

# SECURITIES AND EXCHANGE COMMISSION

Washington, D.C. 20549

## FORM 10-Q/A

(Amendment No. 2)

### QUARTERLY REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934

For the quarterly period ended July 31, 2011

Commission file number 0-11254

## COPYTELE, INC.

(Exact name of registrant as specified in its charter)

**Delaware**

(State or other jurisdiction of  
incorporation or organization)

**11-2622630**

(I.R.S. Employer  
Identification no.)

**900 Walt Whitman Road**

**Melville, NY**

(Address of principal executive offices)

**11747**

(Zip Code)

**(631) 549-5900**

(Registrant's telephone number, including area code)

Indicate by check mark whether the registrant: (1) has filed all reports required to be filed by Section 13 or 15(d) of the Securities Exchange Act of 1934 during the preceding 12 months (or for such shorter period that the registrant was required to file such reports), and (2) has been subject to such filing requirements for the past 90 days. Yes  No

Indicate by check mark whether the registrant has submitted electronically and posted on its corporate Web site, if any, every Interactive Data File required to be submitted and posted pursuant to Rule 405 of Regulation S-T (§232.405 of this chapter) during the preceding 12 months (or for such shorter period that the registrant was required to submit and post such files). Yes  No

Indicate by check mark whether the registrant is a large accelerated filer, an accelerated filer, a non-accelerated filer, or a smaller reporting company. See the definitions of "large accelerated filer," "accelerated filer" and "smaller reporting company" in Rule 12b-2 of the Exchange Act.

Large accelerated filer

Accelerated filer

Non-accelerated filer  (Do not check if a smaller reporting company)

Smaller Reporting Company

Indicate by check mark whether the registrant is a shell company (as defined in Rule 12b-2 of the Exchange Act). Yes  No

Indicate the number of shares outstanding of each of the issuer's classes of common stock, as of the latest practicable date.

On September 9, 2011, the registrant had outstanding 174,438,632 shares of Common Stock, par value \$.01 per share, which is the registrant's only class of common stock.

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## EXPLANATORY NOTE

The purpose of this Amendment No. 2 to CopyTele, Inc.'s ("CopyTele") Quarterly Report on Form 10-Q for the quarterly period ended July 31, 2011, filed with the Securities and Exchange Commission (the "Commission") on September 14, 2011 (the "Form 10-Q"), is to refile Exhibits 10.1 and 10.2 that were originally filed with the Form 10-Q to conform such exhibits to comments received from the Commission on the confidential treatment request filed by CopyTele with respect to Exhibits 10.1 and 10.2.

This Amendment contains only the Cover Page to this Form 10-Q/A, this Explanatory Note, Item 6, the Signature Page and Exhibits 10.1 and 10.2, as corrected. No other changes have been made to the Form 10-Q. This Amendment No. 2 to the Form 10-Q speaks as of the original filing date of the Form 10-Q, does not reflect events that may have occurred subsequent to the original filing date, and does not modify or update in any way disclosures made in the original Form 10-Q.

### **Item 6. Exhibits.**

- 10.1 Exclusive License Agreement, dated May 27, 2011, between CopyTele, Inc. and AU Optronics Corp. (filed herewith). (Confidential portions have been omitted and filed separately with the Commission).
- 10.2 License Agreement, dated May 27, 2011, between CopyTele, Inc. and AU Optronics Corp. (filed herewith). (Confidential portions have been omitted and filed separately with the Commission).
- 31.1 Certification of Chief Executive Officer, pursuant to Section 302 of the Sarbanes-Oxley Act of 2002, dated November 30, 2011.
- 31.2 Certification of Chief Financial Officer, pursuant to Section 302 of the Sarbanes-Oxley Act of 2002, dated November 30, 2011.
- 32.1 Statement of Chief Executive Officer, pursuant to Section 1350 of Title 18 of the United States Code, dated November 30, 2011.
- 32.2 Statement of Chief Financial Officer, pursuant to Section 1350 of Title 18 of the United States Code, dated November 30, 2011.

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**SIGNATURES**

Pursuant to the requirements of the Securities Exchange Act of 1934, the registrant has duly caused this report to be signed on its behalf by the undersigned, thereunto duly authorized.

COPYTELE, INC.

By: /s/ Denis A. Krusos

Denis A. Krusos

Chairman of the Board and Chief Executive Officer (Principal Executive Officer)

November 30, 2011

By: /s/ Henry P. Herms

Henry P. Herms

Vice President - Finance and Chief Financial Officer (Principal Financial and Accounting Officer)

November 30, 2011

CopyTele, Inc. has redacted certain confidential information in this agreement in reliance upon its confidential treatment request that if filed with the Securities and Exchange Commission pursuant to Rule 24 b-2 under the Securities Exchange Act of 1934. In this agreement, we indicate each redaction by use of the following symbol [\*\*\*] Such Confidential portions have been omitted and filed separately with the Commission).

