

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
BEFORE THE HONORABLE SUSAN ILLSTON

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	
vs.)	NO. CR. 09-00110 SI
)	
AU OPTRONICS CORPORATION; AU)	
OPTRONICS CORPORATION AMERICA;)	
HSUAN BIN CHEN, aka H. B. CHEN;)	
HUI HSIUNG, aka KUMA;)	
LAI-JUH CHEN, aka L. J. CHEN;)	
SHIU LUNG LEUNG, aka)	
CHAO-LUNG LIANG and STEVEN LEUNG;)	
BORLONG BAI, aka RICHARD BAI;)	
TSANNRONG LEE, aka TSAN-JUNG LEE)	
and HUBERT LEE; CHENG YUAN LIN,)	
aka C. Y. LIN; WEN JUN CHENG, aka)	
TONY CHENG; and DUK MO KOO,)	
)	San Francisco, California
Defendants.)	Tuesday
)	March 13, 2012
)	10:57 a.m.

TRANSCRIPT OF PROCEEDINGS

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24 **ALSO PRESENT: Yeongmei Liu, Mandarin-language interpreter**

10:57:04 1 **THE COURT:** Good morning. You may all be seated.

10:57:09 2 So we have a note from the jury indicating that it
10:57:14 3 has reached a unanimous decision on seven of the eight counts,
10:57:18 4 and is deadlocked on one count, and have been deliberating on
10:57:23 5 it for three days.

10:57:24 6 "We all agree we will not be able to
10:57:31 7 agree/reach decision on this last count."

10:57:37 8 So have you any suggestions for me?

10:57:42 9 **MR. HUSTON:** The Government has one, your Honor.
10:57:44 10 Obviously, the jury wrote their note not in precise legalese;
10:57:49 11 but we were wondering if we could get any guidance on what
10:57:52 12 they're unanimous on, and what they are deadlocked on. That
10:57:57 13 might help us.

10:58:00 14 **THE COURT:** I'm pretty sure you can't do that.
10:58:06 15 Do you have any suggestions?

10:58:08 16 **MR. RIORDAN:** I think they're done.

10:58:10 17 **THE COURT:** I think that the most I can do is inquire
10:58:13 18 whether there's anyone on the jury who feels that having more
10:58:17 19 time to discuss it might allow them to reach a verdict on the
10:58:22 20 last count. I think it would be improper to inquire which
10:58:28 21 counts they've decided and which counts they haven't; don't
10:58:32 22 you?

10:58:32 23 **MR. HUSTON:** Well, there's only one count. There are
10:58:34 24 multiple defendants, obviously.

10:58:36 25 **THE COURT:** All right. Multiple -- so that's the --

10:58:38 1 I guess what they mean is they've reached a decision with
10:58:40 2 respect to seven of eight defendants, and are hung up on the
10:58:44 3 last defendant -- on a defendant.

10:58:47 4 **MS. CASHMAN:** Your Honor, there are actually only
10:58:49 5 seven defendants.

10:58:50 6 **MR. HUSTON:** There are seven defendants, so -- but
10:58:52 7 there are several questions on the verdict form.

10:58:54 8 **THE COURT:** Well, where's the where's the verdict
10:58:56 9 form?

10:58:58 10 Or -- so maybe it's the number.

10:58:59 11 **MR. HEALY:** I have one here, your Honor.

10:59:02 12 **MR. RIORDAN:** Or --

10:59:03 13 **THE COURT:** That would be great. I don't have one.

10:59:05 14 **MR. RIORDAN:** Or, your Honor, it may be six
10:59:07 15 defendants on the number that they've reached a decision on,
10:59:09 16 then, and one defendant that they haven't.

10:59:11 17 **THE COURT:** Oh, I see. So this is why they've
10:59:13 18 left --

10:59:15 19 (Whereupon a document was tendered to the Court)

10:59:19 20 **MR. RIORDAN:** But we agree with your Honor that the
10:59:21 21 most that the Court could do is ask whether the jurors feel
10:59:25 22 that there's any chance that further deliberations would be
10:59:28 23 fruitful.

