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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
17 Plaintiff and Counterclaim
Defendant,
18 v.
19 APPLE INC.,
20 Defendant and Counterclaim
21 Plaintiff.

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

**DECLARATION OF DEREK WALTER
IN SUPPORT OF APPLE INC.'S
MOTION TO COMPEL (1)
DISCOVERY RELATING TO US
SALES; (2) DOCUMENTS
IMPROPERLY WITHHELD ON THE
BASIS OF PRIVILEGE; AND (3)
INVENTOR DEPOSITIONS**

DATE: July 5, 2011
TIME: 10:00 a.m.
JUDGE: Hon. Paul Singh Grewal
CTRM: 5, 4th Floor

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I, Derek C. Walter, declare:

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

1. Attached as **Exhibit 1** is a true and correct copy of Apple’s First Set of Interrogatories to Elan, dated August, 21, 2009.

2. Attached as **Exhibit 2** is a true and correct copy of an email chain between Jane Bu and Derek Walter, which includes emails dated April 7, 2011, April 15, 2011, April 20, 2011, May 4, 2011 and May 5, 2011, **Filed Under Seal**.

3. Attached as **Exhibit 3** is a true and correct copy of an email from Mehta Sonal to Augie Rakow, dated March 2, 2010.

4. Attached as **Exhibit 4** is a true and correct copy of an email from Derek Walter to Sean DeBruine, dated March 29, 2011, **Filed Under Seal**.

5. Attached as **Exhibit 5** is a true and correct copy of Declaration of Ian Chung from *Elan Microelectronics Corporation v. Pixcir Microelectronics Co. Ltd*, No. 2:10-cv-00014-GMN, (D. Nev.), dated November 22, 2010.

6. Attached as **Exhibit 6** is a true and correct copy of Elan’s Surreply In Opposition to Pixcir’s Reply In Support of Motion to Dismiss from *Elan Microelectronics Corporation v. Pixcir Microelectronics Co. Ltd*, No. 2:10-cv-00014-GMN, (D. Nev.), dated November 22, 2010.

7. Attached as **Exhibit 7** is a true and correct copy of Elan’s Opposition to Pixcir’s Motion to Dismiss from *Elan Microelectronics Corporation v. Pixcir Microelectronics Co. Ltd*, No. 2:10-cv-00014-GMN, (D. Nev.), dated October 21, 2010.

8. Attached as **Exhibit 8** is a true and correct copy of I.H. Yeh’s deposition transcript, taken on November 17, 2010, **Filed Under Seal**.

9. Attached as **Exhibit 9** is a true and correct copy of Elan’s Supplemental Disclosure of Asserted Claims and Infringement Contentions, dated December 11, 2009.

1 10. Attached as **Exhibit 10** is a true and correct copy of Elan's Third
2 Supplemental Objections and Responses to Apple's First Set of Interrogatories, dated May 13,
3 2011.

4 11. Attached as **Exhibit 11** is a true and correct copy of Ian Chung's
5 deposition transcript, taken on November 15, 2010, **Filed Under Seal**.

6 12. Attached as **Exhibit 12** is a true and correct copy of an email chain
7 between Elan and Dell, and correspondence with I.H. Yeh, which includes emails dated June 26,
8 2008, June 27, 2008, June 30, 2008, July 1, 2008, July 3, 2008, July 4, 2008, July 7, 2008,
9 July 12, 2008 and July 15, 2008, **Filed Under Seal**.

10 13. Attached as **Exhibit 13** is a true and correct copy of an email chain
11 between Elan and Dell, which includes emails dated February 27, 2009, March 5, 2009, March 6,
12 2009 and March 9, 2009, **Filed Under Seal**.

13 14. Attached as **Exhibit 14** is a true and correct copy of Elan's presentation
14 slides, bearing numbers ELN470964 through ELN471063, **Filed Under Seal**.

15 15. Attached as **Exhibit 15** is a true and correct copy of an email chain from
16 Jane Bu to Nathan Greenblatt, dated May 27th, 2011.

17 16. Attached as **Exhibit 16** is a true and correct copy of Elan's presentation
18 slides, bearing numbers ELN350108 through ELN350163, **Filed Under Seal**.

