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4 U.S. Department of Justice
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FILED

JUN X 1 2010

RICHARD W. WIEKING
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

7 Attorneys for the United States

8 UNITED STATES DISTRICT COURT
9 NORTHERN DISTRICT OF CALIFORNIA
10 SAN FRANCISCO DIVISION

11
12 UNITED STATES OF AMERICA

Case No. CR

13 v.

14 JAU-YANG ("J.Y.") HO,

15 Defendant.

16
17 **PLEA AGREEMENT**

18 The United States of America and Jau-Yang ("J.Y.") Ho ("defendant") hereby enter into
19 the following Plea Agreement pursuant to Rule 11(c)(1)(C) of the Federal Rules of Criminal
20 Procedure ("Fed. R. Crim. P.):

21 **RIGHTS OF DEFENDANT**

- 22 1. The defendant understands his rights:
23 (a) to be represented by an attorney;
24 (b) to be charged by Indictment;
25 (c) as a permanent resident of Taiwan and holder of a Taiwan passport, to
26 decline to accept service of the Summons in this case, and to contest the
27 jurisdiction of the United States to prosecute this case against him in the
28 United States District Court for the Northern District of California;

J.Y. ORIGINAL

1 (d) to plead not guilty to any criminal charge brought against him;

2 (e) to have a trial by jury, at which he would be presumed not
3 guilty of the charge and the United States would have to prove every essential element of
4 the charged offense beyond a reasonable doubt for him to be found guilty;

5 (f) to confront and cross-examine witnesses against him and to
6 subpoena witnesses in his defense at trial;

7 (g) not to be compelled to incriminate himself;

8 (h) to appeal his conviction, if he is found guilty; and

9 (i) to appeal the imposition of sentence against him.

10 **AGREEMENT TO PLEAD GUILTY**
11 **AND WAIVE CERTAIN RIGHTS**

12 2. The defendant knowingly and voluntarily waives the rights set out in Paragraph
13 1(b)-(h) above, including all jurisdictional defenses to the prosecution of this case, and agrees
14 voluntarily to consent to the jurisdiction of the United States to prosecute this case against him in
15 the United States District Court for the Northern District of California. The defendant also
16 knowingly and voluntarily waives the right to file any appeal, any collateral attack, or any other
17 writ or motion, including, but not limited to, an appeal under 18 U.S.C. § 3742 or a motion under
18 28 U.S.C. § 2241 or 2255, that challenges the sentence imposed by the Court if that sentence is
19 consistent with or below the recommended sentence in Paragraph 8 of this Plea Agreement,
20 regardless of how the sentence is determined by the Court. This agreement does not affect the
21 rights or obligations of the United States as set forth in 18 U.S.C. § 3742(b) and (c). Nothing in
22 this paragraph, however, shall act as a bar to the defendant perfecting any legal remedies he may
23 otherwise have on appeal or collateral attack respecting claims of ineffective assistance of counsel
24 or prosecutorial misconduct. Pursuant to Fed. R. Crim. P. 7(b), the defendant will waive
25 indictment and plead guilty at arraignment to a one-count Information to be filed in the United
26 States District Court for the Northern District of California. The Information will charge the
27 defendant with participating in a conspiracy to suppress and eliminate competition by fixing the
28 prices of certain thin-film transistor liquid crystal display panels ("TFT-LCD") sold in the United

1 States and elsewhere, from on or about September 14, 2001, to on or about December 1, 2006, in
2 violation of the Sherman Antitrust Act, 15 U.S.C. § 1.

3 3. The defendant, pursuant to the terms of this Plea Agreement, will plead guilty to the
4 criminal charge described in Paragraph 2 above and will make a factual admission of guilt to the
5 Court in accordance with Fed. R. Crim. P. 11, as set forth in Paragraph 4, below. The United
6 States agrees that, at the arraignment, it will stipulate to the release of the defendant on his
7 personal recognizance, pursuant to 18 U.S.C. § 3142, pending the sentencing hearing in this case.