10:59:56 24 **MR. HUSTON:** And just to be clear, your Honor, we
10:59:58 25 don't think that's necessary, your Honor. To the extent you

11:00:01 1 think you can't inquire as to further guidance, I think that
11:00:06 2 what Mr. Riordan said is that they're done. And that may be
11:00:09 3 the case.

11:00:11 4 **THE COURT:** Well, what were you thinking when you --
11:00:13 5 what kind of information were you thinking you -- we might get
11:00:17 6 if we were to inquire?

11:00:19 7 **MR. HUSTON:** Along the lines of what Mr. Riordan was
11:00:21 8 just talking about: Whether they were hung up on this gain
11:00:24 9 issue, or whether they were --

11:00:27 10 **THE COURT:** On what issue?

11:00:29 11 **MR. RIORDAN:** Gain.

11:00:29 12 **MR. HUSTON:** The gain issue.

11:00:31 13 **THE COURT:** Oh. I thought you said "gang."

11:00:34 14 **MR. RIORDAN:** Different case.

11:00:35 15 **MR. HUSTON:** You know if that were the case, that
11:00:36 16 might give us some information, versus whether they were just
11:00:39 17 hung up on one of the individual defendants.

11:00:42 18 **THE COURT:** Of course. Even if we've found that out,
11:00:44 19 what would we do then?

11:00:47 20 **MR. HUSTON:** I suppose it's possible if they were
11:00:49 21 hung up on the gain issue, we could ask them whether there was
11:00:52 22 any additional information that might help their deliberations;
11:00:55 23 but I defer to your Honor. If you think that's problematic --

11:00:59 24 **THE COURT:** Well, I just think it's always risky to
11:01:03 25 ask them anything that amounts to, "Where do you stand on

11:01:08 1 this?"

11:01:09 2 **MR. HUSTON:** That's fine, your Honor.

11:01:11 3 In that case, we'd just ask for the partial verdict.

11:01:15 4 **THE COURT:** Is that agreeable to you?

11:01:17 5 **MR. RIORDAN:** Yes.

11:01:18 6 **THE COURT:** And when I say "you," are you speaking
11:01:20 7 for everyone?

11:01:21 8 **MR. RIORDAN:** Yes. I'm speaking for all defendants
11:01:23 9 on that.

11:01:23 10 **THE COURT:** So that we should just accept -- I will
11:01:26 11 at least ask the question. I expect the response will be, "We
11:01:29 12 just told you that it won't," but I'll find that out.

11:01:32 13 Mr. Scott, is there anything that I need to know?

11:01:36 14 **MR. SCOTT:** No, no, your Honor. Thank you.

11:01:37 15 **THE COURT:** Okay. Tracy, why don't you bring them
11:01:39 16 out?

11:01:39 17 Oh, and incidentally, assuming that we just go ahead
11:01:43 18 and take the partial verdict at this time, Tracy will read it
11:01:47 19 aloud. And then I will ask her to poll the jurors.

11:01:53 20 **MR. BERSON:** Thank you.

11:01:53 21 **MR. RIORDAN:** Your Honor, one other matter before
11:01:55 22 they come out.

11:01:56 23 If -- there may be legal matters thereafter that the
11:02:00 24 jury need not concern itself with, and they'll be dismissed;
11:02:04 25 but we would ask that before they are dismissed, since you have

11:02:08 1 now indicated they will be, that they be told that they have no
11:02:11 2 obligation to speak to anyone, but they're perfectly free to
11:02:15 3 speak to anybody they want to about the case.

11:02:17 4 **THE COURT:** That is what I normally tell jurors.

11:02:19 5 (Jury in at 11:02 a.m.)

11:03:45 6 **THE COURT:** Ladies and gentlemen, I've received a
11:03:47 7 note from you which reads as follows.

11:03:50 8 "We have reached a unanimous decision
11:03:52 9 on seven of eight counts. We are
11:03:55 10 deadlocked on one count, and have been
11:03:57 11 deliberating on it for three days. We all
11:04:01 12 agree we will not be able to agree or reach
11:04:05 13 a decision on this last count."

