

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION**

VISTA PEAK VENTURES, LLC,

Plaintiff,

v.

AU OPTRONICS CORP.,

Defendant.

AU OPTRONICS CORP.,

Defendant.

§
§
§
§
§

JURY TRIAL DEMANDED

§
§
§

**CIVIL ACTION NO. 2:18-cv-00276-JRG
(LEAD CASE)**

§
§
§

CIVIL ACTION NO. 2:18-cv-00279-JRG

**PLAINTIFF’S FIRST AMENDED COMPLAINT FOR PATENT INFRINGEMENT
(CIVIL ACTION NO. 2:18-CV-00279-JRG)**

Plaintiff Vista Peak Ventures, LLC (“VPV”) files this Complaint against AU Optronics Corp. (“AUO”) for infringement of U.S. Patent No. 6,404,474 (“the ’474 patent”), U.S. Patent No. 6,657,699 (“the ’699 patent”), and U.S. Patent No. 7,499,119 (“the ’119 patent”), collectively, the “Asserted Patents.”

THE PARTIES

1. Vista Peak Ventures, LLC is a Texas limited liability company, located at 1400 Preston Rd, Suite 472, Plano, TX 75093.

2. Upon information and belief, AUO was founded on August 12, 1996. AUO was listed on the Taiwan Stock Exchange Corporation (the “TSEC”) in September 2000 and its American Depositary Shares (“ADSs”) were listed on the New York Stock Exchange (“NYSE”) in May 2002. AUO merged with Unipac Optoelectronics Corp. on September 1, 2001, with AUO as the surviving entity. AUO further merged with Quanta Display Inc. (“QDI”) on October 1, 2006,

with AUO as the surviving entity. AUO further merged Taiwan CFI Co., Ltd. (“CFI”) on October 1, 2016, with AUO as the surviving entity.

3. On information and belief, AUO is a multi-national corporation organized under the laws of the Republic of China, with its principal place of business located at No. 1, Li-Hsin Road 2, Hsinchu Science Park, Hsinchu, Taiwan, R.O.C. AUO does business in the State of Texas and in the Eastern District of Texas.

JURISDICTION AND VENUE

4. This action arises under the patent laws of the United States, namely 35 U.S.C. §§ 271, 281, and 284-285, among others.

5. This Court has subject matter jurisdiction pursuant to 28 U.S.C. §§ 1331 and 1338(a).

6. Venue is proper in this judicial district pursuant to 28 U.S.C. §§ 1391(c). AUO is a foreign entity and may be sued in any judicial district under 28 U.S.C. § 1391(c)(3).

7. On information and belief, AUO is subject to this Court’s specific and general personal jurisdiction pursuant to due process and/or the Texas Long Arm Statute, due at least to its substantial business in this State and judicial district, including: (A) at least part of its infringing activities alleged herein; and (B) regularly doing or soliciting business, engaging in other persistent conduct, and/or deriving substantial revenue from goods sold and services provided to Texas residents. For example, “AUO generated NT\$329 billion in sales revenue in 2016 (US\$10.2 billion) and now houses a staff of more than 43,000 throughout its global operations spreading across Taiwan, Mainland China, Japan, Singapore, South Korea, the United States, and Europe. https://www.auo.com/en-global/About_AUO/index) (emphasis added). AUO designs, develops, manufactures, assembles and markets flat panel displays and most of its products are

TFT-LCD panels. SEC Form 20-F, AU Optronics Corp. (2018) at 32 (*available at* <https://seekingalpha.com/filings/pdf/12654022.pdf>). AUO sells primarily to companies that design and assemble products based on their customers' specifications, commonly known as original equipment manufacturing service providers, and to brand customers. *Id.* Its original equipment manufacturing service provider customers, most of whose production operations are located in Taiwan or the PRC, use its panels in the products that they manufacture on a contract basis for brand companies worldwide. *Id.* (emphasis added).

8. This Court has personal jurisdiction over AUO, directly or through intermediaries, including its wholly-owned subsidiary, AU Optronics Corporation America (1525 McCarthy Blvd. Suite 218 Milpitas, CA 95035) because it has committed acts within Texas giving rise to this action and/or has established minimum contacts with Texas such that personal jurisdiction over AUO would not offend traditional notions of fair play and substantial justice.

9. Upon information and belief, AUO controls the wholly-owned subsidiary listed above, as well as many other subsidiaries. https://www.auo.com/en-global/Financial_Results/download/1551 ("March 31, 2018 Report") at 16-19. And the subsidiary above gives AUO substantially the business advantages that it would have enjoyed if it conducted its business through its own offices or paid agents in the state.

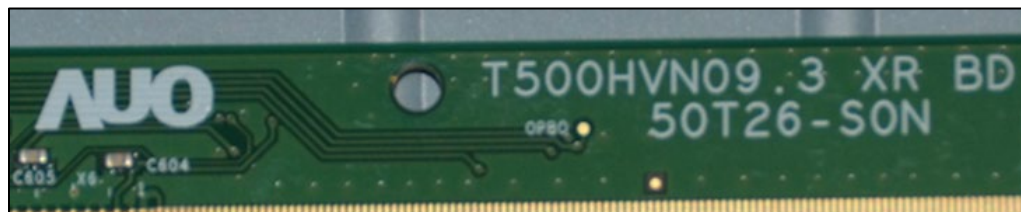
10. Upon information and belief, AUO has placed and continues to place infringing TFT-LCD panels into the stream of commerce via an established distribution channel with the knowledge and/or intent that those products were sold and continue to be sold in the United States and Texas, including in this District.

