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U.S. DISTRICT COURT
SAN FRANCISCO, CALIFORNIA
[Signature]

1 NIAL E. LYNCH (State Bar No. 157959)
2 MICHAEL L. SCOTT (State Bar No. 165452)
3 HEATHER S. TEWKSBURY (State Bar No. 222202)
4 Antitrust Division
5 U.S. Department of Justice
6 450 Golden Gate Avenue
7 Box 36046, Room 10-0101
8 San Francisco, CA 94102
9 Telephone: (415) 436-6660

6 Attorneys for the United States

7 UNITED STATES DISTRICT COURT
8 NORTHERN DISTRICT OF CALIFORNIA
9 SAN FRANCISCO DIVISION

10 UNITED STATES OF AMERICA) No. CR-09-0110 (SI)

11)

12 v.)

13 AU OPTRONICS CORPORATION;) VIOLATION:
14 AU OPTRONICS CORPORATION AMERICA;) Title 15, United States Code,
15 HSUAN BIN CHEN, aka H.B. CHEN;) Section 1 (Price Fixing)

16 HUI HSIUNG, aka KUMA;)
17 LAI-JUH CHEN, aka L.J. CHEN;) San Francisco Venue

18 SHIU LUNG LEUNG, aka CHAO-LUNG)
19 LIANG and STEVEN LEUNG;)

20 BORLONG BAI, aka RICHARD BAI;)

21 TSANNRONG LEE, aka TSAN-JUNG LEE)
22 and HUBERT LEE;)

23 CHENG YUAN LIN, aka C.Y. LIN;)
24 WEN JUN CHENG, aka TONY CHENG; and)

25 DUK MO KOO,)
26 Defendants.)

SUPERSEDING INDICTMENT

22 The Grand Jury charges that:

23 I.

DESCRIPTION OF THE OFFENSE

24 1. The following corporations and individuals are hereby indicted and made
25 defendants on the charge stated below:
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- 1 (a) AU OPTRONICS CORPORATION;
- 2 (b) AU OPTRONICS CORPORATION AMERICA;
- 3 (c) HSUAN BIN CHEN, aka H.B. CHEN;
- 4 (d) HUI HSIUNG, aka KUMA;
- 5 (e) LAI-JUH CHEN, aka L.J. CHEN;
- 6 (f) SHIU LUNG LEUNG, aka CHAO-LUNG LIANG and STEVEN LEUNG;
- 7 (g) BORLONG BAI, aka RICHARD BAI;
- 8 (h) TSANNRONG LEE, aka TSAN-JUNG LEE and HUBERT LEE;
- 9 (i) CHENG YUAN LIN, aka C.Y. LIN;
- 10 (j) WEN JUN CHENG, aka TONY CHENG; and
- 11 (k) DUK MO KOO.

12 2. From on or about September 14, 2001, until on or about December 1, 2006 (“the
13 period covered by this Indictment”), the exact dates being unknown to the Grand Jury, the
14 defendants and other coconspirators entered into and engaged in a combination and conspiracy to
15 suppress and eliminate competition by fixing the prices of thin-film transistor liquid crystal
16 display panels (“TFT-LCD”) in the United States and elsewhere. The combination and
17 conspiracy engaged in by the defendants and other coconspirators was in unreasonable restraint
18 of interstate and foreign trade and commerce in violation of Section 1 of the Sherman Act (15
19 U.S.C. § 1).

20 3. The charged combination and conspiracy consisted of a continuing agreement,
21 understanding, and concert of action among the defendants and other coconspirators, the
22 substantial terms of which were to agree to fix the prices of TFT-LCDs for use in notebook
23 computers, desktop computer monitors, and televisions in the United States and elsewhere.

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II.

DEFENDANTS AND COCONSPIRATORS

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3 4. During the period covered by this Indictment, defendant AU OPTRONICS
4 CORPORATION was a Taiwan corporation with its principal place of business located in
5 Hsinchu, Taiwan. Defendant AU OPTRONICS CORPORATION joined and participated in the
6 conspiracy from at least as early as September 14, 2001 and continuing at least until December 1,
7 2006. During the period covered by this Indictment, defendant AU OPTRONICS
8 CORPORATION was engaged in the business of producing and selling TFT-LCDs to customers
9 in the United States and elsewhere.

