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

16 IN RE TFT-LCD (FLAT PANEL)) Master File No. C07-1827 SI
17 ANTITRUST LITIGATION)
18 _____) MDL No. 1827
19 This Document Relates to:) CLASS ACTION
20 All Indirect-Purchaser Actions) **INDIRECT-PURCHASER PLAINTIFFS’**
21) **SECOND CONSOLIDATED AMENDED**
22) **COMPLAINT**
23) **DEMAND FOR JURY TRIAL**

24 Plaintiffs, indirect purchasers of thin film transistor liquid crystal display (“LCD”) panels
25 as defined below, on behalf of themselves and all other similarly-situated indirect-purchasers, for
26 their Second Consolidated Amended Complaint against all defendants named herein, demand trial
27 by jury of all claims properly triable thereby, and complain and allege as follows:
28

1 **I. INTRODUCTION**

2 1. This case arises out of a long-running conspiracy extending from at least January 1,
3 1996 through at least December 11, 2006, at a minimum, among defendants and their co-
4 conspirators, the purpose and effect of which was to fix, raise, stabilize, and maintain prices for
5 LCD panels sold indirectly to Plaintiffs and the members of the other indirect-purchaser classes
6 defined below.

7 2. Defendants and their co-conspirators formed an international cartel illegally to
8 restrict competition in the LCD panel market, specifically targeting and severely injuring indirect-
9 purchaser consumers and affecting billions of dollars of commerce throughout the United States.
10 The conspiracy included communications and meetings in which defendants agreed to eliminate
11 competition and fix the prices for LCD panels. As a result of defendants' price fixing conspiracy,
12 plaintiffs and the members of the indirect-purchaser classes have been injured in their business and
13 property by paying more for LCD panels than they otherwise would have paid in the absence of
14 defendants' conspiracy.

15 **II. JURISDICTION AND VENUE**

16 3. This action is brought under Section 16 of the Clayton Act (15 U.S.C. 26) to secure
17 equitable relief against the defendants due to their violations of Section 1 of the Sherman Act (15
18 U.S.C. 1), as well as under the antitrust and other laws of the State of California and of the other
19 States listed herein, to obtain restitution, recover damages, and to secure other relief against the
20 defendants for violations of those state laws.

21 4. This Court has subject matter jurisdiction of the federal antitrust claims asserted in
22 this action under Section 16 of the Clayton Antitrust Act (15 U.S.C. 26), Section 1 of the Sherman
23 Act (15 U.S.C.1) and Title 28, United States Code, Sections 1331 and 1337. This Court has
24 subject matter jurisdiction of the state-law claims asserted in this action under Title 28, United
25 States Code, Sections 1332(d) and 1367, in that the matter in controversy exceeds the sum of \$5
26 million exclusive of interest and costs, members of the indirect-purchaser plaintiff class are
27 citizens of states different from defendants, and certain defendants are citizens or subjects of
28 foreign states.

1 5. Venue is proper in this Judicial District pursuant to Section 12 of the Clayton Act
2 (15 U.S.C 22) and Title 28, United States Code, Section 1391(b), (c), and (d), because a
3 substantial part of the events giving rise to plaintiffs' claims occurred in this District, a substantial
4 portion of the affected interstate trade and commerce was carried out in this District, and one or
5 more of the defendants has an agent, maintains an office or does business in this District.

6 6. Defendants conduct business throughout the United States, including in this
7 jurisdiction, and they have purposefully availed themselves of the laws of the United States,
8 including specifically the laws of the state of California and the individual states listed herein.
9 Defendants' products are sold in the flow of interstate commerce, and defendants' activities had a
10 direct, substantial and reasonably foreseeable effect on such commerce.

11 7. Defendants' conspiracy to fix prices of LCD panels substantially affected
12 commerce throughout the United States and in each of the states identified hereinbelow because
13 defendants, directly or through their agents, engaged in activities affecting each such state.
14 Defendants have purposefully availed themselves of the laws of each of the states identified herein
15 in connection with their activities relating to the production, marketing, and sale of LCD panels.
16 Defendants produced, promoted, sold, marketed, and/or distributed LCD panels, thereby
17 purposefully profiting from access to indirect-purchaser consumers in each such state. As a result
18 of the activities described herein, defendants:

- 19 a. Caused damage to the residents of the states identified herein;
- 20 b. Caused damage in each of the states identified herein by acts or
21 omissions committed outside each such state and by regularly doing
22 or soliciting business in each such state;
- 23 c. Engaged in persistent courses of conduct within each such state
24 and/or derived substantial revenue from the marketing of LCD
25 panels or the products in which they are used in each such state (and
26 services relating to such marketing); and
- 27 d. Committed acts or omissions that they knew or should have known
28 would cause damage (and did, in fact, cause such damage) in each

1 such state while regularly doing or soliciting business in each such
2 state, engaging in other persistent courses of conduct in each such
3 state, and/or deriving substantial revenue from the marketing of
4 LCD panels or the products in which they are used in each such
5 state.

6 8. The conspiracy described herein affected adversely every person nationwide, and,
7 more particularly, consumers in each of the states identified in this Complaint who indirectly
8 purchased defendants' LCD panels. Defendants' conspiracy has resulted in an adverse monetary
9 effect on indirect-purchasers in each state identified herein.

10 9. Prices of LCD panels in each state identified in this Complaint were raised to supra-
11 competitive levels by the defendants and their co-conspirators. Defendants knew that commerce
12 in LCD panels and LCD-containing products in each of the states identified herein would be
13 adversely affected by implementing their conspiracy.

14 **III. DEFINITIONS**

15 10. As used herein, the phrase "LCD" means the LCD display technology that involves
16 sandwiching a liquid crystal compound between two glass plates called "substrates." The resulting
17 screen contains hundreds or thousands of eclectically charged dots, called pixels, that form an
18 image. This panel is then combined with a backlight unit, a driver, and other equipment to create a
19 "module" allowing the panel to operate and be integrated into a television, computer monitor or
20 other product.

21 11. As used herein, the phrase "LCD panel" refers to the particular kinds of LCD
22 panels that are used in LCD products.

23 12. As used herein, the phrase "LCD products" means the following products of which
24 LCD panels are a component: televisions, computer monitors, and laptop computers.

25 13. As used herein, the term "OEM" means any original equipment manufacturer of
26 LCD products.

27 14. As used herein, the term "ODM" means any original design manufacturer of LCD
28 products.

1 15. As used herein, the term “Class Period” refers to the time period January 1, 1996
2 through December 11, 2006.

3 **IV. THE PARTIES**

4 **A. The Plaintiffs**

5 16. During the Class Period, the following named Plaintiffs indirectly purchased LCD
6 panels contained in LCD products from one or more of the defendants named herein for end use
7 and not for resale.

8 17. Plaintiff Scott Friedson, a resident of Arizona, indirectly purchased an LCD panel
9 when he purchased a television, and was injured as a result of defendants’ illegal conduct.

10 18. Plaintiff Timothy Lauricella, a resident of Arizona, indirectly purchased an LCD
11 panel when he purchased a computer monitor, and was injured as a result of defendants’ illegal
12 conduct.

13 19. Plaintiff Robert Harmon, a resident of Arkansas, indirectly purchased LCD panels
14 when he purchased nine computer monitors and a laptop computer, and was injured as a result of
15 defendants’ illegal conduct.

16 20. Plaintiff Joe Solo, a resident of California, indirectly purchased an LCD panel when
17 he purchased a television, and was injured as a result of defendants’ illegal conduct.

18 21. Plaintiff Lisa Blackwell, a resident of California, indirectly purchased LCD panels
19 when she purchased two laptop computers and a computer monitor, and was injured as a result of
20 defendants’ illegal conduct.

21 22. Plaintiff Byron Ho, a resident of California, indirectly purchased an LCD panel
22 when he purchased a computer monitor, and was injured as a result of defendants’ illegal conduct.

23 23. Plaintiff Frederick Rozo, a resident of California, indirectly purchased an LCD
24 panel when he purchased a laptop computer and a computer monitor, and was injured as a result of
25 defendants’ illegal conduct.

26 24. Plaintiff Robert Kerson, a resident of California, indirectly purchased an LCD panel
27 when he purchased a television, and was injured as a result of the defendants’ illegal conduct.
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1 25. Plaintiff Steven Martel, a resident of California, indirectly purchased an LCD panel
2 when he purchased a television, and was injured as a result of defendants' illegal conduct.

3 26. Plaintiff David Walker, a resident of Washington D.C., indirectly purchased LCD
4 panels when he purchased a computer monitor and a laptop computer, and was injured as a result
5 of defendants' illegal conduct.

6 27. Plaintiff Scott Eisler, a resident of Florida, indirectly purchased LCD panels when
7 he purchased a computer monitor and a television, and was injured as a result of defendants'
8 illegal conduct.

9 28. Plaintiff Robin Feins, a resident of Florida, indirectly purchased LCD panels when
10 she purchased two televisions, and was injured as a result of defendants' illegal conduct.

11 29. Plaintiff Janet Figueroa, a resident of Florida, indirectly purchased LCD panels
12 when she purchased a computer monitor and a television, and was injured as a result of
13 defendants' illegal conduct.

14 30. Plaintiff Gail Awakuni, a resident of Hawaii, indirectly purchased LCD panels
15 when she purchased a laptop computer and a computer monitor, and was injured as a result of
16 defendants' illegal conduct.

17 31. Plaintiff John Okita, a resident of Hawaii, indirectly purchased LCD panels when
18 he purchased a laptop computer and a computer desktop, and was injured as a result of defendants'
19 illegal conduct.

20 32. Plaintiff Fred Waki, a resident of Hawaii, indirectly purchased an LCD panel when
21 he purchased a television, and was injured as a result of defendants' illegal conduct.

22 33. Plaintiff Ben Northway, a resident of Iowa, indirectly purchased an LCD panel
23 when he purchased a computer monitor, and was injured as a result of the defendants' illegal
24 conduct.

25 34. Plaintiff Rex Getz, a resident of Kansas, indirectly purchased an LCD panel when
26 he purchased a television, and was injured as a result of defendants' illegal conduct.

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1 35. Plaintiff Kou Srimoungchanh, a resident of Kansas, indirectly purchased LCD
2 panels when he purchased computer monitors, televisions, and laptop computers, and was injured
3 as a result of defendants' illegal conduct.

4 36. Plaintiff Michael Ayers, a resident of Massachusetts, indirectly purchased LCD
5 panels when he purchased a laptop computer, and was injured as a result of defendants' illegal
6 conduct.

7 37. Plaintiff Christopher Murphy, a resident of Massachusetts, indirectly purchased
8 LCD panels when he purchased two televisions and a laptop computer, and was injured as a result
9 of defendants' illegal conduct.

10 38. Plaintiff Patricia Ronco, a resident of Maine, indirectly purchased an LCD panel
11 when she purchased a television, and was injured as a result of defendants' illegal conduct.

12 39. Plaintiff Gladys Baker, a resident of Michigan, indirectly purchased an LCD panel
13 when she purchased a laptop computer, and was injured as a result of defendants' illegal conduct.

14 40. Plaintiff Judy Griffith, a resident of Michigan, indirectly purchased LCD panels
15 when she purchased a laptop computer, and was injured as a result of the defendants' illegal
16 conduct.

17 41. Plaintiff Ling-Hung Jou, a resident of Michigan, indirectly purchased an LCD panel
18 when he purchased a television, and was injured as a result of defendants' illegal conduct.

19 42. Plaintiff Martha Mulvey, a resident of Minnesota, indirectly purchased LCD panels
20 when she purchased a computer monitor, and was injured as a result of defendants' illegal
21 conduct.

22 43. Plaintiff Cynthia Saia, a resident of Mississippi, indirectly purchased an LCD panel
23 when she purchased a computer monitor, and was injured as a result of defendants' illegal
24 conduct.

25 44. Plaintiff Claire Coleman, a resident of Montana, indirectly purchased an LCD panel
26 when she purchased a laptop computer, and was injured as a result of the defendants' illegal
27 conduct.

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1 45. Plaintiff William Fisher, a resident of North Carolina, indirectly purchased an LCD
2 panel when he purchased a television, and was injured as a result of defendants' illegal conduct.

3 46. Plaintiff Donna Jeanne Flanagan, a resident of North Carolina, indirectly purchased
4 LCD panels when she purchased a computer monitor, and was injured as a result of defendants'
5 illegal conduct.

6 47. Plaintiff Bob George, a resident of North Dakota, indirectly purchased LCD panels
7 when he purchased two televisions, and was injured as a result of defendants' illegal conduct.

8 48. Plaintiff Thomas Clark, a resident of New Mexico, indirectly purchased an LCD
9 panel when he purchased a laptop computer, and was injured as a result of defendants' illegal
10 conduct.

11 49. Plaintiff Marcia Weingarten, a resident of New Mexico, indirectly purchased LCD
12 panels when she purchased two computer monitors, and was injured as a result of defendants'
13 illegal conduct.

14 50. Plaintiff Richard Granich, a resident of Nevada, indirectly purchased LCD panels
15 when he purchased a computer monitor and a laptop computer, and was injured as a result of
16 defendants' illegal conduct.

17 51. Plaintiff Allen Kelley, a resident of Nevada, indirectly purchased an LCD panel
18 when he purchased a computer monitor, and was injured as a result of defendants' illegal conduct.

19 52. Plaintiff Tom DiMatteo, a resident of New York, indirectly purchased an LCD
20 panel when he purchased a computer monitor, and was injured as a result of defendants' illegal
21 conduct.

22 53. Plaintiff Erin Drew, a resident of New York, indirectly purchased an LCD panel
23 when she purchased a computer monitor, and was injured as a result of defendants' illegal
24 conduct.

25 54. Plaintiff Chris Ferencsik, a resident of New York, indirectly purchased an LCD
26 panel when he purchased a television, and was injured as a result of defendants' illegal conduct.

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1 55. Plaintiff Oscar Cintron, a resident of Puerto Rico, indirectly purchased LCD panels
2 when he purchased a laptop computer and a television, and was injured as a result of defendants'
3 illegal conduct.

4 56. Plaintiff Dr. Robert Matronardi, a resident of Rhode Island, indirectly purchased
5 LCD panels when he purchased computer monitors, and was injured as a result of defendants'
6 illegal conduct.

7 57. Plaintiff Christopher Besette, a resident of South Dakota, indirectly purchased
8 LCD panels when he purchased a computer monitor, and was injured as a result of defendants'
9 illegal conduct.

10 58. Plaintiff Chad Hansen, a resident of South Dakota, indirectly purchased LCD
11 panels when he purchased a television, a laptop computer, and a computer monitor, and was
12 injured as a result of defendants' illegal conduct.

13 59. Plaintiff Scott Beall, a resident of Tennessee, indirectly purchased LCD panels
14 when he purchased a computer monitor and a television, and was injured as a result of defendants'
15 illegal conduct.

16 60. Plaintiff Dena Williams, a resident of Tennessee, indirectly purchased an LCD
17 panel when she purchased a computer monitor, and was injured as a result of defendants' illegal
18 conduct.

19 61. Plaintiff Robert Watson, a resident of Vermont, indirectly purchased LCD panels
20 when he purchased a laptop computer.

21 62. Plaintiff Shawn Stern, a resident of Virginia, indirectly purchased an LCD panel
22 when he purchased a television, and was injured as a result of defendants' illegal conduct.

23 63. Plaintiff Joe Kovacevich, a resident of Wisconsin, indirectly purchased LCD panels
24 when he purchased a computer monitor and a television, and was injured as a result of defendants'
25 illegal conduct.

26 64. Plaintiffs Jai and Amy Paguirigan, citizens of Wisconsin, indirectly purchased an
27 LCD panel when they purchased a computer monitor, and were injured as a result of defendants'
28 illegal conduct.

1 65. Plaintiff John Matrich, a resident of West Virginia, indirectly purchased an LCD
2 panel when he purchased a computer monitor, and was injured as a result of defendants' illegal
3 conduct.

4 66. Plaintiffs and the members of the Indirect-Purchaser Class were injured in their
5 businesses or property as a result of defendants' illegal price-fixing agreement because they paid
6 more for LCD products than they would have absent such illegal conduct.

7 **B. The Defendants**

8 67. AU Optronics Corporation, one of the largest manufacturers of LCD panels, with
9 its corporate headquarters at No. 1, Li-Hsin Rd. 2, Hsinchu Science Park, Hsinchu 30078, Taiwan,
10 is hereby named as a defendant. During the Class Period, said defendant manufactured, marketed,
11 sold and/or distributed LCD panels to customers throughout the United States.

12 68. AU Optronics Corporation America, Inc., a wholly owned and controlled subsidiary
13 of defendant AU Optronics Corporation, with its corporate headquarters at 9720 Cypresswood
14 Drive, Suite 241, Houston, Texas and facilities located in San Diego and Cupertino, California, is
15 hereby named as a defendant. During the Class Period, said defendant manufactured, marketed,
16 sold and/or distributed LCD panels to customers throughout the United States.

17 69. Defendants AU Optronics Corporation and AU Optronics Corporation America,
18 Inc. are referred to collectively herein as "AU Optronics."

19 70. Chi Mei Corporation, another of the largest manufacturers of LCD panels, with its
20 corporate headquarters at No. 11-2, Jen Te 4th St., Jen Te Village, Jen Te, Tainan 717, Taiwan, is
21 hereby named as a defendant. During the Class Period, said defendant manufactured, marketed,
22 sold and/or distributed LCD panels to customers throughout the United States.

23 71. Chi Mei Optoelectronics Corporation, another of the largest manufacturers of LCD
24 panels and a wholly-owned subsidiary of Chi Mei Corporation, with its global headquarters at No.
25 3, Sec. 1, Huanshi Rd., Southern Taiwan Science Park, Sinshih Township, Tainan County, 74147
26 Taiwan, is hereby named as a defendant. During the Class Period, said defendant manufactured,
27 marketed, sold and/or distributed LCD panels to customers throughout the United States.

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1 72. Chi Mei Optoelectronics USA, Inc., *f/k/a* International Display Technology USA,
2 Inc., a wholly owned and controlled subsidiary of Chi Mei Corporation, with its corporate
3 headquarters at 101 Metro Drive Suite 510, San Jose, California, is hereby named as a defendant.
4 During the Class Period, said defendant manufactured, marketed, sold and/or distributed LCD
5 panels to customers throughout the United States.

6 73. CMO Japan Co., Ltd., *f/k/a* International Display Technology, Ltd., a subsidiary of
7 Chi Mei Corporation, with its principal place of business located at Nansei Yaesu Bldg. 3F, 2-2-10
8 Yaesu, Chuo-Ku, Tokyo 104-0028, Japan, is hereby named as a defendant. During the Class
9 Period, said defendant manufactured, marketed, sold and/or distributed LCD panels to customers
10 throughout the United States.

11 74. Defendants Chi Mei Corporation, Chi Mei Optoelectronics Corporation, Chi Mei
12 Optoelectronics USA, Inc., and CMO Japan Co., Ltd., are referred to collectively herein as “Chi
13 Mei.”

14 75. Chunghwa Picture Tubes Ltd. (“Chunghwa”), a leading manufacturer of LCD
15 products, with its global headquarters at 1127 Hopin Rd., Padeh City, Taoyuan, Taiwan, is hereby
16 named as a defendant. During the Class Period, said defendant manufactured, marketed, sold
17 and/or distributed LCD panels to customers throughout the United States.

18 76. HannStar Display Corporation (“HannStar”), with its headquarters at No. 480,
19 Rueiguang Road, 12th Floor, Neihu Chiu, Taipei 114, Taiwan, is hereby named as a defendant.
20 During the Class Period, said defendant manufactured, marketed, sold and/or distributed LCD
21 panels to customers throughout the United States.

22 77. Hitachi, Ltd., with its headquarters at 6-6 marunouchi 1-chome, Chiyoda-ku,
23 Tokyo, 100-8280, Japan, is hereby named as a defendant. During the Class Period, said defendant
24 manufactured, marketed, sold and/or distributed LCD panels to customers throughout the United
25 States.

26 78. Hitachi Displays, Ltd., with its principal place of business located at AKS Bldg. 5F,
27 6-2 Kanda Neribeicho 3, Chiyoda-ku, Tokyo, 101-0022, Japan, is hereby named as a defendant.
28

1 During the Class Period, said defendant manufactured, marketed, sold and/or distributed LCD
2 panels to customers throughout the United States.

3 79. Hitachi Electronic Devices (USA), Inc., a wholly owned and controlled subsidiary
4 of defendant Hitachi Ltd., with its principal place of business located at 575 Mauldin Road,
5 Greenville, South Carolina 29607, is hereby named as a defendant. During the Class Period, said
6 defendant manufactured, marketed, sold and/or distributed LCD panels to customers throughout
7 the United States.

8 80. Defendants Hitachi Displays Ltd., Hitachi America Ltd. and Hitachi Electronic
9 Devices (USA), Inc. are referred to collectively herein as “Hitachi.”

10 81. LG Display Co., Ltd., f/k/a LG Phillips LCD Co., Ltd., a leading manufacturer of
11 LCD panels and a joint venture created in 1999 by Philips Electronics NV and LG LCD, which
12 maintains offices within this District in San Jose, California, and which has its principal place of
13 business located at 20 Yoido-dong, Youngdungpo-gu, Seoul, 150-721, Republic of Korea, is
14 hereby named as a defendant. During the Class Period, said defendant manufactured, marketed,
15 sold and/or distributed LCD panels to customers throughout the United States.

16 82. LG Display America, Inc. f/k/a LGD LCD America, Inc., with its principal place of
17 business located at 150 East Brokaw Rd., San Jose, CA 95112, is hereby named as a defendant.
18 During the Class Period, said defendant manufactured, marketed, sold and/or distributed LCD
19 panels to customers throughout the United States.

