

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

10 Attorneys for Plaintiff and Counterdefendant  
 ELAN MICROELECTRONICS  
 11 CORPORATION

12  
 13 UNITED STATES DISTRICT COURT  
 14 NORTHERN DISTRICT OF CALIFORNIA  
 15 SAN FRANCISCO DIVISION  
 16

17 ELAN MICROELECTRONICS  
 18 CORPORATION,  
 19 Plaintiff and Counterdefendant,  
 20 v.  
 21 APPLE, INC.,  
 22 Defendant and Counterplaintiff.

Case No. 5:09-cv-01531 RS (PSG)

**DECLARATION OF SEAN P.  
 DEBRUINE IN SUPPORT OF  
 PLAINTIFF ELAN  
 MICROELECTRONICS  
 CORPORATION'S MOTION TO  
 COMPEL APPLE, INC. TO PRODUCE  
 TESTING TOOL**

**[PUBLIC VERSION]**

23  
 24 AND RELATED COUNTERCLAIMS  
 25  
 26  
 27  
 28

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

I, Sean P. DeBruine, declare as follows:

1. I am a partner in the law firm of Alston & Bird LLP, counsel to Plaintiff Elan Microelectronics Corporation (“Elan”) in this action. I have personal knowledge of the following facts and, if called to testify, I could and would testify competently to the matters stated herein.

2. On May 11, 2011 I visited the offices of Weil, Gotshal and Manges, LLP in Redwood Shores, California. Palani Rathinasamy, also an attorney at Alston & Bird, joined me in that visit. While there we were permitted to inspect and use an Apple Macbook Pro laptop computer running Apple’s internal [REDACTED]. [REDACTED]

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

3. [REDACTED]  
[REDACTED]  
[REDACTED] When I asked whether the tool could be used to test those other products, the Weil representative supervising our inspection admitted that the laptop was the only version that was available, that he had never seen a version for the iOS products and did not believe that any such version was requested from Apple. I asked that versions for those other products be produced, and he stated that he would look into it.

4. The following week, having heard nothing from Apple about the [REDACTED] [REDACTED] for iOS products, I instructed Mr. Rathinasamy to follow up. Mr. Rathinasamy sent an email to Derek Walter on May 18, 2011 and I was copied on that email.

5. When Apple responded the following week stating that it was still unable to produce the tool for iOS products and refusing to allow Elan’s expert to make even an initial inspection of the laptop running that tool, I requested, and the Court granted, an expedited

1 telephonic conference on this dispute. During that telephonic conference on May 24, 2011 Jared  
2 Bobrow, counsel for Apple, represented to the Court that Elan had never specifically asked to  
3 inspect the [REDACTED] for the iOS products. Mr. Bobrow also represented, when asked by the  
4 Court, that Apple could not make the [REDACTED] “fully available” for inspection  
5 the following day, even if ordered by the Court. Only when I explained that counsel had in its  
6 possession the laptop running the [REDACTED] did Mr. Bobrow agree that counsel would have  
7 been able make that version of the tool available the following day.

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

10 Executed this 27th day of May, 2011 at Menlo Park, California.

11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

*/s/ Sean P. DeBruine*  
\_\_\_\_\_  
Sean P. DeBruine