

EXHIBIT 10

YITAI HU (SBN 248085)
yitai.hu@alston.com
SEAN P. DEBRUINE (SBN 168071)
sean.debrune@alston.com
ELIZABETH H. RADER (SBN 184963)
elizabeth.rader@alston.com
JANE HAN BU (SBN 240081)
jane.bu@alston.com
JENNIFER LIU (SBN 268990)
celine.liu@alston.com
PALANI P. RATHINASAMY (SBN 269852)
palani.rathinasamy@alston.com
ALSTON & BIRD LLP
275 Middlefield Road, Suite 150
Menlo Park, CA 94025-4008
Telephone: 650-838-2000
Facsimile: 650-838-2001

Attorneys for Plaintiff and Counterdefendant
ELAN MICROELECTRONICS
CORPORATION

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

ELAN MICROELECTRONICS
CORPORATION,

Plaintiff,

v.

APPLE, INC.,

Defendant.

AND RELATED COUNTERCLAIMS

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

**ELAN MICROELECTRONICS
CORPORATION'S THIRD
SUPPLEMENTAL OBJECTIONS AND
RESPONSES TO APPLE, INC.'S FIRST
SET OF INTERROGATORIES [NOS. 7,
14 & 17]**

PROPOUNDING PARTY: APPLE, INC.

RESPONDING PARTY: ELAN MICROELECTRONICS CORPORATION

SET NUMBER: ONE [NOS. 1-17]

1 Plaintiff Elan Microelectronics Corporation (“Elan”) hereby supplements its objections and
2 responses to Defendant Apple, Inc.’s (“Apple”) First Set of Interrogatories to Elan
3 Microelectronics Corporation (“Interrogatories”) as follows:

4 **GENERAL STATEMENTS AND OBJECTIONS**

5 1. Elan’s responses to Apple’s First Set of Interrogatories are based on Elan’s current
6 knowledge after a reasonable inquiry. Elan’s investigation with regard to the subject matter of this
7 action is ongoing, and Elan will supplement its responses and objections in accordance with Patent
8 Local Rules and applicable law. The following responses are provided without prejudice to Elan’s
9 right to introduce at hearing or trial any evidence that is subsequently discovered relating to proof
10 of currently known facts and to produce and introduce all evidence whenever discovered relating
11 to the proof of subsequently discovered material facts. The following objections and responses do
12 not constitute any admission by Elan as to the relevance, materiality, or admissibility into evidence
13 of the subject matter or facts contained in any interrogatory or in Elan’s response. Elan reserves
14 its right to refer to, conduct discovery with reference to, or offer into evidence any and all facts,
15 and information notwithstanding the initial responses and objections interposed herein, consistent
16 with Patent Local Rules and applicable law.

17 2. Elan’s responses are made subject to and without waiver of:

- 18 a. Elan’s right to object on any ground (e.g., relevance, etc.) to the use of
19 Elan’s responses or any portion thereof in any proceedings, including this or
20 any other action; and
21 b. Elan’s right to object on any ground to any additional discovery requests
22 that may be served in this action.

23 3. Any statement made herein of an intent to produce documents is not, and shall not
24 be deemed, an admission of any factual or legal contention contained in any individual
25 Interrogatory, nor that any particular documents exist or are relevant and admissible in this matter.

26 4. In addition to any specific objections which may be made on an individual basis in
27 the separate responses set forth below, Elan objects generally to each Interrogatory to the extent
28 that it seeks to elicit information subject to and protected by the attorney-client privilege, the

1 attorney work product doctrine and/or any other applicable privilege, immunity, or protection.
2 Any inadvertent disclosure of such information shall not be deemed a waiver of the attorney-client
3 privilege, the work product doctrine, or any other applicable privilege or immunity.

4 5. Elan objects to the Interrogatories, including without limitation the “Definitions”
5 and “Instructions” contained therein, to the extent that they seek to impose burdens or obligations
6 upon Elan beyond what is prescribed and/or required by applicable law and rules, including the
7 Federal Rules of Civil Procedure and this Court’s Patent Local Rules.

8 6. Elan objects to the Interrogatories to the extent that they seek discovery of
9 information related to any counterclaim which the Court has dismissed from this action. Elan will
10 only provide information relating to any counterclaims for patent infringement if and when Apple
11 asserts cognizable claims of patent infringement against Elan.

12 7. Elan objects generally to each Interrogatory to the extent it seeks information or
13 documents consisting of confidential, proprietary, or trade secret information of non-parties.