11. On information and belief, AUO has significant ties to, and presence in, the State of Texas and the Eastern District of Texas, making venue in this judicial district both proper and convenient for this action.

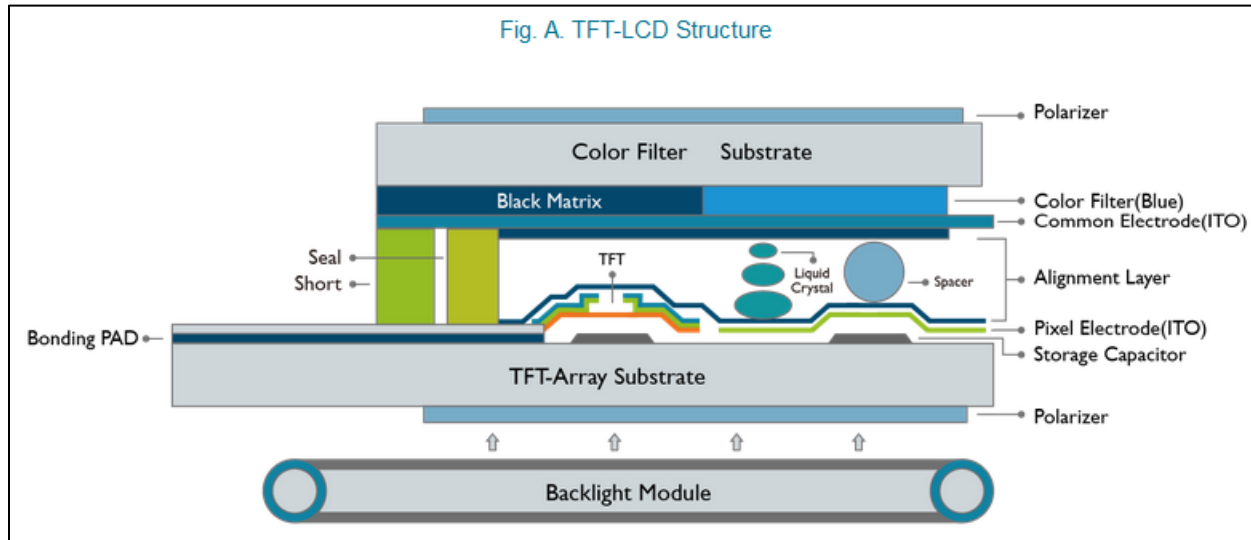
THE ASSERTED PATENTS AND TECHNOLOGY

12. Upon information and belief, AUO’s main activities are the research, development, production and sale of thin film transistor liquid crystal displays (“TFT-LCDs”) and other flat panel displays used in a wide variety of applications. https://www.auo.com/en-global/Financial_Results/download/1551.

13. The Asserted Patents cover AUO’s TFT-LCDs, their components, and processes related to the same. An example AUO TFT-LCD is model no. T500HVN09, which is used in end-user products such as Samsung monitor model no. UN50J6300AF. That monitor and the label for its AUO TFT-LCD panel are shown below:

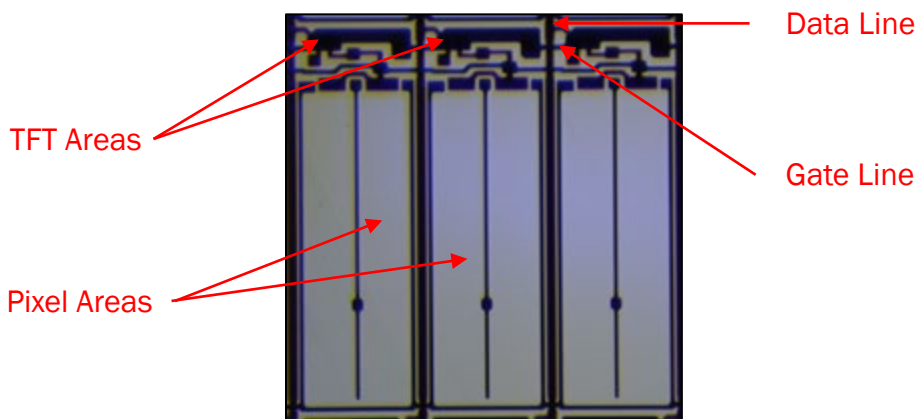


14. AUO publishes a diagram of the structure of its TFT-LCDs as follows:



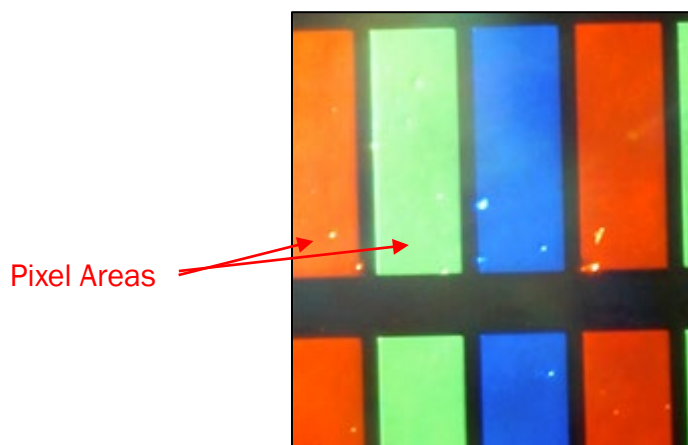
https://www.auo.com/en-global/TFT-LCD_Introduction/index/TFT_LCD_Process

