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 Apple Inc.

11 UNITED STATES DISTRICT COURT
 12 NORTHERN DISTRICT OF CALIFORNIA
 13 SAN JOSE DIVISION

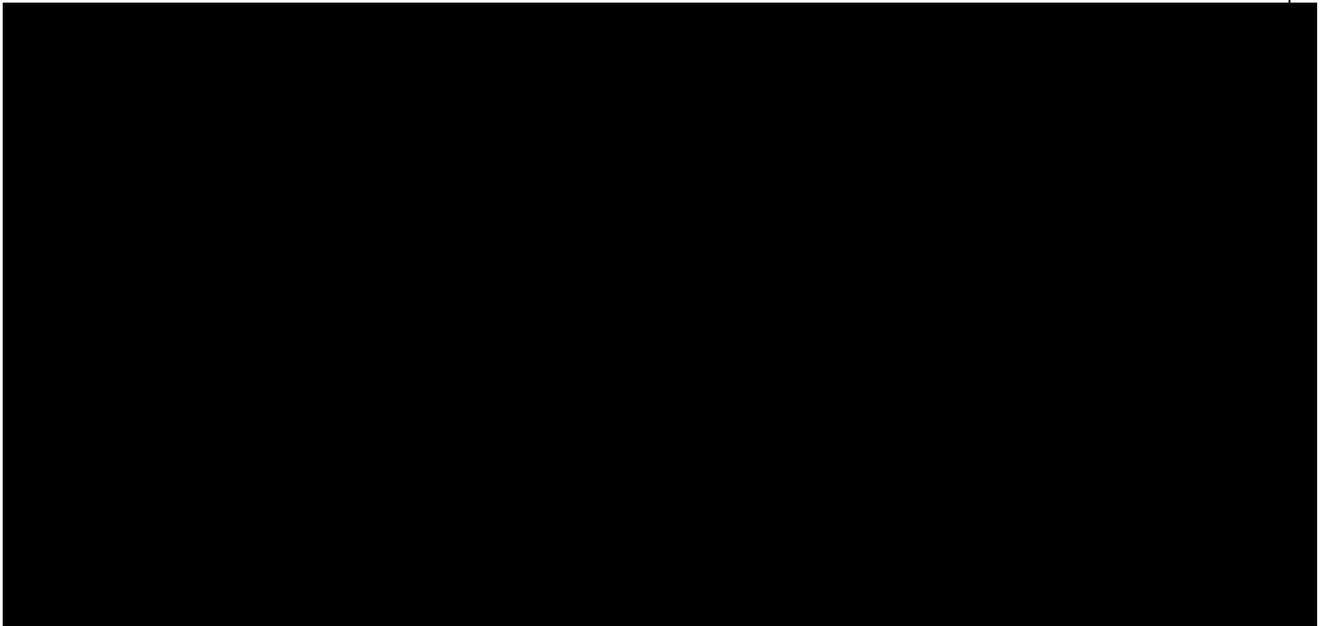
14 ELAN MICROELECTRONICS
 CORPORATION,
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 16 Plaintiff and Counterclaim
 Defendant,
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 18 v.
 19 APPLE INC.,
 20 Defendant and Counterclaim
 Plaintiff.
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 22

Case No. C-09-01531 RS (PSG)
**APPLE INC.'S RESPONSE TO ELAN
 MICROELECTRONICS
 CORPORATION'S MOTION TO
 COMPEL APPLE TO SUPPLEMENT
 ITS RESPONSE TO ELAN'S
 INTERROGATORY NO. 13**
 DATE: June 28, 2011
 TIME: 10:00 a.m.
 JUDGE: Hon. Paul S. Grewal
 CTRM: 5

1 Elan Microelectronics Corp. (“Elan”) moves to compel Apple Inc. (“Apple”) to
2 supplement its response to Elan Interrogatory No. 13, which seeks *inter alia* information related
3 to codenames and labels used to identify Apple products. *See* Dkt. No. 209. Apple has already
4 provided extensive information in response to this Interrogatory. There is no dispute that
5 separately for each accused product, Apple has already identified relevant internal Apple
6 codenames, product names, model identification numbers, model numbers, and order numbers,
7 and has identified on a per product basis the relevant chipsets they use. The foregoing
8 information is more than Elan needs to pursue its case. Nevertheless, by its motion, Elan seeks to
9 compel Apple to go to the burdensome task of providing a table that further correlates the internal
10 engineering code names with the most granular level of Apple product number, which carries
11 with it information regarding the configuration of the product at issue that is ***completely***
12 ***unrelated to the issues in this case*** (*e.g.*, the size of a laptop, the amount of memory it has, its
13 color, etc.). This is the only information that Apple has not provided and that Elan seeks with its
14 motion, and, as set forth below, it is entirely irrelevant to this case. Nevertheless, to avoid
15 troubling the Court, Apple has agreed to undertake a special investigation to collect and verify
16 how internal development codenames correlate to these granular external order numbers. To the
17 extent there is any correlation and to the extent Apple is able to verify the correlation, Apple will
18 supplement its interrogatory response by June 22, 2011 to provide the information that Elan
19 seeks. Elan’s motion is thus moot.

