

1 Yitai Hu (SBN 248085) (yitai.hu@alston.com)  
 2 Sean P. DeBruine (SBN 168071) (sean.debruine@alston.com)  
 3 Elizabeth H. Rader (SBN 184963) (elizabeth.rader@alston.com)  
 4 Jennifer Liu (SBN 268990) (celine.liu@alston.com)

5 **ALSTON & BIRD LLP**  
 275 Middlefield Road, Suite 150  
 6 Menlo Park, California 94025  
 Telephone: 650-838-2000  
 7 Facsimile: 650-838-2001

8 T. Hunter Jefferson (hunter.jefferson@alston.com)  
**ALSTON & BIRD LLP**  
 9 One Atlantic Center  
 1201 West Peachtree Street  
 Atlanta, Georgia 30309-3424  
 Telephone: 404-881-7000  
 Facsimile: 404-881-7777

10 Attorneys for Plaintiff and Counterdefendant  
 ELAN MICROELECTRONICS CORPORATION

11  
 12 UNITED STATES DISTRICT COURT  
 13 NORTHERN DISTRICT OF CALIFORNIA  
 14 SAN JOSE DIVISION

15 ELAN MICROELECTRONICS  
 16 CORPORATION,

17 Plaintiff,

18 v.

19 APPLE, INC.,

20 Defendant.

Case No. 09-cv-01531 RS (PVT)

**DECLARATION OF SEAN P.  
 DEBRUINE IN SUPPORT OF ELAN  
 MICROELECTRONICS  
 CORPORATION'S OPPOSITION TO  
 APPLE INC.'S MOTION TO COMPEL  
 JAMES EAKIN TO PRODUCE  
 DOCUMENTS PURSUANT TO  
 SUBPOENA DUCES TECUM**

DATE: August 24, 2010  
 TIME: 10:00 p.m.  
 JUDGE: Patricia V. Trumbull  
 CTRM: Courtroom 5, 4<sup>th</sup> Floor

21  
 22 AND RELATED COUNTERCLAIMS  
 23  
 24

25  
 26  
 27  
 28 DECLARATION OF SEAN P. DEBRUINE ISO ELAN'S  
 OPPOSITION TO APPLE'S MOTION TO COMPEL JAMES EAKIN  
 TO PRODUCE DOCUMENTS PURSUANT TO SUBPOENA DUCES  
 TECUM

Case No. 09-cv-01531 RS (PVT)

1  
2 **DECLARATION OF SEAN P. DEBRUINE**  
3

4 I, Sean P. DeBruine, declare as follows:

5 1. I am a partner in the law firm of Alston & Bird LLP, counsel to Plaintiff Elan  
6 Corporation (“Elan”) in this action. I have personal knowledge of the following facts, except as  
7 otherwise stated. If called to testify, I could and would testify competently to the matters stated  
8 herein.

9 2. Attached hereto as Exhibit 1 is a true and correct copy of the first page of the U.S.  
10 Patent No. 5,825,352.

11 3. I have learned from Elan that on November 30, 1999, KOA T&T Corporation  
12 (“KTT”), Logitech Inc. and Logitech Far East Ltd. entered into an agreement titled “Agreement  
13 For The Sale And Purchase Of Assets” (“Asset Purchase Agreement”), in which KTT purchased  
14 the touchpad businesses, including the ’352 patent and other intellectual property related to the  
15 touchpad business. With that purchase, KTT effectively stepped into the shoes of Logitech. The  
16 control of this ongoing touchpad business was transferred to new management under KTT. KTT  
17 later changed its name to K-Tech Devices Corp. (“K-Tech”). On July 9, 2003, K-Tech formed a  
18 joint venture company with Elan, called Elantech Devices Corporation (“Elantech”) by injecting  
19 its entire touchpad business into Elantech, together with the patents that KTT had acquired from  
20 Logitech and certain equipment. Later, Elan bought out K-Tech’s interest in Elantech. In 2008,  
21 Elantech merged into Elan. Through the above chain of title, Elan obtained all the rights and  
22 interests in the ’352 patent.

23 4. Attached hereto as Exhibit 2 is true and correct copy of a Patent Assignment  
24 Abstract of Title of the U.S. Patent No. 5,825,352 produced by Elan in this action.

25 5. Upon receiving notice of Apple’s subpoena served May 12, 2010 to James Eakin, I  
26 called Mr. Eakin and offered to assist him in responding to Apple’s subpoena. Mr. Eakin declined  
27 my offer.

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

6. As of now, Elan has not waived attorney-client privilege with respect to a third party's documents including without limitation Mr. James Eakin.

I swear under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on August 10, 2010, at Menlo Park, California.

*/s/ Sean P. DeBruine*  
\_\_\_\_\_  
Sean P. DeBruine