

# EXHIBIT 9

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11 ELAN MICROELECTRONICS  
CORPORATION

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UNITED STATES DISTRICT COURT

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NORTHERN DISTRICT OF CALIFORNIA

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SAN FRANCISCO DIVISION

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ELAN MICROELECTRONICS  
CORPORATION,

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

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Plaintiff and Counterdefendant,

**DECLARATION OF IAN CHUNG IN  
SUPPORT OF ELAN  
MICROELECTRONICS  
CORPORATION'S OPPOSITION TO  
APPLE, INC.'S MOTION TO COMPEL**

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v.

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APPLE, INC.,

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Defendant and Counterplaintiff.

22

AND RELATED COUNTERCLAIMS

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1 I, Ian Chung, declare as follows:

2 1. I am an assistant director at Elan Microelectronics for the SRD3 business unit. I  
3 am in charge of the marketing and sales department of Elan's touchscreen and touchpad products.  
4 I make this declaration based on my personal knowledge. If called upon to testify, I could and  
5 would competently testify thereto.

6 2. Elan designs, manufactures and sells a range of touch sensitive input devices, such  
7 as touchpads for portable computers and touchscreens for mobile phones, media players and the  
8 like. Since I am responsible for marketing and sales of Elan products, I understand how Elan's  
9 input devices are sold and who are Elan's customers.

10 3. Elan sells its products through distributors in Taiwan. These distributors in turn  
11 sell Elan's products to OEM manufacturers in Asia. These OEM manufacturers make products for  
12 brand companies, such as Dell, HP and HTC. These OEMs are Elan's "customers" and are  
13 reflected in Elan's official sales database and Elan's official corporate reports and documents. All  
14 of Elan's OEM customers are located in Asia, mostly in Taiwan.

15 4. Elan knows how many of its products are sold to its distributors and OEM  
16 customers. However, Elan does not know how many of its touchpad or touch screen products sold  
17 to any given brand company are ultimately sold in the U.S. Brand companies and OEM customers  
18 simply do not share this type of information with Elan. Most of these brand companies sell their  
19 products worldwide, so even for an American company such as Dell, the fact that certain of its  
20 products incorporated Elan's products does not necessarily mean these Dell products are sold in  
21 the U.S.

22 5. Elan maintains contact with brand companies to build and maintain business  
23 relationships. The hope for Elan is to for these brand companies to specifically require its OEM  
24 manufacturers to use Elan's products. This is not always successful.

25 6. Elan may also have direct communications with brand companies to provide  
26 customer support. Due to these contacts, Elan sometimes becomes aware of the internal project  
27 codes of the brand companies. There are also instances where Elan and brand companies  
28 corroborate on a project, in which case Elan would know the internal project code of the brand

1 customer. There are also instances where Elan becomes aware of the brand customers' internal  
2 product codes through the OEM customers. Generally, however, Elan does not know the external  
3 commercial product names of the brand customers.

4 7. I have personally conducted searches within my department to locate any  
5 information relating to the presence of Elan's products in the U.S.

6 8. Elan uses a web order system to input each and every Elan customer's order  
7 information. Attached as Exhibit A are the true and correct screenshots of Elan's web order  
8 system.

9 9. In Elan's web order system, "Customer Name" is the direct customer of Elan who  
10 places the order with Elan. "Customer (2)" and "Customer (3)" are the possible or likely next  
11 level customer if such information is available. Therefore, "Customer (2)" and "Customer (3)" are  
12 indirect customers of Elan.

13 10. There are only three levels of customer fields in the web order system. The second  
14 or third level of customers could be the final customer of the complete downstream product (i.e.  
15 brand companies); however, it may not always be the case.

16 11. In Elan's web order system, *territory of sales* is defined based on the place-of-  
17 business address of Elan's direct customer. For example, if the address of a direct customer is in  
18 China, then the *territory of sale* of Elan's products for that particular order will be "China."

19 12. Based on the searches of Elan's official database systems, there is no *territory of*  
20 *sales* made to the United States for Elan's touch-sensing products.

21 13. The "delivery address" is the location to which Elan's direct customer requires Elan  
22 to ship the ordered products.

23 14. Based on the information in Elan's database systems, there is no U.S. location  
24 reflected for the "delivery address" for Elan's touch-sensing products.

25 I swear under penalty of perjury under the laws of the United States that the foregoing is  
26 true and correct. Executed this 14th day of June, 2011, in Hsinchu, Taiwan.

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*Ian Chung*  
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Ian Chung

# **EXHIBIT A**





















