

1 CHRISTOPHER A. NEDEAU (CA SBN 81297)
 2 CARL L. BLUMENSTEIN (CA SBN 124158)
 3 PATRICK J. RICHARD (CA SBN 131046)
 4 KATHARINE CHAO (CA SBN 247571)
 5 NOSSAMAN LLP
 6 50 California Street, 34th Floor
 7 San Francisco, CA 94111
 8 Telephone: 415.398.3600
 9 Facsimile: 415.398.2438
 10 cnebeau@nossaman.com
 11 cblumenstein@nossaman.com
 12 prichard@nossaman.com
 13 kchao@nossaman.com

9 Attorneys for Defendants
 10 AU OPTRONICS CORPORATION and
 11 AU OPTRONICS CORPORATION AMERICA

11 [additional defendants on signature page]

12 UNITED STATES DISTRICT COURT
 13
 14 NORTHERN DISTRICT OF CALIFORNIA – SAN FRANCISCO DIVISION

15 THIS DOCUMENT RELATES TO:

Case No. 3:10-CV-5452 SI

16 3:10-CV-5452 SI

MDL NO. 3:07-MD-1827 SI

18 EASTMAN KODAK COMPANY

19 Plaintiff,

**DEFENDANT AU OPTRONICS
 CORPORATION’S AND AU OPTRONICS
 CORPORATION AMERICA’S ANSWER
 TO PLAINTIFF’S FIRST AMENDED
 COMPLAINT**

20 vs.

21 EPSON IMAGING DEVICES CORPORATION,
 22 et al,

23 Defendants.

24
 25
 26
 27
 28

1 Defendants AU Optronics Corporation and AU Optronics Corporation America, Inc.
2 (collectively the “AUO Defendants”), by and through their undersigned counsel, hereby answer the
3 Plaintiff’s First Amended Complaint (“FAC”), and state as follows:

4 1. Defendants lack personal knowledge or information sufficient to form a belief as to the
5 truth of the allegations contained in Paragraph 1 of the FAC, and therefore deny these allegations.

6 2. To the extent the allegations in Paragraph 2 of the FAC relate to other Defendants, and/or
7 third parties, the AUO Defendants lack personal knowledge or information sufficient to form a belief as
8 to their truth and therefore deny them. To the extent the allegations in Paragraph 2 relate to the AUO
9 Defendants, the AUO Defendants deny them.

10 3. To the extent the allegations in Paragraph 3 of the FAC are derived from public records
11 or statements by/to government authorities or a Defendant, those records or statements speak for
12 themselves and no response is required. To the extent the allegations in Paragraph 3 may be deemed to
13 require a response, and these allegations relate to other Defendants, the AUO Defendants lack personal
14 knowledge or information sufficient to form a belief as to their truth and therefore deny them. With
15 respect to the second to last sentence in Paragraph 3, the AUO Defendants admit the fact of the
16 indictment but dispute the truth of the allegations underlying the indictment. The AUO Defendants
17 otherwise deny Paragraph 3.

18 4. To the extent the allegations in Paragraph 4 of the FAC relate to other Defendants, the
19 AUO Defendants lack personal knowledge or information sufficient to form a belief as to their truth and
20 therefore deny them. To the extent the allegations in Paragraph 4 relate to the AUO Defendants, the
21 AUO Defendants deny them.

22 5. Paragraph 5 of the FAC consists of Plaintiff’s description of its claims and legal
23 conclusions to which no response is required. To the extent a response is deemed required, the AUO
24 Defendants deny the allegations in Paragraph 5 and deny that Plaintiff is entitled to any of the relief it
25 seeks.

26 6. Paragraph 6 of the FAC consists of legal conclusions to which no response is required.
27 To the extent that a response is deemed required, the AUO Defendants lack personal knowledge or
28

1 information sufficient to form a belief as to the truth of the allegations in Paragraph 6 and therefore deny
2 them.

3 7. Paragraph 7 of the FAC consists of legal conclusions to which no response is required.
4 To the extent that a response is deemed required, the AUO Defendants lack personal knowledge or
5 information sufficient to form a belief as to the truth of the allegations in Paragraph 7 and therefore deny
6 them, except that AU Optronics Corporation America, Inc. admits that it maintains an office in
7 California.

8 8. Paragraph 8 of the FAC consists of legal conclusions to which no response is required.
9 To the extent that a response is deemed required, the AUO Defendants lack personal knowledge or
10 information sufficient to form a belief as to the truth of the allegations in Paragraph 8 and therefore deny
11 them.

12 9. Paragraph 9 consists of legal conclusions, to which no response is required. To the extent
13 that the allegations contained in Paragraph 9 may be deemed to require a response from the AUO
14 Defendants, said Defendants deny these allegations, except admit that Plaintiff's action was consolidated
15 and assigned to the San Francisco Division of the United States District Court for the Northern District
16 of California, Judge Susan Illston presiding.

17 10. The AUO Defendants admit that the first two sentences of Paragraph 10 of the FAC
18 generally describe some basic aspects of the nature, technology, and means of manufacturing TFT-LCD
19 panels, modules, and appliances containing TFT-LCD panels, but deny that this description is
20 comprehensive or entirely accurate. Defendants deny the remaining allegations in Paragraph 10 of the
21 FAC.

22 11. Paragraph 11 of the FAC contains no factual averment – accordingly, no response is
23 required to that Paragraph.

24 12. Paragraph 12 of the FAC contains no factual averment – accordingly, no response is
25 required to that Paragraph.

26 13. Paragraph 13 of the FAC contains no factual averment – accordingly, no response is
27 required to that Paragraph.

1 14. Paragraph 14 of the FAC contains no factual averment – accordingly, no response is
2 required to that Paragraph.

3 15. The AUO Defendants lack knowledge or information sufficient to form a belief as to the
4 truth of the allegations in Paragraph 15 of the FAC, and therefore deny them.

5 16. With respect to Paragraph 16 of the FAC, the AUO Defendants admit that AU Optronics
6 Corporation manufactures LCD panels and that it has its corporate headquarters at No. 1, Li-Hsin Rd. 2,
7 Hsinchu Science Park, Hsinchu 30078, Taiwan. Except as otherwise specifically admitted, the AUO
8 Defendants deny the allegations in Paragraph 16.

9 17. With respect to Paragraph 17 of the FAC, The AUO Defendants admit that AU Optronics
10 Corporation America maintains its principal place of business at 9720 Cypresswood Drive, Suite 241,
11 Houston, Texas, that it is incorporated in California and that it is a wholly but indirectly owned
12 subsidiary of AU Optronics Corporation. Except as specifically admitted, the AUO Defendants deny the
13 allegations in Paragraph 17.

14 18. AUO Defendants deny the allegations in Paragraph 18 of the FAC.

15 19. AUO Defendants lack personal knowledge or information sufficient to form a belief as to
16 the truth of the allegations in Paragraph 19 of the FAC and therefore deny them.

17 20. AUO Defendants lack personal knowledge or information sufficient to form a belief as to
18 the truth of the allegations in Paragraph 20 of the FAC and therefore deny them.

