



January 20, 2011

DMS NOTICE
QC-11-02

Discard: Retain

TO: WEIGHTS AND MEASURES OFFICIALS

SUBJECT: TV Case Settlements

Attached are Stipulated Final Judgments issued by the District Attorney's Offices of Alameda County, in conjunction with the District Attorney's Offices of Los Angeles, Merced, Monterey, San Diego, San Joaquin, and Stanislaus Counties. One settlement was filed against LG Electronics USA, Incorporated; Panasonic Corporation of North America; Samsung Electronics America, Incorporated; and Sharp Electronics Corporation and another was against Sony Electronics, Incorporated; for being in violation of California Business and Professions Code 17535 for misrepresenting the actual size of television screens.

We appreciate the work done on behalf of the People, by the District Attorney's Offices, and the State and county investigators who tested these products. Each company was assessed \$33,334 in civil penalties, \$216,666 for investigative/prosecution costs and cy pres restitution of \$225,000. The total for all settlements was \$1,250,000 in costs and penalties and \$1,125,000 cy pres. Cy pres will be in the form of transfers to non-profit and public schools of television monitors and audio/video equipment.

Alameda County should be sure to report these penalties in the County Monthly Report (CMR). All participating counties should separately record their individual investigative cost reimbursements in the appropriate columns in the CAR.

Sincerely,

Kristin J. Macey
Director

Cc: Edmund Williams, Director, CDFA County Liaison Office



1 NANCY E. O'MALLEY, District Attorney
County of Alameda
2 LAWRENCE C. BLAZER (Ca. Bar No. 95598)
Assistant District Attorney
3 ANTHONY P. DOUGLAS (CA. Bar No. 118210)
Deputy District Attorney
4 Consumer and Environmental Protection Division
7677 Oakport Street, Suite 650
5 Oakland, CA 94621
6 Telephone: (510) 569-9281

Endorsed
FILED *entered*
ALAMEDA COUNTY

DEC 30 2010
CLERK OF THE SUPERIOR COURT
By *RSB* Deputy

7 BIRGIT FLADAGER, District Attorney
County of Stanislaus
8 JOHN B. GOULART (Ca. Bar No. 125168)
832 12th Street, Suite 300
9 Modesto, CA 95354
10 Telephone: (209) 525-5550

11 [Additional Attorneys for Plaintiff Listed on Following Page]

12 Attorneys for Plaintiff, The People of the State of California

13 SUPERIOR COURT OF CALIFORNIA, COUNTY OF ALAMEDA

14
15 THE PEOPLE OF THE STATE OF CALIFORNIA,

16 Plaintiff,

17 v.

18 LG ELECTRONICS U.S.A., INC.,
19 PANASONIC CORP. of NORTH AMERICA,
20 SAMSUNG ELECTRONICS AMERICA, INC.,
SHARP ELECTRONICS CORP.,

21 Defendants.

) Case No.: HG 10553636

) STIPULATED FINAL JUDGMENT

22 //

23 //

24 //

25 //

26 //

27 //

1 ADDITIONAL COUNSEL FOR PLAINTIFF

2 BONNIE M. DUMANIS, District Attorney
3 County of San Diego
4 THOMAS A. PAPAGEORGE (Ca. Bar No. 77690)
Special Prosecutor
5 Economic Crimes Division
330 W. Broadway, Suite 750
6 San Diego, CA 92101
Telephone: (619) 531-3971

7 LARRY MORSE II, District Attorney
8 County of Merced
RICHARD S. MICHAELS (Ca. Bar No. 51940)
9 Special Prosecutor
720 West. 20th Street
10 Merced, CA 95340
Telephone: (209) 385-7383

11 DEAN D. FLIPPO, District Attorney
12 County of Monterey
JOHN F. HUBANKS (Ca. Bar No. 163765)
13 Deputy District Attorney
Consumer Affairs/Environmental Protection Division
14 1200 Aguajito Road, Room 301
Monterey, CA 93940
15 Telephone: (831) 647-7705

