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No. 70298-0-I

King County Superior Court No. 12-2-15842-8 SEA

COURT OF APPEALS, DIVISION 1
OF THE STATE OF WASHINGTON

THE STATE OF WASHINGTON

Plaintiff/Appellant,

v.

PHILIPS ELECTRONICS N.V., PHILIPS ELECTRONICS INDUSTRIES (TAIWAN), LTD., PANASONIC CORPORATION, HITACHI DISPLAYS, LTD., HITACHI ASIA, LTD., HITACHI ELECTRONIC DEVICES (USA), INC., LG ELECTRONICS, INC., SAMSUNG SDI AMERICA, INC., SAMSUNG SDI CO., LTD., SAMSUNG SDI (MALAYSIA) SDN. BHD., SAMSUNG SDI MEXICO S.A. DE C.V., SAMSUNG SDI BRASIL LTDA., SHENZEN SAMSUNG SDI CO., LTD., TIANJIN SAMSUNG SDI CO., LTD.

Defendants/Respondents.

SUPPLEMENTAL BRIEF OF RESPONDENT PHILIPS ELECTRONICS N.V. (N/K/A KONINKLIJKE PHILIPS N.V.), ADDRESSING *STATE V. AU OPTRONICS CORP.*, NO. 69318-2-1

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Pursuant to the Court's notation ruling of June 12, 2014, Respondent Philips Electronics N.V. (n/k/a Koninklijke Philips N.V.) ("KPNV") files this supplemental brief addressing the impact of the holding in *State v. AU Optronics Corp.*, No. 69318-2-1, 2014 Wash. App. Westlaw 1779256 (May 5, 2014). KPNV joins in the supplemental brief submitted by the Hitachi Respondents and Philips Taiwan Limited, but submits this separate brief to point out additional distinctions between the facts that warranted personal jurisdiction in *AU Optronics* and those established as to KPNV. Unlike the defendant in *AU Optronics*, KPNV is merely a holding company that has never manufactured, marketed, sold, or distributed any product anywhere in the world, much less any CRTs. This fact is dispositive and requires dismissal of KPNV.

A. <u>Argument</u>

In finding personal jurisdiction in *AU Optronics*, the Court relied in part on LG Display Co. Ltd.'s ("LG") manufacture and sale of large quantities of LCD panels that were incorporated into products that were to be sold in the United States, including Washington. Thus, the Court found it especially relevant that LG sold its "LCD panels to a particular global consumer electronics brand, which sold computer monitors and televisions containing these panels throughout the United States and in Washington 'by making use of key electronic appliance distribution chains in the

U.S.'" Slip op. at 5, 23–24. The Court further noted that these sales accounted for one-fifth to one fourth of LG's revenues during part of the relevant time period and that a Washington-based consumer electronics retailer purchased products containing LG's LCD panels from this global consumer electronics brand. *Id.* at 5–6, 24.

This evidence stands in stark contrast to that concerning KPNV. Unlike LG, KPNV established by declaration before the trial court and in this appeal that it has never manufactured, marketed, sold, or distributed any products—including CRTs—anywhere in the world. *See* CP 105–06; Resps.' Opp. Brief at 11–12. Instead, KPNV is only a holding company that employs 12 individuals and "sets the general business and financial goals, and manages high-level strategic decisions, of the entities within the Philips group of companies." CP 105.

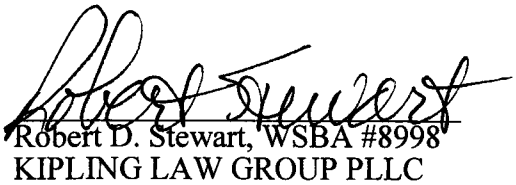
The Attorney General failed to refute this evidence before the trial court or in its briefing before this Court, even though this issue was specifically raised by KPNV. Thus, it must be considered established that KPNV never placed a single CRT into any stream of commerce, nor did it do anything else to purposefully avail itself of the privilege of doing business in Washington. Indeed, KPNV has conducted *no* business in Washington. The Attorney General cannot contend otherwise. A stream of commerce theory of jurisdiction—and any changes to the contours of

such a theory—therefore have no effect on the lack of jurisdiction over KPNV. Instead, KPNV's evidence mandates dismissal under the requirement in *AU Optronics* and consistent U.S. Supreme Court precedent that a defendant must have sufficient minimum contacts with a jurisdiction in order for a court to exercise personal jurisdiction.

B. <u>Conclusion</u>

Applying *AU Optronics*' holding to KPNV requires dismissal. KPNV thus respectfully requests that the Court affirm the dismissal of KPNV for lack of personal jurisdiction.

DATED this 29th day of July, 2014.



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CERTIFICATE OF SERVICE

I do hereby certify that on this 29th day of July, 2014, I caused to be served a true and correct copy of the foregoing *Supplemental Brief of Respondent Philips Electronics N.V. (n/k/a Kkoninklijke Philips N.V.), Addressing State V. AU Optronics Corp., No. 69318-2-1* by method indicated below and addressed to the following:

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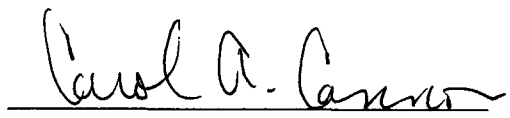

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