

EXHIBIT 12

1 YITAI HU (SBN 248085) yitai.hu@alston.com
SEAN P. DEBRUINE (SBN 168071) sean.debrune@alston.com
2 ELIZABETH H. RADER (SBN 184963) elizabeth.rader@alston.com
TSAI-YU (APRIL) CHEN (SBN 264523) april.chen@alston.com
3 JANE HAN BU (SBN 240081) jane.bu@alston.com
JENNIFER LIU (SBN 268990) celine.liu@alston.com
4 PALANI P. RATHINASAMY (SBN 269852) palani.rathinasamy@alston.com
ALSTON & BIRD LLP
5 275 Middlefield Road, Suite 150
Menlo Park, CA 94025-4008
6 Telephone: 650-838-2000
Facsimile: 650-838-2001

7 Attorneys for Plaintiff and Counterdefendant
8 ELAN MICROELECTRONICS CORPORATION

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

13 ELAN MICROELECTRONICS
14 CORPORATION,

15 Plaintiff,

16 v.

17 APPLE, INC.,

18 Defendant.

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20 AND RELATED COUNTERCLAIMS
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Case No. 09-cv-01531 RS (PSG)

**DECLARATION OF HSIAO-LING FAN
IN SUPPORT OF ELAN
MICROELECTRONICS
CORPORATION'S OPPOSITION TO
APPLE, INC.'S MOTION TO COMPEL**

1 I, Hsiao-Ling FAN, declare as follows:

2 1. I am an attorney at law duly licensed to practice laws in Republic of China (Taiwan)
3 and am a partner with Formosa Transnational Attorneys at Law. I have been practicing laws for 13
4 years. I received my Bachelor of Law and Master of Law degrees from National Taiwan University
5 respectively in 1995 and 1998. I received my LL.M. degree from Harvard Law School in 2001 and
6 another LL.M. degree in corporate law from New York University School of Law in 2002. Attached
7 hereto as Exhibit 1 is a copy of my curriculum vitae setting forth the positions I have held, the
8 associations of which I am a member, and the major publications in Chinese and English of which I
9 was the author.

10 2. I have been retained by Elan to provide a declaration in support of its Opposition to
11 Apple's Motion to Compel. Based on my knowledge and legal research, I declare as follows:

12 3. The scope of discovery for Taiwan is far narrower than that in the United States
13 since there is no equivalent "discovery" or "discovery procedure" in civil law countries. Due to
14 the lack of formal "discovery procedure," Taiwan's legal system does not have an equivalent
15 concept of "attorney-client privilege" or "work-product" as in the U.S.

16 4. However, the Taiwanese law does recognize the underlying rationale of the
17 "attorney-client privilege," which is an attorney must keep his/her client's information in
18 confidence and does offer some protection against disclosure of the communications between an
19 attorney and the client based on that principle. Among them is Article 33 of the Taiwan
20 Attorneys' Ethical Codes, which prohibits attorneys from disclosing the contents of matter that is
21 commissioned, Article 307 I (4) of the Taiwanese Code of Civil Procedure, which gives lawyers
22 the right to refuse to testify in the civil proceeding on the ground that he/she is legally obligated to
23 maintain secrecy in the course of performing his official duties or conducting business, and Article
24 348 of the Code of Civil Procedure, which also allows a lawyer to refuse to produce the
25 documents pertaining to his/her practice.

26 5. Traditionally, in Taiwan, only roughly 3-4% individuals who sat for a Taiwan bar
27 will be qualified as a licensed attorney due to the country's strict regulation and low passing rate
28 of the bar examination. Since 2003, the bar passing rate is around 8%~10%. However, there are

1 still very limited numbers of licensed attorneys in Taiwan.

2 6. Therefore, it is not uncommon for certain companies, particularly small to mid-
3 sized companies, to employ non-licensed attorneys in its legal departments. Therefore, these in-
4 house personnel handling legal matters for the small to medium Taiwan corporations are not
5 “attorneys” in the sense that they did not pass the bar examinations or are not registered to practice
6 law. Further, in these small to mid-size corporations, various non-attorney legal managers
7 perform all kinds of legal functions usually performed by U.S. lawyers, such as providing legal
8 advice to his/her clients (the corporate individuals) and overseeing litigations. Further, Taiwan
9 law does not prohibit a company from hiring non-licensed attorneys to manage its legal
10 department and provide legal advices for the various corporate legal matters.

11 7. Taiwan licensed attorneys are required to keep clients’ information in confidence as
12 regulated by the Attorneys’ Ethical Codes. The non-licensed individuals serving as in-house
13 counsel for companies, although are not regulated by the Codes, are under the duty and
14 expectations from his/her clients not to disclose confidential information.

15
16 I swear under penalty of perjury under the laws of the United States that the foregoing is
17 true and correct. Executed this 14th day of June, 2011 at Taipei Taiwan.

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21 _____
22 Hsiao-Ling Fan
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EXPERIENCE

Chairperson, Intellectual Property Right Committee(2008 ~); Commissioner, Statute Codification Committee(2007 ~ 2008), National Bar Association ; Director(2008 ~); Chair, China Matters Committee(2009~); Chairperson, Social Welfare Committee (2008 ~ 2009); Vice Chairperson, Trademark and Patent Committee(2005 ~), Taipei Bar Association ; Commissioner, Mediation Center of Arbitration Association, ROC(2008 ~) ; Lecturer & Teaching Material Author, for Intellectual Property Law, Taiwan Intellectual Property Training Academy(2005 ~) ; Commissioner, Managing Private Donation Committee, Taipei City Government(2008 ~ 2010) ; Consultation Commissioner, Review on Procurement Dispute Committee, Taipei City Government(2011 ~) ; Associate Mediator, Singapore Mediation Center (2008 ~ 2009) ; Teacher, Soochow University School of Law(2003 ~ 2008) ; Commissioner, East Asia & Pacific Subcommittee, Legislative & Regulatory Analysis Committee, International Trademark Association(2004 ~ 2005) ; Vice Executive, Pre-Bar Training School of National Bar Association (1998 ~ 1999) ; Vice Executive (1996 ~ 1997), Judicial Reform Foundation

