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 8 ELAN MICROELECTRONICS CORPORATION

9 UNITED STATES DISTRICT COURT
 10 NORTHERN DISTRICT OF CALIFORNIA
 11 SAN JOSE DIVISION

12 ELAN MICROELECTRONICS)
 13 CORPORATION,)
)
 14 Plaintiff,)
)
 15 v.)
 16 APPLE, INC.,)
 17 Defendant.)

Case No. C-09-01531 RS
)
)
DECLARATION OF SEAN P. DEBRUINE
IN SUPPORT OF ELAN
MICROELECTRONICS
CORPORATION’S REPLY IN SUPPORT
OF ITS MOTION TO DISMISS APPLE,
INC.’S THIRD, FOURTH AND FIFTH
COUNTERCLAIMS UNDER RULE
12(b)(6) FOR FAILURE TO STATE A
CLAIM, OR IN THE ALTERNATIVE, FOR
MORE DEFINITE STATEMENT UNDER
RULE 12(e)

20 APPLE, INC.,)
)
 21 Counterclaimant,)
)
 22 v.)
)
 23 ELAN MICROELECTRONICS)
 24 CORPORATION,)
)
 25 Counterdefendant.)

Date: August 26, 2009
 Time: 9:30 a.m.
 Courtroom: 4, 5th Floor
)
 The Honorable Richard Seeborg

1 I, Sean P. DeBruine, declare as follows:

2 1. I am a partner with the law firm of Alston & Bird LLP, counsel to Plaintiff and
3 Counterdefendant Elan Microelectronics Corp. in this matter. I have personal knowledge of the
4 following facts and if called to testify I could and would testify competently to the matters stated below.

5 2. Apple has not asked me or my colleagues for any particular, additional information
6 regarding the structure or operation of Elan touchpad products potentially at issue in this lawsuit.

7 3. Attached hereto as **Exhibit A** is a true and correct copy of a web page that I downloaded
8 from www.chipworks.com. It is the page located at www.chipworks.com/infringement_analysis.aspx
9 describing reverse engineering services provided for establishing infringement analyses.

10 4. Attached hereto as **Exhibit B** is a true and correct copy of *Advanced Analogic Tech. v.*
11 *Kinetic Tech., Inc.*, 2009 WL 1974602 (N.D. Cal. 2009).

12 5. Attached hereto as **Exhibit C** is a true and correct copy of *J.R. v. Sylvan Union Sch.*
13 *Dist.*, 2008 WL 682595 (E.D. Cal. 2008).

14 6. Attached hereto as **Exhibit D** is a true and correct copy of *Daw Indus. Inc. v. Proteor*
15 *Holdings*, 2008 WL 251977 (S.D. Cal. 2008).

16 7. Attached hereto as **Exhibit E** is a true and correct copy of *Hewlett-Packard Co. v.*
17 *Intergraph Corp.*, 2003 WL 23884794 (N.D. Cal. 2003).

18 8. Attached hereto as **Exhibit F** is a true and correct copy of *Performance Aftermarket*
19 *Parts Group, Ltd. v. TI Group Automotive Sys., LLC*, 2007 WL 2818269 (E.D. Tex. 2007).

20 9. Attached hereto as **Exhibit G** is a true and correct copy of *Goss Int'l Americas, Inc. v.*
21 *MAN Roland, Inc.*, 2008 WL 3823707 (D.N.H. 2008).

22 10. Attached hereto as **Exhibit H** is a true and correct copy of *FotoMedia Tech., LLC v. AOL,*
23 *LLC*, 2008 WL 4135906 (E.D. Tex. 2008).

24 11. Attached hereto as **Exhibit I** is a true and correct copy of *In re Katz Interactive Call*
25 *Processing Patent Litigation*, 07-ML-01816 (C.D. Cal. 2009).

26 12. Attached hereto as **Exhibit J** is a true and correct copy of *Omega Patents LLC v. Lear*
27 *Co.*, 2007 WL 4247674 (M.D. Fla. 2007).

1 13. Attached hereto as **Exhibit K** is a true and correct copy of *Chagby v. Target Corp.*, 2009
2 WL 398972 (C.D. Cal. 2009).

3 14. Attached hereto as **Exhibit L** is a true and correct copy of *Pellegrini v. Analog Devices,*
4 *Inc.*, 2006 WL 83472, *2-4 (D. Mass. 2006).

5 15. Attached hereto as **Exhibit M** is a true and correct copy of Windy City's amended
6 complaint, discussed in *Windy City Innovations, LLC v. America Online, Inc.*, 227 F.R.D. 278 (N.D. Ill
7 2005), downloaded from the Northern District of Illinois' ECF/PACER system.

8 16. Attached hereto as **Exhibit N** is a true and correct copy of *Arnold v. Petland Inc.*, 2009
9 WL 816327 (S.D. Ohio 2009).

10 17. Attached hereto as **Exhibit O** is a true and correct copy of *Phleger v. Countrywide Home*
11 *Loans, Inc.*, 2008 WL 65677 (N.D. Cal. 2008).

12 18. Attached hereto as **Exhibit P** is a true and correct copy of *Hinshaw v. The Vessel M/V*
13 *Aurora*, 2007 U.S. Dist. Lexis 41104 (N.D. Cal. 2007).

14 19. Attached hereto as **Exhibit Q** is a true and correct copy of *Himmelberger v. Lamarque*,
15 2008 U.S. Dist. Lexis 103956 (N.D. Cal. 2008).

16
17 I swear under penalty of perjury under the laws of the State of California and the United States of
18 America that the foregoing is true and correct. Executed this 12th day of August, 2009, at Palo Alto,
19 California.

20 _____
/s/

21 Sean P. DeBruine
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