20 83. Defendants LG Display Co., Ltd. and LG Display America, Inc. are referred to
21 collectively herein as “LGD.”

22 84. Samsung Electronics Co., Ltd., with its principal place of business at Samsung
23 Main Building, 250-2 ga, Taepyung-ro Chung-gu, Seoul, Republic of Korea, is hereby named as a
24 defendant. During the Class Period, said defendant manufactured, marketed, sold and/or
25 distributed LCD panels to customers throughout the United States.

26 85. Samsung Semiconductor, Inc., a wholly-owned and controlled subsidiary of
27 Samsung Electronics Co., Ltd., with its principal place of business at 3655 North First Street, San
28 Jose, California 95134, is hereby named as a defendant. During the Class Period, said defendant

1 manufactured, marketed, sold and/or distributed LCD panels to customers throughout the United
2 States.

3 86. Samsung Electronics America, Inc., (“Samsung America”), a wholly-owned and
4 controlled subsidiary of defendant Samsung Electronics Company, Ltd., with its principal place of
5 business at 105 Challenger Road, Ridgefield Park, New Jersey, is hereby named as a defendant.
6 During the Class Period, Samsung America sold and distributed LCD Products manufactured by
7 Samsung Electronics Company, Ltd. to consumers throughout the United States.

8 87. Defendants Samsung Electronics Co., Ltd., Samsung Electronics America, Inc., and
9 Samsung Semiconductor, Inc. are referred to collectively herein as “Samsung.”

10 88. Sharp Corporation, with its principal place of business at 22-22 Nagaike-cho,
11 Abeno-ku, Osaka 545-8522, Japan, is hereby named as a defendant. During the Class Period, said
12 defendant manufactured, marketed, sold and/or distributed LCD panels to customers throughout
13 the United States.

14 89. Sharp Electronics Corporation, a wholly owned and controlled subsidiary of Sharp
15 Corporation with its principal place of business at Sharp Plaza, Mahwah, New Jersey, 07430, is
16 hereby named as a defendant. During the Class Period, said defendant manufactured, marketed,
17 sold and/or distributed LCD panels to customers throughout the United States.

18 90. Defendants Sharp Corporation and Sharp Electronics Corporation are referred to
19 collectively herein as “Sharp.”

20 91. Toshiba Corporation, with its principal place of business at 1-1, Shibaura 1-chome,
21 Minato-ku, Tokyo, 105-8001, Japan, is hereby named as a defendant. During the Class Period,
22 said defendant manufactured, marketed, sold and/or distributed LCD panels to customers
23 throughout the United States.

24 92. Toshiba Matsushita Display Technology Co., Ltd., with its principal place of
25 business located at Rivage Shinagawa, 1-8, Konan 4-chome, Minato-ku, Tokyo, 108-0075, Japan,
26 is hereby named as a defendant. During the Class Period, said defendant manufactured, marketed,
27 sold and/or distributed LCD panels to customers throughout the United States.

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1 93. Toshiba America Electronics Components, Inc., a wholly owned and controlled
2 subsidiary of defendant Toshiba Corporation with its corporate headquarters at 19900 MacArthur
3 Blvd., Ste. 400, Irvine, CA 92612, is hereby named as a defendant. During the Class Period, said
4 defendant manufactured, marketed, sold and/or distributed LCD panels to customers throughout
5 the United States.

6 94. Defendant Toshiba America Information Systems, Inc. is a California corporation
7 with its principal place of business at 9470 Irvine Boulevard, Irvine, California. Toshiba America
8 Information Systems, Inc. is a wholly-owned and controlled subsidiary of Toshiba America, Inc.
9 During the Class Period, Toshiba America Information Systems, Inc. sold and distributed TFT-
10 LCD Products manufactured by Toshiba Corporation to customers throughout the United States.

11 95. Defendants Toshiba Corporation, Toshiba Matsushita Display Technology Co.,
12 Ltd., and Toshiba America Electronic Components, Inc. are referred to collectively herein as
13 “Toshiba.”

14 96. Wherever in this complaint a family of defendant-corporate entities is referred to by
15 a common name, it shall be understood that plaintiffs are alleging that one or more officers or
16 employees of one or more of the named related defendant companies participated in the illegal acts
17 alleged herein on behalf of all of the related corporate family entities.

18 **C. Co-Conspirators**

19 97. Various persons and entities whose identities are unknown to plaintiffs at this time,
20 participated as co-conspirators in the violations alleged herein and performed acts and made
21 statements in furtherance thereof. Once the identities of these presently-unknown co-conspirators
22 are ascertained, plaintiffs will seek leave of court to add them as named defendants herein.

23 98. Other co-conspirators whose identities are known to plaintiffs include the following
24 companies with whom Plaintiffs have entered into tolling agreements: Epson Imaging Devices
25 Corporation, (“Epson”); LG Electronics, Inc. and LG Electronics USA, Inc. (“LG Electronics”);
26 Royal Philips Electronics N.V. and Philips Electronics North America Corp. (“Philips
27 Electronics”). Other co-conspirators whose identities are known to plaintiffs include the
28 following: Hydis Technologies Co., Ltd., f/k/a BOE Hydis Technology Co., Ltd. (“Hydis”).

1 Plaintiffs may move to add as defendants herein all of these named co-conspirators once the stay
2 of discovery is lifted and Plaintiffs have access to the grand jury documents.

3 99. The acts charged in this Complaint have been done by defendants and their co-
4 conspirators, or were authorized, ordered, or done by their respective officers, agents, employees,
5 or representatives while actively engaged in the management of each defendant's business or
6 affairs.

7 100. Each of the defendants named herein acted as the agent or joint venturer of or for
8 the other defendants with respect to the acts, violations and common course of conduct alleged
9 herein. Each defendant that is a wholly-owned subsidiary of a foreign parent is the United States
10 agent for its parent company.

11 **V. NATURE OF TRADE AND COMMERCE**

12 **A. LCD Panels.**

13 101. LCD is a type of display technology utilized in products including TVs, computer
14 monitors, laptops, mobile phones, digital cameras, and numerous other electronic products. LCD
15 panels are the dominant form of display screen in the TV, computer monitor, and laptop industries.
16 Computer monitors now comprise approximately 50% of revenues for the large LCD products
17 market, with TVs and laptop computers accounting for approximately 27% and 21% of revenues,
18 respectively. All other LCD products combined accounted for between 2-5% of LCD panel
19 revenues during the Class Period.

20 102. LCD technology offers benefits over both traditional cathode-ray tube (CRT)
21 technology and the other flat screen technology, commonly called "plasma." LCD is thin and light
22 and uses low power. Thus, unlike CRTs, which are heavy and bulky, LCD panels can fit into a
23 laptop and permit mobility. Because a CRT is so bulky, CRTs have never been used in laptop
24 computers. For TVs and monitors, LCD panels use less space than traditional CRT technology,
25 can be mounted on a wall because of their light weight, and offer superior viewing angles.

26 103. The other flat panel technology, plasma, is not practical for use in laptops.
27 Because plasma has a high power requirement, it "runs hot" and cannot be operated by battery
28 power. In addition, because of problems called "burn-in" and the fragility of the plasma panel

1 itself, plasma has not been used in the laptop market. Thus, normally only LCD panels are used to
2 make laptops.

3 104. LCD technology dominates the flat panel market. It has virtually 100% market
4 share for laptops and flat panel computer monitors, and at least 80% market share for flat panel
5 TVs.

6 **B. Manufacturing An LCD Panel.**

7 105. The technology behind LCDs is not new. In the 1950s and 1960s, RCA Corp.
8 researched whether liquid crystals could be the basis for lightweight, low-power display
9 technology. In the 1970s, after RCA Corp. discontinued its efforts, Japanese companies took the
10 lead in commercializing liquid crystal technology. These efforts resulted in monochrome
11 calculators and watches. By the early 1990s, liquid crystal technology was introduced in notebook
12 computers and small, low-resolution televisions. In the mid-1990s, the technology advanced
13 further with the development of LCDs.

14 106. LCD uses liquid crystal to control the passage of light. More specifically, an LCD
15 panel is made of two glass sheets sandwiching a layer of liquid crystal. The front glass sheet is
16 fitted with a color filter, while the back glass substrate has transistors fabricated on it. When
17 voltage is applied to a transistor, the liquid crystal is bent, allowing light to pass through to form a
18 pixel. The front glass sheet contains a color filter, which gives each pixel its own color. The
19 combination of these pixels in different colors forms the image on the panel.

20 107. There are significant manufacturing and technological barriers to entry in the LCD
21 products market. A state-of-the-art fabrication plant (called “fabs” in the industry) can cost
22 upwards of \$2 billion, and changing technology requires constant investments in research and
23 development. The most expensive material used to make an LCD panel is the glass. In industry
24 language, glass sizes advance in what are called “generations.” These generation sizes have
25 developed at a rapid pace, continuing to expand in size.

26 108. Since 2000, glass substrate size for LCD panels has approximately doubled every
27 1.5 years. Large-generation glass offers great economies of scale: larger sheets allow display
28 manufacturers to produce more, and larger, panels from a single substrate more efficiently.

1 109. Today's eighth generation glass substrates have about four times the surface area of
2 fourth generation substrates, which means they yield more (and larger) LCD panels. For instance,
3 one eighth generation substrate can produce the panels needed for fifteen 32" LCD televisions.
4 Larger sheets of glass reduce manufacturing costs. For example, panel costs were approximately
5 \$20/inch for fourth generation fabs, falling to \$10/inch for fifth generation fabs, and then falling
6 another 80% to the eighth generation.

7 110. There have been at least eight generations of LCD fabs, each requiring significant
8 new investment. Because building a new fabrication line or retrofitting the old line, is very
9 expensive, and because the glass is nearly all sourced from the same supplier, Corning
10 Incorporated, LCD panel manufacturers use standard sizes for their products. Thus, for the major
11 input cost, each has the same supplier. A fab line that works with one size glass cannot switch
12 over to another size without substantial retrofitting.

13 111. Additionally, because the fabrication plants are most efficient when they cut
14 standard sizes for panels, different manufacturers with different generation fabs seek to make only
15 the most efficient size panels for that fab. For example, a fab that makes 730 mm x 920mm glass
16 sheets can cut that sheet to make exactly six 17" LCD panels. A fab that uses 680mm x 880mm
17 glass can cut exactly six 15" panels from that glass. But a 730 mm x 920mm glass sheet can only
18 yield two 17" panels, with the rest of the glass as waste. Thus, when defendants need other panel
19 sizes not efficiently made by their fabs, they cross-purchase from each other. For example,
20 defendant LGD supplies certain size panels to other defendants, and, in turn, buys other size panels
21 from Chunghwa, Chi Mei, and AU Optronics. HannStar and Chunghwa have an agreement
22 whereby Chunghwa supplies 17" panels to HannStar and HannStar supplies 19" panels to
23 Chunghwa. Samsung has a joint venture with Sony to supply each other with LCD panels, but
24 Samsung also purchases panels from AU Optronics and HannStar. HannStar makes panels for
25 Hitachi. Chunghwa makes panels for AU Optronics, and Chi Mei makes panels for Sharp and
26 Toshiba, as well as Sanyo.

27 112. These cross-licensing and cross-purchasing agreements provide opportunities for
28 collusion and coordination among members, as well as a means of checking, agreeing on, and

1 controlling prices and output, not only *a priori*, but *a posteriori* in order to detect cheating on
2 agreements to limit output and fix prices. Antitrust risk is also particularly acute when there are
3 cooperative efforts to develop, design, implement, and license certain technologies, as exist in the
4 LCD products market.

5 113. There is a great deal of cross-licensing and there are many cooperative
6 arrangements in the LCD products market, all of which create additional opportunities for
7 collusive activity. The various joint ventures, cross licenses, and other cooperative arrangements
8 among the defendants have provided a means of implementing and policing the agreements to fix
9 prices and limit output for LCD panels that defendants have entered into at numerous meetings
10 described hereafter. For example, defendants Samsung, and LGD recently agreed to an
11 unprecedented level of cooperation in conducting their flat-panel display businesses. In addition,
12 with respect to LCD products:

- 13 • Defendant Chi Mei has licensing arrangements with defendants Sharp, AU Optronics,
14 Chunghwa, HannStar, and Hitachi.
- 15 • Defendant AU Optronics has licensing agreements with defendants Sharp and
16 Samsung.
- 17 • Defendant Hitachi has a joint venture with, *inter alia*, Toshiba called IPS Alpha.
- 18 • Defendant Sharp makes LCD panels for defendant Toshiba.
- 19 • Defendants Samsung and Sharp have cross licenses for the sharing of LCD panel
20 technology and intellectual property.

21 114. These combinations are between significantly large rivals and not trivial. The
22 effects of these combinations substantially lessen competition and/or tend to create a monopoly,
23 and were used as part and parcel of the conspiracy alleged herein and in furtherance of it.

24 **C. The Size And Structure Of The Markets For LCD Panels And LCD**
25 **Products.**

26 115. The market for LCD panels is huge. Manufacturers produced approximately 48.4
27 million LCDs for televisions in 2006, and flat-panel sales – most of those using LCD technology –
28 reached approximately \$US 88 billion in 2006 and \$US 100 billion in 2007.

1 116. The market for the manufacture and sale of LCD panels is conducive to the type of
2 collusive activity alleged herein. Throughout the Class Period, defendants collectively controlled
3 a significant share of the market for LCD panels, both globally and in the United States.
4 Specifically, the top six companies (Samsung, LGD, Chi Mei, AU Optronics, Sharp and
5 Chunghwa) currently control in excess of 80% of the LCD panels market. As such, the
6 defendants' conspiracy to fix the price of LCD panels substantially affected interstate trade and
7 commerce in the LCD products market.

8 117. The LCD panels industry has experienced significant consolidation during the Class
9 Period, as reflected by AU Optronics' acquisition of Quanta Display, the creation in 2001 of AU
10 Optronics itself through the merger of Acer Display and Unipac Electronics, Fujitsu Limited's
11 transfer of its LCD business to Sharp in 2005, the merger of the LCD operations of Toshiba and
12 Matsushita into one entity, defendant Toshiba Matsushita Display Co., Ltd., in 2002, and the joint
13 venture for the production of LCD panels for televisions by Hitachi, Toshiba, and Matsushita in
14 2004.

15 118. A number of the defendants and/or their corporate parents or subsidiaries, including
16 Samsung, Hitachi, Epson, Sharp, and Toshiba, have either pled guilty to, or are currently being
17 investigated by the U.S. Department of Justice for entering into one or more price-fixing
18 agreements in other closely-related industries similar to that alleged herein. Such industries
19 include dynamic random access memory ("DRAM") computer chips, static random access
20 memory ("SRAM") computer chips, and NAND chips or flash memory ("Flash"). The DRAM,
21 SRAM, and Flash industries are oligopoly industries dominated by many of the same defendants
22 as in the LCD panel industry, which has a similar oligopoly structure. The defendants' entry into
23 express price-fixing agreements in other computer electronics markets demonstrates that the
24 oligopoly structure of those industries has not in itself been sufficient to achieve price uniformity
25 and output controls, but that agreement among the market participants has been required to
26 achieve price uniformity and output controls. Such evidence tends to exclude the possibility that
27 price uniformity in the LCD panel industry, which is similar to the DRAM, SRAM, and Flash
28

1 industries and includes some of the same defendants is merely a result of normal market forces,
2 rather than express agreement.

3 119. Notably, LCD panels are the largest product by revenue for many of these
4 defendants. For example, in 2005, the LCD panel industry was nearly double the size of the
5 DRAM market.

6 120. Products using medium-size and large LCD panels, such as televisions, desktop
7 monitors, and computers, in 2004, made up 90% of the revenues for LCD panel makers.

8 121. Direct purchasers buy LCD panels in order to include them as components in TVs,
9 computer monitors, laptops, and other electronic products.

10 122. The largest direct purchasers of LCD panels are computer OEMs such as Dell, HP,
11 Apple, and Gateway. Significantly, a number of the defendants are also computer and/or
12 television OEMs, such as Toshiba and Samsung (computers) and Samsung, Hitachi, and Toshiba
13 (televisions).

14 123. LCD panels have no independent utility, and have value only as components of
15 other products, such as TVs, computer monitors, and laptops. The demand for LCD panels thus
16 directly derives from the demand for such products.

17 124. The market for LCD panels and the market for the products into which they are
18 placed are inextricably linked and intertwined because the LCD panel market exists to serve the
19 LCD products markets. The market for LCD panels and the markets for the products in which
20 LCD panels are placed are, for all intents and purposes, inseparable in that one would not exist
21 without the other.

22 125. Plaintiffs and the indirect purchaser class members have participated in the market
23 for LCD panels through their purchases of products containing such panels. The defendants'
24 unlawful conspiracy has inflated the prices at which plaintiffs and other indirect purchasers have
25 bought products made with LCD panels, and plaintiffs and the members of the indirect-purchaser
26 classes alleged herein have been injured thereby and paid supracompetitive prices for LCD panels
27 contained in such products.

28

1 **A. Defendants’ Agreements To Set Prices And Limit Production**

2 130. The LCD panel conspiracy alleged herein was effectuated through a combination of
3 group and bilateral discussions that took place in Japan, Korea, Taiwan, and the United States. In
4 the early years, beginning in at least 1996, representatives of the Japanese defendants Hitachi,
5 Sharp and Toshiba met and agreed to fix prices for LCD panels generally, as well as to specific
6 OEMs; they also agreed to limit the amount of LCD panels each would produce.

7 131. In the early years, when the conspiracy was principally limited to the Japanese
8 defendants, bilateral discussions were the preferred method of communication. As more
9 manufacturers entered the conspiracy, however, group meetings became more prevalent.

10 132. As LCD production in Korea began to increase and become more sophisticated, the
11 Japanese defendants expanded their meetings to include their Korean competitors, including
12 defendants LGD and Samsung, both of which also agreed to fix prices and control supply. At or
13 about this same time, the Japanese defendants began to partner with those defendants located in
14 Taiwan to trade technology and collaborate on supply. Japanese engineers were lent to Taiwanese
15 firms, and Taiwanese output was shipped to Japan. In 2001, the Korean defendants convinced
16 Taiwanese LCD panel manufacturers, including defendants AU Optronics, Chi Mei, Chunghwa,
17 and HannStar, to join the conspiracy to fix prices and control supply. Defendants’ conspiracy
18 included agreements on the prices at which certain defendants would sell LCD panels and products
19 to their own corporate subsidiaries and affiliates that manufactured LCD-panel containing
20 products, thereby ensuring that LCD panel prices remained the same as between defendants and
21 their OEM customers, preventing any price competition on LCD products to consumers.

22 **1. “Crystal Meetings”**

23 133. In early 2001, high-level employees of at least two large manufacturers of LCD
24 panels met in person and agreed to engage in periodic meetings to exchange sensitive competitive
25 information and to fix the price of LCD panels and limit their production. From early 2001
26 through at least 2006, officials from defendants Samsung, AU Optronics, Chunghwa, Chi Mei,
27 HannStar, LGD, and Sharp, met periodically in Taiwan to discuss and reach agreements on LCD
28

1 panel prices, price increases, production, and production capacity, and did in fact reach agreements
2 increasing, maintaining, and/or fixing LCD panel prices and limiting their production. The group
3 meetings these defendants participated in were called “Crystal Meetings.” Each defendant
4 attended multiple meetings with one or more of the other defendants during this period. The
5 Crystal price-fixing and output-limitation meetings occurred in Taiwan; other similar meetings
6 took place in South Korea, Japan, and the United States on a regular basis throughout this period.

7 134. The Crystal Meetings were highly organized and followed a set pattern. Meetings
8 among defendants’ high-level executives were called “CEO” or “Top” meetings; those among
9 defendants’ vice presidents and senior sales executives were called “Commercial” or
10 “Operational” meetings.

11 135. “CEO” meetings occurred quarterly from approximately 2001 to 2006. The
12 purpose and effect of these meetings was to stabilize or raise prices. Each meeting followed the
13 same general pattern, with a rotating designated “chairman” who would use a projector or
14 whiteboard to put up figures relating to the supply, demand, production, and prices of LCD panels
15 for the group to review. Those attending the meetings would take turns sharing information
16 concerning prices, monthly and quarterly LCD fab output, production, and supply, until a
17 consensus was reached concerning the participants’ prices and production levels of LCD panels in
18 the coming months or quarter.

19 136. The structure of “Commercial” meetings was largely the same as “CEO” meetings.
20 These meetings took place more frequently than “CEO” meetings and occurred approximately
21 monthly.

22 137. During all of these meetings, defendants exchanged information about current and
23 anticipated prices for their LCD panels, and, thereafter, reached agreement concerning the specific
24 prices to be charged in the coming weeks and months for LCD panels. Defendants set these prices
25 in various ways, including, but not limited to, setting “target” prices, “floor” prices, and the price
26 range or differential between different sizes and types of LCD panels.

27 138. During these CEO/Commercial meetings, defendants also exchanged information
28 about supply, demand, and their production of LCD panels, and, thereafter, often reached

1 agreement concerning the amounts each would produce. Defendants limited the production of
2 LCD panels in various ways, including, but not limited to, line slowdowns, delaying capacity
3 expansion, shifting their production to different-sized panels, and setting target production levels.

4 139. During these CEO/Commercial meetings, defendants also agreed to conceal the fact
5 and substance of the meetings, and, in fact, took various steps to do so. Top executives and other
6 officials attending these meetings were instructed on more than one occasion to not disclose the
7 fact of these meetings to outsiders, or even to other employees of the defendants not involved in
8 LCD panel pricing or production. On at least one occasion of which plaintiffs are aware, top
9 executives at a CEO meeting staggered their arrivals and departures at the meeting site so that they
10 would not be seen in the company of each other coming or going to such meeting.