14 8. Elan objects generally to each Interrogatory to the extent it seeks information that is
15 not in Elan’s possession, custody, or control, or information that would be burdensome to locate,
16 retrieve, prepare, review, and/or produce, where such burden outweighs any material benefit the
17 information would have to the litigation.

18 9. Elan objects generally to each Interrogatory to the extent that it contains any factual
19 or legal misrepresentations, or where they are vague and/or ambiguous.

20 10. Elan objects generally to each Interrogatory to the extent that it is compound and
21 contains multiple subparts, and thus represents an improper attempt to circumvent the limits on
22 interrogatories imposed by the parties’ agreement and the Federal Rules of Civil Procedure.

23 11. These general objections are applicable to each and every one of the following
24 specific objections and responses, and failure to repeat an objection in response to a specific
25 Interrogatory shall not be deemed a waiver of the objection. Further, if Elan specifically repeats
26 one or more of these general objections in response to a specific Interrogatory, such specific
27 response shall not be a waiver of any other general objections.
28

12. Elan's discovery responses are subject to any present or future Protective Order in this case.

GENERAL OBJECTIONS TO APPLE'S DEFINITIONS AND INSTRUCTIONS

Elan incorporates by references all of its previous general objections to Apple's definitions and instruction.

SPECIFIC OBJECTIONS AND RESPONSES TO INTERROGATORIES

INTERROGATORY NO. 7:

Describe in detail all facts and circumstances relating to each communication between Elan and any third party concerning licensing, contracts, agreements, covenants not to sue, settlement agreements, actual or potential infringement, invalidity, or unenforceability of any of the Patents-in-Suit and the identities of all such third parties, including, but not limited to, the identity of each entity contacted by Elan regarding any of the Elan Patents-in-Suit and each license granted, obtained, or offered by Elan to any of the Elan Patents-in-Suit.

SUPPLEMENTAL RESPONSE TO INTERROGATORY NO. 7:

Elan incorporates herein by reference each of its foregoing General Objections. Elan objects to this Interrogatory to the extent that it is intended to be treated as one interrogatory, as it contains multiple subparts, and thus will be treated as multiple interrogatories against the maximum permissible. Elan also objects to this Interrogatory as overbroad and unduly burdensome to the extent it seeks "each communication between Elan and any third party." Elan further objects to this Interrogatory to the extent it seeks information not relevant to any present claim or defense in this matter and not reasonably calculated to lead to the discovery of admissible evidence. Elan also objects to this Interrogatory to the extent it seeks information containing proprietary or confidential information of Elan or a non-party. Elan further objects to this Interrogatory to the extent it seeks information protected from disclosure by the attorney-client privilege, the attorney work product doctrine or any other applicable privilege, immunity, or protection.

Subject to and without waiving the foregoing objections, Elan responds that Elan and Synaptics, Inc. entered into a settlement agreement with respect to '352 Patent in October 2008.

1 Elan further states that Elan and Synaptics were engaged in litigation concerning, *inter alia*,
2 Synaptics' infringement of the '352 patent. That litigation also involved Prostar Computer, Inc.
3 and Averatec, Inc. The pleadings and correspondence between the parties have been produced to
4 Apple. Elan objects to the request that it "describe in detail each communication" between Elan
5 and Synaptics, Prostar or Averatec during that litigation as unduly burdensome.

6 Elan further responds that Elan had at least the following communications concerning
7 Elan's '352 patent:

- 8 • Communications with Richard Wooley of Cirque Corporation concerning Cirque's
9 GlidePoint® touchpad with so-called Advanced Gestures, through Elan's outside
10 counsel Alston & Bird, beginning during or around July 6, 2009. *See* ELN126472.
- 11 • A letter to Mary E. Doyle of Palm, Inc. concerning Palm's Palm Pre smart phone,
12 through Elan's outside counsel Alston & Bird, during or around July 6, 2009. *See*
13 ELN126471. That letter was followed by a telephone conversation between Sean
14 DeBruine, counsel for Elan, and Douglass Luftman, Palm's Assistant General
15 Counsel.
- 16 • Communications with Charles Chamas and Anthony Baca of Hewlett-Packard
17 Company, through Elan's outside counsel Akin Gump Strauss Hauer & Feld LLP
18 ("Akin Gump"), beginning during or around January 4, 2007. Mr. Baca and Mr.
19 DeBruine also had at least one telephone conversation. *See* ELN126444.
- 20 • Communications with Tsuneo Toda of Toshiba Corporation concerning certain
21 Toshiba laptop products, through Elan's outside counsel Akin Gump, beginning
22 during or around January 4, 2007. *See* ELN126446. ELN126451, and
23 ELN126454.

