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# [***In re Cathode Ray Tube (CRT) Antitrust Litig.***](https://advance.lexis.com/api/document?collection=cases&id=urn:contentItem:5RJC-TW51-JT42-S3MY-00000-00&context=)

United States District Court for the Northern District of California

February 1, 2018, Decided; February 1, 2018, Filed

MDL No. 1917; Case No. C-07-5944 JST

**Reporter**

2018 U.S. Dist. LEXIS 16926 \*; 2018-1 Trade Cas. (CCH) P80,275; 2018 WL 659084

IN RE: CATHODE RAY TUBE (CRT) ***ANTITRUST*** LITIGATION. This Order Relates To: ALL DIRECT PURCHASER ACTIONS

**Prior History:** [*Crago, Inc. v. Chunghwa Picture Tubes, Ltd. (In re Cathode Ray Tube (CRT)* ***Antitrust*** *Litig.), 536 F. Supp. 2d 1364, 2008 U.S. Dist. LEXIS 12204 (J.P.M.L., Feb. 15, 2008)*](https://advance.lexis.com/api/document?collection=cases&id=urn:contentItem:4RW4-WYX0-TXG3-V2B4-00000-00&context=)

**Core Terms**

entity, default, immunity, Defendants', conspiracy, discovery, entry of default, direct effect, foreign state, declaration, prices, applies, commercial activity, meritorious defense, jurisdictional, subject matter jurisdiction, ***Antitrust***, concludes, culpable, joined, personal jurisdiction, default judgment, organ, sovereign immunity, instrumentality, sovereign, cases, personal knowledge, set aside default, activities

**Counsel:** **[\*1]**For Crago, Inc., on behalf of itself and others similarly situated dba Dash Computers, Inc. a Kansas City corporation, Plaintiff: Bruce Lee Simon, LEAD ATTORNEY, Ashlei Melissa Vargas, Pearson Simon & Warshaw, LLP, San Francisco, CA; Guido Saveri, LEAD ATTORNEY, Saveri & Saveri, Inc., San Francisco, CA; Christopher Wilson, Polsinelli Shughart PC, Kansas City, MO; Clifford H. Pearson, Daniel L. Warshaw, Pearson, Simon & Warshaw, LLP, Sherman Oaks, CA; Daniel D. Owen, Polsinelli, Kansas City, MO; Esther L Klisura, SL Environmental Law Group PC, San Francisco, CA; Jonathan Mark Watkins, Pearson Simon Warshaw & Penny LLP, San Francisco, CA; Patrick John Brady, Polsinelli PC, Kansas City, MO; Anne M. Nardacci, Boies, Schiller & Flexner, LLP, Albany, NY; James P. McCarthy, Lindquist & Vennum.

For Hawel A. Hawel d/b/a City Electronics, a California business, Plaintiff: Betty Lisa Julian, Modesto, CA; Cadio R. Zirpoli, Richard Alexander Saveri, Geoffrey Conrad Rushing, Guido Saveri, Saveri & Saveri, Inc., San Francisco, CA; Clinton Paul Walker, Damrell, Nelson, Schrimp, Pallios, Pache & Silva, Modesto, CA; Fred A. Silva, Kathy Lee Monday, Roger Martin Schrimp, Damrell, Nelson, Schrimp, Pallios,**[\*2]** Pacher & Silva, Modesto, CA; Anne M. Nardacci, Boies, Schiller & Flexner, LLP, Albany, NY.

For Orion Home Systems, LLC, Plaintiff: Cadio R. Zirpoli, Geoffrey Conrad Rushing, Guido Saveri, Richard Alexander Saveri, Saveri & Saveri, Inc., San Francisco, CA; Joseph W. Cotchett, Steven Noel Williams, Cotchett Pitre & McCarthy LLP, Burlingame, CA; Randy R. Renick, Hadsell Stormer & Renick, LLP, Pasadena, CA; Terry Gross, Adam C. Belsky, Gross & Belsky P.C., San Francisco, CA; Anne M. Nardacci, Boies, Schiller & Flexner, LLP, Albany, NY; James P. McCarthy, Lindquist & Vennum; Monique Alonso, Gross & Belsky LLP; Sarah Crowley, Gross Belsky Alonso LLP.

For Jeffrey Figone, a California resident, on behalf of himself and all others similarly situated, Plaintiff: Brian Joseph Barry, Law Offices of Brian Barry, Los Angeles, CA; Dennis Stewart, Julie A. Kearns, Hulett Harper Stewart LLP, San Diego, CA; Donald L. Perelman, Gerard A Dever, Fine Kaplan & Black RPC, Philadelphia, PA; Jeffrey Chad Shea, Attorney at Law, Henderson, NV; Joseph Goldberg, Josh Ewing, Vincent J. Ward, Freedman Boyd Hollander Goldberg Urias & Ward PA, Albuquerque, NM; Joseph Mario Patane, Lauren Clare Capurro, Trump, Alioto,**[\*3]** Trump & Prescott, LLP, San Francisco, CA; Mario N. Alioto, Trump Alioto Trump & Prescott, LLP, San Francisco, CA; Mario Nunzio Alioto, Trump Alioto Trump & Prescott LLP, San Francisco, CA; Matthew Duncan, Fine, Kaplan and Black, RPC, Philadelphia, PA; Veronica Besmer, Besmer Law Firm, Los Angeles, CA; Freedman Boyd Hollander Goldberg Urias & Ward PA, Albuquerque, NM.

For Chad Klebs, a Minnesota resident, on behalf of themselves and all others similarly situated, Plaintiff: Craig C. Corbitt, LEAD ATTORNEY, Judith A. Zahid, Zelle LLP, San Francisco, CA; Francis Onofrei Scarpulla, Law Offices of Francis O. Scarpulla, San Francisco, CA; Jennie Lee Anderson, Andrus Anderson LLP, San Francisco, CA; Mario Nunzio Alioto, LEAD ATTORNEY, Trump Alioto Trump & Prescott LLP, San Francisco, CA; Lori Erin Andrus, Andrus Anderson LLP, San Francisco, CA; Patrick Bradford Clayton, Law Offices of Francis O. Scarpulla, San Francisco, CA; Qianwei Fu, Zelle LLP, San Francisco, CA; Richard Michael Hagstrom, Hellmuth & Johnson, PLLC, Edina, MN; Anne M. Nardacci, Boies, Schiller & Flexner, LLP, Albany, NY; James P. McCarthy, Lindquist & Vennum.

For Princeton Display Technologies, Inc., on behalf of itself and**[\*4]** all others similarly situated, a New Jersey corporation, Plaintiff: Bryan L. Clobes, LEAD ATTORNEY, Cafferty Clobes Meriwether & Sprengel LLP, Philadelphia, PA; Lee Albert, LEAD ATTORNEY, Glancy Prongay & Murray LLP, New York, NY; James E. Cecchi, Carella Byrne Cecchi Olstein Brody & Agnello, P.C., Roseland, NJ; Lindsey H. Taylor, Carella Byrne, Roseland, NJ; Marisa C. Livesay, San Diego, CA; Susan Gilah Kupfer, Glancy Prongay & Murray LLP, Berkeley, CA; Anne M. Nardacci, Boies, Schiller & Flexner, LLP, Albany, NY; Betsy Carol Manifold, Wolf Haldenstein Adler Freeman & Herz; Francis M. Gregorek, Rachele R. Rickert, Wolf Haldenstein Adler Freeman & Herz LLP; James P. McCarthy, Lindquist & Vennum.

For Carmen Gonzalez, a California resident, on behalf of herself and others similarly situated, Plaintiff: James McManis, Marwa Elzankaly, McManis, Faulkner, San Jose, CA; Mario Nunzio Alioto, Trump Alioto Trump & Prescott LLP, San Francisco, CA; Anne M. Nardacci, Boies, Schiller & Flexner, LLP, Albany, NY; James P. McCarthy, Lindquist & Vennum.

For Samuel J. Nasto, a Nevada resident, Craig Stephenson, a New Mexico resident, David G. Norby, a Minnesota resident, Plaintiffs: Joel Flom, Jeffries**[\*5]** Olson & Flom PA, Fargo, ND; Joseph Mario Patane, Trump, Alioto, Trump & Prescott, LLP, San Francisco, CA; Kenneth Leo Valinoti, Valinoti & Dito LLP, San Francisco, CA; Lauren Clare Capurro, Trump, Alioto, Trump & Prescott, LLP, San Francisco, CA; Lawrence Genaro Papale, Law Offices of Lawrence G. Papale, St. Helena, CA; M. Eric Frankovitch, Frankovitch Anetakis Colantonio & Simon, Weirton, WV; Mario Nunzio Alioto, Trump Alioto Trump & Prescott LLP, San Francisco, CA; Michael G. Simon, Frankovitch Anetakis Colantonio & Simon - Weirton, Weirton, WV; Robert B. Gerard, Gerard Selden & Osuch, San Diego, CA; Seymour J. Mansfield, Foley & Mansfield, PLLP, Minneapolis, MN; Sherman Kassof, Law Offices of Sherman Kassof, Walnut Creek, CA; Anne M. Nardacci, Boies, Schiller & Flexner, LLP, Albany, NY; James P. McCarthy, Lindquist & Vennum.

For John Larch, a West Virginia resident, Gary Hanson a North Dakota resident, on behalf of, themselves and all others similarly situated, Plaintiff: Joel Flom, Jeffries Olson & Flom PA, Fargo, ND; Joseph Mario Patane, Lauren Clare Capurro, Mario Nunzio Alioto, Trump, Alioto, Trump & Prescott, LLP, San Francisco, CA; Kenneth Leo Valinoti, Valinoti & Dito LLP,**[\*6]** San Francisco, CA; Lawrence Genaro Papale, Law Offices of Lawrence G. Papale, St. Helena, CA; M. Eric Frankovitch, Michael G. Simon, Frankovitch Anetakis Colantonio & Simon, Weirton, WV; Robert B. Gerard, Gerard Selden & Osuch, San Diego, CA; Seymour J. Mansfield, Foley & Mansfield, PLLP, Minneapolis, MN; Sherman Kassof, Law Offices of Sherman Kassof, Walnut Creek, CA; Anne M. Nardacci, Boies, Schiller & Flexner, LLP, Albany, NY; James P. McCarthy, Lindquist & Vennum.

For Margaret Slagle, a Vermont resident, on behalf of herself and all others similarly situated, Plaintiff: Daniel R. Karon, LEAD ATTORNEY, Karon LLC, Cleveland, OH; Joseph M. Alioto, Sr., Angelina Alioto-Grace, Joseph Michelangelo Alioto, Jr, Theresa Driscoll Moore, Alioto Law Firm, San Francisco, CA; Mario Nunzio Alioto, Trump, Alioto, Trump & Prescott, LLP, San Francisco, CA; Mary Gilmore Kirkpatrick, Kirkpatrick & Goldborough PLLC, South Burlington, VT; Anne M. Nardacci, Boies, Schiller & Flexner, LLP, Albany, NY; James P. McCarthy, Lindquist & Vennum.

For Barry Kushner, on behalf of themselves and all others similarly situated, Plaintiff: Joseph M. Alioto, Sr., Angelina Alioto-Grace, Joseph Michelangelo Alioto, Jr,**[\*7]** Theresa Driscoll Moore, Alioto Law Firm, San Francisco, CA; Daniel R. Karon, LEAD ATTORNEY, Karon LLC, Cleveland, OH; Daniel Joseph Mulligan, St. James Recovery Services, P.C., San Francisco, CA; Derek G. Howard, Derek G. Howard Law Firm, Inc., Mill Valley, CA; Jeffrey D. Bores, Karl L. Cambronne, Chestnut & Cambronne, Minneapolis, MN.

For Brian A. Luscher, a Arizona resident, on behalf of himself and all others similarly situated,, Plaintiff: Angelina Alioto-Grace, Joseph Michelangelo Alioto, Jr, Theresa Driscoll Moore, Alioto Law Firm, San Francisco, CA; Mario Nunzio Alioto, Trump, Alioto, Trump & Prescott, LLP, San Francisco, CA; Robert James Pohlman, Ryley Carlock & Applewhite PC, Phoenix, AZ; Shpetim Ademi, Cudahy, WI; Anne M. Nardacci, Boies, Schiller & Flexner, LLP, Albany, NY; James P. McCarthy, Lindquist & Vennum.

For Steven Ganz, a California resident, Plaintiff: John Dmitry Bogdanov, Josef Deen Cooper, Cooper & Kirkham, P.C., San Francisco, CA; Mario Nunzio Alioto, Trump Alioto Trump & Prescott LLP, San Francisco, CA; Anne M. Nardacci, Boies, Schiller & Flexner, LLP, Albany, NY; James P. McCarthy, Lindquist & Vennum, Tracy R. Kirkman, Cooper & Kirkham PC.

For Dana Ross, a California**[\*8]** resident, Plaintiff: Kathleen Styles Rogers, LEAD ATTORNEY, Kralowec Law, P.C., San Francisco, CA; Susan Gilah Kupfer, LEAD ATTORNEY, Glancy Prongay & Murray LLP, Berkeley, CA; Mario Nunzio Alioto, Trump Alioto Trump & Prescott LLP, San Francisco, CA; Anne M. Nardacci, Boies, Schiller & Flexner, LLP, Albany, NY; James P. McCarthy, Lindquist & Vennum.

For Brigid Terry, a Wisconsin resident, on behalf of herself and all others similarly situated, Plaintiff: Jean B. Roth, LEAD ATTORNEY, Mansfield Tanick & Cohen, Minneapolis, MN; Joseph Mario Patane, Lauren Clare Capurro, LEAD ATTORNEYS, Trump, Alioto, Trump & Prescott, LLP, San Francisco, CA; Kenneth Leo Valinoti, LEAD ATTORNEY, Valinoti & Dito LLP, San Francisco, CA; Lawrence Genaro Papale, LEAD ATTORNEY, Law Offices of Lawrence G. Papale, St. Helena, CA; Mario Nunzio Alioto, LEAD ATTORNEY, Trump Alioto Trump & Prescott LLP, San Francisco, CA; Robert J. Bonsignore, LEAD ATTORNEY, Bonsignore Trial Lawyers, PLLC, Las Vegas, NV; Seymour J. Mansfield, LEAD ATTORNEY, Foley & Mansfield, PLLP, Minneapolis, MN; Sherman Kassof, LEAD ATTORNEY, Law Offices of Sherman Kassof, Walnut Creek, CA; Anne M. Nardacci, Boies, Schiller & Flexner, LLP, Albany,**[\*9]** NY; James P. McCarthy, Lindquist & Vennum.

For Southern Office Supply, Inc, on behalf of itself and all others similarly situated, Plaintiff: Gilmur Roderick Murray, LEAD ATTORNEY, Murray & Howard, LLP, San Francisco, CA; Daniel R. Karon, Karon LLC, Cleveland, OH; Donna F Solen, Lexington Law Group, San Francisco, CA; Drew A. Carson, Steven J. Miller, Miller Goler Faeges, Cleveland, OH; Issac L. Diel, Sharp McQueen, Overland Park, KS; Krishna Brian Narine, Meredith Narine, Philadelphia, PA; Anne M. Nardacci, Boies, Schiller & Flexner, LLP, Albany, NY; James P. McCarthy, Lindquist & Vennum.

For Meijer, Inc., On behalf of themselves and all others similarly situated, Plaintiff: Gregory K Arenson, LEAD ATTORNEY, Kaplan Fox and Kilsheimer LLP, New York, NY; Robert N. Kaplan, LEAD ATTORNEY, Kaplan Kilsheimer & Fox LLP, New York, NY; David Paul Germaine, PRO HAC VICE, Chicago, IL; Gary Laurence Specks, Kaplan Fox & Kilsheimer LLP, Highland Park, IL; Joseph Michael Vanek, PRO HAC VICE, Vanek Vickers & Masini PC, Chicago, IL; Linda P. Nussbaum, PRO HAC VICE, Nussbaum Law Group PC, New York, NY; Linda Phyllis Nussbaum, Nussbaum Law Group, P.C., New York, NY; Anne M. Nardacci, Boies, Schiller**[\*10]** & Flexner, LLP, Albany, NY; James P. McCarthy, Lindquist & Vennum.

For Meijer Distribution, Inc., on behalf of themselves and all others similarly situated, Plaintiff: Gregory K Arenson, LEAD ATTORNEY, Kaplan Fox and Kilsheimer LLP, New York, NY; Robert N. Kaplan, LEAD ATTORNEY, Kaplan Kilsheimer & Fox LLP, New York, NY; David Paul Germaine, PRO HAC VICE, Chicago, IL; Gary Laurence Specks, Kaplan Fox & Kilsheimer LLP, Highland Park, IL; Joseph Michael Vanek, PRO HAC VICE, Vanek Vickers & Masini PC, Chicago, IL; Linda P. Nussbaum, PRO HAC VICE, Nussbaum LLP, Scarsdale, NY; Linda Phyllis Nussbaum, Nussbaum Law Group, P.C., New York, NY; Anne M. Nardacci, Boies, Schiller & Flexner, LLP, Albany, NY; James P. McCarthy, Lindquist & Vennum.

For Arch Electronics, Inc, Plaintiff: Anthony J. Bolognese, LEAD ATTORNEY, Bolognese & Associates LLC, Philadelphia, PA; Gregory K Arenson, LEAD ATTORNEY, Kaplan Fox and Kilsheimer LLP, New York, NY; Linda P. Nussbaum, LEAD ATTORNEY, PRO HAC VICE, Kaplan Fox & Kilsheimer, LLP, New York, NY; Robert N. Kaplan, LEAD ATTORNEY, Kaplan Fox & Kilsheimer, LLP, New York, NY; Joshua H. Grabar, Grabar Law Office, Philadelphia, PA; Kevin Bruce Love, PRO HAC VICE, Hanzman**[\*11]** Criden & Love, P.A., South Miami, FL; Linda Phyllis Nussbaum, Nussbaum Law Group, P.C., New York, NY; Anne M. Nardacci, Boies, Schiller & Flexner, LLP, Albany, NY; James P. McCarthy, Lindquist & Vennum.

For Studio Spectrum, Inc., is a California business, Plaintiff: Steven F. Benz, LEAD ATTORNEY, Collin R White, Kellogg, Hansen, Todd, Figel & Frederick, P.L.L.C., Washington, DC; Guido Saveri, Saveri & Saveri, Inc., San Francisco, CA; James P. McCarthy, Lindquist & Vennum.

