquarters at 19900 MacArthur
13 Blvd., Ste. 400, Irvine, CA 92612. It is incorporated in California. During the Conspiracy Period,
14 said defendant manufactured, marketed, sold and/or distributed LCD Panels and LCD Products sold
15 in the United States.

16 25. Defendant Toshiba America Information Systems, Inc. is a wholly-owned and
17 controlled subsidiary of Toshiba America, Inc. with its principal place of business at 9470 Irvine
18 Boulevard, Irvine, California. It is incorporated in California. During the Conspiracy Period,
19 Toshiba America Information Systems, Inc. manufactured, marketed, sold and/or distributed LCD
20 Products in the United States.

21 26. Defendants Toshiba Corporation, Toshiba Mobile Display, Toshiba America
22 Electronic Components, Inc. and Toshiba America Information Systems, Inc. are referred to
23 collectively herein as "Toshiba." The Toshiba defendants were members of the conspiracy that is the
24 subject of this Complaint by virtue of the actions of their respective officers, employees, and
25 representatives acting with actual or apparent authority. Alternatively, the Toshiba defendants other
26 than Toshiba Corporation were members of the conspiracy by virtue of their status during the
27 Conspiracy Period as the alter egos or agents of Toshiba Corporation. Toshiba Corporation
28 dominated or controlled the other Toshiba Defendants regarding conspiracy activities and used that

1 domination or control to charge artificially high prices for LCD Panels.

2 **Co-Conspirators**

3 27. Various persons and entities participated as co-conspirators with defendants in the
4 violations alleged herein and performed acts and made statements in furtherance thereof. These co-
5 conspirators included at least the following entities, without limitation: LG Display, Chunghwa, Chi
6 Mei, HannStar, and Sharp.

7 28. Each defendant acted as the agent or joint venturer for the other defendants and co-
8 conspirators with respect to the acts, violations and common course of conduct alleged herein. Each
9 defendant that is a subsidiary of a foreign parent acted as the United States agent for LCD Panels
10 and/or LCD Products made by its parent company.

11 **V. KODAK'S PURCHASES OF LCD PANELS AND LCD PRODUCTS**

12 29. Between 1996 and 2006 Kodak purchased Cameras at the following locations: the
13 Kodak company headquarters in Rochester, New York; Kodak's Rochester Distribution Center;
14 Kodak's Whittier Distribution Center in Whittier, California; and the NITCO consignment facility in
15 Las Vegas, Nevada.

16 30. Between 1996 and 2006 Kodak purchased Products at the company headquarters in
17 Rochester, New York, and other locations.

18 **VI. THE MARKET FOR LCD PANELS AND LCD PRODUCTS**

19 31. During and after the Conspiracy Period, defendants, one or more of their subsidiaries,
20 and their co-conspirators sold LCD Panels in the United States through and into interstate and foreign
21 commerce, including through California, New York, and Nevada.

22 32. During the Conspiracy Period, defendants and their co-conspirators collectively
23 controlled the market for LCD Panels, both globally and in the United States.

24 33. Defendants' business activities substantially affected interstate trade and commerce in
25 the United States, and various states, and caused antitrust injury in the United States and such states.

26 34. LCD Panels were the principal form of display screen used in desktop computer
27 monitors, laptop computers and digital cameras during the Conspiracy Period.

28 35. LCD Panels have value only as components of LCD Products. The demand for LCD

1 Panels thus derives directly from the demand for LCD Products.

2 36. The market for LCD Panels and LCD Products are inextricably linked and intertwined
3 because the LCD Panel market exists to serve the markets for LCD Products. The market for LCD
4 Panels and for LCD Products are, for all intents and purposes, inseparable in that one would not exist
5 without the other.

6
7 **VII. DEFENDANTS ENGAGED IN A CONSPIRACY TO FIX THE PRICE OF LCD**
8 **PANELS**

9 **A. Defendants Engaged in Bilateral and Multi-lateral Meetings and**
10 **Communications With Competitors To Inflate Prices of LCD Panels and LCD**
11 **Products**

12 37. The LCD Panel conspiracy alleged herein was effectuated through a combination of
13 group and bilateral discussions that took place in Japan, South Korea, Taiwan, California, and
14 elsewhere in the United States. Defendants' employees engaged in frequent and continuous
15 communications with employees of their competitors in furtherance of the conspiracy, including
16 illegal exchanges of supply, production, and pricing information. The lower-level employees
17 funneled the competitive information up to their superiors, who utilized that information-along with
18 the pricing information they, themselves, were able to collect through their own illegal competitor
19 contacts-to set prices for LCD Panels at artificially-inflated levels. The constant communications
20 allowed defendants to conspire to set average prices for LCD Panels across the entire industry.