19 21. AUO Defendants lack personal knowledge or information sufficient to form a belief as to
20 the truth of the allegations in Paragraph 21 of the FAC and therefore deny them.

21 22. AUO Defendants lack personal knowledge or information sufficient to form a belief as to
22 the truth of the allegations in Paragraph 22 of the FAC and therefore deny them.

23 23. AUO Defendants lack personal knowledge or information sufficient to form a belief as to
24 the truth of the allegations in Paragraph 23 of the FAC and therefore deny them.

25 24. AUO Defendants lack personal knowledge or information sufficient to form a belief as to
26 the truth of the allegations in Paragraph 24 of the FAC and therefore deny them.

27 25. AUO Defendants lack personal knowledge or information sufficient to form a belief as to
28 the truth of the allegations in Paragraph 25 of the FAC and therefore deny them.

1 26. To the extent the allegations in Paragraph 26 of the FAC relate to other Defendants
2 and/or third parties, the AUO Defendants lack personal knowledge or information sufficient to form a
3 belief as to their truth and therefore deny them. To the extent the allegations in Paragraph 26 of the
4 FAC are directed to the AUO Defendants, they are denied.

5 27. To the extent the allegations in Paragraph 27 of the FAC relate to other Defendants
6 and/or third parties, the AUO Defendants lack personal knowledge or information sufficient to form a
7 belief as to their truth and therefore deny them. To the extent the allegations in Paragraph 27 of the
8 FAC are directed to the AUO Defendants, they are denied.

9 28. To the extent the allegations in Paragraph 28 of the FAC relate to other Defendants
10 and/or third parties, the AUO Defendants lack personal knowledge or information sufficient to form a
11 belief as to their truth and therefore deny them. To the extent the allegations in Paragraph 28 of the
12 FAC are directed to the AUO Defendants, they are denied.

13 29. The AUO Defendants lack personal knowledge or information sufficient to form a belief
14 as to the truth of the allegations contained in Paragraph 29 of the FAC, and therefore deny them.

15 30. To the extent the allegations in Paragraph 30 of the FAC relate to other Defendants
16 and/or third parties, the AUO Defendants lack personal knowledge or information sufficient to form a
17 belief as to their truth and therefore deny them. To the extent the allegations in Paragraph 30 relate to the
18 AUO Defendants, the AUO Defendants deny them.

19 31. To the extent the allegations in Paragraph 31 of the FAC relate to other Defendants
20 and/or third parties, the AUO Defendants lack personal knowledge or information sufficient to form a
21 belief as to their truth and therefore deny them. To the extent the allegations in Paragraph 31 of the
22 FAC are directed to the AUO Defendants, they are denied.

23 32. To the extent the allegations in Paragraph 32 of the FAC relate to other Defendants
24 and/or third parties, the AUO Defendants lack personal knowledge or information sufficient to form a
25 belief as to their truth and therefore deny them. To the extent the allegations in Paragraph 32 of the
26 FAC are directed to the AUO Defendants, they are denied.

27 33. The AUO Defendants lack personal knowledge or information sufficient to form a belief
28 as to the truth of the allegations contained in Paragraph 33 of the FAC and therefore deny them.

1 34. The AUO Defendants lack personal knowledge or information sufficient to form a belief
2 as to the truth of the allegations contained in Paragraph 34 of the FAC and therefore deny them.

3 35. The AUO Defendants lack personal knowledge or information sufficient to form a belief
4 as to the truth of the allegations contained in Paragraph 35 of the FAC and therefore deny them.

5 36. To the extent the allegations in Paragraph 36 of the FAC relate to other Defendants
6 and/or third parties, the AUO Defendants lack personal knowledge or information sufficient to form a
7 belief as to their truth and therefore deny them. To the extent the allegations in Paragraph 36 of the
8 FAC are directed to the AUO Defendants, they are denied.

9 37. To the extent the allegations in Paragraph 37 of the FAC relate to other Defendants
10 and/or third parties, the AUO Defendants lack personal knowledge or information sufficient to form a
11 belief as to their truth and therefore deny them. To the extent the allegations in Paragraph 37 of the
12 FAC are directed to the AUO Defendants, they are denied.

13 38. To the extent the allegations in Paragraph 38 of the FAC relate to other Defendants
14 and/or third parties, the AUO Defendants lack personal knowledge or information sufficient to form a
15 belief as to their truth and therefore deny them. To the extent the allegations in Paragraph 38 of the
16 FAC are directed to the AUO Defendants, they are denied.

17 39. To the extent the allegations in Paragraph 39 of the FAC relate to other Defendants
18 and/or third parties, the AUO Defendants lack personal knowledge or information sufficient to form a
19 belief as to their truth and therefore deny them. To the extent the allegations in Paragraph 39 of the
20 FAC are directed to the AUO Defendants, they are denied.

21 40. To the extent the allegations in Paragraph 40 of the FAC relate to other Defendants
22 and/or third parties, the AUO Defendants lack personal knowledge or information sufficient to form a
23 belief as to their truth and therefore deny them. To the extent the allegations in Paragraph 40 of the
24 FAC are directed to the AUO Defendants, they are denied.

25 41. To the extent the allegations in Paragraph 41 of the FAC relate to other Defendants
26 and/or third parties, the AUO Defendants lack personal knowledge or information sufficient to form a
27 belief as to their truth and therefore deny them. To the extent the allegations in Paragraph 41 of the
28 FAC are directed to the AUO Defendants, they are denied.

1 42. To the extent the allegations in Paragraph 42 of the FAC relate to other Defendants
2 and/or third parties, the AUO Defendants lack personal knowledge or information sufficient to form a
3 belief as to their truth and therefore deny them. To the extent the allegations in Paragraph 42 of the
4 FAC are directed to the AUO Defendants, they are denied.

5 43. To the extent the allegations in Paragraph 43 of the FAC relate to other Defendants
6 and/or third parties, the AUO Defendants lack personal knowledge or information sufficient to form a
7 belief as to their truth and therefore deny them. To the extent the allegations in Paragraph 43 of the
8 FAC are directed to the AUO Defendants, they are denied.

9 44. To the extent the allegations in Paragraph 44 of the FAC relate to other Defendants
10 and/or third parties, the AUO Defendants lack personal knowledge or information sufficient to form a
11 belief as to their truth and therefore deny them. To the extent the allegations in Paragraph 44 of the
12 FAC are directed to the AUO Defendants, they are denied.

13 45. To the extent the allegations in Paragraph 45 of the FAC relate to other Defendants
14 and/or third parties, the AUO Defendants lack personal knowledge or information sufficient to form a
15 belief as to their truth and therefore deny them. To the extent the allegations in Paragraph 45 of the
16 FAC are directed to the AUO Defendants, they are denied.

17 46. To the extent the allegations in Paragraph 46 of the FAC relate to other Defendants
18 and/or third parties, the AUO Defendants lack personal knowledge or information sufficient to form a
19 belief as to their truth and therefore deny them. To the extent the allegations in Paragraph 46 of the
20 FAC are directed to the AUO Defendants, they are denied.

