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10 Attorneys for Defendant and Counterclaim Plaintiff
11 Apple Inc.

12 UNITED STATES DISTRICT COURT
13 NORTHERN DISTRICT OF CALIFORNIA
14 SAN FRANCISCO 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)

DECLARATION OF NATHAN A. GREENBLATT IN SUPPORT OF APPLE INC.'S MOTION TO COMPEL JAMES EAKIN TO PRODUCE DOCUMENTS PURSUANT TO SUBPOENA DUCES TECUM

JURY TRIAL DEMANDED

DATE: August 24, 2010
TIME: 10:00 a.m.
JUDGE: Patricia V. Trumbull
CTRM: 5, 4th Floor

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I, Nathan A. Greenblatt, declare:

1. I am an attorney with the law firm of Weil, Gotshal & Manges LLP, counsel of record for Defendant and Counter-Claimant Apple Inc. (“Apple”) in the above-captioned matter. I submit this declaration based on personal knowledge and following a reasonable investigation. If called upon as a witness, I could competently testify to the truth of each statement herein.

2. Attached hereto as Exhibit **A** is a true and correct copy of pages from the certified file history of U.S. Patent No. 5,825,352.

3. Attached hereto as Exhibit **B** is a true and correct copy of a Subpoena to The Law Offices of James E. Eakin, dated May 5, 2010.

4. Attached hereto as Exhibit **C** is a true and correct copy of a Proof of Service for Exhibit B dated May 13, 2010.

5. Attached hereto as Exhibit **D** is a true and correct copy of an Email chain between J. Eakin and N. Greenblatt dated June 7, 2010.

6. Attached hereto as Exhibit **E** is a true and correct copy of *Halawani v. Wolfenbarger*, 2008 WL 5188813 (E.D. Mich. Dec. 10, 2008).

7. As of today’s date, Apple has not received any production of documents from Mr. James Eakin pursuant to its May 5, 2010 subpoena.

8. On June 7, 2010, I attempted to call Mr. Eakin regarding the subpoena.

9. On June 7, 2010, I exchanged emails with Mr. Eakin regarding the subpoena. Mr. Eakin did not respond to my email sent to him on June 7, 2010 at 2:38pm offering to discuss the subpoena.

10. On July 14, 2010, counsel for Apple Doug Lumish called Mr. Eakin and spoke to him by phone. I was present during the conversation, and Mr. Lumish told Mr. Eakin that I was present after introducing himself. During the conversation, Mr. Eakin stated that counsel for Apple should review the statute he cited earlier. Mr. Eakin also stated that he spoke to his own counsel, who agreed with his position. However, when Mr. Lumish asked Mr. Eakin

1 whether he was represented by counsel or who his counsel was, Mr. Eakin refused to answer. Mr.
2 Eakin ended the conversation by wishing us a nice day and then hung up.

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

5 Executed on July 20, 2010, at Redwood Shores, California.

6 */s/ Nathan Greenblatt*
7 Nathan Greenblatt

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1 **CERTIFICATE OF SERVICE**

2 I declare that I am employed with the law firm of Weil, Gotshal & Manges LLP,
3 whose address is 201 Redwood Shores Parkway, Redwood Shores, California 94065-1175. I am
4 not a party to the within cause, and I am over the age of eighteen years. I further declare that on
5 July 20, 2010, I served a copy of:

6 **DECLARATION OF NATHAN A. GREENBLATT IN SUPPORT OF APPLE INC.'S**
7 **MOTION TO COMPEL JAMES EAKIN TO PRODUCE DOCUMENTS PURSUANT TO**
8 **SUBPOOENA DUCES TECUM**

9 **BY U.S. MAIL** by placing a true copy thereof enclosed in a sealed
10 envelope with postage thereon fully prepaid, addressed as follows, for collection and mailing in
11 accordance with the firm's ordinary business practices. I am readily familiar with the practice for
collection and processing of mail, and know that in the ordinary course of business practice that
the document(s) described above will be deposited with the U.S. Postal Service on the same date
as sworn to below.

12 **BY ELECTRONIC SERVICE** by electronically mailing a true and
13 correct copy through the electronic mail system to the email address(es) set forth in the service
list below.

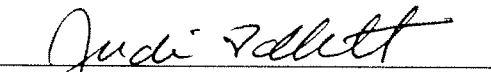
14 **BY OVERNIGHT DELIVERY** by placing a true copy thereof enclosed
15 in a sealed envelope with overnight delivery fees provided for, addressed as follows, for
collection by Federal Express in accordance with ordinary business practices. I am readily
16 familiar with the practice for collection and processing of correspondence for overnight delivery
and know that in the ordinary course of business practice the document(s) described above will be
deposited by an employee or agent in a box or other facility regularly maintained by Federal
Express for collection on the same day that the document(s) are deposited.

17 **BY PERSONAL SERVICE** by placing a true copy thereof enclosed in a
18 sealed envelope to be delivered by messenger to the offices of the addressee(s) (and left with an
employee or person in charge of addressee's office), as stated below, during ordinary business
19 hours.

20 The Law Offices of James E. Eakin
21 855 Oak Grove Avenue
22 Suite 107
Menlo Park, CA 94025

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

25 Executed on July 20, 2010, at Redwood Shores, California.

26
27 
28 Judi Tallet