20 Despite the mootness of Elan’s motion, Apple provides the following explanation of the
21 full scope of the information it has already provided to Elan and precisely why the additional
22 information Elan seeks is irrelevant, should the Court wish to consider the relevant history. At
23 the outset, Apple has collected and organized into tabular form model ID numbers, model
24 numbers, and order numbers for 79 different accused Apple products—including 21 flavors of
25 MacBook and 35 flavors of MacBook Pro. *See* Rathinasamy Decl., Exh. F [Apple’s Supp. Resp.]
26 at 5-7. Additionally, for eleven different categories of Apple accused products, Apple has
27 directed Elan by Bates number to documents that state the relevant types of touchpad ASICs they
28 contain. Because these ASICs are the devices that actually store and execute the allegedly

1 infringing functionality, this represents the core hardware information Elan needs to pursue its
2 case. *See* Exh. 1 [Apple's 10/28 Response to Elan ITC Interrogatory No. 31] at 11-12.¹ In
3 addition, as noted above, Apple has specified for the internal engineering code names, the type of
4 products they correspond to. For instance, for the accused MacBook, MacBook Air, MacBook
5 Pro, iPhone 3G/3GS, iPod Touch, iPad, iPhone, and Magic Trackpad products, Apple identified
6 ■ total internal codenames and verified with an Apple employee the corresponding product they
7 were associated with, as set forth in the table below:



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18 *See* Exh. 2 [Apple 11/02/2010 Response to Elan ITC Supplemental Response to Interrogatory No.
19 1] at 8; *see also id.* at 32 (verification of Apple employee Stan Ng). Apple provided similar
20 information for the accused iBook and PowerBook G4 products as well. *See* Rathinasamy Decl.,
21 Exh. B [Apple's Resp.] at 5. Elan has never identified to Apple a particular internal codename
22 that it was unable to associate with an Apple product, or a particular Apple product for which it
23 was unable to determine the type of ASIC it contains.

24 Despite having provided this information, Elan insists that Apple provide it with further
25 information to correlate the internal engineering codes above with the most granular level of final
26 product model number, which represents the final configuration of the product, including details

27 ¹ All exhibits cited are to exhibits attached to the Declaration of Derek Walter in Support of
28 Apple Inc.'s Opposition to Elan Microelectronics Corporation's Motion to Compel Apple to
Supplement its Response to Elan's Interrogatory No. 13, filed concurrently herewith.

1 like its memory capacity, color, data carrier, etc. This information is irrelevant, as reflected in
2 the minimal explanation Elan provides in its brief regarding why it allegedly needs such
3 information.² First, Elan contends that the information is necessary so that it can “fully
4 understand and analyze the documents Apple has produced.” Motion at 6. On this issue, Elan
5 states, at most, that this information is necessary for “tying externally described features with
6 internal product numbers.” *Id.* Yet, Elan does not state what features it allegedly needs to tie to
7 internal product numbers. Elan identifies no such features because there are none; Elan needs to
8 know little more than the type of touch ASIC each product contains, which Apple has already
9 provided. Indeed, Elan even proclaims in its brief that “***under the current state of affairs, Elan***
10 ***has the information necessary to prove infringement by the accused Apple products.***” *Id.* at 7.
11 Next, Elan contends that the information it seeks is necessary to prove damages, because its
12 infringement “proof would apply to the products listed under the internal project codes” and
13 cannot be tied to external product codes. *Id.* at 7. But, as noted above, Apple has already told
14 Elan whether a particular internal project codename corresponds to a MacBook Pro, iPad, iPhone,
15 etc., and there is nothing about Elan’s infringement case that should require further information
16 beyond the type of touch ASIC each product contains, which Apple has already provided, let
17 alone information about the size or color of the product. Moreover, in connection with damages
18 discovery, Apple will provide full financial information for the different configurations of these
19 products, a point Apple would have explained had Elan ever articulated during the meet and
20 confer process any relevance justification related to damages. Simply put, Elan’s position is
21 based on a false and ill-informed presumption that to have complete financial information for the
22 accused Apple products, it will need to correlate internal project codenames to the most granular
23 level of Apple product number. Elan is simply wrong on this point.

24 Importantly, the information Elan seeks is not kept or generated by Apple in the ordinary
25 course of business because, as Elan acknowledges, the codenames are internal engineering

26 ² Elan seeks this sort of irrelevant information while it at the same time withholds from
27 Apple critical information necessary to its case, including information regarding the presence of
28 Elan products in the United States, inventor depositions, and certain documents that have been
improperly redacted on the basis of privilege, as explained fully in Apple’s May 31, 2011 motion
to compel.