EXHIBIT 10.1  
EXCLUSIVE LICENSE AGREEMENT

This Exclusive License Agreement (“Agreement”), dated and effective as of May 27<sup>th</sup>, 2011 (“Effective Date”), is made and entered into by and between CopyTele Inc., having its office at 900 Walt Whitman Road, Melville, New York 11747 (“Licensor”), on the one hand, and AU Optronics Corp. (“Licensee”), having its office at 1 Li-Hsin Road 2, Hsinchu Science Park, Hsinchu, Taiwan, on the other hand.

In consideration of the mutual covenants and obligations herein undertaken, Licensor and Licensee agree as follows:

Article 1. Definitions

In this Agreement, the following terms shall have the respective meanings set forth below:

- 1.1 “EPD” means electrophoretic display.
- 1.2 “Licensed Technology” means know how, technical information, engineering data, specifications of materials and other information owned or controlled by Licensor and/or its Subsidiaries relating to EPD.
- 1.3 “Licensed Patents” means any and all patents and/or patent applications relating to the Licensed Technology and/or EPD filed by, issued or assigned to Licensor and/or its Subsidiaries anywhere in the world on or before the fifth anniversary date from the Effective Date as well as all divisionals, continuations, continuations-in-part, reissues and/or reexaminations filed in connection therewith. For the avoidance of doubt, Licensed Patents include without limitation the patents and patent applications attached hereto as Schedule A.
- 1.4 “Licensed Products” means Subject EPD Products and/or products which the Licensed Patents and/or Licensed Technology may be related to.
- 1.5 “Subject EPD Products” means electrophoretic displays comprising the technical features as set forth in Schedule B attached hereto.
- 1.6 “Subsidiaries” means any corporation, company, or other entity of which more than fifty percent (50%) of the outstanding shares or stock or ownership interest entitled to vote for the election of directors is owned or controlled by either party, directly or indirectly, during the term of this Agreement, but any such entity constitutes a Subsidiary only so long as such ownership or control exists.

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CopyTele, Inc. has redacted certain confidential information in this agreement in reliance upon its confidential treatment request that if filed with the Securities and Exchange Commission pursuant to Rule 24 b-2 under the Securities Exchange Act of 1934. In this agreement, we indicate each redaction by use of the following symbol [\*\*\*] Such Confidential portions have been omitted and filed separately with the Commission).

Article 2. Grant of Exclusive License and Release

In consideration of the royalties agreed to be paid by Licensee to Licensor hereunder and other considerations, the parties agree that:

- 2.1 Licensor hereby grants to Licensee and its Subsidiaries an exclusive, perpetual, worldwide license under any and all Licensed Technology to make, have made, sell, offer for sale, use, import, export, lease and/or otherwise dispose of the Licensed Products. Licensee on behalf of itself and its Subsidiaries hereby accepts such license. Licensor retains a non-exclusive right to use the Licensed Technology and Licensed Products in a non-competitive manner, consistent with this Agreement.
- 2.2 Licensor hereby grants to Licensee and its Subsidiaries an exclusive, worldwide license under any and all Licensed Patents to make, have made, sell, offer for sale, use, import, export, lease and/or otherwise dispose of the Licensed Products, and also sub-license the Licensed Patents, during the term of the Agreement. Licensee on behalf of itself and its Subsidiaries hereby accepts such license. Licensor retains a non-exclusive right to use the Licensed Patents and Licensed Products in a non-competitive manner, consistent with this Agreement.
- 2.3 Licensor hereby releases and discharges Licensee and its Subsidiaries from any and all actions, causes of action, claims or demands whatsoever, in law or equity of any kind, under the Licensed Patents and the Licensed Technology for any products made, have made, used, imported, exported, sold, offer for sale, leased and/or otherwise disposed of prior to Effective Date, if any.

Article 3. Third Party Infringement

- 3.1 Licensee shall have the right at its discretion to commence, prosecute, compromise and settle any claim, action or proceeding for infringement (past or future), unfair competition, unauthorized use, misappropriation or violation of any of the Licensed Patents by any unlicensed third party within the territory where the Licensed Patents may be enforced ("Enforcement Proceeding"). Licensee may, at its discretion, commence, prosecute, compromise or settle any such claim, action or proceeding, as well as any claim, action or proceeding to defend any of the Licensed Patents. It is the intent and agreement of the Parties that this Agreement transfers to Licensee the full exclusive rights and all substantial rights in the Licensed Patents such that Licensee shall be able to bring an Enforcement Proceeding in its own name, and that no rights have been maintained by Licensor that would require Licensor to be a named party to any Enforcement Proceeding.

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CopyTele, Inc. has redacted certain confidential information in this agreement in reliance upon its confidential treatment request that if filed with the Securities and Exchange Commission pursuant to Rule 24 b-2 under the Securities Exchange Act of 1934. In this agreement, we indicate each redaction by use of the following symbol [\*\*\*] Such Confidential portions have been omitted and filed separately with the Commission).