15. As shown in the diagram above, the TFT-LCD panel contains a TFT array substrate, with one of the TFTs in the array illustrated above it. A teardown image below from the AUO TFT-LCD model no. T500HVN09 shows a sampling of TFTs and their accompanying circuitry lines, with larger rectangular areas associated with the pixels.

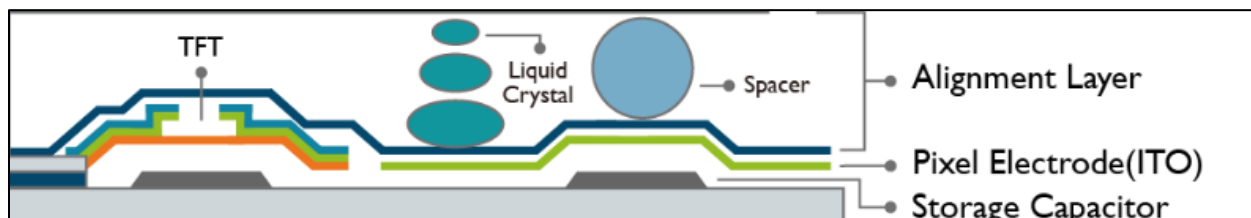


16. A TFT acts as a switch that operates its respective individual pixels using the circuitry lines. In that way, the pixels can be turned on and off to create an image on an LCD by

allowing or preventing light to pass through. The individual pixels are more apparent when a color filter layer overlays the circuits as shown in the image below for the T500HVN09.

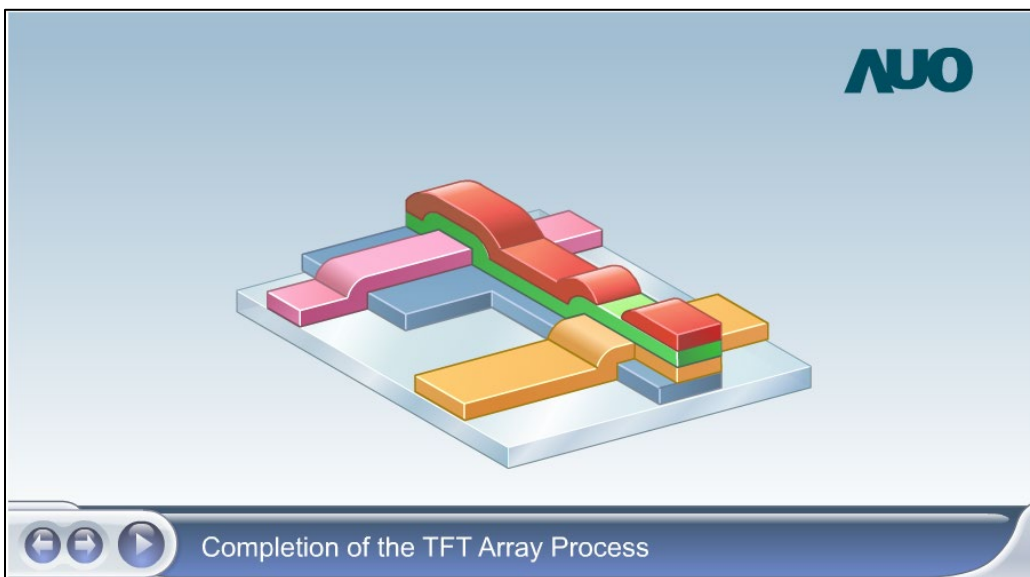
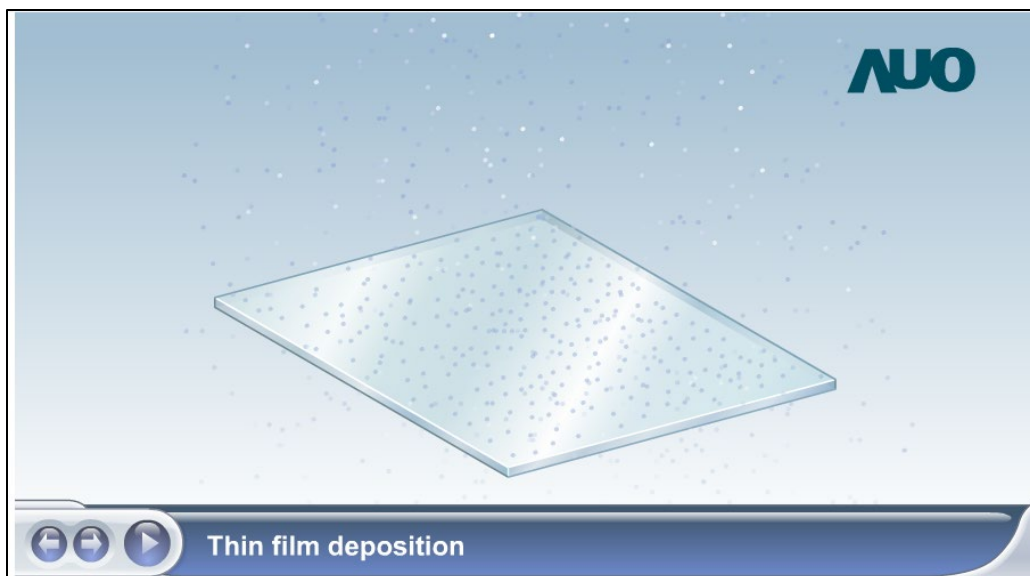