24 Elan further responds that it has had no license discussions regarding the '353 Patent.

25 **SECOND SUPPLEMENTAL RESPONSE TO INTERROGATORY NO. 7:**

26 Elan incorporates herein by reference each of its foregoing General and Specific
27 Objections stated above and the response provided above.

Elan further states that it has not licensed or attempted to license the 353 patent with any entity. Elan has not attempted or licensed 352 patent with any entities outside of the United States.

INTERROGATORY NO. 14:

Separately for each product or design the identification of which is requested by Interrogatory No. 12, describe in detail each individual that participated in the design or development of that product or design and their role in the design or development.

SUPPLEMENTAL RESPONSE TO INTERROGATORY NO. 14:

Elan incorporates herein by reference each of its foregoing General Objections. Elan objects to this Interrogatory to the extent that it is intended to be treated as one interrogatory, as it contains multiple subparts, and thus will be treated as multiple interrogatories against the maximum permissible. Elan also objects to this Interrogatory as overbroad and unduly burdensome. Elan also objects to this Interrogatory to the extent it seeks information not relevant to any present claim or defense in this matter and not reasonably calculated to lead to the discovery of admissible evidence. Elan also objects to this Interrogatory to the extent it seeks information protected from disclosure by the attorney-client privilege, the attorney work product doctrine or any other applicable privilege, immunity, or protection.

Subject to and without waiving the foregoing objections, Elan understands the following individuals to have participated in the design or development of the products identified in response to Interrogatory No. 12:

<u>Name</u>	<u>Title</u>
Yang, Wei-Wen (Eric)	Sr. Manager
Wu, Wan-Ling (Winnie)	Research and Development Asst.
Wu, Teng-Yen (Draco)	Sr. Manager
Wu, Chih-Lung (Jacky)	Sr. Electrical Technology Manager
Chen, Te-Jung (Darren)	Senior Electrical Engineer
Chen, Jian-Wei (Leo)	Software Engineer
Kuo, Jui-Ting (Jennie)	Research and Development Asst.
Lin, Yen-Yo (Tom)	Linux Software Engineer
Lin, Song-Yi (Steven)	Electrical Engineer
Lee, Yu-Tien (Alex)	Electrical Engineer
Ho, Yi-Hsiang (Peter)	FAE Engineer

Chuang, Ying-Jie (Roger)	Windows Software Engineer
Wei, Wei-Feng (Giorgio)	Software Engineer
Hsu, Hsin-Fu (Samuel)	Firmware Engineer
Huang, Kuo-Ming (Aaron)	Firmware Engineer
Wang, Kuo-Tai (Miller)	Electrical Engineer
Tsai, Po-Ming (Koven)	Electrical Engineer
Chang, Wen-Hong (Wilson)	Electrical Engineer
Eric Chung	Director
Mai, Wei-Kuo	Supervisor, Firmware Development
Wu, Tsung-Hsiao	Director
Pai, Charles	Director
Chiu, Yen-Chang (Godwin)	Director
Tang, Maco	Assistant Manager
Roven Lee	Assistant Manager

SECOND SUPPLEMENTAL RESPONSE TO INTERROGATORY NO. 14:

Elan incorporates herein by reference each of its foregoing General and Specific Objections. Subject to and without waiving the foregoing objections, Elan states that the following individuals participated significantly in the design or development of the products identified in response to Interrogatory No. 12:

Name	Title	Main Role	Business Unit
Wei-Wen (Eric) Yang	Senior Manager	Smart-Pad and Click-Pad product development	NID
Te-Yu (Scarlett) Shu	Manager	Touchpad testing	NID
Teng-Yen (Draco) Wu	Senior Manager	Smart-Pad and Click-Pad product development	NID
Te-Jung (Darren) Chen	Senior Electrical Engineer	Smart-Pad and Click-Pad product function testing	NID
Chih-Lung (Jacky) Wu (no longer with the firm)	N/A	Former Senior Electrical Technology Manager; Smart-Pad hardware module development	NID
Wei-Kuo Mai	Manager	Supervise firmware development	SRD1
Charles Pai	Director	Head of SRD3	SRD3
Min-Shu Wang	Director	Engineering management	SRD3
Yen-Chang (Godwin) Chiu (no longer with the firm)	N/A	Former head of SRD3; 353 patent inventor	SA2

Shih-Chi (Edward) Lin (no longer with the firm)	N/A	353 patent inventor	SA2
Yung-Lieh (Kelvin) Chien (no longer with the firm)	N/A	353 patent inventor	SA2
Ting-Hao Yeh (no longer with the firm)	N/A	353 patent inventor	SA2
Maco Tang	Manager	Elan touch-sensing products design and development; review of Elan ITO module firmware	SRD3
James Chen	Manager	Platform development, driver software engineering	SRD3
JC Lin	Manager	Controller application engineering	SRD3
CF Wu	Manager	Mechanical design	SRD3