Article 4. Royalty Fees for Exclusive License

4.1 Licensee shall pay royalty fees to the Licensor as follows:

- (a) Initial Fee: Licensee shall pay to Licensor an amount as set forth in Schedule C attached hereto.
- (b) Conditional Fee: Licensee shall pay to Licensor an amount as set forth in Schedule D attached hereto upon fulfillment of the conditions as set forth in Schedule F attached hereto.
- (c) Conditional Running Royalty: [\*\*\*] Licensee shall pay to Licensor a royalty for the sale of the Subject EPD Products by Licensee and/or its Subsidiaries as set forth in Schedule E attached hereto.

4.2 The foregoing specified payments shall be made in United States currency by wire transfer to the following account, pursuant to a bank transfer as follows:

Bank/Branch Name: [\*\*\*]  
Address:  
Swift Code:  
Account Name:  
Account Number:

4.3 All taxes imposed as a result of the existence or performance of this Agreement shall be borne and paid by the Party required to do so by applicable law; provided, however, that, if so required by applicable law, Licensee shall withhold the amount of any national taxes levied by the Government of the Republic of China (Taiwan), on any payment by the Licensee hereunder, shall promptly pay such amount to the appropriate tax authorities of the Government of the Republic of China (Taiwan) and shall transmit to the Licensor official tax receipts or other evidence issued by such tax authorities.

Article 5. Term

5.1 This Agreement shall become effective as of the Effective Date and shall remain in full force and effect until the last to expire of the Licensed Patents.

Article 6. Miscellaneous

6.1 The rights and obligations of the Parties under this Agreement shall be governed by and construed in accordance with laws of California. Any dispute in connection with this Agreement shall be submitted to the arbitration administered by the American Arbitration Association under its Commercial Arbitration Rules. The place of arbitration shall be San Francisco, California.

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CopyTele, Inc. has redacted certain confidential information in this agreement in reliance upon its confidential treatment request that if filed with the Securities and Exchange Commission pursuant to Rule 24 b-2 under the Securities Exchange Act of 1934. In this agreement, we indicate each redaction by use of the following symbol [\*\*\*] Such Confidential portions have been omitted and filed separately with the Commission).

- 6.2 The terms and conditions of this Agreement may only be amended by a writing signed by the parties through their duly authorized representatives.
- 6.3 Except as otherwise specifically provided in this Agreement, neither this Agreement nor any rights hereunder nor any Licensed Patents may be assigned or otherwise transferred by any party, in whole or in part, whether voluntary or by operation of law, including by way of sale of assets, merger or consolidation, without the prior written consent of the other party, provided that Licensee may transferred its rights and obligations under this Agreement to a Subsidiary or affiliate without Licensor's consent. Any purported assignment without any such consent is void. In the event of any default in payments due Licensor under this agreement by said Subsidiaries or affiliates, Licensee shall be responsible for the payment of such amounts due Licensor. This Agreement will be binding upon and inure to the benefit of the Parties and their respective successors and permitted assigns, including the covenants granted herein.
- 6.4 Any notice required or permitted under this Agreement or required by law must be in writing and must be (i) delivered in person, (ii) sent by facsimile with a hard copy of such facsimile sent by (international or domestic) mail, or (iii) sent by overnight or next business day courier such as Federal Express, UPS or DHL, as follows:
- (1) If to Licensor:  
CopyTele, Inc.  
900 Walt Whitman Road  
Melville, New York 11747  
Attn: Denis A. Krusos  
Fax: 631-549-3813
  - (2) If to Licensee:  
AU Optronics Corp.  
1 Li-Hsin Road 2  
Hsinchu Science Park  
Hsinchu, Taiwan  
Attn: Legal Office  
Fax: [\*\*\*]

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CopyTele, Inc. has redacted certain confidential information in this agreement in reliance upon its confidential treatment request that if filed with the Securities and Exchange Commission pursuant to Rule 24 b-2 under the Securities Exchange Act of 1934. In this agreement, we indicate each redaction by use of the following symbol [\*\*\*] Such Confidential portions have been omitted and filed separately with the Commission).

Either party may amend its address by written notice to the other party in accordance with this Article. Notices will be deemed to have been given at the time of actual delivery in person on a business day, five (5) business days (seven (7) business days for international delivery) after deposit in the mail as set forth herein, or one (1) business day after delivery to an overnight courier service (4 business days for international delivery).