10 5. Within the period covered by this Indictment, defendant AU OPTRONICS
11 CORPORATION AMERICA was a wholly owned subsidiary of defendant AU OPTRONICS
12 CORPORATION, and a United States corporation incorporated in the State of California with its
13 principal place of business located in Houston, Texas. Defendant AU OPTRONICS
14 CORPORATION AMERICA joined and participated in the conspiracy from at least as early as
15 spring 2003 and continuing at least until December 1, 2006. Within the period covered by this
16 Indictment, defendant AU OPTRONICS CORPORATION AMERICA was engaged in the
17 business of selling TFT-LCDs to customers in the United States.

18 6. Defendant HSUAN BIN CHEN is a resident of Taiwan. Within the period
19 covered by this Indictment, defendant HSUAN BIN CHEN was President of defendant AU
20 OPTRONICS CORPORATION. Defendant HSUAN BIN CHEN joined and participated in the
21 conspiracy from at least as early as October 19, 2001 and continuing at least until December 1,
22 2006.

23 7. Defendant HUI HSIUNG is a resident of Taiwan. Within the period covered by
24 this Indictment, defendant HUI HSIUNG was Executive Vice President of defendant AU
25 OPTRONICS CORPORATION. Defendant HUI HSIUNG joined and participated in the
26 conspiracy from at least as early as October 19, 2001 and continuing at least until December 1,

1 2006.

2 8. Defendant LAI-JUH CHEN is a resident of Taiwan. Within the period covered
3 by this Indictment, defendant LAI-JUH CHEN was Director of Desktop (Monitor) Display
4 Business Group of defendant AU OPTRONICS CORPORATION. Defendant LAI-JUH CHEN
5 joined and participated in the conspiracy from at least as early as February 13, 2003 and
6 continuing at least until November 1, 2005.

7 9. Defendant SHIU LUNG LEUNG is a resident of Taiwan. Within the period
8 covered by this Indictment, defendant SHIU LUNG LEUNG was Senior Manager of Desktop
9 (Monitor) Display Business Group of defendant AU OPTRONICS CORPORATION. Defendant
10 SHIU LUNG LEUNG joined and participated in the conspiracy from at least as early as May 15,
11 2002 and continuing at least until December 1, 2006.

12 10. Defendant BORLONG BAI is a resident of Taiwan. Within the period covered
13 by this Indictment, defendant BORLONG BAI was Senior Manager of the Notebook Display
14 Business Group and Director of the Notebook Display Business Group of defendant AU
15 OPTRONICS CORPORATION. Defendant BORLONG BAI joined and participated in the
16 conspiracy from at least as early as March 20, 2003 and continuing at least until December 1,
17 2006.

18 11. Defendant TSANNRONG LEE is a resident of Taiwan. Within the period
19 covered by this Indictment, defendant TSANNRONG LEE was the Senior Manager of IT
20 Display, Senior Manager of Desktop Display, Director of Desktop Display, and Director of
21 Notebook Display Business Groups of defendant AU OPTRONICS CORPORATION.
22 Defendant TSANNRONG LEE joined and participated in the conspiracy from at least as early as
23 January 11, 2002 and continuing at least until December 1, 2006.

24 12. Defendant CHENG YUAN LIN is a resident of Taiwan. From at least as early as
25 September 14, 2001 until on or about April 7, 2003, CHENG YUAN LIN was Chairman and
26 Chief Executive Officer of Chunghwa Picture Tubes, Ltd. ("Chunghwa"). During the period

1 covered by this Indictment, Chunghwa was a Taiwan company engaged in the business of
2 producing and selling TFT-LCDs to customers in the United States and elsewhere. Chunghwa
3 was a participant in the conspiracy. Defendant CHENG YUAN LIN joined and participated in
4 the conspiracy from at least as early as September 14, 2001 and continuing until at least April 7,
5 2003.

6 13. Defendant WEN JUN CHENG is a resident of Taiwan. From at least as early as
7 September 14, 2001 until on or about September 24, 2004, WEN JUN CHENG was employed by
8 Chunghwa, and beginning in March 2002 was Assistant Vice President of Sales and Marketing
9 for Chunghwa. Defendant WEN JUN CHENG left his employment at Chunghwa on September
10 24, 2004. Defendant WEN JUN CHENG joined and participated in the conspiracy from at least
11 as early as October 5, 2001 and continuing at least until September 24, 2004.