17. AUO publishes a simplified version of a side view of its TFTs on its website as follows.



https://www.auo.com/en-global/TFT-LCD_Introduction/index/TFT_LCD_Process (excerpt).

18. The Asserted Patents also cover AUO's processes for making TFT LCDs. AUO explains the steps in the process of making its TFTs in an animation on its website at https://www.auo.com/en-global/TFT-LCD_process_animation/index/. The animations include many steps including, "Thin Film Deposition" (below) and "Completion of the TFT Array Process" (below).



19. To the extent any of the infringing activity alleged herein is subject to a valid license covering one or more of the Asserted Patents, VPV is only seeking damages against the Defendant for unlicensed acts of infringement. Defendant bears the burden of proof on affirmative defenses, such as a license defense (*see e.g., Bandag, Inc. v. Al Bolser's Tire Stores, Inc.*, 750 F.2d 903, 924 (Fed.Cir.1984)). However, VPV expressly provides that it is only seeking damages for unlicensed acts of infringement.

AUO'S RELATIONSHIPS

20. AUO controls or otherwise directs and authorizes all activities of AU Optronics Corporation America (AUOA), including AUOA's using, offering for sale, selling, and/or importing TFT-LCD panels, their components, and/or products containing same that incorporate the fundamental technologies covered by the Asserted Patents.

21. For example, upon information and belief AUOA is a wholly owned subsidiary of AUO. See https://www.auo.com/en-global/Financial_Results/download/1921 at 22. Furthermore, AUO describes AUOA as "the US Headquarters of AUO." <https://www.linkedin.com/company/au-optronics-corporation-america/about/>. AUO likewise advertises that contacting AUOA is "doing display business with AUO." See https://www.auo.com/en-global/Contact_AUO/index.

22. Furthermore, AUO represents to its shareholders that it maintains a 100% ownership interest in AUOA, which AUO equates to maintaining "control" of the subsidiary. See https://www.auo.com/en-global/Financial_Results/download/1921 at 24. Indeed, AUOA's primary purpose is to conduct sales and sales support on behalf of AUO. *Id.* at 22. On information and belief, AUO compensates AUOA for its sales support services in the United States. As such, AUO has a direct financial interest in AUOA, and vice versa.

23. On information and belief, AUOA is authorized to sell and offer for sale the accused products on behalf of AUO. For example, AUO dictates the pricing of the accused products and other terms of sale and directs AUOA to sell and offer for sale the accused products in the United States. See *United States v. Hui Hsiung*, 778 F.3d 738, 743 (9th Cir. 2015). AUOA is authorized to offer for sale the accused products on behalf of AUO.

24. On information and belief, AUO sells and offers for sale the accused products

directly to AUOA in the United States. On information and belief, AUO supplies the accused products to AUOA by importing, or having imported through a third party, the accused products into the United States. On information and belief, a significant portion of the profits from products sold by AUOA in the United States flow to AUO.

COUNT I

(INFRINGEMENT OF U.S. PATENT NO. 6,404,474)

25. Plaintiff incorporates paragraphs 1 through 24 herein by reference.

26. VPV is the assignee of the '474 patent, entitled "Horizontal electric field LCD with increased capacitance between pixel and common electrodes," with ownership of all substantial rights in the '474 patent, including the right to exclude others and to enforce, sue, and recover damages for past and future infringements.

27. The '474 patent is valid, enforceable, and was duly issued in full compliance with Title 35 of the United States Code. The '474 patent issued from U.S. Patent Application No. 09/357,060.

28. AUO has and continues to directly and/or indirectly infringe (by inducing infringement) one or more claims of the '474 patent in this judicial district and elsewhere in Texas and the United States.

29. AUO designs, develops, manufactures, assembles and markets flat panel displays and most of its products are TFT-LCD panels. SEC Form 20-F, AU Optronics Corp. (2018) at 32 (*available at* <https://seekingalpha.com/filings/pdf/12654022.pdf>).

