

1 UNITED STATES DISTRICT COURT
2 NORTHERN DISTRICT OF CALIFORNIA
3 SAN FRANCISCO DIVISION

4 IN RE TFT-LCD (FLAT PANEL)
5 ANTITRUST LITIGATION

Case No. 3:07-MD-1827 SI
MDL No. 1827

6 This Document Relates to:

7 Indirect-Purchaser Class Action:

8 *State of Missouri, et al. v. AU Optronics*
9 *Corporation, et al.*, Case No. 10-cv-3619;

10 *State of Florida v. AU Optronics Corporation,*
11 *et al.*, Case No. 10-cv-3517; and

12 *State of New York v. AU Optronics Corporation,*
13 *et al.*, Case No. 11-cv-0711.

REPLY DECLARATION OF ROBIN
M. NIEMIEC OF RUST
CONSULTING, INC., NOTICE AND
CLAIMS ADMINISTRATOR,
IN SUPPORT OF INDIRECT
PURCHASER PLAINTIFFS' MOTION
TO AUTHORIZE DISTRIBUTION OF
SETTLEMENT FUND

14
15 I, Robin M. Niemiec, declare as follows:

16 1. I am employed as a Client Services Director at Rust Consulting, Inc. ("Rust")
17 (as used herein, "Rust" includes its sister company, Kinsella Media, Inc.). I am over twenty-
18 one (21) years of age and am not a party to the above-captioned actions ("the Actions"). I
19 have personal knowledge of the facts set forth herein, and, if called as a witness, could and
20 would testify competently thereto.

21
22 2. Rust was retained by Co-Lead Counsel for the Indirect Purchaser Plaintiff Class
23 ("the Class") pursuant to the "Order Granting Preliminary Approval of Combined Class,
24 *Parens Patriae*, and Governmental Entity Settlements" (dated January 26, 2012), and the
25 "Order Granting Preliminary Approval of Combined Class, *Parens Patriae*, and Governmental
26 Entity Settlements with AUO, LG Display and Toshiba Defendants" (dated July 31, 2012), to
27 serve as the Settlement Notice and Claims Administrator.
28

1 3. On September 12, 2014, I executed my Declaration in Support of Indirect
2 Purchaser Plaintiffs' Motion to Authorize Distribution of Settlement Fund (the "September
3 Declaration" or Dkt. No.9217-1) that was filed with the Court on September 12, 2014,
4 testifying to my knowledge of, among other things, processing completed claim forms;
5 calculation of the *pro rata* recovery for each Class Member who filed a valid claim; and
6 distribution of the Settlement Fund to Class Members. Rust has served as the central contact
7 point for Class Members' and potential Class Members' inquiries, communications and claims
8 in this Settlement.
9

10 4. I submit this Reply Declaration to provide the Court with additional
11 information regarding the per-panel payment calculation for pre-June 6, 2014 claimants (*see*
12 ¶26, Dkt. 9217-1) and claims received after the June 6, 2014 deadline (*see* ¶ 6, Dkt. 9217-1) in
13 connection with the settlement of the Actions ("the Settlement").
14

15 5. Rust was engaged to, among other things, provide notice about the Settlement
16 to potential Class Members; process completed claim forms; calculate the *pro rata* recovery
17 for each Class Member who filed a valid claim; and distribute the Settlement Fund to Class
18 Members. Rust has served as the central contact point for Class Members' and potential Class
19 Members' inquiries, communications and claims in this Settlement.
20

21 6. As previously stated in the September Declaration, the Net Settlement Fund
22 will be distributed *pro rata* based on the number of monitors, notebooks and televisions
23 purchased with provides that televisions will count at twice the rate of monitors and
24 notebooks. Therefore, the "panel equivalent" counts allow for a single rate for monitors and
25 notebooks (one panel equivalent) and double for televisions (two panel equivalents).
26

27 7. Rust has previously reported to Counsel that the 233,473 valid claims from
28 Class Members submitted by June 6, 2014, contain a total of 16,212,038 panel equivalents.

1 Included in this count are 18,078 claims for 5,956,723 panel equivalents that were submitted
2 or postmarked after December 6, 2012 (the filing deadline).

3 8. It is anticipated that the final payment amount to approved claimants is \$43.64
4 per computer monitor and laptop and \$87.28 per television.

5 9. Rust further reported that an additional 92 claims were submitted after June 6,
6 2014, of which 11 claims were duplicates. Of the remaining 81 claims, if received timely, 63
7 claims would not be subject to an audit and 18 would be subject to an audit. However, 13 of
8 the 18 submitted adequate proof of class defined purchases which would not require an audit.
9 According, a total of 76 claims would not be subject to an audit totaling 149,366 panel
10 equivalents and the remaining 5 claims, which would be subject to an audit total 11,488 panel
11 equivalents.
12

13 10. Additional claims have been received since Rust's previous report. Between
14 June 7, 2014 and October 3, a total of 106 non-duplicative claims have been received for a
15 total of 280,253 panel equivalents.
16

17 11. Each Class Member whose claim is approved by the Court will receive a *pro*
18 *rata* payment from the Net Settlement Fund, which Rust will promptly distribute upon
19 approval of the Court.
20

21
22 I declare under penalty of perjury that the foregoing is true and correct to the best of my
23 knowledge.

24 Executed this 7th day of October, 2014, in Palm Beach Gardens, Florida.

25 

26

Robin M. Niemiec
27
28