For Kory Pentland, a Michigan resident, Plaintiff: Elizabeth Anne McKenna, LEAD ATTORNEY, Milberg Tadler Phillips Grossman LLP, New York, NY; Jeff S. Westerman, LEAD ATTORNEY, Westerman Law Corp, Los Angeles, CA; Paul F. Novak, LEAD ATTORNEY, PRO HAC VICE, Weitz & Luxenberg, P.C., Detroit, MI; Andrew J. Morganti, Milberg LLP, New York, NY; Mario Nunzio Alioto, Trump Alioto Trump & Prescott LLP, San Francisco, CA; Peter G.A. Safirstein, Safirstein Metcalf LLP, New York, NY; Anne M. Nardacci, Boies, Schiller & Flexner, LLP, Albany, NY; James P. McCarthy, Lindquist & Vennum.

For Radio & TV Equipment, Inc, is a business headquartered in Fargo, North Dakota, Plaintiff: Lisa J. Rodriguez, LEAD ATTORNEY, Trujillo Rodriguez**[\*12]** & Richards LLP, Haddonfield, NJ; Jason S. Kilene, Gustafson Gluek PLLC, Minneapolis, MN; Anne M. Nardacci, Boies, Schiller & Flexner, LLP, Albany, NY; James P. McCarthy, Lindquist & Vennum.

For Brady Lane Cotton, a Florida resident, Plaintiff: Mario Nunzio Alioto, LEAD ATTORNEY, Trump Alioto Trump & Prescott LLP, San Francisco, CA; Christina Diane Crow, Jinks, Crow & Dickson P.C., Union Springs, AL; J. Matthew Stephens, Robert G. Methvin, McCallum Methvin & Terrell PC, Birmingham, AL; James Michael Terrell, Robert Gordon Methvin, Jr, McCallum, Methvin & Terrell, P.C., Birmingham, AL; Lauren Clare Capurro, Trump, Alioto, Trump & Prescott, LLP, San Francisco, CA; Anne M. Nardacci, Boies, Schiller & Flexner, LLP, Albany, NY; James P. McCarthy, Lindquist & Vennum; Lynn W. Jinks, Jinks Crow & Dickson PC; Nathan A. Dickson, Jinks Crow & Dickson PC.

For Colleen Sobotka, a Florida resident, Plaintiff: Mario Nunzio Alioto, LEAD ATTORNEY, Trump Alioto Trump & Prescott LLP, San Francisco, CA; Christopher William Cantrell, Birmingham, AL; J. Matthew Stephens, Robert G. Methvin, McCallum Methvin & Terrell PC, Birmingham, AL; James Michael Terrell, Jr, McCallum, Methvin & Terrell, P.C., Birmingham,**[\*13]** AL; Keith Thomson Belt, Jr., Robert Page Bruner, Belt Law Firm, P.C., Birmingham, AL; Lauren Clare Capurro, Trump, Alioto, Trump & Prescott, LLP, San Francisco, CA; Anne M. Nardacci, Boies, Schiller & Flexner, LLP, Albany, NY; James P. McCarthy, Lindquist & Vennum; Lynn W. Jinks, Jinks Crow & Dickson PC; Nathan A. Dickson, Jinks Crow & Dickson PC.

For Daniel Riebow, a Hawaii resident, Alan Rotman, a Minnesota resident, Plaintiffs: Mario Nunzio Alioto, LEAD ATTORNEY, Trump Alioto Trump & Prescott LLP, San Francisco, CA; Lauren Clare Capurro, Trump, Alioto, Trump & Prescott, LLP, San Francisco, CA; Anne M. Nardacci, Boies, Schiller & Flexner, LLP, Albany, NY; James P. McCarthy, Lindquist & Vennum.

For Travis Burau, a Iowa resident, James Brown, a Michigan resident, Ryan Rizzo, a Minnesota resident, Plaintiffs: Elizabeth Anne McKenna, LEAD ATTORNEY, Milberg Tadler Phillips Grossman LLP, New York, NY; Mario Nunzio Alioto, LEAD ATTORNEY, Trump Alioto Trump & Prescott LLP, San Francisco, CA; Paul F. Novak, LEAD ATTORNEY, PRO HAC VICE, Weitz & Luxenberg, P.C., Detroit, MI; Lauren Clare Capurro, Trump, Alioto, Trump & Prescott, LLP, San Francisco, CA; Anne M. Nardacci, Boies, Schiller & Flexner,**[\*14]** LLP, Albany, NY; James P. McCarthy, Lindquist & Vennum.

For Andrew Kindt, a Michigan resident, Plaintiff: James P. McCarthy, LEAD ATTORNEY, Lindquist & Vennum; Mario Nunzio Alioto, LEAD ATTORNEY, Trump Alioto Trump & Prescott LLP, San Francisco, CA; Lauren Clare Capurro, Trump, Alioto, Trump & Prescott, LLP, San Francisco, CA; Anne M. Nardacci, Boies, Schiller & Flexner, LLP, Albany, NY.

For Charles Jenkins, a Mississippi resident, Plaintiffs: Mario Nunzio Alioto, LEAD ATTORNEY, Trump Alioto Trump & Prescott LLP, San Francisco, CA; J. Matthew Stephens, Robert G. Methvin, McCallum Methvin & Terrell PC, Birmingham, AL; James Michael Terrell, McCallum, Methvin & Terrell, P.C., Birmingham, AL; Lauren Clare Capurro, Trump, Alioto, Trump & Prescott, LLP, San Francisco, CA; Anne M. Nardacci, Boies, Schiller & Flexner, LLP, Albany, NY; James P. McCarthy, Lindquist & Vennum; Lynn W. Jinks, Nathan A. Dickson, Jinks Crow & Dickson PC.

For Daniel R. Hergert, a Nebraska resident, Adrienne Belai, a New York resident, Rosemary Ciccone, a Rhode Island resident, Frank Warner, a Tennessee resident, Plaintiffs: Mario Nunzio Alioto, LEAD ATTORNEY, Trump Alioto Trump & Prescott LLP, San Francisco, CA; Lauren**[\*15]** Clare Capurro, Trump, Alioto, Trump & Prescott, LLP, San Francisco, CA; Anne M. Nardacci, Boies, Schiller & Flexner, LLP, Albany, NY; James P. McCarthy, Lindquist & Vennum.

For Joshua Maida, a North Carolina resident, Plaintiff: Elizabeth Anne McKenna, LEAD ATTORNEY, Milberg Tadler Phillips Grossman LLP, New York, NY; Mario Nunzio Alioto, LEAD ATTORNEY, Trump Alioto Trump & Prescott LLP, San Francisco, CA; Paul F. Novak, LEAD ATTORNEY, PRO HAC VICE, Lauren Clare Capurro, Trump, Alioto, Trump & Prescott, LLP, San Francisco, CA; Anne M. Nardacci, Boies, Schiller & Flexner, LLP, Albany, NY; James P. McCarthy, Lindquist & Vennum.

For Albert Sidney Crigler, a Tennessee resident, Plaintiff: Mario Nunzio Alioto, LEAD ATTORNEY, Trump Alioto Trump & Prescott LLP, San Francisco, CA; Robert Brent Irby, LEAD ATTORNEY, Eric D. Hoaglund, McCallum, Hoaguland Cook & Irby LLP, Vestavia Hills, AL; Lauren Clare Capurro, Trump, Alioto, Trump & Prescott, LLP, San Francisco, CA; Richard Freeman Horsley, King, Horsley & Lyons, Birmingham, AL; Anne M. Nardacci, Boies, Schiller & Flexner, LLP, Albany, NY; James P. McCarthy, Lindquist & Vennum.

For Direct Purchaser Plaintiffs, Plaintiff: Richard Alexander Saveri,**[\*16]** LEAD ATTORNEY, Guido Saveri, Saveri & Saveri, Inc., San Francisco, CA; Allan Steyer, Donald Scott Macrae, Jayne Ann Peeters, Jill Michelle Manning, Steyer Lowenthal Boodrookas Alvarez & Smith LLP, San Francisco, CA; Christopher L. Lebsock, Stephanie Yunjin Cho, Michael Paul Lehmann, Hausfeld LLP, San Francisco, CA; David Yau-Tian Hwu, Saveri and Saveri Inc., San Francisco, CA; Matthew Dickinson Heaphy, Saveri and Saveri, San Francisco, CA; Sarah Jane Van Culin, Saveri & Saveri, Inc, San Francisco, CA; Anne M. Nardacci, Boies, Schiller & Flexner, LLP, Albany, NY; Bruce Lee Simon, Pearson Simon & Warshaw, LLP, San Francisco, CA; Daniel D. Cowen, P. John Brady, Shughart Thomson & Kilroy PC; James P. McCarthy, Lindquist & Vennum.

For Indirect Purchaser Plaintiffs, Plaintiff: John Dennis O'Connor, LEAD ATTORNEY, O'Connor & Associates, San Francisco, CA; Lingel Hart Winters, LEAD ATTORNEY, Law Offices of Lingel H. Winters, A Professional Corporation, San Francisco, CA; Robert J. Gralewski, Jr., LEAD ATTORNEY, Kirby McInerney LLP, San Diego, CA; Charles Matthew Thompson, Charles M. Thompson, P.C., Birmingham, AL; Craig C. Corbitt, Judith A. Zahid, Zelle LLP, San Francisco, CA; Francis Onofrei**[\*17]** Scarpulla, Law Offices of Francis O. Scarpulla, San Francisco, CA; Jennie Lee Anderson, Andrus Anderson LLP, San Francisco, CA; Jennifer Susan Rosenberg, Bramson, Plutzik, Mahler & Birkhaeuser, Walnut Creek, CA; John Dmitry Bogdanov, Josef Deen Cooper, Tracy R. Kirkham, Cooper & Kirkham, P.C., San Francisco, CA; Joseph Mario Patane, Lauren Clare Capurro, Trump, Alioto, Trump & Prescott, LLP, San Francisco, CA; Mario Nunzio Alioto, LEAD ATTORNEY, Trump Alioto Trump & Prescott LLP, San Francisco, CA; Sylvie K. Kern, Law Offices of Sylvie Kulkin Kern, San Francisco, CA; Theresa Driscoll Moore, Alioto Law Firm, San Francisco, CA; Anne M. Nardacci, Boies, Schiller & Flexner, LLP, Albany, NY; James P. McCarthy, Lindquist & Vennum.

For Indirect Purchaser Plaintiffs, Plaintiff: Mario Nunzio Alioto, LEAD ATTORNEY, Trump Alioto Trump & Prescott LLP, San Francisco, CA; Craig C. Corbitt, Christopher Thomas Micheletti, Craig C. Corbitt, Judith A. Zahid, Zelle LLP, San Francisco, CA; Charles Matthew Thompson, Charles M. Thompson, P.C., Birmingham, AL; David Nathan Lake, Law Offices of David N. Lake, Encino, CA; Francis Onofrei Scarpulla, Law Offices of Francis O. Scarpulla, San Francisco, CA; Jennie**[\*18]** Lee Anderson, Andrus Anderson LLP, San Francisco, CA; John Dmitry Bogdanov, Josef Deen Cooper, Cooper & Kirkham, P.C., San Francisco, CA; Joseph Mario Patane, Lauren Clare Capurro, Trump, Alioto, Trump & Prescott, LLP, San Francisco, CA; Lawrence Genaro Papale, Law Offices of Lawrence G. Papale, St. Helena, CA; Lingel Hart Winters, LEAD ATTORNEY, Law Offices of Lingel H. Winters, A Professional Corporation, San Francisco, CA; Matthew Duncan, Fine, Kaplan and Black, RPC, Philadelphia, PA; Paul F. Novak, PRO HAC VICE, Weitz & Luxenberg, P.C., Detroit, MI; Robert Brent Irby, McCallum, Hoaguland Cook & Irby LLP, Vestavia Hills, AL; Sylvie K. Kern, Law Offices of Sylvie Kulkin Kern, San Francisco, CA; Theresa Driscoll Moore, Alioto Law Firm, San Francisco, CA; Timothy D. Battin, Straus & Boies LLP, Fairfax, VA; Anne M. Nardacci, Boies, Schiller & Flexner, LLP, Albany, NY; James P. McCarthy, Lindquist & Vennum.

For State of Washington, State of Washington, Plaintiff: Jonathan A Mark, LEAD ATTORNEY, Attorney General of Washington, Seattle, WA; Anne M. Nardacci, Boies, Schiller & Flexner, LLP, Albany, NY; James P. McCarthy, Lindquist & Vennum.

For Electrograph Systems, Inc, Electrograph Technologies**[\*19]** Corp., Plaintiffs: Anne M. Nardacci, Philip J Iovieno, Boies, Schiller & Flexner, LLP, Albany, NY; Philip J. Iovieno, PRO HAC VICE, Boies Schiller & Flexner, LLP, Albany, NY; William A. Isaacson, Boies Schiller & Flexner, Washington, DC; James P. McCarthy, Lindquist & Vennum.

For Interbond Corporation of America, Plaintiff: Stuart Harold Singer, LEAD ATTORNEY, Boies Schiller & Flexner, Fort Lauderdale, FL; William A. Isaacson, LEAD ATTORNEY, Boies Schiller & Flexner, Washington, DC; Anne M. Nardacci, Philip J Iovieno, Boies, Schiller & Flexner, LLP, Albany, NY; James P. McCarthy, Lindquist & Vennum.

For Office Depot, Inc., Plaintiff: Stuart Harold Singer, LEAD ATTORNEY, Boies Schiller & Flexner, Fort Lauderdale, FL; Anne M. Nardacci, Philip J Iovieno, Boies, Schiller & Flexner, LLP, Albany, NY; William A. Isaacson, Boies Schiller & Flexner, Washington, DC; James P. McCarthy, Lindquist & Vennum.

For Compucom Systems Inc, Plaintiff: Lewis Titus LeClair, LEAD ATTORNEY, Mike McKool, McKool Smith, P.C., Dallas, TX; William A. Isaacson, LEAD ATTORNEY, Boies Schiller & Flexner, Washington, DC; Anne M. Nardacci, Philip J Iovieno, Boies, Schiller & Flexner, LLP, Albany, NY; James P. McCarthy,**[\*20]** Lindquist & Vennum.

For Costco Wholesale Corporation, Plaintiff: David Burman, Nicholas H. Hesterberg, PRO HAC VICE, Cori Gordon Moore, Eric J. Weiss, PERKINS COIE LLP, Seattle, WA; David P. Chiappetta, Perkins Coie LLP, San Francisco, CA; Euphemia Nikki Thomopulos, Hirschfeld Kraemer LLP, San Francisco, CA; Philip J Iovieno, Anne M. Nardacci, Boies, Schiller & Flexner, LLP, Albany, NY; Steven Douglas Merriman, Perkins Coie LLP, Seattle, WA United Sta; William A. Isaacson, Boies Schiller & Flexner, Washington, DC; James P. McCarthy, Lindquist & Vennum.

For Alfred H. Siegel, Alfred H. Siegel, as Trustee of the Circuit City Stores, Inc. Liquidating Trust, Plaintiff: Brian Gillett, Squire Patton Boggs (US) LLP, Dallas, TX David M. Peterson, John Pierre Lahad, Johnny William Carter, Matthew C. Behncke, Susman Godfrey LLP, Houston, TX; Jonathan Jeffrey Ross, N/A, Robert Sabre Safi, Susman Godfrey L.L.P., Houston, TX; Jonathan Mark Weiss, Klee Tuchin Bogdanoff Stern LLP, Los Angeles, CA; Philip J Iovieno, Anne M. Nardacci, Boies, Schiller & Flexner, LLP, Albany, NY; Robert J. Pfister, Klee, Tuchin, Bogdanoff & Stern LLP, Los Angeles, CA; Samuel J Randall, Kenny Nachwalter PA, Miami, FL; William**[\*21]** A. Isaacson, Boies Schiller & Flexner, Washington, DC; James P. McCarthy, Lindquist & Vennum; Kenneth S. Marks, Houston, TX.

For Department of Legal Affairs, Office of the Attorney General, Plaintiffs: Patricia A. Conners, LEAD ATTORNEY, Attorney General's Office, Department of Legal Affairs, ***Antitrust*** Section, Tallahassee, FL; R. Scott Palmer, LEAD ATTORNEY, Nicholas J. Weilhammer, Office of the Attorney General, State of Florida, Tallahassee, FL; Liz Ann Brady, Office of the Attorney General, ***Antitrust*** Division, Tallahassee, FL; Anne M. Nardacci, Boies, Schiller & Flexner, LLP, Albany, NY; James P. McCarthy, Lindquist & Vennum.

For Best Buy Co., Inc., Plaintiff: Bernice Conn, LEAD ATTORNEY, Roman M. Silberfeld, Robins Kaplan L.L.P., Los Angeles, CA; David Martinez, LEAD ATTORNEY, Robins Kaplan LLP, Los Angeles, CA; Jill Sharon Casselman, Robins, Kaplan, Miller and Ciresi L.L.P., Los Angeles, CA; Kenneth S. Marks, Houston, TX; Philip J Iovieno, Anne M. Nardacci, Boies, Schiller & Flexner, LLP, Albany, NY; Samuel J Randall, Kenny Nachwalter PA, Miami, FL; William A. Isaacson, Boies Schiller & Flexner, Washington, DC; Elliot S. Kaplan, Robins Kaplan Miller & Ciresi; K. Craig Wildfang,**[\*22]** Attorney at Law, Minneapolis, MN.

For Best Buy Enterprise Services, Inc., Best Buy Purchasing LLC, Best Buy Stores, L.P., Best Buy.com LLC, Plaintiffs: Bernice Conn, LEAD ATTORNEY, Roman M. Silberfeld, Robins Kaplan L.L.P., Los Angeles, CA; David Martinez, LEAD ATTORNEY, Robins Kaplan LLP, Los Angeles, CA; Jill Sharon Casselman, Robins, Kaplan, Miller and Ciresi L.L.P., Los Angeles, CA; Kenneth S. Marks, Houston, TX; Philip J Iovieno, Boies, Schiller & Flexner LLP, Albany, NY; Samuel J Randall, Kenny Nachwalter PA, Miami, FL; William A. Isaacson, Boies Schiller & Flexner, Washington, DC; Anne M. Nardacci, Boies, Schiller & Flexner, LLP, Albany, NY; Elliot S. Kaplan, Robins Kaplan Miller & Ciresi; K. Craig Wildfang, Attorney at Law, Minneapolis, MN.