12 14. Defendant DUK MO KOO is a resident and citizen of the Republic of Korea.
13 During the period covered by this Indictment, DUK MO KOO was Executive Vice President and
14 Chief Sales Officer for LG.Philips LCD Co., Ltd. ("LG Philips"). During the period covered by
15 this Indictment, LG Philips was a Korean company engaged in the business of producing and
16 selling TFT-LCDs to customers in the United States and elsewhere. LG Philips was a participant
17 in the conspiracy. Defendant DUK MO KOO joined and participated in the conspiracy from at
18 least as early as December 11, 2001 and continuing at least until December 1, 2005.

19 15. Various corporations and individuals not made defendants in this Indictment
20 participated as coconspirators in the offense charged in this Indictment and performed acts and
21 made statements in furtherance of it.

22 16. Whenever in this Indictment reference is made to any act, deed, or transaction of
23 any corporation, the allegation means that the corporation engaged in the act, deed, or transaction
24 by or through its officers, directors, employees, agents, or other representatives while they were
25 actively engaged in the management, direction, control, or transaction of its business or affairs.

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1 III.

2 MEANS AND METHODS OF THE CONSPIRACY

3 17. For the purpose of forming and carrying out the charged combination and
4 conspiracy, the defendants and other coconspirators did those things that they combined and
5 conspired to do, including, among other things:

6 (a) On or about September 14, 2001, representatives from four Taiwan TFT-
7 LCD manufacturers, including defendant AU OPTRONICS
8 CORPORATION, secretly met in a hotel room in Taipei, Taiwan and
9 entered into and engaged in a conspiracy to fix the price of TFT-LCD. At
10 this meeting, the conspirators agreed to meet approximately once a month
11 for the purpose of fixing the price of TFT-LCD panels. These meetings
12 were commonly referred to by some of the conspirators as "Crystal
13 Meetings." The four Taiwan TFT-LCD manufacturers also agreed to
14 rotate responsibility for coordinating each of these monthly meetings. A
15 representative from defendant AU OPTRONICS CORPORATION stated
16 at the September 14, 2001 meeting that the participants at future Crystal
17 Meetings should include the two major Korean TFT-LCD manufacturers
18 to ensure the success of the conspiracy to fix the price of TFT-LCD.

19 (b) On or about September 21, 2001, representatives from two Korean TFT-
20 LCD manufacturers joined representatives from the four Taiwan TFT-
21 LCD manufacturers, including defendant AU OPTRONICS
22 CORPORATION, at a Crystal Meeting in a hotel room in Taipei, Taiwan.
23 At or before the September 21, 2001 Crystal Meeting, the two Korean
24 TFT-LCD manufacturers agreed to join the conspiracy to fix the price of
25 TFT-LCD.

26 (c) Employees from defendant AU OPTRONICS CORPORATION attended

1 Crystal Meetings on a regular basis between on or about September 14,
2 2001 until on or about December 1, 2006 with employees of other
3 participating TFT-LCD manufacturers.

4 (d) Defendants HSUAN BIN CHEN, HUI HSIUNG, SHIU LUNG LEUNG,
5 BORLONG BAI, TSANNRONG LEE, CHENG YUAN LIN, WEN JUN
6 CHENG, and DUK MO KOO attended and participated in one or more
7 Crystal Meetings. Defendants HSUAN BIN CHEN, HUI HSIUNG, LAI-
8 JUH CHEN, SHIU LUNG LEUNG, BORLONG BAI, TSANNRONG
9 LEE, CHENG YUAN LIN, WEN JUN CHENG, and DUK MO KOO, at
10 times, also authorized, ordered, or consented to the attendance and
11 participation of their subordinate employees at Crystal Meetings.

12 (e) During the period covered by this Indictment, participants in the Crystal
13 Meetings regularly exchanged production, shipping, supply, demand, and
14 pricing information with each other at the meetings for the purpose of
15 agreeing to fix the price of TFT-LCD, as well as implementing,
16 monitoring, and enforcing adherence to the fixed prices. Up until 2003,
17 the participants in the Crystal Meetings reached price agreements on
18 certain sized TFT-LCD used in computer notebooks and monitors.
19 Beginning in 2003, the price agreements reached at the Crystal Meetings
20 also included certain sized TFT-LCD used in flat-screen televisions.