Partner

HSIAO-LING FAN

SPECIALIZATION

Intellectual property infringement, enforcement and dispute; licensing, transaction, investment, strategic planning and management

International trade; commercial contracts and negotiation; fair trade and competition laws

Civil litigation; commercial arbitration; multinational dispute resolution

Corporate law; Taiwan-PRC commercial affairs

EDUCATION

PhD. Candidate in Intellectual Property Laws, Peking University School of Law, Beijing, PRC

LL.M. in Corporate Law, New York University School of Law, NY, USA (2002)

LL.M., Harvard Law School, MA, USA (2001)

Master of Law, Graduate Institute of Law, National Taiwan University (1998)

Bachelor of Law, Economic & Financial Laws Division, National Taiwan University (1995)

National Judicial Examination and Bar Examination of Taiwan(1994)

MEMEBER

Asian Patent Attorneys Association (APAA) Taiwan Group ; International Trademark Association (INTA) ; Licensing Executive Society (LES), Chinese Taipei ; Association of Technology Managers in Taiwan (ATMT) ; New York State Bar Association ; American Bar Association ; Taipei Bar Association ; Hsin-Chu Bar Association ; Tao-Yuan Bar Association ; Tai-Nan Bar Association ; Kaohsiung Bar Association ; Taiwan Law Society ; Harvard Club of the ROC and Beijing

MAJOR PUBLICATION

【Chinese】 1. Back and Forth of Business Method Patents—Comment on *Bilski v. Kappos* by the United State Supreme Court(2010) ; 2. Application of Declaratory Action in Patent Infringement Disputes—Comment on two recent judgments by the Intellectual Property Court(2009) ; 3. A New Era for Adjudication of Intellectual Property Litigation—Observation on the first six months after the establishment of the Intellectual Property Court (2009) ; 4. A New Era for Intellectual Property Cases—Comment on the Intellectual Property Adjudication Act (co-authored, Chapter 4 and 5, 2009) ; 5. Exhaustion of Patent Rights—Comment on *Quanta Computer, Inc. v. LG Electronics, Inc.*(2008) ; 6. Antitrust Review on Patentee's Licensing Regime—An Update of the Latest FTC/DOJ Report in the US and the New Antitrust Law and Amendment to Patent Law in PRC.(2008) ; 7. The Introduction of the Amendment of Patent Law in China (2007) ; 8. New Challenge to initiate patent infringement cases under the new Intellectual Property Adjudication Act: focusing on preliminary injunction, evidence collection and protective orders(2007) ; 9. Evidence Preservation and Provisional Procedure for Patent Infringement Cases(2007) ; 10. Balancing the Exercise of Patent Rights and Fair Competition~ A Few Recent Hot Issues in Patent Litigation of Taiwan and the U.S.(2006) ; 11. Patentee's Market Power in Tying Arrangement~ Comment on *Illinois Tool Works Inc. v. Independent Ink, Inc.* (2006) ; 12. The Issues in light of National Treatment Principle on Assets Pricing in the PRC Laws on Sino-Foreign Equity Joint Ventures (2006) ; 13. Enhancing Flexibility in Corporate Capital in the Newly Amended PRC Corporate Law(2006) ; 14. Exclusivity and Compatibility: Antitrust Review on Industrial Standards and Patent Pools ~ Comment on the Collaborative Behaviors in the Case of *Philip*(2006) ; 15. Exclusivity and Compatibility: Patent Issues Related to Compatible Standards Under the WTO Regime (2006) ; 16. Provisional Measures for Patent Infringement Cases(2005) ; 17. Hot Battles of Preliminary Injunction for Patents in Taiwan(2004) ; 18. Contributory Infringement and Implied License under U.S. Patent Law ~ Comment on *Anton/ Bauer Inc. v. PAG Ltd.*(2003) ; 19. The New Era of Corporate Governance and Financial Auditing ~ Introduction of the Sarbanes-Oxley Act in the U.S.(2002) ; 20. Peer- to- Peer MP3 File Sharing and Fair Use ~ Comment on *A & M Records, Inc. v. Napster, Inc.*(2001) ; 21. Comment on No.3785 Judgment of 1997 by the Supreme Court (2000) ; 22. Introduction to the newly amended Code of Civil Procedure (1999) ; 23. No Fault Insurance Claims involving Multiple Insured Motors (1998) ; 24. Introduction of the newly amended Civil Aviation Law (1998) ; 25. Good Faith of the Liability Insurers in Resolving Disputes with the Third Party, Master of Law Thesis, NTU (1998) ; 26. Comment on Prevention of Organization Crime Act (1997) ; 27. Pure Economic Loss Caused by Negligence (1997)

【English】 1. Enhancing the Value of IPR Assets under the Cross-Strait IPR Protection Cooperation Agreement between Taiwan and China (2011) ; 2. A New Era is Arriving in the Adjudication of Intellectual Property Cases in Taiwan (2008) ; 3. Patent and Know-How Licensing Agreement(2008) ; 4. Patent Protection for Biotechnology in Taiwan(2005) ; 5. Legal Regime for Electronic Commerce in Taiwan(2005) ; 6. Patent Protection for Biotechnology in Taiwan(2005) ; 7. Accessibility of Essential Drugs under the TRIPS Agreement~ Comment on the Doha Declaration by the WTO