For Magnolia Hi-Fi, Inc., Plaintiff: David Martinez, LEAD ATTORNEY, Robins Kaplan LLP, Los Angeles, CA; Kenneth S. Marks, Houston, TX; Philip J Iovieno, Boies, Schiller & Flexner LLP, Albany, NY; William A. Isaacson, Boies Schiller & Flexner, Washington, DC; Anne M. Nardacci, Boies, Schiller & Flexner, LLP, Albany, NY; Elliot S. Kaplan, Robins Kaplan Miller & Ciresi; Jill Sharon Casselman, Robins, Kaplan, Miller and Ciresi L.L.P., Los Angeles,**[\*23]** CA; K. Craig Wildfang, Attorney at Law, Minneapolis, MN; Roman M. Silberfeld, Robins Kaplan L.L.P., Los Angeles, CA.

For Good Guys, Inc, Plaintiff: Jason C. Murray, LEAD ATTORNEY, Crowell & Moring LLP, Los Angeles, CA; Philip J Iovieno, Boies, Schiller & Flexner LLP, Albany, NY; William A. Isaacson, Boies Schiller & Flexner, Washington, DC.

For KMart Corporation, Plaintiff: Jason C. Murray, LEAD ATTORNEY, Crowell & Moring LLP, Los Angeles, CA; William J. Blechman, LEAD ATTORNEY, Kevin J. Murray, Samuel J Randall, Kenny Nachwalter PA, Miami, FL; Christina Maria Ceballos-Levy, PRO HAC VICE, Kenny Nachwalter, P.A., Miami, FL; Gavin David Whitis, Pond North LLP, Los Angeles, CA; Jalaine Garcia, Miami, FL; James T Almon, Kenny Nachwalter, PA, Miami, FL; Kenneth S. Marks, Houston, TX; Philip J Iovieno, Boies, Schiller & Flexner LLP, Albany, NY; Richard A. Arnold, Kenny Nachwalter, Miami, FL; Ryan C Zagare, Kenny Nachwalter, PA, Miami, Fl; William A. Isaacson, Boies Schiller & Flexner, Washington, DC.

For Old Comp Inc., Radioshack Corp., Plaintiffs: Jason C. Murray, LEAD ATTORNEY, Crowell & Moring LLP, Los Angeles, CA; Daniel Allen Sasse, Deborah Ellen Arbabi, Crowell and Moring LLP, Irvine,**[\*24]** CA; Philip J Iovieno, Boies, Schiller & Flexner LLP, Albany, NY; William A. Isaacson, Boies Schiller & Flexner, Washington, DC.

For Sears Roebuck and Company, Plaintiff: Jason C. Murray, LEAD ATTORNEY, Crowell & Moring LLP, Los Angeles, CA; William J. Blechman, LEAD ATTORNEY, Samuel J Randall, Kevin J. Murray, Kenny Nachwalter PA, Miami, FL; Christina Maria Ceballos-Levy, PRO HAC VICE, Kenny Nachwalter, P.A., Miami, FL; Gavin David Whitis, Pond North LLP, Los Angeles, CA; Jalaine Garcia, Miami, FL; James T Almon, Kenny Nachwalter, PA, Miami, FL; Kenneth S. Marks, Houston, TX; Philip J Iovieno, Boies, Schiller & Flexner LLP, Albany, NY; Richard A. Arnold, Kenny Nachwalter, Miami, FL; Ryan C Zagare, Kenny Nachwalter, PA, Miami, Fl; William A. Isaacson, Boies Schiller & Flexner, Washington, DC.

For Sears Roebuck and Company, Plaintiff: Jason C. Murray, LEAD ATTORNEY, Crowell & Moring LLP, Los Angeles, CA; William J. Blechman, LEAD ATTORNEY, James T Almon, Richard A. Arnold, Ryan C Zagare, Samuel J Randall, Kevin J. Murray, Kenny Nachwalter PA, Miami, FL; Christina Maria Ceballos-Levy, PRO HAC VICE, Kenny Nachwalter, P.A., Miami, FL; Gavin David Whitis, Pond North LLP, Los Angeles, CA; Jalaine**[\*25]** Garcia, Miami, FL; Kenneth S. Marks, Houston, TX; Philip J Iovieno, Boies, Schiller & Flexner LLP, Albany, NY; William A. Isaacson, Boies Schiller & Flexner, Washington, DC.

For Target Corp., Plaintiff: Jason C. Murray, LEAD ATTORNEY, Crowell & Moring LLP, Los Angeles, CA; Astor Henry Lloyd Heaven, III, Jerome A. Murphy, Matthew J. McBurney, Crowell and Moring LLP, Washington, DC; Kenneth S. Marks, Houston, TX; Philip J Iovieno, Boies, Schiller & Flexner LLP, Albany, NY; Robert Brian McNary, Crowell & Moring LLP, Los Angeles, CA; Samuel J Randall, Kevin J. Murray, Kenny Nachwalter PA, Miami, FL; William A. Isaacson, Boies Schiller & Flexner, Washington, DC.

For Giovanni Constabile On behalf of themselves and all others similarly situated, Gio's Inc a California corporation, Plaintiffs: Lingel Hart Winters, LEAD ATTORNEY, Law Offices of Lingel H. Winters, A Professional Corporation, San Francisco, CA.

For Schultze Agency Services, LLC on behalf of Tweeter Opco, LLC and Tweeter Newco, LLC, Plaintiff: William A. Isaacson, Boies Schiller & Flexner, Washington, DC; Anne M. Nardacci, Boies, Schiller & Flexner, LLP, Albany, NY; Philip J Iovieno, Boies, Schiller & Flexner LLP, Albany, NY; Philip**[\*26]** J. Iovieno, PRO HAC VICE, Boies, Schiller & Flexner LLP, Albany, NY.

For Tweeter Newco, LLC, Plaintiff: Anne M. Nardacci, Boies, Schiller & Flexner, LLP, Albany, NY; Philip J. Iovieno, LEAD ATTORNEY, Boies, Schiller & Flexner LLP, Albany, NY; William A. Isaacson, Boies Schiller & Flexner, Washington, DC; Philip J Iovieno, Boies, Schiller & Flexner LLP, Albany, NY.

For ABC Appliance, Inc., Marta Cooperative of America, Inc., P.C. Richard & Son Long Island Corporation, Plaintiffs: Anne M. Nardacci, Boies, Schiller & Flexner, LLP, Albany, NY; Philip J. Iovieno, LEAD ATTORNEY, Boies, Schiller & Flexner LLP, Albany, NY; William A. Isaacson, Boies Schiller & Flexner, Washington, DC.

For Sharp Corporation, Plaintiff: Colin C. West, Morgan Lewis & Bockius LLP, San Francisco, CA; Jonathan Alan Patchen, Taylor & Patchen, LLP, San Francisco, CA.

For Janet Ackerman, Plaintiff: Jeffrey Chad Shea, Attorney at Law, Henderson, NV; Susan Gilah Kupfer, Glancy Prongay & Murray LLP, Berkeley, CA.

For Gloria Comeaux, Jeff Speaect, Plaintiffs: Robert J. Bonsignore, Bonsignore Trial Lawyers, PLLC, Las Vegas, NV.

For Kerry Lee Hall, Plaintiff: Robert J. Gralewski, Jr., LEAD ATTORNEY, Gergosian & Gralewski LLP,**[\*27]** San Diego, CA; Christopher Thomas Micheletti, Zelle LLP, San Francisco, CA; Daniel Hume, Kirby McInerney LLP, New York, NY.

For Tech Data Corporation, Plaintiff: Melissa Willett, LEAD ATTORNEY, Boies, Schiller & Flexner, Washington, DC; Mitchell E. Widom, Robert William, LEAD ATTORNEYS, Bilzin Sumberg Baena Price & Axelrod, LLP, Miami, FL; Scott N. Wagner, LEAD ATTORNEY, PRO HAC VICE, Bilzin Sumberg Baena Price & Axelrod, LLP, Miami, FL; Stuart Harold Singer, Boies Schiller & Flexner, Fort Lauderdale, FL; William A. Isaacson, Boies Schiller & Flexner, Washington, DC; Anne M. Nardacci, Boies, Schiller & Flexner, LLP, Albany, NY; Philip J Iovieno, Boies, Schiller & Flexner LLP, Albany, NY; Philip J. Iovieno, PRO HAC VICE, Boies, Schiller & Flexner LLP, Albany, NY.

For Tech Data Product Management, Inc., Plaintiff: Robert William Turken, Bilzin Sumberg, LEAD ATTORNEY, Baena Price and Axelrod LLP, Miami, FL; Anne M. Nardacci, Boies, Schiller & Flexner, LLP, Albany, NY; Philip J Iovieno, Boies, Schiller & Flexner LLP, Albany, NY; Scott N. Wagner, Bilzin Sumberg Baena Price & Axelrod, LLP, Miami, FL; William A. Isaacson, Boies Schiller & Flexner, Washington, DC.

For Sharp Electronics Corporation,**[\*28]** Sharp Electronics Manufacturing Company of America, Inc., Plaintiffs: Cheryl Ann Cauley, Taylor & Patchen, LLP, San Francisco, CA; Craig A Benson, Joseph J Simons, Paul Weiss LLP, Washington, DC; Gary R Carney, PRO HAC VICE, Kenneth A. Gallo, Paul, Weiss, Rifkind, Wharton and Garrison LLP, New York, NY; Jonathan Alan Patchen, Stephen E. Taylor, Taylor & Patchen, LLP, San Francisco, CA; Kenneth S. Marks, Houston, TX; Kira A Davis, PRO HAC VICE, Paul, Weiss, Rifkind, Wharton and Garrison LLP, New York, NY.

For Dell Inc., Dell Products L.P., Plaintiffs: Debra Dawn Bernstein, Elizabeth Helmer, Matthew David Kent, Michael P. Kenny, Rodney J Ganske, LEAD ATTORNEYS, Alston & Bird LLP, Atlanta, GA; James Matthew Wagstaffe, Kerr & Wagstaffe LLP, San Francisco, CA; Michael John Newton, Alston & Bird, Dallas, TX.

For Magnolia Hi-Fi, LLC, Plaintiff: David Martinez, LEAD ATTORNEY, Roman M. Silberfeld, Robins Kaplan LLP, Los Angeles, CA; Jill Sharon Casselman, Robins, Kaplan, Miller and Ciresi L.L.P., Los Angeles, CA; Elliot S. Kaplan, Robins Kaplan Miller & Ciresi.

For Viewsonic Corporation, Plaintiff: Jason C. Murray, LEAD ATTORNEY, Robert Brian McNary, Crowell & Moring LLP, Los Angeles, CA; Astor**[\*29]** Henry Lloyd Heaven, III, Jerome A. Murphy, Matthew J. McBurney, Crowell and Moring LLP, Washington, DC; Daniel Allen Sasse, Deborah Ellen Arbabi, Crowell & Moring LLP, Irvine, CA; Kenneth S. Marks, Houston, TX; Samuel J Randall, Kenny Nachwalter PA, Miami, FL.

JEFF CRAIG, Plaintiff, Pro se.

MINA ASHKANNEJHAD, Plaintiff, Pro se.

ESTATE OF LATE R. DERYL EDWARDS JR, Plaintiff, Pro se.

For INDIRECT PURCHASER PLAINTIFF CLASS, Plaintiff: Alan R. Plutzik, Bramson Plutzik Mahler & Birkhaeuser, LLP, Walnut Creek, CA; Daniel Edward Birkhaeuser, Bramson, Plutzik, Mahler & Birkhaeuser, Walnut Creek, CA; Theresa Driscoll Moore, Alioto Law Firm, San Francisco, CA; Timothy D. Battin, Straus & Boies LLP, Fairfax, VA.

For Eleanor Lewis, Plaintiff: John Dennis O'Connor, LEAD ATTORNEY, O'Connor & Associates, San Francisco, CA; Francis Onofrei Scarpulla, Law Offices of Francis O. Scarpulla, San Francisco, CA.

For Kirby McInerney LLP, Plaintiff: Robert J. Gralewski, Jr., LEAD ATTORNEY, Kirby McInerney LLP, San Diego, CA.

For Direct Purchaser Plaintiffs, Plaintiff: Terry Gross, Gross & Belsky P.C., San Francisco, CA.

For YRC, INC., Creditor: Jeffrey M. Judd, Judd Law Group, San Francisco, CA.

For Chunghwa Picture**[\*30]** Tubes, LTD., ("Chunghwa PT") is a Taiwanese company, Chunghwa Picture Tubes (Malaysia) Sdn. Bhd., ("Chunghwa Malaysia") is a Malaysian company, Defendants: Joel Steven Sanders, LEAD ATTORNEY, Austin Van Schwing, Rachel S. Brass, Gibson, Dunn & Crutcher LLP, San Francisco, CA; Adam C. Hemlock, Weil Gotshal and Manges LLP, New York, NY; David C. Brownstein, Jacob P. Alpren, William S Farmer, Farmer Brownstein Jaeger LLP, San Francisco, CA.

For Hitachi, Ltd., is a Japanese company, Defendant: Eliot A. Adelson, LEAD ATTORNEY, Kirkland & Ellis LLP, San Francisco, CA; Christopher M. Curran, White & Case, Washington, DC; Douglas L Wald, Washington, DC; James Mutchnik, Kirkland & Ellis LLP, Chicago, IL; Jeffrey L. Kessler, Winston & Strawn LLP, New York, NY; John M. Taladay, Baker Botts L.L.P., Washington, DC; Jon Vensel Swenson, Baker Botts L.L.P., Palo Alto, CA.

For Hitachi, Ltd., is a Japanese company, Defendant: Katherine Hamilton Wheaton, PRO HAC VICE, Chicago, IL; Michael W. Scarborough, Sheppard Mullin Richter & Hampton LLP, San Francisco, CA; Sharon D. Mayo, Arnold & Porter Kaye Scholer LLP, San Francisco, CA; Steven Alan Reiss, Weil, Gotshal & Mangesl LLP, New York, NY.

For Hitachi America,**[\*31]** Ltd., ("Hitachi America") is a New York company, Defendant: Eliot A. Adelson, LEAD ATTORNEY, Kirkland & Ellis LLP, San Francisco, CA; James Mutchnik, Kirkland & Ellis LLP, Chicago, IL; Jeffrey L. Kessler, Winston & Strawn LLP, New York, NY; Katherine Hamilton Wheaton, Chicago, IL; Michael W. Scarborough, Sheppard Mullin Richter & Hampton LLP, San Francisco, CA.

For Hitachi Asia, Ltd., ("Hitachi Asia") is a Singaporean company, Defendant: Eliot A. Adelson, LEAD ATTORNEY, Kirkland & Ellis LLP, San Francisco, CA; Adam C. Hemlock, Weil Gotshal and Manges LLP, New York, NY; Barack Shem Echols, PRO HAC VICE, James Mutchnik, Kirkland Ellis LLP, Chicago, IL; Christopher M. Curran, White & Case, Washington, DC; Douglas L Wald, Washington, DC; Ian T Simmons, O'Melveny & Myers LLP, Washington, DC; Jeffrey L. Kessler, Winston & Strawn LLP, New York, NY; John M. Taladay, Baker Botts L.L.P., Washington, DC; Jon Vensel Swenson, Baker Botts L.L.P., Palo Alto, CA; Katherine Hamilton Wheaton, Chicago, IL; Michael W. Scarborough, Sheppard Mullin Richter & Hampton LLP, San Francisco, CA; Sharon D. Mayo, Arnold & Porter Kaye Scholer LLP, San Francisco, CA; Steven Alan Reiss, Weil, Gotshal & Mangesl LLP,**[\*32]** New York, NY.

For Irico Group Corp., ("IGC") is a Chinese entity, Defendant: Joseph R. Tiffany, II, Pillsbury Winthrop Shaw Pittman LLP, Palo Alto, CA; Stuart Christopher Plunkett, Baker Botts L.L.P., San Francisco, CA.

For Irico Display Devices Co., Ltd., ("IDDC") is a Chinese entity, Defendant: Erik T. Koons, LEAD ATTORNEY, Baker Botts LLP, Washington, DC; John M. Taladay, Baker Botts L.L.P., Washington, DC; Joseph R. Tiffany, II, Pillsbury Winthrop Shaw Pittman LLP, Palo Alto, CA; Rishi Pankaj Satia, Baker Botts LLP, San Francisco, CA; Stuart Christopher Plunkett, Baker Botts L.L.P., San Francisco, CA.

For Panasonic Corporation of North America, ("PCNA") is a Delaware corporation, Defendant: David L. Yohai, LEAD ATTORNEY, Weil, Gotshal, & Manges, LLP, New York, NY; Eva W. Cole, LEAD ATTORNEY, PRO HAC VICE, A. Paul Victor, Aldo A. Badini, Jeffrey L. Kessler, Winston & Strawn LLP, New York, NY; Amy Lee Stewart, James F. Lerner, PRO HAC VICE, Rose Law Firm, Litigation, Little Rock, AR; Andrew R. Tillman, Paine Tarwater Bickers & Tillman, Knoxville, TN; Bambo Obaro, Weil, Gotshal and Manges, Redwood Shores, CA; Christopher M. Curran, Christopher M. Curran, White & Case, Washington, DC;**[\*33]** David E. Yolkut, PRO HAC VICE, Weil, Gotshal and Manges LLP, New York, NY; Douglas L Wald, Washington, DC; Jennifer Stewart, Winston and Strawn LLP, New York, NY; John Clayton Everett, Jr., PRO HAC VICE, Morgan, Lewis & Bockius LLP, Washington, DC; John M. Taladay, Baker Botts L.L.P., Washington, DC; John Selim Tschirgi, PRO HAC VICE, Winston and Strawn LLP, NYC, NY; Jon Vensel Swenson, Baker Botts L.L.P., Palo Alto, CA; Kajetan Rozga, PRO HAC VICE, New York, NY; Kent Michael Roger, Morgan Lewis & Bockius LLP, San Francisco, CA; Kevin B. Goldstein, Winston & Strawn LLP, Chicago, IL; Lara Elvidge Veblen, PRO HAC VICE, Weil, Gotshal and Manges LLP, New York, NY; Margaret Anne Keane, DLA Piper LLP, San Francisco, CA; Martin C. Geagan, Jr., PRO HAC VICE, Winston and Strawn LLP, New York, NY; Matthew Robert DalSanto, Winston and Strawn LLP, San Francisco, CA; Michelle Park Chiu, Morgan Lewis & Bockius LLP, San Francisco, CA; Molly Donovan, Winston & Strawn LLP, New York, NY; Scott A. Stempel, PRO HAC VICE, Morgan, Lewis Bockius LLP, Washington, DC; Sharon D. Mayo, Arnold & Porter Kaye Scholer LLP, San Francisco, CA; Sofia Arguello, PRO HAC VICE, Winston and Strawn LLP, New York, NY; Steven**[\*34]** A. Reiss, Steven Alan Reiss, Adam C. Hemlock, Weil Gotshal & Manges LLP, New York, NY; Molly M Donovan, Dewey & LeBoeuf LLP.