- 6.5 Except as expressly provided herein, the rights and remedies herein provided shall be cumulative and not exclusive of any other rights or remedies provided by law or otherwise. Failure by either party to detect, protest, or remedy any breach of this Agreement shall not constitute a waiver or impairment of any such term or condition, or the right of such party at any time to avail itself of such remedies as it may have for any breach or breaches of such term or condition. A waiver may only occur pursuant to the express written permission of an authorized officer of the party against whom the waiver is asserted.
- 6.6 In the event that any term, condition or provision of this Agreement is declared or found by a court of competent jurisdiction to be invalid, illegal, unenforceable or void, the parties shall endeavor in good faith to agree to amendments that will preserve, as far as possible, the intentions expressed in this Agreement. If the parties fail to agree on such amendments, such invalid term, condition or provision shall be severed from the remaining terms, conditions and provisions, which shall continue to be valid and enforceable to the fullest extent permitted by law.
- 6.7 This Agreement is the result of negotiations between Licensor and Licensee and accordingly shall not be construed for or against a party merely because such party drafted this Agreement or any portion thereof.
- 6.8 Titles of the Articles herein are for the convenience of reference only and shall not affect the construction of this Agreement.
- 6.9 In the event of any legal action to enforce or interpret the terms of this Agreement, the prevailing party shall be entitled, in addition to its court costs, to its reasonable attorneys' fees, including without limitation, the costs, expenses and attorneys' fees on any appeal.
- 6.10 This Agreement sets forth the entire agreement and understanding between the parties with respect to the subject matter described herein and supersedes and cancels all previous negotiations, agreements and commitments, whether oral or in writing, with respect to the subject matter described herein.



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6.11 Licensors agree to make any maintenance fees for the Licensed Patents in a timely manner as they are due. Licensors agree to take further reasonable actions as may be requested by Licensee from time to time during the term of this Agreement to effectuate the terms and conditions of this Agreement.

6.12 Licensors and Licensee will discuss and conclude a joint development agreement for the Subject EPD Products as soon as practicable after the Effective Date hereof and will make their best efforts to jointly develop the Subject EPD Products [\*\*\*].

6.13 Licensors and Licensee agree to abide by the confidential obligations as set forth in Schedule G attached hereto.

IN WITNESS WHEREOF, this Agreement has been duly executed by the parties through their duly authorized representatives to be effective as of the Effective Date.

Licensors:

Licensee:

CopyTele Inc.

AU Optronics Corp.

By: /s/ Denis A. Krusos

By: [\*\*\*]

Name: Denis A. Krusos

Name:

Title: Chairman and Chief Executive Officer

Title:

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**SCHEDULE A  
CONFIDENTIAL**

Non-Exhaustive List of Licensed Patents and Patent Applications

<u>Title</u>	<u>Serial No.</u>	<u>Filing Date</u>	<u>Patent No.</u>	<u>Patent Issue Date</u>
	[***]			
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**SCHEDULE B  
CONFIDENTIAL**

Definition of "Subject EPD Products"

[\*\*\*].

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**SCHEDULE C**  
**CONFIDENTIAL**

Amount of the Initial Fee

Licensee shall pay to Licensor an Initial Fee of [\*\*\*] no later than thirty (30) days from the Effective Date.

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**SCHEDULE D**  
**CONFIDENTIAL**

Amount of the Conditional Fee

Licensee shall pay to Licensor a Conditional Fee of [\*\*\*] no later than [\*\*\*] from Licensor's receipt of a written confirmation jointly signed by Licensor and Licensee, which confirmation cannot be unreasonably withheld by Licensee, that the conditions set forth in Schedule F have been fulfilled.

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**SCHEDULE E**  
**CONFIDENTIAL**

Amount of the Conditional Running Royalty

Licensor and Licensee shall discuss and agree on a reasonable running royalty for the sale of the Subject EPD Products by Licensee and/or its Subsidiaries that practice the Licensed Patents as issued on the basis of the following principles:

[\*\*\*]

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**SCHEDULE F**  
**CONFIDENTIAL**

Conditions for the Conditional Fee

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**SCHEDULE G**  
**CONFIDENTIAL**

Confidential Obligations

(1) **DEFINITION.** The trade secrets and all information communicated by either of Licensor or Licensee (a “disclosing party”) to the other (a “receiving party”), in oral, written or electronic form, which is confidential to the disclosing party and provides value to the disclosing party at least in part by virtue of its confidential status, and are marked with “Confidential” or similar legend (any information disclosed in oral shall be reduced into writing and marked with “Confidential” or similar legend within 60 days following the disclosure), shall be deemed Confidential Information pursuant to this Agreement. In addition, and without limitation, the terms and conditions of this Agreement shall be deemed Confidential Information.

(2) **MAINTENANCE OF CONFIDENTIALITY.** Each party, as a receiving party, agrees to engage in efforts to maintain Confidential Information of the disclosing party in confidence at least as stringent as the efforts that the receiving party engages in to protect its own confidential information, and in any event no less than commercially reasonable efforts. Without limiting the foregoing, the receiving party shall restrict access to the Confidential Information of the disclosing party, by electronic security measures in the case of electronic files, and by physical security measures in the case of hard copies, to those employees who have a need to know such Confidential Information and shall advise those employees of the restrictions of this Agreement prior to any such disclosure. The receiving party’s obligations under this Schedule G will be effective for a term of five years from the Effective Date.