16 JAMES P. WILLET, District Attorney
17 County of San Joaquin
DAVID J. IREY (Ca. Bar No. 142864)
18 Supervising Deputy District Attorney
Consumer and Environmental Prosecutions Unit
19 222 E. Weber Avenue, Room 202
Stockton, CA 95201
20 Telephone: (209) 468-2470

21 STEVE COOLEY, District Attorney
22 County of Los Angeles
KATHLEEN J. TUTTLE (Ca. Bar No. 128067)
23 Deputy District Attorney
Consumer Protection Division
24 201 N. Figueroa Street, Suite 1200
Los Angeles, CA 90012
25 Telephone: (213) 580-3273

1
2 Plaintiff, THE PEOPLE OF THE STATE OF CALIFORNIA, through its attorneys, BIRGIT
3 FLADAGER, the District Attorney of Stanislaus County, by Deputy District Attorney John B.
4 Goulart; STEVE COOLEY, the District Attorney of Los Angeles County, by Deputy-in-Charge
5 Kathleen J. Tuttle; NANCY E. O'MALLEY, the District Attorney of Alameda County, by Deputy
6 District Attorney Anthony Douglas; LARRY D. MORSE II, the District Attorney of the County of
7 Merced, by Special Prosecutor Richard S. Michaels; DEAN D. FLIPPO, the District Attorney of the
8 County of Monterey, by Deputy District Attorney John F. Hubanks; JAMES P. WILLETT, the
9 District Attorney of the County of San Joaquin, by Deputy District Attorney David J. Irej; and
10 BONNIE M. DUMANIS, the District Attorney of San Diego County, by Special Prosecutor
11 Thomas A. Papageorge (collectively, "the People" or the Counties"); and Defendants LG
12 ELECTRONICS, U.S.A., INC., through its attorneys Pierre-Richard Prosper, Esq., and Arent Fox
13 LLP; PANASONIC CORPORATION OF NORTH AMERICA, through its attorneys Michele B.
14 Corash, Esq., and Morrison & Foerster LLP; SAMSUNG ELECTRONICS AMERICA, INC.,
15 through its attorneys Reginald D. Steer, Esq., and Akin Gump Strauss Hauer & Feld, LLP; SHARP
16 ELECTRONICS CORPORATION, through its attorneys Jeremy M. Creelan, Esq. and Jenner &
17 Block LLP; have stipulated to the entry of this Stipulated Final Judgment without the Court taking
18 evidence, without the Defendants admitting any wrongdoing, and without this Stipulated Final
19 Judgment constituting an admission by Defendants regarding any issue of law or fact, and the Court
20 having considered the pleadings and good cause appearing:
21

22 IT IS HEREBY ORDERED, ADJUDGED AND DECREED that:

- 23 1. This Court has jurisdiction of the subject matter hereof and the parties herein.
- 24 2. For the purpose of this Stipulated Final Judgment, the following definitions shall apply:
- 25 a. *Television monitor* means a television receiving set or device which receives and displays video
26 and audio television signals from broadcast or cable television sources, or other forms of video and
27
28

1 audio signal, within the meaning of "television receiving set" as referenced in the Federal Trade
2 Commission Picture Tube Rule (16 CFR § 410.1).

3 b. *Viewable picture size* means the largest area, measured diagonally on a single plane basis, on
4 which a consumer can view information shown on a *television monitor*.

5 c. *Single plane basis* means measurement of the distance between the outer extremities of the
6 viewable picture area that does not take into account any curvature of the tube or screen of the
7 *television monitor*.

8 3. The injunctive provision of Paragraph 4 of this Stipulated Final Judgment shall apply to
9 Defendants, their successors, officers, employees, agents and representatives, and all persons acting
10 in concert or in participation with any of them (hereinafter collectively referred to as "Defendants").
11 It shall not apply to the acts of any dealers, distributors, retailers or resellers who are not acting in
12 concert or in participation with any of the Defendants; the Defendants will not be deemed to be in
13 violation of Paragraph 4 or any other provision in this Stipulated Final Judgment due to any
14 representations disseminated by dealers, distributors, retailers or resellers which representations
15 have not been written by or otherwise expressly authorized by the Defendants.
16