19 17. Attached as **Exhibit 17** is a true and correct copy of I.H. Yeh's deposition
20 transcript, taken on November 18, 2010, **Filed Under Seal**.

21 18. Attached as **Exhibit 18** is a true and correct copy of Elan's presentation
22 slides, bearing numbers ELN531113 through ELN531164, **Filed Under Seal**.

23 19. Attached as **Exhibit 19** is a true and correct copy of an email chain
24 between Elan and Sinbon, dated December 9, 2008, **Filed Under Seal**.

25 20. Attached as **Exhibit 20** is a true and correct copy of an email chain
26 between Elan and Garmin, dated July 17, 2008, July 18, 2008, July 22, 2008, July 24, 2008,
27 July 25, 2008, July 30, 2008, August 1, 2008 and August 4, 2008, **Filed Under Seal**.

28 21. Attached as **Exhibit 21** is a true and correct copy of Elan's presentation

1 slides, bearing numbers ELN437263 through ELN437292, **Filed Under Seal**.

2 22. Attached as **Exhibit 22** is a true and correct copy of a letter from Jane Bu
3 to Nathan Greenblatt, dated September 17, 2010.

4 23. Attached as **Exhibit 23** is a true and correct copy of Elan's Updated
5 Privilege Log, dated September 1, 2010, **Filed Under Seal**.

6 24. Attached as **Exhibit 24** is a true and correct copy of *Pulse Engineering,*
7 *Inc., et al. v. Mascon, Inc., et al.*, 2009 U.S. Dist. LEXIS 92971.

8 25. Attached as **Exhibit 25** is a true and correct copy of Elan's Updated
9 Privilege Log, dated July 1, 2010, **Filed Under Seal**.

10 26. Attached as **Exhibit 26** is a true and correct copy of Elan's Privilege Log,
11 dated October 25, 2010, **Filed Under Seal**.

12 27. Attached as **Exhibit 27** is a true and correct copy of Wayne Chang's
13 deposition transcript, taken on November 15, 2010, **Filed Under Seal**.

14 28. Attached as **Exhibit 28** is a true and correct copy of Elan's Second
15 Supplemental Objections and Responses to Apple's First Set of Interrogatories, dated June 24,
16 2010.

17 29. Attached as **Exhibit 29** is a true and correct copy of excerpts from Edna
18 Selan Epstein, The Attorney Client Privilege and the Work-Product Doctrine, Volumes 1 & 2,
19 (American Bar Association 2007) at 211-216, 824-826.

20 30. Attached as **Exhibit 30** is a true and correct copy of an email chain
21 between Jane Bu and Derek Walter, which includes emails dated April 19, 2011, April 26, 2011,
22 May 10, 2011 and May 23, 2011.

23 31. Attached as **Exhibit 31** is a true and correct copy of the 7,274,353 patent
24 assignment agreement, dated September 24, 2003.

25 32. Attached as **Exhibit 32** is a true and correct copy of *Amgen, Inc. v. Ariad*
26 *Pharmaceuticals, Inc., et al.*, 2007 U.S. Dist. LEXIS 35076.

27 33. Attached as **Exhibit 33** is a true and correct copy of *In re Nifedipine*
28 *Capsule Patent Litigation, et al.*, 1989 U.S. Dist., LEXIS 11061.

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 May 31, 2011, I served a copy of:

6 **DECLARATION OF DEREK WALTER IN SUPPORT OF APPLE INC.'S**
7 **MOTION TO COMPEL (1) DISCOVERY RELATING TO US SALES;**
8 **(2) DOCUMENTS IMPROPERLY WITHHELD ON THE BASIS OF PRIVILEGE; AND**
9 **(3) INVENTOR DEPOSITIONS**

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

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

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

26 Sean DeBruine
27 Alston & Bird LLP
28 275 Middlefield Road | Suite 150 | Menlo Park, CA 94025
650-838-2019 Direct
650-838-2001 Fax
Sean.Debruine@Alston.com

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

31 Executed on May 31, 2011, at Redwood Shores, California.

32 /s/ Edna Ang
33 Edna Ang