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 11 Apple Inc.

12 UNITED STATES DISTRICT COURT  
 13 NORTHERN DISTRICT OF CALIFORNIA  
 14 SAN JOSE DIVISION

15 ELAN MICROELECTRONICS  
 CORPORATION,  
 16  
 Plaintiff and Counterclaim  
 17 Defendant,  
 18 v.  
 19 APPLE INC.,  
 20 Defendant and Counterclaim  
 21 Plaintiff.

Case No. C-09-01531 RS (PVT)  
**APPLE INC.'S UNOPPOSED MOTION  
 TO SHORTEN TIME FOR ITS  
 MOTION TO STRIKE PARAGRAPHS  
 26-34 OF THE CLAIM  
 CONSTRUCTION DECLARATION OF  
 ROBERT DEZMELYK**  
 JURY TRIAL DEMANDED  
 Hon. Richard Seeborg

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1 Apple respectfully submits this motion to shorten time with respect to its Motion to Strike  
2 Paragraphs 26-34 of the Claim Construction Declaration of Robert Dezmelyk filed concurrently  
3 herewith. The underlying dispute addressed in the motion concerns Elan's decision to file an  
4 expert declaration disclosing new opinions simultaneously with its opening claim construction  
5 brief and after the completion of claim construction discovery.

6 Good cause exists for Apple's request to shorten time. A claim construction tutorial is  
7 scheduled for June 21, 2010 and a claim construction hearing is scheduled for June 23, 2010.  
8 Apple submits that it would benefit the Court and the parties to resolve Apple's motion to strike  
9 portions of Elan's claim construction expert declaration before the claim construction hearing.  
10 Apple therefore seeks to expedite the normal briefing schedule on this motion, so that the motion  
11 can be heard on June 21, 2010.

12 Apple requested Elan's consent to an expedited schedule that would allow the motion to  
13 strike to be heard simultaneously with the claim construction tutorial. *See* Declaration of Nathan  
14 Greenblatt In Support Of Motion To Shorten Time ("Greenblatt Decl."), Exh. A (June 1, 2010  
15 email from S. Mehta to S. DeBruine). Apple proposed to shorten Elan's time to file an opposition  
16 from 14 to 9 days, such that it would be due June 11, and to shorten its own time for a reply from  
17 7 to 3 days, such that any reply would be due June 15. Under this schedule, the Court would have  
18 nearly a week before the June 21, 2010 tutorial to review the briefing and to determine whether  
19 disputed Paragraphs 26-34 of the declaration may be considered as evidence during the claim  
20 construction hearing. Elan agreed to a shortened schedule such that the motion be heard on June  
21 21, 2010. However, Elan stated that June 11, 2010 is not a convenient date for its opposition and  
22 suggested that its opposition be due June 14 and Apple's reply be due June 16 or 17. Exh. B  
23 (June 2, 2010 email from S. DeBruine to S. Mehta). Apple does not object in principle to Elan's  
24 proposed schedule, should the Court find that this schedule provides sufficient time for the Court  
25 to review the papers in advance of the June 21, 2010 tutorial.

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This requested time modification would have no effect on the schedule for this case. And although there have been five previous time modifications in this case, none are related to the present request. See D.I. 6, 11, 72, 77 and 97.

Accordingly, Apple hereby requests an expedited briefing schedule on its Motion to Strike Paragraphs 26-34 of the Claim Construction Declaration of Robert Dezmelyk wherein Elan's opposition to that motion be filed on either June 11 or June 14, 2010 and Apple's reply, if any, be filed on either June 15 or June 17, 2010, depending on the Court's schedule.

Dated: June 2, 2010

WEIL, GOTSHAL & MANGES LLP

By:           /s/ Nathan Greenblatt            
Nathan Greenblatt  
Attorneys for Apple Inc.