30. AUO directly infringes the '474 patent via 35 U.S.C. § 271(a) by making, offering for sale, selling, and/or importing those TFT-LCD panels, their components, and/or products containing same that incorporate the fundamental technologies covered by the '474 patent to, for

example, its distributors, importers, customers, subsidiaries and/or consumers. Furthermore, upon information and belief, AUO sells and makes TFT-LCD panels outside of the United States, delivers those products to its customers, distributors, and/or subsidiaries in the United States, or in the case that it delivers the accused products outside of the United States it does so intending and/or knowing that those panels are destined for the United States and/or designing those products for sale in the United States, thereby directly infringing the '474 patent. *See, e.g., Lake Cherokee Hard Drive Techs., L.L.C. v. Marvell Semiconductor, Inc.*, 964 F. Supp. 2d 653, 658 (E.D. Tex. 2013). Furthermore, AUO directly infringes the '474 patent through its direct involvement in the activities of its subsidiaries, including AUOA, including by selling and offering for sale the accused products directly to AUOA and importing the accused products into the United States for AUOA. Upon information and belief, AUOA conducts activities that constitutes direct infringement of the '474 patent under 35 U.S.C. § 271(a) by making, offering for sale, selling, and/or importing those TFT-LCD panels. AUO is vicariously liable for this infringing conduct of AUOA (under both the alter ego and agency theories) because, as an example and on information and belief, AUO and AUOA are essentially the same company, and AUO has the right and ability to control AUOA's infringing acts and receives a direct financial benefit from AUOA's infringement.

31. For example, AUO infringes claim 1 of the '474 patent via its LCD panel model no. T500HVN09. That product includes an "active matrix type liquid crystal display device comprising" each of the limitations of claim 1. The technology discussion above and the example accused TFT-LCD panel (T500HVN09) provide context for Plaintiff's allegations that each of those limitations are met. For example, the T500HVN09 includes two opposing transparent insulating substrates and liquid crystal interposed therebetween, wherein said liquid crystal is controlled by generating an electric field substantially parallel to the liquid crystal layer with a

voltage applied between pixel electrodes and common electrodes both disposed on the first of said substrates, said display device further comprising: on said first substrate: a plurality of scanning lines and a plurality of signal lines orthogonal to one another; a thin film transistor provided near each intersection of a scanning line and a signal line; common electrodes extending substantially parallel to said scanning lines and having a plurality of comb-tooth projections extending toward said scanning lines; pixel electrodes formed substantially parallel to the comb-tooth projections in gaps between the adjacent comb-tooth projections of said common electrodes when said substrate is viewed from the normal direction, at least a portion of each pixel electrode being opposite to a common electrode interposed by an interlayer insulating film; an interlayer insulating film disposed between said common electrodes and said pixel electrodes; and a first alignment film formed above said pixel electrodes interposed by a protective insulating film; on said second substrate: a black matrix provided with openings in areas opposite to each of said pixel electrodes; and a second alignment film; and said active matrix type liquid crystal display device further comprising: accumulated capacitance increasing means for obtaining an accumulated capacitance between said pixel electrode and said common electrodes larger than that generated when said interlayer insulating film is of even thickness and flat structure.

32. At a minimum, AUO has known of the '474 patent at least as early as the filing date of the complaint. In addition, AUO has known of the '474 patent since May 16, 2018, when AUO was provided access to a data room containing claim charts, including for the '474 patent.

33. Upon information and belief, since at least the above-mentioned date when AUO was on notice of its infringement, AUO has actively induced, under U.S.C. § 271(b), unlicensed distributors, importers, customers, subsidiaries and/or consumers that import, purchase, or sell TFT-LCD panels that include all of the limitations of one or more claims of the '474 patent to

directly infringe one or more claims of the '474 patent by using, offering for sale, selling, and/or importing the TFT-LCD panels. Since at least the notice provided on the above-mentioned date, AUO does so with knowledge, or with willful blindness of the fact, that the induced acts constitute infringement of the '474 patent. Upon information and belief, AUO intends to cause, and has taken affirmative steps to induce, infringement by the unlicensed distributors, importers, customers, subsidiaries and/or consumers by, *inter alia*, creating advertisements that promote the infringing use of the TFT-LCD panels (*see, e.g.*, <https://www.auo.com/en-global/Events/index> (showing AUO's participation in SID Display Week 2017)), creating established distribution channels for the TFT-LCD panels into and within the United States, manufacturing the TFT-LCD panels in conformity with U.S. laws and regulations, distributing or making available instructions or manuals for these products to purchasers and prospective buyers, and/or providing technical support, replacement parts, or services for these products to these purchasers in the United States.

34. On information and belief, despite having knowledge of the '474 patent and knowledge that it is directly and/or indirectly infringing one or more claims of the '474 patent, AUO has nevertheless continued its infringing conduct and disregarded an objectively high likelihood of infringement. AUO's infringing activities relative to the '474 patent have been, and continue to be, willful, wanton, malicious, in bad-faith, deliberate, consciously wrongful, flagrant, characteristic of a pirate, and an egregious case of misconduct beyond typical infringement such that Plaintiff is entitled under 35 U.S.C. § 284 to enhanced damages up to three times the amount found or assessed.

35. VPV has been damaged as a result of AUO's infringing conduct described in this Count. AUO is, thus, liable to VPV in an amount that adequately compensates VPV for AUO's infringements, which, by law, cannot be less than a reasonable royalty, together with interest and

costs as fixed by this Court under 35 U.S.C. § 284.

COUNT II

(INFRINGEMENT OF U.S. PATENT NO. 6,657,699)

36. Plaintiff incorporates paragraphs 1 through 35 herein by reference.

37. VPV is the assignee of the '699 patent, entitled "Liquid crystal display unit having pixel electrode encircled with partition wall and process for fabrication thereof," with ownership of all substantial rights in the '699 patent, including the right to exclude others and to enforce, sue, and recover damages for past and future infringements.