11 140. The structure of the so-called “working level” meetings was less formal than the
12 CEO or Commercial meetings, and often occurred at restaurants over a meal. The purpose of the
13 “working level” meetings was to exchange information on price, supply and demand, and
14 production information which then would be transmitted up the corporate reporting chain to those
15 individuals with pricing authority which facilitated implantation of the conspiracy and effectuated
16 the agreements made at the CEO and at the Commercial meetings.

17 141. In approximately the summer of 2006, when they began to have concerns about
18 antitrust issues, defendants discontinued the working-level meetings in favor of one-on-one
19 meetings to exchange pricing and supply information. The meetings were coordinated so that on
20 the same date, each competitor met one-on-one with the other in a “round robin” set of meetings
21 until all competitors had met with each other. These “round robin” meetings took place until at
22 least November or December of 2006. The information obtained at these meetings was
23 transmitted up the corporate reporting chain to permit the defendants to maintain their price-fixing
24 and production-limitation agreement.

25 2. Bilateral Discussions

26 142. During the Crystal Meetings, defendants also agreed to engage in bilateral
27 communications with those defendants not attending these meetings. Certain defendants were
28 “assigned” other defendants not in attendance and agreed to and did in fact communicate with

1 non-attending defendants to synchronize the price and production limitations agreed to at the
2 Crystal Meetings. For example, HannStar contacted Hitachi, to relay the agreed-upon prices and
3 production limitations. Subsequently, the Japanese defendants implemented the agreed-upon
4 pricing and production limitations that had been conveyed to Hitachi by Hannstar. This is one of
5 the ways in which the Japanese defendants participated in the conspiracy to fix the prices and limit
6 the production of LCD panels.

7 143. Crystal Meetings were also supplemented by additional bilateral discussions
8 between various defendants in which they exchanged information about pricing, shipments, and
9 production. As is more fully alleged below, defendants had bilateral discussions with one another
10 during price negotiations with customers in order to avoid cutting prices and to implement the
11 fixed prices set by defendants during the Crystal Meetings. These discussions usually took place
12 between sales and marketing employees in the form of telephone calls, emails, and instant
13 messages. The information gained in these communications was then shared with supervisors and
14 taken into account in determining the price to be offered the defendants' OEM customers.

15 3. Defendants' Participation In Group And Bilateral Discussions

16 144. Defendants AU Optronics, Chi Mei, Chunghwa, HannStar, LGD, and Samsung
17 attended multiple CEO, Commercial, and working-level meetings, as well as bilateral discussions
18 during the Class Period. Additionally, Quanta Display and Unipac, which merged with AU
19 Optronics, participated in working-level meetings. At the CEO and Commercial meetings, these
20 defendants agreed on prices, price increases, and production limits and quotas for LCD panels.

21 145. Defendant Sharp participated in multiple working-level meetings, as well as
22 bilateral discussions with other defendants, during the Class Period. Through these discussions,
23 Sharp agreed with the other defendants and co-conspirators named in this complaint on prices,
24 price increases, and production limits and quotas for LCD panels.

25 146. Defendant Hitachi participated in multiple bilateral discussions with defendants,
26 including HannStar, during the Class Period. Through these discussions, Hitachi agreed on prices,
27 price increases, and production limits and quotas for LCD panels.

28

1 147. Defendant Toshiba participated in multiple bilateral discussions with other
2 defendants, including Sharp, during the Class Period. Through these discussions, Toshiba agreed
3 on prices, price increases, and production limits and quotas for LCD panels. As pleaded below,
4 defendant Sharp admitted to participating in bilateral meetings, conversations, and
5 communications in Japan and the United States with unnamed co-conspirators during which they
6 fixed the prices of LCD panels sold to Dell for use in computers; panels sold to Apple for use in
7 iPods; and panels sold to Motorola for use in Razr phones during the Class Period. During this
8 time, Toshiba was one of Sharp's principal competitors in the sale of LCD panels to Dell for use in
9 computers, as well as for panels sold to Apple for use in the iPod. In fact, in the small-to-medium
10 size LCD display market, Toshiba Matsushita was ranked second (behind Sharp) in worldwide
11 market share in the first half of 2005, with a 14.5 percent market share during the first quarter and
12 a 14.1 percent market share during the second quarter. Sharp could not have successfully fixed the
13 prices of LCD panels sold to Dell or Apple unless Toshiba agreed to fix prices of similar LCD
14 panels at supra-competitive levels to those two OEMs.

15 148. Toshiba also participated in the conspiracy by entering into joint ventures and other
16 arrangements to manufacture or source flat panels with one or more of the defendants that attended
17 the Crystal Meetings. The purpose and effect of these joint ventures by Toshiba and others was to
18 limit the supply of LCD panels and fix prices of such panels at unreasonably high levels and to
19 aid, abet, notify and facilitate the effectuation of the price-fixing and production-limitation
20 agreements reached at the meetings. During the Class Period, Toshiba sought and formed strategic
21 partnerships with other LCD manufacturers which allowed it to easily communicate and
22 coordinate prices and production levels with other manufacturers as part of the overall conspiracy
23 alleged herein. For instance, Toshiba formed HannStar in January 1998 as a manufacturing joint
24 venture. In 2001, Toshiba, Sharp, Matsushita, and Hitachi formed a joint venture to share basic
25 LCD research costs. In 2001, Toshiba and Matsushita formed a joint venture, Advanced Flat
26 Panel Displays, which merged their LCD operations. In April of 2002, Toshiba and Matsushita
27 formed a joint venture, Toshiba Matsushita Display Technology Co., Ltd., which combined the
28 two companies' LCD development, manufacturing, and sales operations. In 2004, Toshiba,

1 Matsushita, and Hitachi formed a joint venture, IPS Alpha Technology, Ltd., which manufactures
2 and sells LCD panels for televisions. In 2006, Toshiba purchased a 20% stake in LGD' LCD
3 panel manufacturing facility in Poland. And in 2007, Toshiba and Sharp formed a joint venture in
4 which Toshiba agreed to provide 50% of Sharp's chip needs and Sharp agreed to provide 40% of
5 Toshiba's panel needs. The operation and management of these many different joint ventures
6 enabled Toshiba and the other defendant-joint venture partners regular opportunities to
7 communicate with each other to agree on prices, price increases and production limits and quotas
8 for LCD panels that each defendant manufactured and sold.

9 **B. Market Conditions Demonstrating The Conspiracy**

10 149. Since at least 1996, the LCD panel market has not behaved as would be expected of
11 a competitive market free of collusion. Rather, the behavior in this market strongly evidences that
12 the defendants engaged in a significant price-fixing conspiracy that had the purpose and effect of
13 stabilizing and raising prices for LCD panels at supra-competitive levels.

14 150. After initially being introduced into a market, consumer electronics products and
15 their component parts typically are characterized by steady downward pricing trends. However,
16 since at least 1996, the LCD panel market has been characterized by unnatural price stability and
17 certain periods of substantial upward pricing trends.

18 151. Moreover, since at least 1996, the LCD panel market has not followed the basic
19 laws of supply and demand in a competitive market. In a competitive market, price increases
20 normally occur during shortage periods. Since at least 1996, however, there have been significant
21 price increases in the LCD panel market during periods of both oversupply and shortage.

22 152. It is generally acknowledged that demand for consumer electronic products and
23 their component parts increases steadily over time. As would be expected, demand for LCD
24 panels and products made with them were steadily and substantially increasing throughout the
25 Class Period. For instance, a June 2006 forecast indicated that 2006 shipments of LCD panels
26 used in televisions would reach 46.7 million units, a 74 % increase from 2005. By 2009, sales of
27 LCD televisions are expected to surpass sales of CRT televisions for the first time; and by 2010,
28 LCD televisions will account for a majority of all televisions sold worldwide.

1 153. Rather than competing for this increased demand, however, since at least 1996,
2 defendants worked together to stabilize prices by agreeing to fix prices at artificially high levels
3 and to restrict the supply of LCD panels through, among other things, decreasing their capacity
4 utilization and refraining from expanding existing capacity. Those defendants which were not
5 already manufacturing LCD panels in 1996 joined this conspiracy when they began manufacturing
6 LCD panels.

7 154. In 1996, the LCD panel market was experiencing excess supply and drastic price
8 cuts. Prices had already fallen 40 to 50 percent in 1995, and were projected to continue dropping
9 due to lower manufacturing costs. However, LCD panel prices began rising in 1996, allegedly due
10 to insufficient production capacity. In fact, defendants were fixing the prices.

11 155. The reverse in the downward spiral of LCD panel prices began in early 1996.
12 Defendants blamed the sudden increase in prices on an alleged inability to supply enough LCD
13 panels to meet demand. By May of 1996, an industry magazine was reporting that, “[f]lat-panel-
14 display purchasers are riding a roller coaster of pricing in the display market, with no clear
15 predictability anytime soon Perplexed purchasers trying to keep up with the gyrating market
16 can take solace that even vendors are constantly being surprised by the sudden twists and turns.”

17 156. Soon thereafter, industry analysts began commenting on the unusual rise in TFT-
18 LCD panel prices, noting that this rise in prices was “quite rare in the electronics industry.”

19 157. The year 1996 also brought the advent of third generation fabrication plants. Since
20 1996, as defendants entered the LCD panel market, they have updated their production facilities
21 for LCD panels in order to keep pace with developing technology, which has resulted ultimately in
22 at least eight generations of LCD panels. LG Electronics was scheduled to have its third
23 generation fab online by 1997, and Hyundai was scheduled to do so by early 1998. Each new
24 LCD panel generation was produced from ever larger pieces of glass, so as to reduce the cost of
25 the screens used in televisions, computer monitors, and laptops. Ever-increasing production
26 capacity threatened to outstrip demand for LCD panels, with the result that prices of LCD panels
27 should have decreased rapidly. Instead, defendants falsely claimed to be operating at full capacity
28 and unable to meet demand, despite the millions of units of over-capacity that had supposedly

1 existed months earlier, and prices surged upwards. These price increases were also inconsistent
2 with the fact that production had become more efficient and cost effective.

3 158. The artificially high costs of LCD panels during the Class Period are demonstrated
4 by, *inter alia*, the fact that costs were decreasing. One of the most significant costs in producing
5 an LCD panel is the cost of its component parts. Some of the major component parts for an LCD
6 panel include the backlight, color filter, PCB polarizer, and glass. Indeed, for large area LCD
7 panels, the costs of these components comprise over two-thirds of the total cost of production.
8 During the Class Period, the costs of these components collectively and individually have been
9 generally declining, and in some periods at a substantial rate. Thus, the gap between LCD panel
10 manufacturers' prices and their costs was unusually high during the Class Period.

11 159. During the end of 2001 and 2002, LCD panel prices increased substantially while
12 the costs to produce these panels remained flat or decreased. Similarly, during the end of 2003 to
13 2004, LCD panel prices again increased by a substantial amount, while costs remained flat or
14 decreased. This economic aberration is the intended and necessary result of defendants'
15 conspiracy to raise, fix, maintain, or stabilize the prices of LCD panels.

16 160. LCD panel prices increased by more than 5% for the first time in 2001 in October
17 of that year. These price increases continued until June of 2002, resulting in an approximately
18 35% increase in the average selling price of 15-inch LCD panels. Defendants were essentially
19 able to raise the prices of LCD panels by at least \$60 USD from October of 2001 through May
20 2002.

21 161. At the time, defendants blamed these costs increases on supply shortages. In fact,
22 these price increases were a direct result of defendants' agreement to fix, maintain, and/or stabilize
23 the prices of LCD panels and defendants' false statements about supply shortages were designed to
24 conceal their price-fixing agreement. When asked why prices had increased, defendants
25 repeatedly explained that the increases in LCD prices were due to increased demand and a "supply
26 shortage."

27 162. These price increases occurred as production costs declined due to lower prices for
28 parts and components as well as improvements in manufacturing efficiency. While the price of

1 15-inch LCD panels, for instance, shot up from US\$190-200 in the third quarter of 2001 to
2 US\$250 in the first quarter of this year, current production costs remained at approximately
3 US\$200. These decreasing costs should have led to lower prices and competition among
4 defendants. Instead, because defendants had entered into an agreement to fix, raise, and maintain
5 LCD panels at artificially high levels, it resulted in extremely high profits. For example,
6 defendants AU Optronics Inc., Chi Mei Optoelectronics Corp., Chunghwa Picture Tubes Ltd., and
7 HannStar Display Inc. posted higher pretax profits than expected in the first quarter of 2002. AU
8 Optronics reported revenue of NT\$19.7 billion in the first quarter, with pretax profit reaching
9 about NT\$2 billion. Chi Mei Optoelectronics reported pretax earnings of NT\$800 million on
10 revenue of about NT\$8.8 billion at the same period.

11 163. This increase in prices and revenue was unprecedented. During the first six months
12 of 2002, revenue for Taiwan's five major LCD panel manufacturers (defendants AU Optronics,
13 Chi Mei, Chunghwa Picture Tubes Ltd., HannStar Display Inc., and Quanta Display Inc. (later
14 purchased by AU Optronics) rose 184% from the same period in 2001.

15 **C. Public Statements Reflecting The Conspiracy**

16 164. Additionally, defendants made repeated public statements admitting to or
17 referencing their agreement to fix LCD panel prices through supply manipulation.

18 165. On or about January 20, 2003, Hsu Wen-lung, defendant Chi Mei's Chairman,
19 stated that "both Taiwanese and South Korean TFT-LCD panel makers should avoid the fierce
20 price competition and build a money-making environment. To this end, both sides are
21 recommended to exchange market information periodically."

22 166. Again, on January 29, 2003, K.Y. Lee, the Chairman of defendants AU Optronics
23 publicly stated that "the local TFT-LCD industry should move to set up a reasonable and healthy
24 pricing strategy thus avoiding the price fluctuations."

25 167. Soon after these public statements were made, LCD panel prices increased for five
26 consecutive quarters in 2003 and 2004, the direct result of the CEO, Commercial and working-
27 group meetings identified above and which took place on a regular basis over this period of time.
28 LCD panels used in laptops and computer monitors increased by as much as 28% during this time

1 period as reported by defendant AU Optronics. Similarly, defendant LGD reported similar price
2 increases over the same period.

3 168. This price-fixing scheme resulted in substantial increases in the profits reaped by
4 the defendant LCD panel manufacturers. For example, the eight largest LCD panel manufacturers
5 reported a collective profit increase of 740% between the second quarter of 2003 and the second
6 quarter of 2004. These record profits resulted from defendants' agreement to fix, raise, maintain
7 or stabilize the price of LCD panels.

8 169. Although the price increases were the direct result of defendants' agreement to fix,
9 raise, and maintain the price of LCD panels, they repeatedly made public statements blaming these
10 price increases on other factors. For example, at an August 2003 flat panel industry conference
11 sponsored by DisplaySearch, Dr. Hui Hsiung, executive vice president of defendant AU Optronics,
12 explained the recent increases in the price of LCD panels was due to increased demand and supply
13 shortage. In March of 2004, Liu Chih-chun, Chungwa's vice president blamed the high prices on
14 an inadequate supply of key parts from upstream suppliers.

15 170. In fact, while LCD panel prices were increasing in late 2003 and the first half of
16 2004, defendants AU Optronics, Chi Mei, and HannStar were decreasing capacity utilization. AU
17 Optronics delayed construction of a new generation plant to help prices increase. Similarly, while
18 LCD panel prices were increasing in 2003 and 2004, LCD panel manufacturers' capacity growth
19 rate was decelerating. Defendants' artificial supply restriction had the purposeful effect of fixing,
20 raising, maintaining, or stabilizing LCD panel prices at artificially high levels.

21 171. Reducing production capacity is not something an LCD panel manufacturer would
22 do unless its competitors were doing so as well. As AU Optronics executive Hsu Hsiung himself
23 would later note when discussing defendants' cuts in production capacity in public statements
24 made at a May 2006 annual international conference on Taiwan's flat panel display industry,
25 reducing production capacity pushes an LCD panel manufacturer's fixed production costs up, and
26 is not effective in fixing or maintaining the price of LCD panels unless the other defendants do so
27 as well. Yet, as Mr. Hsiung himself noted in those public statements, an increase of 2 to 3 percent
28

1 of AU Optronics' fixed production costs was preferable to a drop of 15 to 20 percent in LCD panel
2 price.

3 172. Defendants' public statements admitting to their agreement to fix, maintain, and
4 stabilize LCD panel prices continued. In late 2004, panel makers in Taiwan were reported to
5 "agree the ultimate solution" to keep supply and demand in their favor was to "involve closer
6 cooperation." For example, Chi Mei's Chairman, C.H. Lin, noted that mergers were not likely
7 because of the large size of the companies in the industry, but he encouraged "a new era of mutual
8 cooperation." He noted that the Japanese companies Toshiba and Panasonic had done so, as had
9 Samsung and Sony.

10 173. These public statements referenced an agreement among defendants to fix prices,
11 and resulted in, among other things, a temporary halt in the expansion of production capacity
12 among defendants. Because of this illegal agreement to fix, raise, and maintain LCD panel prices,
13 defendants were able to maintain LCD panel prices at artificially high levels in 2005.

14 174. On a November 25, 2005 conference call with investors, Dr. Hui Hsiung, executive
15 vice president of defendant AU Optronics, admitted to conspiring with other LCD panel
16 manufacturers to artificially increase the LCD panel prices. Discussing the "undersupply/
17 oversupply" of LCD panels, he noted "there's various actions we can take such as slightly reduce
18 the capacity loading or shift the product mix," but predicted that, with respect to supply levels,
19 "we will see some parity among different panel suppliers in 2006." In response to a question
20 about what AU Optronics would do if demand turned out to be weaker than expected, Dr. Hsiung
21 stated:

22 Our policy, our strategy, has always been minimizing our inventory and that
23 turned out to be quite successful in the past few years by keeping the
24 inventory lower. *And I think in the past we did have some problem*
25 *convincing our competitors doing the same thing. But in recent months,*
26 *especially this year, actually, it did start to happen.* I think that the industry
27 understand [sic] the benefit of keeping capacity low. Again, even if the
28 scenario does happen that we have a 5% over capacity this is not the drastic
action to reduce about 5% of the loading. . . . So, we think the industry
become [sic] more mature. That is precisely what our competitors would
do.

1 175. Similarly, a November 3, 2005, Samsung presentation, available on its website,
2 stated that “it was possible to secure a reasonable amount of profit while following industry
3 leaders” during the Class Period. This too constituted a public signal and invitation to the other
4 defendants to fix prices by restricting output.

5 176. Thereafter, in the spring of 2006, at a conference of manufacturers of LCD panels
6 in Taiwan, Mr. Hsiung publicly stated that the defendants should collectively look at cutting back
7 on production from 100 percent to at least 85 percent. Otherwise, Mr. Hsiung said, if supply
8 outpaced demand, manufacturers would be forced to cut prices. This was an express invitation to
9 reduce output in order to raise, fix, stabilize, and peg the prices of LCD panels and LCD products.

10 177. In June of 2006, Mr. Hsiung told the *Wall Street Journal* that AU Optronics had cut
11 production of LCD panels because of bloated inventories, a move that could bring more stability to
12 LCD panel prices by the third quarter if other companies followed suit. Mr. Hsiung also told the
13 *Wall Street Journal*, “You have to have discipline every month to adjust inventory. If others
14 follow, that will help prices stabilize by the third quarter.” Mr. Hsiung further said that buildup of
15 LCD panel inventories led to a bigger than expected decline in prices recently. He urged other
16 LCD panel makers to stop building up inventory during periods of oversupply. “Supply and
17 demand balance can be maintained during a period of overcapacity if ‘fab’ loading is reduced by
18 only 5 percent to 10 percent,” he said, adding that a slight reduction would increase unit fixed
19 costs by only 2 percent to 3 percent. Mr. Hsiung stated that AU Optronics was making efforts to
20 cut manufacturing costs to prevent margin erosion. He added that further mergers and acquisitions
21 were needed in the LCD panels industry to help stabilize prices. The foregoing statements were
22 reported by the *Wall Street Journal* on June 15, 2006, in an article entitled “AU Optronics Cuts
23 LCD Output in Bid to Stabilize Falling Prices.” When Mr. Hsiung made these statements to the
24 *Wall Street Journal*, he knew and intended that they would be publicly reported and would become
25 known to all of the defendants; and, in making these statement, he intended to send a signal and an
26 invitation to the other defendants to cut production in order to raise, fix, stabilize, and peg prices
27 of LCD panels and LCD products.

28

1 178. Mr. Hsiung made his comments to the *Wall Street Journal* after defendant LGD
2 LCD publicly announced that it was lowering its outlook for the second quarter because of high
3 inventories of LCD panels. The President of defendant LGD LCD, Ron Wirahadiraksa, publicly
4 stated on June 12, 2006, that the company would review its capacity plans for 2006. These
5 statements were also signals and an invitation to the other defendants to curtail production of LCD
6 panels and LCD products and thereby raise, fix, stabilize, and peg prices for LCD panels and LCD
7 products.

8 179. Thereafter, defendants announced plans to cut back production. In the second half
9 of 2006, LGD announced plans to cut its capacity expansion by two thirds; AU Optronics Corp
10 announced plans to cut capital expense by 30% to 40%; Chi Mei announced plans to delay the
11 mass-production date of its newest production plant; and HannStar adopted a “build to order”
12 mode. These public statements and actions allowed defendants to continue to fix, maintain, and
13 stabilize the price of LCD panels at artificially high levels.

