Taiwan Firm Fined $500M For LCD Price Fixing

Paul Elias, Associated Press

SAN FRANCISCO (AP) — A Taiwanese company was fined $500 million Thursday and its former president and executive vice president were each sentenced to three years in prison for their leading roles in a global LCD screen price-fixing conspiracy.

The sentences handed down Thursday are among the harshest penalties ever given in an antitrust criminal case.

Still, the U.S. Department of Justice complained the punishments were not enough. Federal prosecutors demanded a $1 billion fine and a 10-year prison sentence for the executives.

U.S. District Judge Susan Illston said she rejected the demand because A.U. Optronics has already paid out millions to settle a class-action lawsuit and still faced other lawsuits in the United States and around the world.

She also said the two executives — Hsuan Bin Chen and Hui Hsiung — didn't deserve the lengthy prison sentences demanded by prosecutors because they acted not for personal gain like someone operating a Ponzi scheme but out of their sincere belief that they were aiding a troubled industry plagued by over-production and plummeting prices. Both men declined to address the court.

"There were a lot of business pressures they responded to," the judge said. "There was relatively little personal motivation."

Nonetheless, the judge said the evidence of their guilt was "overwhelming" and that "they did know it was illegal."

The company and seven other competitors who have previously pleaded guilty were convicted of sending executives to quarterly meetings between 2001 and 2006 to hash out production levels and prices they would charge the world's largest technology companies for their liquid display screens. The tech giants include companies such as Apple Inc., Dell Computers and a long-list of television and computer makers. Many of the meetings' agendas and conclusions were documented and presented to the jury as evidence. The jury convicted the company and men in March.

Prosecutors said the conspiracy artificially inflated the cost of those products for consumers around the world. One-third of the $74 billion in LCD screen sales implicated in the scheme were made by U.S. companies.

"These defendants played a pivotal role in a global conspiracy that had an unprecedented impact on the pocket books of American consumers," federal prosecutor Heather Tewksbury unsuccessfully argued for harsher sentences. "They

have done nothing to accept any responsibility for what they did."

The judge is allowing the company to pays its fine in four installments over the next year after its attorney Dennis Riordan pleaded for a payment plan. He said the company had only $80 million in cash on hand and order to pay the fine immediately would cause lenders to demand repayment of $6.5 billion worth of loans. Such a scenario would have "killed" the company, Riordan said.

The judge also ordered the company to publish in three "trade journals" that it has been convicted of price fixing and what measures its taking to avoid breaking the law in the future.

DOJ is wrapping up a yearslong investigation of the global price-fixing scheme that artificially increased the price of LCD screens used in televisions, computers and other electronic products made by Apple Inc., Dell Computers and many of the largest high-tech companies in the United States.

"The conspiracy affected every family, school, business, charity, and government agency that paid more to purchase notebook computers, computer monitors, and LCD televisions during the conspiracy," prosecutors concluded in arguing for the criminal penalties.

AU Optronics and the other co-conspirators are also the targets of class action lawsuits filed by customers, retailers and consumers.

In July, the company, along with Toshiba and LG, agreed to pay a combined $571 million to settle one of the lawsuits. Other manufactures, including Hitachi, Sharp and Samsung, agreed in December to pay $538 million to settle.

Seven other Asian manufacturers and 22 of their executives have previously pleaded guilty and agreed to pay a combined $890 million in fines. The 10 executives who have been sentenced so far received prison terms ranging from six months to a little more than year in prison.

The $1.39 billion in criminal fines won in court make the LCD screen price fixing case the largest criminal antitrust case ever prosecuted by the DOJ, surpassing the breakup of a vitamin cartel in the late 1990's that netted $875 million in criminal fines.

To date, F. Hoffmann-La Roche Ltd.'s $500 million fine for participating in the vitamin price-fixing scheme remains the largest antitrust fine. The DOJ's annual collection of antitrust criminal fines only topped $1 billion once in the past 10 years, according to a report compiled by the law firm Gibson Dunn.

A jury found AU Optronics, Chen, its former president, and former executive vice president Hsiung guilty and acquitted two others. The jury couldn't agree on a verdict for a fifth executive, and prosecutors dropped charges. Chen remains a vice chairman of the company's Board of Directors. Both men were allowed to go free and ordered to report to prison on Dec. 20

AU Optronics refused to plea bargain with the DOJ, becoming the only company to go to trial.

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