38. The '699 patent is valid, enforceable, and was duly issued in full compliance with Title 35 of the United States Code. The '699 patent issued from U.S. Patent Application No. 09/901,034.

39. AUO has and continues to directly and/or indirectly infringe (by inducing infringement) one or more claims of the '699 patent in this judicial district and elsewhere in Texas and the United States.

40. AUO designs, develops, manufactures, assembles and markets flat panel displays and most of its products are TFT-LCD panels. SEC Form 20-F, AU Optronics Corp. (2018) at 32 (*available at* <https://seekingalpha.com/filings/pdf/12654022.pdf>).

41. AUO directly infringes the '699 patent via 35 U.S.C. § 271(a) by making, offering for sale, selling, and/or importing those TFT-LCD panels, their components, and/or products containing same that incorporate the fundamental technologies covered by the '699 patent to, for example, its distributors, importers, customers, subsidiaries and/or consumers. Furthermore, upon information and belief, AUO sells and makes TFT-LCD panels outside of the United States, delivers those products to its customers, distributors, and/or subsidiaries in the United States, or in

the case that it delivers the accused products outside of the United States it does so intending and/or knowing that those panels are destined for the United States and/or designing those products for sale in the United States, thereby directly infringing the '699 patent. *See, e.g., Lake Cherokee Hard Drive Techs., L.L.C. v. Marvell Semiconductor, Inc.*, 964 F. Supp. 2d 653, 658 (E.D. Tex. 2013). Furthermore, AUO directly infringes the '699 patent through its direct involvement in the activities of its subsidiaries, including AUOA, including by selling and offering for sale the accused products directly to AUOA and importing the accused products into the United States for AUOA. Upon information and belief, AUOA conducts activities that constitutes direct infringement of the '699 patent under 35 U.S.C. § 271(a) by making, offering for sale, selling, and/or importing those TFT-LCD panels. AUO is vicariously liable for this infringing conduct of AUOA (under both the alter ego and agency theories) because, as an example and on information and belief, AUO and AUOA are essentially the same company, and AUO has the right and ability to control AUOA's infringing acts and receives a direct financial benefit from AUOA's infringement.

42. For example, AUO infringes claim 20 of the '699 patent via its LCD panel model no. T500HVN09. That product includes an "in-plane switching type liquid crystal display panel having a plurality of pixel areas, the panel comprising" each of the limitations of claim 20. The technology discussion above and the example accused TFT-LCD panel (T500HVN09) provide context for Plaintiff's allegations that each of those limitations are met. For example, the T500HVN09 includes liquid crystals between a pair of substrate structures and comprising optical elements within each of said plurality of pixel areas; a common electrode on one of said substrate structures for each pixel area; a pixel electrode for each pixel area offset from said common electrode on said one of said substrate structures, wherein said common electrode and said pixel electrode define said pixel area; a switching transistor on said one of said substrate structures and

having a source connected to said pixel electrode, a data line extending outside a periphery of said pixel area and a gate electrode extending outside of said periphery; and a partition wall structure formed on said common electrode of at least one of said pixel areas for separating said optical elements from the remaining liquid crystal.

43. AUO further infringes the '699 patent via 35 U.S.C. § 271(g) by selling, offering to sell, and/or importing TFT-LCD panels, their components, and/or products containing same, that are made by a process covered by the '699 patent. Upon information and belief the infringing TFT-LCD panels, their components, and/or products containing same are not materially changed by subsequent processes, and they are neither trivial nor nonessential components of another product.

44. At a minimum, AUO has known of the '699 patent since at least February 16, 2018, and no later than the filing of this complaint. On February 16, 2018, AUO received a letter from Dominion Harbor Group, LLC, notifying AUO that it required a license to the '699 patent, and offering to provide claim charts to AUO. Moreover, on May 16, 2018, AUO was provided access to a data room containing claim charts, including for the '699 patent.

45. Upon information and belief, since at least the above-mentioned date when AUO was on notice of its infringement, AUO has actively induced, under U.S.C. § 271(b), unlicensed distributors, importers, customers, subsidiaries and/or consumers that import, purchase or sell TFT-LCD panels that include or are made using all of the limitations of one or more claims of the '699 patent to directly infringe one or more claims of the '699 patent by using, offering for sale, selling, and/or importing the TFT-LCD panels. Since at least the notice provided on the above-mentioned date, AUO does so with knowledge, or with willful blindness of the fact, that the induced acts constitute infringement of the '699 patent. Upon information and belief, AUO intends

to cause, and has taken affirmative steps to induce, infringement by the unlicensed distributors, importers, customers, subsidiaries and/or consumers by, *inter alia*, creating advertisements that promote the infringing use of the TFT-LCD panels (see, e.g., <https://www.auo.com/en-global/Events/index> (showing AUO's participation in SID Display Week 2017)), creating established distribution channels for the TFT-LCD panels into and within the United States, manufacturing the TFT-LCD panels in conformity with U.S. laws and regulations, distributing or making available instructions or manuals for these products to purchasers and prospective buyers, and/or providing technical support, replacement parts, or services for these products to these purchasers in the United States.