8 **FACTUAL BASIS FOR OFFENSE CHARGED**

9 4. Had this case gone to trial, the United States would have presented evidence
10 sufficient to prove the following facts:

11 (a) For purposes of this Plea Agreement, the "relevant period" is
12 that period from on or about September 14, 2001, to on or about December 1, 2006.
13 During the relevant period, the defendant held the position of President at Chi Mei
14 Optoelectronics Corporation ("Chi Mei"), a corporation organized and existing under the
15 laws of Taiwan with its principal place of business in Tainan, Taiwan. During the
16 relevant period, Chi Mei was a producer of TFT-LCD and was engaged in the sale of
17 TFT-LCD in the United States and elsewhere. TFT-LCD are glass panels composed of an
18 array of tiny pixels that are electronically manipulated in order to display images. TFT-
19 LCD are manufactured in a broad range of sizes and specifications for use in televisions,
20 notebook computers, desktop monitors, mobile devices, and other applications.

21 (b) During the relevant period, the defendant participated in a conspiracy
22 with other persons and entities engaged in the manufacture and sale of TFT-LCD, the
23 primary purpose of which was to fix the price of certain TFT-LCD sold in the United
24 States and elsewhere. In furtherance of the conspiracy, the defendant engaged in
25 conversations and attended meetings, including group meetings commonly referred to by
26 some of the participants as "crystal meetings," with representatives of other major TFT-
27 LCD producing firms. During such meetings and conversations, agreements were reached
28 to fix the price of certain TFT-LCD to be sold in the United States and elsewhere. The

1 defendant knowingly authorized and consented to the participation of one or more of his
2 subordinate employees in the conspiracy. The defendant was a manager or supervisor in
3 the conspiracy, which involved at least five participants.

4 (c) During the relevant period, TFT-LCD sold by one or more of the
5 conspirator firms, and equipment and supplies necessary to the production and distribution
6 of TFT-LCD, as well as payments for TFT-LCD, traveled in interstate and foreign
7 commerce. The business activities of Chi Mei and coconspirators in connection with the
8 production and sale of TFT-LCD that were the subjects of the conspiracy were within the
9 flow of, and substantially affected, interstate and foreign trade and commerce.

10 (d) Acts in furtherance of this conspiracy were carried out within the
11 Northern District of California. TFT-LCD that were the subjects of the conspiracy were
12 sold by one or more of the conspirators to customers in this District.

13 **POSSIBLE MAXIMUM SENTENCE**

14 5. The defendant understands that the statutory maximum penalty which may be
15 imposed against him upon conviction for a violation of Section One of the Sherman Antitrust Act
16 is:

17 (a) a term of imprisonment for ten (10) years (15 U.S.C. § 1);

18 (b) a fine in an amount equal to the greatest of (1) \$1 million, (2) twice the
19 gross pecuniary gain the conspirators derived from the crime, or (3) twice the gross
20 pecuniary loss caused to the victims of the crime by the conspirators (15 U.S.C. § 1; 18
21 U.S.C. § 3571(b) and (d)); and

22 (c) a term of supervised release of three (3) years following any term of
23 imprisonment. If the defendant violates any condition of supervised release, the defendant
24 could be imprisoned for up to two (2) years (18 U.S.C. § 3559(a)(3); 18 U.S.C. §
25 3583(b)(2) and (e)(3); and United States Sentencing Guidelines ("U.S.S.G.," "Sentencing
26 Guidelines," or "Guidelines") § 5D1.2(a)(2)).

27 6. In addition, the defendant understands that:

28 (a) pursuant to U.S.S.G. § 5E1.1 or 18 U.S.C. § 3663(a)(3) or 3583(d), the



1 Court may order him to pay restitution to the victims of the offense; and

2 (b) pursuant to 18 U.S.C. § 3013(a)(2)(A), the Court is required to order the
3 defendant to pay a \$100.00 special assessment upon conviction for the charged crime.

4 **SENTENCING GUIDELINES**

5 7. The defendant understands that the Sentencing Guidelines are advisory, not
6 mandatory, but that the Court must consider the Guidelines in effect on the day of sentencing, along
7 with the other factors set forth in 18 U.S.C. § 3553(a), in determining and imposing sentence. The
8 defendant understands that the Guidelines determinations will be made by the Court by a
9 preponderance-of-the-evidence standard. The defendant understands that, although the Court is not
10 ultimately bound to impose a sentence within the applicable Guidelines range, its sentence must be
11 reasonable, based upon consideration of all relevant sentencing factors set forth in 18 U.S.C. §
12 3553(a).

