

# EXHIBIT 8

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**From:** Bu, Jane  
**Sent:** Monday, June 13, 2011 10:33 PM  
**To:** Greenblatt, Nathan  
**Cc:** Apple Elan WGM Service; Elan Apple Team; Capoccia, Rachel  
**Subject:** Elan Privilege Logs & Summaries of Apple Patents

Nathan:

I write regarding two issues raised in Apple's Motion to Compel.

### **1. Nick Lin's Apple Patent Summaries**

As we've pointed out, Apple contested privileged status of Mr. Lin's patent summaries for the first time on May 25. Before Elan has a chance to even review the documents at issue, Apple filed its motion to compel. Regardless of Apple's failure to meet and confer before filing its motion to compel, we nevertheless reviewed Mr. Lin's patent summaries referenced in your email. They are listed as Entry 330, 331, 400 on Elan's Revised July 2010 Privilege Log and entry No 50 on the Revised September 2010 Privilege Log. As a result of that review we have determined that one of those summaries does not contain any privileged communication, while another 2 may be produced with the privileged information redacted. We anticipate that we will produce these summaries to Apple tomorrow and revise the corresponding privilege log entries accordingly. Since there is no legal analysis in the portions of the summaries Elan is producing, Elan has not waived any claim of privilege.

### **2. Elan PowerPoint presentations (Elan Revised September 1 Privilege Log Entries 1-37; Revised October 25 Log entry No. 6)**

Similarly, Elan is willing to discuss a possible resolution of our dispute concerning documents shared with Elan's customers pursuant to their common legal interest. While there is a valid common legal interest between Elan and those customers that Elan had disclosed the PowerPoint slides, Elan will consider producing them to Apple. However, Elan will only produce the unredacted documents on the condition that Apple will not use the production to argue for a broader waiver of privilege or work product. While we do not believe such a claim would have any basis, and to enable Apple to confirm that fact, we would consider allowing Apple's counsel to review a representative unredacted document if Apple will provide a binding agreement that it will not argue that Elan has waived any claim of privilege by permitting the review, and not to disclose the content or characterize the content in any further disputes regarding the documents. Please confirm that Apple will agree to these terms. It is our hope that the parties can reach an agreement without further Court intervention with respect to this issue.

Best,

Jane

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**From:** Greenblatt, Nathan [mailto:nathan.greenblatt@weil.com]  
**Sent:** Wednesday, June 01, 2011 11:39 AM  
**To:** Bu, Jane

**Cc:** Elan Apple Team; Apple Elan WGM Service  
**Subject:** RE: Elan Privilege Logs & Summaries of Apple Patents

Dear Jane,

We disagree that last Wednesday was the first time Apple has raised the issues of Nick Lin's documents or the communications amongst Elan in-house IPR employees. As you can see from the documents attached to our motion, Apple has raised these issues several times in the past, without any substantive response by Elan. Nevertheless, we are of course willing to continue a dialogue and resolve these issues without court involvement, if possible.

I also confirm that Apple's motion to compel does not contain any Apple confidential information.

Best regards,

Nathan



**Nathan A. Greenblatt**

Weil, Gotshal & Manges LLP  
201 Redwood Shores Parkway  
Redwood Shores, CA 94065-1134  
[nathan.greenblatt@weil.com](mailto:nathan.greenblatt@weil.com)  
+1 650 802 3251 Direct  
+1 650 802 3100 Fax

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**From:** Bu, Jane [mailto:Jane.Bu@alston.com]  
**Sent:** Tuesday, May 31, 2011 1:28 PM  
**To:** Greenblatt, Nathan  
**Cc:** Elan Apple Team; Apple Elan WGM Service  
**Subject:** RE: Elan Privilege Logs & Summaries of Apple Patents

Nathan:

Your email of last Wednesday was the first time Apple has raised the issues of Nick Lin's documents or the communications amongst Elan in-house legal personnel. We immediately responded that we would look into these issues and provide a response promptly. One email, with an arbitrary deadline over the long holiday weekend, is unreasonable and does not meet the requirement for "direct dialogue and discussion" under the Local Rules. It is far from an "extensive" meet and confer as you characterize it below. In any event, a motion to compel will be premature, at a minimum, and without merit particularly as we have already stated on May 27th, that we are currently looking into the issues you have raised and will get back to you shortly. If you have any specific authority for your claim that these documents are not privileged and/or work product, please provide it to us.