21 47. The AUO Defendants lack personal knowledge or information sufficient to form a belief
22 as to the truth of the allegations contained in the first sentence of Paragraph 47 of the FAC, and therefore
23 deny them. With respect to the second sentence of Paragraph 47, the AUO Defendants admit that AU
24 Optronics Corporation had commenced production of certain LCD panels by 2003.

25 48. To the extent the allegations in Paragraph 48 of the FAC relate to other Defendants
26 and/or third parties, the AUO Defendants lack personal knowledge or information sufficient to form a
27 belief as to their truth and therefore deny them. To the extent the allegations in Paragraph 48 of the
28 FAC are directed to the AUO Defendants, they are denied.

1 49. To the extent the allegations in Paragraph 49 of the FAC relate to other Defendants
2 and/or third parties, the AUO Defendants lack personal knowledge or information sufficient to form a
3 belief as to their truth and therefore deny them. To the extent the allegations in Paragraph 49 of the
4 FAC are directed to the AUO Defendants, they are denied.

5 50. The AUO Defendants deny the allegations of Paragraph 50 of the FAC.

6 51. To the extent the allegations in Paragraph 51 of the FAC relate to other Defendants
7 and/or third parties, the AUO Defendants lack personal knowledge or information sufficient to form a
8 belief as to their truth and therefore deny them. To the extent the allegations in Paragraph 51 of the
9 FAC are directed to the AUO Defendants, they are denied.

10 52. The AUO Defendants lack personal knowledge or information sufficient to form a belief
11 as to the truth of the allegations contained in Paragraph 52 of the FAC, and therefore deny them.

12 53. The AUO Defendants lack personal knowledge or information sufficient to form a belief
13 as to the truth of the allegations contained in Paragraph 53 of the FAC, and therefore deny them.

14 54. The AUO Defendants deny the allegations in Paragraph 54 of the FAC. Further, to the
15 extent the allegations in Paragraph 54 are based upon statements/communications by or attributed to the
16 AUO Defendants, the contents of those statements/communications (to the extent they occurred) speak
17 for themselves.

18 55. The AUO Defendants lack personal knowledge or information sufficient to form a belief
19 as to the truth of the allegations contained in Paragraph 55 of the FAC, and therefore deny them.

20 56. To the extent the allegations in Paragraph 56 of the FAC relate to other Defendants
21 and/or third parties, the AUO Defendants lack personal knowledge or information sufficient to form a
22 belief as to their truth and therefore deny them. To the extent the allegations in Paragraph 56 of the
23 FAC are directed to the AUO Defendants, they are denied.

24 57. To the extent the allegations in Paragraph 57 of the FAC relate to other Defendants
25 and/or third parties, the AUO Defendants lack personal knowledge or information sufficient to form a
26 belief as to their truth and therefore deny them. To the extent the allegations in Paragraph 57 of the
27 FAC are directed to the AUO Defendants, they are denied
28

1
2 58. To the extent the allegations in Paragraph 58 of the FAC relate to other Defendants
3 and/or third parties, the AUO Defendants lack personal knowledge or information sufficient to form a
4 belief as to their truth and therefore deny them. To the extent the allegations in Paragraph 58 of the
5 FAC are directed to the AUO Defendants, they are denied, except the AUO Defendants admit that
6 Defendant AU Optronics Corporation America maintains and has maintained an office in California.

7 59. To the extent the allegations in Paragraph 59 of the FAC are derived from statements
8 by/to government authorities, news reports and/or statements in public documents, these statements or
9 reports speak for themselves and no response is required. To the extent that the allegations contained in
10 Paragraph 59 may be deemed to require a response, the AUO Defendants lack personal knowledge and
11 information sufficient to form a belief as to the truth of the allegations contained in Paragraph 59 and
12 therefore deny them.

13 60. To the extent the allegations in Paragraph 60 of the FAC are derived from statements
14 by/to government authorities, news reports and/or statements in public documents, these statements or
15 reports speak for themselves and no response is required. To the extent that the allegations contained in
16 Paragraph 60 may be deemed to require a response, the AUO Defendants lack personal knowledge and
17 information sufficient to form a belief as to the truth of the allegations contained in Paragraph 60 and
18 therefore deny them.

19 61. To the extent the allegations in Paragraph 61 of the FAC relate to other Defendants
20 and/or third parties, the AUO Defendants lack personal knowledge or information sufficient to form a
21 belief as to their truth and therefore deny them. To the extent the allegations in Paragraph 61 of the
22 FAC are directed to the AUO Defendants, they are denied.

23 62. To the extent the allegations in Paragraph 62 of the FAC are derived from statements
24 by/to government authorities, news reports and/or statements in public documents, these statements or
25 reports speak for themselves and no response is required. To the extent that the allegations contained in
26 Paragraph 62 may be deemed to require a response, the AUO Defendants lack personal knowledge and
27 information sufficient to form a belief as to the truth of the allegations contained in Paragraph 62 and
28 therefore deny them.

1 63. To the extent the allegations in Paragraph 63 of the FAC relate to other Defendants
2 and/or third parties, the AUO Defendants lack personal knowledge or information sufficient to form a
3 belief as to their truth and therefore deny them. To the extent the allegations in Paragraph 63 of the
4 FAC are directed to the AUO Defendants, they are denied.

5 64. The AUO Defendants deny the allegations in Paragraph 64 of the FAC.

6 65. The AUO Defendants deny the allegations in Paragraph 65 of the FAC.

7 66. The AUO Defendants deny the allegations in Paragraph 66 of the FAC.

8 67. The AUO Defendants admit the fact of the Superseding Indictment, but deny the truth of
9 the indictment's underlying allegations. The terms of the indictment speak for themselves.

10 68. To the extent the allegations in Paragraph 68 of the FAC relate to other Defendants
11 and/or third parties, the AUO Defendants lack personal knowledge or information sufficient to form a
12 belief as to their truth and therefore deny them. To the extent the allegations in Paragraph 68 of the
13 FAC are directed to the AUO Defendants, they are denied.

14 69. To the extent the allegations in Paragraph 69 of the FAC relate to other Defendants
15 and/or third parties, the AUO Defendants lack personal knowledge or information sufficient to form a
16 belief as to their truth and therefore deny them. To the extent the allegations in Paragraph 69 of the
17 FAC are directed to the AUO Defendants, they are denied.

18 70. To the extent the allegations in Paragraph 70 of the FAC relate to other Defendants
19 and/or third parties, the AUO Defendants lack personal knowledge or information sufficient to form a
20 belief as to their truth and therefore deny them. To the extent the allegations in Paragraph 70 of the
21 FAC are directed to the AUO Defendants, they are denied.

22 71. To the extent the allegations in Paragraph 71 of the FAC relate to other Defendants
23 and/or third parties, the AUO Defendants lack personal knowledge or information sufficient to form a
24 belief as to their truth and therefore deny them. To the extent the allegations in Paragraph 71 of the
25 FAC are directed to the AUO Defendants, they are denied.

