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11
 12 IN THE UNITED STATES DISTRICT COURT
 13 FOR THE NORTHERN DISTRICT OF CALIFORNIA

14
 15 IN RE TFT-LCD (FLAT PANEL) ANTITRUST
 LITIGATION

Case No.: M 07-1827 SI
 MDL No. 1827

Case No. 3:12-cv-02495 SI

17 This Document Relates to Individual Case No. 3:12-
 18 cv-2495 SI

**JOINT STIPULATION AND
 [PROPOSED] ORDER REGARDING
 EXTENSION OF TIME TO ANSWER
 COMPLAINT AND PLEADING
 RULING**

19 ROCKWELL AUTOMATION, INC.,
 20 Plaintiff,

The Honorable Susan Illston, Presiding

21 vs.

22 AU OPTRONICS CORPORATION, *et al.*,
 23 Defendants.

1 Plaintiff Rockwell Automation, Inc. (“Rockwell”) and Defendants¹ (collectively, the
2 “Stipulating Parties”) hereby stipulate as follows:

3 WHEREAS, Rockwell filed a First Amended Complaint against Defendants on August 10,
4 2012 (the “Complaint”);

5 WHEREAS Rockwell has not asserted indirect purchaser claims under the Sherman Act;

6 WHEREAS Rockwell’s claims under Wisconsin Stat. §§ 133.01 et seq. (the “Wisconsin
7 Antitrust Law”) apply only to purchases made by Rockwell in Wisconsin;

8 WHEREAS the Court has already considered several of Defendants’ motions to dismiss
9 based on “group pleading” and issued rulings denying such arguments, including its Order Granting
10 in Part and Denying in Part Defendants’ Motions to Dismiss Indirect Purchaser Plaintiff’s Second
11 Amended Consolidated Complaint (MDL Docket No. 870) (“Group Pleading Order”);

12 WHEREAS the Court already has considered and determined that allegations similar to those
13 alleged by Rockwell against Defendants NEC Corporation, NEC LCD Technologies, Ltd., and
14 Renesas NEC Electronics America (collectively “the NEC Defendants”) are “plausible” under the
15 pleading standard enunciated by the United States Supreme Court under *Bell Atlantic Corporation v.*
16 *Twombly*, 550 U.S. 544 (2007), and *Ashcroft v. Iqbal*, 129 S. Ct. 1937 (2009), including in its Order
17 Granting in Part NEC Defendants’ Motion to Dismiss, MDL Docket No. 4591 (“NEC *Twombly*
18 Order”);

19 WHEREAS Defendants do not agree with the Court’s ruling in the Group Pleading Order
20 and the NEC Defendants do not agree with the Court’s ruling in the NEC *Twombly* Order;

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23 ¹ AU OPTRONICS CORPORATION; AU OPTRONICS CORPORATION AMERICA, INC.; CHI
24 MEI CORPORATION; CHIMEI INNOLUX CORPORATION; CHI MEI OPTOELECTRONICS
25 USA, INC.; CMO JAPAN CO. LTD.; NEXGEN MEDIATECH, INC.; NEXGEN MEDIATECH
26 CORPORATION; EPSON ELECTRONICS AMERICA, INC.; HANNSTAR DISPLAY
27 CORPORATION; LG DISPLAY CO. LTD.; LG DISPLAY AMERICA, INC.; NEC
28 CORPORATION; NEC LCD TECHNOLOGIES, LTD.; RENESAS ELECTRONICS AMERICA;
SHARP CORPORATION; SHARP ELECTRONICS CORPORATION; TOSHIBA
CORPORATION; TOSHIBA AMERICA ELECTRONICS COMPONENTS, INC.; TOSHIBA
MOBILE DISPLAY TECHNOLOGY CO., LTD.; TOSHIBA AMERICA INFORMATION
SYSTEMS, INC.

