

EXHIBIT 2

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13
14 UNITED STATES DISTRICT COURT
15 NORTHERN DISTRICT OF CALIFORNIA
16

17 ELAN MICROELECTRONICS
18 CORPORATION,

19 Plaintiff and Counterclaim
20 Defendant,

21 v.

22 APPLE INC.,

23 Defendant and Counterclaim
24 Plaintiff.

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

APPLE INC.'S SECOND
SUPPLEMENTAL RESPONSES AND
OBJECTIONS TO ELAN
MICROELECTRONICS
CORPORATION'S FIRST SET OF
INTERROGATORIES TO APPLE INC.
NO. 4. AND FIRST SUPPLEMENTAL
RESPONSES AND OBJECTIONS TO
ELAN MICROELECTRONICS
CORPORATION'S FIRST SET OF
INTERROGATORIES TO APPLE INC.
NO. 9

Hon. Richard Seeborg

Demand for Jury Trial

1 Pursuant to Rules 26 and 33 of the Federal Rules of Civil Procedure, Defendant
2 and Counterclaim Plaintiff Apple Inc. ("Apple") hereby supplements its responses to Plaintiff and
3 Counterclaim Defendant Elan Microelectronics Corporation's ("Elan") First Set of Interrogatories
4 to Apple Inc. Nos. 4 and 9 ("Interrogatories"), as follows:

5 **GENERAL OBJECTIONS**

6 Apple makes the following General Objections to the interrogatories, which apply
7 to each interrogatory therein regardless of whether a General Objection is specifically
8 incorporated into a response to a particular interrogatory.

9 1. Apple objects to each interrogatory, definition, or instruction to the extent
10 it seeks or purports to impose obligations beyond or inconsistent with those imposed by the
11 Federal Rules of Civil Procedure, the applicable rules and orders of this Court, or any stipulation
12 or agreement of the parties in this action. These objections are being propounded in light of the
13 discovery served thus far in this case. Apple stands ready to meet and confer to discuss the best
14 and most efficient way to conduct discovery bilaterally.

15 2. Apple objects to the interrogatories to the extent they request information
16 not relevant to a claim or defense in this action, or are not reasonably calculated to lead to the
17 discovery of admissible evidence.

18 3. Apple objects to the interrogatories to the extent they seek information of a
19 third party that is in Apple's possession, custody, or control but subject to an obligation of
20 confidentiality (or other contractual obligation) to a third party. Apple will provide such
21 information only the extent it can do so consistent with its obligation(s) to any such third parties.

22 4. Apple objects to the interrogatories to the extent they are cumulative and/or
23 duplicative of other forms of discovery that are more convenient and less burdensome.

24 5. Apple states that it is a large company with thousands of employees around
25 the world. Apple objects to these interrogatories insofar as they purport to require Apple to
26 inquire as to the knowledge of all of its employees. Apple's responses are provided based on a
27 reasonable investigation as it relates to this case.

28 6. Apple objects to the interrogatories to the extent they seek information not

1 within the possession, custody, or control of Apple. Apple will only provide relevant, non-
2 privileged information that is within Apple's present possession, custody, or control and available
3 after a reasonable investigation.

4 7. Apple objects to the interrogatories to the extent that they seek confidential
5 source code information where the relevant operation or functionality can be determined without
6 reference to the source code. Apple will make source code for relevant operations or
7 functionalities that are not otherwise ascertainable available for inspection after the Court has
8 entered a protective order governing the inspection of source code.

9 8. Apple objects to each interrogatory to the extent it seeks information
10 already in Elan's possession or is available to Elan from public sources for which the burden of
11 obtaining such information is the same or less for Elan as it is for Apple. Apple provides these
12 responses with the understanding that Elan is in possession of or has access to such sources,
13 including without limitation, Apple's website.

14 9. Apple objects to each interrogatory to the extent that Elan uses terms that
15 are not defined or understood. Apple will not speculate as to the meaning that Elan ascribes to
16 these terms.