26 72. To the extent the allegations in Paragraph 72 of the FAC are derived from statements
27 by/to government authorities, news reports and/or statements in public documents, these statements or
28 reports speak for themselves and no response is required. To the extent a response is required and the

1 allegations in Paragraph 72 of the FAC relate to other Defendants and/or third parties, the AUO
2 Defendants lack personal knowledge or information sufficient to form a belief as to their truth and
3 therefore deny them. To the extent a response is required and the allegations in Paragraph 72 of the
4 FAC are directed to the AUO Defendants, they are denied.

5 73. To the extent the allegations in Paragraph 73 of the FAC are derived from statements
6 by/to government authorities, news reports and/or statements in public documents, these statements or
7 reports speak for themselves and no response is required. To the extent a response is required and the
8 allegations in Paragraph 73 of the FAC relate to other Defendants and/or third parties, the AUO
9 Defendants lack personal knowledge or information sufficient to form a belief as to their truth and
10 therefore deny them. To the extent the allegations in Paragraph 73 of the FAC are directed to the AUO
11 Defendants, they are denied.

12 74. To the extent the allegations in Paragraph 74 of the FAC are derived from statements
13 by/to government authorities, news reports and/or statements in public documents, these statements or
14 reports speak for themselves and no response is required. To the extent a response is required and the
15 allegations in Paragraph 74 of the FAC relate to other Defendants and/or third parties, the AUO
16 Defendants lack personal knowledge or information sufficient to form a belief as to their truth and
17 therefore deny them. To the extent the allegations in Paragraph 74 of the FAC are directed to the AUO
18 Defendants, they are denied.

19 75. To the extent the allegations in Paragraph 75 of the FAC are derived from statements
20 by/to government authorities, news reports and/or statements in public documents, these statements or
21 reports speak for themselves and no response is required. To the extent a response is required and the
22 allegations in Paragraph 75 of the FAC relate to other Defendants and/or third parties, the AUO
23 Defendants lack personal knowledge or information sufficient to form a belief as to their truth and
24 therefore deny them. To the extent the allegations in Paragraph 75 of the FAC are directed to the AUO
25 Defendants, they are denied.

26 76. To the extent the allegations in Paragraph 76 of the FAC are derived from statements
27 by/to government authorities, news reports and/or statements in public documents, these statements or
28 reports speak for themselves and no response is required. To the extent a response is required and the

1 allegations in Paragraph 76 of the FAC relate to other Defendants and/or third parties, the AUO
2 Defendants lack personal knowledge or information sufficient to form a belief as to their truth and
3 therefore deny them. To the extent the allegations in Paragraph 76 of the FAC are directed to the AUO
4 Defendants, they are denied.

5 77. To the extent the allegations in Paragraph 77 of the FAC are derived from statements
6 by/to government authorities, news reports and/or statements in public documents, these statements or
7 reports speak for themselves and no response is required. To the extent a response is required and the
8 allegations in Paragraph 77 of the FAC relate to other Defendants and/or third parties, the AUO
9 Defendants lack personal knowledge or information sufficient to form a belief as to their truth and
10 therefore deny them. To the extent the allegations in Paragraph 77 of the FAC are directed to the AUO
11 Defendants, they are denied.

12 78. To the extent the allegations in Paragraph 78 of the FAC are derived from statements
13 by/to government authorities, news reports and/or statements in public documents, these statements or
14 reports speak for themselves and no response is required. To the extent a response is required and the
15 allegations in Paragraph 78 of the FAC relate to other Defendants and/or third parties, the AUO
16 Defendants lack personal knowledge or information sufficient to form a belief as to their truth and
17 therefore deny them. To the extent the allegations in Paragraph 78 of the FAC are directed to the AUO
18 Defendants, they are denied.

19 79. To the extent the allegations in Paragraph 79 of the FAC are derived from statements
20 by/to government authorities, news reports and/or statements in public documents, these statements or
21 reports speak for themselves and no response is required. To the extent a response is required and the
22 allegations in Paragraph 79 of the FAC relate to other Defendants and/or third parties, the AUO
23 Defendants lack personal knowledge or information sufficient to form a belief as to their truth and
24 therefore deny them. To the extent the allegations in Paragraph 79 of the FAC are directed to the AUO
25 Defendants, they are denied.

26 80. To the extent the allegations in Paragraph 80 of the FAC are derived from statements
27 by/to government authorities, news reports and/or statements in public documents, these statements or
28 reports speak for themselves and no response is required. To the extent a response is required and the

1 allegations in Paragraph 80 of the FAC relate to other Defendants and/or third parties, the AUO
2 Defendants lack personal knowledge or information sufficient to form a belief as to their truth and
3 therefore deny them. To the extent the allegations in Paragraph 80 of the FAC are directed to the AUO
4 Defendants, they are denied.

5 81. To the extent the allegations in Paragraph 81 of the FAC are derived from statements
6 by/to government authorities, news reports and/or statements in public documents, these statements or
7 reports speak for themselves and no response is required. To the extent a response is required and the
8 allegations in Paragraph 81 of the FAC relate to other Defendants and/or third parties, the AUO
9 Defendants lack personal knowledge or information sufficient to form a belief as to their truth and
10 therefore deny them. To the extent the allegations in Paragraph 81 of the FAC are directed to the AUO
11 Defendants, they are denied.

12 82. To the extent the allegations in Paragraph 82 of the FAC are derived from statements
13 by/to government authorities, news reports and/or statements in public documents, these statements or
14 reports speak for themselves and no response is required. To the extent a response is required and the
15 allegations in Paragraph 82 of the FAC relate to other Defendants and/or third parties, the AUO
16 Defendants lack personal knowledge or information sufficient to form a belief as to their truth and
17 therefore deny them. To the extent the allegations in Paragraph 82 of the FAC are directed to the AUO
18 Defendants, they are denied.

19 83. To the extent the allegations of Paragraph 83 of the FAC are comprised of legal
20 conclusions no response is required. To the extent a response is required and the allegations in
21 Paragraph 83 relate to other Defendants and/or third parties, the AUO Defendants lack personal
22 knowledge or information sufficient to form a belief as to their truth and therefore deny them. To the
23 extent the allegations in Paragraph 83 relate to the AUO Defendants, the AUO Defendants deny them.

24 84. To the extent the allegations in Paragraph 84 relate to other Defendants and/or third
25 parties, the AUO Defendants lack personal knowledge or information sufficient to form a belief as to
26 their truth and therefore deny them. To the extent the allegations in Paragraph 84 relate to the AUO
27 Defendants, the AUO Defendants deny them.
28

1 85. To the extent the allegations in Paragraph 85 relate to other Defendants and/or third
2 parties, the AUO Defendants lack personal knowledge or information sufficient to form a belief as to
3 their truth and therefore deny them. To the extent the allegations in Paragraph 85 relate to the AUO
4 Defendants, the AUO Defendants deny them.

5 86. To the extent the allegations in Paragraph 86 relate to other Defendants and/or third
6 parties, the AUO Defendants lack personal knowledge or information sufficient to form a belief as to
7 their truth and therefore deny them. To the extent the allegations in Paragraph 86 relate to the AUO
8 Defendants, the AUO Defendants deny them.