13 **SENTENCING AGREEMENT**

14 8. Pursuant to Fed. R. Crim. P. 11(c)(1)(C), the United States and the defendant agree
15 that the appropriate disposition of this case is, and agree to recommend jointly that the Court
16 impose, a sentence requiring the defendant to pay to the United States a criminal fine of \$50,000
17 payable in full before the thirtieth (30th) day after the date of judgment, with interest accruing under
18 18 U.S.C. § 3612(f)(1)-(2); a period of imprisonment of fourteen months; no order of restitution;
19 and no period of supervised release ("the recommended sentence"). The defendant agrees that he
20 will not request that the Court order him to serve any part of his sentence in home detention,
21 intermittent confinement, or community confinement. The United States will not object to the
22 defendant's request that the Court make a recommendation to the Bureau of Prisons that the Bureau
23 of Prisons designate that the defendant be assigned to a Federal Minimum Security Camp and
24 specifically to the Federal Minimum Security Camp at Taft, California to serve his sentence and
25 that the defendant be released following the imposition of sentence to allow him to self-surrender
26 to the assigned prison facility on a specified date. The parties agree that there exists no
27 aggravating or mitigating circumstance of a kind, or to a degree, not adequately taken into
28 consideration by the U.S. Sentencing Commission in formulating the Sentencing Guidelines

1 justifying a departure pursuant to U.S.S.G. § 5K2.0. The parties agree not to seek or support any
2 sentence other than the recommended sentence set forth in Paragraph 8. The parties further agree
3 that the recommended sentence set forth in this Plea Agreement is reasonable. The defendant
4 understands that the Court will order him to pay a \$100 special assessment pursuant to 18 U.S.C. §
5 3013(a)(2)(A) in addition to any fine imposed.

6 9. The United States and the defendant agree that, pursuant to U.S.S.G. § 5E1.1(b),
7 defendant should not be ordered to pay restitution in light of the civil cases filed against
8 defendant's former employer, Chi Mei, including *In re TFT-LCD (Flat Panel) Antitrust*
9 *Litigation, No. M:07-cv-01827 SI* in the United States District Court, Northern District of
10 California, which potentially provide for a recovery of a multiple of actual damages and the
11 opportunity for potential victims to pursue damages through nonclass claims in the multidistrict
12 litigation and other proceedings.

13 10. The United States and the defendant agree that the applicable Guidelines fine and
14 imprisonment ranges exceed the fine and term of imprisonment contained in the recommended
15 sentence set out in Paragraph 8 above. Subject to the full and continuing cooperation of the
16 defendant, as described in Paragraph 13 of this Plea Agreement, and prior to sentencing in this
17 case, the United States agrees that it will make a motion, pursuant to U.S.S.G. § 5K1.1, for a
18 downward departure from the Guidelines fine and imprisonment range in this case and will request
19 that the Court impose the fine and term of imprisonment contained in the recommended sentence set
20 out in Paragraph 8 of this Plea Agreement because of the defendant's substantial assistance in the
21 government's investigation and prosecutions of violations of federal criminal law in the TFT-LCD
22 industry.

23 11. Subject to the ongoing, full, and truthful cooperation of the defendant described in
24 Paragraph 13 of this Plea Agreement, and before sentencing in the case, the United States will fully
25 advise the Court and the Probation Office of the fact, manner, and extent of the defendant's
26 cooperation and his commitment to prospective cooperation with the United States' investigation
27 and prosecutions, all material facts relating to the defendant's involvement in the charged offense,
28 and all other relevant conduct.

1 12. The United States and the defendant understand that the Court retains complete
2 discretion to accept or reject the recommended sentence provided for in Paragraph 8 of this Plea
3 Agreement.