14 180. Defendants had ample opportunities for collusion when they met and discussed
15 pricing at various industry trade shows where all major participants in the LCD products industry
16 were present. For example, on June 20 and June 21, 2001, a Market Seminar meeting was held at
17 National Chiao Tung University, Hsinchu, Taiwan. The meeting was co-sponsored by
18 DisplaySearch and the industry trade group, Semiconductor Equipment and Materials Institute
19 (“SEMI”). The agenda stated that “this year’s seminar will be expanded to two days and cover all
20 major FPD [flat panel display] applications including notebook PCs, desktop monitors, LCD TVs,
21 mobile phones, PDAs and internet appliances. Also covered will be the TFT LCD supply and
22 demand, pricing, component shortages and the TFT LCD equipment and materials markets. In
23 addition to DisplaySearch analysts, leading executives from FPD producers, OEMs, brands and
24 equipment and materials suppliers are expected to be present.”

25 181. Most, if not all, of the defendants were represented at this seminar at which
26 discussions regarding LCD panel supply and pricing were held.

27 182. The express invitations to collude referred to hereinabove were in fact accepted,
28 agreed to, and acted upon by the defendants, who, during the Class Period, repeatedly and

1 continuously jointly and collusively limited output of LCD panels in order to raise, fix, and
2 stabilize prices of LCD panels and LCD products, each defendant knowing and understanding that
3 the other defendants had agreed to do likewise and were doing likewise.

4 **VII. THE GOVERNMENT INVESTIGATIONS OF PRICE-FIXING**

5 183. In December 2006, authorities in Japan, Korea, the European Union, and the United
6 States revealed the existence of a comprehensive investigation into anti-competitive activity
7 among LCD panel manufacturers. In a December 11, 2006, filing with the Securities and
8 Exchange Commission, defendant LGD disclosed that officials from the Korea Fair Trade
9 Commission and Japanese Fair Trade Commission had visited the company's Seoul and Tokyo
10 offices and that the United States Department of Justice had issued a subpoena to its San Jose
11 office.

12 184. On December 12, 2006, news reports indicated that in addition to LGD, defendants
13 Samsung, Sharp, Epson Electronics America, Inc. and AU Optronics were also under
14 investigation.

15 185. The U.S. Department of Justice ("DOJ") acknowledged that it was "investigating
16 the possibility of anticompetitive practices and is cooperating with foreign authorities."

17 186. The DOJ has intervened and filed documents under seal in this case. While
18 Plaintiffs and their counsel have been unable to review the documents the DOJ filed under seal,
19 based on information and belief, these documents describe the scope of the DOJ's investigation
20 into the conspiracy among defendants to fix the prices of LCD panels. These documents were
21 sufficient to convince the Court to issue an unprecedented stay of virtually all merits discovery in
22 this litigation for over six months. Based on information and belief, the DOJ has found sufficient
23 evidence of a conspiracy to fix the price of LCD panels among defendants to continue its
24 investigation and to seek an unprecedented stay of civil discovery in this case.

25 187. These government investigations have the potential to result in hundreds of millions
26 of dollars in fines. "Min Chun Hong, an analyst at Goodmorning Shinhan Securities, stated that if
27 the companies [Samsung and LGD] were convicted, penalties could amount to about 200 billion
28 won, or \$216 million, each."

1 188. At least one of the defendants has approached the Antitrust Division of the DOJ to
2 enter into a leniency agreement with respect to the defendants' conspiracy to fix prices of LCD
3 panels. In order to enter into a leniency agreement under the Corporate Leniency Policy of the
4 Department of Justice, this defendant has reported the defendants' price-fixing conspiracy to the
5 Department of Justice and has confessed its own participation in the defendants' price-fixing
6 conspiracy.

7 189. On or about November 12, 2008, defendants LGD, Sharp, and Chunghwa agreed to
8 plead guilty and pay a total of \$585 million in criminal fines for their roles in the conspiracy to fix
9 prices in the sale of LCD panels.

10 190. LG agreed to plead guilty and pay \$400 million, the second-highest criminal fine
11 ever imposed by the DOJ's Antitrust Division, and Chunghwa agreed to plead guilty and pay a
12 \$65 million criminal fine. LG admitted to participating in a conspiracy from September 2001 to
13 June 2006 to fix the price of LCD panels sold worldwide, and to participating in meetings,
14 conversations, and communications in Taiwan, Korea, and the United States to discuss the prices
15 of LCD panels, agreeing to fix the prices of LCD panels, and exchanging pricing and sales
16 information for the purpose of monitoring and enforcing adherence to the agreed-upon prices.
17 Chungwa admitted to participating in a conspiracy from September 2001 to December 2006 to fix
18 the price of LCD panels sold worldwide and to participating in meetings, conversations and
19 communications in Taiwan to discuss the prices of LCD panels, agreeing to fix the prices of LCD
20 panels, and exchanging pricing and sales information for the purpose of monitoring and enforcing
21 adherence to agreed-upon prices

22 191. Sharp agreed to plead guilty and pay a \$120 million criminal fine. Sharp admitted
23 to participating in a conspiracy with unnamed conspirators to fix the price of LCD panels sold to
24 Dell from April 2001 to December 2006, to Apple Computer from September 2005 to December
25 2006, and to Motorola from fall 2005 to December 2006, and to participating in bilateral meetings,
26 conversations, and communications in Japan and the United States with unnamed co-conspirators
27 to discuss the prices of LCD panels, agreeing to fix the prices of LCD panels, and exchanging
28

1 pricing and sales information for the purpose of monitoring and enforcing adherence to the agreed-
2 upon prices.

3 **VIII. THE PASS-THROUGH OF THE OVERCHARGES TO CONSUMERS**

4 192. Defendants' conspiracy to raise, fix, or maintain the price of LCD panels at
5 artificial levels resulted in harm to Plaintiffs and the indirect-purchaser consumer class alleged
6 herein because it resulted in their paying higher prices for products containing LCD panels than
7 they would have in the absence of defendants' conspiracy. The entire overcharge for LCD panels
8 at issue was passed on to plaintiffs and members of the indirect-purchaser class. As the DOJ
9 acknowledged in announcing the agreements to plead guilty by defendants LGD, Sharp, and
10 Chunghwa, "These price-fixing conspiracies affected millions of American consumers who use
11 computers, cell phones, and numerous other household electronics every day."

12 193. The defendants identified above as having attended CEO, Commercial, and/or
13 working-group meetings made sure that so-called "street-prices" (*i.e.*, consumer retail prices) of
14 LCD products were monitored on a regular basis. The purpose and effect of investigating such
15 retail market data was at least two-fold. First, it permitted defendants, such as Chungwa, which
16 did not manufacture LCD products, the way defendant Samsung did, to police the price-fixing
17 agreement to be sure that intra-defendant LCD panel sales were kept at supra-competitive levels.
18 Secondly, it permitted all defendants to police their price-fixing argument to independent OEMs
19 who would reduce prices for furnished goods if there was a corresponding reduction in LCD panel
20 prices from a defendant. As a result of street-pricing monitoring, defendants assured that 100% of
21 the supra-competitive over-charges for LCD panels were passed on to indirect-purchaser
22 consumers.

23 **A. LCD Panels Make Up A High Percentage Of The Cost Of Products**
24 **Containing Such Panels.**

25 194. When an LCD panel leaves a defendant's manufacturing plant, it requires minimal
26 additional labor or materials to make it into a TV or a computer monitor, or to install it into a
27 laptop computer. The LCD panel itself typically accounts for 60-70% of the total retail price of a
28 TV (even more for panels exceeding 40"), while comprising between 70-80% of the retail price of

1 computer monitors. LCD panels typically comprise roughly 10% of the retail cost of a laptop
2 computer.

3 195. The only differences between a computer monitor and a TV are the other materials
4 added to make the finished products. For example, an LCD TV will have internal speakers and a
5 TV tuner. There is no technological difference between a computer monitor's LCD panel and the
6 LCD panel in a laptop.

7 196. To turn an LCD panel into an LCD monitor, an assembler fits the panel with a
8 backlight, plastic framing around the screen, and a power source. It is then branded by the OEM
9 as its monitor, and sold to the end user—either directly from the OEM's store (like Gateway or
10 Apple), on its website (like Dell or Hewlett-Packard), in an electronics store (like Best Buy or
11 Circuit City), or through a mass merchandiser (like Wal-Mart or Target).

12 197. To turn an LCD panel into an LCD TV, an assembler fits the panel with a TV tuner,
13 speakers, and a power source.

14 198. To turn an LCD panel into a laptop, the panel is incorporated into a plastic frame,
15 and a computer motherboard with its components is fitted into the bottom half of the frame. This
16 is essentially the same process for iPods, which are essentially portable computers dedicated to
17 media processing.

18 199. LCD panels are commodity products, with functionally equivalent products
19 available from the defendants, who manufacture LCD panels pursuant to standard specifications
20 and sizes.

21 **B. The Price Of Products Containing LCD Panels Was Directly Dependent**
22 **On The Price Of The Panels.**

23 200. The indirect-purchaser consumer buys products containing LCD panels through one
24 of two distribution chains: either from the direct-purchaser OEM, such as Dell, or through a
25 reseller such as Best Buy.

26 201. Computer and TV OEMs are not “manufacturers” at all, but assemblers of
27 components and purveyors of brand names. For example, for computers, a company like HP or
28 Apple does not make any of the parts that go into making an LCD monitor or laptop. Rather, such

1 companies purchase LCD panels from defendants, and hire contract assemblers to turn the panels
2 into the finished products. On information and belief, Computer and TV OEMs price their end-
3 products on a “cost-plus” basis. Thus, changes in the cost of LCDs have immediate effects on the
4 cost of the finished products.

5 202. On information and belief, there are two methods by which OEMs sell their
6 branded LCD products to the retailer. The first method is to obtain pre-orders. These OEMs
7 obtain prior orders for their products before they have them manufactured. Under this method, the
8 TV or computer OEM obtains orders for its TVs, laptops, or computer monitors before it orders
9 any of the parts for those products. It negotiates with retailers prices and quantities at which it will
10 sell its finalized products to the retailers. The OEM will base its sales price on the current prices
11 of the other components, the assembly costs, delivery costs, and a profit margin.

12 203. OEMs also sell their branded products to retailers by estimating the retail market
13 for LCD products, and purchasing the LCD panels before the orders for the end product are
14 obtained. Because the OEM is not locked in to an agreed-upon price for its product, it can pass
15 through the entire overcharge unencumbered by downstream contracts.

16 204. In either case, because of the breadth of the price fixing conspiracy, the OEM is
17 also not constrained by its competitors from passing on the overcharge. Because each OEM’s end-
18 product competitors are also buying LCD panels at supracompetitive prices from conspiracy
19 members, no OEM faces end-product price competition from an OEM who is not paying
20 supracompetitive prices for its LCD panel inputs. Neither prior price commitments nor end-
21 product price competition interferes with the overcharge being passed on down the supply chain.

22 205. All supracompetitive overcharges are always passed through to the indirect-
23 purchaser, end-user consumer plaintiff class members, which pay more for a product containing
24 LCD panels than in a competitive market place.

25 206. The price of products containing LCD panels is directly correlated to the price of
26 LCD panels. The margins for OEMs are sufficiently thin that price increases of LCD panels force
27 OEMs to increase the prices of their products.

28

1 207. OEMs and retailers of products containing LCD panels are all subject to vigorous
2 price competition, whether selling TVs, computer monitors, or laptops. The demand for LCD
3 panels is ultimately determined by purchasers of products containing such panels. The market for
4 LCD panels and the market for products containing these panels are therefore inextricably linked
5 and cannot be considered separately. Defendants are well aware of this intimate relationship, and
6 use forecasts of TVs, laptops, and computer monitors to predict sales of LCD panels.

7 208. Because OEMs have thin net margins, they must pass on any increase in component
8 costs, such that increases in the price of LCD panels lead to quick corresponding price increases at
9 the OEM level for products containing such panels.

10 209. LCD panels are one of the most expensive components in products in which they
11 are incorporated. As noted, the cost of an LCD panel in an LCD TV is 60-70% of the retail price;
12 in a laptop is 10% of the retail price; and in a computer monitor is 70-80% of the retail price.

13 210. The computer industry is highly competitive. Computers are commodities, with
14 little or no brand loyalty, such that aggressive pricing causes consumers to switch preferences to
15 different brands. Computer prices are closely based on production costs, which are in turn directly
16 determined by component costs, as assembly costs are minimal. OEMs accordingly use
17 component costs, like the cost of LCD panels, as the starting point for all price calculations. Thus,
18 computer prices closely track increases and decreases in component costs.

19 211. The close relationship between the price of LCD panels and products was
20 recognized by the defendants during the conspiracy. Defendants monitored the prices of LCD
21 products and the demand for LCD products during the Class Period. During several “Crystal”
22 meetings referenced above, Defendants specifically discussed “street” prices of LCD products and
23 evinced concern that LCD panel increases would cause the price of LCD products to increase to
24 such a degree that demand for LCD products would be affected.

25 212. Finally, many of the defendants and/or co-conspirators themselves have been and
26 are manufacturers of TVs, monitors, and/or laptops containing LCD panels. Such manufacturers
27 include, for example, Samsung, Sharp, Hitachi, LG Electronics, Philips Electronics, S-LCD,
28 Sanyo, and Toshiba. Having agreed to fix the prices for LCD panels, the major component of the

1 end products they were manufacturing, these defendants intended to pass on the full cost of this
2 component in their finished products, and in fact did so. They agreed to fix prices of the major
3 component of their TVs, monitors, and laptops with the understanding and expectation that the full
4 cost of the LCD panels would be passed on to their customers in the prices of TVs, monitors, and
5 laptops. To have agreed or to have done otherwise would have defeated the very purpose of the
6 defendants' conspiracy. They did not agree to eliminate price competition at one level of
7 production in order to implement it at another level.

8 **C. The Effect Of The Price Of LCD Panels On The Price Of Products Is**
9 **Discernable On A Classwide Basis.**

10 213. Once an LCD panel leaves its place of manufacture, it remains essentially
11 unchanged as it moves through the distribution system. LCD panels are identifiable, discreet
12 physical objects that do not change form or become an indistinguishable part of the TVs, computer
13 monitors, laptops, or other products in which they are contained. And a given LCD product
14 contains one and only one LCD panel.

15 214. Thus, LCD panels follow a traceable physical chain from the defendants to the
16 OEMs to the purchasers of the finished products incorporating LCD panels.

17 215. Moreover, just as LCD panels can be physically traced through the supply chain, so
18 can their price be traced to show that changes in the prices paid by direct purchasers of LCD
19 panels affect prices paid by indirect purchasers of products containing LCD panels.

20 216. Because defendants control the market for LCD panels, there are virtually no
21 choices for persons and businesses that require products containing such panels other than buying
22 such products manufactured by a direct purchaser that paid supracompetitive prices for LCD
23 panels to defendants because of defendants' conspiracy alleged herein.

24 217. When distribution markets are highly competitive, as they are in the case of
25 products containing LCD panels as components, all of the overcharge will be passed through to
26 ultimate consumers, such as the indirect-purchaser plaintiffs and class members. In addition, as
27 set forth in paragraph 210, *supra*, many of the defendants themselves manufacture, market, and
28

1 distribute products including LCD panels, such as televisions (e.g., Samsung and Sharp) and
2 computer monitors (e.g. Samsung) and laptops (e.g., Toshiba). This means that these defendants
3 have passed through and will continue to pass through to their customers 100% of the
4 supracompetitive price increases that resulted from the defendants' conspiracy, combination, and
5 agreement to fix, increase, and stabilize the prices for LCD panels.

6 218. Hence, the inflated prices of products containing LCD panels resulting from
7 defendants' price-fixing conspiracy have been passed on to plaintiffs and the other class members
8 by direct-purchaser manufacturers, distributors, and retailers.

9 219. During the Class Period, a number of large OEMs sold their products containing
10 LCD panels directly to end-buyers. The OEM with the largest share of computer monitor and
11 laptop sales in the United States market, Dell, sold exclusively to end-buyers, as did Gateway.
12 During the Class Period, Compaq and Apple also sold large portions of their laptops and computer
13 monitors directly to the end-buyer. Dell has a 35.4% market share for LCD monitors.

14 220. Computer models sold by other OEMs to retailers were generally updated several
15 times a year, and the price was changed for each new model. For example, for one large retailer,
16 more than 90 percent of the computers sold during 2000 were either new models or were sold at a
17 different price from the price in the previous month. OEMs, retailers and distributors often use a
18 "standard markup" method to set prices, meaning that they add a standard percentage to their own
19 costs to determine selling prices. Thus, changes in the price of LCD panels were passed on rapidly
20 rather than absorbed.

21 221. In retailing, it is common to use a "markup rule". The retail price is set as the
22 wholesale cost plus a percentage markup designed to recover non-product costs and to provide a
23 profit. This system guarantees that increases in costs to the retailer will be passed on to end
24 buyers. For example, CDW, a large seller of LCD monitors and laptops, uses such a system, and
25 a declaration in the DRAM case from CDW's director of pricing details exactly how they
26 calculated selling prices:

27 In general, CDW employs a "building block" approach to setting its
28 advertised prices. The first building block is the Cost of Goods Sold
(COGS), which represents the price CDW paid to acquire the

1 product...CDW... adds a series of positive markups to the cost to CDW to
 2 acquire a given product. These markups are in addition to the pass through
 3 effect of changes in the costs charged to CDW for that product by a given
 4 vendor.

5 222. The economic and legal literature has recognized that unlawful overcharges in a
 6 component normally result in higher prices for products containing that price-fixed component.
 7 As Professor Herbert Hovenkamp, a noted antitrust scholar, has stated in his treatise, FEDERAL
 8 ANTITRUST POLICY, THE LAW OF COMPETITION AND ITS PRACTICE (1994) at 624:

9 A monopoly overcharge at the top of a distribution chain generally results in
 10 higher prices at every level below. For example if production of aluminum
 11 is monopolized or cartelized, fabricators of aluminum cookware will pay
 12 higher prices for aluminum. In most cases they will absorb part of these
 13 increased costs themselves and pass part along to cookware wholesalers.
 14 The wholesalers will charge higher prices to the retail stores, and the stores
 15 will do it once again to retail consumers. Every person at every stage in the
 16 chain likely will be poorer as a result of the monopoly price at the top.

17 Theoretically, one can calculate the percentage of any overcharge that a firm
 18 at one distributional level will pass on to those at the next level.

19 223. Similarly, two other antitrust scholars – Professors Robert G. Harris (Professor
 20 Emeritus and former Chair of the Business and Public Policy Group at the Haas School of
 21 Business at the University of California at Berkeley) and the late Lawrence A. Sullivan (Professor
 22 of Law Emeritus at Southwestern Law School and author of the Handbook of the Law of
 23 Antitrust) – have observed that “in a multiple-level chain of distribution, passing on monopoly
 24 overcharges is not the exception: it is the rule.”

25 224. As Professor Jeffrey K. McKie-Mason (Arthur W. Burks Professor for Information
 26 and Computer Science and Professor of Economics and Public Policy at the University of
 27 Michigan), an expert who presented evidence in a number of the indirect purchaser cases
 28 involving Microsoft Corporation, said (in a passage quoted in the judicial decision in that case
 granting class certification):

As is well known in economic theory and practice, at least some of the
 overcharge will be passed on by distributors to end consumers. When the
 distribution markets are highly competitive, as they are here, all or nearly
 the entire overcharge will be passed on through to ultimate consumers...
 Both of Microsoft’s experts also agree upon the economic phenomenon of
 cost pass through, and how it works in competitive markets. This general
 phenomenon of cost pass through is well established in antitrust laws and
 economics as well.

1 225. Quantitative correlation analysis strongly suggest that the market for products
2 containing LCD panels is inextricably linked to the market for LCD panels by virtue of the strong
3 correlation between the price of LCD panels and the price of LCD monitors, TVs, and laptop
4 computers.

5 226. The purpose of the conspiratorial conduct of the defendants was to raise, fix or
6 stabilize the price of LCD panels and, as a direct and foreseeable result, products containing such
7 panels. Economists have developed techniques to isolate and understand the relationship between
8 one “explanatory” variable and a “dependent” variable in those cases when changes in dependent
9 variable are explained by changes in a multitude of variables--- when all such variables may be
10 changing simultaneously. That analysis-called regression analysis- is commonly used in the real
11 world and in litigation to determine the impact of a price increase on one cost in a product (or
12 service) that is an assemblage of costs. Thus, it is possible to isolate and identify only the impact
13 of an increase in the price of LCD panels on prices for products containing such panels even
14 though such products contain a number of other components whose prices may be changing over
15 time. A regression model can explain how variation in the price of LCD panels affects changes in
16 the price of products containing such panels. In such models, rather than being treated as the
17 dependent variable, the price of LCD panels is treated as an independent or explanatory variable.
18 The model can isolate how changes in the price of LCD panels impact the price of products
19 containing such panels while holding controlling for the impact of other price-determining factors.

20 227. Economic and legal literature recognizes that the more pricing decisions are based
21 on cost, the easier it is to determine the pass-through rate. The directness of affected costs refers to
22 whether an overcharge affects a direct (*i.e.* variable) cost or an indirect (*i.e.*, overhead) cost.
23 Overcharges will be passed-through sooner and at a higher rate if the overcharge affects direct
24 costs. Here LCD panels are a direct (and substantial) cost of products containing such panels.

25 228. Other factors that lead to the pass-through of overcharges include: (i) whether price
26 changes are frequent; (ii) the duration of the anti-competitive overcharge; (iii) whether pricing
27 decisions are based on cost; (iv) whether the overcharge affects variable, as opposed to overhead,
28 costs; (v) whether the resellers’ production technology is uniform; (vi) whether the reseller supply

1 curve exhibits a high degree of elasticity; and (vii) whether the demand of the resellers is inelastic.
 2 All of these factors were present in the LCD market during the Class Period. The precise amount
 3 of such an impact on the prices of products containing LCD panels can be measured and
 4 quantified. Commonly used and well-accepted economic models can be used to measure both the
 5 extent and the amount of the supracompetitive charge passed-through the chain of distribution.