Elan further responds that

- “NID” stands for Notebook Input Device Center. This business division is responsible for the research and development of Elan’s Notebook Touchpad and Pointing Stick product lines.
- “SRD1” stands for System R&D Division 1. This business division is responsible for Elan’s MCU, Communication IC and Audio Video Equipment product lines. Starting from 2009, SRD1 also started to provide additional R&D support to Elan’s touch-sensing product lines.
- “SRD3” stands for System R&D Division 3. This business division was formally known as the “Smart Human Interface” (SHI) unit prior to the Elan and Elantech merger in 2008. SRD3 currently is mainly responsible for the development, application and marketing of Elan’s touchscreen products.
- “SA2” stands for System Application Division 2. This business unit was responsible for the PC Peripheral, Communication IC and MCU product lines. SA2 no longer exists at Elan. On or about January 2008, the PC peripheral product line was taken over by the SHI unit.

INTERROGATORY NO. 17:

Describe in detail Elan’s activities and business in the United States with regard to Elan Accused Products, including without limitation, marketing, sales, product development, and/or product support and instructions directed to or conducted in the United States by Elan, including without limitation by Elan’s ELAN Information Technology Group office in Cupertino, CA.

1 **SUPPLEMENTAL RESPONSE TO INTERROGATORY NO. 17:**

2 Elan incorporates herein by reference each of its foregoing General Objections. Elan
3 objects to this Interrogatory to the extent that it is intended to be treated as one interrogatory, as it
4 contains multiple subparts, and thus will be treated as multiple interrogatories against the
5 maximum permissible. Elan also objects to this Interrogatory as overbroad and unduly
6 burdensome. Elan further objects to this Interrogatory to the extent it seeks information not
7 relevant to any present claim or defense in this matter and not reasonably calculated to lead to the
8 discovery of admissible evidence, *inter alia* to the extent it seeks information regarding ELAN
9 Information Technology Group, an entity that is not a party to this lawsuit. Elan also objects to
10 this Interrogatory to the extent it seeks information protected from disclosure by the attorney-client
11 privilege, the attorney work product doctrine or any other applicable privilege, immunity, or
12 protection. Elan further objects to this Interrogatory as vague and ambiguous with respect to the
13 term “Elan’s activities and business in the Untied States.”

14 Subject to and without waiving the foregoing objections, Elan responds that it has not sold
15 in the United States any touchpad products or any “Elan Accused Product.” Elan further responds
16 that Elan employees attended and exhibited products or product literature at the Computer
17 Electronics Show (“CES”) in Las Vegas in 2008, 2009 and 2010. Elan has already produced
18 product literature at ELN117285 to ELN117309 that Elan employees displayed at CES, from
19 which Apple can ascertain further information responsive to this Interrogatory in accordance with
20 Fed. R. Civ. P. 33(d).

21 Elan employees have also met with employees at Dell, Nokia, Logitech and Motorola in
22 the United States to discuss Elan’s products and technologies. Elan further responds that Elan
23 Information Technology Group has engaged in no activities or business in the United States
24 related to any touchpad product or “Elan Accused Product” including no marketing, sales, product
25 development, or product support activities. Elan will produce business records pursuant to Fed. R.
26 Civ. P. 33(d) from which Apple can ascertain further information responsive to Interrogatory No.
27 17.

1 **SECOND SUPPLEMENTAL RESPONSE TO INTERROGATORY NO. 17:**

2 Elan incorporates herein by reference each of its foregoing General and Specific
3 Objections.

4 Subject to and without waiving the foregoing objections, Elan supplements its responses
5 above as follows: Elan has not directly sold in the United States any “Elan Accused Product.”
6 Elan further responds that Elan employees attended and exhibited products or product literature at
7 the Computer Electronics Show (“CES”) in Las Vegas in 2011. Elan further directs Apple to
8 ELN1308316 to 1308344, the product literature that Elan employees displayed at the 2011 CES,
9 and ELN1308372 through ELN1308374 from which Apple can ascertain additional information
10 responsive to this Interrogatory. At the 2011 CES, Elan discussed its technology and products
11 with representatives from Flextronics, Motorola, Google, LG and Sony.