21 38. In the early years of the conspiracy, beginning in at least 1996, representatives of the
22 Japanese-based conspirators, such as Sharp and Toshiba, met and agreed to fix the prices for LCD
23 Panels generally, as well as the prices charged to specific OEMs; they also agreed to limit the amount
24 of LCD Panels each would produce.

25 39. In early 1998, high level representatives at various LCD manufacturers, including at
26 least Sharp, Toshiba, Samsung, LG Display, and Mitsubishi, met to discuss projected sales volumes.
27 The companies agreed that they needed additional meetings to head off the projected higher level of
28 competition between the companies. The companies met again later in 1998 to again discuss their
projected sales plans to limit competition between them.

40. Beginning in 1999, high level representatives of Samsung met with counterparts at LG

1 and other companies to discuss pricing trends and other aspects of the LCD Panel market.

2 41. From early 2001 through at least 2006, officials from AU Optronics, Chunghwa, Chi
3 Mei, HannStar, LG Display, and Sharp met periodically in Taiwan to discuss and reach agreements
4 on LCD Panel prices, price increases, production, and production capacity, and did in fact reach
5 agreements increasing, maintaining, and/or fixing LCD Panel prices and limiting their production.
6 These group meetings were called "Crystal Meetings." The Crystal Meetings occurred in Taiwan;
7 other similar meetings took place in South Korea, Japan, and in California and elsewhere in the
8 United States on a regular basis throughout this period.

9 42. Meetings among defendants' high-level executives were called "CEO" or "Top"
10 meetings; while those among defendants' vice presidents and senior sales executives were called
11 "Commercial" or "Operational" meetings. As described below, the conspiracy also included
12 "working level" meetings.

13 43. During these meetings, defendants and other conspirators exchanged information
14 about current and anticipated prices for their LCD Panels, and thereafter reached agreement
15 concerning the specific prices to be charged in the coming weeks and months for LCD Panels. The
16 defendants and co-conspirators set these prices in various ways, including, but not limited to, setting
17 "target" prices, "floor" prices, and the price range or differential between different sizes and types of
18 LCD Panels.

19 44. During these meetings, defendants and their co-conspirators also exchanged
20 information about supply, demand, and their production of LCD Panels, and, thereafter, reached
21 agreement concerning the volume of LCD Panels each would produce. Defendants and co-
22 conspirators limited the production of LCD Panels in various ways.

23 45. The defendants and co-conspirators also engaged in bilateral communications with
24 those defendants not attending the group meetings. Certain conspirators were "assigned" others not
25 in attendance, and agreed to and did in fact communicate with non-attending conspirators to
26 synchronize the price and production limitations agreed to at the Crystal Meetings. Participants at the
27 Crystal meetings contacted Japanese conspirators (such as Sharp and Toshiba) to relay the agreed-
28 upon pricing and production limitations. Some of these meetings and communications took place in

1 the U.S. and specifically targeted U.S. commerce and U.S. OEMs.

2 **B. Defendants' Participation in the Conspiracy**

3 46. Many defendants and co-conspirators conducted operations in California throughout
4 the Conspiracy Period, including LG Display, Toshiba, Epson, AU Optronics, Chi Mei, and
5 Chunghwa. Through their California operations, conspirators implemented their price-fixing
6 conspiracy in the United States. LG Display, Sharp, Chunghwa, and Epson specifically admitted
7 during their plea hearings that acts in furtherance of the conspiracy were carried out within
8 California. Conspirators' employees based in California engaged in bilateral and multilateral
9 communications in furtherance of the conspiracy.

10 47. In a December 11, 2006, filing with the Securities and Exchange Commission,
11 defendant LG Display disclosed for the first time that officials from the Korea Fair Trade
12 Commission and Japan Fair Trade Commission had visited the company's Seoul and Tokyo offices
13 and that the United States Department of Justice ("DOJ") had issued a subpoena to its San Jose
14 office.

15 48. On December 12, 2006, news reports indicated that LG Display, Samsung, Sharp and
16 AU Optronics were also under investigation.

17 **Epson**

18 49. Epson Japan has admitted and pleaded guilty to participating in the conspiracy with
19 unnamed co-conspirators to fix the price of LCD Panels and agreed to pay a criminal fine of \$26
20 million. Epson Japan has admitted to participating in the conspiracy from 2005 through 2006, and to
21 participating in meetings, conversations and communications in Japan and the United States to
22 discuss the prices of LCD Panels, agreeing to fix the prices of LCD Panels, and exchanging pricing
23 and sales information for the purpose of monitoring and enforcing adherence to the agreed-upon
24 prices.

25 50. Epson America was an active, knowing participant in the alleged conspiracy, and
26 acted as Epson Japan's agent for selling LCD Products in the United States.

