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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 JOSE 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)
**NOTICE OF WITHDRAWAL OF
 APPLE INC.'S MOTION TO COMPEL
 JAMES EAKIN TO PRODUCE
 DOCUMENTS PURSUANT TO
 SUBPOENA DUCES TECUM [D.I. 142]**
 JURY TRIAL DEMANDED
 DATE: October 5, 2010
 TIME: 10:00 a.m.
 JUDGE: Patricia V. Trumbull
 CTRM: 5, 4th Floor

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TO JAMES A. EAKIN, ALL PARTIES AND THEIR ATTORNEYS OF RECORD:

PLEASE TAKE NOTICE that defendant Apple, Inc.’s Motion To Compel James Eakin To Produce Documents Pursuant to Subpoena Duces Tecum (D.I. 142) originally noticed for August 24, 2010 and currently noticed for October 5, 2010, is hereby withdrawn.

Apple originally filed its Motion to obtain compliance with a subpoena duces tecum served on third party James Eakin. After a number of communications with Mr. Eakin, Apple is withdrawing its motion to compel based on Mr. Eakin’s representations that: he (a) never maintained relevant files in his home, (b) performed a keyword search for responsive documents on the electronic files he has currently, (c) no longer has possession, custody or control of the computers on which he expects responsive documents to have been stored, (d) had a storage facility—the only location he believed was likely to have responsive documents—searched by a colleague, and (e) found no responsive documents in any of these locations.

Dated: August 26, 2010

WEIL, GOTSHAL & MANGES LLP

By: /s/ Nathan Greenblatt
Nathan Greenblatt
Attorneys for Apple Inc.

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 August 26, 2010, I served a copy of:

6 **NOTICE OF WITHDRAWAL OF APPLE INC.’S MOTION TO COMPEL**
7 **JAMES EAKIN TO PRODUCE DOCUMENTS PURSUANT TO**
8 **SUBPOENA DUCES TECUM [D.I. 142]**

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
12 collection and processing of mail, and know that in the ordinary course of business practice that
13 the document(s) described above will be deposited with the U.S. Postal Service on the same date
14 as sworn to below.

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

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

25 The Law Offices of James E. Eakin
26 855 Oak Grove Avenue
27 Suite 107
28 Menlo Park, CA 94025
jee@jeelaw.com

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

Executed on August 26, 2010, at Redwood Shores, California.

/s/ Nathan Greenblatt
Nathan Greenblatt