11:04:09 14 So my first question to you all is: Is there anyone
11:04:18 15 among you who feels that it would help in any way to spend some
11:04:22 16 more time talking about? Do you think you might be able to
11:04:26 17 come to a decision if you were to spend some more time
11:04:30 18 consulting with one another and deliberating this? Anybody who
11:04:33 19 thinks that?

11:04:36 20 I'm not getting any positive response.

11:04:39 21 And that's, in fact, what the note had told me, but I
11:04:41 22 just wanted to double-check, and make sure that you all agreed
11:04:45 23 to that. So do you all agree, you've pretty much given this
11:04:49 24 your best shot?

11:04:51 25 All right. Well, then, have you filled out the

11:04:54 1 verdict form, to the extent you have reached decision, and has
11:05:00 2 the foreperson signed it?

11:05:03 3 **JUROR BOURDOUKLIS:** Yeah.

11:05:03 4 **THE COURT:** Okay. Why don't you give it to Tracy?

11:05:12 5 (Whereupon a document was tendered to the Court)

11:05:13 6 **THE COURT:** What will happen now, ladies and
11:05:15 7 gentlemen, is as follows. I will give the verdict form to
11:05:20 8 Tracy. She will read it aloud. And then, after she's done
11:05:27 9 doing that, we will ask -- Tracy will ask each one of you, in
11:05:33 10 turn, "Is this your true and correct verdict?" because we want
11:05:36 11 to make sure that, to the extent there is a verdict here, it
11:05:39 12 is, in fact, unanimous. So listen carefully as she reads it
11:05:43 13 aloud, and make sure that that's what each of you has agreed
11:05:46 14 to.

11:05:59 15 All right. Tracy, would you read that, please?

11:06:11 16 **THE CLERK:** Okay. Ladies and jury -- ladies and
11:06:15 17 gentlemen of the jury, listen to your verdict as it shall stand
11:06:18 18 recorded in the United States District Court for the Northern
11:06:20 19 District of California, San Francisco Division. United States
11:06:24 20 of America versus AU Optronics Corporation,
11:06:28 21 AU Optronics Corporation America's, Hsuan Bin Chen, a.k.a.
11:06:34 22 H. B. Chen; Hui Hsiung, a.k.a. Kuma; Lai-Juh Chen, a.k.a. L. J.
11:06:43 23 Chen; Shiu Lung Lueng, a.k.a. Chao-Lung Liang; and
11:06:50 24 Steven Leung; Tsannrong Lee, a.k.a. Tsan-Jung Lee and
11:06:58 25 Hubert Lee, Criminal 09-110 Special Verdict Form.

11:07:02 1 We, the jury in the above-entitled case, unanimously
11:07:06 2 find the answers to the following questions.

11:07:09 3 Part A. AU Optronics Corporation. One. Do you find
11:07:15 4 that defendant AU Optronics Corporation violated the
11:07:19 5 Sherman Act, as charged?

11:07:22 6 Yes. Guilty.

11:07:24 7 AU Optronics Corporation America.

11:07:29 8 Two. Do you find that defendant AUO Optronics
11:07:32 9 Corporation America violated the Sherman Act, as charged?

11:07:35 10 Yes. Guilty.

11:07:41 11 Hsuan Bin H. B. Chen. Three. Do you find that the
11:07:46 12 defendant, Hsuan Bin Chen, also known as H. B. Chen, violated
11:07:50 13 the Sherman Act, as charged?

11:07:53 14 Yes. Guilty.

11:07:56 15 Hui Hsiung, Kuma. Four. Do you find that Defendant
11:08:02 16 Hui Hsiung, also known as Kuma, violated the Sherman Act, as
11:08:07 17 charged?

11:08:08 18 Yes. Guilty.

11:08:11 19 Lai-Juh L. J. Chen. Five. Do you find that the
11:08:17 20 defendant, Lai-Juh Chen, also known as L. J. Chen, violated the
11:08:21 21 Sherman Act, as charged?

11:08:23 22 No. Not guilty.