27 **AUO & AUOA**

28 51. On or about June 10, 2010, a Superseding Indictment (the "Indictment") was handed

1 down by a grand jury in the Northern District of California against AUO and AUOA. The indictment
2 charges that the AUO entities and five of their officers or directors participated in a conspiracy to
3 inflate the price of LCD Panels.

4 52. According to the Indictment, AUO began participating in the conspiracy at least as
5 early as September 14, 2001 and continued doing so until at least December 1, 2006. AUOA began
6 participating in the conspiracy at least as early as the spring of 2003 and continued at least through
7 December 1, 2006. At least five officers and employees of AUO also participated in the conspiracy,
8 including the president of AUO.

9 53. Representatives of AUO and other Taiwanese LCD Panel manufacturers met in secret
10 in a hotel in Taipei, Taiwan and entered into the conspiracy. The conspirators agreed to meet
11 approximately once a month in the above-referenced Crystal Meetings for the purpose of fixing the
12 price of LCD Panels. Employees of AUO attended meetings with other conspirators in furtherance of
13 the conspiracy from September 14, 2001 to January 31, 2006.

14 54. After May 2005, in an effort to avoid detection, the Crystal Meeting participants
15 stopped having senior-level sales personnel meetings and began instructing lower level marketing
16 employees to continue the Crystal Meetings. In the spring of 2006, the conspirators agreed not to
17 meet as a group any longer, to avoid detection, but instead to have back-to-back, one-on-one
18 meetings with each other on a certain date each month at restaurants and cafes. Those meetings
19 continued until about December 2006.

20 55. Throughout the whole period of the conspiracy, the conspirators also had one-on-one
21 meetings to monitor each other's compliance with the prices agreed upon at the Crystal Meetings and
22 during other discussions.

23 56. Throughout the period of the conspiracy AUO senior level employees instructed
24 AUOA employees in the United States to contact employees of other LCD Panel manufacturers in the
25 United States to discuss pricing for major United States customers. Pursuant to those instructions,
26 AUOA employees had regular contact through in person meetings and phone calls with other LCD
27 Panel manufacturers in the United States to discuss and confirm and, at times, agree on pricing.
28 Those AUOA employees reported such pricing information back to AUO.

1 2004, Toshiba Matsushita, and Hitachi formed a joint venture, IPS Alpha Technology, Ltd., which
2 manufactures and sells the LCD panels for televisions. In 2006, Toshiba purchased a 20 percent
3 stake in LGD's LCD panel manufacturing facility in Poland. And in 2007, Toshiba and Sharp
4 formed a joint venture in which Toshiba agreed to provide 50 percent of Sharp's chip needs and
5 Sharp agreed to provide 40 percent of Toshiba's panel needs. The operation and management of these
6 many different joint ventures enabled Toshiba and the other defendant-joint venture partners regular
7 opportunities to communicate with each other to agree on prices, price increases, and production
8 limits and quotas for LCD panels that each defendant manufactured and sold.

9 **Sharp**

10 59. Sharp has admitted and pleaded guilty to participating in the conspiracy with unnamed
11 conspirators to fix the price of LCD Panels sold to Dell from April 2001 to December 2006, to Apple
12 Computer from September 2005 to December 2006, and to Motorola from the fall of 2005 to the
13 middle of 2006, and to participating in bilateral meetings, conversations and communications in
14 Japan and in the United States with unnamed co-conspirators to discuss the prices of LCD Panels,
15 agreeing to fix the prices of LCD Panels, and exchanging pricing and sales information for the
16 purpose of monitoring and enforcing adherence to the agreed-upon prices. Sharp has admitted that
17 acts in furtherance of the conspiracy were carried out in California. Defendant Sharp participated in
18 multiple Working Level meetings, as well as bilateral discussions with other defendants, during
19 which it discussed and reached agreements with other defendants on prices for LCD Panels during
20 the Conspiracy Period.

21 **LG Display**

22 60. LG Display has admitted and pleaded guilty to participating in the conspiracy from
23 September 2001 through June 2006 to fix the price of LCD Panels sold worldwide, including the
24 United States and California in particular, and to participating in meetings, conversations and
25 communications in Taiwan, South Korea and the United States to discuss the prices of LCD Panels,
26 agreeing to fix the prices of LCD Panels, and exchanging pricing and sales information for the
27 purpose of monitoring and enforcing adherence to the agreed-upon prices. LG Display also has
28 admitted that acts in furtherance of the conspiracy to fix the price of LCD Panels were carried out in

1 **Toshiba**

2 57. Defendant Toshiba participated in multiple bilateral discussions with other defendants,
3 including Sharp. Through these discussions, Toshiba agreed on prices, price increases, and
4 production limits and quotes for LCD panels. As alleged bellow, defendant Sharp admitted to
5 participating in bilateral meetings, conversations, and communications in Japan and the United States
6 with unnamed co-conspirators during which they fixed the prices of LCD panels sold to Apple for
7 use in iPods; and panels sold to Motorola for use in Razr phones. During this time, Toshiba was one
8 of Sharp's principal competitors in the sale of LCD panels to Dell for use in computers, as well as for
9 panels sold to Apple for use in the iPod. In fact, in the small-to-medium size LCD display market,
10 Toshiba Matsushita was ranked second (behind Sharp) in worldwide market share of the first half of
11 2005, with a 14.5 percent market share during the first quarter and a 14.1 percent market share during
12 the second quarter. Sharp could not have successfully fixed the prices of LCD panels sold to Dell or
13 Apple unless Toshiba agreed to fix prices of similar LCD panels at supra-competitive levels to those
14 two OEMS.

