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 ELAN MICROELECTRONICS CORPORATION
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9 UNITED STATES DISTRICT COURT
 10 NORTHERN DISTRICT OF CALIFORNIA
 11 SAN JOSE DIVISION

12 ELAN MICROELECTRONICS) Case No. C-09-01531 RS
 CORPORATION,)
 13)
 Plaintiff,) **[PROPOSED] ORDER GRANTING**
 14) **MOTION TO DISMISS OF ELAN**
 v.) **MICROELECTRONICS CORPORATION**
 15)
 APPLE, INC.,)
 16)
 Defendant.)
 17)

18)
 19 APPLE, INC.,)
 Counterclaimant,) Date: August 26, 2009
 20) Time: 9:30 a.m.
 v.) Courtroom: 4, 5th Floor
 21) The Honorable Richard Seeborg
 22)
 ELAN MICROELECTRONICS)
 CORPORATION,)
 23)
 Counterdefendant.)
 24)

1 The motion of plaintiff and counterclaim defendant Elan Microelectronics Corporation for an
2 order dismissing defendant and counterclaimant Apple, Inc.'s Third, Fourth and Fifth Counterclaims for
3 failure to state a claim pursuant to Federal Rule of Civil Procedure 12(b)(6) or, in the alternative, for a
4 more definite statement pursuant to Rule 12(e), came on for hearing before the Court. Based on the
5 supporting and opposition papers and the argument of counsel, and good cause appearing therefore, that
6 motion is hereby GRANTED.

7 It is hereby ORDERED that the Third, Fourth and Fifth Counterclaims set out in Apple's Amended
8 Answer, Affirmative Defenses and Counterclaims to Elan Microelectronics Corporation's Complaint for
9 Patent Infringement are hereby DISMISSED without prejudice. No later than 10 days after the date of this
10 Order to file a Second Amended Answer for purposes of curing the deficiencies in its Third, Fourth and Fifth
11 counterclaims.

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13 Dated: _____, 2009

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15 _____
16 UNITED STATES MAGISTRATE JUDGE
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