(3) **EXCEPTIONS.** As used in this Agreement, Confidential Information shall not include:

- (a) Information which is now available to the public or hereafter becomes available to the public without any violation of this Agreement;
- (b) Information disclosed in good faith to the receiving party by a third party legally entitled to disclose the same;
- (c) Information which is independently developed by the receiving party; and
- (c) Information is required to be disclosed to any government agency or any regulatory authority or a court of competent jurisdiction provided that the parties agree to use their best efforts to minimize the disclosure of such information or be subject to a protective order and shall consult with and assist the other party.

For the avoidance of doubt, Licensee and its Subsidiaries shall not be deemed in breach of this Agreement by virtue of making or selling any product which contains Confidential Information and/or Licensed Technology, whether or not such Confidential Information or Licensed Technology can be known by way of reverse engineering or otherwise.



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(4) PUBLIC DISCLOSURES. Notwithstanding the foregoing, each receiving party shall be allowed to disclose Confidential Information of the disclosing party to make any necessary announcement or reporting required by the U.S. Securities and Exchange Commission, any stock exchange, the NASDAQ Stock Market, the New York Stock Exchange, and/or the Taiwan stock exchange. However, the party making the disclosure shall use reasonable efforts to notify and consult with the other party in advance of the contents of the announcement or the reporting.

CopyTele, Inc. has redacted certain confidential information in this agreement in reliance upon its confidential treatment request that if filed with the Securities and Exchange Commission pursuant to Rule 24 b-2 under the Securities Exchange Act of 1934. In this agreement, we indicate each redaction by use of the following symbol [\*\*\*] Such Confidential portions have been omitted and filed separately with the Commission).

EXHIBIT 10.2  
LICENSE AGREEMENT

This License Agreement (“Agreement”), dated and effective as of May 27<sup>th</sup>, 2011 (“Effective Date”), is made and entered into by and between CopyTele Inc., having its office at 900 Walt Whitman Road, Melville, New York 11747 (“Licensor”), on the one hand, and AU Optronics Corp. (“Licensee”), having its office at 1 Li-Hsin Road 2, Hsinchu Science Park, Hsinchu, Taiwan, on the other hand.

In consideration of the mutual covenants and obligations herein undertaken, Licensor and Licensee agree as follows:

Article 1. Definitions

In this Agreement, the following terms shall have the respective meanings set forth below:

- 1.1 “Licensed Technology” means know how, technical information, engineering data, specifications of materials and other information owned or controlled by Licensor and/or its Subsidiaries relating to nano display.
- 1.2 “Licensed Patents” means any and all patents and/or patent applications relating to the Licensed Technology and/or nano display filed by, issued or assigned to Licensor and/or its Subsidiaries anywhere in the world on or before the fifth anniversary date from the Effective Date as well as all divisionals, continuations, continuations-in-part, reissues and/or reexaminations filed in connection therewith. For the avoidance of doubt, Licensed Patents include without limitation the patents and patent applications attached hereto as Schedule A.
- 1.3 “Licensed Products” means Subject Nano Display Products and/or products which the Licensed Patents and/or Licensed Technology may be related to.
- 1.4 “Subject Nano Display Products” means field emission displays comprising the technical features as set forth in Schedule B attached hereto.
- 1.5 “Subsidiaries” means any corporation, company, or other entity of which more than fifty percent (50%) of the outstanding shares or stock or ownership interest entitled to vote for

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CopyTele, Inc. has redacted certain confidential information in this agreement in reliance upon its confidential treatment request that if filed with the Securities and Exchange Commission pursuant to Rule 24 b-2 under the Securities Exchange Act of 1934. In this agreement, we indicate each redaction by use of the following symbol [\*\*\*] Such Confidential portions have been omitted and filed separately with the Commission).

the election of directors is owned or controlled by either party, directly or indirectly, during the term of this Agreement, but any such entity constitutes a Subsidiary only so long as such ownership or control exists.

Article 2. Grant of License and Release

In consideration of the royalties agreed to be paid by Licensee to Licensor hereunder and other considerations, the parties agree that:

- 2.1 Licensor hereby grants to Licensee and its Subsidiaries a non-exclusive, perpetual, worldwide license under any and all Licensed Technology to make, have made, sell, offer for sale, use, import, export, lease and/or otherwise dispose of the Licensed Products. Licensee on behalf of itself and its Subsidiaries hereby accepts such license.
- 2.2 Licensor hereby grants to Licensee and its Subsidiaries a non-exclusive, worldwide license under any and all Licensed Patents to make, have made, sell, offer for sale, use, import, export, lease and/or otherwise dispose of the Licensed Products during the term of this Agreement. Licensee on behalf of itself and its Subsidiaries hereby accepts such license.
- 2.3 Licensor hereby releases and discharges Licensee and its Subsidiaries from any and all actions, causes of action, claims or demands whatsoever, in law or equity of any kind, under the Licensed Patents and the Licensed Technology for any products made, have made, used, imported, exported, sold, offer for sale, leased and/or otherwise disposed of prior to Effective Date, if any.