4 (a) If the Court does not accept the recommended sentence, the United States and
5 the defendant agree that this Plea Agreement, except for Paragraph 12(b) below, shall be
6 rendered void. Neither party may withdraw from this Plea Agreement, however, based on
7 the type or location of the prison facility to which the defendant is assigned to serve his
8 sentence.

9 (b) If the Court does not accept the recommended sentence, the defendant will
10 be free to withdraw his guilty plea (Fed. R. Crim. P. 11(c)(5) and (d)). If the defendant
11 withdraws his plea of guilty, this Plea Agreement, the guilty plea, and any statement made
12 in the course of any proceedings under Fed. R. Crim. P. 11 regarding the guilty plea or this
13 Plea Agreement or made in the course of plea discussions with an attorney for the
14 government shall not be admissible against the defendant in any criminal or civil
15 proceeding, except as otherwise provided in Fed. R. Evid. 410. In addition, the defendant
16 agrees that, if he withdraws his guilty plea pursuant to this subparagraph of the Plea
17 Agreement, the statute of limitations period for any Relevant Offense, as defined in
18 Paragraph 14 below, will be tolled for the period between the date of the signing of the
19 Plea Agreement and the date the defendant withdrew his guilty plea, or for a period of sixty
20 (60) days after the date of the signing of the Plea Agreement, whichever period is greater.
21 For a period of three (3) consecutive days following such a withdrawal of the guilty plea
22 under this subparagraph, the United States shall take no action, based upon either a
23 Relevant Offense or any actual or alleged violation of the Plea Agreement, to revoke the
24 defendant's release on his personal recognizance, to subject the defendant to service of
25 process, arrest, or detention, or to prevent the defendant from departing the United States.

26 **DEFENDANT'S COOPERATION**

27 13. The defendant will cooperate fully and truthfully with the United States in the
28 prosecution of this case, the conduct of the current federal investigation of violations of federal

1 antitrust and related criminal laws involving the manufacture or sale of TFT-LCD in the United
2 States and elsewhere, any other federal investigation relating to the manufacture and sale of TFT-
3 LCD resulting therefrom, and any litigation or other proceedings relating to the manufacture and
4 sale of TFT-LCD to which the United States is a party ("Federal Proceeding"). The ongoing, full,
5 and truthful cooperation of the defendant shall include, but not be limited to:

6 (a) producing in the United States and at other mutually agreed-upon locations
7 all nonprivileged documents, including claimed personal documents and other materials,
8 wherever located, in the possession, custody, or control of the defendant, requested by
9 attorneys and agents of the United States in connection with any Federal Proceeding;

10 (b) making himself available for interviews in the United States and at other
11 mutually agreed-upon locations, not at the expense of the United States, upon the request of
12 attorneys and agents of the United States in connection with any Federal Proceeding;

13 (c) responding fully and truthfully to all inquiries of the United
14 States in connection with any Federal Proceeding, without falsely implicating any person
15 or intentionally withholding any information, subject to the penalties of making false
16 statements (18 U.S.C. § 1001) and obstruction of justice (18 U.S.C. § 1503, *et seq.*);

17 (d) otherwise voluntarily providing the United States with any
18 nonprivileged material or information, not requested in (a) - (c) of this paragraph, that he
19 may have that is related to any Federal Proceeding;

20 (e) when called upon to do so by the United States in connection with any
21 Federal Proceeding, testifying in grand jury, trial, and other judicial proceedings in the
22 United States fully, truthfully, and under oath, subject to the penalties of perjury (18 U.S.C.
23 § 1621), making false statements or declarations in grand jury or court proceedings (18
24 U.S.C. § 1623), contempt (18 U.S.C. §§ 401 - 402), and obstruction of justice (18 U.S.C. §
25 1503, *et seq.*); and

26 (f) after execution of this Plea Agreement and prior to surrendering to the
27 institution designated by the U.S. Bureau of Prisons for his confinement, making a series of
28 at least four targeted antitrust compliance presentations to business leaders in Taiwan and

1 China to educate the business community on the nature and importance of the United States'
2 antitrust laws and the consequences to corporations and individuals who violate the United
3 States' antitrust laws, and providing a written certification to the United States upon
4 completion of these presentations.

