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11	ELAN MICROELECTRONICS CORPORATION		
12	UNITED STATES DISTRICT COURT		
13	NORTHERN DISTRICT OF CALIFORNIA		
14	SAN JOSE DIVISION		
15	SAN JOSE DIVISION		
16	ELAN MICROELECTRONICS CORPORATION,	No. 09-cv-01531 RS	
17	ELA	N MICROELECTRONICS RPORATION'S AMENDED NOTICE	
18	OF I	MOTION TO EXCLUDE	
19	PRO	CUMENTS NOT TIMELY DDUCED OR, IN THE	
20	TATLE, INC.,	TERNATIVE, FOR COSTS	
21	Defendant. Data TIM	E: 10:00 a.m.	
22	JUD ₀ CTR		
23	AND RELATED COUNTERCLAIMS		
24			
25	TO DEFENDANT AND ITS ATTORNEYS OF	TO DEFENDANT AND ITS ATTORNEYS OF RECORD:	
26	PLEASE TAKE NOTICE that Plaintiff's Motion	on to Exclude Documents Not Timely	
27	Produced or, in the Alternative, for Costs, originally noti	Produced or, in the Alternative, for Costs, originally noticed for August 17, 2010 will now be	
28	heard on Tuesday, August 24, 2010, in Courtroom 5 of t	his Court located at 280 South First Street,	
	ELAN MICROELECTRONICS CORPORATION'S AMENDED NOTICE OF MOTION AN D MOTION TO EXCLUDE DOCUMENTS NOT TIMELY PRODUCED OR, IN THE ALTERNATIVE, FOR COSTS	Case No. 09-cv-01531 RS	

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1	San Jose, California, or as soon as the matter may be heard. In particular, at that time Plaintiff		
2	Elan Microelectronics Corp. will and hereby does move this Court pursuant to Rule 37 (c)(1) for		
3	an order precluding Apple from using documents first located in June, 2010 in the possession of		
4	Jay Hamlin or any other untimely produced documents pertaining to the conception, reduction to		
5	practice, design or development of the inventions claimed in the '218 patent in any hearing, trial		
6	or other proceeding. The grounds for this motion, as set forth more fully in the Memorandum of		
7	Points and Authorities filed on July 13, 2010 (Dkt. 135), are that Apple should have located these		
8	documents pursuant to a reasonable search and produced them no later than October, 2009		
9	pursuant to Fed. R. Civ. P. 26, Patent Local Rule 3-2 and Elan's requests for production of		
10	documents. Apple's failure to perform a reasonable search and timely produce the documents wa		
11	not justified or harmless. As such, Rule 37(c)(1) mandates that Apple be precluded from using		
12	these documents.		
13	Elan's motion is based upon this Notice of Motion, the Memorandum of Points and		
14	Authorities filed July 13, 2010 (Docket No. 135), the Declaration of Sean P. DeBruine In Support		
15	filed July 13, 2010 (Docket No. 136) and such other papers and pleadings on file and such other		
16	argument and evidence as may be presented to the Court at or prior to the hearing on this motion.		
17	DATED. July 16, 2010 Page of fully submitted		
18	DATED: July 16, 2010 Respectfully submitted,		
19	ALSTON & BIRD LLP		
20			
21	By: /s/ Sean P. DeBruine Sean P. DeBruine		
22	Attorneys for Plaintiff and Counterdefendant		
23	ELAN MICROELECTRONICS CORPORATION		
24			
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