Article 3. Royalty Fees for License

3.1 Licensee shall pay royalty fees to the Licensor as follows:

- (a) Initial Fee: Licensee shall pay to Licensor an amount as set forth in Schedule C attached hereto.
- (b) Conditional Fee: Licensee shall pay to Licensor an amount as set forth in Schedule D attached hereto upon fulfillment of the conditions as set forth in Schedule F and Schedule H, respectively, attached hereto.

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CopyTele, Inc. has redacted certain confidential information in this agreement in reliance upon its confidential treatment request that if filed with the Securities and Exchange Commission pursuant to Rule 24 b-2 under the Securities Exchange Act of 1934. In this agreement, we indicate each redaction by use of the following symbol [\*\*\*] Such Confidential portions have been omitted and filed separately with the Commission).

- (c) Conditional Running Royalty: [\*\*\*] Licensee shall pay to Licensor a royalty for the sale of the Subject Nano Display Products by Licensee and/or its Subsidiaries as set forth in Schedule E attached hereto.

3.2 The foregoing specified payments shall be made in United States currency by wire transfer to the following account, pursuant to a bank transfer as follows:

Bank/Branch Name: [\*\*\*]  
Address:  
Swift Code:  
Account Name:  
Account Number:

3.3 All taxes imposed as a result of the existence or performance of this Agreement shall be borne and paid by the Party required to do so by applicable law; provided, however, that, if so required by applicable law, Licensee shall withhold the amount of any national taxes levied by the Government of the Republic of China (Taiwan), on any payment by the Licensee hereunder, shall promptly pay such amount to the appropriate tax authorities of the Government of the Republic of China (Taiwan) and shall transmit to the Licensor official tax receipts or other evidence issued by such tax authorities.

Article 4. Term

4.1 This Agreement shall become effective as of the Effective Date and shall remain in full force and effect until the last to expire of the Licensed Patents.

Article 5. Miscellaneous

- 5.1 The rights and obligations of the Parties under this Agreement shall be governed by and construed in accordance with laws of California. Any dispute in connection with this Agreement shall be submitted to the arbitration administered by the American Arbitration Association under its Commercial Arbitration Rules. The place of arbitration shall be San Francisco, California.
- 5.2 The terms and conditions of this Agreement may only be amended by a writing signed by the parties through their duly authorized representatives.

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CopyTele, Inc. has redacted certain confidential information in this agreement in reliance upon its confidential treatment request that if filed with the Securities and Exchange Commission pursuant to Rule 24 b-2 under the Securities Exchange Act of 1934. In this agreement, we indicate each redaction by use of the following symbol [\*\*\*] Such Confidential portions have been omitted and filed separately with the Commission).

- 5.3 Except as otherwise specifically provided in this Agreement, neither this Agreement nor any rights hereunder nor any Licensed Patents may be assigned or otherwise transferred by any party, in whole or in part, whether voluntary or by operation of law, including by way of sale of assets, merger or consolidation, without the prior written consent of the other party, provided that Licensee may transferred its rights and obligations under this Agreement to a Subsidiary or affiliate without Licensor's consent. Any purported assignment without any such consent is void. In the event of any default in payments due Licensor under this agreement by said Subsidiaries or affiliates, Licensee shall be responsible for the payment of such amounts due Licensor. This Agreement will be binding upon and inure to the benefit of the Parties and their respective successors and permitted assigns, including the covenants granted herein.
- 5.4 Any notice required or permitted under this Agreement or required by law must be in writing and must be (i) delivered in person, (ii) sent by facsimile with a hard copy of such facsimile sent by (international or domestic) mail, or (iii) sent by overnight or next business day courier such as Federal Express, UPS or DHL, as follows:
- (1) If to Licensor:  
CopyTele, Inc.  
900 Walt Whitman Road  
Melville, New York 11747  
Attn: Denis A. Krusos  
Fax: 631-549-3813
  - (2) If to Licensee:  
AU Optronics Corp.  
1 Li-Hsin Road 2  
Hsinchu Science Park  
Hsinchu, Taiwan  
Attn: Legal Office  
Fax: [\*\*\*]

Either party may amend its address by written notice to the other party in accordance with this Article. Notices will be deemed to have been given at the time of actual delivery in person on a business day, five (5) business days (seven (7) business days for international delivery) after deposit in the mail as set forth herein, or one (1) business day after delivery to an overnight courier service (4 business days for international delivery).

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CopyTele, Inc. has redacted certain confidential information in this agreement in reliance upon its confidential treatment request that if filed with the Securities and Exchange Commission pursuant to Rule 24 b-2 under the Securities Exchange Act of 1934. In this agreement, we indicate each redaction by use of the following symbol [\*\*\*] Such Confidential portions have been omitted and filed separately with the Commission).