1 WHEREAS for appellate purposes, Defendants wish to preserve the pleading issues raised in
2 the Group Pleading Order and the NEC *Twombly* Order as to Rockwell;

3 WHEREAS the Stipulating Parties believe that the briefing necessary to address the group
4 pleading issue and the plausibility of allegations against the NEC Defendants would be substantially
5 identical to the briefing already filed in the MDL, and that further briefing on these issue would only
6 burden the parties and the Court;

7 WHEREAS the Stipulating Parties desire to litigate this case efficiently and are cognizant of
8 the Court's admonitions that the parties should not burden the Court with unnecessary and/or
9 duplicative briefing, as demonstrated in the Court's Order that the parties identify prior Orders
10 where similar or identical legal issues have been previously raised (MDL Docket No. 5429);

11 WHEREAS the Stipulating Parties believe that instead of re-litigating the group pleading
12 issue and the plausibility of allegations against the NEC Defendants, it is more efficient for the
13 Stipulating Parties to agree, and the Court to order that: the previous motions for dismissal based on
14 group pleading and the plausibility of allegations against the NEC Defendants be deemed filed as to
15 Rockwell; both the Group Pleading Order and the NEC *Twombly* Order be deemed issued in this
16 case; and these issues be preserved for appeal as if having been decided in this case without further
17 action by any Stipulating Party;

18 WHEREAS the current deadline for Defendants to respond to Rockwell's Complaint is
19 August 31, 2012;

20 WHEREAS, Defendants desire a reasonable amount of time to respond to the Complaint;

21 WHEREAS the Court has already approved similar stipulations in *AASI Liquidating Trust v.*
22 *AU Optronics Corp., et al* (Case No. 3:11-cv-5781-SI) on May 22, 2012 (MDL Dkt. 5772) and in
23 *NECO Alliance, LLC v. AU Optronics Corporation et al.*, (Case No. 3:12-cv-01426-SI) on August 3,
24 2012 (MDL Dkt. 6408);

25 THEREFORE, the Stipulating Parties stipulate and agree as follows:

26 For the avoidance of doubt, the Stipulating Parties agree that Rockwell has not asserted
27 indirect purchaser claims under the Sherman Act and that Rockwell's claims under the Wisconsin
28 Antitrust Law apply only to purchases made by Rockwell in Wisconsin;

1 Defendants' Joint Motion to Dismiss IPPs' Second Amended Complaint (MDL Docket No.
2 782) and corresponding Order Granting in Part and Denying in Part Defendants' Motions to Dismiss
3 Indirect Purchaser Plaintiff's Second Amended Consolidated Complaint (MDL Docket No. 870), to
4 the extent they relate to Defendants' group pleading argument, shall be deemed filed and entered by
5 the Court as applicable to Rockwell and its claims, and Defendants and their defenses in this case.
6 Such an order denying dismissal on the grounds of group pleading is preserved for appeal without
7 further action by any Stipulating Party as if it had been decided and issued in the present case
8 provided, however, that any appellate review of Rockwell's Complaint in respect to the group
9 pleading issue shall be based on the allegations of Rockwell's Complaint;

10 The NEC Defendants' Notice of Motion and Motion to Dismiss (MDL Docket No. 3452) and
11 corresponding Order Granting in Part NEC Defendants' Motion to Dismiss (MDL Docket No.
12 4591), to the extent they relate to the plausibility of allegations against the NEC Defendants, shall be
13 deemed filed and entered by the Court as applicable to Rockwell and its claims, and the NEC
14 Defendants and their defenses in this case. Such an order denying dismissal on the grounds of the
15 plausibility of allegations against the NEC Defendants is preserved for appeal without further action
16 by any Stipulating Party as if it had been decided and issued in the present case provided, however,
17 that any appellate review of Rockwell's Complaint in respect to the plausibility of allegations against
18 NEC Defendants issue shall be based on the allegations of Rockwell's Complaint;

19 The deadline for Defendants to answer Rockwell's Complaint is September 14, 2012.

20 **IT IS SO STIPULATED.**

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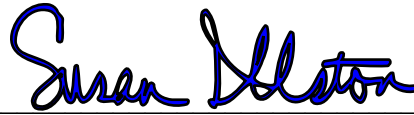
ATTESTATION: Pursuant to General Order 45, Part X-B, the filer attests that concurrence in the filing of this document has been obtained from the signatories thereto.

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~~PROPOSED~~ ORDER

IT IS SO ORDERED.

Dated: August 31, 2012.



Honorable Susan Illston
U.S. District Court Judge