21 (f) The participants in the conspiracy issued price quotations in accordance
22 with the price agreements and accepted payment for the supply of TFT-
23 LCDs sold at collusive, noncompetitive prices to customers in the United
24 States and elsewhere.

25 (g) From on or about September 14, 2001 until in or about May 2005, senior
26 sales executives of the defendant AU OPTRONICS CORPORATION and

1 the other participating TFT-LCD manufacturers attended the Crystal
2 Meetings.

3 (h) In or about May 2005, the participants in the Crystal Meetings discussed
4 that one or two major TFT-LCD customers may have detected the Crystal
5 Meetings. To keep the meetings secret and avoid detection, the Crystal
6 Meeting participants decided to stop having senior-level sales executives
7 attend the Crystal Meetings. Instead, the senior-level executives instructed
8 lower-level marketing employees to continue the Crystal Meetings.
9 Lower-level marketing employees of defendant AU OPTRONICS
10 CORPORATION and the other participating TFT-LCD manufacturers
11 continued to meet monthly as a group to exchange shipment, production,
12 and pricing information in furtherance of the conspiracy to fix the price of
13 TFT-LCD. The lower-level marketing employees met at restaurants and
14 cafes, instead of hotels, in Taipei.

15 (i) In or about the spring 2006, the participants in the Crystal Meetings
16 became further concerned about being detected after receiving news
17 reports of an ongoing price-fixing investigation by the United States
18 Department of Justice into the dynamic random access memory
19 ("DRAM") industry and after receiving other information about a possible
20 investigation into the TFT-LCD industry. To further avoid detection and
21 keep the meetings secret, the conspiracy members, including
22 representatives of defendant AU OPTRONICS CORPORATION, agreed
23 to no longer meet as a group, but instead have back-to-back, one-on-one
24 meetings with each other on a certain date each month at restaurants and
25 cafes in Taipei, Taiwan. Through these round-robin style meetings, the
26 participants continued to exchange shipment, production, and pricing

1 information in furtherance of the conspiracy to fix the price of TFT-LCD.

2 These round-robin meetings continued until in or about December 2006.

3 (j) During the period covered by this Indictment, employees of defendant AU
4 OPTRONICS CORPORATION, in addition to participating in Crystal
5 Meetings, had one-on-one discussions in person or by phone with
6 representatives of coconspirator TFT-LCD manufacturers during which
7 they reached agreements on pricing of TFT-LCD sold to certain customers,
8 including customers located in the United States. Through these one-on-
9 one discussions, the participants also monitored each other's compliance
10 with prices agreed upon at Crystal Meetings and during other discussions.
11 Participants in these one-on-one discussions, at certain times during the
12 conspiracy, included defendants HSUAN BIN CHEN, HUI HSIUNG,
13 LAI-JUH CHEN, SHIU LUNG LEUNG, BORLONG BAI,
14 TSANNRONG LEE, WEN JUN CHEN, and DUK MO KOO.

15 (k) During the period covered by this Indictment, senior-level employees of
16 AU OPTRONICS CORPORATION regularly instructed employees of AU
17 OPTRONICS CORPORATION AMERICA located in the United States to
18 contact employees of other TFT-LCD manufacturers in the United States
19 to discuss pricing to major United States TFT-LCD customers. In
20 response to these instructions, employees of AU OPTRONICS
21 CORPORATION AMERICA located in the United States had regular
22 contact through in-person meetings and phone calls with employees of
23 other TFT-LCD manufacturers in the United States to discuss and confirm
24 pricing, and at times agree on pricing, to certain TFT-LCD customers
25 located in the United States. These AU OPTRONICS CORPORATION
26 AMERICA employees regularly reported the pricing information they

1 received from their competitor contacts in the United States to senior-level
2 executives at AU OPTRONICS CORPORATION in Taiwan. By at least
3 early 2003, representatives of defendant AU OPTRONICS
4 CORPORATION also began sending reports of the discussions and price
5 agreements reached at Crystal Meetings to certain employees at AU
6 OPTRONICS CORPORATION AMERICA. These reports were used by
7 certain employees of AU OPTRONICS CORPORATION AMERICA in
8 their price negotiations with certain TFT-LCD customers located the
9 United States.

