

EXHIBIT E

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March 17, 2011

VIA E-MAIL

Sonal N. Mehta, Esq.
Weil, Gotshal & Manges LLP
201 Redwood Shores Parkway
Redwood Shores, California 94065

Re: *Elan Microelectronics Corporation v. Apple, Inc.*,
United States District Court (N.D. Cal.), Case No.: 09-cv-01531-RS

Dear Sonal:

It has become apparent that Apple has failed to produce numerous documents and things called for by Elan's requests for production in this matter.

As one example, during the ITC hearing Mr. Westerman testified to the existence and use at Apple of a tool to [REDACTED] from the [REDACTED] as it is processed by the accused Apple products. That tool is apparently used by Mr. Westerman and his team used during the design, development and testing of the accused products. This tool and all documents relating to the tool or produced by the tool are called for by Elan's requests for production served in 2009. See Elan's First Set of Requests for Production of Documents and Things, RFPs 20 and 21. Request for Production No. 20 calls for all documents relating to the design, development or testing of the accused products, while No. 21 calls for all documents concerning or relating to the function or operation of the accused products including but not limited to code, test plans, test results and simulation files. This testing tool and related documents are clearly related to the testing of the accused products, and also provides direct evidence of the function and operation of the accused devices. They are therefore squarely covered by these requests. Nevertheless, 18 months after responding to this request Apple has not produced these documents and things. Apple stated in response to these requests that it would produce documents sufficient to show the testing and the operation of the accused products. Yet in its post-hearing brief in the ITC Apple now argues that [REDACTED] of the type [REDACTED] [REDACTED] tool is necessary to demonstrate the relevant operation of its products. In light of this position Apple can not argue that it has any basis to continue to withhold these documents. Rather, Apple has not met its own commitment to do so. Apple must therefore immediately produce a working copy of this [REDACTED] tool, all documents relating to the tool described by Mr. Westerman and any documents including [REDACTED] [REDACTED] by that tool. To the extent Apple has any other software or hardware tools that test, demonstrate or capture the function of the accused products, those must also be produced. Please let me know when Apple will comply with these requests.

Furthermore, in response to RFP 20, Apple pledged to produce documents sufficient to show the testing of the accused products. After a review of Apple's documents we are unable to identify any significant production relating to the testing of the accused touch sensors. It is highly unlikely that Apple could bring products to market including the accused touch sensors without significant functional, reliability or usability testing. However, we see little, if any, documentation of those activities. If Apple has in fact produced all such documents please identify them. If not, I ask that Apple provide a data certain by which all such documents will be produced.

Finally, Apple's web site is replete with videos demonstrating the operation of the accused products. These videos are also covered by multiple requests. *See e.g.* RFPs Nos. 21 and 54. Please confirm that Apple will immediately produce all videos, animations, illustrations and the like that demonstrate the operation and use of the accused product.

Sincerely,



Sean P. DeBruine

SPD:wjm