12
13 DATED: May 13, 2011

Respectfully submitted,
ALSTON & BIRD LLP

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15
16 By: /s/ Sean P. DeBruine
17 Sean P. DeBruine
18 Attorneys for Plaintiff
ELAN MICROELECTRONICS CORPORATION
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28

1 **CERTIFICATE OF SERVICE**

2 I am employed in the County of San Mateo, State of California. I am over the age of 18 and
3 not a party to the within action; my business address is Alston & Bird LLP, 275 Middlefield Road,
4 Suite 150, Menlo Park, California 94025. On May 13, 2011, I served the foregoing document(s)
5 described as:

6 **ELAN MICROELECTRONICS CORPORATION'S THIRD SUPPLEMENTAL**
7 **OBJECTIONS AND RESPONSES TO APPLE, INC.'S FIRST SET OF**
8 **INTERROGATORIES [NOS. 1-17]**

9 by the indicated means to the persons at the addresses listed:

10 Matthew D. Powers (matthew.powers@weil.com)

☐ Via Overnight Courier

11 Edward R. Reines (edward.reines@weil.com)

☐ Via Hand Delivery

12 Sonal N. Mehta (sonal.mehta@weil.com)

☐ Via Facsimile

13 **WEIL, GOTSHAL & MANGES LLP**

☐ Via U.S. Mail

14 201 Redwood Shores Parkway

☒ Via E-mail

15 Redwood Shores, California 94065

16 I am readily familiar with our firm's practice for collection and processing of
17 correspondence via electronic mail and overnight courier. I caused the document(s) to be sent to
18 the respective e-mail address(es) of the party(ies) as stated above. I did not receive, within a
19 reasonable time after the transmission, any electronic message or other indication that the
20 transmission was unsuccessful. I declare under penalty of perjury under the laws of the United
21 States that the foregoing is true and correct; that I am employed in the office of a member of the
22 bar of this Court at whose direction the service was made; and that this declaration was executed
23 on May 13, 2011, at Menlo Park, California.

24 

25 Sissel Browder

1 YITAI HU (SBN 248085)
yitai.hu@alston.com
2 SEAN P. DEBRUINE (SBN 168071)
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10 Attorneys for Plaintiff and Counterdefendant
11 ELAN MICROELECTRONICS
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12 UNITED STATES DISTRICT COURT
13 NORTHERN DISTRICT OF CALIFORNIA
14 SAN FRANCISCO DIVISION
15

16 ELAN MICROELECTRONICS
17 CORPORATION,

18 Plaintiff,

19 v.

20 APPLE, INC.,

21 Defendant.

22 AND RELATED COUNTERCLAIMS
23

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

**VERIFICATION FOR ELAN
MICROELECTRONICS
CORPORATION'S THIRD
SUPPLEMENTAL OBJECTIONS AND
RESPONSES TO APPLE, INC.'S FIRST
SET OF INTERROGATORIES [NOS. 7,
14 & 17]**

VERIFICATION

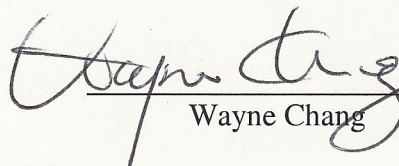
I, Wayne Chang, declare that:

I have read the foregoing ELAN MICROELECTRONICS CORPORATION'S THIRD SUPPLEMENTAL OBJECTIONS AND RESPONSES TO APPLE, INC.'S FIRST SET OF INTERROGATORIES [NOS. 7, 14 & 17].

To the best of my information, knowledge, and belief formed after a reasonable inquiry, the information contained in these Responses is true and accurate.

As a General Counsel, I am duly authorized to sign this Verification on behalf of Elan Microelectronics Corporation.

I declare under penalty of perjury under the laws of the United States and Taiwan that the foregoing is true and correct and that this Verification was executed on May 24, 2011, at Hsinchu, Taiwan.


Wayne Chang

1 **CERTIFICATE OF SERVICE**

2 I am employed in the County of San Mateo, State of California. I am over the age of 18 and
3 not a party to the within action; my business address is Alston & Bird LLP, 275 Middlefield Road,
4 Suite 150, Menlo Park, California 94025. On May 24, 2011, I served the foregoing document(s)
5 described as:

6 **VERIFICATION FOR ELAN MICROELECTRONICS CORPORATION'S THIRD**
7 **SUPPLEMENTAL OBJECTIONS AND RESPONSES TO APPLE INC.'S FIRST SET OF**
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20 reasonable time after the transmission, any electronic message or other indication that the
21 transmission was unsuccessful. I declare under penalty of perjury under the laws of the United
22 States that the foregoing is true and correct; that I am employed in the office of a member of the
23 bar of this Court at whose direction the service was made; and that this declaration was executed
24 on May 24, 2011, at Menlo Park, California.

25 

26 Sissel Browder