For Samtel Color, Ltd., ("Samtel") is a Indian company, Defendant: William Diaz, McDermott Will & Emery LLP, Irvine, CA.

For Beijing-Matsushita Color CRT Company, Ltd., ("BMCC") is a Chinese company, Defendant: Terry Calvani, LEAD ATTORNEY, Bruce C. McCulloch, Christine A. Laciak, Richard Sutton Snyder, Freshfields Bruckhaus Deringer US LLP, Washington, DC; Adam C. Hemlock, Weil Gotshal and Manges LLP, New York, NY; Jeffrey L. Kessler, Winston & Strawn LLP, New York, NY; Michael W. Scarborough, Sheppard Mullin Richter & Hampton LLP, San Francisco, CA.

For LG Electronics U.S.A., Inc., ("LGEUSA") is a Delaware corporation, Defendant: Miriam Kim, LEAD ATTORNEY, Munger, Tolles & Olson, San Francisco, CA; Brad Dennis Brian, Xiaochin Claire Yan, William David Temko, Munger Tolles & Olson LLP, Los Angeles, CA; Cathleen Hamel Hartge, Hojoon Hwang, Jerome Cary Roth, Laura K Lin, Kent Michael Roger, Michelle Park Chiu, Munger Tolles and Olson LLP, San Francisco, CA; Christopher M. Curran, White & Case, Washington, DC; Douglas L Wald, Washington, DC; Esteban Martin Estrada,**[\*35]** Munger Tolles and Olson, Los Angeles, CA; Jason Sheffield Angell, Freitas Angell & Weinberg LLP, Redwood Shores, CA; Jeffrey L. Kessler, Winston & Strawn LLP, New York, NY; John Clayton Everett, Jr., PRO HAC VICE, Morgan, Lewis & Bockius LLP, Washington, DC; John M. Taladay, Baker Botts L.L.P., Washington, DC; Jon Vensel Swenson, Baker Botts L.L.P., Palo Alto, CA; Michael W. Scarborough, Sheppard Mullin Richter & Hampton LLP, San Francisco, CA; Scott A. Stempel, PRO HAC VICE, Morgan, Lewis Bockius LLP, Washington, DC; Sharon D. Mayo, Arnold & Porter Kaye Scholer LLP, San Francisco, CA; Steven Alan Reiss, Weil, Gotshal & Mangesl LLP, New York, NY.

For Philips Electronics North America Corporation, ("PENAC") is a Delaware corporation, Defendant: Adam C. Hemlock, Weil Gotshal and Manges LLP, New York, NY; Christopher M. Curran, White & Case, Washington, DC; Douglas L Wald, Washington, DC; Ethan E. Litwin, Hughes Hubbard & Reed LLP, New York, NY; Jeffrey L. Kessler, Winston & Strawn LLP, New York, NY; John Clayton Everett, Jr., Morgan, Lewis & Bockius LLP, Washington, DC; John M. Taladay, Baker Botts L.L.P., Washington, DC; Jon Vensel Swenson, Baker Botts L.L.P., Palo Alto, CA; Richard**[\*36]** P. Sobiecki, Tiffany Belle Gelott, PRO HAC VICE, Joseph A. Ostoyich, Baker Botts LLP, Washington, DC; Kent Michael Roger, Michelle Park Chiu, Morgan Lewis & Bockius LLP, San Francisco, CA; Michael W. Scarborough, Sheppard Mullin Richter & Hampton LLP, San Francisco, CA; Scott A. Stempel, PRO HAC VICE, Morgan, Lewis Bockius LLP, Washington, DC; Sharon D. Mayo, Arnold & Porter Kaye Scholer LLP, San Francisco, CA; Steven Alan Reiss, Weil, Gotshal & Mangesl LLP, New York, NY; Stuart Christopher Plunkett, Baker Botts L.L.P., San Francisco, CA; Van H. Beckwith, PRO HAC VICE, Baker Botts L.L.P., Dallas, TX; Erik T. Koons, Baker Botts LLP.

For Samsung Electronics Co Ltd, ("SEC") is a South Korean company, Defendant: Ian T Simmons, LEAD ATTORNEY, Haidee L. Schwartz, O'Melveny & Myers LLP, Washington, DC; Michael Frederick Tubach, LEAD ATTORNEY, O'Melveny & Myers LLP, San Francisco, CA; Courtney C Byrd, PRO HAC VICE, Washington, DC; David Kendall Roberts, O'Melveny and Myers LLP, Washington, DC; Jeffrey L. Kessler, Winston & Strawn LLP, New York, NY; Kent Michael Roger, Morgan Lewis & Bockius LLP, San Francisco, CA; Kevin Douglas Feder, O'Melveny and Myers LLP, Washington, DC; Michael W. Scarborough,**[\*37]** Sheppard Mullin Richter & Hampton LLP, San Francisco, CA; Anton Metlitsky; David Roberts, O'Melveny & Myers LLP.

For Samsung Electronics America, Inc., ("SEAI") is a New York corporation, Defendant: Ian T Simmons, LEAD ATTORNEY, Haidee L. Schwartz, O'Melveny & Myers LLP, Washington, DC; James Landon McGinnis, LEAD ATTORNEY, Sheppard Mullin Richter & Hampton LLP; Michael Frederick Tubach, LEAD ATTORNEY, O'Melveny & Myers LLP, San Francisco, CA Benjamin Gardner Bradshaw, O'Melveny & Meyers LLP, Washington, DC; Courtney C Byrd, PRO HAC VICE, Washington, DC; Jeffrey L. Kessler, Winston & Strawn LLP, New York, NY; Kent Michael Roger, Morgan Lewis & Bockius LLP, San Francisco, CA; Kevin Douglas Feder, O'Melveny and Myers LLP, Washington, DC; Michael W. Scarborough, Sheppard Mullin Richter & Hampton LLP, San Francisco, CA; Anton Metlitsky; David Roberts, O'Melveny & Myers LLP.

For MT Picture Display Co., LTD, fka Matsushita Toshiba Picture Display Co., Ltd. ("MTPD") is a Japanese entity, Defendant: A. Paul Victor, Aldo A. Badini, Jeffrey L. Kessler, Eva W. Cole, Molly Donovan, Jennifer Stewart, Winston & Strawn LLP, New York, NY; Bambo Obaro, Weil, Gotshal and Manges, Redwood Shores, CA; Christopher**[\*38]** M. Curran, White & Case, Washington, DC; David E. Yolkut, PRO HAC VICE, Weil, Gotshal and Manges LLP, New York, NY; Douglas L Wald, Washington, DC; Gregory Hull, Law Offices of Steven A. Ellenberg, San Jose, CA; James F. Lerner, PRO HAC VICE, Rose Law Firm, Litigation, Little Rock, AR; John Clayton Everett, Jr., PRO HAC VICE, Morgan, Lewis & Bockius LLP, Washington, DC; John M. Taladay, Baker Botts L.L.P., Washington, DC; Jon Vensel Swenson, Baker Botts L.L.P., Palo Alto, CA; Kajetan Rozga, PRO HAC VICE, New York, NY; Kent Michael Roger, Michelle Park Chiu, Morgan Lewis & Bockius LLP, San Francisco, CA; Lara Elvidge Veblen, PRO HAC VICE, Weil, Gotshal and Manges LLP, New York, NY; Margaret Anne Keane, DLA Piper LLP, San Francisco, CA; Martin C. Geagan, Jr., Winston and Strawn LLP, New York, NY; Matthew Robert DalSanto, Winston and Strawn LLP, San Francisco, CA; Scott A. Stempel, PRO HAC VICE, Morgan, Lewis Bockius LLP, Washington, DC; Sharon D. Mayo, Arnold & Porter Kaye Scholer LLP, San Francisco, CA; Sofia Arguello, PRO HAC VICE, Winston and Strawn LLP, New York, NY; Steven A. Reiss, Steven Alan Reiss, Adam C. Hemlock, David L. Yohai, Weil Gotshal & Manges LLP, New York, NY.

For Panasonic**[\*39]** Corporation, fka Matsushita Electric Industrial Co., Ltd., ("MEI"), is a Japanese entity, Defendant: David L. Yohai, LEAD ATTORNEY, Weil, Gotshal, & Manges, LLP, New York, NY; A. Paul Victor, Eva W. Cole, Jeffrey L. Kessler, Jennifer Stewart, Molly Donovan, Winston & Strawn LLP, New York, NY; Aldo A. Badini, Winston & Strawn LLP, Menlo Park, CA; Amy Lee Stewart, PRO HAC VICE, Rose Law Firm, Little Rock, AR; Bambo Obaro, Weil, Gotshal and Manges, Redwood Shores, CA; Christopher M. Curran, White & Case, Washington, DC; David E. Yolkut, PRO HAC VICE, Weil, Gotshal and Manges LLP, New York, NY; Douglas L Wald, Washington, DC; John Clayton Everett, Jr., Scott A. Stempel, PRO HAC VICE, Morgan, Lewis & Bockius LLP, 1111 Pennsylvania Ave. NW, Washington, DC; John M. Taladay, Baker Botts L.L.P., Washington, DC; Jon Vensel Swenson, Baker Botts L.L.P., Palo Alto, CA; Kajetan Rozga, PRO HAC VICE, New York, NY; Kent Michael Roger, Michelle Park Chiu, Morgan Lewis & Bockius LLP, San Francisco, CA; Kevin B. Goldstein, Winston & Strawn LLP, Chicago, IL; Margaret Anne Keane, DLA Piper LLP, San Francisco, CA; Molly M Donovan, John Selim Tschirgi, James F. Lerner, Martin C. Geagan, PRO HAC VICE, Winston**[\*40]** & Strawn LLP, New York, NY. Sharon D. Mayo, Arnold & Porter Kaye Scholer LLP, San Francisco, CA; Sofia Arguello, Steven A. Reiss, Steven Alan Reiss, Lara Elvidge Veblen, PRO HAC VICE, Weil, Gotshal & Mangesl LLP, New York, NY; Adam C. Hemlock, Weil, Gotshal & Mangesl LLP, New York, NY.

For Hitachi Displays, Ltd., ("Hitachi Displays") is a Japanese company, also known as Japan Display Inc, Defendant: Eliot A. Adelson, LEAD ATTORNEY, Kirkland & Ellis LLP, San Francisco, CA; Christopher M. Curran, White & Case, Washington, DC; Douglas L Wald, Washington, DC; Ian T Simmons, O'Melveny & Myers LLP, Washington, DC; James Mutchnik, Kirkland & Ellis LLP, Chicago, IL 60654 Jeffrey L. Kessler, Winston & Strawn LLP, New York, NY; John M. Taladay, Baker Botts L.L.P., Washington, DC; Jon Vensel Swenson, Baker Botts L.L.P., Palo Alto, CA; Katherine Hamilton Wheaton, PRO HAC VICE, Chicago, IL; Sharon D. Mayo, Arnold & Porter Kaye Scholer LLP, San Francisco, CA; Steven Alan Reiss, Weil, Gotshal & Mangesl LLP, New York, NY.

For Hitachi Electronic Devices (USA), ("HEDUS") is a Delaware corporation, Defendant: Eliot A. Adelson, LEAD ATTORNEY, Kirkland & Ellis LLP, San Francisco, CA; James Mutchnik, Kirkland**[\*41]** & Ellis LLP, Chicago, IL; Jeffrey L. Kessler, Winston & Strawn LLP, New York, NY; Katherine Hamilton Wheaton, Chicago, IL.

Irico Group Electronics Co., Ltd., ("IGE") is a Chinese entity, Defendant, Pro se.

For Philips da Amazonia Industria Electronica Ltda., ("Philips Brazil") is a Brazilian company, Defendant: Ethan E. Litwin, Hughes Hubbard & Reed LLP, New York, NY; Jeffrey L. Kessler, Winston & Strawn LLP, New York, NY. Jon Vensel Swenson, Baker Botts L.L.P., Palo Alto, CA.

For Hitachi Electronic Devices (USA), Inc., ("HEDUS") is a Delaware corporation, Defendant: Adam C. Hemlock, Weil Gotshal and Manges LLP, New York, NY; Barack Shem Echols, PRO HAC VICE, Kirkland Ellis LLP, Chicago, IL; Christopher M. Curran, White & Case, Washington, DC; Douglas L Wald, Washington, DC; Eliot A. Adelson, Kirkland & Ellis LLP, San Francisco, CA; James Mutchnik, Kirkland & Ellis LLP, Chicago, IL; Jeffrey L. Kessler, Winston & Strawn LLP, New York, NY; John M. Taladay, Baker Botts L.L.P., Washington, DC; Jon Vensel Swenson, Baker Botts L.L.P., Palo Alto, CA; Katherine Hamilton Wheaton, Chicago, IL; Sharon D. Mayo, Arnold & Porter Kaye Scholer LLP, San Francisco, CA; Steven Alan Reiss, Weil, Gotshal**[\*42]** & Mangesl LLP, New York, NY.

For Beijing Matsushita Color Crt Company, LTD., Defendant: Adam C. Hemlock, Weil Gotshal and Manges LLP, New York, NY; Richard Sutton Snyder, Freshfields Bruckhaus Deringer US LLP, Washington, DC.

For Hitachi America, Ltd, Defendant: Eliot A. Adelson, LEAD ATTORNEY, Kirkland & Ellis LLP, San Francisco, CA; Adam C. Hemlock, Weil Gotshal and Manges LLP, New York, NY; Barack Shem Echols, PRO HAC VICE, Kirkland Ellis LLP, Chicago, IL; Ian T Simmons, O'Melveny & Myers LLP, Washington, DC; James Mutchnik, Kirkland & Ellis LLP, Chicago, IL; Katherine Hamilton Wheaton, Chicago, IL.

For Hitachi Asia, Ltd., Defendant: Eliot A. Adelson, LEAD ATTORNEY, Kirkland & Ellis LLP, San Francisco, CA; Adam C. Hemlock, Weil Gotshal and Manges LLP, New York, NY; Christopher M. Curran, White & Case, Washington, DC; Douglas L Wald, Washington, DC; Ian T Simmons, O'Melveny & Myers LLP, Washington, DC; Jeffrey L. Kessler, Winston & Strawn LLP, New York, NY; John M. Taladay, Baker Botts L.L.P., Washington, DC; Jon Vensel Swenson, Baker Botts L.L.P., Palo Alto, CA; Sharon D. Mayo, Arnold & Porter Kaye Scholer LLP, San Francisco, CA; Steven Alan Reiss, Weil, Gotshal & Mangesl LLP, New**[\*43]** York, NY.

For Hitachi Displays, Ltd., also known as Japan Display Inc, Defendant: Eliot A. Adelson, LEAD ATTORNEY, Kirkland & Ellis LLP, San Francisco, CA; Adam C. Hemlock, Weil Gotshal and Manges LLP, New York, NY; Barack Shem Echols, PRO HAC VICE, Kirkland Ellis LLP, Chicago, IL; Christopher M. Curran, White & Case, Washington, DC; Douglas L Wald, Washington, DC; Ian T Simmons, O'Melveny & Myers LLP, Washington, DC; James Mutchnik, Kirkland & Ellis LLP, Chicago, IL; Jeffrey L. Kessler, Winston & Strawn LLP, New York, NY; John M. Taladay, Baker Botts L.L.P., Washington, DC; Jon Vensel Swenson, Baker Botts L.L.P., Palo Alto, CA; Katherine Hamilton Wheaton, Chicago, IL; Michael W. Scarborough, Sheppard Mullin Richter & Hampton LLP, San Francisco, CA; Sharon D. Mayo, Arnold & Porter Kaye Scholer LLP, San Francisco, CA; Steven Alan Reiss, Weil, Gotshal & Mangesl LLP, New York, NY.

For Hitachi Electronic Devices (USA), Defendant: Eliot A. Adelson, LEAD ATTORNEY, Kirkland & Ellis LLP, San Francisco, CA; Ian T Simmons, O'Melveny & Myers LLP, Washington, DC; James Mutchnik, Kirkland & Ellis LLP, Chicago, IL; Jeffrey L. Kessler, Winston & Strawn LLP, New York, NY; Katherine Hamilton Wheaton,**[\*44]** PRO HAC VICE, Chicago, IL; Michael W. Scarborough, Sheppard Mullin Richter & Hampton LLP, San Francisco, CA.

For Hitachi Ltd., Defendant: Eliot A. Adelson, LEAD ATTORNEY, Kirkland & Ellis LLP, San Francisco, CA; Adam C. Hemlock, Weil Gotshal and Manges LLP, New York, NY; Barack Shem Echols, PRO HAC VICE, Kirkland Ellis LLP, Chicago, IL; Christopher M. Curran, White & Case, Washington, DC; Douglas L Wald, Washington, DC; Ian T Simmons, O'Melveny & Myers LLP, Washington, DC; James Mutchnik, Kirkland & Ellis LLP, Chicago, IL; Jeffrey L. Kessler, Winston & Strawn LLP, New York, NY; John M. Taladay, Baker Botts L.L.P., Washington, DC; Jon Vensel Swenson, Baker Botts L.L.P., Palo Alto, CA; Katherine Hamilton Wheaton, PRO HAC VICE, Chicago, IL; Sharon D. Mayo, Arnold & Porter Kaye Scholer LLP, San Francisco, CA; Steven Alan Reiss, Weil, Gotshal & Mangesl LLP, New York, NY.

For Irico Display Devices Co., Ltd., Irico Group Corporation, Defendants: Erik T. Koons, LEAD ATTORNEY, Baker Botts LLP, Washington, DC; John M. Taladay, Baker Botts L.L.P., Washington, DC; Rishi Pankaj Satia, Baker Botts LLP, San Francisco, CA; Stuart Christopher Plunkett, Baker Botts L.L.P., San Francisco, CA.

Irico Group**[\*45]** Electronics Co., Ltd., Defendant, Pro se.