6 229. Plaintiffs and other indirect purchasers have been forced to pay supracompetitive
 7 prices for products containing LCD panels. These inflated prices have been passed on to them by
 8 direct purchaser manufacturers, distributors, and retailers. Those overcharges have unjustly
 9 enriched defendants.

10 **IX. CLASS ACTION ALLEGATIONS**

11 230. Plaintiffs bring this action on their own behalf and as a class action pursuant to
 12 Rule 23 of the Federal Rules of Civil Procedure on behalf of all members of the following Class
 13 (the “Nationwide Class”):

14 All natural persons and entities residing in the United States that
 15 purchased in the United States for their own use and not for resale
 16 LCD Panels indirectly from the defendants during the Class Period.
 17 Specifically excluded from this Class are the defendants; the
 18 officers, directors or employees of any defendant; any entity in
 19 which any defendant has a controlling interest; and any affiliate,
 legal representative, heir or assign of any defendant. Also excluded
 are any federal, state or local governmental entities, any judicial
 officer presiding over this action and the members of his/her
 immediate family and judicial staff, and any juror assigned to this
 action

20 231. Plaintiffs also bring this action on their own behalf and as a class action pursuant to
 21 Rule 23 of the Federal Rules of Civil Procedure and/or respective state statute(s), on behalf of all
 22 members of the following classes (collectively, the “Indirect Purchaser State Classes”):

23 a. **ARKANSAS:** All natural persons and entities residing in Arkansas who
 24 indirectly purchased in Arkansas for their own use and not for resale LCD
 25 panels manufactured and/or sold by one or more of the defendants during
 26 the Class Period. Specifically excluded from this Class are the defendants;
 27 the officers, directors or employees of any defendant; any entity in which
 28 any defendant has a controlling interest; and any affiliate, legal

1 representative, heir or assign of any defendant. Also excluded are any
2 federal, state or local governmental entities, any judicial officer presiding
3 over this action and the members of his/her immediate family and judicial
4 staff, and any juror assigned to this action (the “Arkansas Indirect Purchaser
5 Class”).

6 b. **ARIZONA:** All natural persons and entities residing Arizona in Arizona
7 who indirectly purchased in Arizona for their own use and not for resale
8 LCD panels manufactured and/or sold by one or more of the defendants
9 during the Class Period. Specifically excluded from this Class are the
10 defendants; the officers, directors or employees of any Defendant; any entity
11 in which any defendant has a controlling interest; and any affiliate, legal
12 representative, heir or assign of any defendant. Also excluded are any
13 federal, state or local governmental entities, any judicial officer presiding
14 over this action and the members of his/her immediate family and judicial
15 staff, and any juror assigned to this action (the “Arizona Indirect Purchaser
16 Class”).

17 c. **CALIFORNIA:** All natural persons and entities residing in California who
18 indirectly purchased in California for their own use and not for resale LCD
19 panels manufactured and/or sold by one or more of the defendants during
20 the Class Period. Specifically excluded from this Class are the defendants;
21 the officers, directors or employees of any Defendant; any entity in which
22 any defendant has a controlling interest; and any affiliate, legal
23 representative, heir or assign of any defendant. Also excluded are any
24 federal, state or local governmental entities, any judicial officer presiding
25 over this action and the members of his/her immediate family and judicial
26 staff, and any juror assigned to this action (the “California Indirect
27 Purchaser Class”).
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d. **DISTRICT OF COLUMBIA:** All persons and entities residing in the District of Columbia who indirectly purchased in the District of Columbia for their own use and not for resale LCD panels manufactured and/or sold by one or more of the defendants during the Class Period. Specifically excluded from this Class are the defendants; the officers, directors or employees of any defendant; any entity in which any defendant has a controlling interest; and any affiliate, legal representative, heir or assign of any defendant. Also excluded are any federal, state or local governmental entities, any judicial officer presiding over this action and the members of his/her immediate family and judicial staff, and any juror assigned to this action (the “District of Columbia Indirect Purchaser Class”).

e. **FLORIDA:** All persons and entities residing in Florida who indirectly purchased in Florida for their own use and not for resale LCD panels manufactured and/or sold by one or more of the defendants during the Class Period. Specifically excluded from this Class are the defendants; the officers, directors or employees of any defendant; any entity in which any defendant has a controlling interest; and any affiliate, legal representative, heir or assign of any defendant. Also excluded are any federal, state or local governmental entities, any judicial officer presiding over this action and the members of his/her immediate family and judicial staff, and any juror assigned to this action (the “Florida Indirect Purchaser Class”).

f. **HAWAII:** All natural persons and entities residing in Hawaii who indirectly purchased in Hawaii for their own use and not for resale LCD panels manufactured and/or sold by one or more of the defendants during the Class Period. Specifically excluded from this Class are the defendants; the officers, directors or employees of any defendant; any entity in which any defendant has a controlling interest; and any affiliate, legal representative, heir or assign of any defendant. Also excluded are any

1 federal, state or local governmental entities, any judicial officer presiding
 2 over this action and the members of his/her immediate family and judicial
 3 staff, and any juror assigned to this action (the “Hawaii Indirect Purchaser
 4 Class”).

5 g. **IOWA:** All natural persons and entities residing in Iowa who indirectly
 6 purchased in Iowa for their own use and not for resale LCD panels
 7 manufactured and/or sold by one or more of the defendants during the Class
 8 Period. Specifically excluded from this Class are the defendants; the
 9 officers, directors or employees of any defendant; any entity in which any
 10 defendant has a controlling interest; and any affiliate, legal representative,
 11 heir or assign of any defendant. Also excluded are any federal, state or local
 12 governmental entities, any judicial officer presiding over this action and the
 13 members of his/her immediate family and judicial staff, and any juror
 14 assigned to this action (the “Iowa Indirect Purchaser Class”).

15 h. **KANSAS:** All natural persons and entities residing in Kansas who
 16 indirectly purchased in Kansas for their own use and not for resale LCD
 17 panels manufactured and/or sold by one or more of the defendants during
 18 the Class Period. Specifically excluded from this Class are the defendants;
 19 the officers, directors or employees of any defendant; any entity in which
 20 any defendant has a controlling interest; and any affiliate, legal
 21 representative, heir or assign of any defendant. Also excluded are any
 22 federal, state or local governmental entities, any judicial officer presiding
 23 over this action and the members of his/her immediate family **and** judicial
 24 staff, and any juror assigned to this action (the “Kansas Indirect Purchaser
 25 Class”).

26 i. **MAINE:** All natural persons and entities residing in Maine who indirectly
 27 purchased in Maine for their own use and not for resale LCD panels
 28 manufactured and/or sold by one or more of the defendants during the Class

1 Period. Specifically excluded from this Class are the defendants; the
2 officers, directors or employees of any defendant; any entity in which any
3 defendant has a controlling interest; and any affiliate, legal representative,
4 heir or assign of any defendant. Also excluded are any federal, state or local
5 governmental entities, any judicial officer presiding over this action and the
6 members of his/her immediate family and judicial staff, and any juror
7 assigned to this action (the “Maine Indirect Purchaser Class”).

8 j. **MASSACHUSETTS:** All natural persons and entities residing in
9 Massachusetts who indirectly purchased in Massachusetts for their own use
10 and not for resale LCD panels manufactured and/or sold by one or more of
11 the defendants during the Class Period. Specifically excluded from this
12 Class are the defendants; the officers, directors or employees of any
13 defendant; any entity in which any defendant has a controlling interest; and
14 any affiliate, legal representative, heir or assign of any defendant. Also
15 excluded are any federal, state or local governmental entities, any judicial
16 officer presiding over this action and the members of his/her immediate
17 family and judicial staff, and any juror assigned to this action (the
18 “Massachusetts Indirect Purchaser Class”).

19 k. **MICHIGAN:** All persons and entities residing in Michigan who indirectly
20 purchased in Michigan for their own use and not for resale LCD panels
21 manufactured and/or sold by one or more of the defendants during the Class
22 Period. Specifically excluded from this Class are the defendants; the
23 officers, directors or employees of any defendant; any entity in which any
24 defendant has a controlling interest; and any affiliate, legal representative,
25 heir or assign of any defendant. Also excluded are any federal, state or local
26 governmental entities, any judicial officer presiding over this action and the
27 members of his/her immediate family and judicial staff, and any juror
28 assigned to this action (the “Michigan Indirect Purchaser Class”).

- 1 i. **MINNESOTA:** All natural persons and entities residing in Minnesota who
2 indirectly purchased in Minnesota for their own use and not for resale LCD
3 panels manufactured and/or sold by one or more of the defendants during
4 the Class Period. Specifically excluded from this Class are the defendants;
5 the officers, directors or employees of any defendant; any entity in which
6 any defendant has a controlling interest; and any affiliate, legal
7 representative, heir or assign of any defendant. Also excluded are any
8 federal, state or local governmental entities, any judicial officer presiding
9 over this action and the members of his/her immediate family and judicial
10 staff, and any juror assigned to this action (the “Minnesota Indirect
11 Purchaser Class”).
- 12 m. **MISSISSIPPI:** All natural persons and entities residing in Mississippi who
13 indirectly purchased in Mississippi for their own use and not for resale LCD
14 panels manufactured and/or sold by one or more of the defendants during
15 the Class Period. Specifically excluded from this Class are the defendants;
16 the officers, directors or employees of any defendant; any entity in which
17 any defendant has a controlling interest; and any affiliate, legal
18 representative, heir or assign of any defendant. Also excluded are any
19 federal, state or local governmental entities, any judicial officer presiding
20 over this action and the members of his/her immediate family and judicial
21 staff, and any juror assigned to this action (the “Mississippi Indirect
22 Purchaser Class”).
- 23 n. **MONTANA:** All natural persons and entities residing in Montana who
24 indirectly purchased in Montana for their own use and not for resale LCD
25 panels manufactured and/or sold by one or more of the defendants during
26 the Class Period. Specifically excluded from this Class are the defendants;
27 the officers, directors or employees of any defendant; any entity in which
28 any defendant has a controlling interest; and any affiliate, legal

1 representative, heir or assign of any defendant. Also excluded are any
2 federal, state or local governmental entities, any judicial officer presiding
3 over this action and the members of his/her immediate family and judicial
4 staff, and any juror assigned to this action (the “Montana Indirect Purchaser
5 Class”).

6 o. **NEVADA:** All natural persons and entities residing in Nevada who
7 indirectly purchased in Nevada for their own use and not for resale LCD
8 panels manufactured and/or sold by one or more of the defendants during
9 the Class Period. Specifically excluded from this Class are the defendants;
10 the officers, directors or employees of any defendant; any entity in which
11 any defendant has a controlling interest; and any affiliate, legal
12 representative, heir or assign of any defendant. Also excluded are any
13 federal, state or local governmental entities, any judicial officer presiding
14 over this action and the members of his/her immediate family and judicial
15 staff, and any juror assigned to this action (the “Nevada Indirect Purchaser
16 Class”).

17 p. **NEW MEXICO:** All natural persons and entities residing in New Mexico
18 who indirectly purchased in New Mexico for their own use and not for
19 resale LCD panels manufactured and/or sold by one or more of the
20 defendants during the Class Period. Specifically excluded from this Class
21 are the defendants; the officers, directors or employees of any defendant;
22 any entity in which any defendant has a controlling interest; and any
23 affiliate, legal representative, heir or assign of any defendant. Also
24 excluded are any federal, state or local governmental entities, any judicial
25 officer presiding over this action and the members of his/her immediate
26 family and judicial staff, and any juror assigned to this action (the “New
27 Mexico Indirect Purchaser Class”).
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- 1 q. **NEW YORK:** All natural persons and entities residing in New York who
2 indirectly purchased in New York for their own use and not for resale LCD
3 panels manufactured and/or sold by one or more of the defendants during
4 the Class Period. Specifically excluded from this Class are the defendants;
5 the officers, directors or employees of any defendant; any entity in which
6 any defendant has a controlling interest; and any affiliate, legal
7 representative, heir or assign of any defendant. Also excluded are any
8 federal, state or local governmental entities, any judicial officer presiding
9 over this action and the members of his/her immediate family and judicial
10 staff, and any juror assigned to this action (the “New York Indirect
11 Purchaser Class”).
- 12 r. **NORTH CAROLINA:** All natural persons and entities residing in North
13 Carolina who indirectly purchased in North Carolina for their own use and
14 not for resale LCD panels manufactured and/or sold by one or more of the
15 Defendants during the Class Period. Specifically excluded from this Class
16 are the defendants during the Class Period. Specifically excluded from this
17 Class are the defendants; the officers, directors or employees of any
18 defendant; any entity in which any defendant has a controlling interest; and
19 any affiliate, legal representative, heir or assign of any defendant. Also
20 excluded are any federal, state or local governmental entities, any judicial
21 officer presiding over this action and the members of his/her immediate
22 family and judicial staff, and any juror assigned to this action (the “North
23 Carolina Indirect Purchaser Class”).
- 24 s. **NORTH DAKOTA:** All natural persons and entities residing in North
25 Dakota who indirectly purchased in North Dakota for their own use and not
26 for resale LCD panels manufactured and/or sold by one or more of the
27 defendants during the Class Period. Specifically excluded from this Class
28 are the defendants; the officers, directors or employees of any defendant;

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any entity in which any defendant has a controlling interest; and any affiliate, legal representative, heir or assign of any defendant. Also excluded are any federal, state or local governmental entities, any judicial officer presiding over this action and the members of his/her immediate family and judicial staff, and any juror assigned to this action (the “North Dakota Indirect Purchaser Class”).

t. **PUERTO RICO:** All natural persons and entities residing in Puerto Rico who indirectly purchased in Puerto Rico for their own use and not for resale LCD panels manufactured and/or sold by one or more of the defendants during the Class Period. Specifically excluded from this Class are the defendants; the officers, directors or employees of any defendant; any entity in which any defendant has a controlling interest; and any affiliate, legal representative, heir or assign of any defendant. Also excluded are any federal, state or local governmental entities, any judicial officer presiding over this action and the members of his/her immediate family and judicial staff, and any juror assigned to this action (the “Puerto Rico Indirect Purchaser Class”).

u. **RHODE ISLAND:** All natural persons and entities residing in Rhode Island who indirectly purchased in Rhode Island for their own use and not for resale LCD panels manufactured and/or sold by one or more of the defendants during the Class Period. Specifically excluded from this Class are the defendants; the officers, directors or employees of any defendant; any entity in which any defendant has a controlling interest; and any affiliate, legal representative, heir or assign of any defendant. Also excluded are any federal, state or local governmental entities, any judicial officer presiding over this action and the members of his/her immediate family and judicial staff, and any juror assigned to this action. Also excluded from this class is any business entity that did not indirectly

1 purchase LCD panels primarily for personal, family, or household purposes
2 (the “Rhode Island Indirect Purchaser Class”).

3 v. **SOUTH DAKOTA:** All natural persons and entities residing in South
4 Dakota who indirectly purchased in South Dakota for their own use and not
5 for resale LCD panels manufactured and/or sold by one or more of the
6 defendants during the Class Period. Specifically excluded from this Class
7 are the defendants; the officers, directors or employees of any defendant;
8 any entity in which any defendant has a controlling interest; and any
9 affiliate, legal representative, heir or assign of any defendant. Also
10 excluded are any federal, state or local governmental entities, any judicial
11 officer presiding over this action and the members of his/her immediate
12 family and judicial staff, and any juror assigned to this action (the “South
13 Dakota Indirect Purchaser Class”).

14 w. **TENNESSEE:** All natural persons and entities residing in Tennessee who
15 indirectly purchased in Tennessee for their own use and not for resale LCD
16 panels manufactured and/or sold by one or more of the defendants during
17 the Class Period. Specifically excluded from this Class are the defendants;
18 the officers, directors or employees of any defendant; any entity in which
19 any defendant has a controlling interest; and any affiliate, legal
20 representative, heir or assign of any defendant. Also excluded are any
21 federal, state or local governmental entities, any judicial officer presiding
22 over this action and the members of his/her immediate family and judicial
23 staff, and any juror assigned to this action (the “Tennessee Indirect
24 Purchaser Class”).

25 x. **VERMONT:** All natural persons and entities residing in Vermont who
26 indirectly purchased in Vermont for their own use and not for resale LCD
27 panels manufactured and/or sold by one or more of the defendants during
28 the Class Period. Specifically excluded from this Class are the defendants;

1 the officers, directors or employees of any defendant; any entity in which
2 any defendant has a controlling interest; and any affiliate, legal
3 representative, heir or assign of any defendant. Also excluded are any
4 federal, state or local governmental entities, any judicial officer presiding
5 over this action and the members of his/her immediate family and judicial
6 staff, and any juror assigned to this action (the “Vermont Indirect Purchaser
7 Class”).

8 y. **VIRGINIA:** All natural persons and entities residing in Virginia who
9 indirectly purchased in Virginia for their own use and not for resale LCD
10 panels manufactured and/or sold by one or more of the defendants during
11 the Class Period. Specifically excluded from this Class are the defendants;
12 the officers, directors or employees of any defendant; any entity in which
13 any defendant has a controlling interest; and any affiliate, legal
14 representative, heir or assign of any defendant. Also excluded are any
15 federal, state or local governmental entities, any judicial officer presiding
16 over this action and the members of his/her immediate family and judicial
17 staff, and any juror assigned to this action (the “Virginia Indirect Purchaser
18 Class”).

19 z. **WEST VIRGINIA:** All natural persons and entities residing in West
20 Virginia who indirectly purchased in West Virginia for their own use and
21 not for resale LCD panels manufactured and/or sold by one or more of the
22 defendants during the Class Period. Specifically excluded from this Class
23 are the defendants; the officers, directors or employees of any defendant;
24 any entity in which any defendant has a controlling interest; and any
25 affiliate, legal representative, heir or assign of any defendant. Also
26 excluded are any federal, state or local governmental entities, any judicial
27 officer presiding over this action and the members of his/her immediate
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1 family and judicial staff, and any juror assigned to this action (the “West
2 Virginia Indirect Purchaser Class”).

3 aa. **WISCONSIN:** All natural persons and entities residing in Wisconsin who
4 indirectly purchased in Wisconsin for their own use and not for resale LCD
5 panels manufactured and/or sold by one or more of the defendants during
6 the Class Period. Specifically excluded from this Class are the defendants;
7 the officers, directors or employees of any defendant; any entity in which
8 any defendant has a controlling interest; and any affiliate, legal
9 representative, heir or assign of any defendant. Also excluded are any
10 federal, state or local governmental entities, any judicial officer presiding
11 over this action and the members of his/her immediate family and judicial
12 staff, and any juror assigned to this action (the “Wisconsin Indirect
13 Purchaser Class”).

14 232. Plaintiffs do not know the exact size of the Classes at the present time. However,
15 Plaintiffs believe that due to the nature of the trade and commerce involved, there are at least
16 thousands in each separate state class, and hundreds of thousands of class members geographically
17 dispersed throughout the United States, such that joinder of all class members would be
18 impracticable.

19 233. Plaintiffs’ claims are typical of the claims of their respective Classes, and Plaintiffs
20 will fairly and adequately protect the interests of the Classes. Plaintiffs’ interests are coincident
21 with, and not antagonistic to, those of the members of their respective Classes. Plaintiffs have
22 retained competent counsel experienced in class action and complex antitrust and consumer
23 protection litigation.

24 234. Common questions of law and fact exist, including:

- 25 i. Whether defendants and their co-conspirators engaged in a
26 contract, combination or conspiracy among themselves to fix,
27 raise, maintain or stabilize the process of, or allocate the
28 market of LCD panels sold in the United States;

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- ii. The duration and extent of the contract, combination or conspiracy;
- iii. Whether the defendants and their co-conspirators were participants in the contracts, combinations or conspiracies alleged herein;
- iv. Whether defendants and their co-conspirators engaged in conduct that violated Section 1 of the Sherman act;
- v. Whether defendants and their co-conspirators engaged in unlawful, unfair or deceptive contracts, combinations or conspiracies among themselves, express or implied, to fix, raise, maintain, or stabilize prices of LCD panels sold in and/or distributed in the United States;
- vi. Whether the defendants and their co-conspirators engaged in conduct in violation of the antitrust, consumer protection, unfair trade, and/or deceptive trade practices laws of the various Indirect Purchaser States as alleged below;
- vii. Whether the anticompetitive conduct of the defendants and their co-conspirators caused prices of LCD panels to be artificially inflated to non-competitive levels;
- viii. Whether the defendants and their co-conspirators unjustly enriched themselves as a result of their inequitable conduct at the expense of the members of the Classes;
- ix. Whether defendants and their co-conspirators fraudulently concealed the existence of their unlawful conduct;
- x. Whether Plaintiffs and the Classes are entitled to injunctive relief; and
- xi. Whether Plaintiffs and other members of the Indirect Purchaser Classes were injured by the conduct of defendants

1 and, if so, the appropriate measure of damages for each of the
2 Classes.

3 235. These and other questions of law and fact are common to the Classes and
4 predominate over any questions affecting only individual class members, including legal and
5 factual issues relating to liability, damages, and restitution.

6 236. Class action treatment is a superior method for the fair and efficient adjudication of
7 this controversy because:

- 8 a. It will avoid a multiplicity of suits and consequent burden on the
9 courts and defendants;
- 10 b. It would be virtually impossible for all members of the Classes to
11 intervene as parties-plaintiff in this action;
- 12 c. It will allow numerous individuals with claims too small to
13 adjudicate on an individual basis because of the prohibitive cost of
14 this litigation, to obtain redress for their economic injuries;
- 15 d. It is appropriate for treatment on a fluid recovery basis, which
16 obviate any manageability problems; and
- 17 e. It will provide court oversight of the claims process, once
18 defendants' liability is adjudicated.

