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 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)
**APPLE INC.'S RESPONSE TO ELAN
 MICROELECTRONICS
 CORPORATION'S CORRECTED
 FIRST AMENDED ANSWER**
 Hon. Richard Seeborg
 Demand for Jury Trial

1 Defendant Apple Inc. (“Apple”) by and through its undersigned counsel, hereby
2 responds to Plaintiff Elan Microelectronics Corporation’s (“Elan”) counterclaims raised in Elan’s
3 Corrected First Amended Answer (“First Amended Answer”) (D.I. 169) as follows:

4 **I. ANSWER TO ELAN’S COUNTERCLAIMS**

5 1-80. Apple restates its allegations in paragraphs 1-80 of its counterclaims. Elan’s
6 responses to Apple’s counterclaims require no additional response by Apple.

7 **First Counterclaim for Declaratory Judgment – ’218 Patent**

8 81. Apple admits that Elan purports to assert this counterclaim against Apple pursuant
9 to the patent laws of the United States, Title 35 of the United States Code, and the Declaratory
10 Judgments Act, 28 U.S.C. §§ 2201 and 2202. Except as so expressly admitted, denied.

11 82. Apple admits the allegation in paragraph 82 of Elan’s First Amended Answer.

12 83. Apple admits that an actual controversy exists between Elan and Apple by virtue
13 of the allegations in Apple’s Third Amended Answer and Elan’s Answer in response thereto, as
14 to the invalidity and non-infringement of the ’218 patent. Apple denies that Elan has pled
15 sufficient facts to raise an actual controversy regarding the enforceability of the ’218 patent.
16 Except as so expressly admitted, denied.

17 84. Apple denies the allegations in paragraph 84 of Elan’s First Amended Answer.

18 85. Apple denies the allegations in paragraph 85 of Elan’s First Amended Answer.

19 **Second Counterclaim for Declaratory Judgment – ’659 Patent**

20 86. Apple restates and incorporates its responses above.

21 87. Apple admits that Elan purports to assert this counterclaim against Apple pursuant
22 to the patent laws of the United States, Title 35 of the United States Code, and the Declaratory
23 Judgments Act, 28 U.S.C. §§ 2201 and 2202. Except as so expressly admitted, denied.

24 88. Apple admits the allegation in paragraph 88 of Elan’s First Amended Answer.

25 89. Apple admits the allegation in paragraph 89 of Elan’s First Amended Answer.

26 90. Apple denies the allegation in paragraph 90 of Elan’s First Amended Answer.

27 91. Apple denies the allegation in paragraph 91 of Elan’s First Amended Answer.

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RESPONSE TO ELAN’S PRAYER FOR RELIEF

Apple denies that Elan is entitled to any of the relief sought in its prayer for relief in Elan’s First Amended Answer.

PRAYER FOR RELIEF

In addition to the relief Apple seeks in its Third Amended Answer to Elan’s Complaint, Apple further prays for judgment as follows in response to Elan’s counterclaims:

- A. That Elan’s counterclaims be dismissed with prejudice and that Elan take nothing;
- B. That judgment be entered in favor of Apple against Elan on Elan’s counterclaims;
- C. For an assessment of costs of defending against the counterclaims, together with an award of such interests and costs;
- D. That pursuant to 35 U.S.C. § 285 and/or other applicable laws, Elan’s conduct be found to render this an exceptional case and that Apple be awarded its attorneys’ fees incurred in connection with this action;
- E. That Apple be awarded such other and further relief as the court may deem just and proper.

Dated: October 5, 2010

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