5 **GOVERNMENT'S AGREEMENT**

6 14. Subject to the full, truthful, and continuing cooperation of the defendant, as
7 described in Paragraph 13 of this Plea Agreement, and upon the Court's acceptance of the guilty
8 plea called for by this Plea Agreement and the imposition of the recommended sentence, the United
9 States will not bring further criminal charges against the defendant for any act or offense
10 committed before the date of this Plea Agreement that was undertaken in furtherance of an antitrust
11 conspiracy involving the manufacture or sale of TFT-LCD or undertaken in connection with any
12 investigation of such a conspiracy in the United States and elsewhere ("Relevant Offense"). The
13 nonprosecution terms of this paragraph do not apply to civil matters of any kind, to any violation of
14 the federal tax or securities laws, or to any crime of violence.

15 15. The United States agrees that when the defendant travels to the United States for
16 interviews, grand jury appearances, or court appearances pursuant to this Plea Agreement, or for
17 meetings with counsel in preparation therefor, the United States will take no action, based upon
18 any Relevant Offense, to subject the defendant to arrest, detention, or service of process, or to
19 prevent the defendant from departing the United States. This paragraph does not apply to the
20 defendant's commission of perjury (18 U.S.C. § 1621), making false statements (18 U.S.C. §
21 1001), making false statements or declarations in grand jury or court proceedings (18 U.S.C. §
22 1623), obstruction of justice (18 U.S.C. § 1503, *et seq.*), or contempt (18 U.S.C. §§ 401 - 402) in
23 connection with any testimony or information provided or requested in any Federal Proceeding.

24 16. (a) Subject to the full and continuing cooperation of the defendant,
25 as described in Paragraph 13 of this Plea Agreement, and upon the Court's acceptance of
26 the defendant's guilty plea and imposition of sentence in this case, the United States agrees
27 not to seek to remove the defendant from the United States under Sections 238 and 240 of
28 the Immigration and Nationality Act, 8 U.S.C. §§ 1228 and 1229a, based upon the

1 defendant's guilty plea and conviction in this case, should the defendant apply for or obtain
2 admission to the United States as a nonimmigrant (hereinafter referred to as the "agreement
3 not to seek to remove the defendant"). The agreement not to seek to remove the defendant
4 is the equivalent of an agreement not to exclude the defendant from admission to the United
5 States as a nonimmigrant or to deport the defendant from the United States. (Immigration
6 and Nationality Act, § 240(e)(2), 8 U.S.C. § 1229a(e)(2)).

7 (b) The Antitrust Division of the United States Department of
8 Justice has consulted with United States Immigration and Customs Enforcement ("ICE") on
9 behalf of the United States Department of Homeland Security ("DHS"). ICE, on behalf of
10 DHS and in consultation with the United States Department of State, has agreed to the
11 inclusion in this Plea Agreement of this agreement not to seek to remove the defendant.
12 The Secretary of DHS has delegated to ICE the authority to enter this agreement on behalf
13 of DHS.

14 (c) So that the defendant will be able to obtain any nonimmigrant
15 visa that he may need to travel to the United States, DHS and the Visa Office, United States
16 Department of State, have concurred in the granting of a nonimmigrant waiver of the
17 defendant's inadmissibility. This waiver will remain in effect so long as this agreement
18 not to seek to remove the defendant remains in effect. While the waiver remains in effect,
19 the Department of State will not deny the defendant's application for a nonimmigrant visa
20 on the basis of the defendant's guilty plea and conviction in this case, and DHS will not
21 deny his application for admission as a nonimmigrant on the basis of his guilty plea and
22 conviction in this case. This nonimmigrant waiver only applies to applications for entry as
23 a nonimmigrant. DHS does not agree to waive any grounds of removability on an
24 application for an immigrant visa.

25 (d) This agreement not to seek to remove the defendant will remain
26 in effect so long as the defendant:

27 (i) acts and has acted consistently with his cooperation
28 obligations under this Plea Agreement;

1 (ii) is not convicted of any felony under the laws of the United
2 States or any state, other than the conviction resulting from the defendant's guilty
3 plea under this Plea Agreement or any conviction under the laws of any state
4 resulting from conduct constituting an offense subject to this Plea Agreement; and

5 (iii) does not engage in any other conduct that would warrant
6 his removal from the United States under the Immigration and Nationality Act.