For Koninklijke Philips N.V., "KPNV", Defendant: Adam C. Hemlock, Weil Gotshal and Manges LLP, New York, NY; Christopher M. Curran, White & Case, Washington, DC; Douglas L Wald, Washington, DC; Jeffrey L. Kessler, Winston & Strawn LLP, New York, NY; John Clayton Everett, Jr., PRO HAC VICE, Morgan, Lewis & Bockius LLP, Washington, DC; John M. Taladay, Baker Botts L.L.P., Washington, DC; Jon Vensel Swenson, Baker Botts L.L.P., Palo Alto, CA; Richard P. Sobiecki, Tiffany Belle Gelott, PRO HAC VICE, Joseph A. Ostoyich, Erik T. Koons, Baker Botts LLP, Washington, DC; Kent Michael Roger, Michelle Park Chiu, Morgan Lewis & Bockius LLP, San Francisco, CA; Michael W. Scarborough, Sheppard Mullin Richter & Hampton LLP, San Francisco, CA; Scott A. Stempel, PRO HAC VICE, Morgan, Lewis Bockius LLP, Washington, DC; Sharon D. Mayo, Arnold & Porter Kaye Scholer LLP, San Francisco, CA; Steven Alan Reiss, Weil, Gotshal & Mangesl LLP, New York, NY; Stuart Christopher Plunkett, Baker Botts L.L.P., San Francisco, CA; Van H. Beckwith, PRO HAC VICE, Baker Botts L.L.P., Dallas, TX.

For LG Electronics USA, Inc., Defendant: Douglas L Wald, LEAD ATTORNEY, Washington, DC;**[\*46]** Miriam Kim, LEAD ATTORNEY, Munger, Tolles & Olson, San Francisco, CA; William David Temko, LEAD ATTORNEY, Gregory J. Weingart, Xiaochin Claire Yan, Bethany Woodard Kristovich, Munger, Tolles & Olson LLP, Los Angeles, CA; Adam C. Hemlock, Weil Gotshal and Manges LLP, New York, NY; Cathleen Hamel Hartge, Hojoon Hwang, Jerome Cary Roth, Laura K Lin, Munger, Tolles and Olson LLP, San Francisco, CA; Esteban Martin Estrada, Jonathan Ellis Altman, Munger Tolles and Olson, Los Angeles, CA; Ian T Simmons, O'Melveny & Myers LLP, Washington, DC; Jeffrey L. Kessler, Winston & Strawn LLP, New York, NY; Kim YoungSang, ARNOLD & PORTER LLP; Sharon D. Mayo, Arnold & Porter Kaye Scholer LLP, San Francisco, CA; YongSang Kim.

For MT Picture Display Co., LTD, Defendant: Adam C. Hemlock, David L. Yohai, LEAD ATTORNEYS, Steven Alan Reiss, Weil Gotshal and Manges LLP, New York, NY; A. Paul Victor, Eva W. Cole, Jeffrey L. Kessler, Jennifer Stewart, Molly Donovan, Winston and Strawn LLP, New York, NY; Aldo A. Badini, Winston & Strawn LLP, Menlo Park, CA; Amy Lee Stewart, PRO HAC VICE, Rose Law Firm, Little Rock, AR; Bambo Obaro, Weil, Gotshal and Manges, Redwood Shores, CA; Christopher M. Curran, White & Case,**[\*47]** Washington, DC; Douglas L Wald, Washington, DC; James F. Lerner, Martin C. Geagan, Jr., Sofia Arguello, PRO HAC VICE, Winston and Strawn LLP, New York, NY; John Clayton Everett, Jr., Scott A. Stempel, PRO HAC VICE, Morgan, Lewis & Bockius LLP, Washington, DC; John M. Taladay, Baker Botts L.L.P., Washington, DC; John Selim Tschirgi, PRO HAC VICE, Winston and Strawn LLP, NYC, NY; Jon Vensel Swenson, Baker Botts L.L.P., Palo Alto, CA; Kent Michael Roger, Michelle Park Chiu, Morgan Lewis & Bockius LLP, San Francisco, CA; Kevin B. Goldstein, Winston & Strawn LLP, Chicago, IL; Lara Elvidge Veblen, PRO HAC VICE, Weil, Gotshal and Manges LLP, New York, NY; Michael W. Scarborough, Sheppard Mullin Richter & Hampton LLP, San Francisco, CA; Molly M Donovan, Dewey & LeBoeuf LLP; Sharon D. Mayo, Arnold & Porter Kaye Scholer LLP, San Francisco, CA.

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For Panasonic Corporation of North America, Defendant: David L. Yohai, LEAD ATTORNEY, Weil, Gotshal, & Manges, LLP, New York, NY; Eva W. Cole, LEAD ATTORNEY, PRO HAC VICE, A. Paul Victor, Aldo A. Badini, Jeffrey L. Kessler, Winston & Strawn LLP, New York, NY; Amy Lee Stewart, James F. Lerner, PRO HAC VICE, Rose Law Firm, Litigation, Little Rock, AR; Andrew R. Tillman, Paine Tarwater**[\*49]** Bickers & Tillman, Knoxville, TN; Bambo Obaro, Weil, Gotshal and Manges, Redwood Shores, CA; Christopher M. Curran, Christopher M. Curran, White & Case, Washington, DC; David E. Yolkut, PRO HAC VICE, Weil, Gotshal and Manges LLP, New York, NY; Douglas L Wald, Washington, DC; Jennifer Stewart, Winston and Strawn LLP, New York, NY; John Clayton Everett, Jr., PRO HAC VICE, Morgan, Lewis & Bockius LLP, Washington, DC; John M. Taladay, Baker Botts L.L.P., Washington, DC; John Selim Tschirgi, PRO HAC VICE, Winston and Strawn LLP, NYC, NY; Jon Vensel Swenson, Baker Botts L.L.P., Palo Alto, CA; Kajetan Rozga, PRO HAC VICE, New York, NY; Kent Michael Roger, Morgan Lewis & Bockius LLP, San Francisco, CA; Kevin B. Goldstein, Winston & Strawn LLP, Chicago, IL; Lara Elvidge Veblen, PRO HAC VICE, Weil, Gotshal and Manges LLP, New York, NY.

For Philips Electronics Industries (Taiwan), Ltd., Defendant: Jon Vensel Swenson, Baker Botts L.L.P., Palo Alto, CA.

For Philips Electronics North America, Defendant: Jon Vensel Swenson, Baker Botts L.L.P., Palo Alto, CA; John M. Taladay, Baker Botts L.L.P., Washington, DC; Erik T. Koons, LEAD ATTORNEY, Baker Botts LLP, Washington, DC.

For Samsung Electronics Co.,**[\*50]** Ltd, Defendant: Ian T Simmons, O'Melveny & Myers LLP, Washington, DC; Kent Michael Roger, Morgan Lewis & Bockius LLP, San Francisco, CA.

For Samtel Color, Ltd., Defendant: William Diaz, McDermott Will & Emery LLP, Irvine, CA.

For Toshiba America Consumer Products, Inc., Defendant: Kent Michael Roger, Morgan Lewis & Bockius LLP, San Francisco, CA; Samuel J. Sharp, PRO HAC VICE, Washington, DC; William H. Bave, III, New York, NY.

For Mitsubishi Electric Corporation, Defendant: Brent Caslin, LEAD ATTORNEY, Jenner & Block LLP, Los Angeles, CA, Terrence Joseph Truax, LEAD ATTORNEY, Jenner & Block LLC, Chicago, IL; Adam C. Hemlock, Weil Gotshal and Manges LLP, New York, NY; Charles B. Sklarsky, PRO HAC VICE, Jenner and Block, LLP, Chicago, IL; Gabriel A. Fuentes, Jenner & Block, LLP, Chicago, IL; Harold A. Barza, Quinn Emanuel Urquhart & Sullivan, LLP, Los Angeles, CA; Jory M Hoffman, PRO HAC VICE, Jenney & Block LLP, Chicago, IL; Kevin Yoshiwo Teruya, Quinn Emanuel Urquhart and Sullivan LLP, Los Angeles, CA; Michael T. Brody, Jenner & Block LLP, Chicago, IL; Ryan Seth Goldstein, Quinn Emanuel Urquhart & Sullivan LLP, Tokyo, Japan; Shaun M. Van Horn, Jenner And Block LLP, Chicago, IL, United**[\*51]** Sta.

For Thomson Consumer Electronics, Inc., also known as Technicolor USA, Inc., Defendant: Calvin Lee Litsey, LEAD ATTORNEY, PRO HAC VICE, Faegre Baker Daniels LLP, East Palo Alto, CA; Adam C. Hemlock, Weil Gotshal and Manges LLP, New York, NY; Anna Marie Konradi, PRO HAC VICE, Kathy L. Osborn, PRO HAC VICE, Faegre Baker Daniels LLP, Indianapolis, IN; Emily E. Chow, PRO HAC VICE, Faegre Baker Daniels LLP, Minneapolis, MN; Jeffrey Scott Roberts, PRO HAC VICE, Faegre Baker Daniels, Denver, CO; Ryan M Hurley, Indianapolis, IN.

For Thomson S.A., also known as Technicolor SA, Defendant: Calvin Lee Litsey, LEAD ATTORNEY, Calvin L. Litsey, PRO HAC VICE, Faegre Baker Daniels LLP, East Palo Alto, CA; Adam C. Hemlock, Weil Gotshal and Manges LLP, New York, NY; Anna Marie Konradi, PRO HAC VICE, Kathy L. Osborn, PRO HAC VICE, Faegre Baker Daniels LLP, Indianapolis, IN; Emily E. Chow, PRO HAC VICE, Faegre Baker Daniels LLP, Minneapolis, MN; Jason de Bretteville, LEAD ATTORNEY, Stradling Yocca Carlson & Rauth, Newport Beach, CA; Jeffrey Scott Roberts, PRO HAC VICE, Faegre Baker Daniels, Denver, CO; Ryan M Hurley. Indianapolis, IN.

Meridian Solar & Display Co., Ltd., Defendant, Pro se.

For Koninklijke**[\*52]** Philips Electronics N.V., Defendant: Erik T. Koons, LEAD ATTORNEY, Baker Botts LLP, Washington, DC; Jon Vensel Swenson, Baker Botts L.L.P., Palo Alto, CA; Adam C. Hemlock, Weil Gotshal and Manges LLP, New York, NY; Jeffrey L. Kessler, Winston &Strawn LLP, New York, NY.

For Mitsubishi Electric Visual Solutions America, Inc, Defendant: Terrence Joseph Truax, LEAD ATTORNEY, Charles B. Sklarsky, Jory M Hoffman, PRO HAC VICE, Gabriel A. Fuentes, Michael T. Brody, Shaun M. Van Horn, Jenner &Block LLC, Chicago, IL; Adam C. Hemlock, Weil Gotshal and Manges LLP, New York, NY; Harold A. Barza, Kevin Yoshiwo Teruya, Quinn Emanuel Urquhart &Sullivan, LLP, Los Angeles, CA; Jory M Hoffman, Chicago, IL; Ryan Seth Goldstein, Quinn Emanuel Urquhart &Sullivan LLP, Tokyo Japan.

For Philips Taiwan Limited, Philips do Brasil Ltda., Defendants: Erik T. Koons, LEAD ATTORNEY, John M. Taladay, Joseph A. Ostoyich, Tiffany Belle Gelott, PRO HAC VICE, Tiffany Belle Gelott, Baker Botts LLP, Washington, DC; Adam C. Hemlock, Weil Gotshal and Manges LLP, New York, NY; Jon Vensel Swenson, Baker Botts L.L.P., Palo Alto, CA; Stuart Christopher Plunkett, Baker Botts L.L.P., San Francisco, CA.

For Mitsubishi Electric US,**[\*53]** Inc., Defendant: Terrence Joseph Truax, LEAD ATTORNEY, Michael T. Brody, Charles B. Sklarsky, Gabriel A. Fuentes, Jory M Hoffman, Jenner & Block LLC, Chicago, IL; Adam C. Hemlock, Weil Gotshal and Manges LLP, New York, NY; Harold A. Barza, Kevin Yoshiwo Teruya, Quinn Emanuel Urquhart & Sullivan, LLP, Los Angeles, CA.

Alan Frankel, Respondent, Pro se.

Christopher Wirth, Movant, Pro se, Bellefonte, PA.

For Mitsubishi Digital Electronics Americas, Inc., Interested Party: Brent Caslin, LEAD ATTORNEY, Jenner & Block LLP, Los Angeles, CA; Michael T. Brody, PRO HAC VICE, Jenner & Block LLP, Chicago, IL; Terrence Joseph Truax, Jenner & Block LLC, Chicago, IL.

For Mitsubishi Electric & Electronics USA, Inc., Interested Party: Brent Caslin, LEAD ATTORNEY, Jenner & Block LLP, Los Angeles, CA; Gabriel A. Fuentes, Terrence Joseph Truax, Jenner & Block, LLP, Chicago, IL; Michael T. Brody, PRO HAC VICE, Jenner & Block LLP, Chicago, IL; Ryan Seth Goldstein, Quinn Emanuel Urquhart & Sullivan LLP, Tokyo Japan; Shaun M. Van Horn, Jenner And Block LLP, Chicago, IL.

For The State of California, Interested Party: Emilio Eugene Varanini, IV, LEAD ATTORNEY, State Attorney General's Office, San Francisco, CA; Paul**[\*54]** Andrew Moore, Attorney at Law, San Francisco, CA.

For Newegg Inc., Interested Party: Gordon M. Fauth, Jr., Litigation Law Group, Alameda, CA.

For Atty for Non-Party Pillsbury Winthrop Shaw Pittman LLP, Interested Party: Dianne L. Sweeney, Pillsbury Winthrop Shaw Pittman LLP, Palo Alto, CA.

For Sean Hull, Individual, Objector: Joseph Darrell Palmer, LEAD ATTORNEY, Carlsbad, CA; Timothy Ricardo Hanigan, LEAD ATTORNEY, Lang Hanigan & Carvalho, LLP, Woodland Hills, CA.

For Sean Hull, Gordon Morgan, Objectors: Timothy Ricardo Hanigan, LEAD ATTORNEY, Lang Hanigan & Carvalho, LLP, Woodland Hills, CA.

For Douglas W. St. John, Objector: Andrea Marie Valdez, Andrea Valdez, Esq., Pasadena, CA; Joseph Scott St. John, Long Beach, MS.

For Dan L. Williams & Co., Objector: Paul Brian Justi, Law Offices of Paul B. Justi, Walnut Creek, CA.

For John Finn, Laura Fortman, Objectors: Steve A Miller, LEAD ATTORNEY, Steve A. Miller, P.C., Denver, CO.

For Rockhurst University, Gary Talewsky, Harry Garavanian, Objectors: Jill Tan Lin, Attorney at Law, San Francisco, CA; Theresa Driscoll Moore, Alioto Law Firm, San Francisco, CA.

For Paul Palmer, Individual, Objector: Joseph Darrell Palmer, LEAD ATTORNEY, Carlsbad, CA.**[\*55]**

For Donnie Clifton, Objector: Jan Leigh Westfall, LEAD ATTORNEY, Law Offices of Jan Westfall, Menifee, CA.

For Josie Saik, Objector: George Cochran, LEAD ATTORNEY, louisville, ky.

Brian Barry, Objector, Pro se, Los Angeles, CA.

For Brian Barry, Objector: Brian Joseph Barry, Law Offices of Brian Barry, Los Angeles, CA.

For Douglas A. Kelley, as Chapter 11 Trustee for Petters Company, Inc. and related entities, and as Receiver for Petters Company, LLC and related entities, John R. Stoebner, as Chatper 7 Trustee for PBE Consumer Electronics, LLC and related entities, Miscellaneous: Philip J Iovieno, Boies, Schiller & Flexner LLP, Albany, NY; William A. Isaacson, Boies Schiller & Flexner, Washington, DC.

For State of Connecticut, George Jepsen, Connecticut Attorney General, Miscellaneous: Gary Becker, LEAD ATTORNEY, Attorney General of Connecticut, Hartford, CT.

For Commonwealth of Massachusetts, Maura Healey, Attorney General of Massachusetts, Miscellaneous: Matthew Mark Lyons, Office of the Attorney General of Massachusetts, Boston, MA.

For McCallum, Methvin & Terrell, P.C., Miscellaneous: James Michael Terrell, LEAD ATTORNEY, McCallum, Methvin & Terrell, P.C., Birmingham, AL.

For State of Illinois,**[\*56]** Intervenor: Blake Lee Harrop, LEAD ATTORNEY, Office of the Attorney General, Chicago, IL.

For State of Oregon, Intervenor: Tim David Nord, Oregon Department of Justice, Salem, OR.

**Judges:** JON S. TIGAR, United States District Judge.

**Opinion by:** JON S. TIGAR

**Opinion**

**ORDER SETTING ASIDE DEFAULT**

ECF Nos. 5183, 5215

Before the Court is the Direct Purchaser Plaintiffs' ("DPPs")'s motion for entry of default judgment, ECF No. 5183, and Defendants Irico Group Corporation ("Irico Group") and Irico Display Devices Co., Ltd. ("Irico Display") (collectively "the Irico Defendants")'s motion to set aside default, ECF No. 5215. The Court grants the motion to set aside default and denies the motion for entry of default judgment as moot.

**I. INTRODUCTION**

The facts regarding the conspiracy in this multidistrict litigation case ("MDL") are well known to the parties, see, e.g., ECF No. 4260, and the Court will summarize them only briefly here. The case arises from an alleged conspiracy to fix prices of cathode ray tubes ("CRTs"), a now-obsolete technology used in the manufacture of televisions and computer monitors. The alleged conspiracy ran from March 1, 1995 through November 25, 2007.

The DPPs filed a class action complaint on behalf of**[\*57]** themselves and all others similarly situated in November 2007, alleging a violation of *Section 1 of the Sherman Act*, *15 U.S.C. § 1*, and [*Section 4 of the Clayton Act*](https://advance.lexis.com/api/document?collection=statutes-legislation&id=urn:contentItem:4YF7-GTP1-NRF4-44B7-00000-00&context=), [*15 U.S.C. § 15*](https://advance.lexis.com/api/document?collection=statutes-legislation&id=urn:contentItem:4YF7-GTP1-NRF4-44B7-00000-00&context=). Numerous additional actions followed. The Judicial Panel on Multidistrict Litigation ("JPML") transferred all related actions to this Court on February 15, 2008.

The DPPs served the complaint and summons on the Irico Defendants on June 3, 2008. ECF No. 336. Several weeks later, attorneys from Pillsbury Winthrop Shaw Pittman, LLP ("Pillsbury") entered appearances on behalf of the Irico Defendants. ECF No. 308. On May 18, 2009, the Irico Defendants joined a number of other Defendants in filing a motion to dismiss the then operative Consolidated Amended Complaint. ECF No. 479. The Court denied the motion on March 30, 2010. ECF No. 665. Although the order denying the motion to dismiss set a deadline to answer of April 29, 2010, the Irico Defendants failed to file an answer or any other motion. Id.