9 87. To the extent the allegations in Paragraph 87 of the FAC are derived from statements
10 by/to government authorities, news reports and/or statements in public documents, these statements or
11 reports speak for themselves and no response is required. To the extent a response is required and the
12 allegations in Paragraph 87 of the FAC relate to other Defendants and/or third parties, the AUO
13 Defendants lack personal knowledge or information sufficient to form a belief as to their truth and
14 therefore deny them. To the extent the allegations in Paragraph 87 of the FAC are directed to the AUO
15 Defendants, they are denied.

16 88. To the extent the allegations in Paragraph 88 of the FAC relate to other Defendants
17 and/or third parties, the AUO Defendants lack personal knowledge or information sufficient to form a
18 belief as to their truth and therefore deny them. To the extent the allegations in Paragraph 88 of the
19 FAC are directed to the AUO Defendants, they are denied.

20 89. To the extent the allegations in Paragraph 89 of the FAC relate to other Defendants
21 and/or third parties, the AUO Defendants lack personal knowledge or information sufficient to form a
22 belief as to their truth and therefore deny them. To the extent the allegations in Paragraph 89 of the
23 FAC are directed to the AUO Defendants, they are denied.

24 90. To the extent the allegations in Paragraph 90 of the FAC relate to other Defendants
25 and/or third parties, the AUO Defendants lack personal knowledge or information sufficient to form a
26 belief as to their truth and therefore deny them. To the extent the allegations in Paragraph 90 of the
27 FAC are directed to the AUO Defendants, they are denied.
28

1 91. To the extent the allegations in Paragraph 91 of the FAC relate to other Defendants
2 and/or third parties, the AUO Defendants lack personal knowledge or information sufficient to form a
3 belief as to their truth and therefore deny them. To the extent the allegations in Paragraph 91 of the
4 FAC are directed to the AUO Defendants, they are denied.

5 92. To the extent the allegations in Paragraph 92 of the FAC relate to other Defendants
6 and/or third parties, the AUO Defendants lack personal knowledge or information sufficient to form a
7 belief as to their truth and therefore deny them. To the extent the allegations in Paragraph 92 of the
8 FAC are directed to the AUO Defendants, they are denied.

9 93. To the extent the allegations in Paragraph 93 of the FAC relate to other Defendants
10 and/or third parties, the AUO Defendants lack personal knowledge or information sufficient to form a
11 belief as to their truth and therefore deny them. To the extent the allegations in Paragraph 93 of the
12 FAC are directed to the AUO Defendants, they are denied.

13 94. To the extent the allegations in Paragraph 94 of the FAC relate to other Defendants
14 and/or third parties, the AUO Defendants lack personal knowledge or information sufficient to form a
15 belief as to their truth and therefore deny them. To the extent the allegations in Paragraph 94 of the
16 FAC are directed to the AUO Defendants, they are denied.

17 95. To the extent the allegations in Paragraph 95 of the FAC relate to other Defendants,
18 Plaintiff or third parties, the AUO Defendants lack personal knowledge or information sufficient to form
19 a belief as to their truth and therefore deny them. To the extent the allegations in Paragraph 95 of the
20 FAC are directed to the AUO Defendants, they are denied.

21 96. The AUO Defendants incorporate by reference all of the above responses as if fully set
22 forth herein.

23 97. To the extent the allegations in Paragraph 97 of the FAC relate to other Defendants
24 and/or third parties, the AUO Defendants lack personal knowledge or information sufficient to form a
25 belief as to their truth and therefore deny them. To the extent the allegations in Paragraph 97 of the
26 FAC are directed to the AUO Defendants, they are denied.

27 98. To the extent the allegations in Paragraph 98 of the FAC relate to other Defendants
28 and/or third parties, the AUO Defendants lack personal knowledge or information sufficient to form a

1 belief as to their truth and therefore deny them. To the extent the allegations in Paragraph 98 of the
2 FAC are directed to the AUO Defendants, they are denied.

3 99. To the extent the allegations in Paragraph 99 of the FAC relate to Plaintiff, other
4 Defendants and/or third parties, the AUO Defendants lack personal knowledge or information sufficient
5 to form a belief as to their truth and therefore deny them. To the extent the allegations in Paragraph 99
6 of the FAC are directed to the AUO Defendants, they are denied.

7 100. To the extent the allegations in Paragraph 100 of the FAC relate to other Defendants
8 and/or third parties, the AUO Defendants lack personal knowledge or information sufficient to form a
9 belief as to their truth and therefore deny them. To the extent the allegations in Paragraph 100 of the
10 FAC are directed to the AUO Defendants, they are denied.

11 101. To the extent the allegations in Paragraph 101 of the FAC relate to Plaintiff, other
12 Defendants and/or third parties, the AUO Defendants lack personal knowledge or information sufficient
13 to form a belief as to their truth and therefore deny them. To the extent the allegations in Paragraph 101
14 of the FAC are directed to the AUO Defendants, they are denied, except that the AUO Defendants admit
15 that AU Optronics Corporation “continue[s] to manufacture LCD panels.”

16 102. The AUO Defendants incorporate by reference all of the above responses as if fully set
17 forth herein.

18 103. To the extent the allegations in Paragraph 103 of the FAC relate to other Defendants
19 and/or third parties, the AUO Defendants lack personal knowledge or information sufficient to form a
20 belief as to their truth and therefore deny them. To the extent the allegations in Paragraph 103 of the
21 FAC are directed to the AUO Defendants, they are denied.

22 104. To the extent the allegations in Paragraph 104 of the FAC relate to other Defendants
23 and/or third parties, the AUO Defendants lack personal knowledge or information sufficient to form a
24 belief as to their truth and therefore deny them. To the extent the allegations in Paragraph 104 of the
25 FAC are directed to the AUO Defendants, they are denied, except that AU Optronics America admits
26 that maintained an office in California during the period described in the FAC.

27 105. To the extent the allegations in Paragraph 105 of the FAC relate to other Defendants
28 and/or third parties, the AUO Defendants lack personal knowledge or information sufficient to form a

1 belief as to their truth and therefore deny them. To the extent the allegations in Paragraph 105 of the
2 FAC are directed to the AUO Defendants, they are denied.

3 106. To the extent the allegations in Paragraph 106 of the FAC relate to other Defendants
4 and/or third parties, the AUO Defendants lack personal knowledge or information sufficient to form a
5 belief as to their truth and therefore deny them. To the extent the allegations in Paragraph 106 of the
6 FAC are directed to the AUO Defendants, they are denied.

7 107. To the extent the allegations in Paragraph 107 of the FAC relate to plaintiffs, other
8 Defendants and/or third parties, the AUO Defendants lack personal knowledge or information sufficient
9 to form a belief as to their truth and therefore deny them. To the extent the allegations in Paragraph 107
10 of the FAC are directed to the AUO Defendants, they are denied.

11 108. To the extent the allegations in Paragraph 108 of the FAC relate to other Defendants
12 and/or third parties, the AUO Defendants lack personal knowledge or information sufficient to form a
13 belief as to their truth and therefore deny them. To the extent the allegations in Paragraph 108 of the
14 FAC are directed to the AUO Defendants, they are denied.

