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8 Attorneys for Plaintiff and Counterclaim Defendant,  
 Apple Inc.

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

12 ELAN MICROELECTRONICS CORPORATION,  
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 14 Plaintiff and Counterclaim Defendant,  
 15 v.  
 16 APPLE INC.,  
 17 Defendant and Counterclaim Plaintiff.  
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Case No. C-09-01531 RS  
 DECLARATION OF EDWARD R. REINES IN SUPPORT OF APPLE INC.'S OPPOSITION TO ELAN MICROELECTRONICS CORPORATION'S MOTION TO DISMISS APPLE INC.'S THIRD, FOURTH AND FIFTH COUNTERCLAIMS UNDER RULE 12(b)(6) FOR FAILURE TO STATE A CLAIM, OR IN THE ALTERNATIVE, FOR MORE DEFINITE STATEMENT UNDER RULE 12(e)

Date: August 26, 2009  
 Time: 9:30 a.m.  
 Courtroom: 4, 5th Floor

Hon. Richard Seeborg

Demand for Jury Trial

1 I, Edward R. Reines, declare:

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

7 2. Apple undertook a pre-filing investigation of the accused Elan products  
8 prior to filing its Third, Fourth and Fifth Counterclaims. That investigation included the review  
9 of publicly-available documentation relating to the accused Elan touchpads, as well as the  
10 purchase, use and taking-apart of laptops employing Elan Smart-Pad touchpads to determine their  
11 design and function. Following this investigation, Apple still sought discovery of the sale, design  
12 and inner workings of Elan’s touchpads to confirm the evidentiary basis for its infringement  
13 allegations as to U.S. Patent Nos. 7,495,659 and 6,933,929.

14 3. Attached hereto as Exhibit **A** is a true and correct copy of *Creative Science*  
15 *Systems, Inc., v. Forex Capital Markets, LLC., et al.*, No. C-04-3746, 2006 WL 305963 (N.D.  
16 Cal. Feb. 8, 2006).

17 4. Attached hereto as Exhibit **B** is a true and correct copy of *Trachsel v.*  
18 *Buchholz*, No. C-08-02248, 2009 WL 839117 (N.D. Cal. March 30, 2009).

19 5. Attached hereto as Exhibit **C** is a true and correct copy of *Arnold v.*  
20 *Petland, Inc.*, No. 2:07-cv-01307, 2009 WL 816327 (S.D. Ohio March 16, 2009).

21 6. Attached hereto as Exhibit **D** is a true and correct copy of *Advanced*  
22 *Analogic Techs., Inc. v. Kinetic Techs., Inc.*, No. C-09-1360 MMC, 2009 WL 1974602 (N.D. Cal.  
23 July 8, 2009).

24 7. Attached hereto as Exhibit **E** is a true and correct copy of (In Chambers)  
25 Order DENYING the Geico Defendants’ Motion to Dismiss or, Alternatively, For A More  
26 Definite Statement, D.I. 6682, *In Re Katz Interactive Call Processing Patent Litigation*, 07-ML-  
27 01816-RGK (C.D. Cal. Aug. 3, 2009).

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8. Attached hereto as Exhibit **F** is a true and correct copy of *FotoMedia Techs., LLC v. AOL, LLC*, 2:07CV255, 2008 WL 4135906 (E.D. Tex. Aug. 29, 2008).

9. Attached hereto as Exhibit **G** is a true and correct copy of the Memorandum Order, D.I. 162, *FotoMedia Techs., LLC v. AOL, LLC*, (E.D. Tex. Sept. 24, 2008).

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

Executed on August 5, 2009 at Redwood Shores, California.

/s/ Edward R. Reines  
Edward R. Reines