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January 5, 2012

Via E-mail

Peter K. Huston
Assistant Chief
U.S. Department of Justice
Antitrust Division
San Francisco Field Office
450 Golden Gate Avenue
Box 36046, Room 10-0101
San Francisco, California 94102

Re: *United States v. AU Optronics Corporation, et al.*, No. CR-09-0010 SI
File No.: 3757-137

Dear Peter:

I am writing in response to your proposed preliminary jury instructions, which you forwarded by email.

The instructions set forth in your set at pages 2 and 6-16 are identical to the ones we submitted to the Court two weeks ago. We suggest that in the interest of not burdening the Court with unnecessary paper, you consider simply telling the Court of your agreement to those instructions.

We have no objections to the instructions you set forth at page 3, lines 1-19 and page 5 of your set. We agree that the language at page 3, line 20-25 is consistent with the Court's December 23, 2011 order.

We object to your instruction, given at page 17 of your set, on Separate Consideration. Under the circumstances, we believe that the instruction we gave in our set is more appropriate.

Finally, we object to your instruction at page 4 of your set on Gross Gain. We note that the instruction differs somewhat from the one you offered in your motion for preinstructions. The language you have added at lines 14-18 is contrary to the Court's order of July 18, 2011, as well as *Apprendi v. New Jersey*, 530 U.S. 466 (2000). The language you have added at lines 19-24 is confusing, and will create error if, as we anticipate, the Court later gives our proposed instructions on the Foreign Trade Antitrust Improvement Act.

Very truly yours,


Kirk Jenkins

Peter K. Huston

Re: United States v. AU Optronics Corporation, et al., No. CR-09-0010 SI

January 5, 2012

Page 2

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KCJ/

Enclosure