At the time the DPPs filed their original complaint in 2007, ECF No. 1, Irico Group was a State-Owned Enterprise of the State Council of the People's Republic of China. ECF No. 5214 at 7. According to a declaration by Wenkai Zhang, the legal counsel at Irico Group,**[\*58]** Irico decided not to answer the complaint "because it believed that Irico Group and Irico Display were immune from suit in the United States." ECF No. 5215-1 ¶ 5. "[T]he Irico entities . . . believed they were immune from DPP's suit under notion of foreign sovereign immunity and accordingly did not participate in this action beyond joining a motion to dismiss." ECF No. 5214 at 8.

On June 23, 2010, Pillsbury notified the Court that it had ceased its representation of the Irico Defendants, at their request, in May 2009. ECF Nos. 729, 730. The next day, the Court granted Pillsbury's motion to withdraw as counsel for the Irico Defendants but required it to "continue to accept service of papers for the Irico Entities for forwarding purposes until substitute counsel appears on behalf of the Irico Entities." ECF No. 732.

On June 23, 2016, the Pillsbury firm filed an administrative motion asking that it "no longer be required to forward pleadings in this case" to the Irico Defendants. ECF No. 4681. The DPPs and Indirect Purchaser Plaintiffs ("IPPs") filed a response that proposed Pillsbury "only be required to accept service of default papers for Irico." ECF No. 4690. The Court then filed an**[\*59]** order regarding the Irico entities which instructed "any plaintiff with pending affirmative claims against the Irico Entities to advise the Court in writing by July 5, 2016 of the following: (1) the date on which it filed its operative claims against the Irico Entities; (2) whether the Irico Entities have been served with those claims; and (3) whether the Irico Entities have answered those claims . . . . If the answer to question three is negative, the filing party should show good cause why it has not previously requested entry of default as to the Irico Entities." ECF No. 4694 at 2. The DPPs filed a response explaining that they intended to move for default judgment but that it was premature to do so as litigation was ongoing against the other defendants (all defendants were jointly and severally liable) and the DPPs' damages study was not yet complete. ECF No. 4705 at 2-3. The IPPs explained that good cause existed for the lack of entry of default because there is no deadline to do so, among other reasons. ECF No. 4706. On July 6, 2016, the Court ordered the DPPs to apply for entry of default against the Irico Defendants within ten days, reasoning that in their effort to show good**[\*60]** cause, the DPPs conflated entry of default with entry of default judgment. ECF No. 4709. On July 18, 2016, the Court ordered the IPPs to file entry of default against the Irico Defendants within ten days under similar reasoning. On July 18, 2016, the DPPs filed for entry of default. ECF No. 4724. On July 20, 2016, the IPPs filed for entry of default. ECF No. 4725. The clerk entered default against both. ECF Nos. 4727, 4729. A month later, the IPPs filed a letter of non-opposition to Pillsbury's motion, stating they no longer planned to seek default judgment against the Irico Defendants. ECF No. 4734. On November 11, 2016, the Court granted the motion as to the IPPs, but not the DPPs. ECF No. 5003 (see case caption).

The DPPs moved for default judgment against the Irico Defendants on August 3, 2017. ECF No. 5183. After some disputed matters regarding forwarding service, Davis Wright Tremaine, LLP appeared in this action on behalf of the Irico Defendants on September 8, 2017. ECF No. 5200. On October 2, 2017, Davis Wright Tremaine withdrew as counsel and Baker Botts, LLP was substituted as counsel for the Irico Defendants. ECF No. 5211. On October 25, 2017, the Irico Defendants filed**[\*61]** an opposition to the motion for default judgment, ECF No. 5214, and filed a motion to set aside the default, ECF No. 5215. On December 7, 2017, the DPPs filed an opposition to the motion to set aside the default, ECF No. 5228, and a reply regarding the motion for default judgment, ECF No. 5222. On December 21, 2017, the Irico Defendants filed a reply regarding the motion to set aside the default.

**II. JURISDICTION**

Before the Court can proceed to decide the motions, it must determine whether it has jurisdiction over the Irico Defendants. Because the question of personal jurisdiction is hotly disputed, the Court considers that question at the outset. [*Peterson v. Islamic Republic of Iran, 627 F.3d 1117, 1125 (9th Cir. 2010)*](https://advance.lexis.com/api/document?collection=cases&id=urn:contentItem:51M6-PXN1-652R-8001-00000-00&context=) ("A court has a duty to assure itself of its own jurisdiction.").

The Irico Defendants argue that the Court lacks subject matter jurisdiction over them under the [*Foreign Sovereign Immunities Act ("FSIA"), 28 U.S.C. §§ 1602 et seq.*](https://advance.lexis.com/api/document?collection=statutes-legislation&id=urn:contentItem:4YF7-GHM1-NRF4-42SW-00000-00&context=) ("FSIA"). ECF No. 5214 at 6. The FSIA is the exclusive source of subject matter jurisdiction in actions involving a foreign state. [*Argentine Republic v. Amerada Hess Shipping Corp., 488 U.S. 428, 428-29, 109 S. Ct. 683, 102 L. Ed. 2d 818 (1989)*](https://advance.lexis.com/api/document?collection=cases&id=urn:contentItem:3S4X-CK30-003B-44HV-00000-00&context=); [*Siderman de Blake v. Republic of Argentina, 965 F.2d 699, 706 (9th Cir. 1992)*](https://advance.lexis.com/api/document?collection=cases&id=urn:contentItem:3S4X-3N00-008H-V0GN-00000-00&context=); [*MOL, Inc. v. Peoples Republic of Bangladesh, 736 F.2d 1326, 1328 (9th Cir. 1984)*](https://advance.lexis.com/api/document?collection=cases&id=urn:contentItem:3S4W-WMS0-003B-G2K0-00000-00&context=). An entity's status under the FSIA is determined as of the time the complaint was filed. [*Dole Food Co. v. Patrickson, 538 U.S. 468, 478, 123 S. Ct. 1655, 155 L. Ed. 2d 643 (2003)*](https://advance.lexis.com/api/document?collection=cases&id=urn:contentItem:48DX-PMD0-004C-100J-00000-00&context=).

To determine whether a court had jurisdiction over a defendant under the FSIA, the Ninth Circuit applies the following**[\*62]** burden shifting framework:

[T]he defendant must establish a prima facie case that it is a sovereign state and that the plaintiff's claim arises out of a public act. A presumption then arises that the foreign state is protected by immunity. Once the plaintiff has met the threshold of alleging that the defendant was not entitled to immunity due to one of the FSIA exceptions, the defendant may make either a facial or factual challenge to the district court's subject matter jurisdiction.

*Terenkian v. Republic of Iraq, 694 F.3d 1122, 1131 (9th Cir. 2012)* (citations and quotations omitted).

The Irico Defendants argue "[s]hould DPP's challenge the applicability of the FSIA in this case, they bear the burden of demonstrating that the Court may properly invoke its subject matter jurisdiction." ECF No. 5215 at 14. As a general matter, a plaintiff has the burden of establishing that the court has personal jurisdiction over the defendant. [*Data Disc, Inc. v. Sys. Tech. Assocs., Inc., 557 F.2d 1280, 1285 (9th Cir. 1977)*](https://advance.lexis.com/api/document?collection=cases&id=urn:contentItem:3S4X-0HR0-0039-M1VX-00000-00&context=) ("It is clear that the party seeking to invoke the jurisdiction of the federal court has the burden of establishing that jurisdiction exists."). Jurisdictional analysis under the FSIA is consistent with this framework. The Ninth Circuit explains that "the structure of the FSIA—which codifies the background rule that foreign states**[\*63]** are immune from suit and execution, and then creates narrow exceptions—suggest [sic] that courts must begin with the presumption that a foreign state is immune and then the plaintiff must prove that an exception to immunity applies." [*Peterson, 627 F.3d at 1125*](https://advance.lexis.com/api/document?collection=cases&id=urn:contentItem:51M6-PXN1-652R-8001-00000-00&context=).

The Court now applies the burden-shifting framework outlined in Terenkian.

**A. Sufficiency of the Zhang Declaration**

Before applying the appropriate tests to determine whether the Court has jurisdiction, the Court must address the evidence submitted by the Irico Defendants to support their motion: a two page declaration by Wenkai Zhang, who has served as legal counsel at Irico Group from January 2, 2017 through the present. ECF No. 5215-1 ¶ 2. The DPPs ask the Court to disregard this evidence.

Specifically, the DPPs argue that the Zhang Declaration lacks foundation, because it states only that Zhang served as legal counsel since 2017, which provides him "no basis to testify about Group's and Display's corporate ownership and activities as of 2007." ECF No. 5228 at 14. Accordingly, the DDPs ask the Court to "disregard the Zhang Declaration and reject Irico's FSIA defense as unsupported by competent evidence." Id. The Irico Defendants respond that a witness**[\*64]** need not be physically present during an event to offer a declaration on personal knowledge, and that personal knowledge can be inferred from an affiant's position. ECF No. 5229 at 9. They suggest that Zhang's role as counsel is a sufficient basis from which to assume that he would know the Irico Defendants' legal status.

A party must support its jurisdictional allegations with evidence evaluated "under the same evidentiary standard that governs in the summary judgment context." [*Thrash v. Cirrus Enterprises, LLC, No. 17-CV-01501-JST, 2017 U.S. Dist. LEXIS 95089, 2017 WL 2645499, at \*2 (N.D. Cal. June 20, 2017)*](https://advance.lexis.com/api/document?collection=cases&id=urn:contentItem:5NV6-JY91-F04C-T0SX-00000-00&context=) (citing [*Leite v. Crane Co., 749 F.3d 1117, 1121 (9th Cir. 2014))*](https://advance.lexis.com/api/document?collection=cases&id=urn:contentItem:5C2D-DYT1-F04K-V0DX-00000-00&context=). Under [*Rule 56(c)(4) of the Federal Rules of Civil Procedure*](https://advance.lexis.com/api/document?collection=statutes-legislation&id=urn:contentItem:5GYC-2421-6N19-F165-00000-00&context=), the rule which governs summary judgment evidence, "[a]n affidavit or declaration used to support or oppose a motion must be made on personal knowledge, set out facts that would be admissible in evidence, and show that the affiant or declarant is competent to testify on the matters stated." See also [*Fed. R. Evid. 701(a)*](https://advance.lexis.com/api/document?collection=statutes-legislation&id=urn:contentItem:5GYC-2991-FG36-120P-00000-00&context=) (requiring that a lay opinion be "rationally based on the witness's perception"); [*Fed. R. Evid. 702(b)*](https://advance.lexis.com/api/document?collection=statutes-legislation&id=urn:contentItem:5GYC-2991-FG36-120S-00000-00&context=) (requiring than an expert opinion be based on sufficient facts or data"); [*In re Holocaust Victim Assets Litig., 270 F. Supp. 2d 313, 316 (E.D.N.Y. 2002)*](https://advance.lexis.com/api/document?collection=cases&id=urn:contentItem:472R-J420-0038-Y1D0-00000-00&context=) (collecting cases to conclude that attorney affidavits may be lay person or expert).

While the Zhang declaration purports to be made on "personal knowledge," it explains only that Zhang has**[\*65]** served as legal counsel for Irico Group since January 2017. The Irico Defendants cite cases holding that "[p]ersonal knowledge can be inferred from an affiant's position." [*Self-Realization Fellowship Church v. Ananda Church of Self-Realization, 206 F.3d 1322, 1330 (9th Cir. 2000)*](https://advance.lexis.com/api/document?collection=cases&id=urn:contentItem:3YW2-GCY0-0038-X17B-00000-00&context=) (explaining, absent a large time gap, that a corporate officer was expected to know the identity of her employees and their tasks); see also [*Barthelemy v. Air Lines Pilots Ass'n, 897 F.2d 999, 1018 (9th Cir. 1990)*](https://advance.lexis.com/api/document?collection=cases&id=urn:contentItem:3S4X-6KD0-003B-5083-00000-00&context=) (providing that two witnesses who were corporate officers involved in activities at issue in the case had personal knowledge). At best, these cases support the notion that Zhang knows what the Irico Defendants' *current* legal status is. Neither those cases, nor anything in Zhang's declaration, explain how Zhang is able to know what those entities' status was *in 2007*. Because the affidavit does not describe how Zhang has personal knowledge of the Irico Defendants' status ten years before he served as legal counsel for Irico Group, the Court concludes that the evidence is not sufficient to support a finding under the FSIA.

**B. Prima facie showing of sovereign entity status**

The Court now turns to the question of whether the Irico Entities are immune from suit under the FSIA.

The FSIA provides immunity only for "foreign states." [*28 U.S.C. § 1604*](https://advance.lexis.com/api/document?collection=statutes-legislation&id=urn:contentItem:4YF7-GR31-NRF4-4508-00000-00&context=). The Act defines a foreign state to include any "agency**[\*66]** or instrumentality of a foreign state." [*28 U.S.C. § 1603(a)*](https://advance.lexis.com/api/document?collection=statutes-legislation&id=urn:contentItem:4YF7-GWM1-NRF4-42G6-00000-00&context=). There are two ways a defendant can establish a prima facie case that it was an "agency or instrumentality" as of the time the complaint was filed. First, it can show that a majority of its shares were owned by the foreign state or political subdivision thereof. [*28 U.S.C. § 1603(b)*](https://advance.lexis.com/api/document?collection=statutes-legislation&id=urn:contentItem:4YF7-GWM1-NRF4-42G6-00000-00&context=). "[O]nly direct ownership of a majority of shares by the foreign state satisfies the statutory requirement." [*Dole Food Co. v. Patrickson, 538 U.S. 468, 473-74, 123 S. Ct. 1655, 155 L. Ed. 2d 643 (2003)*](https://advance.lexis.com/api/document?collection=cases&id=urn:contentItem:48DX-PMD0-004C-100J-00000-00&context=); see also [*Gates v. Victor Fine Foods, 54 F.3d 1457, 1462 (9th Cir. 1995)*](https://advance.lexis.com/api/document?collection=cases&id=urn:contentItem:3S4X-F8G0-001T-D437-00000-00&context=) (explaining that entities owned by an instrumentality of the state, rather than the state itself are not sovereign immune). A publicly available 2007 annual report from Irico Display shows that the State Council of China owned 100% of Irico Group, which owned 75% of Irico Electronics, which in turn owned 41.36% of Irico Display. ECF Nos. 5228-1 at 189, 5228-5 at 8. The certificate of interested entities likewise establishes that Irico Group is owned by China, and that Irico Electronics is the parent company of Irico Display. ECF No. 310 at 1-2. This evidence establishes that the Irico Group was an instrumentality of China in 2007 because it was fully owned by the State Council. The same evidence shows, however, that Irico Display was not an instrumentality because**[\*67]** it was indirectly owned though several layers. [*Gates, 54 F.3d at 1462*](https://advance.lexis.com/api/document?collection=cases&id=urn:contentItem:3S4X-F8G0-001T-D437-00000-00&context=) (holding that indirect state ownership will not suffice).

The second way a defendant can establish that it was an "agency or instrumentality" is to show that it was an "organ" of the state. [*28 U.S.C. § 1603(b)*](https://advance.lexis.com/api/document?collection=statutes-legislation&id=urn:contentItem:4YF7-GWM1-NRF4-42G6-00000-00&context=). The Ninth Circuit has made clear that the term "organ" should be read broadly. [*EIE Guam Corp. v. Long Term Credit Bank of Japan, Ltd., 322 F.3d 635, 640 (9th Cir. 2003)*](https://advance.lexis.com/api/document?collection=cases&id=urn:contentItem:481F-7B60-0038-X3MS-00000-00&context=). To determine whether an entity was an organ, the court considers "whether the entity engages in a public activity on behalf of the foreign government." Id. "In making this determination, courts examine the circumstances surrounding the entity's creation, the purpose of its activities, its independence from the government, the level of government financial support, its employment policies, and its obligations and privileges under state law." Id. "[A]n entity's involvement in commercial affairs does not automatically render the entity non-governmental." [*Id. at 641*](https://advance.lexis.com/api/document?collection=cases&id=urn:contentItem:481F-7B60-0038-X3MS-00000-00&context=) (citation omitted).

In Gates v. Victor Fine Foods, the Ninth Circuit concluded that an entity was an organ of the state because although the government did not exercise day-to-day management over the entity, the government played an active supervisory role such that the entity could only act on matters the government authorized,**[\*68]** the government could order it to change its ***regulations***, private actors could appeal to an appellate body appointed by the government, and employees were given immunity from liability similar to governmental immunity. [*54 F.3d at 1461-63*](https://advance.lexis.com/api/document?collection=cases&id=urn:contentItem:3S4X-F8G0-001T-D437-00000-00&context=). Likewise, the Ninth Circuit found an even stronger case for an entity being an organ where it "was created by the Mexican Constitution, Federal Organic Law, and Presidential Proclamation; it is entirely owned by the Mexican Government; is controlled entirely by government appointees; employs only public servants; and is charged with the exclusive responsibility of refining and distributing Mexican government property." [*Corporacion Mexicana de Servicios Maritimos, S.A. de C.V. v. M/T Respect, 89 F.3d 650, 655 (9th Cir. 1996)*](https://advance.lexis.com/api/document?collection=cases&id=urn:contentItem:3S4X-1NB0-006F-M45P-00000-00&context=), as amended on denial of reh'g (Aug. 28, 1996).

The Irico Defendants do not present evidence sufficient to show that Irico Display is an organ of the state. According to the Zhang Declaration, "Irico Group was managed directly by the State Council-appointed management of Irico Group [who] directly appointed the management of Irico Display." ECF No. 5215-1 ¶ 10. "Any major business decisions or transactions entered into or contemplated by Irico Display required review and approval by Irico Group and/or the . . . State Council." Id. Some decisions, such**[\*69]** as material investments or mergers and acquisitions, were so major that the State Council, rather than Irico Group, approved them. Id. As stated above, however, the Zhang declaration is not sufficient evidence and the Court has not considered it.[[1]](#footnote-0)1 Accordingly, the Court concludes that the Irico Defendants have not made out a prima facie case that Irico Display was an organ of the state. Because the Irico Defendants have made out a prima facie case that Irico Group was an instrumentality of the state, however, the Court proceeds to the next step of the burden shifting analysis.