- 5.5 Except as expressly provided herein, the rights and remedies herein provided shall be cumulative and not exclusive of any other rights or remedies provided by law or otherwise. Failure by either party to detect, protest, or remedy any breach of this Agreement shall not constitute a waiver or impairment of any such term or condition, or the right of such party at any time to avail itself of such remedies as it may have for any breach or breaches of such term or condition. A waiver may only occur pursuant to the express written permission of an authorized officer of the party against whom the waiver is asserted.
- 5.6 In the event that any term, condition or provision of this Agreement is declared or found by a court of competent jurisdiction to be invalid, illegal, unenforceable or void, the parties shall endeavor in good faith to agree to amendments that will preserve, as far as possible, the intentions expressed in this Agreement. If the parties fail to agree on such amendments, such invalid term, condition or provision shall be severed from the remaining terms, conditions and provisions, which shall continue to be valid and enforceable to the fullest extent permitted by law.
- 5.7 This Agreement is the result of negotiations between Licensor and Licensee and accordingly shall not be construed for or against a party merely because such party drafted this Agreement or any portion thereof.
- 5.8 Titles of the Articles herein are for the convenience of reference only and shall not affect the construction of this Agreement.
- 5.9 In the event of any legal action to enforce or interpret the terms of this Agreement, the prevailing party shall be entitled, in addition to its court costs, to its reasonable attorneys' fees, including without limitation, the costs, expenses and attorneys' fees on any appeal.
- 5.10 This Agreement sets forth the entire agreement and understanding between the parties with respect to the subject matter described herein and supersedes and cancels all previous negotiations, agreements and commitments, whether oral or in writing, with respect to the subject matter described herein.

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- 5.11 Licensor agrees to make any maintenance fees for the Licensed Patents in a timely manner as they are due. Licensor agrees to take further reasonable actions as may be requested by Licensee from time to time during the term of this Agreement to effectuate the terms and conditions of this Agreement.
- 5.12 Licensor and Licensee will discuss and conclude a joint development agreement for the Subject Nano Display Products as soon as practicable after the Effective Date hereof and will make their best efforts to jointly develop the Subject Nano Display Products [\*\*\*]
- 5.13 Licensor and Licensee agree that the granting of any additional license(s) under the Licensed Patents by Licensor to any third party will be subject to the written consent of the Licensor, the Licensee, and Videocon Industries Limited of India under such reasonable conditions to be discussed by the said three parties, subject to any necessary antitrust approval, if any.
- 5.14 Licensor and Licensee agree to abide by the confidential obligations as set forth in Schedule G attached hereto.

IN WITNESS WHEREOF, this Agreement has been duly executed by the parties through their duly authorized representatives to be effective as of the Effective Date.

Licensor:

Licensee:

CopyTele Inc.

AU Optronics Corp.

By: /s/ Denis A. Krusos  
Name: Denis A. Krusos  
Title: Chairman and Chief Executive Officer

By: [[\*\*\*]  
Name:  
Title:

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**SCHEDULE A  
CONFIDENTIAL**

Non-Exhaustive List of Licensed Patents and Patent Applications

<u>Title</u>	<u>Serial No.</u>	<u>Filing Date</u>	<u>Patent No.</u>	<u>Patent Issue Date</u>
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**SCHEDULE B**  
**CONFIDENTIAL**

Definition of "Subject Nano Display Products"

[\*\*\*]

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**SCHEDULE C**  
**CONFIDENTIAL**

Amount of the Initial Fee

Licensee shall pay to Licensor an Initial Fee of US [\*\*\*] no later than thirty (30) days from the Effective Date.

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**SCHEDULE D  
CONFIDENTIAL**

Amount of the Conditional Fee

Licensee shall pay to Licensor a Conditional Fee of [\*\*\*] no later than [\*\*\*] from Licensor's receipt of a written confirmation jointly signed by Licensor and Licensee, which confirmation cannot be unreasonably withheld by Licensee, that the conditions set forth in Schedule F have been fulfilled.

Licensee shall pay to Licensor a Conditional Fee of [\*\*\*] no later than [\*\*\*] from Licensor's receipt of a written confirmation jointly signed by Licensor and Licensee, which confirmation cannot be unreasonably withheld by Licensee, that the conditions set forth in Schedule H have been fulfilled.

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CopyTele, Inc. has redacted certain confidential information in this agreement in reliance upon its confidential treatment request that if filed with the Securities and Exchange Commission pursuant to Rule 24 b-2 under the Securities Exchange Act of 1934. In this agreement, we indicate each redaction by use of the following symbol [\*\*\*] Such Confidential portions have been omitted and filed separately with the Commission).