11:08:30 23 Skipping to Number Seven. Tsannrong Hubert Lee. Do
11:08:36 24 you find that Defendant Tsannrong Lee, also known as
11:08:43 25 Tsan-Jung Lee and Hubert Lee, violated the Sherman Act, as

11:08:47 1 charged?

11:08:47 2 No. Not guilty.

11:08:51 3 **THE COURT:** Tracy?

11:08:53 4 **THE CLERK:** Hm?

11:08:55 5 **THE COURT:** There's no response on Number Six?

11:08:57 6 **THE CLERK:** There is nothing.

11:08:58 7 **THE COURT:** Okay.

11:09:00 8 **THE CLERK:** Part B. Gross gain from the offense.

11:09:06 9 Number Eight. Did the participants in the conspiracy derive

11:09:10 10 gains from the conspiracy?

11:09:12 11 Yes.

11:09:17 12 Question Nine. Was the amount of combined gross

11:09:20 13 gains derived from the conspiracy by all participants in the

11:09:23 14 conspiracy, including AU Optronics Corporation (AUO),

11:09:27 15 AU Optronics Corporation America (AUOA), LG Philips LCD

11:09:35 16 Company, Limited (LG), Samsung Electronics Company, Limited

11:09:40 17 (Samsung), Chunghwa Picture Tubes, Limited (CPT), Chi Mei

11:09:48 18 Optoelectronics Corporation (CMO), and HannStar Display

11:09:51 19 Corporation (HannStar), 500 million or more?

11:09:58 20 Yes.

11:10:03 21 And it's signed.

11:10:05 22 **THE COURT:** Is there a response to ten?

11:10:07 23 **THE CLERK:** No.

11:10:08 24 **THE COURT:** Okay.

11:10:09 25 **THE CLERK:** And it's not dated.

11:10:10 1 And it's signed by -- oh. Margie?
11:10:20 2 Debra Bourdouklis.
11:10:28 3 **THE COURT:** Madam foreman, was that dated today?
11:10:32 4 **JUROR BOURDOUKLIS:** Yes.
11:10:32 5 **THE COURT:** All right. Then that's March 13th. All
11:10:37 6 right. So would you poll the jury, please, Tracy?
11:10:46 7 **THE CLERK:** Okay. Juror Number 1, are Ramonicito
11:10:50 8 Francisco, is this your true an correct verdict?
11:10:54 9 **JUROR FRANCISCO:** Come again?
11:10:55 10 **THE CLERK:** Is this your true and correct verdict?
11:10:58 11 **JUROR FRANCISCO:** (Nods head)
11:10:59 12 **THE CLERK:** Mario Mireles, is this your true and
11:11:01 13 correct verdict?
11:11:03 14 **JUROR MIRELES:** Yes.
11:11:04 15 **THE CLERK:** William Broaders, is this your true and
11:11:06 16 correct verdict?
11:11:07 17 **JUROR BROADERS:** Yes.
11:11:08 18 **THE CLERK:** Debra Bourdouklis, is this your true and
11:11:10 19 correct verdict?
11:11:12 20 **JUROR BOURDOUKLIS:** Yes.
11:11:13 21 **THE CLERK:** Margie Silver, is this your true and
11:11:15 22 correct verdict?
11:11:17 23 **JUROR SILVER:** Yes.
11:11:18 24 **THE CLERK:** Also known as Margaret.
11:11:19 25 Anna Chudinova --

11:11:23 1 **JUROR CHUDINOVA:** Yes.

11:11:21 2 **THE CLERK:** Is this your true and correct verdict?

11:11:23 3 **JUROR CHUDINOVA:** (Nods head)

11:11:26 4 **THE CLERK:** Thank you.

11:11:26 5 Beverly Flinn, is this your true and correct verdict?

11:11:29 6 **JUROR FLINN:** Yes.

11:11:31 7 **THE CLERK:** David Villanueva, is this your true and

11:11:33 8 correct verdict?

11:11:34 9 **JUROR VILLANUEVA:** Yes.

11:11:35 10 **THE CLERK:** Carol Prell, is this your true and

11:11:37 11 correct verdict?

11:11:38 12 **JUROR PRELL:** Yes.

11:11:39 13 **THE CLERK:** Howard Folkman, is this your true and

11:11:42 14 correct verdict?