17 10. Apple's discovery and investigation in connection with this litigation are
18 continuing. As a result, Apple's responses are limited to information obtained to date, and are
19 given without prejudice to Apple's right to amend or supplement its responses after considering
20 information obtained through further discovery or investigation.

21 11. Apple objects to the interrogatories to the extent they require Apple to
22 make legal conclusions and/or render expert opinions.

23 12. To the extent the interrogatories, or any requests or instruction therein, may
24 be construed as calling for the disclosure of information subject to the attorney-client privilege,
25 work product immunity, or any other applicable protection from discovery, Apple hereby claims
26 such privileges and immunities and objects to any interrogatory on such grounds. Apple does not
27 waive, intentionally or otherwise, any attorney-client privilege, work product immunity, or any
28 other privilege, immunity, or other protection that may be asserted to protect any information

1 from disclosure.

2 13. Apple objects to the definition of the terms “Defendant” and “Apple” in
3 Section B of Elan’s “Definitions” because it is overly broad and unduly burdensome. The
4 definition purports to include persons and entities who are not parties to the lawsuit, have no
5 involvement in the subject matter of the lawsuit, have no information that would be relevant to
6 the claims or defenses in this lawsuit, and/or are not within Apple’s control.

7 14. Apple objects to the definition of the terms “Apple Product(s),” “Apple’s
8 Product(s)” and “Defendant’s Product(s)” in Section W of Elan’s Definitions” because it is overly
9 broad and unduly burdensome. Apple will provide information with respect to the relevant
10 functionality of Apple’s iBook, PowerBook, and MacBook portable computers, iPhone, iPod
11 Touch, and Magic Mouse.

12 **SUPPLEMENTAL RESPONSES**

13 Subject to and without waiving its General Objections, Apple objects and responds
14 to Elan’s Interrogatories as follows:

15 **INTERROGATORY NO. 4:**

16 Separately for each of the Apple Patents, identify the date upon which you contend
17 that Elan had such actual or constructive notice, the means by which you contend Elan received
18 such actual or constructive notice, and identify all documents relating to such actual or
19 constructive notice.

19 **SECOND SUPPLEMENTAL RESPONSE TO INTERROGATORY NO. 4:**

20 In addition to its General Objections, Apple objects to this Interrogatory to the
21 extent it calls for information protected by the attorney-client privilege, work product doctrine or
22 any other applicable privilege or immunity. Apple objects to the Interrogatory on the grounds
23 that it is compound and contains multiple subparts. Apple objects to this Interrogatory to the
24 extent it seeks information available through other means that are more convenient, less
25 burdensome or less expensive, including information available in documents. Apple further
26 objects on the ground that the Interrogatory is premature because this case is at its early stages
27 and Apple’s discovery and investigation are ongoing. Apple reserves the right to amend,
28

1 supplement, and/or correct its response to this Interrogatory as additional information becomes
2 available to Apple during the course of its discovery and investigation.

3 Subject to and without waiving its General and Specific Objections, Apple
4 responds, based on its knowledge to date, that Elan had actual notice of the '218 patent and the
5 '659 patent at least as early as September 24, 2008 and February 25, 2009, respectively.
6 Specifically, Elan has stated in interrogatory responses that Nick Lin, a patent engineer at Elan,
7 prepared summaries of the '218 and '659 patents on or about September, 24, 2008 and February
8 25, 2009, respectively, uploaded the summaries onto Elan's document management system, and
9 circulated the '659 patent summary. Apple reserves the right to amend, supplement, and/or
10 correct its response to this Interrogatory as additional information becomes available to Apple
11 during the course of its discovery and investigation.

12 **INTERROGATORY NO. 9:**

13 Describe in detail your first awareness of each of the Elan Patents, including
14 without limitation the date on which you first became aware of the patent, the circumstances
15 surrounding your first awareness, how you gained such awareness, and the id identity of the
16 persons who gained such awareness and all documents that concern such awareness.