19 237. The named plaintiffs will fairly and adequately protect the interests of the Class in
20 that the named plaintiffs have no interests antagonistic to the interests of the other members of the
21 Class and have retained counsel competent and experienced in the prosecution of class actions and
22 antitrust cases to represent themselves and the Class.

23 238. This case is also appropriate for certification as a class action because the
24 defendants have acted and refused to act on grounds generally applicable to the Class, so that final
25 injunctive relief will be appropriate with respect to the Class as a whole.

26 239. The claims asserted herein are also appropriate for class certification under the laws
27 of the state of California and of each of the other states under which claims are asserted.

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1 **X. ACTIVE CONCEALMENT**

2 240. Plaintiffs and members of the classes alleged herein did not discover and could not
3 have discovered, through the exercise of reasonable diligence, the existence of the conspiracy
4 alleged herein until after December of 2006, after the investigations by the DOJ and other antitrust
5 regulators became public, because defendants and their co-conspirators actively and fraudulently
6 concealed the existence of their contract, combination or conspiracy. Because defendants'
7 agreement, understanding and conspiracy were kept secret, plaintiffs and members of the indirect-
8 purchaser classes were unaware of defendants' unlawful conduct alleged herein and did not know
9 that they were paying artificially high prices for LCD panels and the products in which they were
10 used.

11 241. The affirmative acts of the defendants alleged herein, including acts in furtherance
12 of the conspiracy, were actively concealed and carried out in a manner that precluded detection.

13 242. By its very nature, defendants' price-fixing conspiracy was inherently self-
14 concealing. As alleged above, defendants had secret discussions about price and output.
15 Defendants agreed not to publicly discuss the existence or the nature of their agreement. In fact,
16 the top executives who attended the CEO and Commercial Crystal Meetings agreed to stagger
17 their arrivals and departures at such meetings to avoid being seen in public with each other and
18 with the express purpose and effect of keeping them secret. Moreover, when the participants in
19 those meetings became fearful that they might be subject to antitrust scrutiny, they agreed to the
20 one-on-one so-called "round robin" meetings described above to avoid detection.

21 243. Moreover, defendants repeatedly gave pretextual justifications for the inflated
22 prices of LCD panels in furtherance of the conspiracy.

23 244. There have been a variety of other purportedly market-based explanations for price
24 increases. The first was supply and demand. In early 1999, Omid Milani, a marketing manager
25 for NEC, stated that "demand by far is outstripping our supply capability" and predicted that
26 "prices will continue to increase until a reasonable balance is achieved." Boch Kwon, Vice
27 President of LGD' Sales Division, and Yoon-Woo Lee, President and CEO of Samsung's
28

1 Semiconductor Division, also falsely reported in 1999 that price increases were due to “acute”
2 shortages.

3 245. Another false rationale provided by defendants was undercapitalization. In 1999,
4 Joel Pollack, a marketing manager for Sharp, stated:

5 Prices have dropped at a steady rate over the past couple of years to the point where
6 it was difficult to continue the necessary level of capitalization. The [low prices]
7 have starved the industry.

8 246. A third rationale for the steep price hikes of 1999 was offered by Yoon-Woo Lee,
9 CEO of Samsung. He claimed that the demand for larger panels was reducing the industry’s
10 capacity because each display used more square inches of motherglass substrate.

11 247. Increased demand was repeatedly cited by defendants throughout the Class Period.
12 On February 4, 2001, Bruce Berkoff, Executive Vice-President at LGD was quoted in News.com
13 as saying that price increases were due to shortages. He claimed, “demand grew so fast that the
14 supply can't keep up.” Koo Duk-Mo, an executive at LGD, similarly predicted in 1999 that prices
15 would rise 10 to 15 percent due to increased demand for the holiday season. In 2005, Koo Duk-
16 Mo of LGD stated “[w]e are seeing much stronger demand for large-size LCD TVs than expected,
17 so LCD TV supply is likely to remain tight throughout the year.”

18 248. Hsu Jen-Ting, a Vice-President at Chi Mei, and Chen Shuen-Bin, president of AU
19 Optronics, offered another rationale for the 2001 price hike in an interview for the Taiwan
20 Economic News in October 2001. They blamed “component shortages due to the late expansion
21 of 5th generation production lines and new demand from the replacement of traditional cathode
22 ray tubes with LCD monitors.”

23 249. These explanations were all pretextual and each served to cover up the conspiracy.
24 As a result of defendants’ active concealment of their conspiracy, the running of any statute of
25 limitations has been tolled with respect to any claims that plaintiffs and the Class members have as
26 a result of the anticompetitive conduct alleged in this Complaint
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1 **XI. VIOLATIONS ALLEGED**

2 **First Claim for Relief**
3 **(Violation of Section 1 of the Sherman Act)**

4 250. Plaintiffs incorporate and reallege, as though fully set forth herein, each and every
5 allegation set forth in the preceding paragraphs of this Complaint.

6 251. Beginning at a time currently unknown to plaintiffs, but at least as early as January
7 1, 1996, and continuing through the filing of this Second Amended Complaint, the exact dates
8 being unknown to plaintiffs, defendants and their co-conspirators entered into a continuing
9 agreement, understanding, and conspiracy in restraint of trade artificially to fix, raise, stabilize,
10 and peg prices for LCD panels and LCD products in the United States, in violation of Section 1 of
11 the Sherman Act (15 U.S.C. 1).

12 252. In formulating and carrying out the alleged agreement, understanding, and
13 conspiracy, the defendants and their co-conspirators did those things that they combined and
14 conspired to do, including but not limited to the acts, practices, and course of conduct set forth
15 above, and the following, among others:

- 16 a. Fixing, raising, stabilizing, and pegging the price of LCD panels;
17 and
18 b. Allocating among themselves and collusively reducing the
19 production of LCD panels.

20 253. The combination and conspiracy alleged herein has had the following effects,
21 among others:

- 22 a. Price competition in the sale of LCD panels has been restrained,
23 suppressed, and/or eliminated in the United States;
24 b. Prices for LCD panels sold by defendants and their co-conspirators
25 have been fixed, raised, maintained and stabilized at artificially high,
26 non-competitive levels throughout the United States; and
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28

1 c. Those who purchased LCD panels directly or indirectly from
2 defendants and their co-conspirators have been deprived of the
3 benefits of free and open competition.

4 254. Plaintiffs and other Nationwide Class members have been injured and will continue
5 to be injured in their businesses and property by paying more for LCD panels purchased indirectly
6 from the defendants and their co-conspirators than they would have paid and will pay in the
7 absence of the combination and conspiracy, including paying more for TVs, laptops, and computer
8 monitors, in which LCD panels are included, as a result of higher prices paid for LCD panels by
9 the direct purchasers of such panels.

10 255. Plaintiffs and the Nationwide Class are entitled to an injunction against defendants,
11 preventing and restraining the violations alleged herein.

12 **Second Claim for Relief**

13 **(Unjust Enrichment and Disgorgement of Profits)**

14 256. Plaintiffs incorporate and reallege, as though fully set forth herein, each and every
15 allegation set forth in the preceding paragraphs of this Complaint.

16 257. Defendants have been unjustly enriched through overpayments by plaintiffs and
17 class members and the resulting profits.

18 258. Under common law principles of unjust enrichment, defendants should not be
19 permitted to retain the benefits conferred on them by overpayments by plaintiffs and class
20 members in the following states: Arizona, Arkansas, California, District of Columbia, Florida,
21 Hawaii, Iowa, Kansas, Maine, Massachusetts, Michigan, Minnesota, Mississippi, Montana,
22 Nevada, New Mexico, New York, North Carolina, North Dakota, Puerto Rico, Rhode Island,
23 South Dakota, Tennessee, Vermont, Virginia, West Virginia, Wisconsin.

24 259. Plaintiffs and class members in each of the states listed hereinabove seek
25 disgorgement of all profits resulting from such overpayments and establishment of a constructive
26 trust from which plaintiffs and class members may seek restitution.

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Third Claim for Relief

(Violation of State Antitrust Laws)

260. Plaintiffs incorporate and reallege, as though fully set forth herein, each and every allegation set forth in the preceding paragraphs of this Complaint.

261. Plaintiffs Scott Friedson and Timothy Lauricella (“Arizona Plaintiffs”) incorporate and reallege each and every allegation set forth in the preceding paragraphs of this Complaint.

- a. Defendants’ combinations or conspiracies had the following effects:
 - (1) LCD price competition was restrained, suppressed, and eliminated throughout Arizona; (2) LCD prices were raised, fixed, maintained and stabilized at artificially high levels throughout Arizona; (3) Arizona Plaintiffs and members of the Arizona Indirect Purchaser Class were deprived of free and open competition; and (4) Arizona Plaintiffs and members of the Arizona Indirect Purchaser Class paid supracompetitive, artificially inflated prices for LCD.
- b. During the Class Period, defendants’ illegal conduct substantially affected Arizona commerce.
- c. As a direct and proximate result of defendants’ unlawful conduct, Arizona Plaintiffs and members of the Arizona Indirect Purchaser Class have been injured in their business and property and are threatened with further injury.
- d. By reason of the foregoing, defendants entered into agreements in restraint of trade in violation of Ariz. Rev. Stat. §§ 44-1401, *et seq.* Accordingly, Arizona Plaintiffs and the members of the Arizona Indirect Purchaser Class seek all forms of relief available under Ariz. Rev. Stat. §§ 44-1401, *et seq.*

1 262. Plaintiffs Lisa Blackwell, Byron Ho, Robert Kerson, Steven Martel, Frederick
2 Rozo, and Joe Solo, (collectively “California plaintiffs”) incorporate and reallege, as though fully
3 set forth herein, each and every allegation set forth in the preceding paragraphs of this Complaint.

- 4 a. Defendants’ contract, combination, trust or conspiracy was entered
5 in, carried out, effectuated and perfected mainly within the State of
6 California, and defendants’ conduct within California injured all
7 members of the Class throughout the United States. Therefore, this
8 claim for relief under California law is brought on behalf of the
9 California Indirect Purchaser Class.
- 10 b. Beginning at a time currently unknown to California plaintiffs, but at
11 least as early as January 1, 1996, and continuing thereafter at least
12 up to the filing of this Second Consolidated Amended Complaint,
13 defendants and their co-conspirators entered into and engaged in a
14 continuing unlawful trust in restraint of the trade and commerce
15 described above in violation of Section 16720, California Business
16 and Professions Code. Defendants, and each of them, have acted in
17 violation of Section 16720 to fix, raise, stabilize, and maintain prices
18 of, and allocate markets for, LCD panels and LCD products at
19 supracompetitive levels.
- 20 c. The aforesaid violations of Section 16720, California Business and
21 Professions Code, consisted, without limitation, of a continuing
22 unlawful trust and concert of action among the defendants and their
23 co-conspirators, the substantial terms of which were to fix, raise,
24 maintain, and stabilize the prices of, and to allocate markets for,
25 LCD panels and LCD products.
- 26 d. For the purpose of forming and effectuating the unlawful trust, the
27 defendants and their co-conspirators have done those things which
28 they combined and conspired to do, including but in any way limited

1 to the acts, practices and course of conduct set forth above and the
2 following: (1) Fixing, raising, stabilizing, and pegging the price of
3 LCD panels; and (2) Allocating among themselves the production of
4 LCD panels.

5 e. The combination and conspiracy alleged herein has had, *inter alia*,
6 the following effects: (1) Price competition in the sale of LCD
7 panels and LCD products has been restrained, suppressed, and/or
8 eliminated in the State of California; (2) Prices for LCD panels and
9 LCD products sold by defendants and their co-conspirators have
10 been fixed, raised, stabilized, and pegged at artificially high, non-
11 competitive levels in the State of California and throughout the
12 United States; and (3) Those who purchased LCD panels and LCD
13 products directly or indirectly from defendants and their co-
14 conspirators have been deprived of the benefit of free and open
15 competition.

16 f. As a direct and proximate result of defendants' unlawful conduct,
17 California plaintiffs and the members of the California Indirect
18 Purchaser Class have been injured in their business and property in
19 that they paid more for LCD products than they otherwise would
20 have paid in the absence of defendants' unlawful conduct. As a
21 result of defendants' violation of Section 16720 of the California
22 Business and Professions Code, California plaintiffs and the
23 California Indirect Purchaser Class seek treble damages and their
24 cost of suit, including a reasonable attorney's fee, pursuant to
25 Section 16750(a) of the California Business and Professions Code.

26 263. Plaintiff David Walker ("DC Plaintiff") incorporates and realleges each and every
27 allegation set forth in the preceding paragraphs of this Complaint.
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- 1 a. Defendants' combinations or conspiracies had the following effects:
2 (1) LCD price competition was restrained, suppressed, and
3 eliminated throughout the District of Columbia; (2) LCD prices were
4 raised, fixed, maintained and stabilized at artificially high levels
5 throughout the District of Columbia; (3) Plaintiff Walker and
6 members of the District of Columbia Indirect Purchaser Class were
7 deprived of free and open competition; and (4) Plaintiff Walker and
8 members of the District of Columbia Indirect Purchaser Class paid
9 supracompetitive, artificially inflated prices for LCD.
- 10 b. During the Class Period, defendants' illegal conduct substantially
11 affected District of Columbia commerce.
- 12 c. As a direct and proximate result of defendants' unlawful conduct,
13 Plaintiff Walker and members of the District of Columbia Indirect
14 Purchaser Class have been injured in their business and property and
15 are threatened with further injury.
- 16 d. By reason of the foregoing, defendants have entered into agreements
17 in restraint of trade in violation of District of Columbia Code Ann.
18 §§ 28-4502, *et seq.* Accordingly, Plaintiff Walker and the members
19 of the District of Columbia Indirect Purchaser Class seek all forms
20 of relief available under District of Columbia Code Ann. §§ 28-
21 4503, *et seq.*

22 264. Plaintiff Ben Northway ("Iowa Plaintiff") incorporates and realleges each and every
23 allegation set forth in the preceding paragraphs of this Complaint.

- 24 a. Defendants' combinations or conspiracies had the following effects:
25 (1) LCD price competition was restrained, suppressed, and
26 eliminated throughout Iowa; (2) LCD prices were raised, fixed,
27 maintained and stabilized at artificially high levels throughout Iowa;
28 (3) Plaintiff Northway and members of the Iowa Indirect Purchaser

1 Class were deprived of free and open competition; and (4) Plaintiff
2 Northway and members of the Iowa Indirect Purchaser Class paid
3 supracompetitive, artificially inflated prices for LCD.

4 b. During the Class Period, defendants' illegal conduct substantially
5 affected Iowa commerce.

6 c. As a direct and proximate result of defendants' unlawful conduct,
7 Plaintiff Northway and members of the Iowa Indirect Purchaser
8 Class have been injured in their business and property and are
9 threatened with further injury.

10 d. By reason of the foregoing, defendants have entered into agreements
11 in restraint of trade in violation of Iowa Code §§ 553.1, *et seq.*
12 Accordingly, Plaintiff Northway and the members of the Iowa
13 Indirect Purchaser Class seek all forms of relief available under Iowa
14 Code §§ 553.1.

15 265. Plaintiffs Rex Getz and Kou Srimoungchanh ("Kansas Plaintiffs") incorporate and
16 reallege each and every allegation set forth in the preceding paragraphs of this Complaint.

17 a. Defendants' combinations or conspiracies had the following effects:
18 (1) LCD price competition was restrained, suppressed, and
19 eliminated throughout Kansas; (2) LCD prices were raised, fixed,
20 maintained and stabilized at artificially high levels throughout
21 Kansas; (3) Kansas Plaintiffs and members of the Kansas Indirect
22 Purchaser Class were deprived of free and open competition; and (4)
23 Kansas Plaintiffs and members of the Kansas Indirect Purchaser
24 Class paid supracompetitive, artificially inflated prices for LCD.

25 b. During the Class Period, defendants' illegal conduct substantially
26 affected Kansas commerce.

27 c. As a direct and proximate result of defendants' unlawful conduct,
28 Kansas Plaintiffs and members of the Kansas Indirect Purchaser

1 Class have been injured in their business and property and are
2 threatened with further injury.

3 d. By reason of the foregoing, defendants have entered into agreements
4 in restraint of trade in violation of Kansas Stat. Ann. §§ 50-101, *et*
5 *seq.* Accordingly, Kansas Plaintiffs and the members of the Kansas
6 Indirect Purchaser Class seek all forms of relief available under
7 Kansas Stat. Ann. §§ 50-101, *et seq.*

8 266. Plaintiff Patricia Ronco (“Maine Plaintiff”) incorporates and realleges each and
9 every allegation set forth in the preceding paragraphs of this Complaint.

10 a. Defendants’ combinations or conspiracies had the following effects:
11 (1) LCD price competition was restrained, suppressed, and
12 eliminated throughout Maine; (2) LCD prices were raised, fixed,
13 maintained and stabilized at artificially high levels throughout
14 Maine; (3) Plaintiff Ronco and members of the Maine Indirect
15 Purchaser Class were deprived of free and open competition; and (4)
16 Plaintiff Ronco and members of the Maine Indirect Purchaser Class
17 paid supracompetitive, artificially inflated prices for LCD.

18 b. During the Class Period, defendants’ illegal conduct substantially
19 affected Maine commerce.

20 c. As a direct and proximate result of defendants’ unlawful conduct,
21 Plaintiff Ronco and members of the Maine Indirect Purchaser Class
22 have been injured in their business and property and are threatened
23 with further injury.

24 d. By reason of the foregoing, defendants have entered into agreements
25 in restraint of trade in violation of Maine Rev. Stat. Ann. 10, §§
26 1101, *et seq.* Accordingly, Plaintiff Ronco and the members of the
27 Maine Indirect Purchaser Class seek all relief available under Maine
28 Rev. Stat. Ann. 10, §§ 1101, *et seq.*

1 267. Plaintiffs Gladys Baker, Judy Griffith, and Ling-Hung Jou (“Michigan Plaintiffs”)
2 incorporate and reallege each and every allegation set forth in the preceding paragraphs of this
3 Complaint.

- 4 a. Defendants’ combinations or conspiracies had the following effects:
5 (1) LCD price competition was restrained, suppressed, and
6 eliminated throughout Michigan; (2) LCD prices were raised, fixed,
7 maintained and stabilized at artificially high levels throughout
8 Michigan; (3) Michigan Plaintiffs and members of the Michigan
9 Indirect Purchaser Class were deprived of free and open
10 competition; and (4) Michigan Plaintiffs and members of the
11 Michigan Indirect Purchaser Class paid supracompetitive, artificially
12 inflated prices for LCD.
- 13 b. During the Class Period, defendants’ illegal conduct substantially
14 affected Michigan commerce.
- 15 c. As a direct and proximate result of defendants’ unlawful conduct,
16 Michigan Plaintiffs and members of the Michigan Indirect Purchaser
17 Class have been injured in their business and property and are
18 threatened with further injury.
- 19 d. By reason of the foregoing, defendants have entered into agreements
20 in restraint of trade in violation of Michigan Comp. Laws Ann. §§
21 445.771, *et seq.* Accordingly, Michigan Plaintiffs and the members
22 of the Michigan Indirect Purchaser Class seek all relief available
23 under Michigan Comp. Laws Ann. §§ 445.73, *et seq.*

24 268. Plaintiff Martha Mulvey (“Minnesota Plaintiff”) incorporates and realleges each
25 and every allegation set forth in the preceding paragraphs of this Complaint.

- 26 a. Defendants’ combinations or conspiracies had the following effects:
27 (1) LCD price competition was restrained, suppressed, and
28 eliminated throughout Minnesota; (2) LCD prices were raised, fixed,

1 maintained and stabilized at artificially high levels throughout
2 Minnesota; (3) Plaintiff Mulvey and members of the Minnesota
3 Indirect Purchaser Class were deprived of free and open
4 competition; and (4) Plaintiff Mulvey and members of the Minnesota
5 Indirect Purchaser Class paid supracompetitive, artificially inflated
6 prices for LCD.

7 b. During the Class Period, defendants' illegal conduct substantially
8 affected Minnesota commerce.

9 c. As a direct and proximate result of defendants' unlawful conduct,
10 Plaintiff Mulvey and members of the Minnesota Indirect Purchaser
11 Class have been injured in their business and property and are
12 threatened with further injury.

13 d. By reason of the foregoing, defendants have entered into agreements
14 in restraint of trade in violation of Minnesota Stat. §§ 325D.52, *et*
15 *seq.* Accordingly, Plaintiff Mulvey and the members of the
16 Minnesota Indirect Purchaser Class seek all relief available under
17 Minnesota Stat. §§ 325D.502, *et seq.*

18 269. Plaintiff Cynthia Saia ("Mississippi Class Representative") incorporates and
19 realleges each and every allegation set forth in the preceding paragraphs of this Complaint.

20 a. Defendants' combinations or conspiracies had the following effects:
21 (1) LCD price competition was restrained, suppressed, and
22 eliminated throughout Mississippi; (2) LCD prices were raised,
23 fixed, maintained and stabilized at artificially high levels throughout
24 Mississippi; (3) Plaintiff Saia and members of the Mississippi
25 Indirect Purchaser Class were deprived of free and open
26 competition; and (4) Plaintiff Saia and members of the Mississippi
27 Indirect Purchaser Class paid supracompetitive, artificially inflated
28 prices for LCD.

- 1 b. During the Class Period, defendants’ illegal conduct substantially affected
2 Mississippi commerce.
- 3 c. As a direct and proximate result of defendants’ unlawful conduct, Plaintiff
4 Saia and members of the Mississippi Indirect Purchaser Class have been
5 injured in their business and property and are threatened with further injury.
- 6 d. By reason of the foregoing, defendants have entered into agreements in
7 restraint of trade in violation of Mississippi Code Ann. § 75-21-1, *et seq.*
8 Accordingly, Plaintiff Saia and all members of the Mississippi Indirect
9 Purchaser Class seek all relief available under Mississippi Code Ann. § 75-
10 21-1, *et seq.*

11 270. Plaintiff Claire Coleman (“Montana Class Representative”) incorporates and
12 realleges each and every allegation set forth in the preceding paragraphs of this Complaint.