11:11:43 15 **JUROR FOLKMAN:** Yes.

11:11:44 16 **THE COURT:** Howard Hathorne, is this your true and

11:11:47 17 correct verdict?

11:11:49 18 **JUROR HATHORNE:** Yes.

11:11:50 19 **THE CLERK:** Paul McCan, is this your true and correct

11:11:52 20 verdict?

11:11:53 21 **JUROR MC CAN:** Yes.

11:11:55 22 **THE COURT:** Thank you, ladies and gentlemen. The

11:11:55 23 verdict will stand as it's been read.

11:11:57 24 And now you've come to the end of this very long

11:12:01 25 road. On behalf of everybody here, thank you for all of your

11:12:05 1 time and attention. It's been difficult. And, in fact, I know
11:12:08 2 that we have just asked you to do about the hardest thing that
11:12:12 3 there is to do, which is to sit in judgment on one another.
11:12:16 4 And you've listened patiently, and done that. And you've spent
11:12:21 5 a long time trying very hard to come to the point that we have.
11:12:25 6 So for that, we are very, very grateful.

11:12:29 7 You will now be discharged as jurors on this case.

11:12:32 8 And I'll tell you one last thing that I haven't ever
11:12:36 9 told you before, which is at this point, you are free to speak
11:12:40 10 with anybody you want to about this case. You can even
11:12:43 11 research it on the Internet, if you'd like; but the point is
11:12:47 12 you may speak to people about it if you want to, but you don't
11:12:51 13 have to.

11:12:52 14 I mention that because very often when a case is over
11:12:55 15 with, the lawyers who have worked on it are curious to talk to
11:12:58 16 jurors about their decision. And there's nothing the matter
11:13:02 17 with that. They sometimes learn -- learn things that are
11:13:07 18 useful from that. And if you want to talk to people about it,
11:13:10 19 you sure may. There's nothing the matter with that. If you
11:13:13 20 don't want to talk to people about it, you don't have to.

11:13:16 21 And -- and if you -- if somebody should want to talk
11:13:20 22 to you and you feel like you'd rather not, just tell them that,
11:13:24 23 and they will leave you alone. And if anybody ever doesn't
11:13:27 24 leave you alone, you let me know about it, and we will take
11:13:30 25 care of that; but there's nothing the matter with the curiosity

11:13:33 1 that is often expressed. So if you want to chat with people
11:13:35 2 about it, you are free to do so.

11:13:37 3 So with that, I thank you very much for your time and
11:13:39 4 attention. And I will excuse you from this courtroom. I will
11:13:42 5 ask, if you don't mind, wait one second in the jury room. I
11:13:45 6 want to come back and say thank you personally; but at this
11:13:47 7 point, you're excused from this trial. Thank you.

02:02:28 8 (Jury out at 11:13 a.m.)

11:14:20 9 **THE COURT:** So with respect to
11:14:26 10 Defendant Steven Leung, the case is mistried, I guess; and so I
11:14:36 11 so declare.

11:14:38 12 Now, who's -- is that you?

11:14:40 13 **MS. CASHMAN:** That is my client, your Honor.

11:14:42 14 **THE COURT:** So as to Mr. Leung, I declare a mistrial.
11:14:51 15 As to the amount that's blank on the form, I don't
11:14:54 16 know that we need to do anything.

11:14:57 17 **MR. HUSTON:** We don't, your Honor.

11:14:59 18 **THE COURT:** All right. So now what do we need to do
11:15:01 19 next?

11:15:02 20 **MR. CASHMAN:** With respect to Mr. Leung, Judge, I was
11:15:04 21 just going to suggest a status date 30 days out.

11:15:08 22 **MR. HUSTON:** That sounds fine.

11:15:09 23 **THE COURT:** All right. We don't have -- Tracy, why
11:15:12 24 don't you folks get together? Fix a date that will work for
11:15:14 25 you, and we'll put it on calendar.

11:15:16 1 **MR. RIORDAN:** Your Honor, we've spoken to the
11:15:17 2 Government on behalf of the four defendants who -- as to whom
11:15:22 3 the jury returned guilty verdicts. We will orally at this
11:15:26 4 moment renew our Rule 29; make a Rule 33.