7 The defendant understands that, should the Antitrust Division become aware that the
8 defendant has violated any of these conditions, the Antitrust Division will notify DHS.
9 DHS will then determine, in consultation with the Antitrust Division, whether to rescind
10 this agreement not to seek to remove the defendant.

11 (e) The defendant agrees to notify the Assistant Attorney General
12 of the Antitrust Division should the defendant be convicted of any other felony under the
13 laws of the United States or of any state.

14 (f) Should the United States rescind this agreement not to seek to
15 remove the defendant because of the defendant's violation of a condition of this Plea
16 Agreement, the defendant irrevocably waives his right to contest his removal from the
17 United States under the Immigration and Nationality Act on the basis of his guilty plea and
18 conviction in this case, but retains his right to notice of removal proceedings.

19 17. The defendant understands that he may be subject to administrative
20 action by federal or state agencies other than the United States Department of Justice, Antitrust
21 Division, based upon the conviction resulting from this Plea Agreement, and that this Plea
22 Agreement in no way controls whatever action, if any, other agencies may take. However, the
23 United States agrees that, if requested, it will advise the appropriate officials of any governmental
24 agency considering such administrative action of the fact, manner, and extent of the cooperation of
25 the defendant as a matter for that agency to consider before determining what administrative action,
26 if any, to take. In addition, if any foreign government initiates any enforcement action against the
27 defendant relating to the Relevant Offense, the United States agrees that, if requested, it will advise
28 the appropriate foreign government officials of the fact, manner, and extent of the cooperation of

1 the defendant as a matter for that foreign government to consider before determining what
2 enforcement action, if any, to take.

3 **REPRESENTATION BY COUNSEL**

4 18. The defendant has reviewed all legal and factual aspects of this case with his
5 attorney and is fully satisfied with his attorney's legal representation. The defendant has
6 thoroughly reviewed this Plea Agreement with his attorney and has received satisfactory
7 explanations from his attorney concerning each paragraph of this Plea Agreement and alternatives
8 available to the defendant other than entering into this Plea Agreement. After conferring with his
9 attorney and considering all available alternatives, the defendant has made a knowing and
10 voluntary decision to enter into this Plea Agreement.

11 **VOLUNTARY PLEA**

12 19. The defendant's decision to enter into this Plea Agreement and
13 to tender a plea of guilty is freely and voluntarily made and is not the result of force, threats,
14 assurances, promises, or representations other than the representations contained in this Plea
15 Agreement. The United States has made no promises or representations to the defendant as to
16 whether the Court will accept or reject the recommendations contained within this Plea
17 Agreement.

18 **VIOLATION OF PLEA AGREEMENT**

19 20. The defendant agrees that, should the United States determine in good
20 faith, during the period that any Federal Proceeding is pending, that the defendant has failed to
21 provide full and truthful cooperation, as described in Paragraph 13 of this Plea Agreement, or has
22 otherwise violated any provision of this Plea Agreement, the United States will notify the
23 defendant or his counsel in writing by personal or overnight delivery or facsimile transmission,
24 and may also notify his counsel by telephone, of its intention to void any of its obligations under
25 this Plea Agreement (except its obligations under this paragraph), and the defendant shall be
26 subject to prosecution for any federal crime of which the United States has knowledge, including,
27 but not limited to, the substantive offenses relating to the investigation resulting in this Plea
28 Agreement. The defendant may seek Court review of any determination made by the United States

1 under this paragraph to void any of its obligations under the Plea Agreement. The defendant
2 agrees that, in the event that the United States is released from its obligations under this Plea
3 Agreement and brings criminal charges against the defendant for any Relevant Offense, the statute
4 of limitations period for such offense will be tolled for the period between the date of the signing
5 of this Plea Agreement and six (6) months after the date the United States gave notice of its intent
6 to void its obligations under this Plea Agreement.