15 58. Toshiba also participated in the conspiracy by entering into joint venture and other
16 arrangements to manufacture or source flat panels with one or more of the defendants that attended
17 the Crystal Meetings. The purpose and effect of these joint ventures by Toshiba and others was to
18 limit the supply of LCD panels and fix prices of such panels at unreasonably high levels and to aid,
19 abet, notify and facilitate the price-fixing and production-limitation agreements reached at the
20 meetings. Toshiba sought and formed strategic partnerships with other LCD manufacturers, which
21 allowed it to easily communicate and coordinate prices and production levels with other
22 manufacturers, which allowed it to easily communicate and coordinate prices and production levels
23 with other manufacturers as part of the overall conspiracy. For instance, Toshiba formed HannStar
24 in January 1998 as a manufacturing joint venture. In 2001, Toshiba, Sharp, Matsushita, and Hitachi
25 formed a joint venture to share basic LCD research costs. In 2001, Toshiba and Matsushita formed a
26 joint venture, Advanced Flat Panel Displays, which merged their LCD operations. In April 2002,
27 Toshiba and Matsushita formed a joint venture, Toshiba Matsushita Display Technology Co., Ltd.,
28 which combined the two companies' LCD development, manufacturing, and sales operations. In

1 California. In connection with its guilty plea, LG Display has agreed to pay a fine of \$400 million.

2 61. Chung Suk "C.S." Chung, an executive of LG Display also pleaded guilty to
3 participating in the conspiracy to fix the prices of LCD Panels sold worldwide, including in the
4 United States and California in particular, from September 2001 through June 2006. Specifically, Mr.
5 Chung admitted that he participated in meetings, conversations and communications in Taiwan,
6 South Korea and the United States to discuss the prices of LCD Panels, agreed to fix the prices of
7 LCD Panels at certain predetermined levels, issued price quotations in accordance with the
8 agreements reached, exchanged pricing and sales information for the purpose of monitoring and
9 enforcing adherence to the agreed-upon prices, and authorized, ordered, and consented to the
10 participation of subordinate employees in the conspiracy. In connection with his guilty plea, Mr.
11 Chung has agreed to serve a 7-month prison term and pay a criminal fine of \$25,000.

12 62. Bock Kwon, an executive of LG Display, also pleaded guilty to participating in the
13 conspiracy to fix the prices of LCD Panels sold worldwide, including in the United States and
14 California in particular, from September 2001 through June 2006. Specifically, Mr. Kwon admitted
15 that he participated in meetings, conversations and communications in Taiwan, South Korea and the
16 United States to discuss the prices of LCD Panels, agreed to fix the prices of LCD Panels at certain
17 predetermined levels, issued price quotations in accordance with the agreements reached, exchanged
18 pricing and sales information for the purpose of monitoring and enforcing adherence to the agreed-
19 upon prices, and authorized, ordered, and consented to the participation of subordinate employees in
20 the conspiracy. In connection with his guilty plea, Mr. Kwon has agreed to serve a 12-month prison
21 term and pay a criminal fine of \$30,000.

22 63. Duk Mo Koo, former Executive Vice President and Chief Sales Officer of LG
23 Display, has been indicted for participating in the conspiracy to fix the price of LCD Panels sold
24 worldwide, including in the United States and California in particular, from December 2001 through
25 December 2005. Specifically, Mr. Koo has been charged with participating in meetings,
26 conversations and communications in Taiwan, South Korea and the United States to discuss the
27 prices of LCD Panels, including the Crystal Meetings that took place in Taiwan. Mr. Koo has also
28 been charged with agreeing to fix the prices of LCD Panels at certain predetermined levels, issuing

1 price quotations in accordance with the agreements reached, exchanging pricing and sales
2 information for the purpose of monitoring and enforcing adherence to the agreed-upon prices,
3 authorizing, ordering, and consenting to the participation of subordinate employees in the conspiracy,
4 accepting payment for the supply of LCD Panels sold at collusive, noncompetitive prices to
5 customers in the United States, and taking steps to conceal the conspiracy and his conspiratorial
6 contacts.