10 (I) During the period covered by this Indictment, representatives of
11 defendants AU OPTRONICS CORPORATION, AU OPTRONICS
12 CORPORATION AMERICA, and other coconspirators took steps to
13 conceal the conspiracy and conspiratorial contacts through various means:

14 (1) The Crystal Meeting participants discussed the need to keep the
15 Crystal Meetings secret and warned against revealing the existence
16 of the meetings, even to other employees within their own
17 companies who did not participate in the conspiracy.

18 (2) Participants in the Crystal Meetings were specifically warned to
19 keep the meetings secret because of antitrust laws and the ongoing
20 price-fixing investigation into the DRAM industry.

21 (3) In addition, in or about December 2006, representatives of AU
22 OPTRONICS CORPORATION AMERICA took steps to destroy
23 evidence showing contacts with TFT-LCD competitors when they
24 became aware of the United States Department of Justice's
25 investigation into price-fixing in the TFT-LCD industry.

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1 IV.

2 TRADE AND COMMERCE

3 18. TFT-LCDs are glass panels composed of an array of tiny pixels that are
4 electronically manipulated in order to display images. TFT-LCDs are manufactured in a broad
5 range of sizes and specifications for use in televisions, notebook computers, desktop computer
6 monitors, cell phones, mobile devices, and other applications. For purposes of this Indictment,
7 TFT-LCD refers to standard-sized panels for use in computer notebooks and monitors and
8 televisions, including sizes 12.1", 13", 13.3", 14", 14.1", 15", 15.2", 15.4", 17", 18", 19", 20",
9 26", and 30".

10 19. During the period covered by this Indictment, the defendants and their
11 coconspirators sold and distributed substantial quantities of TFT-LCDs in a continuous and
12 uninterrupted flow of interstate and foreign trade and commerce to customers located in states or
13 countries other than the states or countries in which the defendants and their coconspirators
14 produced TFT-LCDs. In addition, payments for TFT-LCDs traveled in interstate and foreign
15 trade and commerce.

16 20. The business activities of the defendants and their coconspirators that are the
17 subject of this Indictment were within the flow of, and substantially affected, interstate and
18 foreign trade and commerce.

19 V.

20 JURISDICTION AND VENUE

21 21. As to defendants AU OPTRONICS CORPORATION, AU OPTRONICS
22 CORPORATION AMERICA, HSUAN BIN CHEN, HUI HSIUNG, LAI-JUH CHEN, SHIU
23 LUNG LEUNG, BORLONG BAI, and TSANNRONG LEE, the combination and conspiracy
24 charged in this Indictment was carried out, in part, in the Northern District of California, within
25 the five years preceding the filing of this Indictment.

26 22. As to defendants CHENG YUAN LIN, WEN JUN CHENG, and DUK MO KOO,

1 the combination and conspiracy charged in this Indictment was carried out, in part, in the
2 Northern District of California, within the five years preceding the filing of the Indictment on
3 February 4, 2009, excluding the period during which the running of the statute of limitations was
4 suspended pursuant to agreement with defendant CHENG YUAN LIN.

5 ALL IN VIOLATION OF TITLE 15, UNITED STATES CODE, SECTION 1.

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VI.

SENTENCING ALLEGATION

23. With respect to the charge in this Indictment, for purposes of determining the alternative maximum fine pursuant to Title 18, United States Code, Section 3571(d), defendants AU OPTRONICS CORPORATION and AU OPTRONICS CORPORATION AMERICA and their coconspirators derived gross gains of at least \$500,000,000, and persons other than the defendants and their coconspirators suffered gross losses of at least \$500,000,000.

DATED:

Christine A. Varney
Christine A. Varney
Assistant Attorney General

A TRUE BILL

[REDACTED]
FOREPERSON

SD
Scott D. Hammond
Deputy Assistant Attorney General

Phillip H. Warren
Phillip H. Warren
Chief, San Francisco Office

MS
Marc Siegel
Director of Criminal Enforcement
United States Department of Justice
Antitrust Division

Wall E. Lynch
Wall E. Lynch
Assistant Chief, San Francisco Office

Joseph P. Russoniello
Joseph P. Russoniello
United States Attorney
Northern District of California

Michael L. Scott
Michael L. Scott
Heather S. Tewksbury
Attorneys
U.S. Department of Justice
Antitrust Division
450 Golden Gate Avenue
Box 36046, Room 10-0101
San Francisco, CA 94102
(415) 436-6660