11:15:30 5 I've spoken to Mr. Huston. We're going to get
11:15:33 6 together and attempt to reach, by stipulation, a briefing
11:15:37 7 schedule on those motions.

10:59:15 8 (Whereupon a document was tendered to the Court)

11:15:42 9 **THE COURT:** This is the original (indicating).

11:15:43 10 I'm sorry. I lost the last part of what you said.

11:15:48 11 **MR. RIORDAN:** I apologize.

11:15:49 12 On behalf of the four defendants as to whom there
11:15:52 13 have been guilty verdicts, we orally renew our Rule 29.

11:15:56 14 We now make a Rule 33 motion.

11:15:59 15 I have spoken to Mr. Huston. And the parties will
11:16:01 16 get together and attempt to work out, by stipulation, a
11:16:04 17 briefing schedule for briefing and a hearing on those motions,
11:16:08 18 your Honor.

11:16:09 19 **THE COURT:** Very well.

11:16:10 20 So the -- just let the Court know. And we'll deal
11:16:14 21 with it.

11:16:16 22 **MS. CASHMAN:** Your Honor, incidentally, we would be
11:16:18 23 joining in that, also, since we do still have standing; at
11:16:22 24 least, the Rule 29, concerning those things that double
11:16:25 25 jeopardy are attached.

11:16:27 1 **THE COURT:** All right.

11:16:27 2 **THE CLERK:** Okay.

11:16:28 3 **THE COURT:** And they want a status 30 days out, but
11:16:31 4 they'll let us know.

11:16:33 5 **MR. CASHMAN:** We can pick a date, Tracy.

11:16:35 6 **THE CLERK:** So I don't do anything until we set a
11:16:38 7 date.

11:16:39 8 **MR. RIORDAN:** Yeah. I believe that we -- we would
11:16:41 9 then have the hearing on those motions. And at that point, the
11:16:44 10 Court would set a date for sentencing if the motions are
11:16:52 11 denied.

11:16:54 12 **THE COURT:** All right. And then as to the two
11:16:56 13 individual defendants who were found not guilty --
11:16:57 14 Mr. L. J. Chen, and Mr. Hubert Lee -- now, who's --

11:17:02 15 **MR. CONROY:** I represent Mr. Lee, your Honor.
11:17:04 16 Brendan Conroy.

11:17:06 17 **MR. ROBBINS:** And Patrick Robbins.

11:17:08 18 **THE COURT:** Presumably, they would like their
11:17:09 19 passports back.

11:17:11 20 **MR. CONROY:** Yes.

11:17:12 21 **MR. ROBBINS:** Right, your Honor. And we'll speak
11:17:13 22 with Pretrial about that.

11:17:15 23 **THE COURT:** All right. I'll do whatever I need to do
11:17:17 24 to facilitate that.

11:17:18 25 **THE CLERK:** Okay.

11:17:19 1 **MS. TEWKSBURY:** And with respect to Mr. H. B. Chen
11:17:22 2 and Dr. Hsiung, they currently have their passports. And we'd
11:17:25 3 like them to be immediately relinquished back to the Clerk's
11:17:27 4 Office.

11:17:29 5 **MR. BERSON:** They don't have them. Dr. Hsiung
11:17:31 6 doesn't have his.

11:17:32 7 **MR. RIORDAN:** They're already -- the passports are
11:17:34 8 with Pretrial Services.

11:17:36 9 **MS. TEWKSBURY:** We would allow them to facilitate
11:17:37 10 them getting out of the building during trial.

11:17:40 11 **MR. ATTANASIO:** When deliberations began, we
11:17:42 12 voluntarily turned H. B. Chen's passport into Pretrial
11:17:47 13 Services. They already have it.

11:17:48 14 **THE COURT:** Okay. All right.

11:17:49 15 **THE CLERK:** And so no Probation referrals until --

11:17:51 16 **MS. TEWKSBURY:** That's what I wanted to check in with
11:17:53 17 the Court about: Next steps with respect to the two
11:17:56 18 defendants. We would suggest that they report to Pretrial
11:17:58 19 Services now.