7 **Chunghwa**

8 64. Chunghwa has admitted and pleaded guilty to participating in the conspiracy from
9 September 2001 to December 2006 to fix the price of LCD Panels sold worldwide, including the
10 United States and California in particular, and to participating in meetings, conversations and
11 communications in Taiwan to discuss the prices of LCD Panels, agreeing to fix the prices of LCD
12 Panels, and exchanging pricing and sales information for the purpose of monitoring and enforcing
13 adherence to agreed-upon prices. Chunghwa also has admitted that acts in furtherance of the
14 conspiracy to fix the price of LCD Panels were carried out in California. In connection with its guilty
15 plea, Chunghwa has agreed to pay a criminal fine of \$65 million.

16 65. In addition, two current executives of Chunghwa, Chih-Chun "C.C." Liu and Hsueh-
17 Lung "Brian" Lee, and one former executive of Chunghwa, Chieng-Hon "Frank" Lin also pleaded
18 guilty to participating in the conspiracy from September 2001 through December 2006. Specifically,
19 Mr. Liu, Mr. Lee and Mr. Lin admitted that they participated in meetings, conversations and
20 communications in Taiwan, South Korea and the United States to discuss the prices of LCD Panels,
21 agreed to fix the prices of LCD Panels at certain predetermined levels, issued price quotations in
22 accordance with the agreements reached, exchanged pricing and sales information for the purpose of
23 monitoring and enforcing adherence to the agreed-upon prices, and authorized, ordered, and
24 consented to the participation of subordinate employees in the conspiracy. In connection with their
25 guilty plea, Mr. Lin has agreed to serve a 9-month prison term and pay a criminal fine of \$50,000;
26 Mr. Liu has agreed to serve a 7-month prison term and pay a criminal fine of \$30,000; and Mr. Lee
27 has agreed to serve a 6-month prison term and pay a criminal fine of \$20,000.

28 66. In addition, two former Chunghwa executives, Cheng Yuan Lin and Wen Jun Cheng,

1 have been indicted for participating in the conspiracy to fix the price of LCD Panels sold worldwide
2 from December 2001 through December 2005. Specifically, Mr. Lin and Mr. Cheng have been
3 charged with participating in meetings, conversations and communications in Taiwan, South Korea
4 and the United States to discuss the prices of LCD Panels, including the Crystal Meetings that took
5 place in Taiwan. Mr. Lin and Mr. Cheng have also been charged with agreeing to fix the prices of
6 LCD Panels at certain predetermined levels, issuing price quotations in accordance with the
7 agreements reached, exchanging pricing and sales information for the purpose of monitoring and
8 enforcing adherence to the agreed-upon prices, authorizing, ordering, and consenting to the
9 participation of subordinate employees in the conspiracy, accepting payment for the supply of LCD
10 Panels sold at collusive, noncompetitive prices to customers in the United States, and taking steps to
11 conceal the conspiracy and their conspiratorial contacts.

12 **HannStar**

13 On or about July 22, 2010, HannStar entered into a Plea Agreement and Joint Sentencing
14 Memorandum in this court, in case no. 3:10-cr-00498. In those documents HannStar admitted that
15 during the period September 14, 2001 through January 31, 2006, it participated in a conspiracy with
16 major LCD Panel producers, the primary purpose of which was to fix the price of LCD Panels sold
17 in the United States and elsewhere. In furtherance of the conspiracy HannStar, through its officers
18 and employees, engaged in discussions and attended meetings, including group meetings referred to
19 by some of the participants as "Crystal Meetings," with representatives of other LCD Panel
20 producers. During those discussions and meetings, agreements were reached to fix the price of LCD
21 Panels to be sold in the United States and elsewhere. In addition, during the relevant period, LCD
22 Panels sold by one or more of the conspirator firms, and equipment and supplies used in the
23 production and distribution of LCD Panels, as well as payments for LCD Panels, traveled in interstate
24 commerce and foreign commerce. HannStar further admitted that certain business activities of
25 HannStar and its co-conspirators in connection with the production and sale of LCD Panels
26 substantially affected interstate and foreign commerce.

27 **Chi Mei**

28 67. Chi Mei has admitted and pleaded guilty to participating in the conspiracy from

1 September 2001 to December 2006 to fix the price of LCD Panels sold worldwide, including the
2 United States and California in particular, and to participating in meetings, conversations and
3 communications in Taiwan to discuss the prices of LCD Panels, agreeing to fix the prices of LCD
4 Panels, and exchanging pricing and sales information for the purpose of monitoring and enforcing
5 adherence to agreed-upon prices. In connection with its guilty plea, Chi Mei has agreed to pay a
6 criminal fine of \$220 million.