Also contrary to your assertion, Elan has repeatedly revised its privilege logs after our previous communications to narrowly apply its privilege assertions. As adequately described in the current log entries, the communications between and the work product generated by Elan's in house legal department was under the direction of counsel and/or for the purpose of litigation. However, to the extent you have additional concerns, we are willing to discuss them. To that end, we will look into the specific documents you have referenced below and get back to you as soon as we complete our review. We will also re-review our logs to determine whether any of the redactions or privilege assertions can be withdrawn based on any intervening events such as the rulings in the ITC case.

Best,

Jane

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**From:** Greenblatt, Nathan [mailto:nathan.greenblatt@weil.com]  
**Sent:** Saturday, May 28, 2011 12:40 PM  
**To:** Bu, Jane  
**Cc:** Elan Apple Team; Apple Elan WGM Service  
**Subject:** RE: Elan Privilege Logs & Summaries of Apple Patents

Jane,

We intend to file a motion to compel on Tuesday that relates to, inter alia, Elan's improper privilege assertions. Please let us know by noon on Tuesday if you have anything further to add to Elan's privilege logs on these issues or on our prior, extensive meet and confer on Elan's privilege assertions.

Thanks,



**Nathan A. Greenblatt**

Weil, Gotshal & Manges LLP  
201 Redwood Shores Parkway  
Redwood Shores, CA 94065-1134  
[nathan.greenblatt@weil.com](mailto:nathan.greenblatt@weil.com)  
+1 650 802 3251 Direct  
+1 650 802 3100 Fax

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**From:** Bu, Jane [mailto:Jane.Bu@alston.com]  
**Sent:** Friday, May 27, 2011 2:01 PM  
**To:** Greenblatt, Nathan  
**Cc:** Elan Apple Team; Apple Elan WGM Service  
**Subject:** RE: Elan Privilege Logs & Summaries of Apple Patents

Dear Nathan:

We are looking into the issues you raised below and will provide a response to you later next week.

Best,

Jane

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**From:** Greenblatt, Nathan [mailto:nathan.greenblatt@weil.com]  
**Sent:** Wednesday, May 25, 2011 7:56 PM  
**To:** Bu, Jane  
**Cc:** Elan Apple Team; Apple Elan WGM Service  
**Subject:** Elan Privilege Logs & Summaries of Apple Patents

Dear Jane,

I write regarding two issues related to Elan's privilege logs.

First, please confirm whether Elan has produced the summaries of Elan patents described in Elan's reponse to Apple's Interrogatory No. 11, as well as all related documents regarding Elan's knowledge of Apple's asserted 218 and 659 patents. In reviewing Elan's privilege logs, I have been unable to locate any documents authored by Nick Lin dated September 24, 2008, or February 26, 2009. At the same time, Elan's interrogatory response does not identify Mr. Lin's patent summaries by Bates numbers. If Elan is withholding these documents on the basis of privilege or work product claims, please explain in full Elan's basis for doing so.

Second, please clarify what legal standard Elan is applying with respect to Elan's assertion of attorney-client privilege and work product protection for documents authored by members of Elan's in-house legal/IPR department. As Mr. Wayne Chang has testified, there are no attorneys in Elan's legal/IPR department. Of the 1273 entries on Elan's privilege logs, only entry nos. 212-238, 240-247, 249-259, 261-262, 267, 298, 314-322, 341-342, 344, 347, 431, 433, 464, 536, 599-600 on Elan's Revised July 1, 2010 Privilege Log, entry nos. 43-44, 109, 161, 164, 184, and 248 on Elan's Revised September 1, 2010 Privilege Log, and entry nos. 3, 13, 21, 95-96, 107, 109, 160, 162-163, 176, 183, 209, 218, 220, 230-272 on Elan's October 25, 2010 Privilege Log indicate any involvement of an attorney. For the entries not indicating any involvement of an attorney, we believe there is insufficient information to justify application of either the attorney-client privilege or work product doctrine.

Please let us know by Friday Elan's position on these issues.

Best regards,



**Nathan A. Greenblatt**

Weil, Gotshal & Manges LLP  
201 Redwood Shores Parkway  
Redwood Shores, CA 94065-1134  
[nathan.greenblatt@weil.com](mailto:nathan.greenblatt@weil.com)  
+1 650 802 3251 Direct  
+1 650 802 3100 Fax

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