17 4. For all products that are manufactured after March 1, 2011, and for all communications with
18 consumers first placed into the stream of commerce by Defendants after March 1, 2011, Defendants
19 are restrained and enjoined pursuant to Business and Professions Code section 17535, in connection
20 with any product, package or label, advertisement, brochure, sign, sales presentation, or sales
21 literature of any kind directed to consumers in the State of California, as follows: When the size of a
22 *television monitor* display is stated, Defendants shall clearly and conspicuously describe said size of
23 the *television monitor* by reference to its *viewable picture size*. For example, and without
24 limitation, Defendants may describe a *television monitor* that has a *viewable picture size* diagonal
25 measure of 32 inches as "32-inch diagonal," "32-inch picture measured diagonally" or "32-inch
26 monitor." Defendants cannot refer to the *television monitor* as 32 inches unless the *viewable*
27 *picture size* is 32 inches, accurately measured to the tenth of an inch. However, Defendants may
28

1 advertise or refer to a *television monitor* that is no more than five-tenths of an inch less or more in
2 *viewable picture size* than the nearest inch integer with a reference to the *television monitor's size*
3 class reflecting that inch integer, provided that Defendants disclose the actual *viewable picture size*
4 in the immediate proximity of and in close connection and conjunction with that reference and in a
5 typeface, size, and readability comparable to that reference. For example, Defendants may describe
6 a *television monitor* that has a *viewable picture size* of 31.5 inches as "32-inch class TV monitor
7 (31.5 inches measured diagonally)" or "32-inch class TV (31.5 inches diagonal picture)." Any
8 referenced or footnoted disclosure of the *viewable picture size* by means of an asterisk or some
9 similar symbol or device does not satisfy the "immediate proximity of and in connection and
10 conjunction" requirement.

11
12 5. The requirements set forth in Paragraph 4 shall automatically terminate to the extent they are
13 or become inconsistent with any federal statute, regulation, or Federal Trade Commission rule or
14 guideline pertaining to the advertising or measurement of *television monitors*.

15 6. At any time after this Stipulated Final Judgment has been in effect for four (4) years and a
16 Defendant has paid any and all amounts due under the Stipulated Final Judgment, that Defendant
17 may file a motion requesting that the Court vacate its Stipulated Judgment, other than the provisions
18 of paragraphs 7 and 8, based on that Defendant's demonstrated history of adherence to the
19 provisions of Paragraph 4 of this Stipulated Final Judgment. If the People agree that the Defendant
20 has substantially complied with the provisions set forth in Paragraph 4 of this Stipulated Final
21 Judgment, the People will file a statement of non-opposition to that Defendant's motion. If the
22 People disagree, the People will file an opposition setting forth the People's reasoning and will
23 recommend that the injunctive provision of Paragraph 4 remain in effect. Within thirty (30) days of
24 the filing of the Defendant's motion, the People will file either a statement of non-opposition or an
25 opposition. Within forty-five (45) days of the filing of the Defendant's motion, that Defendant may
26 file a reply. The People and Defendants agree that the Court may grant the Defendant's motion
27 upon determining that Defendant has substantially complied with Paragraph 4.
28

1 7. The People and Defendants have agreed that it is impractical to attempt to identify
2 individuals who have been misled or injured by the descriptions alleged to have been potentially
3 misleading in this action. Given the impracticability of identifying or providing direct and
4 measurably appropriate payments to individuals who might assert that their purchasing practices
5 were altered or that they were otherwise harmed as a result of the conduct that is the subject of this
6 action, under the doctrine of *cy pres* and in the public interest, each Defendant shall instead
7 contribute to the public, in the form of transfers to non-profit organizations or public schools as
8 designated by the People's counsel, *television monitors* or other audio/video equipment having an
9 aggregate retail market price of no less than Two Hundred and Twenty-Five Thousand Dollars
10 (\$225,000), and shall provide a written report of such transfers to the attorneys for the District
11 Attorneys no later than July 1, 2011.