7 **Allegations regarding Corporate Affiliates**

8 68. When Kodak refers to a corporate family or companies by a single name in its
9 allegations of participation in the conspiracy, it is to be understood that it is alleging that one or more
10 employees or agents of entities within the corporate family engaged in conspiratorial meetings on
11 behalf of every company in that family. In fact, the individual participants in the conspiratorial
12 meetings and discussions did not always know the corporate affiliation of their counterparts, nor did
13 they distinguish between the entities within a corporate family. The individual participants entered
14 into agreements on behalf of, and reported these meetings and discussions to, their respective
15 corporate families. As a result, the entire corporate family was represented in meetings and
16 discussions by their agents and were parties to the agreements reached in them. Furthermore, to the
17 extent that subsidiaries within the corporate families distributed LCD Panels or LCD Products to
18 purchasers, these subsidiaries played a significant role in the conspiracy because defendants wished
19 to ensure that the prices for such products paid by purchasers would not undercut the pricing
20 agreements reached at these various meetings. Thus, all entities within the corporate families were
21 active, knowing participants in the alleged conspiracy.

22 **C. Conspiracy's Effect on U.S. Commerce**

23 69. Defendants' illegal conduct involved U.S. import trade or import commerce.
24 Defendants sent price-fixed LCD Panels to the facilities of manufacturers knowing that the resulting
25 LCD Products would be imported into the United States. Because of the importance of the U.S.
26 market to defendants and their co-conspirators, LCD Panels and LCD Products intended for
27 importation into and ultimate consumption in the United States were a focus of defendants' illegal
28 conduct. This conduct by defendants was meant to produce and did produce a substantial effect in

1 the United States in the form of artificially-inflated prices for LCD Panels and LCD Products.

2 70. Conspirators who have entered guilty pleas in connection with the LCD conspiracy
3 have acknowledged that their illegal activities impacted imports into the United States and had a
4 substantial effect on American import trade and import commerce. Those defendants have expressly
5 admitted that “[LCD Panels] affected by [their] conspiracy [were] sold by one or more of the
6 conspirators to customers in [the Northern District of California].”

7 71. For the reasons set forth above, defendants’ illegal conduct involved import trade or
8 import commerce into the United States.

9 72. All of the above facts also demonstrate that defendants’ illegal activities had a direct,
10 substantial, and reasonably foreseeable effect on U.S. commerce.

11 **VIII. PLAINTIFF’S INJURIES**

12 73. Kodak purchased Cameras and Products from OEMs, which in turn purchased LCD
13 Panels from defendants and their co-conspirators. Defendants’ conspiracy affected and artificially
14 inflated the price of LCD Panels purchased by these OEMs, which paid higher prices for LCD Panels
15 than they would have absent the conspiracy. The OEMs passed on to Kodak the overcharges caused
16 by defendants’ conspiracy. Defendants’ conspiracy artificially inflated the price of LCD Panels
17 incorporated into Cameras and Products causing Kodak to pay higher prices than it would have paid
18 in the absence of defendants’ conspiracy. As a result, Kodak suffered a direct, substantial, and
19 reasonably foreseeable injury as a purchaser of both Cameras and Products.

20 **IX. DEFENDANT’ CONCEALED THEIR CONSPIRACY TO FIX THE PRICE OF LCD**
21 **PANELS**

22 74. Kodak did not discover and could not have discovered, through the exercise of
23 reasonable diligence, the existence of the conspiracy alleged herein until after December 11, 2006,
24 when the existence of investigations by the DOJ and other antitrust regulators became public, because
25 defendants and their co-conspirators actively and fraudulently concealed the existence of the
26 conspiracy. Because defendants’ conspiracy was kept secret, Kodak was unaware of defendants’
27 unlawful conduct and did not know that it was paying artificially high prices for Cameras and
28 . Products.

1 75. By its very nature, defendants' price-fixing conspiracy was inherently self-concealing.
2 As alleged above, defendants had secret discussions about price and output. Defendants agreed not to
3 publicly discuss the existence or the nature of their agreement. During these meetings, top executives
4 and other officials attending these meetings were instructed on more than one occasion not to disclose
5 the fact of these meetings to outsiders, or even to other employees of defendants not involved in LCD
6 Panel pricing or production.

7 **X. VIOLATIONS ALLEGED**

8 **First Claim For Relief**

9 **(Violation Of Sherman Act Against All Defendants)**

10 76. Kodak incorporates and re-alleges, as though fully set forth herein, each and every
11 allegation set forth in the preceding paragraphs of this Complaint.

12 77. Beginning at a time presently unknown to Kodak, but at least as early as January 1,
13 1996 and continuing through at least December 11, 2006, the exact dates being unknown to Kodak,
14 defendants and their co-conspirators entered into a continuing agreement, understanding, and
15 conspiracy in restraint of trade to artificially raise, fix, maintain, and/or stabilize prices for LCD
16 Panels in the United States, in violation of Section 1 of the Sherman Act, 15 U.S.C. §1.

