

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 TSAI-YU (APRIL) CHEN (SBN 264523)  
 april.chen@alston.com  
 5 JANE HAN BU (SBN 240081)  
 jane.bu@alston.com  
 6 JENNIFER LIU (SBN 268990)  
 celine.liu@alston.com  
 7 PALANI P. RATHINASAMY (SBN 269852)  
 palani.rathinasamy@alston.com  
 8 **ALSTON & BIRD LLP**  
 275 Middlefield Road, Suite 150  
 9 Menlo Park, CA 94025-4008  
 Telephone: 650-838-2000  
 10 Facsimile: 650-838-2001

11 Attorneys for Plaintiff and Counterdefendant  
 12 ELAN MICROELECTRONICS  
 CORPORATION

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

UNITED STATES DISTRICT COURT  
 NORTHERN DISTRICT OF CALIFORNIA  
 SAN FRANCISCO DIVISION

ELAN MICROELECTRONICS  
 CORPORATION,

Plaintiff,

v.

APPLE, INC.,

Defendant.

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

**MOTION TO CONTINUE DEADLINE  
 FOR FILING OF ELAN'S REPLY BRIEF  
 IN SUPPORT OF ELAN'S MOTION  
 FOR PARTIAL SUMMARY JUDGMENT**

AND RELATED COUNTERCLAIMS

1 Pursuant to Civil Local Rule 6-3, Plaintiff Elan Microelectronics Corp. (“Elan”) hereby  
2 moves to enlarge the time for filing of its Reply brief in support of its Motion for Partial Summary  
3 Judgment of Infringement of U.S. Patent No. 5,825,352. [Dkt. No. 212]. On May 19, 2011 the  
4 parties filed a Stipulation requesting that Elan’s motion be heard on June 20, 2011. [Dkt. No.  
5 205]. That request arose from Apple’s demand that it take the deposition of Elan’s expert  
6 deponent prior to filing its Opposition. Elan agreed to promptly make its expert available, and his  
7 deposition was scheduled, at Apple’s convenience, for May 24, 2011. Elan agreed that Apple  
8 would have more than one week from that deposition, to June 2, 2011, to prepare and file its  
9 Opposition. Consistent with the request for a hearing on June 20 (a date again chosen for Apple’s  
10 convenience), the Stipulation called for the filing of Elan’s Reply on June 9, 2011. On May 25,  
11 2011 the Court ruled order on the parties’ stipulation. [Dkt. No. 218]. The Court set a hearing for  
12 July 14, 2011, rather than the June 20 date that was requested, but left the filing dates unchanged  
13 [*Id.*]

14 Late on June 2, Elan received notice that Apple had filed its Opposition and supporting  
15 declarations. Included was a 158 paragraph declaration from Apple’s expert witness, Dr.  
16 Balakrishnan. After careful consideration of that declaration and how Elan could most effectively  
17 rebut the numerous errors and inconsistencies therein, Elan concluded that it is necessary to take  
18 the deposition of Dr. Balakrishnan. In order to make that deposition useful to the Court, the filing  
19 of Elan’s Reply should be delayed until after the deposition is complete the deposition and the  
20 transcript can be prepared. The requested extension will not prejudice either Apple or the Court.  
21 According to Civil Local Rule 7-3(c), a Reply in support of a motion is normally to be filed 14  
22 days prior to the hearing. Elan requests that it have until June 30, 2011 to file its Reply in support  
23 of its motion.<sup>1</sup>

24 Elan states that it exchanged email correspondence with counsel for Apple to obtain a  
25 stipulation for this extension. Apple stated that it would oppose this motion, but that it would  
26 consider making Dr. Balakrishnan available for a deposition. Clearly providing the deposition

27 \_\_\_\_\_  
28 <sup>1</sup> This request is premised on the assumption that Apple will make Dr. Balakrishnan available  
for his deposition prior to June 24, 2011.