11:17:59 20 **THE COURT:** Well, yes. I think you should do that
11:18:01 21 right now; but whether -- and if you want to start doing the
11:18:03 22 report, that's fine; but we do need to get the motions
11:18:07 23 scheduled and resolved before we sentence them.

11:18:10 24 **MR. RIORDAN:** Yeah. We have no problem with that.
11:18:11 25 They can report to Pretrial Services and get the process

11:18:14 1 started.

11:18:15 2 **THE COURT:** Okay. That's fine.

11:18:17 3 **THE CLERK:** All right. Well, we need to know for

11:18:23 4 sure if they're going to go to Probation, because each attorney

11:18:25 5 has to start a file for their client. So every defendant needs

11:18:31 6 to go down to Probation. I'll do a referral on line.

11:18:37 7 **MR. RIORDAN:** Right.

11:18:38 8 **THE CLERK:** But you guys have got to go, physically,

11:18:41 9 down there.

11:18:43 10 **THE COURT:** Oh, all right. Thank you.

11:18:44 11 **MS. TEWKSBURY:** Can we set a status conference to

11:18:47 12 modify their conditions of release pending the Presentence

11:18:49 13 Report?

11:18:53 14 **THE COURT:** Sure. I'm not going to do anything until

11:18:56 15 you come in. So if you want to set it -- if you want to set a

11:18:59 16 date to have that discussed, I'll be happy to do that. Just

11:19:02 17 come up with a date.

11:19:04 18 **MS. TEWKSBURY:** We'll confer with them, and get it to

11:19:05 19 you.

11:19:06 20 **MR. BERSON:** Excuse me. I respectfully request that

11:19:09 21 we delay the Presentence Report process until we litigate the

11:19:13 22 Rule 29 and Rule 33 motion.

11:19:16 23 **THE COURT:** Well, I feel you should definitely report

11:19:19 24 to Probation now, because that --

11:19:20 25 **MR. BERSON:** Okay.

11:19:21 1 **THE COURT:** -- that needs to happen.

11:19:22 2 Whether they initiate the preparation of the report
11:19:25 3 now or later, if you folks can agree on some thing on that, I
11:19:30 4 don't really care.

11:19:32 5 **MR. BERSON:** We were going to report, as was
11:19:35 6 requested, to Pretrial Services, which is a different division,
11:19:38 7 who they're going to continue reporting to.

11:19:41 8 **THE COURT:** Oh. Oh.

11:19:42 9 **MR. BERSON:** The Probation Office is for the
11:19:44 10 preparation of Presentence Report.

11:19:47 11 **THE COURT:** Right. I think you should report to
11:19:48 12 Probation --

11:19:49 13 **MR. BERSON:** Okay. You want us to --

11:19:50 14 **THE COURT:** -- now.
11:19:51 15 I do. I want that process to begin.

11:19:53 16 **MR. BERSON:** You do. All right. Okay.

11:19:56 17 **MR. CASHMAN:** One last matter on behalf of Mr. Leung.
11:19:58 18 He's had his passport the entire pendency of these proceedings.
11:20:01 19 The Government chose not to appeal Judge James' giving his
11:20:05 20 passport back. He voluntarily surrendered it when the jury
11:20:09 21 went out. Can he have it back now?

11:20:11 22 **THE COURT:** Yes.

11:20:12 23 **MR. CASHMAN:** Thank you.

11:20:13 24 **THE COURT:** Okay.

25 (At 11:20 a.m. the proceedings were concluded)

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CERTIFICATE OF REPORTER

I, LYDIA ZINN, Official Reporter for the United States Court, Northern District of California, hereby certify that the foregoing proceedings in CR. 09-0110 SI, United States of America v. AU Optronics Corporation, et al., were reported by me, a certified shorthand reporter, and were thereafter transcribed under my direction into typewriting; that the foregoing is a full, complete and true record of said proceedings as bound by me at the time of filing.

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/s/ Lydia Zinn, CSR 9223, RPR

Tuesday, March 13, 2012