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 ELAN MICROELECTRONICS CORPORATION

UNITED STATES DISTRICT COURT
 NORTHERN DISTRICT OF CALIFORNIA
 SAN JOSE DIVISION

ELAN MICROELECTRONICS
 CORPORATION,

Plaintiff and Counterdefendant,

v.

APPLE, INC.,

Defendant and Counterclaimant.

AND RELATED COUNTERCLAIMS

Case No. 09-cv-01531 RS

**DECLARATION OF SEAN P.
 DEBRUINE IN SUPPORT OF ELAN
 MICROELECTRONICS
 CORPORATION'S OPPOSITION TO
 APPLE INC.'S MOTION TO STRIKE
 PARAGRAPHS 26-34 OF THE CLAIM
 CONSTRUCTION DECLARATION OF
 ROBERT DEZMELYK**

DATE: June 21, 2010
 TIME: 1:30 p.m.
 JUDGE: Richard Seeborg
 CTRM: 3, 17th Floor

I, Sean P. DeBruine, declare as follows:

1. I am a partner in the law firm of Alston & Bird LLP, counsel to Plaintiff Elan Microelectronics Corporation ("Elan"). I have personal knowledge of the following facts, except those facts stated on information and belief, which facts I believe to be true. If called to testify I

1 could and would testify competently to the matters stated herein.

2 2. Elan served timely infringement contentions on October 22, 2009 and invalidity
3 contentions with respect to Apple's asserted patents on December 7, 2009, provided Apple with its
4 preliminary claim constructions on January 11, 2010 and served its summary of the testimony of
5 Robert Dezmelyk on February 22, 2010.

6 3. Apple took the deposition of Mr. Dezmelyk on April 9, 2010, from 9:07 am to 5:25
7 pm, including several short breaks and a 50-minute lunch break.

8 4. On May 7, 2010, both parties filed their Opening Claim Construction Briefs and
9 Elan filed a declaration of Mr. Dezmelyk in support of Elan's Claim Constructions. The
10 Declaration incorporates aspects of Mr. Dezmelyk's opinions to which he testified in his
11 deposition in response to Apple's questions about the opinions set out in the February 22
12 Summary. Attached as Exhibit A is a chart comparing the opinions in the Summary, deposition
13 testimony elaborating on the opinions in response to Apple's questions, and the Declaration
14 paragraphs reflecting the deposition testimony.

15 5. True and correct copies of selected pages from the transcript of the April 9, 2010
16 deposition of Mr. Dezmelyk are attached as Exhibit B.

17 6. Apple has not sought to take an additional deposition of Mr. Dezmelyk on his so-
18 called "new opinions," although it had over three weeks in which to do so. Instead, on Tuesday,
19 June 1st, the evening before Responsive Claim Construction Briefs were due, Apple's counsel
20 emailed me alleging that the May 7 declaration violates the Patent Local Rules, advising that
21 Apple would move to strike it and asking Elan to agree to a shortened briefing schedule. A true
22 and correct copy of Apple's email is attached as Exhibit C.

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7. I responded for Elan, disagreeing with Apple's accusation but agreeing to a shortened briefing schedule to allow Apple's motion to be heard before or in connection with the Claim Construction hearing. A true and correct copy of my e-mail is attached as Exhibit D.

I swear under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed on June 14, 2010, at Palo Alto, California.

Sean P. DeBruine