46. On information and belief, despite having knowledge of the '699 patent and knowledge that it is directly and/or indirectly infringing one or more claims of the '699 patent, AUO has nevertheless continued its infringing conduct and disregarded an objectively high likelihood of infringement. AUO's infringing activities relative to the '699 patent have been, and continue to be, willful, wanton, malicious, in bad-faith, deliberate, consciously wrongful, flagrant, characteristic of a pirate, and an egregious case of misconduct beyond typical infringement such that Plaintiff is entitled under 35 U.S.C. § 284 to enhanced damages up to three times the amount found or assessed.

47. VPV has been damaged as a result of AUO's infringing conduct described in this Count. AUO is, thus, liable to VPV in an amount that adequately compensates VPV for AUO's infringements, which, by law, cannot be less than a reasonable royalty, together with interest and costs as fixed by this Court under 35 U.S.C. § 284.

COUNT III

(INFRINGEMENT OF U.S. PATENT NO. 7,499,119)

48. Plaintiff incorporates paragraphs 1 through 47 herein by reference.

49. VPV is the assignee of the '119 patent, entitled "Liquid crystal display device with thin-film transistors and method of fabricating the same," with ownership of all substantial rights in the '119 patent, including the right to exclude others and to enforce, sue, and recover damages for past and future infringements.

50. The '119 patent is valid, enforceable, and was duly issued in full compliance with Title 35 of the United States Code. The '119 patent issued from U.S. Patent Application No. 11/582,315.

51. AUO has and continues to directly and/or indirectly infringe (by inducing infringement) one or more claims of the '119 patent in this judicial district and elsewhere in Texas and the United States.

52. AUO designs, develops, manufactures, assembles and markets flat panel displays and most of its products are TFT-LCD panels. SEC Form 20-F, AU Optronics Corp. (2018) at 32 (*available at* <https://seekingalpha.com/filings/pdf/12654022.pdf>).

53. AUO directly infringes the '119 patent via 35 U.S.C. § 271(a) by making, offering for sale, selling, and/or importing those TFT-LCD panels, their components, and/or products containing same that incorporate the fundamental technologies covered by the '119 patent to, for example, its distributors, importers, customers, subsidiaries and/or consumers. Furthermore, upon information and belief, AUO sells and makes TFT-LCD panels outside of the United States, delivers those products to its customers, distributors, and/or subsidiaries in the United States, or in the case that it delivers the accused products outside of the United States it does so intending and/or

knowing that those panels are destined for the United States and/or designing those products for sale in the United States, thereby directly infringing the '119 patent. *See, e.g., Lake Cherokee Hard Drive Techs., L.L.C. v. Marvell Semiconductor, Inc.*, 964 F. Supp. 2d 653, 658 (E.D. Tex. 2013). Furthermore, AUO directly infringes the '119 patent through its direct involvement in the activities of its subsidiaries, including AUOA, including by selling and offering for sale the accused products directly to AUOA and importing the accused products into the United States for AUOA. Upon information and belief, AUOA conducts activities that constitutes direct infringement of the '119 patent under 35 U.S.C. § 271(a) by making, offering for sale, selling, and/or importing those TFT-LCD panels. AUO is vicariously liable for this infringing conduct of AUOA (under both the alter ego and agency theories) because, as an example and on information and belief, AUO and AUOA are essentially the same company, and AUO has the right and ability to control AUOA's infringing acts and receives a direct financial benefit from AUOA's infringement.

54. AUO further infringes the '119 patent via 35 U.S.C. § 271(g) by selling, offering to sell, and/or importing TFT-LCD panels, their components, and/or products containing same, that are made by a process covered by the '119 patent. Upon information and belief the infringing TFT-LCD panels, their components, and/or products containing same are not materially changed by subsequent processes, and they are neither trivial nor nonessential components of another product.

55. At a minimum, AUO has known of the '119 patent since at least February 16, 2018, and no later than the filing of this complaint. On February 16, 2018, AUO received a letter from Dominion Harbor Group, LLC, notifying AUO that it required a license to the '119 patent, and offering to provide claim charts to AUO. Moreover, on May 16, 2018, AUO was provided access to a data room containing claim charts, including for the '119 patent.

56. Upon information and belief, since at least the above-mentioned date when AUO was on notice of its infringement, AUO has actively induced, under U.S.C. § 271(b), unlicensed distributors, importers, customers, subsidiaries and/or consumers that import, purchase or sell TFT-LCD panels that include or are made using all of the limitations of one or more claims of the '119 patent to directly infringe one or more claims of the '119 patent by using, offering for sale, selling, and/or importing the TFT-LCD panels. Since at least the notice provided on the above-mentioned date, AUO does so with knowledge, or with willful blindness of the fact, that the induced acts constitute infringement of the '119 patent. Upon information and belief, AUO intends to cause, and has taken affirmative steps to induce, infringement by the unlicensed distributors, importers, customers, subsidiaries and/or consumers by, *inter alia*, creating advertisements that promote the infringing use of the TFT-LCD panels (see, e.g., <https://www.auo.com/en-global/Events/index> (showing AUO's participation in SID Display Week 2017)), creating established distribution channels for the TFT-LCD panels into and within the United States, manufacturing the TFT-LCD panels in conformity with U.S. laws and regulations, distributing or making available instructions or manuals for these products to purchasers and prospective buyers, and/or providing technical support, replacement parts, or services for these products to these purchasers in the United States.