17 78. The combination and conspiracy alleged herein has had the following effects, among
18 others:

- 19 a. Price competition in the sale of LCD Panels has been restrained, suppressed, and/or
20 eliminated in the United States;
- 21 b. Prices for LCD Panels and LCD Products sold by defendants, their co-conspirators,
22 and others have been fixed, raised, maintained and stabilized at artificially high, supra-
23 competitive levels throughout the United States; and
- 24 c. Those who purchased LCD Panels or LCD Products produced by defendants, their co-
25 conspirators, and others have been deprived of the benefits of free and open
26 competition.

27 79. Kodak has been injured in its business and property by being forced to pay more for
28 the Cameras and Products than it would have paid in the absence of defendants' conspiracy.

80. Defendants' and their co-conspirators' conduct involved U.S. import trade or commerce and/or had a direct, substantial, and reasonably foreseeable effect on U.S. domestic and import trade or commerce.

81. Because defendants continue to manufacture LCD Panels, the market for production and sale of LCD Panels remains highly concentrated and susceptible to collusion, defendants continue to have the incentive to collude to increase LCD Panel prices or stabilize LCD Panel price declines, and because defendants' conspiracy to fix the price of LCD Panels could be easily repeated and concealed from Kodak, Kodak faces a serious risk of future injury, and is entitled to an injunction under Section 16 of the Clayton Act, 15 U.S.C. § 26 against all defendants, preventing and restraining the violations alleged herein.

Second Claim For Relief

(Violation Of California Antitrust Law)

82. Kodak incorporates and re-alleges, as though fully set forth herein, each and every allegation set forth in the preceding paragraphs of this Complaint.

83. By reason of the foregoing, defendants have entered into agreements in restraint of trade in violation of the California Business and Professions Code § 16720, et seq. (the “Cartwright Act”).

84. During the Conspiracy Period, Kodak purchased Cameras and Products in California.

85. Defendants and co-conspirators engaged and participated in the conspiracy through their offices and operations in California. LG Display, Chunghwa and Sharp all admitted in their plea agreements that acts in furtherance of the conspiracy to fix the price of LCD Panels were carried out in California. AU Optronics, Chi Mei, Epson, LG Display, Samsung and Toshiba all maintained offices in California during the Conspiracy Period. Employees at defendants' locations in California participated in meetings and engaged in bilateral communications in California and intended to and did carry out defendants' anticompetitive agreement to fix the price of LCD Panels. Defendants also participated in the conspiracy in the U.S. through their California offices by providing information obtained through meetings with other defendants to employees in their California offices for those California employees to use in the course of fixing prices in negotiations with U.S. customers.

1 86. Beginning at a time presently unknown to Kodak, but at least as early as January 1,
2 1996, and continuing thereafter up to and including at least December 11, 2006, defendants and their
3 co-conspirators entered into and engaged in a continuing unlawful trust in restraint of the trade and
4 commerce described above in violation of the Cartwright Act. Defendants and their co-conspirators
5 have each acted in violation of Section 16720 to fix, raise, stabilize and maintain prices of, and
6 allocate markets for, LCD Panels at supra-competitive levels. Defendants' conduct substantially
7 affected California commerce.

8 87. For the purpose of forming and effectuating an unlawful trust, defendants and their co-
9 conspirators agreed to and did

- 10 a. fix, raise, maintain and stabilize the price of LCD Panels;
- 11 b. allocate markets for LCD Panels amongst themselves;
- 12 c. submit rigged bids for the award and performance of certain LCD Panels contracts;
- 13 and
- 14 d. allocate among themselves the production of LCD Panels.

15 88. The combination and conspiracy alleged herein has had, inter alia, the following
16 effects:

- 17 a. price competition in the sale of LCD Panels has been restrained, suppressed and/or
18 eliminated in the State of California;
- 19 b. prices for LCD Panels and LCD Products sold by defendants, their co-conspirators,
20 and others have been fixed, raised, maintained and stabilized at artificially high, non-
21 competitive levels in the State of California; and
- 22 c. those who purchased LCD Panels or LCD Products from defendants, their co-
23 conspirators, and others have been deprived of the benefit of free and open
24 competition.

25 89. During the Conspiracy Period, Kodak purchased Cameras and Products in California
26 containing LCD Panels manufactured by defendants or their co-conspirators, the price of which was
27 artificially-inflated because of defendants' conspiracy.

28 90. As a direct and proximate result of defendants' conduct, Kodak has been injured in its

1 business and property by paying more for Cameras and Product purchased in California than it would
2 have paid in the absence of defendants' combination and conspiracy. As a result of defendants'
3 conduct, Kodak is entitled to treble damages and the costs of suit, including reasonable attorneys'
4 fees, pursuant to Section 16750(a) of the California Business and Professions Code.