7 21. The defendant understands and agrees that in any further prosecution
8 of him resulting from the release of the United States from its obligations under this Plea
9 Agreement based on the defendant's violation of the Plea Agreement, any documents, statements,
10 information, testimony, or evidence provided by him to attorneys or agents of the United States,
11 federal grand juries, or courts, and any leads derived therefrom, may be used against him in any
12 such further prosecution. In addition, the defendant unconditionally waives his right to challenge
13 the use of such evidence in any such further prosecution, notwithstanding the protections of Fed. R.
14 Evid. 410.

15 22. The defendant agrees to and adopts as his own the factual statement contained in
16 Paragraph 4 above. In the event that the defendant breaches any provision of this Plea Agreement,
17 the defendant agrees that the Plea Agreement, including the factual statement contained in
18 Paragraph 4 above, provides a sufficient basis for any possible future extradition request that may
19 be made for his return to the United States to face charges either in the Information referenced in
20 Paragraph 2 of this Plea Agreement or in any related indictment. In this event, the defendant
21 further agrees not to oppose or contest any request for extradition by the United States to face
22 charges either in the Information referenced in Paragraph 2 of this Plea Agreement or in any
23 related indictment.

24 **ENTIRETY OF AGREEMENT**

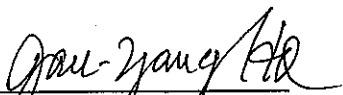
25 23. This Plea Agreement constitutes the entire agreement between the
26 United States and the defendant concerning the disposition of the criminal charge in this case. This
27 Plea Agreement cannot be modified except in writing, signed by the United States and the
28 defendant.

1 24. The undersigned attorneys for the United States have been authorized
2 by the Attorney General of the United States to enter this Plea Agreement on behalf of the United
3 States.


4 25. A facsimile signature shall be deemed an original signature for the
5 purpose of executing this Plea Agreement. Multiple signature pages are authorized for the purpose
6 of executing this Plea Agreement.

7
8 DATED: 21. Apr., 2010

Respectfully submitted,

9
10 BY: 
11 Jau-Yang ("J.Y.") Ho
Defendant

BY: _____
Niall E. Lynch
Michael L. Scott
Alexandra J. Shepard
Heather S. Tewksbury
David J. Ward
Trial Attorneys
U.S. Department of Justice
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12
13 BY: 
14 Counsel for Defendant
15 Robert L. Corbin, Esq.
16 Corbin, Fitzgerald & Athey LLP
601 West Fifth Street, Suite 1150
San Francisco, CA 90071-2024
17 April 26, 2010 RL

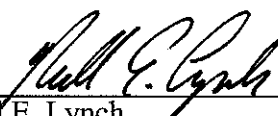
1 24. The undersigned attorneys for the United States have been authorized
2 by the Attorney General of the United States to enter this Plea Agreement on behalf of the United
3 States.

4 25. A facsimile signature shall be deemed an original signature for the
5 purpose of executing this Plea Agreement. Multiple signature pages are authorized for the purpose
6 of executing this Plea Agreement.

7
8 DATED: May 24, 2010

Respectfully submitted,

9
10 BY: _____
11 Jau-Yang ("J.Y.") Ho
12 Defendant

BY:  _____
Niall E. Lynch
Michael L. Scott
Alexandra J. Shepard
Heather S. Tewksbury
David J. Ward
Trial Attorneys
U.S. Department of Justice
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Tel: (415) 436-6660
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13 BY: _____
14 Counsel for Defendant
15 Robert L. Corbin, Esq.
16 Corbin, Fitzgerald & Athey LLP
17 601 West Fifth Street, Suite 1150
18 San Francisco, CA 90071-2024

Office of the Assistant Secretary

U.S. Department of Homeland Security
500 12th Street SW
Washington, D.C. 20536



U.S. Immigration
and Customs
Enforcement

April 27, 2010

The Honorable Christine A. Varney
Assistant Attorney General for
Antitrust Division
U.S. Department of Justice
Washington, D.C. 20530

Dear Ms. Varney:

