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10 Attorneys for Defendant and Counterclaim Plaintiff
 Apple Inc.

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

14 ELAN MICROELECTRONICS CORPORATION,
 15
 16 Plaintiff and Counterclaim Defendant,
 17 v.
 18 APPLE INC.,
 19 Defendant and Counterclaim Plaintiff.
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 21

Case No. C-09-01531 RS (PVT)

APPLE INC.'S MOTION TO SHORTEN TIME FOR ITS MOTION TO COMPEL ELAN'S COMPLIANCE WITH THE PARTIES' AGREEMENT THAT ELAN EMPLOYEES WILL BE PRESENTED FOR DEPOSITION IN THE NORTHERN DISTRICT OF CALIFORNIA

JURY TRIAL DEMANDED

Hon. Paul Singh Grewal

1 Apple respectfully submits this motion to shorten time with respect to its Motion to
2 Compel Elan's Compliance with the Parties' Agreement that Elan Employees Will Be Presented
3 for Deposition in the Northern District of California. The underlying dispute addressed in the
4 motion concerns Elan's refusal to make its employees available for deposition in the Northern
5 District of California, despite having agreed in multiple joint CMC statements to do so.

6 Good cause exists for Apple's request to shorten time. On May 31, 2011, Apple filed a
7 motion to compel Elan to make its *inventors* available for deposition in the Northern District of
8 California. That motion is currently scheduled to be heard on July 5, 2011, and it is based upon
9 the very same agreement that is the basis of the instant motion to compel Elan to present its
10 *employees* for deposition in the Northern District of California. Apple submits that because both
11 of these motions stem from the same agreement between the parties, it would benefit the Court
12 and the parties to resolve both of them at the same time. Additionally, good cause exists for
13 Apple's motion to shorten time because it was not until June 10, 2011 that Elan first informed
14 Apple that it would not be making its employees available for deposition in the Northern District
15 of California. *See* Declaration of Derek C. Walter In Support Of Motion To Shorten Time
16 ("Walter Decl."), Exh. A [6/10/2011 email from J. Bu to S. Mehta] (June 10, 2011 email from J.
17 Bu stating Elan's position that the parties' agreement on deposition location applies only to
18 Elan's claims). Following reasonable meet and confer efforts on this issue, there now remains
19 insufficient time before the close of fact discovery on August 12, 2011 for (1) a full 35-day
20 briefing schedule, and (2) Apple to conduct the relevant depositions.

21 On June 23, 2011, after previous telephonic meet and confer, Apple informed Elan that it
22 would be filing a motion to compel and that it would request a shortened briefing schedule. *See*
23 Walter Decl., Exh. B [June 23, 2011 email from D. Walter to J. Bu]. Three business days later,
24 on June 28, 2011, Apple specifically requested Elan's consent to an expedited schedule that
25 would allow the motion to compel to be heard on July 5, 2011, with Elan's opposition due on July
26 1, 2011. *See* Walter Decl., Exh. B [June 28, 2011 email from S. Mehta to S. DeBruine]. Elan
27 responded that by waiting three business days to file its motion, Apple unduly delayed, and that it
28 would hence oppose a motion to shorten time. *See id.* However, Elan should have little trouble

1 responding to Apple’s motion to compel—which is less than four pages long—given that the
2 parties have already engaged in oral and written meet and confer on the issue and given that the
3 parties have already briefed a similar issue in the context of inventor depositions.

4 This requested time modification would have no effect on the schedule for this case.

5 Accordingly, Apple hereby requests an expedited briefing schedule on its Motion to
6 Compel Elan’s Compliance with the Parties’ Agreement that Elan Employees Will Be Presented
7 for Deposition in the Northern District of California, wherein Elan’s the motion will be heard on
8 July 5, 2011 with Elan’s opposition due on July 1, 2011.

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10 Dated: June 28, 2011

WEIL, GOTSHAL & MANGES LLP

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By: /s/ Derek C. Walter
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