16 **SUPPLEMENTAL RESPONSE TO INTERROGATORY NO. 9:**

17 In addition to its General Objections, Apple objects to this Interrogatory to the
18 extent it calls for information protected by the attorney-client privilege, work product doctrine or
19 any other applicable privilege or immunity. Apple objects to the Interrogatory on the grounds that
20 it is compound and contains subparts. Apple objects to this Interrogatory as overbroad and unduly
21 burdensome and not reasonably calculated to lead to the discovery of relevant evidence insofar as
22 it purports to require Apple to undertake an investigation of which of its thousands of employees
23 may have had knowledge of the existence of Elan Patents, when they had such knowledge, or the
24 scope or nature of such knowledge. Apple's responses are provided based on a reasonable
25 investigation as it relates to this case. Apple objects to this Interrogatory to the extent it seeks
26 information available through other means that are more convenient, less burdensome or less
27 expensive, including information available in documents produced by Apple.

1 Subject to and without waiving its General and Specific Objections, and based on
2 its investigation to date, Apple responds that it became aware of U.S. Patent No. 7,274,353 on
3 April 7, 2009, the date of the filing of this lawsuit and service of the Complaint on Apple. Apple
4 further responds that at least Suk S. Lee of Blakely, Sokoloff, Taylor, & Zafman LLP was aware
5 of U.S. Patent No. 5,825,352 as early as August 25, 2004, when the '352 Patent was cited in the
6 Information Disclosure Statement filed with the patent application U.S. Patent No. 7,561,146.
7 Apple further responds that ElanTech Devices Corporation sent Apple a letter identifying the
8 '352 Patent on August 27, 2006, and that outside counsel for ElanTech Devices Corporation sent
9 Apple follow-up correspondence on October 16, 2006 and October 23, 2006. Apple further
10 responds that Apple's in-house counsel Carlyn Clause and Jayna Whitt received this
11 correspondence on or after August 27, 2006, and that Ms. Whitt responded to Elan's outside
12 counsel on October 25, 2006. See APEL0058579-APEL0058613. Apple reserves the right to
13 amend, supplement, and/or correct its response to this Interrogatory as additional information
14 becomes available to Apple during the course of its discovery and investigation.

15
16 Dated: June 24, 2010

WEIL, GOTSHAL & MANGES LLP

17
18 By: 

Sonal N. Mehta
Attorneys for Defendant and
Counterclaim Plaintiff 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 June 24, 2010, I served a copy of:

6
7 **APPLE INC.'S SECOND SUPPLEMENTAL RESPONSES AND OBJECTIONS TO ELAN**
8 **MICROELECTRONICS CORPORATION'S FIRST SET OF INTERROGATORIES TO APPLE INC. NO.**
9 **4, AND FIRST SUPPLEMENTAL RESPONSES AND OBJECTIONS TO ELAN MICROELECTRONICS**
10 **CORPORATION'S FIRST SET OF INTERROGATORIES TO APPLE INC. NO. 9**

11 **BY U.S. MAIL** by placing a true copy thereof enclosed in a sealed
12 envelope with postage thereon fully prepaid, addressed as follows, for collection and mailing in
13 accordance with the firm's ordinary business practices. I am readily familiar with the practice for
14 collection and processing of mail, and know that in the ordinary course of business practice that
15 the document(s) described above will be deposited with the U.S. Postal Service on the same date
16 as sworn to below.

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

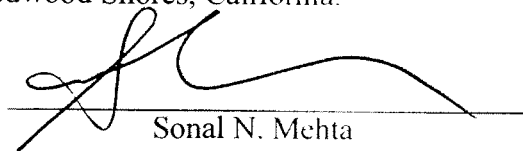
20 **BY OVERNIGHT DELIVERY** by placing a true copy thereof enclosed
21 in a sealed envelope with overnight delivery fees provided for, addressed as follows, for
22 collection by Federal Express in accordance with ordinary business practices. I am readily
23 familiar with the practice for collection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

27 **BY PERSONAL SERVICE** by placing a true copy thereof enclosed in a
28 sealed envelope to be delivered by messenger to the offices of the addressee(s) (and left with an
employee or person in charge of addressee's office), as stated below, during ordinary business
hours.

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

Executed on June 24, 2010, at Redwood Shores, California.


Sonal N. Mehta