12
13 8. Pursuant to Business and Professions Code section 17536 and the court's inherent equitable
14 authority, each Defendant is further ordered to pay to THE PEOPLE OF THE STATE OF
15 CALIFORNIA a total settlement amount of Two Hundred and Fifty Thousand Dollars (\$250,000),
16 payable within fifteen days of the date of entry of this Stipulated Judgment, said sum to be allocated
17 by and among the various offices of the District Attorneys as they shall deem appropriate, except
18 that in any event \$216,666 of the total shall be paid as the costs of investigation and prosecution in
19 this matter.

20 9. This Stipulated Final Judgment is in full and final settlement of all civil claims and remedies
21 by or on behalf of the People of the State of California, including but not limited to claims and
22 remedies under Business and Professions Code section 17500 *et seq.* pertaining to the Defendants'
23 labeling, advertising, and marketing of *television monitors* by the reference to measurement of the
24 *television monitors' viewable picture size*, for all such *television monitors* that were manufactured,
25 sold, or offered for sale by the Defendants before March 1, 2011. It having been stipulated by the
26 People and the Defendants that the People engaged in extensive investigation and review with the
27 cooperation of the Defendants, and the Stipulation and Stipulated Final Judgment having been
28

1 reviewed by the Court, this Court finds that the Stipulated Final Judgment in all respects is just,
2 reasonable, equitable, entered in good faith, and adequate to protect the public from the occurrence
3 in the future of the conduct alleged in the Complaint and to provide complete satisfaction of the
4 public interest in the conduct that is the subject of this Stipulated Final Judgment, and constitutes
5 full and adequate consideration to the public.

6 10. This Stipulated Final Judgment has been entered without any admissions by any of the
7 parties as to the merits of the allegations in the Complaint and shall not constitute a finding of either
8 fact or law as to the merits of any of those claims or as to the obligations of any Defendants to take
9 any actions agreed to be done or avoided herein in order to bring them, or any of them, into
10 compliance with the law.

11 11. Jurisdiction is retained for the purpose of enabling any party to this Stipulated Final
12 Judgment to apply to the Court at any time for dissolution, modification or enforcement of any of
13 the provisions herein.

14 Dated: *Dec. 30*, 2010

15
16
17 *C. DON CLAY*

18 Judge of the Superior Court
19
20
21
22
23
24
25
26
27
28

1
2 SUPERIOR COURT OF CALIFORNIA, COUNTY OF ALAMEDA

3 THE PEOPLE OF THE STATE OF CALIFORNIA,) Case No.: HG 10553629
4)

5 Plaintiff,)

6 v.)

7 SONY ELECTRONICS, INC., a Delaware)
8 Corporation)

9 Defendants.)

STIPULATED FINAL JUDGMENT

Endorsed

FILED *& entered*
ALAMEDA COUNTY

DEC 30 2010

CLERK OF THE SUPERIOR COURT

By *RSB* Deputy

12
13 Plaintiff, THE PEOPLE OF THE STATE OF CALIFORNIA, through its attorneys, BIRGIT
14 FLADAGER, the District Attorney of Stanislaus County, by Deputy District Attorney John B.
15 Goulart; STEVE COOLEY, the District Attorney of Los Angeles County, by Deputy-in-Charge
16 Kathleen J. Tuttle; NANCY E. O'MALLEY, the District Attorney of Alameda County, by Deputy
17 District Attorney Anthony Douglas; LARRY D. MORSE II, the District Attorney of the County of
18 Merced, by Special Prosecutor Richard S. Michaels; DEAN D. FLIPPO, the District Attorney of the
19 County of Monterey, by Deputy District Attorney John F. Hubanks; JAMES P. WILLETT, the
20 District Attorney of the County of San Joaquin, by Deputy District Attorney David J. Irej; and
21 BONNIE M. DUMANIS, the District Attorney of San Diego County, by Special Prosecutor Thomas
22 A. Papageorge (collectively, the "District Attorneys" or "the People"); and Defendant, SONY
23 ELECTRONICS INC., a Delaware Corporation (hereinafter sometimes "Defendant"), through its
24 attorneys Robert G. Badal, Esq. and Wilmer Hale LLP, have stipulated to the entry of this Stipulated
25 Final Judgment without the Court taking evidence, without Defendant admitting any wrongdoing,
26 and without this Stipulated Final Judgment constituting an admission by Defendant regarding any
27 issue of law or fact, and the Court having considered the pleadings and good cause appearing:

28 IT IS HEREBY ORDERED, ADJUDGED AND DECREED that:

- 29 1. This Court has jurisdiction of the subject matter hereof and the parties herein.
30 2. For the purpose of this Stipulated Final Judgment, the following definitions shall apply:

1 a. *Television monitor* means a television receiving set or device which receives and
2 displays video and audio television signals from broadcast or cable television sources, or
3 other forms of video and audio signal, within the meaning of “television receiving set” as
4 referenced in the Federal Trade Commission Picture Tube Rule (16 CFR § 410.1).

5 b. *Viewable picture size* means the largest area, measured diagonally on a single
6 plane basis, on which a consumer can view information shown on a *television monitor*.

7 c. *Single plane basis* means measurement of the distance between the outer
8 extremities of the viewable picture area that does not take into account any curvature of the
9 tube or screen of the *television monitor*.

10 3. The injunctive provision of this Stipulated Final Judgment, set forth in Paragraph 4 below,
11 shall apply to Defendant, its successors, officers, employees, agents and representatives, and all
12 persons acting in concert or in participation with any of them (hereinafter collectively referred to as
13 “Defendant”). It shall not apply to the acts of any dealers, distributors, retailers or resellers who are
14 not acting in concert or in participation with Defendant; Defendant will not be deemed to be in
15 violation of this injunctive provision due to any representations disseminated by dealers, distributors,
16 retailers or resellers which representations have not been written by or otherwise expressly
17 authorized by Defendant.

18 4. For all products that are manufactured after March 1, 2011, and for all communications
19 with consumers first placed into the stream of commerce by Defendant after March 1, 2011,
20 Defendant is restrained and enjoined pursuant to Business and Professions Code section 17535, in
21 connection with any product, package or label, advertisement, brochure, sign, sales presentation, or
22 sales literature of any kind directed to consumers in the State of California, as follows: When the
23 size of a *television monitor* display is stated, Defendant shall clearly and conspicuously describe said
24 size of the *television monitor* by reference to its *viewable picture size*. For example, Defendant may
25 describe a *television monitor* that has a *viewable picture size* diagonal measure of 32 inches as “32-
26 inch diagonal,” “32-inch picture measured diagonally” or “32-inch monitor.” Defendant cannot
27 refer to the *television monitor* as 32 inches unless the *viewable picture size* is 32 inches, accurately
28 measured to the tenth of an inch. However, Defendant may advertise or refer to a *television monitor*
29 that is no more than five-tenths of an inch less or more in *viewable picture size* than the nearest inch
30 integer with a reference to the *television monitor’s* size class reflecting that inch integer, provided

1 that Defendant discloses the actual *viewable picture size* measured to the tenth of an inch in the
2 immediate proximity of and in close connection and conjunction with that reference and in a
3 typeface, size, and readability comparable to that reference. For example, and without limitation,
4 Defendant may describe a *television monitor* that has a *viewable picture size* of 31.5 inches as “32-
5 inch class TV monitor (31.5 inches measured diagonally)” or “32-inch class TV (31.5 inches
6 diagonal picture)” or “32-inch class TV (31.5 inches diag.)” Any referenced or footnoted disclosure
7 of the *viewable picture size* by means of an asterisk or some similar symbol or device does not
8 satisfy the “immediate proximity of and in connection and conjunction” requirement.

9 5. The injunctive provision of this Stipulated Final Judgment set forth in Paragraph 4 shall
10 automatically terminate to the extent it is or becomes inconsistent with any federal statute,
11 regulation, or Federal Trade Commission rule or guideline pertaining to the advertising or
12 measurement of *television monitors*.