5 **Third Claim For Relief**

6 **(Violation Of Nevada Antitrust Law)**

7 91. Kodak incorporates and re-alleges, as though fully set forth herein, each and every
8 allegation set forth in the preceding paragraphs of this Complaint.

9 92. By reason of the foregoing, defendants entered into agreements in restraint of trade in
10 violation of Nevada Rev. Stat. Ann. §§ 598A et seq. Defendants' conspiracy restrained, suppressed
11 and/or eliminated competition in the sale of LCD Panels, fixed, raised and stabilized the prices of
12 LCD Panels included in LCD Products sold in Nevada at artificially high, non-competitive levels.

13 93. During the Conspiracy Period, Kodak purchased Cameras and Products in Nevada
14 containing LCD Panels manufactured by defendants or their co-conspirators, the price of which was
15 artificially-inflated because of defendants' conspiracy.

16 94. During the Conspiracy Period, Kodak conducted a substantial volume of business in
17 Nevada. As a result of its presence in Nevada and the substantial business it conducted in Nevada,
18 Kodak is entitled to the protection of the laws of Nevada.

19 95. As a direct and proximate result of defendants' conduct, Kodak has been injured in its
20 business and property by paying more for LCD Products purchased in Nevada than it would have
21 paid in the absence of defendants' combination and conspiracy, and is entitled to relief under Nevada
22 Rev. Stat. Ann. §§ 598A et seq.

23 **Fourth Claim For Relief**

24 **(Violation Of New York Antitrust Law)**

25 96. Kodak incorporates and re-alleges, as though fully set forth herein, each and every
26 allegation set forth in the preceding paragraphs of this Complaint.

27 97. By reason of the foregoing, defendants have entered into agreements in restraint of
28 trade in violation of New York General Business Law §§ 340 et seq. Defendants' conspiracy

1 restrained, suppressed and/or eliminated competition in the sale of LCD Panels in New York and
2 fixed, raised, maintained and stabilized the price of LCD Panels included in LCD Products sold in
3 New York at artificially high, non-competitive levels.

4 98. Defendants' conspiracy substantially affected New York commerce.

5 99. During the Conspiracy Period, Kodak purchased Cameras and Products containing
6 LCD Panels manufactured by defendants or their co-conspirators and sold at artificially-inflated
7 prices because of defendants' price fixing conspiracy. Kodak purchased such Cameras and Products
8 in New York.

9 100. During the Conspiracy Period, Kodak conducted a substantial volume of business in
10 New York. As a result, Kodak is entitled to the protection of the laws of New York.

11 101. As a direct and proximate result of defendants' conduct, Kodak has been injured in its
12 business and property by paying more for LCD Products purchased in New York than it would have
13 paid in the absence of defendants' combination and conspiracy, and is entitled to relief under New
14 York General Business Law §§ 340 et seq.

15 **XI. PRAYER FOR RELIEF**

16 WHEREFORE, Kodak requests:

17 A. That the unlawful agreement, conduct, contract, conspiracy or combination alleged
18 herein be adjudged and decreed to be:

19 i. A restraint of trade or commerce in violation of Section 1 of the Sherman Act, as
20 alleged in the First Claim for Relief; and

21 ii. An unreasonable restraint of trade or commerce in violation of the Cartwright
22 Act, and the laws of Nevada and New York; and

23 B. That Kodak recover damages, as provided by the laws of California, Nevada and New
24 York, and that a judgment be entered in favor of Kodak against defendants, jointly and severally, in
25 an amount to be trebled in accordance with such laws;

26 C. That Kodak obtain any other penalties, punitive or exemplary damages, or
27 compensation that the laws of the respective states identified herein permit;

28 D. That defendants, their affiliates, successors, transferees, assignees, and the officers,

1 directors, partners, agents, and employees thereof, and all other persons acting or claiming to act on
2 their behalf, be permanently enjoined and restrained from in any manner continuing, maintaining, or
3 renewing the conspiracy alleged herein, or from entering into any other conspiracy or combination
4 having a similar purpose or effect, and from adopting or following any practice or plan having a
5 similar purpose or effect;

6 F. That Kodak be awarded pre- and post-judgment interest, and that such interest be
7 awarded at the highest legal rate from and after the earliest date allowed by law;

8 G. That Kodak recover its costs and disbursements of this suit, including reasonable
9 attorneys' fees as provided by law; and,

10 H. That Kodak be awarded such other, further, and different relief as the case may require
11 and the Court may deem just and proper under the circumstances.

12 **XII. JURY TRIAL DEMAND**

13 Pursuant to Federal Rules of Civil Procedure Rule 38(b), Kodak demands a trial by jury for all
14 issues so triable.

15 DATED: December 1, 2010

Respectfully submitted,

NIXON PEABODY LLP

By: 

Karl D. Belgum

Counsel for Eastman Kodak Company