15 109. To the extent the allegations in Paragraph 109 of the FAC relate to other Defendants
16 and/or third parties, the AUO Defendants lack personal knowledge or information sufficient to form a
17 belief as to their truth and therefore deny them. To the extent the allegations in Paragraph 109 of the
18 FAC are directed to the AUO Defendants, they are denied.

19 110. The AUO Defendants incorporate by reference all of the above responses as if fully set
20 forth herein.

21 111. To the extent the allegations in Paragraph 111 of the FAC relate to other Defendants
22 and/or third parties, the AUO Defendants lack personal knowledge or information sufficient to form a
23 belief as to their truth and therefore deny them. To the extent the allegations in Paragraph 111 of the
24 FAC are directed to the AUO Defendants, they are denied.

25 112. The AUO Defendants lack personal knowledge or information sufficient to form a belief
26 with respect to the truth of the allegations contained in Paragraph 112 of the FAC, and therefore deny
27 them.
28

1 113. To the extent the allegations in Paragraph 113 of the FAC relate to other Defendants
2 and/or third parties, the AUO Defendants lack personal knowledge or information sufficient to form a
3 belief as to their truth and therefore deny them. To the extent the allegations in Paragraph 113 of the
4 FAC are directed to the AUO Defendants, they are denied.

5 114. To the extent the allegations in Paragraph 114 of the FAC relate to other Defendants
6 and/or third parties, the AUO Defendants lack personal knowledge or information sufficient to form a
7 belief as to their truth and therefore deny them. To the extent the allegations in Paragraph 114 of the
8 FAC are directed to the AUO Defendants, they are denied.

9 115. To the extent the allegations in Paragraph 115 of the FAC relate to other Defendants
10 and/or third parties, the AUO Defendants lack personal knowledge or information sufficient to form a
11 belief as to their truth and therefore deny them. To the extent the allegations in Paragraph 115 of the
12 FAC are directed to the AUO Defendants, they are denied.

13 116. To the extent the allegations in Paragraph 116 of the FAC relate to Plaintiff, other
14 Defendants and/or third parties, the AUO Defendants lack personal knowledge or information sufficient
15 to form a belief as to their truth and therefore deny them. To the extent the allegations in Paragraph 116
16 of the FAC are directed to the AUO Defendants, they are denied.

17 117. To the extent the allegations in the first sentence of Paragraph 117 of the FAC relate to
18 Plaintiff, other Defendants and/or third parties, the AUO Defendants lack personal knowledge or
19 information sufficient to form a belief as to their truth and therefore deny them. To the extent the
20 allegations in the first sentence of Paragraph 117 of the FAC are directed to the AUO Defendants, they
21 are denied. The second sentence of Paragraph 117 of the FAC consists of Plaintiff's description of their
22 claims and legal conclusions to which no response is required - to the extent a response is required these
23 allegations are denied.

24 118. The AUO Defendants incorporate by reference all of the above responses as if fully set
25 forth herein.

26 119. To the extent the allegations in Paragraph 119 of the FAC relate to other Defendants
27 and/or third parties, the AUO Defendants lack personal knowledge or information sufficient to form a
28

1 belief as to their truth and therefore deny them. To the extent the allegations in Paragraph 119 of the
2 FAC are directed to the AUO Defendants, they are denied.

3 120. To the extent the allegations in Paragraph 120 of the FAC relate to Plaintiff, other
4 Defendants and/or third parties, the AUO Defendants lack personal knowledge or information sufficient
5 to form a belief as to their truth and therefore deny them. To the extent the allegations in Paragraph 120
6 of the FAC are directed to the AUO Defendants, they are denied.

7 121. The AUO Defendants lack personal knowledge or information sufficient to form a belief
8 as to the truth of the allegations contained in Paragraph 121 of the FAC, and therefore deny them.
9 Additionally, to the extent Paragraph 121 of the FAC is comprised of legal conclusions, no response is
10 required.

11 122. To the extent the allegations in Paragraph 122 of the FAC relate to Plaintiff, other
12 Defendants and/or third parties, the AUO Defendants lack personal knowledge or information sufficient
13 to form a belief as to their truth and therefore deny them. To the extent the allegations in Paragraph 122
14 of the FAC are directed to the AUO Defendants, they are denied.

15 123. The AUO Defendants incorporate by reference all of the above responses as if fully set
16 forth herein.

17 124. To the extent the allegations in Paragraph 124 of the FAC relate to other Defendants
18 and/or third parties, the AUO Defendants lack personal knowledge or information sufficient to form a
19 belief as to their truth and therefore deny them. To the extent the allegations in Paragraph 124 of the
20 FAC are directed to the AUO Defendants, they are denied.

21 125. To the extent the allegations in Paragraph 125 of the FAC relate to other Defendants
22 and/or third parties, the AUO Defendants lack personal knowledge or information sufficient to form a
23 belief as to their truth and therefore deny them. To the extent the allegations in Paragraph 125 of the
24 FAC are directed to the AUO Defendants, they are denied.

25 126. To the extent the allegations in Paragraph 126 of the FAC relate to Plaintiff, other
26 Defendants and/or third parties, the AUO Defendants lack personal knowledge or information sufficient
27 to form a belief as to their truth and therefore deny them. To the extent the allegations in Paragraph 126
28 of the FAC are directed to the AUO Defendants, they are denied.

1 damage, which the AUO Defendants specifically deny, the AUO Defendants further contend that any
2 such purported injury or damage was not by reason of any act or omission of the AUO Defendants.

3 **SIXTH AFFIRMATIVE DEFENSE**

4 **(No Antitrust Injury)**

5 Plaintiff's claims should be dismissed because Plaintiffs have not suffered actual, cognizable
6 antitrust injury of the type antitrust laws are intended to remedy.

7 **SEVENTH AFFIRMATIVE DEFENSE**

8 **(Uncertainty of Damages)**

9 Plaintiff's claims should be dismissed because the alleged damages sought are too speculative
10 and uncertain, and cannot be practicably ascertained or allocated.

11 **EIGHTH AFFIRMATIVE DEFENSE**

12 **(Failure to Mitigate Damages)**

13 Plaintiff's claims should be dismissed, in whole or in part, because Plaintiffs failed to take all
14 necessary, reasonable, and appropriate actions to mitigate its alleged damages, if any.

15 **NINTH AFFIRMATIVE DEFENSE**

16 **(Statute of Limitations)**

17 Plaintiff's claims should be dismissed to the extent that they are barred, in whole or in part, by
18 the applicable statute(s) of limitations.

19 **TENTH AFFIRMATIVE DEFENSE**

20 **(Unjust Enrichment)**

21 Plaintiff's claims should be dismissed to the extent that they are barred, in whole or in part,
22 because Plaintiffs would be unjustly enriched if they were allowed to recover any part of the damages
23 alleged in the FAC.

24 **ELEVENTH AFFIRMATIVE DEFENSE**

25 **(Adequate Remedy at Law)**

26 Plaintiff's claims for injunctive relief should be dismissed because Plaintiffs have available an
27 adequate remedy at law.