**C. Exceptions to immunity**

**1. Commercial activity exception**

The DPPs argue that the Irico Defendants' activity falls within the commercial activity exception to FSIA immunity. That exception applies when "(1) the action is based upon a commercial activity carried on in the United States by the foreign state; or (2) upon an act performed in the United States in connection with a commercial activity of the foreign state elsewhere; or (3) upon an act outside the territory of the United States in connection with a commercial activity of the foreign state elsewhere and that act causes a direct effect in the United States."**[\*70]** [*28 U.S.C. § 1605(a)(2)*](https://advance.lexis.com/api/document?collection=statutes-legislation&id=urn:contentItem:4YF7-GNJ1-NRF4-4522-00000-00&context=). The DPPs argue that the third prong — that a commercial activity outside of the United States had a direct effect inside the country — applies, depriving the Irico Defendants of FSIA immunity.

The Court must first determine whether the Irico Defendants' activities were commercial. The FSIA defines "commercial activity" as "either a regular course of commercial conduct or a particular commercial transaction or act. The commercial nature of an activity shall be determined by reference to the nature of the course of conduct, rather than by reference to its purpose." [*28 U.S.C. § 1603(d)*](https://advance.lexis.com/api/document?collection=statutes-legislation&id=urn:contentItem:4YF7-GWM1-NRF4-42G6-00000-00&context=). The alleged conspiratorial actions of setting prices and halting manufacturing were clearly "performed in connection with a commercial activity." [*28 U.S.C. § 1605(a)(2)*](https://advance.lexis.com/api/document?collection=statutes-legislation&id=urn:contentItem:4YF7-GNJ1-NRF4-4522-00000-00&context=), [*(d)*](https://advance.lexis.com/api/document?collection=statutes-legislation&id=urn:contentItem:4YF7-GNJ1-NRF4-4522-00000-00&context=). Where a sovereign entity takes on the role of a "a private player within the market" and engages in the sort of action that does not require "those powers peculiar to sovereigns," [*Embassy of the Arab Republic of Egypt v. Lasheen, 603 F.3d 1166, 1170 (9th Cir. 2010)*](https://advance.lexis.com/api/document?collection=cases&id=urn:contentItem:7YF3-H1H1-2RHT-0000-00000-00&context=), that entity is not immune, even if some public purpose underlay the commercial activity. Regardless of whether the actions were conspiratorial in nature, the Irico Defendants' activities in setting prices and manufacturing schedules for CRTs was clearly commercial in nature.

The closer question**[\*71]** is whether these activities caused a "direct effect" in the United States. An effect is "direct" if it follows as an immediate consequence of the defendant's activity. [*Republic of Argentina v. Weltover, Inc., 504 U.S. 607, 618, 112 S. Ct. 2160, 119 L. Ed. 2d 394 (1992)*](https://advance.lexis.com/api/document?collection=cases&id=urn:contentItem:3S4W-XF80-003B-R3RY-00000-00&context=). Settling on this definition, the Supreme Court "reject[ed] the suggestion that ['direct'] contains any unexpressed requirement of 'substantiality' or 'foreseeability.'" Id. To establish a direct effect, a plaintiff must show that "something legally significant actually happened in the United States." [*Gregorian v. Izvestia, 871 F.2d 1515, 1527 (9th Cir. 1989)*](https://advance.lexis.com/api/document?collection=cases&id=urn:contentItem:3S4X-CCX0-003B-5188-00000-00&context=) (quoting [*Zedan v. Kingdom of Saudi Arabia, 849 F.2d 1511, 1515, 270 U.S. App. D.C. 382 (D.C.Cir.1988))*](https://advance.lexis.com/api/document?collection=cases&id=urn:contentItem:3S4X-0FN0-001B-K1GP-00000-00&context=).

The parties have not pointed the Court to an ***antitrust*** case identifying a direct effect under the FSIA. Another district court in this circuit held that a price-fixing scheme and the granting of exclusive rights to a governmental entity satisfied the requirement for a direct effect in the United States because, given that the U.S. was the largest importer of salt, and the entity produced 17% of the world's salt, the conduct led to less variety, competition and higher prices in the U.S. [*Sea Breeze Salt, Inc. v. Mitsubishi Corp., No. CV162345DMGAGRX, 2016 U.S. Dist. LEXIS 139342, 2016 WL 8648638, at \*3 (C.D. Cal. Aug. 18, 2016)*](https://advance.lexis.com/api/document?collection=cases&id=urn:contentItem:5KWD-2PR1-F04C-T52B-00000-00&context=) (reasoning that "direct effect" was like proximate cause).

Case law from a different statutory scheme, the [*Foreign Trade* ***Antitrust*** *Improvements Act*](https://advance.lexis.com/api/document?collection=statutes-legislation&id=urn:contentItem:4YF7-GKH1-NRF4-40MY-00000-00&context=) ("FTAIA"), which**[\*72]** outlines when anticompetitive behavior abroad can be prosecuted in the United States, provides insight into what a direct effect is for the purposes of an ***antitrust*** case challenged under the FSIA. The Ninth Circuit held in an FTAIA case that its "efforts at understanding the meaning of 'direct' are aided by the Supreme Court's interpretation of a nearly identical term in the Foreign Sovereign Immunities Act." [*United States v. LSL Biotechnologies, 379 F.3d 672, 680-83 (9th Cir. 2004)*](https://advance.lexis.com/api/document?collection=cases&id=urn:contentItem:4D2P-PMM0-0038-X3C9-00000-00&context=).[[2]](#footnote-1)2 The Court therefore looks to FTAIA caselaw as a useful source in determining the meaning of direct effect in the FSIA, particularly in this ***antitrust*** context.

In the FTAIA context, "[c]onduct has a 'direct' effect for purposes of the domestic effects exception to the FTAIA 'if it follows as an immediate consequence of the defendant[s'] activity.'" *United States v. Hui Hsiung, 778 F.3d 738, 758 (9th Cir. 2015)* (quoting [*United States v. LSL Biotechnologies, 379 F.3d 672, 680-81 (9th Cir. 2004))*](https://advance.lexis.com/api/document?collection=cases&id=urn:contentItem:4D2P-PMM0-0038-X3C9-00000-00&context=). The conduct in question must give rise to the plaintiff's injury — in other words, the standard is one of proximate causation, and not a "but for" test. *Id. at 759*. Applying this definition, the Ninth Circuit concluded that a direct effect was shown when a foreign price-fixing conspiracy raised the worldwide price of LCDs, because the cost of LCDs was a substantial component of the final price**[\*73]** of the finished products that contained them — regardless of whether the LCDs were sold directly to customers in the United States. *Id. at 758-60*. "The direct connection was neither speculative nor insulated by multiple disconnected layers of transactions." *Id. at 759*. Similarly, another court in this district concluded that a focus on sales in the United States was too narrow in a price fixing scheme under the FTAIA because the anticompetitive behavior still had a significant consequence for United States customers in the form of increased prices. [*TFT-LCD (Flat Panel)* ***Antitrust*** *Litig., 822 F. Supp. 2d 953, 963-64 (N.D. Cal. 2011)*](https://advance.lexis.com/api/document?collection=cases&id=urn:contentItem:83BM-4YM1-652H-736R-00000-00&context=). In other words, that a defendant did not sell directly into the United States is not dispositive for the question of direct effect.

These cases suggest that a direct effect can be shown in an ***antitrust*** case when the alleged anti-competitive behavior is not too attenuated from the increased prices in the United States, for example, where the conspiratorial behavior raised the prices of a component which constituted a substantial portion of the final price in the United States. The Court concludes that the DPPs have sufficiently alleged facts showing that the anticompetitive behavior of the Irico Defendants, as part of the broader conspiracy, had a direct effect**[\*74]** on prices of CRTs in the United States.[[3]](#footnote-2)3 The DPPs point to evidence that Irico participated in a conspiracy, including an industry report and emails showing that it attended "over 70 conspiratorial meetings." ECF No. 5228 at 20. Moreover, the DPPs' expert report by economist Dr. Leizinger showed that the U.S. was the second largest market for CRTs at 18% of the market. ECF No. 5191-2 at 160-162. The report shows that the conspiracy resulted in higher prices, including in the United States, because the CRT accounted for up to 50 percent of the cost of manufacturing a television or computer monitor. Id. at 173-74. These facts support a finding that the Irico Defendant's commercial activities had a direct effect in the United States. See [*In re TFT-LCD (Flat Panel)* ***Antitrust*** *Litig., 822 F. Supp. 2d at 966*](https://advance.lexis.com/api/document?collection=cases&id=urn:contentItem:83BM-4YM1-652H-736R-00000-00&context=) (concluding that where defendants "colluded to increase the prices of LCD panels, a major component in electronic products that are important into the United States [such that] the increased price of the competent caused the prices of the finished products in the United States to increase" the effect was clearly direct under the FTAIA). Moreover, the Court earlier concluded that at least at the summary judgment stage, the Plaintiffs showed conduct which surpassed the FTAIA**[\*75]** directness standard. [*In re: Cathode Ray Tube (CRT)* ***Antitrust****, No. C-07-5944 JST, 2016 U.S. Dist. LEXIS 136420, 2016 WL 5725008, at \*4-5 (N.D. Cal. Sept. 30, 2016)*](https://advance.lexis.com/api/document?collection=cases&id=urn:contentItem:5KV4-F251-F04C-T3PW-00000-00&context=). The Court concludes that the DPPs have adequately shown, for purposes of determining jurisdiction, that the commercial activities exception applies to any FSIA immunity for the Irico Group because they have adequately alleged a direct effect.

**2. Waiver exception**

The DPPs also argue that the Irico Defendants waived foreign sovereign immunity when they failed to raise the defense in response to a stipulation regarding discovery of personal jurisdiction. ECF No. 5228 at 10-12. "The FSIA's waiver exception is narrowly construed . . . . With respect to implicit waivers, the courts have found such waivers in cases where a foreign state has agreed to arbitration in another country or where a foreign state has agreed that the law of a particular country should govern a contract. An implicit waiver would also include a situation where a foreign state has filed a responsive pleading in an action without raising the defense of sovereign immunity." [*Siderman de Blake, 965 F.2d at 720-21*](https://advance.lexis.com/api/document?collection=cases&id=urn:contentItem:3S4X-3N00-008H-V0GN-00000-00&context=) (citing H.R. Rep. No. 1487, 94th Cong., 2d Sess. 18 (1976), reprinted in 1976 U.S.C.C.A.N. 6604, 6617).

In September**[\*76]** 2008, the DPPs, IPPs, and certain Defendants entered a stipulation staying discovery, which required "any defendant" claiming protection from discovery because the Court lacks personal jurisdiction over that defendant to serve a statement explaining the basis for its position, so that discovery could proceed on jurisdiction alone. ECF No. 379 ¶ 4(g).[[4]](#footnote-3)4 The Irico Defendants did not join that stipulation, but the stipulation provided that Defendants could join later by notifying plaintiffs. Id. ¶ 16. While the Irico Defendants requested three extensions of the deadline to file a statement, they failed to file any statement. ECF No. 5224-4 at 4-9.

The Court concludes that the text and context of the stipulation do not support the DPPs' waiver argument. The stipulation provided that if any defendant intended to claim that *no* discovery should go forward against it because the Court lacked personal jurisdiction over that defendant, it should serve a short statement describing their defense so that discovery could go forward at least as to that defense. ECF No. 379 ¶ 4(g). First, this statement only pertains to a defense against discovery, and does not cover, by its terms, all jurisdictional**[\*77]** defenses. Moreover, the alleged wavier itself contains a waiver in the same paragraph: "Neither executing this Stipulation and Order nor complying with its terms, including, but not limited to, serving the short statement referenced herein shall constitute of waiver of an undersigned defendant's jurisdictional defense." Id. Finally, the Irico Defendants did not sign the stipulation and the stipulation provides that "defendants who have not signed this stipulation reserve all objections to any discovery. . . ." Id. The Court concludes that this stipulation does not constitute an implied waiver to FSIA immunity.

Defendants also argue that waiver should be implied because the Irico Defendants joined a joint motion to dismiss, which did not mention a sovereign immunity jurisdiction defense, ECF No. 485, and did not file a separate motion to dismiss raising an FSIA defense. Special Master Legge issued an order allowing for briefing by defendants raising additional issues not covered by the motion to dismiss. ECF No. 448 at 2. While the Irico Defendants' failure to raise its subject matter jurisdiction defense earlier is surprising, particularly given its many opportunities to do so, it does**[\*78]** not constitute a waiver. See [*Siderman de Blake, 965 F.2d at 720-21*](https://advance.lexis.com/api/document?collection=cases&id=urn:contentItem:3S4X-3N00-008H-V0GN-00000-00&context=) (providing that a waiver will be implied from a failure to raise the FSIA jurisdictional defense in a *responsive pleading*).

**D. Facial or factual challenge to jurisdiction**

Defendants mount a factual challenge to jurisdiction under the FSIA where they "introduce testimony, affidavits, or other evidence to dispute the truth of the allegations that by themselves would otherwise invoke federal jurisdiction." *Terenkian, 694 F.3d at 1131-32*. Where a plaintiff "offers evidence that an exception to immunity applies, the burden of persuasion reverts back to [the foreign entity] to prove by a preponderance of the evidence that the exception does not apply." [*A.R. Int'l Anti-Fraud Sys., Inc. v. Pretoria Nat. Cent. Bureau of Interpol, 634 F. Supp. 2d 1108, 1113 (E.D. Cal. 2009)*](https://advance.lexis.com/api/document?collection=cases&id=urn:contentItem:4WSP-R0W0-TXFP-C26S-00000-00&context=). Even where the material facts are disputed, the trial court may still evaluate the merits of the jurisdictional claims. *Terenkian, 694 F.3d at 1131*. The Court concludes that the Irico Defendants mounted a factual challenge because they submitted a declaration which attempted to establish their immunity under the FSIA. ECF No. 5215-1. This was the only factual evidence that the Irico Defendants put forward towards their FSIA defense, and is insufficient for the reasons already stated. ECF No. 5229 (introducing no new evidence to support their FSIA allegations in their**[\*79]** reply brief). Accordingly, Defendants' factual challenge to the DPPs' showing that Irico Display is not a foreign sovereign entity, and that the commercial activities exception applies to the Irico Group, fails. The Court concludes, at least at this stage in this proceeding, that the Irico Defendants have not shown immunity as to either the Irico Group or Irico Display.

**III. MOTION TO SET ASIDE DEFAULT**

Pursuant to [*Federal Rule of Civil Procedure 55(c)*](https://advance.lexis.com/api/document?collection=statutes-legislation&id=urn:contentItem:8JDD-2XH2-8T6X-72R7-00000-00&context=), "[t]he court may set aside an entry of default for good cause." In assessing whether to set aside a default for good cause, a court looks to whether "(1) the plaintiff would be prejudiced if the judgment is set aside, (2) [the] defendant has no meritorious defense, or (3) the defendant's culpable conduct led to the default." [*In re Hammer, 940 F.2d 524, 525-26 (9th Cir. 1991)*](https://advance.lexis.com/api/document?collection=cases&id=urn:contentItem:3S4X-9SS0-008H-V0B2-00000-00&context=). "This standard is disjunctive, . . . such that a finding that any one of these factors is true is sufficient reason for the district court to refuse to set aside the default." [*United States v. Signed Pers. Check No. 730 of Yubran S. Mesle, 615 F.3d 1085, 1091 (9th Cir. 2010)*](https://advance.lexis.com/api/document?collection=cases&id=urn:contentItem:803D-Y1S0-YB0V-P0CF-00000-00&context=). "[W]hile the same test applies for motions seeking relief from default judgment under both [*Rule 55(c)*](https://advance.lexis.com/api/document?collection=statutes-legislation&id=urn:contentItem:8JDD-2XH2-8T6X-72R7-00000-00&context=) and [*Rule 60(b)*](https://advance.lexis.com/api/document?collection=statutes-legislation&id=urn:contentItem:5GYC-2421-6N19-F16F-00000-00&context=), the test is more liberally applied in the [*Rule 55(c)*](https://advance.lexis.com/api/document?collection=statutes-legislation&id=urn:contentItem:8JDD-2XH2-8T6X-72R7-00000-00&context=) context," as no judgment has been entered, so "there is no interest in the finality of**[\*80]** the judgment with which to contend." [*Id. at 1091 n.1*](https://advance.lexis.com/api/document?collection=cases&id=urn:contentItem:803D-Y1S0-YB0V-P0CF-00000-00&context=).

**A. Prejudice against the DPPs**

To be prejudicial, the setting aside of a judgment must result in greater harm than simply delaying resolution of the case. *TCI Grp. Life Ins. Plan v. Knoebber, 244 F.3d 691, 701 (9th Cir. 2001)*, as amended on denial of reh'g and reh'g en banc (May 9, 2001). Examples of prejudice that courts have concluded weigh against the setting aside of a default include "tangible harm such as loss of evidence, increased difficulties of discovery, or greater opportunity for fraud or collusion." Id. (quoting [*Thompson v. Am. Home Assur. Co., 95 F.3d 429, 433-34 (6th Cir. 1996))*](https://advance.lexis.com/api/document?collection=cases&id=urn:contentItem:3S4X-1140-006F-M1SG-00000-00&context=). "The question at this stage is not whether the Defendant's failure to appear has already caused Plaintiffs to incur a burden or expense. Rather, the question is whether Plaintiffs' ability to pursue [their] claim will be hindered in the future, for example, because of a loss of evidence." [*Coen Co., Inc. v. Pan Int'l, Ltd., 307 F.R.D. 498, 504 (N.D. Cal. 2015)*](https://advance.lexis.com/api/document?collection=cases&id=urn:contentItem:5F49-Y701-F04C-T05S-00000-00&context=) (citation and quotations omitted).

The Irico Defendants argue that the DPPs have not shown the failure to appear resulted in any loss of evidence, hampered their ability to conduct discovery, or thwarted its ability to obtain relief in the future. ECF No. 5215 at 16. The DPPs counter that they have suffered harm "such as loss of evidence, increased difficulties of discovery, or greater opportunity for fraud**[\*81]** or collusion." ECF No. 5338 at 24 (citing [*e.Digital Corp. v. Ivideon LLC, No. 15-cv-00691-JST, 2016 U.S. Dist. LEXIS 123374, 2016 WL 4728550, at \*2 (N.D. Cal. Sept. 12, 2016))*](https://advance.lexis.com/api/document?collection=cases&id=urn:contentItem:5KP8-7SB1-F04C-T4PK-00000-00&context=). For example, the DPPs argue that without discovery of the Irico Defendants, the DPPs were hindered in understanding and discovering evidence proving the conspiracy which "hurt Plaintiffs' case both against Irico and against the other defendants." ECF No. 5228 at 25. DPPs also explain that any discovery they could do now against Irico would be hindered by a loss of evidence such as lost documents or unavailable witnesses whose memories have faded. Id.

