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10 UNITED STATES DISTRICT COURT
11 NORTHERN DISTRICT OF CALIFORNIA

12 UNITED STATES OF AMERICA,) Case No. CR-09-0110 (SI)
13)
Plaintiff,) **REPLY OF DEFENDANTS AU**
14 v.) **OPTRONICS CORPORATION AND**
AU OPTRONICS CORPORATION, et al.,) **AU OPTRONICS CORPORATION**
15) **AMERICA IN SUPPORT OF MOTION**
Defendants.) **TO SPECIALLY SET SENTENCING**
16) **HEARINGS**
17)
18) Dept.: Before the Hon. Susan Illston
)

19 In opposing defendants’ request for a special setting of their sentencing hearings, the
20 government’s opposition makes no mention of the most important reason such a setting is in
21 order: there are twelve other matters on the Court’s criminal calendar on September 14th.

22 The government does assert that: “There are no more issues of first impression to be
23 decided; what remains to be done is to apply the Sentencing Guidelines to the relevant volumes
24 of commerce and impose sentences on defendants.” Opp., at 3. That assertion is triply flawed
25 because: (a) as the Addenda to the final PSRs clearly state, the Probation Department has
26 “deferred to the Court for resolution” a number of complicated and important legal and factual
27 issues, including what the “relevant volumes of commerce” are, a crucial question in all four
28 AUO-related sentencings; (b) this case will raise issues of first impression regarding the

1 interpretation of the guidelines, which in any case will be a “starting point and the initial
2 benchmark,”¹ not the final criteria used to “impose sentence on defendants,” as the government
3 claims; and (c) at sentencing, the Court will be required to address not only the guidelines, but
4 the provisions of 18 U.S.C. 3571, the alternate fine statute, the interpretation of which in this case
5 will indeed involve issues of first impression.

6 The Court should set this matter specially to permit itself adequate time to resolve the
7 issues presented by the sentencings of the four AUO-related defendants.

8 DATED: September 4, 2012

Riordan & Horgan

9 Sedgwick, Detert, Moran & Arnold LLP

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11 By: /s/ Dennis P. Riordan
Dennis P. Riordan

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28 ¹ *Gall v. United States*, 552 U.S. 38, 49 (2007).