57. On information and belief, despite having knowledge of the '119 patent and knowledge that it is directly and/or indirectly infringing one or more claims of the '119 patent, AUO has nevertheless continued its infringing conduct and disregarded an objectively high likelihood of infringement. AUO's infringing activities relative to the '119 patent have been, and continue to be, willful, wanton, malicious, in bad-faith, deliberate, consciously wrongful, flagrant, characteristic of a pirate, and an egregious case of misconduct beyond typical infringement such

that Plaintiff is entitled under 35 U.S.C. § 284 to enhanced damages up to three times the amount found or assessed.

58. VPV has been damaged as a result of AUO's infringing conduct described in this Count. AUO is, thus, liable to VPV in an amount that adequately compensates VPV for AUO's infringements, which, by law, cannot be less than a reasonable royalty, together with interest and costs as fixed by this Court under 35 U.S.C. § 284.

CONCLUSION

59. Plaintiff is entitled to recover from AUO the damages sustained by Plaintiff as a result of AUO's wrongful acts in an amount subject to proof at trial, which, by law, cannot be less than a reasonable royalty, together with interest and costs as fixed by this Court.

60. Plaintiff has incurred and will incur attorneys' fees, costs, and expenses in the prosecution of this action. The circumstances of this dispute may give rise to an exceptional case within the meaning of 35 U.S.C. § 285, and Plaintiff is entitled to recover its reasonable and necessary attorneys' fees, costs, and expenses.

INJUNCTIVE RELIEF

61. Plaintiff seeks preliminary and permanent injunctions as a result of AUO's infringement of the Asserted Patents. Plaintiff is likely to succeed in showing that AUO infringes the Asserted Patents. Because of that infringement, Plaintiff has suffered an irreparable injury, and the remedies available at law, such as monetary damages, are inadequate to compensate for that injury. For example, if Plaintiff must enforce a judgment against AUO in China, Plaintiff will face a historically challenging burden in persuading a Chinese court to enforce a judgment from a U.S. court, likely preventing Plaintiff from obtaining any monetary damages from AUO. Considering

the balance of hardships between the Plaintiff and AUO, a remedy in equity is warranted; and the public interest would not be disserved by a permanent or preliminary injunction.

JURY DEMAND

62. Plaintiff hereby requests a trial by jury pursuant to Rule 38 of the Federal Rules of Civil Procedure.

PRAYER FOR RELIEF

63. Plaintiff respectfully requests that the Court find in its favor and against AUO, and that the Court grant Plaintiff the following relief:

1. A judgment that AUO has infringed the Asserted Patents as alleged herein, directly and/or indirectly by way of inducing infringement of such patents;
2. A judgment for an accounting of all damages sustained by Plaintiff as a result of the acts of infringement by AUO;
3. A preliminary and permanent injunction against AUO, its subsidiaries, or anyone acting on its behalf from making, using, selling, offering to sell, or importing any products that infringe the Asserted Patents, and any other injunctive relief the Court deems just and equitable;
4. A judgment and order requiring AUO to pay Plaintiff damages under 35 U.S.C. § 284, including up to treble damages as provided by 35 U.S.C. § 284, and any royalties determined to be appropriate;
5. A judgment and order requiring AUO to pay Plaintiff pre-judgment and post-judgment interest on the damages awarded;

6. A judgment and order finding this to be an exceptional case and requiring AUO to pay the costs of this action (including all disbursements) and attorneys' fees as provided by 35 U.S.C. § 285; and
7. Such other and further relief as the Court deems just and equitable.

Dated: August 15, 2019

Respectfully submitted,

/s/ Patrick J. Conroy
Patrick J. Conroy
Texas Bar No. 24012448
T. William Kennedy Jr.
Texas Bar No. 24055771
Daniel Olejko
Texas Bar No. 24108897
Terry A. Saad
Texas Bar No. 24066015
Jerry D. Tice II
Texas Bar No. 24093236
BRAGALONE CONROY PC
2200 Ross Avenue
Suite 4500W
Dallas, TX 75201
Tel: (214) 785-6670
Fax: (214) 785-6680
pconroy@bcpc-law.com
bkennedy@bcpc-law.com
dolejko@bcpc-law.com
jtice@bcpc-law.com

T. John Ward, Jr.
Texas State Bar No. 00794818
Email: jw@wsfirm.com
Claire Abernathy Henry
Texas State Bar No. 24053063
Email: Claire@wsfirm.com
WARD, SMITH, & HILL, PLLC
P.O. Box 1231
Longview, TX 75606
Telephone: (903) 757-6400
Facsimile: (903) 757-2323

**ATTORNEYS VISTA PEAK
VENTURES, LLC**

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing document was filed electronically in compliance with Local Rule CV-5 on August 15, 2019. As of this date all counsel of record have consented to electronic service and are being served with a copy of this document through the Court's CM/ECF system under Local Rule CV-5(a)(3)(A).

/s/ Patrick J. Conroy