Ms. Ann O'Brian of the Department of Justice (DOJ) Antitrust Division has asked U.S. Immigration and Customs Enforcement (ICE), on behalf of the Department of Homeland Security (DHS), to agree to the inclusion of a provision in a plea agreement with Jau Yang Ho that would relieve him of the adverse immigration consequences of his impending conviction for a criminal violation of the antitrust laws, 15 U.S.C. § 1 (2007). The requested provision, based on the March 15, 1996, Memorandum of Understanding between the Antitrust Division and the former Immigration and Naturalization Service, would constitute a waiver of inadmissibility under § 212(d)(3) of the Immigration and Nationality Act (INA), 8 U.S.C.A. § 1182(d)(3)(A) (2010). The Secretary of Homeland Security has delegated to ICE the authority to give this concurrence on behalf of the Department of Homeland Security.

Mr. Ho is a citizen and resident of Taiwan. He is an executive with oversight responsibility for an LCD panel manufacturing and sales company. According to Ms. O'Brian, the DOJ considers Mr. Ho's cooperation critical to the investigation and prosecution of an alleged conspiracy to fix the price of LCD panels sold in the United States and elsewhere. Furthermore, the DOJ believes that Mr. Ho poses no continuing threat to United States commerce, and is unlikely to commit crimes in the future. Ms. O'Brian has advised ICE that Mr. Ho is not readily subject to extradition to the United States, and his continued ability to travel to the United States as a nonimmigrant is a critical factor in securing his cooperation. The Visa Office, Department of State, has concurred in the requested waiver in the enclosed letter from Mr. Jeffrey H. Gorsky to Mr. Peter S. Vincent dated March 30, 2010.

Based on the Memorandum of Understanding, Ms. O'Brian's memorandum, and the Visa Office concurrence, I agree to Ms. O'Brian's request on behalf of DHS. You may file this letter, or a copy, with the appropriate district court, as provided in 28 C.F.R. § 0.197 (2008).

The Honorable Christine A. Varney

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Please note that when Mr. Ho comes to the United States to enter his guilty plea, and then again when he comes to serve his sentence, he does not qualify for admission as a nonimmigrant visitor for "business" on those particular trips. INA § 101(a)(15)(B), 8 U.S.C. § 1101(a)(15)(B) (2008). Therefore, he requires parole. I am willing to authorize his parole into the United States for those trips. Ms. Stephanie Lytle and Ms. Novella Whitman are the ICE points of contact for public benefit parole requests. Mr. Ho may contact Ms. Lytle or Ms. Whitman at (202) 732-1364 to make parole arrangements. For future trips, Mr. Ho will be able to seek admission as a nonimmigrant with the INA § 212(d)(3) waiver granted as part of his plea agreement.

Sincerely yours,

A handwritten signature in black ink, appearing to read "John Morton", written in a cursive style.

John Morton
Assistant Secretary



United States Department of State

Washington, D.C. 20520

May 20, 2010

Peter S. Vincent
Principal Legal Advisor
U.S. Immigration and Customs Enforcement
U. S. Department of Homeland Security
Potomac Center North
500 12th Street, S.W., 11th Floor
Washington, D. C. 20024

Dear Mr. Vincent:

This office recommends that the ineligibility to obtain a visa be waived for Jau-Yang Ho pursuant to the following:

- section 212(d)(3)(A) of the Immigration & Nationality Act ("INA");
- the certification by Mr. Ho; and
- the plea agreement between Mr. Ho and the U.S. Department of Justice (DOJ), as outlined in the memorandum of March 24, 2010 from Ms. Ann O'Brien, Senior Counsel for Criminal Enforcement, Antitrust Division, DOJ, to Mr. Joseph M. Liberta, U.S. Immigration and Customs Enforcement (attached).

This recommendation is conditioned upon the continued cooperation of Mr. Ho in the pending antitrust case described in the attached memorandum, and is consistent with that same document.

Sincerely,

A handwritten signature in black ink, appearing to read "Jeffrey H. Gorsky", written over a circular stamp or seal.

Jeffrey H. Gorsky, Chief
Advisory Opinions Division
Directorate for Visa Services

cc: Paul McCloskey
Associate Legal Advisor
U.S. Immigration and Customs Enforcement