1 **TWELFTH AFFIRMATIVE DEFENSE**

2 **(Competition)**

3 Plaintiff's claims should be dismissed to the extent they are barred, in whole or in part, because
4 any action taken by or on behalf of the AUO Defendants was justified, constituted bona fide business
5 competition and was taken in pursuit of their own legitimate business and economic interests, and is
6 therefore privileged.

7 **THIRTEENTH AFFIRMATIVE DEFENSE**

8 **(Non-Actionable or Governmental Privilege)**

9 Plaintiff's claims are barred, in whole or in part, because the alleged conduct of the AUO
10 Defendants that is the subject of the FAC was caused by, due to, based upon, or in response to
11 directives, laws, regulations, policies, and/or acts of governments, governmental agencies and entities,
12 and/or regulatory agencies, and such is non-actionable or privileged.

13 **FOURTEENTH AFFIRMATIVE DEFENSE**

14 **(Comparative Fault)**

15 Plaintiff's claims should be dismissed to the extent that they are barred, in whole or in part,
16 because any and all injuries alleged in the FAC, the fact and extent of which the AUO Defendants
17 specifically deny, were directly and proximately caused or contributed to by the statements, acts, and/or
18 omissions of Plaintiffs and/or third parties or entities, other than the AUO Defendants.

19 **FIFTEENTH AFFIRMATIVE DEFENSE**

20 **(Acquiescence)**

21 Plaintiff's claims should be dismissed to the extent they are barred, in whole or in part, by
22 Plaintiff's acquiescence in and/or confirmation of any and all conduct and/or omissions alleged as to the
23 AUO Defendants.

24 **SIXTEENTH AFFIRMATIVE DEFENSE**

25 **(Failure to State a Claim Under the Sherman Act)**

26 Plaintiff's claims are barred, in whole or in part, because Plaintiffs have failed to allege facts
27 sufficient to support a claim under the Sherman Act, 15 U.S.C. § 1.
28

1 **SEVENTEENTH AFFIRMATIVE DEFENSE**

2 **(Uncertainty)**

3 Plaintiff's claims should be dismissed for uncertainty and vagueness and because its claims are
4 ambiguous, and/or unintelligible. The AUO Defendants aver that Plaintiff's claims do not describe the
5 events or legal theories with sufficient particularity to permit the AUO Defendants to ascertain what
6 other defenses may exist. The AUO Defendants therefore reserve the right to amend their Answer to
7 assert additional defenses and/or supplement, alter, or change their Answer and/or defenses upon the
8 discovery of more definitive facts upon the completion of their investigation and discovery.

9 **EIGHTEENTH AFFIRMATIVE DEFENSE**

10 **(Lack of Standing to Sue for Injuries Alleged)**

11 Plaintiff's claims should be dismissed, in whole or in part, to the extent Plaintiffs lack standing to
12 sue for the injuries alleged in the FAC.

13 **NINETEENTH AFFIRMATIVE DEFENSE**

14 **(Competition Not Harmed)**

15 Plaintiff's claims should be dismissed to the extent that they are barred, in whole or in part,
16 because the AUO Defendants' actions did not lessen competition in the relevant market.

17 **TWENTIETH AFFIRMATIVE DEFENSE**

18 **(Intervening or Superseding Acts of Third Parties)**

19 Plaintiff's purported damages, if any, resulted from the acts or omissions of third parties over
20 whom the AUO Defendants had no control or responsibility. The acts of such third parties constitute
21 intervening or superseding causes of harm, if any, suffered by Plaintiffs.

22 **TWENTY-FIRST AFFIRMATIVE DEFENSE**

23 **(Injury or Damages Offset by Benefits Received)**

24 Plaintiff's claims should be dismissed to the extent that they are barred, in whole or in part,
25 because any claimed injury or damage has been offset by benefits Plaintiffs received with respect to the
26 challenged conduct.

27 ///

28 ///

1 **TWENTY-SECOND AFFIRMATIVE DEFENSE**

2 **(Failure to Allege Fraud or Fraudulent Conspiracy with Particularity)**

3 Plaintiff's claims should be dismissed to the extent that they are barred, in whole or in part,
4 because Plaintiffs have failed to allege fraud or fraudulent concealment with sufficient particularity.

5 **TWENTY-THIRD AFFIRMATIVE DEFENSE**

6 **(Failure to Plead Conspiracy with Particularity)**

7 Plaintiff's claims should be dismissed to the extent that they are barred, in whole or in part,
8 because Plaintiffs have failed to allege conspiracy with sufficient particularity.

9 **TWENTY-FOURTH AFFIRMATIVE DEFENSE**

10 **(Set-Off)**

11 Without admitting that Plaintiffs are entitled to recover damages in this matter, the AUO
12 Defendants are entitled to set off from any recovery Plaintiffs may obtain against the AUO Defendants
13 any amount paid to by any other defendants who have settled, or do settle, Plaintiff's claims in this
14 matter.

15 **TWENTY-FIFTH AFFIRMATIVE DEFENSE**

16 **(Failure to State a Claim for Injunctive Relief)**

17 Plaintiff's claims should be dismissed to the extent that they are barred, in whole or in part,
18 because Plaintiffs have failed to state a claim for injunctive relief insofar as Plaintiffs seek to enjoin
19 alleged events that have already transpired without the requisite showing of threatened harm or
20 continuing harm.

21 **TWENTY-SIXTH AFFIRMATIVE DEFENSE**

22 **(Lack of Jurisdiction)**

23 Plaintiff's claims should be dismissed to the extent that they are barred, in whole or in part,
24 because any alleged conduct of the AUO Defendants occurred outside of the personal jurisdiction or
25 subject-matter jurisdiction of the Court.

26 **TWENTY-SEVENTH AFFIRMATIVE DEFENSE**

27 **(No Attorney Fees Allowed)**

1 An award of attorneys' fees, based upon the conduct alleged in the FAC, is not allowed under
2 applicable federal or state law.

3 **TWENTY-EIGHTH AFFIRMATIVE DEFENSE**

4 **(Due Process Violation)**

5 To the extent Plaintiffs purports to seek relief on behalf of members of the general public who
6 have suffered no damages, the FAC and each of its claims for relief therein violate the AUO
7 Defendants' right to due process.

8 **TWENTY-NINTH AFFIRMATIVE DEFENSE**

9 **(Justification)**

10 Plaintiff's claims are barred, in whole or in part, because any conduct engaged in by the AUO
11 Defendants has been reasonable, based upon independent, legitimate business and economic
12 justifications, and without any purpose or intent to injure competition

13 **THIRTIETH AFFIRMATIVE DEFENSE**

14 **(Ultra Vires Conduct)**

15 Plaintiff's claims against the AUO Defendants are barred, in whole or in part, because all such
16 conduct would have been committed by individuals acting ultra vires.

17 **THIRTY-FIRST AFFIRMATIVE DEFENSE**

18 **(Damages Passed On)**

19 Plaintiff's claims are barred, in whole or in part, because any injury or damage alleged in the
20 FAC, if any, was passed on to persons or entities other than Plaintiffs.

21 **THIRTY-SECOND AFFIRMATIVE DEFENSE**

22 **(No Unreasonable Restraint of Trade)**

23 Plaintiff's claims are barred, in whole or in part, because any actions taken by the AUO
24 Defendants have not unreasonably restrained trade.