- 13 a. Defendants’ combinations or conspiracies had the following effects:
14 (1) LCD price competition was restrained, suppressed, and
15 eliminated throughout Montana; (2) LCD prices were raised, fixed,
16 maintained and stabilized at artificially high levels throughout
17 Montana; (3) Plaintiff Coleman and members of the Montana
18 Indirect Purchaser Class were deprived of free and open
19 competition; and (4) Plaintiff Coleman and members of the Montana
20 Indirect Purchaser Class paid supracompetitive, artificially inflated
21 prices for LCD.
- 22 b. During the Class Period, defendants’ illegal conduct had a
23 substantial effect on Montana commerce.
- 24 c. As a direct and proximate result of defendants’ unlawful conduct,
25 Plaintiff Coleman and members of the Montana Indirect Purchaser
26 Class have been injured in their business and property and are
27 threatened with further injury.
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1 d. By reason of the foregoing, defendants have entered into agreements
2 in restraint of trade in violation of Montana Code §§ 30-14-201, *et*
3 *seq.* Accordingly, Plaintiff Coleman and all members of the
4 Montana Indirect Purchaser Class seek all relief available under
5 Montana Code §§ 30-14-201, *et seq.*

6 271. Plaintiffs Richard Granich and Allen Kelley (“Nevada Plaintiffs”) incorporate and
7 reallege each and every allegation set forth in the preceding paragraphs of this Complaint.

8 a. Defendants’ combinations or conspiracies had the following effects:
9 (1) LCD price competition was restrained, suppressed, and
10 eliminated throughout Nevada; (2) LCD prices were raised, fixed,
11 maintained and stabilized at artificially high levels throughout
12 Nevada; (3) Nevada Plaintiffs and members of the Nevada Indirect
13 Purchaser Class were deprived of free and open competition; and (4)
14 Nevada Plaintiffs and members of the Nevada Indirect Purchaser
15 Class paid supracompetitive, artificially inflated prices for LCD.

16 b. During the Class Period, defendants’ illegal conduct substantially
17 affected Nevada commerce.

18 c. As a direct and proximate result of defendants’ unlawful conduct,
19 Nevada Plaintiffs and members of the Nevada Indirect Purchaser
20 Class have been injured in their business and property and are
21 threatened with further injury.

22 d. By reason of the foregoing, defendants have entered into agreements
23 in restraint of trade in violation of Nevada Rev. Stat. Ann. §§ 598A,
24 *et seq.* Accordingly, Nevada Plaintiffs and all members of the
25 Nevada Indirect Purchaser Class seek all relief available under
26 Nevada Rev. Stat. Ann. §§ 598A, *et seq.*

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1 272. Plaintiffs Thomas Clark and Marcia Weingarten (“New Mexico Plaintiffs”)
2 incorporate and reallege each and every allegation set forth in the preceding paragraphs of this
3 Complaint.

- 4 a. Defendants’ combinations or conspiracies had the following effects: (1)
5 LCD price competition was restrained, suppressed, and eliminated
6 throughout New Mexico; (2) LCD prices were raised, fixed, maintained and
7 stabilized at artificially high levels throughout New Mexico; (3) New
8 Mexico Plaintiffs and members of the New Mexico Indirect Purchaser Class
9 were deprived of free and open competition; and (4) New Mexico Plaintiffs
10 and members of the New Mexico Indirect Purchaser Class paid
11 supracompetitive, artificially inflated prices for LCD.
- 12 b. During the Class Period, defendants’ illegal conduct substantially
13 affected New Mexico commerce.
- 14 c. As a direct and proximate result of defendants’ unlawful conduct,
15 New Mexico Plaintiffs and members of the New Mexico Indirect
16 Purchaser Class have been injured in their business and property and
17 are threatened with further injury.
- 18 d. By reason of the foregoing, defendants have entered into agreements
19 in restraint of trade in violation of New Mexico Stat. Ann. §§ 57-1-
20 1, *et seq.* Accordingly, New Mexico Plaintiffs and all members of
21 the New Mexico Indirect Purchaser Class seek all relief available
22 under New Mexico Stat. Ann. §§ 57-1-1, *et seq.*

23 273. Plaintiffs William Fisher and Donna Jeanne Flanagan, (“North Carolina Plaintiffs”)
24 incorporate and reallege each and every allegation set forth in the preceding paragraphs of this
25 Complaint.

- 26 a. Defendants’ combinations or conspiracies had the following effects:
27 (1) LCD price competition was restrained, suppressed, and
28 eliminated throughout North Carolina; (2) LCD prices were raised,

1 fixed, maintained and stabilized at artificially high levels throughout
2 North Carolina; (3) North Carolina Plaintiffs and members of the
3 North Carolina Indirect Purchaser Class were deprived of free and
4 open competition; and (4) North Carolina Plaintiffs and members of
5 the North Carolina Indirect Purchaser Class paid supracompetitive,
6 artificially inflated prices for LCD.

7 b. During the Class Period, defendants' illegal conduct substantially
8 affected North Carolina commerce.

9 c. As a direct and proximate result of defendants' unlawful conduct,
10 North Carolina Plaintiffs and members of the North Carolina
11 Indirect Purchaser Class have been injured in their business and
12 property and are threatened with further injury.

13 d. By reason of the foregoing, defendants have entered into agreements
14 in restraint of trade in violation of North Carolina Gen. Stat. §§ 75-1,
15 *et seq.* Accordingly, North Carolina Plaintiffs and all members of
16 the North Carolina Indirect Purchaser Class seek all relief available
17 under North Carolina Gen. Stat. §§ 75-1, *et seq.*

18 274. Plaintiff Bob George incorporates and realleges each and every allegation set forth
19 in the preceding paragraphs of this Complaint.

20 a. Defendants' combinations or conspiracies had the following effects:
21 (1) LCD price competition was restrained, suppressed, and
22 eliminated throughout North Dakota; (2) LCD prices were raised,
23 fixed, maintained and stabilized at artificially high levels throughout
24 North Dakota; (3) Plaintiff George and members of the North
25 Dakota Indirect Purchaser Class were deprived of free and open
26 competition; and (4) Plaintiff George and members of the North
27 Dakota Indirect Purchaser Class paid supracompetitive, artificially
28 inflated prices for LCD.

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- b. During the Class Period, defendants’ illegal conduct had a substantial effect on North Dakota commerce.
- c. As a direct and proximate result of defendants’ unlawful conduct, Plaintiff George and members of the North Dakota Indirect Purchaser Class have been injured in their business and property and are threatened with further injury.
- d. By reason of the foregoing, defendants have entered into agreements in restraint of trade in violation of North Dakota Cent. Code §§ 51-08.1-01, *et seq.* Accordingly, Plaintiff Bob George and all members of the North Dakota Indirect Purchaser Class seek all relief available under North Dakota Cent. Code §§ 51-08.1-01, *et seq.*

275. Plaintiff Oscar Cintron and the members of the Puerto Rico Indirect Purchaser Class incorporate and reallege each and every allegation set forth in the preceding paragraphs of this Complaint.

- a. Defendants’ combinations or conspiracies had the following effects: (1) LCD price competition was restrained, suppressed, and eliminated throughout Puerto Rico; (2) LCD prices were raised, fixed, maintained and stabilized at artificially high levels throughout Puerto Rico; (3) Plaintiff Cintron and members of the Puerto Rico Indirect Purchaser Class were deprived of free and open competition; and (4) Plaintiff Cintron and members of the Puerto Rico Indirect Purchaser Class paid supracompetitive, artificially inflated prices for LCD.
- b. During the Class Period, defendants’ illegal conduct had a substantial effect on Puerto Rico commerce.
- c. As a direct and proximate result of defendants’ unlawful conduct, Plaintiff Cintron and members of the Puerto Rico Indirect Purchaser

1 Class have been injured in their business and property and are
2 threatened with further injury.

3 d. By reason of the foregoing, defendants have entered into agreements
4 in restraint of trade in violation of Puerto Rico 10 LPRA § 258 and
5 32 LPRA §§ 5141. Accordingly, Plaintiff Oscar Cintron and all
6 members of the Puerto Rico Indirect Purchaser Class seek all relief
7 available under Puerto Rico law.

8 276. Plaintiffs Christopher Bessette and Chad Hansen (“South Dakota Plaintiffs”)
9 incorporate and reallege each and every allegation set forth in the preceding paragraphs of this
10 Complaint.

11 a. Defendants’ combinations or conspiracies had the following effects:
12 (1) LCD price competition was restrained, suppressed, and
13 eliminated throughout South Dakota; (2) LCD prices were raised,
14 fixed, maintained and stabilized at artificially high levels throughout
15 South Dakota; (3) South Dakota Plaintiffs and members of the South
16 Dakota Indirect Purchaser Class were deprived of free and open
17 competition; and (4) South Dakota Plaintiffs and members of the
18 South Dakota Indirect Purchaser Class paid supracompetitive,
19 artificially inflated prices for LCD.

20 b. During the Class Period, defendants’ illegal conduct had a
21 substantial effect on South Dakota commerce.

22 c. As a direct and proximate result of defendants’ unlawful conduct,
23 South Dakota Plaintiffs and members of the South Dakota Indirect
24 Purchaser Class have been injured in their business and property and
25 are threatened with further injury.

26 d. By reason of the foregoing, defendants have entered into agreements
27 in restraint of trade in violation of South Dakota Codified Laws Ann.
28 §§ 37-1, *et seq.* Accordingly, South Dakota Plaintiffs and all

1 members of the South Dakota Indirect Purchaser Class seek all relief
2 available under South Dakota Codified Laws Ann. §§ 37-1, *et seq.*

3 277. Plaintiffs Scott Beall and Dena Williams (“Tennessee Plaintiffs”) incorporate and
4 reallege each and every allegation set forth in the preceding paragraphs of this Complaint.

- 5 a. Defendants’ combinations or conspiracies had the following effects:
6 (1) LCD price competition was restrained, suppressed, and
7 eliminated throughout Tennessee; (2) LCD prices were raised, fixed,
8 maintained and stabilized at artificially high levels throughout
9 Tennessee; (3) Tennessee Plaintiffs and members of the Tennessee
10 Indirect Purchaser Class were deprived of free and open
11 competition; and (4) Tennessee Plaintiffs and members of the
12 Tennessee Indirect Purchaser Class paid supracompetitive,
13 artificially inflated prices for LCD.
- 14 b. During the Class Period, defendants’ illegal conduct had a
15 substantial effect on Tennessee commerce as products containing
16 LCD were sold in Tennessee.
- 17 c. As a direct and proximate result of defendants’ unlawful conduct,
18 Tennessee Plaintiffs and members of the Tennessee Indirect
19 Purchaser Class have been injured in their business and property and
20 are threatened with further injury.
- 21 d. By reason of the foregoing, defendants have entered into agreements
22 in restraint of trade in violation of Tennessee Code Ann. §§ 47-25-
23 101, *et seq.* Accordingly, Tennessee Plaintiffs and all members of
24 the Tennessee Indirect Purchaser Class seek all relief available under
25 Tennessee Code Ann. §§ 47-25-101, *et seq.*

26 278. Plaintiff Robert Watson (“Vermont Plaintiff”) and members of the Vermont
27 Indirect Purchaser Class incorporate and reallege each and every allegation set forth in the
28 preceding paragraphs of this Complaint.

1 a. Defendants' combinations or conspiracies had the following effects: (1)
2 LCD price competition was restrained, suppressed, and eliminated
3 throughout Vermont; (2) LCD prices were raised, fixed, maintained and
4 stabilized at artificially high levels throughout Vermont; (3) Plaintiff
5 Watson and members of the Vermont Indirect Purchaser Class were
6 deprived of free and open competition; and (4) Plaintiff Watson and
7 members of the Vermont Indirect Purchaser Class paid supracompetitive,
8 artificially inflated prices for LCD.

9 b. During the Class Period, defendants' illegal conduct had a
10 substantial effect on Vermont commerce.

11 c. As a direct and proximate result of defendants' unlawful conduct,
12 Plaintiff Watson and members of the Vermont Indirect Purchaser
13 Class have been injured in their business and property and are
14 threatened with further injury.

15 279. By reason of the foregoing, defendants have entered into agreements in restraint of
16 trade in violation of Vermont Stat. Ann. 9 §§ 2453, *et seq.* Accordingly, Plaintiff Watson and all
17 members of the Vermont Indirect Purchaser Class seek all relief available under Vermont Stat.
18 Ann. 9 §§ 2453, *et seq.*

19 280. Plaintiff Shawn Stern and members of the Virginia Indirect Purchaser Class
20 incorporate and reallege each and every allegation set forth in the preceding paragraphs of this
21 Complaint.

22 a. Defendants' combinations or conspiracies had the following effects:
23 (1) LCD price competition was restrained, suppressed, and
24 eliminated throughout Virginia; (2) LCD prices were raised, fixed,
25 maintained and stabilized at artificially high levels throughout
26 Virginia; (3) Plaintiff Stern and members of the Virginia Indirect
27 Purchaser Class were deprived of free and open competition; and (4)
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1 Plaintiff Stern and members of the Virginia Indirect Purchaser Class
2 paid supracompetitive, artificially inflated prices for LCD.

- 3 b. During the Class Period, defendants' illegal conduct had a
4 substantial effect on Virginia commerce.
- 5 c. As a direct and proximate result of defendants' unlawful conduct,
6 Plaintiff Stern and members of the Virginia Indirect Purchaser Class
7 have been injured in their business and property and are threatened
8 with further injury.
- 9 d. By reason of the foregoing, defendants have entered into agreements
10 in restraint of trade in violation of Virginia Code §§59.1-9.1, *et seq.*
11 Accordingly, Plaintiff Stern and all members of the Virginia Indirect
12 Purchaser Class seek all relief available under Virginia Code §§
13 59.1-9.1, *et seq.*

14 281. Plaintiffs John Matrich and members of the West Virginia Indirect Purchaser Class
15 incorporate and reallege each and every allegation set forth in the preceding paragraphs of this
16 Complaint.

- 17 a. Defendants' combinations or conspiracies had the following effects:
18 (1) LCD price competition was restrained, suppressed, and
19 eliminated throughout West Virginia; (2) LCD prices were raised,
20 fixed, maintained and stabilized at artificially high levels throughout
21 West Virginia; (3) Plaintiff Matrich and members of the West
22 Virginia Indirect Purchaser Class were deprived of free and open
23 competition; and (4) Plaintiff Matrich and members of the West
24 Virginia Indirect Purchaser Class paid supracompetitive, artificially
25 inflated prices for LCD.
- 26 b. During the Class Period, defendants' illegal conduct had a
27 substantial effect on West Virginia commerce.
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- 1 c. As a direct and proximate result of defendants' unlawful conduct,
2 Plaintiff Matrich and members of the West Virginia Indirect
3 Purchaser Class have been injured in their business and property and
4 are threatened with further injury.
- 5 d. By reason of the foregoing, defendants have entered into agreements
6 in restraint of trade in violation of West Virginia §§ 47-18-1, *et seq.*
7 Accordingly, Plaintiff Matrich and all members of the West Virginia
8 Indirect Purchaser Class seek all relief available under West Virginia
9 §§ 47-18-1, *et seq.*

10 282. Plaintiffs Joe Kovacevich, and Jai and Amy Paguirigan ("Wisconsin Plaintiffs")
11 incorporate and reallege each and every allegation set forth in the preceding paragraphs of this
12 Complaint.

- 13 a. Defendants' combinations or conspiracies had the following effects:
14 (1) LCD price competition was restrained, suppressed, and
15 eliminated throughout Wisconsin; (2) LCD prices were raised, fixed,
16 maintained and stabilized at artificially high levels throughout
17 Wisconsin; (3) Wisconsin Plaintiffs and members of the Wisconsin
18 Indirect Purchaser Class were deprived of free and open
19 competition; and (4) Wisconsin Plaintiffs and members of the
20 Wisconsin Indirect Purchaser Class paid supracompetitive,
21 artificially inflated prices for LCD.
- 22 b. During the Class Period, defendants' illegal conduct had a
23 substantial effect on Wisconsin commerce.
- 24 c. As a direct and proximate result of defendants' unlawful conduct,
25 Wisconsin Plaintiffs and members of the Wisconsin Indirect
26 Purchaser Class have been injured in their business and property and
27 are threatened with further injury.
- 28

1 d. By reason of the foregoing, defendants have entered into agreements
2 in restraint of trade in violation of Wisconsin Stat. §§ 133.01, *et seq.*
3 Accordingly, Wisconsin Plaintiffs and all members of the
4 Wisconsin Indirect Purchaser Class seek all relief available under
5 Wisconsin Stat. §§ 133.01, *et seq.*

6 **Fourth Claim for Relief**

7 **(Violation of State Consumer Protection And Unfair Competition Laws)**

8 283. Plaintiffs incorporate and reallege, as though fully set forth herein, each and every
9 allegation set forth in the preceding paragraphs of this Complaint.

10 284. Defendants engaged in unfair competition or unfair, unconscionable, deceptive or
11 fraudulent acts or practices in violation of the state consumer protection and unfair competition
12 statutes listed below.

13 285. California plaintiffs incorporate and reallege each and every allegation set forth in
14 the preceding paragraphs of this Complaint.

15 a. Defendants' business acts and practices were centered in, carried
16 out, effectuated, and perfected mainly within the State of California,
17 and defendants' conduct injured all members of the California
18 Indirect Purchaser Class. Therefore, this claim for relief under
19 California law is brought on behalf of the California Indirect
20 Purchaser Class.

21 b. Beginning on a date unknown to California plaintiffs, but at least as
22 early as January 1, 1996, and continuing thereafter at least up
23 through the filing of this Second Consolidated Amended Complaint,
24 defendants committed and continue to commit acts of unfair
25 competition, as defined by Sections 17200, *et seq.* of the California
26 Business and Professions Code, by engaging in the acts and
27 practices specified above.
28

- 1 c. This claim is instituted pursuant to Sections 17203 and 17204 of the
2 California Business and Professions Code, to obtain restitution from
3 these defendants for acts, as alleged herein, that violated Section
4 17200 of the California Business and Professions Code, commonly
5 known as the Unfair Competition Law.
- 6 d. The defendants' conduct as alleged herein violated Section 17200.
7 The acts, omissions, misrepresentations, practices and non-
8 disclosures of defendants, as alleged herein, constituted a common,
9 continuous, and continuing course of conduct of unfair competition
10 by means of unfair, unlawful, and/or fraudulent business acts or
11 practices within the meaning of California Business and Professions
12 Code, Section 17200, *et seq.*, including, but not limited to, the
13 following: (1) the violations of Section 1 of the Sherman Act, as set
14 forth above; (2) the violations of Section 16720, *et seq.*, of the
15 California Business and Professions Code, set forth above;
- 16 e. Defendants' acts, omissions, misrepresentations, practices, an non-
17 disclosures, as described above, whether or not in violation of
18 Section 16720, *et seq.*, of the California Business and Professions
19 Code, and whether or not concerted or independent acts, are
20 otherwise unfair, unconscionable, unlawful or fraudulent;
- 21 f. Defendants' acts or practices are unfair to consumers of LCD
22 products in the State of California within the meaning of Section
23 17200, California Business and Professions Code; and
- 24 g. Defendants' acts and practices are fraudulent or deceptive within the
25 meaning of Section 17200 of the California Business and professions
26 Code.
- 27 h. California plaintiffs and each of the California Indirect Purchaser
28 Class members are entitled to full restitution and/or disgorgement of

1 all revenues, earnings, profits, compensation, and benefits that may
2 have been obtained by defendants as a result of such business acts or
3 practices.

4 i. The illegal conduct alleged herein is continuing and there is no
5 indication that defendants will not continue such activity into the
6 future.

7 j. The unlawful and unfair business practices of defendants, and each
8 of them, as described above, have caused and continue to cause
9 plaintiffs and the members of the California Class to pay
10 supracompetitive and artificially-inflated prices for LCD products.
11 California plaintiffs and the members of the California Indirect
12 Purchaser Class suffered injury in fact and lost money or property as
13 a result of such unfair competition.

14 k. The conduct of defendants as alleged in this Complaint violates
15 Section 17200 of the California Business and Professions Code.

16 l. As alleged in this Complaint, defendants and their co-conspirators
17 have been unjustly enriched as a result of their wrongful conduct and
18 by defendants' unfair competition. California plaintiffs and the
19 members of the California Indirect Purchaser Class are accordingly
20 entitled to equitable relief including restitution and/or disgorgement
21 of all revenues, earnings, profits, compensation, and benefits that
22 may have been obtained by defendants as a result of such business
23 practices, pursuant to the California Business and Professions Code,
24 Sections 17203 and 17204.

25 286. Plaintiff David Walker incorporates and realleges each and every allegation set
26 forth in the preceding paragraphs of this Complaint.

27 a. Defendants agreed to, and did in fact, act in restraint of trade or
28 commerce by affecting, fixing, controlling and/or maintaining, at

1 artificial and/or non-competitive levels, the prices at which LCD was
2 sold, distributed or obtained in the District of Columbia.

3 b. The foregoing conduct constitutes “unlawful trade practices,” within
4 the meaning of D.C. Code § 28-3904.

5 c. Defendants’ unlawful conduct had the following effects: (1) LCD
6 price competition was restrained, suppressed, and eliminated
7 throughout the District of Columbia; (2) LCD prices were raised,
8 fixed, maintained, and stabilized at artificially high levels
9 throughout the District of Columbia; (3) Plaintiff Walker and
10 members of the District of Columbia Indirect Purchaser Class were
11 deprived of free and open competition; and (4) Plaintiff Walker and
12 members of the District of Columbia Indirect Purchaser Class paid
13 supra-competitive, artificially inflated prices for LCD.