13 6. At any time after this Stipulated Final Judgment has been in effect for four (4) years and
14 Defendant has paid any and all amounts due under the Stipulated Final Judgment, Defendant may
15 file a motion requesting that the Court vacate this Stipulated Final Judgment based on Defendant’s
16 demonstrated history of adherence to the provisions of Paragraph 4 of this Stipulated Final
17 Judgment. If the People agree that Defendant has substantially complied with the provisions set
18 forth in Paragraph 4 of this Stipulated Final Judgment, the People will file a statement of non-
19 opposition to Defendant’s motion. If the People disagree, the People will file an opposition setting
20 forth the People’s reasoning and will recommend that the injunctive provision in Paragraph 4 remain
21 in effect. Within thirty (30) days of the filing of Defendant’s motion, the People will file either a
22 statement of non-opposition or an opposition. Within forty-five (45) days of the filing of
23 Defendant’s motion, Defendant may file a reply. The People and Defendant agree that the Court
24 may grant Defendant’s motion upon determining that Defendant has substantially complied with
25 Paragraph 4. Nothing shall prevent the Court from vacating this Stipulated Final Judgment before
26 said four years have passed upon a showing of good cause jointly made by Defendant and the
27 People.

28 7. The People and Defendant have agreed that it is impractical to attempt to identify
29 individuals who have been misled or injured by the descriptions alleged to have been potentially
30 misleading in this action. Given the impracticability of identifying or providing direct and

1 measurably appropriate payments to individuals who might assert that their purchasing practices
2 were altered or that they were otherwise harmed as a result of the conduct that is the subject of this
3 action, under the doctrine of *cy pres* and in the public interest, Defendant shall instead contribute to
4 the public, in the form of transfers to non-profit organizations or public schools as designated by the
5 District Attorneys, *television monitors* or other audio/video equipment having an aggregate retail
6 market price of no less than Two Hundred and Twenty-Five Thousand Dollars (\$225,000), and shall
7 provide a written report of such transfers to the attorneys for the District Attorneys no later than July
8 1, 2011.

9 8. Pursuant to Business and Professions Code section 17536 and the court's inherent
10 equitable authority, Defendant is further ordered to pay to THE PEOPLE OF THE STATE OF
11 CALIFORNIA a total settlement amount of Two Hundred and Fifty Thousand Dollars (\$250,000),
12 payable within fifteen days of the date of entry of this Stipulated Final Judgment, said sum to be
13 allocated by and among the various offices of the District Attorneys as they shall deem appropriate,
14 except that \$216,666 of the total is paid as the costs of investigation and prosecution in this matter.

15 9. This Stipulated Final Judgment is in full and final settlement of all civil claims and
16 remedies by or on behalf of the People of the State of California, including but not limited to claims
17 and remedies under Business and Professions Code section 17500 *et seq.* pertaining to Defendant's
18 labeling, advertising, and marketing of *television monitors* by the reference to measurement of the
19 *television monitors' viewable picture size*, for all such *television monitors* that were manufactured,
20 sold, or offered for sale by Defendant before March 1, 2011. It having been stipulated by the
21 District Attorneys and Defendant that the District Attorneys engaged in extensive investigation and
22 review with the cooperation of Defendant and that Defendant voluntarily made changes to its
23 marketing and labeling materials so that, now and for approximately four years preceding the filing
24 of this action, Defendant has been, *inter alia*, disclosing the viewable diagonal picture sizes of its
25 television sets in a form and manner fully consistent with Paragraph 4 above, and the Stipulation and
26 Stipulated Final Judgment having been reviewed by the Court, this Court finds that the Stipulated
27 Final Judgment in all respects is just, reasonable, equitable, entered in good faith, and adequate to
28 protect the public from the occurrence in the future of the conduct alleged in the Complaint and to
29 provide complete satisfaction of the public interest in the conduct that is the subject of this Stipulated
30 Final Judgment, and constitutes full and adequate consideration to the public.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30

10. This Stipulated Final Judgment has been entered without any admissions by any of the parties as to the merits of the allegations in the Complaint and shall not constitute a finding of either fact or law as to the merits of any of those claims or as to the obligations of Defendant to take any actions agreed to be done or avoided herein in order to bring them, or any of them, into compliance with the law.

11. Jurisdiction is retained for the purpose of enabling any party to this Stipulated Final Judgment to apply to the Court at any time for dissolution, modification or enforcement of any of the injunctive provisions herein.

Dated: Dec. 30, 2010

C. DON CLAY
Judge of the Superior Court