**SCHEDULE E**  
**CONFIDENTIAL**

Amount of the Conditional Running Royalty

Licensor and Licensee shall discuss and agree on a reasonable running royalty for the sale of the Subject Nano Display Products by Licensee and/or its Subsidiaries that practice the Licensed Patents as issued on the basis of the following principles:

[\*\*\*]

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**SCHEDULE F**  
**CONFIDENTIAL**

Conditions for the Conditional Fee

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**SCHEDULE G**  
**CONFIDENTIAL**

Confidential Obligations

(1) **DEFINITION.** The trade secrets and all information communicated by either of Licensor or Licensee (a “disclosing party”) to the other (a “receiving party”), in oral, written or electronic form, which is confidential to the disclosing party and provides value to the disclosing party at least in part by virtue of its confidential status, and are marked with “Confidential” or similar legend (any information disclosed in oral shall be reduced into writing and marked with “Confidential” or similar legend within 60 days following the disclosure), shall be deemed Confidential Information pursuant to this Agreement. In addition, and without limitation, the terms and conditions of this Agreement shall be deemed Confidential Information.

(2) **MAINTENANCE OF CONFIDENTIALITY.** Each party, as a receiving party, agrees to engage in efforts to maintain Confidential Information of the disclosing party in confidence at least as stringent as the efforts that the receiving party engages in to protect its own confidential information, and in any event no less than commercially reasonable efforts. Without limiting the foregoing, the receiving party shall restrict access to the Confidential Information of the disclosing party, by electronic security measures in the case of electronic files, and by physical security measures in the case of hard copies, to those employees who have a need to know such Confidential Information and shall advise those employees of the restrictions of this Agreement prior to any such disclosure. The receiving party’s obligations under this Schedule G will be effective for a term of five years from the Effective Date.

(3) **EXCEPTIONS.** As used in this Agreement, Confidential Information shall not include:

- (a) Information which is now available to the public or hereafter becomes available to the public without any violation of this Agreement;
- (b) Information disclosed in good faith to the receiving party by a third party legally entitled to disclose the same;
- (c) Information which is independently developed by the receiving party; and
- (c) Information is required to be disclosed to any government agency or any regulatory authority or a court of competent jurisdiction provided that the parties agree to use their best efforts to minimize the disclosure of such information or be subject to a protective order and shall consult with and assist the other party.

For the avoidance of doubt, Licensee and its Subsidiaries shall not be deemed in breach of this Agreement by virtue of making or selling any product which contains Confidential Information and/or Licensed Technology, whether or not such Confidential Information or Licensed Technology can be known by way of reverse engineering or otherwise.

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(4) PUBLIC DISCLOSURES. Notwithstanding the foregoing, each receiving party shall be allowed to disclose Confidential Information of the disclosing party to make any necessary announcement or reporting required by the U.S. Securities and Exchange Commission, any stock exchange, the NASDAQ Stock Market, the New York Stock Exchange, and/or the Taiwan stock exchange. However, the party making the disclosure shall use reasonable efforts to notify and consult with the other party in advance of the contents of the announcement or the reporting.

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**SCHEDULE H  
CONFIDENTIAL**

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CERTIFICATION

I, Denis A. Krusos, certify that:

1. I have reviewed this Amendment No. 2 to the quarterly report on Form 10-Q of CopyTele, Inc.; and
2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report.

/s/ Denis A. Krusos

Denis A. Krusos

Chairman of the Board and Chief Executive Officer

November 30, 2011

CERTIFICATION

I, Henry P. Herms, certify that:

1. I have reviewed this Amendment No. 2 to the quarterly report on Form 10-Q of CopyTele, Inc.; and
2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report.

/s/ Henry P. Herms

Henry P. Herms

Vice President - Finance and Chief Financial Officer

November 30, 2011

Statement of Chief Executive Officer  
Pursuant to Section 1350 of Title 18 of the United States Code

Pursuant to Section 1350 of Title 18 of the United States Code, the undersigned, Denis A. Krusos, the Chairman of the Board and Chief Executive Officer of CopyTele, Inc., hereby certifies that:

1. The Company's Form 10-Q/A Quarterly Report (Amendment No. 2) for the period ended July 31, 2011 (the "Report") fully complies with the requirements of Section 13(a) or 15(d) of the Securities Exchange Act of 1934; and
2. The information contained in the Report fairly presents, in all material respects, the financial condition and results of operations of the Company.

/s/ Denis A. Krusos

Denis A. Krusos

Chairman of the Board and Chief Executive Officer

November 30, 2011

Statement of Chief Financial Officer  
Pursuant to Section 1350 of Title 18 of the United States Code

Pursuant to Section 1350 of Title 18 of the United States Code, the undersigned, Henry P. Herms, the Vice President - Finance and Chief Financial Officer of CopyTele, Inc., hereby certifies that:

1. The Company's Form 10-Q/A Quarterly Report (Amendment No. 2) for the period ended July 31, 2011 (the "Report") fully complies with the requirements of Section 13(a) or 15(d) of the Securities Exchange Act of 1934; and
2. The information contained in the Report fairly presents, in all material respects, the financial condition and results of operations of the Company.

/s/ Henry P. Herms

Henry P. Herms

Vice President - Finance and Chief Financial Officer

November 30, 2011