The Court concludes that the DPPs make out a strong case of prejudice. The DPPs were inarguably prejudiced by the Irico Defendants' decision to disappear from the case for ten years. The Irico Defendants could have raised their FSIA defense at the outset, and the Court would have then assessed whether it had jurisdiction over the case. Instead, by refusing to appear and litigate the case, the Irico Defendants have delayed resolution of the jurisdictional question for ten years, After the passage of so much time, it is likely that documents and data have been lost, that witnesses have become unavailable, or that important details have been forgotten.**[\*82]** ECF No. 5228 at 25. Furthermore, while the Court focuses, as it must, the effects of the Irico Defendants' absence on future discovery the DPPs might conduct, see [*Coen Co., 307 F.R.D. at 504*](https://advance.lexis.com/api/document?collection=cases&id=urn:contentItem:5F49-Y701-F04C-T05S-00000-00&context=), it notes that contemporaneous discovery against multiple defendants in an ***antitrust*** conspiracy case benefits plaintiffs who can then use discovery taken from one defendant to show the culpability of another. ECF No. 5228 at 25. Now, not only will discovery of documents and witnesses from the Irico Defendants be hampered by the lengthy passage of time, but discovery against the remaining defendants which would likely benefit the DPPs' case against the Irico Defendants — to the extent it is even possible — will be hindered by the same memory and data loss.

At the same time, however, the DPPs' prejudice argument is substantially undercut by their own delay in seeking entry of default. The DPPs knew that the Irico Defendants were in default by April 29, 2010, when the deadline to file an answer passed. ECF No. 665 (setting deadline for 30 days after March 30, 2010); see also ECF Nos. 729, 730 (Irico Defendants' counsel withdrawing on June 23, 2010). But the DPPs did not move for entry of default against the Irico Defendants**[\*83]** until over six years later, on July 18, 2016. ECF No. 4724. And it is not clear that the DPPs would have moved for default at all but for the Court's prompting to do so on June 28, 2016. ECF No. 4694 (instructing any plaintiff who has not yet filed for entry of default against the Irico Defendants to file an explanatory statement by July 5, 2016). The DPPs argue that their delay was justified because moving for default made little sense until the remaining defendants' liability was established, given that conspiracy liability is joint and several. ECF Nos. 4705 at 2-3, 5228 at 26. As the Court previously concluded, this argument conflates the entry of default with default judgment. ECF No. 4709. Nothing prevented the DPPs from seeking entry of default. In short, the DPPs have established prejudice, but must lay some blame at their own feet.

**B. Meritorious defenses**

"A defendant seeking to vacate a default judgment must present specific facts that would constitute a defense." *TCI, 244 F.3d at 700*. Still, "the burden on a party seeking to vacate a default judgment is not extraordinarily heavy." Id. The Court asks only whether "*some possibility* exists that the outcome of the suit after a full trial would differ**[\*84]** from the result reached by the default." [*Coen Co., 307 F.R.D. at 505*](https://advance.lexis.com/api/document?collection=cases&id=urn:contentItem:5F49-Y701-F04C-T05S-00000-00&context=) (emphasis added).

The Irico Defendants argue that they have a "strong defense" because the DPPs have not shown any unlawful price fixing activity by Irico. ECF No. 5215 at 18. Specifically, the Irico Defendants argue that the DPPs have not shown "that Irico knowingly joined and participated in a single, overarching conspiracy." Id.

These arguments ignore the evidence submitted by the DPPs, which shows representatives of the Irico Defendants participating in meetings involving the setting of prices and production levels for CRTs in concert with other CRT manufacturers. Thus, there is evidence of the Irico Defendants' participation in "a single, overarching conspiracy." But that does not resolve the question of whether the Irico Defendants have a viable defense, since the weight to be given that evidence is for a jury to decide.

In addition, even if the Irico Defendants are found to be liable for participation in the CRT conspiracy, the scope of that liability remains at issue. "It is well-established that once a defendant joins a conspiracy it is jointly and severally liable for any actions taken in furtherance of the conspiracy." [*In re TFT-LCD (Flat Panel)* ***Antitrust*** *Litig., 820 F. Supp. 2d 1055, 1059 (N.D. Cal. 2011)*](https://advance.lexis.com/api/document?collection=cases&id=urn:contentItem:838P-C571-652H-7320-00000-00&context=) (citing [*Texas Industries, Inc. v. Radcliff Materials, Inc., 451 U.S. 630, 646, 101 S. Ct. 2061, 68 L. Ed. 2d 500 (1981))*](https://advance.lexis.com/api/document?collection=cases&id=urn:contentItem:3S4X-6DG0-003B-S0V5-00000-00&context=). The**[\*85]** same defendant is liable for actions taken *before* it joined the conspiracy, however, only if the plaintiff can show "knowledge of what has gone before . . . [and] the intent to pursue the same objective." [*Indus. Bldg. Materials, Inc. v. Interchemical Corp., 437 F.2d 1336, 1343 (9th Cir. 1970)*](https://advance.lexis.com/api/document?collection=cases&id=urn:contentItem:3S4X-GNW0-0039-X04H-00000-00&context=). It is unclear when the DPPs think the Irico Defendants joined the conspiracy to fix the prices of CRTs. The conspiracy is alleged to have begun in 1995, but the first event involving Irico identified in the DPP's motion papers or expert report, ECF No. 5191-2, occurs in 1998. And the DPPs have submitted no evidence regarding the Irico Defendants' knowledge of the conspiracy's prior acts. Thus, at a minimum, the Irico Defendants have a defense as to the scope of their participation in the conspiracy.

The Irico Defendants' strongest potential meritorious defense, however, is that the Court lacks jurisdiction over them.[[5]](#footnote-4)5 In Coen, this Court found that the meritorious defense factor weighed in favor of setting aside the entry of default because the Defendant had "sufficiently raised some doubts as to whether the Court possesses personal jurisdiction over Defendants in this action." [*307 F.R.D. at 505*](https://advance.lexis.com/api/document?collection=cases&id=urn:contentItem:5F49-Y701-F04C-T05S-00000-00&context=). The Irico Defendants have raised significant doubt as to whether the Court has jurisdiction under the**[\*86]** FSIA as to Irico Group. See supra. While the case as to Irico Display is much weaker — the Court has cast doubt on the evidentiary sufficiency of the Zhang Declaration, which is the only evidence submitted as to Irico Display — Defendants' showing is nonetheless sufficient to present the issue. While a "defendant seeking to vacate a default judgment must present specific facts that would constitute a defense," it can do so through factual allegations, rather than evidence deemed admissible at trial. See, e.g., *TCI, 244 F.3d at 700*; c.f., [*Falk v. Allen, 739 F.2d 461, 464 (9th Cir. 1984)*](https://advance.lexis.com/api/document?collection=cases&id=urn:contentItem:3S4W-W9G0-003B-G17S-00000-00&context=) (accepting "factual allegations" but referring to an affidavit submitted by defendant as sufficient to show potentially meritorious defense). Moreover, because "judgment by default is a drastic step appropriate only in extreme circumstances; [and] a case should, whenever possible, be decided on the merits," [*id. at 463*](https://advance.lexis.com/api/document?collection=cases&id=urn:contentItem:3S4W-W9G0-003B-G17S-00000-00&context=), "[o]ur rules for determining when a default should be set aside are solicitous towards movants." [*Signed Pers. Check No. 730 of Yubran S. Mesle, 615 F.3d at 1089*](https://advance.lexis.com/api/document?collection=cases&id=urn:contentItem:803D-Y1S0-YB0V-P0CF-00000-00&context=). The Court therefore concludes the Irico Defendants have raised potential meritorious defenses as to both Group and Display, and this factor weighs in favor of setting aside the default.[[6]](#footnote-5)6

**C. Culpability**

The Ninth Circuit has explained:**[\*87]**

[A] defendant's conduct is culpable if he has received actual or constructive notice of the filing of the action and intentionally failed to answer. . . . [I]n this context the term "intentionally" means that a movant cannot be treated as culpable simply for having made a conscious choice not to answer; rather, to treat a failure to answer as culpable, the movant must have acted with bad faith, such as an intention to take advantage of the opposing party, interfere with judicial decisionmaking, or otherwise manipulate the legal process. We have typically held that a defendant's conduct was culpable . . . where there is *no* explanation of the default inconsistent with a devious, deliberate, willful, or bad faith failure to respond.

[*Signed Pers. Check No. 730 of Yubran S. Mesle, 615 F.3d at 1092*](https://advance.lexis.com/api/document?collection=cases&id=urn:contentItem:803D-Y1S0-YB0V-P0CF-00000-00&context=) (citations and quotations omitted) (emphasis added). The Irico Defendants declared that they declined to answer the complaint because they "believed that Irico Group and Irico Display were immune from suit in the United States." ECF No. 5215-1 at 2. The case is much like another case in which the Ninth Circuit found conduct not culpable. In Gregorian, the Ninth Circuit found defendants' conduct not culpable where defendants failed**[\*88]** to respond to a lawsuit because they believed that the court lacked subject matter jurisdiction over them. [*871 F.2d at 1522-26*](https://advance.lexis.com/api/document?collection=cases&id=urn:contentItem:3S4X-CCX0-003B-5188-00000-00&context=).[[7]](#footnote-6)7

While efficiency and economy suggest that the Irico Defendants should have presented their immunity defense to the Court in the first instance, rather than simply disappear from the litigation, the law does not support a finding of bad faith. See [*Signed Pers. Check No. 730 of Yubran S. Mesle, 615 F.3d at 1092*](https://advance.lexis.com/api/document?collection=cases&id=urn:contentItem:803D-Y1S0-YB0V-P0CF-00000-00&context=). Accordingly, this factor weighs in favor of setting aside the default.

**D. Balancing the factors**

While the Court is sympathetic to the prejudice the DPPs have suffered, this sympathy is tempered by the DPPs' delay in seeking default. And whatever prejudice the DPPs suffered does not outweigh the Irico Defendants' right to present their meritorious defenses, particularly given Defendants' lack of bad faith and the $2.4 billion size of Plaintiffs' prayer. ECF No. 5191 at 7. The Court will set aside the default.

The Court notes the tension between (1) its finding that it has jurisdiction because the Irico Defendants have not satisfied their burden of showing immunity under the FSIA, and (2) its conclusion that the default should be set aside in part because the Irico Defendants have mounted a potentially**[\*89]** meritorious defense on the same jurisdictional grounds. The Court is bound by the test for setting aside default, which requires something less than an actually meritorious defense. [*Coen, 307 F.R.D. at 505*](https://advance.lexis.com/api/document?collection=cases&id=urn:contentItem:5F49-Y701-F04C-T05S-00000-00&context=). The Court is also mindful of its continuing obligation to assure its own jurisdiction over the case. The Court's decision to set aside default on the basis of a possibly meritorious FSIA defense indicates that further proceedings might demonstrate that the defense applies and the Court lacks jurisdiction. They might also show the opposite.

The Court also notes the DPPs' request to allow for limited jurisdictional discovery. ECF No. 5228 at 22-23. The Supreme Court recently held in an FSIA case that "where jurisdictional questions turn upon further factual development, the trial judge may take evidence and resolve relevant factual disputes." [*Bolivarian Republic of Venezuela, 137 S. Ct. at 1316-17*](https://advance.lexis.com/api/document?collection=cases&id=urn:contentItem:5NFC-TX51-F04K-F00T-00000-00&context=). The Court also made clear that the "court should normally resolve those factual disputes . . . as near to the outset of the case as is reasonably possible." [*Id. at 1317*](https://advance.lexis.com/api/document?collection=cases&id=urn:contentItem:5NFC-TX51-F04K-F00T-00000-00&context=). The case against the Irico Defendants having now reopened, the DPPs are free to undertake jurisdictional discovery.

**CONCLUSION**

For the foregoing reasons, the Court GRANTS the Defendants' motion to set aside default.**[\*90]**[[8]](#footnote-7)8 The DPP's motion for default judgment, ECF No. 5183, is therefore terminated as moot.

**IT IS SO ORDERED**.

Dated: February 1, 2018

/s/ Jon S. Tigar

JON S. TIGAR

United States District Judge

**End of Document**

1. 1The DPPs have submitted Irico Display Articles of Association which provide that major decisions including mergers and spinoffs are made via resolution at Shareholder Meetings open to all shareholders." ECF No. 5228-1 at 284. Because these Articles date from 2008, however, they are of limited relevance to the question of Irico Display's legal status when the complaint was filed in 2007. Indeed, it is possible that Irico Display adopted Articles of Association in 2008 because it changed ownership, or corporate form, or both, in that year. [↑](#footnote-ref-0)
2. 2But see [*Lotes Co. v. Hon Hai Precision Indus. Co., 753 F.3d 395, 410-11 (2d Cir. 2014)*](https://advance.lexis.com/api/document?collection=cases&id=urn:contentItem:5CBY-1DF1-F04K-J006-00000-00&context=) (rejecting the Ninth Circuit's conflation of the two definitions); [*Minn-Chem, Inc. v. Agrium, Inc., 683 F.3d 845, 857 (7th Cir. 2012)*](https://advance.lexis.com/api/document?collection=cases&id=urn:contentItem:5605-M9M1-F04K-R0JN-00000-00&context=) (same); [*Filetech S.A. v. France Telecom S.A., 157 F.3d 922, 930-31 (2d Cir. 1998)*](https://advance.lexis.com/api/document?collection=cases&id=urn:contentItem:3TTC-5J00-0038-X2RR-00000-00&context=), overruled on other grounds by [*Lotes Co. v. Hon Hai Precision Indus. Co., 753 F.3d 395 (2d Cir. 2014)*](https://advance.lexis.com/api/document?collection=cases&id=urn:contentItem:5CBY-1DF1-F04K-J006-00000-00&context=) (requiring the defendant to show directness under both the FTAIA and FSIA to defend against jurisdiction, and suggesting the definitions are different). [↑](#footnote-ref-1)
3. 3The Supreme Court recently clarified that a plaintiff meets their burden of showing that an FSIA exception applies when the facts alleged show the exception applied. [*Bolivarian Republic of Venezuela v. Helmerich & Payne Int'l Drilling Co., 137 S. Ct. 1312, 1324, 197 L. Ed. 2d 663 (2017)*](https://advance.lexis.com/api/document?collection=cases&id=urn:contentItem:5NFC-TX51-F04K-F00T-00000-00&context=). The Court rejected the contention that a non-frivolous argument was sufficient to apply an exception, and clarified that a finding that the facts alleged supported the exception was distinct from a ruling on the merits. [*Id. at 1319*](https://advance.lexis.com/api/document?collection=cases&id=urn:contentItem:5NFC-TX51-F04K-F00T-00000-00&context=). For this reason, the court need not find that the DPPs proved a direct effect under the FTAIA, only that it has alleged facts sufficient to support such a finding. [↑](#footnote-ref-2)
4. 4A subject matter jurisdiction defense under the FSIA can also be construed as a personal jurisdiction defense. See [*Verlinden B.V. v. Cent. Bank of Nigeria, 461 U.S. 480, 498, 103 S. Ct. 1962, 76 L. Ed. 2d 81 (1983)*](https://advance.lexis.com/api/document?collection=cases&id=urn:contentItem:3S4X-4Y40-003B-S4DM-00000-00&context=) ("[I]f none of the exceptions to sovereign immunity set forth in the Act applies, the District Court lacks both statutory subject matter jurisdiction and personal jurisdiction."). [↑](#footnote-ref-3)
5. 5The Irico defendants did not discuss this defense in the section of their opening brief that discussed potential meritorious defenses, but makes their argument clear in reply, and also clearly discussed the defense as one to jurisdiction in their opening brief. ECF Nos. 5214, 5229 at 8. In any case, the DPPs' opposition considers the Irico Defendant's FSIA defense as one such meritorious defense to be considered in setting aside the default. ECF No. 5228 at 28. [↑](#footnote-ref-4)
6. 6The Irico Defendants raised in reply an additional potentially meritorious defense, that their conduct was directed by the Chinese government and therefore protected by the Foreign Sovereign Compulsion Doctrine. ECF No. 5229 at 15. The Irico Defendants cite just two cases, from the 1970s, [*Timberlane Lumber Co. v. Bank of America, 549 F.2d 597, 606 (9th Cir. 1976)*](https://advance.lexis.com/api/document?collection=cases&id=urn:contentItem:3S4X-1C80-0039-M0H6-00000-00&context=); [*Interamerican Ref. Corp. v. Texaco Maracaibo, Inc., 307 F. Supp. 1291, 1298 (D. Del. 1970)*](https://advance.lexis.com/api/document?collection=cases&id=urn:contentItem:3S4V-SV50-003B-34G4-00000-00&context=), in support of this doctrine, and introduce new evidence to support their contention, ECF No. 5229-1, 2, 3, 4, 5. The Irico Defendants proffer simply that "Counsel has recently become aware that the pricing activity that DPPs allege to result from illegal conduct was mandated by the Chinese Government." ECF No. 5229 at 15. The Irico Defendants are admonished that "the Court does not consider new arguments made for the first time in a reply brief" and declines to consider it. [*Rodman v. Safeway Inc., 125 F. Supp. 3d 922, 930 (N.D. Cal. 2015)*](https://advance.lexis.com/api/document?collection=cases&id=urn:contentItem:5GTN-M1R1-F04C-T021-00000-00&context=), aff'd, [*694 F. App'x 612 (9th Cir. 2017)*](https://advance.lexis.com/api/document?collection=cases&id=urn:contentItem:5P5P-0SK1-F04K-V38S-00000-00&context=). [↑](#footnote-ref-5)
7. 7The DPPs assert that the Irico Defendant's explanation that they failed to answer because they believed they lacked subject matter jurisdiction is not supported by any evidence. ECF No. 5228 at 27. Indeed, the Court concluded above that the Zhang declaration, which explains that the Irico Defendants failed to answer because they believed the Court lacked subject matter jurisdiction under the FSIA, was insufficient to show a lack of jurisdiction. See supra. The DPPs' argument is unavailing, however, because the Court applies different standards in determining FSIA jurisdiction than it does in determining whether to set aside a default. [↑](#footnote-ref-6)
8. 8The Irico Defendants, in addition to requesting that the Court set aside the entry of default, also ask the Court to dismiss the DPPs' Complaint against Irico with prejudice. ECF No. 5215 at 20. No good reason is provided for this request and the Court denies it. [↑](#footnote-ref-7)