14 d. As a direct and proximate result of the defendants’ conduct, Plaintiff
15 Walker and members of the District of Columbia Indirect Purchaser
16 Class have been injured and are threatened with further injury.
17 Defendants have engaged in unfair competition or unfair or
18 deceptive acts or practices in violation of District of Columbia Code
19 § 28-3901, *et seq.*, and, accordingly, Plaintiff Walker and all
20 members of the District of Columbia Indirect Purchaser Class seek
21 all relief available under that statute.

22 287. Plaintiffs Scott Eisler, Robin Feins, and Janet Figueroa (“Florida Plaintiffs”)
23 incorporate and reallege each and every allegation set forth in the preceding paragraphs of this
24 Complaint.

25 a. Defendants’ unlawful conduct had the following effects: (1) LCD
26 price competition was restrained, suppressed, and eliminated
27 throughout Florida; (2) LCD prices were raised, fixed, maintained,
28 and stabilized at artificially high levels throughout Florida; (3)

1 Florida Plaintiffs and members of the Florida Indirect Purchaser
2 Class were deprived of free and open competition; and (4) Florida
3 Plaintiffs and members of the Florida Indirect Purchaser Class paid
4 supracompetitive, artificially inflated prices for LCD.

- 5 b. During the Class Period, defendants' illegal conduct substantially
6 affected Florida commerce and consumers.
- 7 c. As a direct and proximate result of defendants' unlawful conduct,
8 Florida Plaintiffs and members of the Florida Indirect Purchaser
9 Class have been injured and are threatened with further injury.
- 10 d. Defendants have engaged in unfair competition or unfair or
11 deceptive acts or practices in violation of Florida Stat. § 501.201, *et*
12 *seq.*, and, accordingly, Florida Plaintiffs and all members of the
13 Florida Indirect Purchaser Class seek all relief available under that
14 statute.

15 288. Plaintiffs Gail Awakuni, John Okita, and Fred Waki ("Hawaii Plaintiffs")
16 incorporate and reallege each and every allegation set forth in the preceding paragraphs of this
17 Complaint.

- 18 a. Defendants' unlawful conduct had the following effects: (1) LCD
19 price competition was restrained, suppressed, and eliminated
20 throughout Hawaii; (2) LCD prices were raised, fixed, maintained,
21 and stabilized at artificially high levels throughout Hawaii; (3)
22 Hawaii Plaintiffs and members of the Hawaii Indirect Purchaser
23 Class were deprived of free and open competition; and (4) Hawaii
24 Plaintiffs and members of the Hawaii Indirect Purchaser Class paid
25 supracompetitive, artificially inflated prices for LCD.
- 26 b. During the Class Period, defendants' illegal conduct substantially
27 affected Hawaii commerce and consumers.
- 28

- 1 c. As a direct and proximate result of defendants' unlawful conduct,
2 Hawaii Plaintiffs and members of the Hawaii Indirect Purchaser
3 Class have been injured and are threatened with further injury.
- 4 d. Defendants have engaged in unfair competition or unfair or
5 deceptive acts or practices in violation of Hawaii Rev. Stat. § 480, *et*
6 *seq.*, and, accordingly, Hawaii Plaintiffs and all members of the
7 Hawaii Indirect Purchaser Class seek all relief available under that
8 statute.

9 289. Massachusetts Plaintiffs Michael Ayers and Christopher Murphy ("Massachusetts
10 Plaintiffs") and members of the Massachusetts Indirect Purchaser Class incorporate and reallege
11 each and every allegation set forth in the preceding paragraphs of this Complaint.

- 12 a. Defendants were engaged in trade or commerce as defined by G.L. c.
13 93A.
- 14 b. Defendants agreed to, and did in fact, act in restraint of trade or
15 commerce in a market which includes Massachusetts, by affecting,
16 fixing, controlling and/or maintaining at artificial and non-
17 competitive levels, the prices at which LCD was sold, distributed, or
18 obtained in Massachusetts and took efforts to conceal their
19 agreements from the Massachusetts Plaintiffs and members of the
20 Massachusetts Indirect Purchaser Class.
- 21 c. Defendants' unlawful conduct had the following effects: (1) LCD
22 price competition was restrained, suppressed, and eliminated
23 throughout Massachusetts; (2) LCD prices were raised, fixed,
24 maintained, and stabilized at artificially high levels throughout
25 Massachusetts; (3) Massachusetts Plaintiffs and members of the
26 Massachusetts Indirect Purchaser Class were deprived of free and
27 open competition; and (4) Massachusetts Plaintiffs and members of
28

1 the Massachusetts Indirect Purchaser Class paid supra-competitive,
2 artificially inflated prices for LCD.

3 d. As a direct and proximate result of defendants' unlawful conduct,
4 Massachusetts Plaintiffs and members of the Massachusetts Indirect
5 Purchaser Class were injured and are threatened with further injury.

6 e. Each of the defendants has been served with a demand letter in
7 accordance with G.L. c. 93A, § 9, or such service of a demand letter
8 was unnecessary due to the defendant not maintaining a place of
9 business within the Commonwealth of Massachusetts or not keeping
10 assets within the Commonwealth. More than thirty days has passed
11 since such demand letters were served, and each defendant served
12 has failed to make a reasonable settlement offer.

13 f. By reason of the foregoing, defendants engaged in unfair
14 competition and unfair or deceptive acts or practices, in violation of
15 G.L. c. 93A, §2. Defendants' and their co-conspirators' violations of
16 Chapter 93A were knowing or willful, entitling the Massachusetts
17 Plaintiffs and members of the Massachusetts Indirect Purchaser
18 Class to multiple damages.

19 290. New Mexico Plaintiffs incorporate and reallege each and every allegation set forth
20 in the preceding paragraphs of this Complaint.

21 a. Defendants agreed to, and did in fact, act in restraint of trade or
22 commerce by affecting, fixing, controlling and/or maintaining at
23 non-competitive and artificially inflated levels, the prices at which
24 LCD was sold, distributed or obtained in New Mexico and took
25 efforts to conceal their agreements from New Mexico Plaintiffs and
26 members of the New Mexico Indirect Purchaser Class.

27 b. The aforementioned conduct on the part of the defendants
28 constituted "unconscionable trade practices," in violation of

1 N.M.S.A. Stat. § 57-12-3, in that such conduct, *inter alia*, resulted in
2 a gross disparity between the value received by New Mexico
3 Plaintiffs and the members of the New Mexico Indirect Purchaser
4 Class and the prices paid by them for LCD as set forth in N.M.S.A.,
5 § 57-12-2E.

6 c. Defendants' unlawful conduct had the following effects: (1) LCD
7 price competition was restrained, suppressed, and eliminated
8 throughout New Mexico; (2) LCD prices were raised, fixed,
9 maintained, and stabilized at artificially high levels throughout New
10 Mexico; (3) New Mexico Plaintiffs and members of the New
11 Mexico Indirect Purchaser Class were deprived of free and open
12 competition; and (4) New Mexico Plaintiffs and members of the
13 New Mexico Indirect Purchaser Class paid supra-competitive,
14 artificially inflated prices for LCD.

15 d. During the Class Period, defendants' illegal conduct substantially
16 affected New Mexico commerce and consumers.

17 e. As a direct and proximate result of the unlawful conduct of the
18 defendants, New Mexico Plaintiffs and members of the New Mexico
19 Indirect Purchaser Class have been injured and are threatened with
20 further injury.

21 f. Defendants have engaged in unfair competition or unfair or
22 deceptive acts or practices in violation of New Mexico Stat. § 57-12-
23 1, *et seq.*, and, accordingly, New Mexico plaintiffs and all members
24 of the New Mexico Indirect Purchaser Class seek all relief available
25 under that statute.

26 291. Plaintiffs Tom DiMatteo, Erin Drew, and Chris Ferencsik ("New York Plaintiffs")
27 incorporate and reallege each and every allegation set forth in the preceding paragraphs of this
28 Complaint.

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- a. Defendants agree to, and did in fact, act in restraint of trade or commerce by affecting, fixing, controlling and/or maintaining, at artificial and non-competitive levels, the prices at which LCD was sold, distributed or obtained in New York and took efforts to conceal their agreements from New York Plaintiffs and the New York Indirect Purchaser Class.
- b. The conduct of the defendants described herein constitutes consumer-oriented deceptive acts or practices within the meaning of N.Y. Gen. Bus. Law § 349, which resulted in consumer injury and broad adverse impact on the public at large, and harmed the public interest of New York State in an honest marketplace in which economic activity is conducted in a competitive manner.
- c. Defendants' unlawful conduct had the following effects: (1) LCD price competition was restrained, suppressed, and eliminated throughout New York; (2) LCD prices were raised, fixed, maintained, and stabilized at artificially high levels throughout New York; (3) New York Plaintiffs and members of the New York Indirect Purchaser Class were deprived of free and open competition; and (4) New York Plaintiffs and members of the New York Indirect Purchaser Class paid supra-competitive, artificially inflated prices for LCD.
- d. During the Class Period, defendants' illegal conduct substantially affected New York commerce and consumers.
- e. During the Class Period, each of the defendants named herein, directly, or indirectly and through affiliates they dominated and controlled, manufactured, sold and/or distributed LCD in New York.
- f. New York Plaintiffs and members of the New York Indirect Purchaser Class seek actual damages for their injuries caused by

1 these violations in an amount to be determined at trial and are
2 threatened with further injury. Without prejudice to their contention
3 that defendants' unlawful conduct was willful and knowing, New
4 York Plaintiffs and members of the New York Indirect Purchaser
5 Class do not seek in this action to have those damages trebled
6 pursuant to N.Y. Gen. Bus. Law § 349 (h).

7 292. North Carolina Plaintiffs incorporate and reallege each and every allegation set
8 forth in the preceding paragraphs of this Complaint.

- 9 a. Defendants agree to, and did in fact, act in restraint of trade or
10 commerce by affecting, fixing, controlling and/or maintaining, at
11 artificial and non-competitive levels, the prices at which LCD was
12 sold, distributed or obtained in North Carolina and took efforts to
13 conceal their agreements from Plaintiffs and the North Carolina
14 Indirect Purchaser Class.
- 15 b. The conduct of the defendants described herein constitutes
16 consumer-oriented deceptive acts or practices within the meaning of
17 North Carolina law, which resulted in consumer injury and broad
18 adverse impact on the public at large, and harmed the public interest
19 of North Carolina consumers in an honest marketplace in which
20 economic activity is conducted in a competitive manner.
- 21 c. Defendants' unlawful conduct had the following effects: (1) LCD
22 price competition was restrained, suppressed, and eliminated
23 throughout North Carolina; (2) LCD prices were raised, fixed,
24 maintained, and stabilized at artificially high levels throughout
25 North Carolina; (3) North Carolina Plaintiffs and members of the
26 North Carolina Indirect Purchaser Class were deprived of free and
27 open competition; and (4) North Carolina Plaintiffs and members of
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- 1 the North Carolina Indirect Purchaser Class paid supra-competitive,
2 artificially inflated prices for LCD.
- 3 d. During the Class Period, defendants' illegal conduct substantially
4 affected North Carolina commerce and consumers.
- 5 e. During the Class Period, each of the defendants named herein,
6 directly, or indirectly and through affiliates they dominated and
7 controlled, manufactured, sold and/or distributed LCD in North
8 Carolina.
- 9 f. North Carolina Plaintiffs and members of the North Carolina
10 Indirect Purchaser Class seek actual damages for their injuries
11 caused by these violations in an amount to be determined at trial and
12 are threatened with further injury. Defendants have engaged in
13 unfair competition or unfair or deceptive acts or practices in
14 violation of North Carolina Gen. Stat. § 75-1.1, *et seq.*, and,
15 accordingly, North Carolina Plaintiffs and all members of the North
16 Carolina Indirect Purchaser Class seek all relief available under that
17 statute.

18 293. Plaintiff Dr. Robert Mastronardi and the members of the Rhode Island Indirect
19 Purchaser Class incorporate and reallege each and every allegation set forth in the preceding
20 paragraphs of this Complaint.

- 21 a. Plaintiff Mastronardi and members of the Rhode Island Indirect
22 Purchaser Class purchased LCD for personal, family, or household
23 purposes.
- 24 b. Defendants agreed to, and did in fact, act in restraint of trade or
25 commerce in a market that includes Rhode Island, by affecting,
26 fixing, controlling, and/or maintaining, at artificial and non-
27 competitive levels, the prices at which LCD was sold, distributed, or
28 obtained in Rhode Island.

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- c. Defendants deliberately failed to disclose material facts to Plaintiff Mastronardi and the members of the Rhode Island Indirect Purchaser Class concerning defendants' unlawful activities and artificially inflated prices for LCD. Defendants owed a duty to disclose such facts, and considering the relative lack of sophistication of the average, non-business consumer, defendants breached that duty by their silence. Defendants misrepresented to all consumers during the Class Period that defendants' LCD prices were competitive and fair.
- d. Defendants' unlawful conduct had the following effects: (1) LCD price competition was restrained, suppressed, and eliminated throughout Rhode Island; (2) LCD prices were raised, fixed, maintained, and stabilized at artificially high levels throughout Rhode Island; (3) Plaintiff Mastronardi and members of the Rhode Island Indirect Purchaser Class were deprived of free and open competition; and (4) Plaintiff Mastronardi and members of the Rhode Island Indirect Purchaser Class paid supra-competitive, artificially inflated prices for LCD.
- e. As a direct and proximate result of the defendants' violations of law, Plaintiff Mastronardi and members of the Rhode Island Indirect Purchaser Class suffered an ascertainable loss of money or property as a result of defendants' use or employment of unconscionable and deceptive commercial practices as set forth above. That loss was caused by defendants' willful and deceptive conduct, as described herein.
- f. Defendants' deception, including its affirmative misrepresentations and omissions concerning the price of LCD, likely misled all consumers acting reasonably under the circumstances to believe that they were purchasing LCD at prices born by a free and fair market.

1 Defendants' affirmative misrepresentations and omissions constitute
2 information important to Plaintiff Mastronardi and the members of
3 the Rhode Island Indirect Purchaser Class as they related to the cost
4 of LCD they purchased.

- 5 g. Defendants have engaged in unfair competition or unfair or
6 deceptive acts or practices in violation of Rhode Island Gen. Laws. §
7 6-13.1-1, *et seq.*, and, accordingly, Plaintiff Mastronardi and all
8 members of the Rhode Island Indirect Purchaser Class seek all relief
9 available under that statute.

10 294. Plaintiff Watson incorporates and realleges each and every allegation set forth in
11 the preceding paragraphs of this Complaint.

- 12 a. Defendants agreed to, and did in fact, act in restraint of trade or
13 commerce in a market that includes Vermont, by affecting, fixing,
14 controlling, and/or maintaining, at artificial and non-competitive
15 levels, the prices at which LCD was sold, distributed, or obtained in
16 Vermont.
- 17 b. Defendants deliberately failed to disclose material facts to Plaintiff
18 Watson and the members of the Vermont Indirect Purchaser Class
19 concerning defendants' unlawful activities and artificially inflated
20 prices for LCD. Defendants owed a duty to disclose such facts, and
21 considering the relative lack of sophistication of the average, non-
22 business consumer, defendants breached that duty by their silence.
23 Defendants misrepresented to all consumers during the Class Period
24 that defendants' LCD prices were competitive and fair.
- 25 c. Defendants' unlawful conduct had the following effects: (1) LCD
26 price competition was restrained, suppressed, and eliminated
27 throughout Vermont; (2) LCD prices were raised, fixed, maintained,
28 and stabilized at artificially high levels throughout Vermont; (3)

1 Plaintiff Watson and all members of the Vermont Indirect Purchaser
2 Class were deprived of free and open competition; and (4) Plaintiff
3 Watson and members of the Vermont Indirect Purchaser Class paid
4 supra-competitive, artificially inflated prices for LCD.

5 d. As a direct and proximate result of the defendants' violations of law,
6 Plaintiff Watson and members of the Vermont Indirect Purchaser
7 Class suffered an ascertainable loss of money or property as a result
8 of defendants' use or employment of unconscionable and deceptive
9 commercial practices as set forth above. That loss was caused by
10 defendants' willful and deceptive conduct, as described herein.

11 e. Defendants' deception, including its affirmative misrepresentations
12 and omissions concerning the price of LCD, likely misled all
13 consumers acting reasonably under the circumstances to believe that
14 they were purchasing LCD at prices born by a free and fair market.
15 Defendants' misleading conduct and unconscionable activities
16 constitutes unfair competition or unfair or deceptive acts or practices
17 in violation of 9 Vermont § 2451, *et seq.*, and, accordingly, Plaintiff
18 Watson and all members of the Vermont Indirect Purchaser Class
19 seek all relief available under that statute.

20 **XII. PRAYER FOR RELIEF**

21 WHEREFORE, plaintiffs pray:

22 A. That the Court determine that the Sherman Act, state antitrust law, and state
23 consumer protection and unfair competition law claims alleged herein may be maintained
24 as class actions under Rules 23(a), (b)(2), and (b)(3) of the Federal Rules of Civil
25 Procedure, as informed by the respective state class action laws.

26 B. That the unlawful conduct, contract, conspiracy or combination alleged
27 herein be adjudged and decreed to be:
28

- 1 1. A restraint of trade or commerce in violation of Section 1 of the
- 2 Sherman Act, as alleged in the First Claim for Relief;
- 3 2. Acts of unjust enrichment as set forth in the Second Claim for Relief
- 4 herein;
- 5 3. An unlawful combination, trust, agreement, understanding, and/or
- 6 concert of action in violation of the state antitrust laws identified in
- 7 the Third Claim for Relief herein; and
- 8 4. Violations of the state consumer protection and unfair competition
- 9 laws identified in the Fourth Claim for Relief herein.

10 C. That the plaintiffs and the Classes alleged herein recover damages, to the

11 maximum extent allowed under such laws as provided by state antitrust laws, and that a

12 joint and several judgment in favor of plaintiffs and the Class be entered against the

13 defendants in an amount to be trebled to the extent permitted by such laws;

14 D. That the plaintiffs and the Classes alleged herein recover damages, to the

15 maximum extent allowed by state consumer protection laws, except that plaintiffs and the

16 New York Indirect Purchaser Class do not seek in this action to have those damages

17 trebled pursuant to N.Y. Gen. Bus. Law Sec. 349(h).

18 E. That defendants, their affiliates, successors, transferees, assignees, and the

19 officers, directors, partners, agents, and employees thereof, and all other persons acting or

20 claiming to act on their behalf or in concert with them, be permanently enjoined and

21 restrained from in any manner continuing, maintaining, or renewing the conduct, contract,

22 conspiracy or combination alleged herein, or from entering into any other conspiracy

23 alleged herein, or from entering into any other contract, conspiracy or combination having

24 a similar purpose or effect, and from adopting or following any practice, plan, program, or

25 device having a similar purpose or effect;

26 F. That the Court enter an order of divestiture requiring defendants to rescind

27 and/or dissolve the cooperation agreements, joint ventures and/or cross-license agreements

28 alleged herein between and among them used to facilitate the conspiracy alleged herein;

1 G. That plaintiffs and members of the Class be awarded restitution, including
2 disgorgement of profits obtained by defendants as a result of their acts of unfair
3 competition and acts of unjust enrichment;

4 H. That plaintiffs and members of the Class be awarded pre- and post-judgment
5 interest as provided by law, and that such interest be awarded at the highest legal rate from
6 and after the date of service of the initial complaint in this action;

7 I. That plaintiffs and members of the Class recover their costs of suit,
8 including a reasonable attorney's fee, as provided by law; and

9 J. That plaintiffs and members of the Class have such other, further, and
10 different relief as the case may require and the Court may deem just and proper under the
11 circumstances.

12
13 Dated: December 5, 2008

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JURY TRIAL DEMAND

Pursuant to Rule 38(b) of the Federal Rules of Civil Procedure, plaintiffs demand a trial by jury for all issues so triable.

Dated: December 5, 2008

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CERTIFICATE OF SERVICE

IN RE TFT-LCD (FLAT PANEL) ANTITRUST LITIGATION

Master File No. M:07-cv-1827 SI

MDL No. 1827

I, Melissa Bibbs, certify and declare under penalty of perjury that I: am a citizen of the United States; am over the age of 18 years; am employed by Zelle, Hofmann, Voelbel, Mason & Gette LLP, at the address indicated, whose members are members of the State Bar of California and at least one of whose members is a member of the Bar of each Federal District Court within California; am not a party to or interested in the cause entitled upon the document to which this Proof of Service is affixed; and that I served a true and correct copy of the following document(s) in the manner indicated below:

1. INDIRECT-PURCHASER PLAINTIFFS' SECOND CONSOLIDATED AMENDED COMPLAINT

- by today depositing, at San Francisco, California, the said document(s) in the United States mail in a sealed envelope, with first-class postage thereon fully prepaid; (and/or)
- by facsimile transmission to the parties listed below;
- by overnight mail to the parties listed below;
- by today personally delivering the said document(s) to the person(s) indicated below in a manner provided by law, by handing them the documents or by leaving the said document(s) at the office(s) or usual place(s) of business, during usual business hours, of the said person(s) with a clerk or other person who was apparently in charge thereof and at least 18 years of age, whom I informed of the contents.
- (BY ELECTRONIC MAIL) I caused such document(s) to be emailed to the offices and/or to attorneys of offices of the above named addressee(s).
- By USDC Live System-Document Filing System:** on all interested parties registered for e-filing.

Dated: December 5, 2008

Signed /s/Melissa Bibbs
Melissa Bibbs

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