25 **THIRTY-THIRD AFFIRMATIVE DEFENSE**

26 **(Compliance with FTC Rules, Regulations and Statutes)**

27 Any alleged conduct by the AUO Defendants has complied with the rules and regulations of, and
28 the statutes administered by, the Federal Trade Commission or other official departments, divisions,

1 commissions, or agencies of the United States as such rules, regulations or statutes are interpreted by the
2 Federal Trade Commission or such departments, divisions, commissions or agencies, or the federal
3 courts.

4 **THIRTY-FOURTH AFFIRMATIVE DEFENSE**

5 **(Duplicative Damages)**

6 Plaintiff's claims are barred, in whole or in part, to the extent that Plaintiffs seek damages that
7 are duplicative of damages sought in other actions.

8 **THIRTY-FIFTH AFFIRMATIVE DEFENSE**

9 **(Voluntary Payment Doctrine)**

10 Plaintiff's claims are barred, in whole or in part, by the voluntary payment doctrine, under which
11 one cannot recover payments made with full knowledge of the facts.

12 **THIRTY-SIXTH AFFIRMATIVE DEFENSE**

13 **(Lack of Market Power)**

14 Plaintiff's claims are barred, in whole or in part, because Plaintiffs have failed to allege or prove
15 that the AUO Defendants possessed or possesses market power in any legally cognizable relevant
16 market.

17 **THIRTY-SEVENTH AFFIRMATIVE DEFENSE**

18 **(Improper Venue)**

19 Plaintiff's claims are barred, in whole or in part, because venue in the Northern District of
20 California is improper with respect to the allegations, claims, and/or causes of action set forth in the
21 FAC that arise from conduct alleged to have occurred outside of that District.

22 **THIRTY-EIGHTH AFFIRMATIVE DEFENSE**

23 **(Other Causes)**

24 Plaintiff's claims, if any, are barred in whole or in part because Plaintiff's losses, if any, resulted
25 from causes other than the acts and occurrences alleged in the FAC.

26 ///

27 ///

28 ///

1 **THIRTY-NINTH AFFIRMATIVE DEFENSE**

2 **(Independent Conduct of Others)**

3 Plaintiff's claims are barred, in whole or in part, because any and all injuries and damages
4 alleged in the FAC, in which the AUO Defendants deny having any part, were caused by independent
5 conduct of one or more persons and/or entities over whom the AUO Defendants had no control and for
6 whose actions/omissions the AUO Defendants are not responsible.

7 **FORTIETH AFFIRMATIVE DEFENSE**

8 **(Due Diligence)**

9 Plaintiff's claims are barred, in whole or in part, by Plaintiff's failure to exercise due diligence to
10 uncover any alleged conspiracy.

11 **FORTY-FIRST AFFIRMATIVE DEFENSE**

12 **(No Attempt to Conceal)**

13 Plaintiff's claims are barred, in whole or in part, because the AUO Defendants made no
14 affirmative attempt to conceal any alleged conduct.

15 **FORTY-SECOND AFFIRMATIVE DEFENSE**

16 **(Accord and Satisfaction)**

17 Plaintiff's claims are barred, in whole or in part, by the doctrine of accord and satisfaction.

18 **FORTY-THIRD AFFIRMATIVE DEFENSE**

19 **(Equal Protection)**

20 Plaintiff's claims are barred, in whole or in part, to the extent they seek an improper multiple
21 punitive award for a single wrong because such an award would violate the AUO Defendants' rights
22 guaranteed by the Equal Protection provision of the Fourteenth Amendment of the United States
23 Constitution.

24 **FORTY-FOURTH AFFIRMATIVE DEFENSE**

25 **(Double Jeopardy)**

26 Plaintiff's claims are barred, in whole or in part, to the extent they seek an improper multiple
27 punitive award for a single wrong because such an award would violate the AUO Defendants' rights
28 guaranteed by the Double Jeopardy Clause of the Fifth Amendment of the United States Constitution.

1 **FORTY-FIFTH AFFIRMATIVE DEFENSE**

2 **(Excessive Fines)**

3 Plaintiff's claims are barred, in whole or in part, to the extent they seek an improper multiple
4 punitive award for a single wrong because such an award would violate the AUO Defendants' rights
5 guaranteed by the Excessive Fines provision of the Eighth Amendment of the United States
6 Constitution.

7 **FORTY-SIXTH AFFIRMATIVE DEFENSE**

8 **(Unconstitutional Multiplicity)**

9 To the extent any recovery by Plaintiffs would be duplicative of recovery by other plaintiffs and
10 other lawsuits, subjecting the AUO Defendants to the possibility of multiple recovery, such recovery is
11 barred by the Fifth and Eighth Amendments to the United States Constitution.

12 **FORTY-SEVENTH AFFIRMATIVE DEFENSE**

13 **(Privileged Conduct)**

14 Plaintiff's claims are barred, in whole or in part, as premised upon privileged conduct or actions
15 by the AUO Defendants.

16 **FORTY-EIGHTH AFFIRMATIVE DEFENSE**

17 **(Other Defenses Incorporated by Reference)**

18 The AUO Defendants adopt and incorporate by reference any and all other additional or
19 affirmative defenses asserted or to be asserted by any other defendant in this proceeding to the extent
20 that the AUO Defendants may share in such affirmative defenses.

21 **FORTY-NINTH AFFIRMATIVE DEFENSE**

22 **(Reservation of Rights to Assert Additional Defenses)**

23 The AUO Defendants have not knowingly or intentionally waived any applicable defenses and
24 explicitly reserve the right to assert and rely on such other applicable defenses as may become available
25 or apparent during discovery proceedings. The AUO Defendants further reserve the right to amend their
26 Answer and/or their defenses accordingly, and/or to delete defenses that they determine are not
27 applicable during the course of subsequent discovery.
28

1 **PRAYER FOR RELIEF**

2 WHEREFORE, Defendants AU Optronics Corporation and AU Optronics Corporation America
3 pray for judgment as follows:

4 1. That Plaintiffs take nothing under the FAC, and the FAC be dismissed with prejudice;

5 2. That judgment be entered in favor of AU Optronics Corporation and AU Optronics
6 Corporation America and against Plaintiffs on each and every cause of action set forth in the SAC;

7 3. That AU Optronics Corporation and AU Optronics Corporation America recover their
8 costs of suit and attorneys' fees incurred herein; and

9 4. That AU Optronics Corporation and AU Optronics Corporation America be granted such
10 other and further relief as the Court deems just and proper

11 Respectfully submitted,

12
13 Dated: September 23, 2011

NOSSAMAN LLP

14
15 By /s/ Christopher A. Nedeau

16 Christopher A. Nedeau (State Bar No. 81297)

17 Carl L. Blumenstein

Patrick J. Richard

18 50 California Street, 34th Floor

San Francisco, CA 94111

19 Tel: (415) 398-3600

Fax: (415) 398-2438

20 Attorneys for Defendants

21 AU OPTRONICS CORPORATION and

22 AU OPTRONICS CORPORATION AMERICA
23
24
25
26
27
28