

# EXHIBIT B

---

**From:** Mehta, Sonal  
**Sent:** Tuesday, June 28, 2011 10:26 AM  
**To:** Elan Apple Team  
**Cc:** Apple Elan WGM Service  
**Subject:** motion to shorten time

Counsel,

Per Derek's email below, we are planning to file today a motion to compel Elan to present its employees in the Northern District of California pursuant to the parties' agreement. We plan to file a motion to shorten time such that Elan's opposition would be due Friday and the motion would be heard on July 5th, concurrently with the motion to compel Elan to present its inventors for deposition in the Northern District of California pursuant to the same agreement. Please let us know by COB today whether Elan consents to our motion to shorten time.

Regards,  
Sonal N. Mehta  
Weil Gotshal & Manges  
201 Redwood Shores Pkwy  
Redwood Shores, CA 94065  
t: (650) 802-3118  
f: (650) 802-3100  
sonal.mehta@weil.com

---

**From:** Walter, Derek  
**Sent:** Thursday, June 23, 2011 8:09 PM  
**To:** Bu, Jane; Elan Apple Team  
**Cc:** Apple Elan WGM Service  
**Subject:** RE: Meet and confer re depositions of Elan witness

Jane:

Thank you for your email below providing further detail on Elan's designation of witnesses to allow us to meet and confer on the scope of the Rule 30(b)(6) deposition and to consider your request that the depositions be conducted in Taiwan.

First, with respect to the scope of the Rule 30(b)(6) testimony, we respond below on the open items:

- Topics 13, 15: Although Apple is entitled to testimony on these topics notwithstanding Elan's interrogatory responses, we can agree, in the spirit of efficiency, to your proposal that the parties discuss the need for testimony on these topics after Apple reviews Elan's supplemental interrogatory responses on the condition that we receive those supplemental responses right away such that our request for Rule 30(b)(6) testimony is not subject to further delay. Please confirm that we will receive Elan's supplemental responses by June 28th.
- Topics 4,5,8,9: Apple does not agree to withdraw these topics. While Apple did obtain certain testimony relating to Elan's acquisition and licensing of the '352 patent in the ITC investigation, that testimony was in the context of Elan's domestic industry allegations and not in the context of patent damages, which are at issue in the district court case for the first time. Moreover, Apple's topics also relate to the '353 patent, which was not at issue in the ITC. Please confirm that Mr. Chang will testify on these topics in addition to Topics 7, 11, 12, 14 and 16 and 21, or let us know if Elan will be designating another witness on these topics.

- Topic 6: We take your statement as a representation that Elan does not have any knowledge or information on the conception and reduction to practice of the '352 patent beyond the sources specifically identified in Elan's written response to this deposition topic, i.e., "Mr. Steven Bisset and Mr. Paul Haughey's depositions taken on September 27, 2010 and October 12, 2010 and to Apple's March 26, 2010 Subpoena issued to Logitech and any documents produced by Logitech in response to that subpoena." In reliance on that representation and with the understanding that we will oppose any attempt by Elan to rely on any additional information related to conception and reduction to practice of the '352 patent beyond that specifically identified, Apple will withdraw Topic 6. If this understanding is incorrect, then Elan must designate a witness to testify on its behalf.

Second, with respect to location, we have gone back and considered again your request that the depositions be taken in Taiwan, but for the reasons we have previously discussed, cannot agree to abrogate the parties' agreement that party witnesses will be made available for deposition in the Northern District of California. Indeed, we do not think your arguments for why the depositions should take place in Taiwan are well-taken, even if Elan had raised those points before the parties stipulated (twice) that the depositions will go forward here. We will be filing next week a motion to compel Elan to present the witnesses locally pursuant to that agreement and will be requesting a shortened briefing schedule and hearing date.

We are available to discuss these issues by telephone again if you would like.

Thanks,

Derek

---

**From:** Bu, Jane [mailto:Jane.Bu@alston.com]  
**Sent:** Wednesday, June 22, 2011 8:17 PM  
**To:** Walter, Derek  
**Cc:** Elan Apple Team; Apple Elan WGM Service  
**Subject:** Re: Meet and confer re depositions of Elan witness

Derek:

To follow up my June 15 email, we still have not heard anything from Apple regarding Apple's individual and 30(b)(6) witnesses deposition schedule. Please provide us the list of the designated 30(b)(6) witnesses and the proposed schedule as soon as possible.

Further, as promised, here is the list of the confirmed Elan designated witnesses for Apple's 30(b)(6) topics:

Topics 1, 19: Eric Yang (Yang, Wei-Wen; 楊維文)

Topics 2, 3, 17, 18: Ian Chung (Chung, Shuan-Lung; 鍾選龍)

Topics 7, 11, 12, 14, 16, 21: Wayne Chang (Chang, Wei-Cuo; 張衛國)

Topic 10: Ian Chung, Grace Lai (Li-ling Lai 賴麗玲). Please note that Ms. Lai is designated for the limited purpose of authenticating and explaining the fields of Elan's sale spreadsheets.

Topic 13, 15: To streamline the case, Elan is in the process of supplementing its interrogatory responses corresponding to these topics. We believe information provided in the supplemented responses will

make the depositions unnecessary. We'd be happy to discuss designated witnesses and deposition logistics if upon reviewing the response Apple decides that further testimony is necessary to explore these topics.

Topics 20: each individual witness designated for the topic

Topics 4,5,8,9: Elan will not produce a witness for these topics since Mr. Chang has given extensive testimonies for the same topics in the ITC Action. Please confirm that Apple will drop these topics.

Topic 6: Elan does not have any additional responsive information. Please confirm that Apple will drop this topic.

As I have indicated below, we would be able to make these witnesses, including the individually designated witnesses available for deposition in Taiwan at the end of June and first week of July. A week has passed and we have not heard anything from Apple regarding its final position, as such we can't offer to produce these witnesses next week in Taiwan. However, we remain willing to make them available promptly. Further, in light of the recent production of Mr. Nick Lin's patent summaries, we also believe his deposition will no longer be necessary. Please let us know whether Apple will consider dropping Mr. Lin's deposition.

Finally, the parties have not discussed the 1/2 versus 2/3 time against the total 21-hour 30(b)(6) time limit due to the translation needs. Elan maintains its position of 2/3 time against the limit, but we are willing to further discuss this issue.

Best,

Jane

---

**From:** Bu, Jane  
**Sent:** Wednesday, June 15, 2011 10:27 PM  
**To:** 'Walter, Derek'  
**Cc:** Elan Apple Team; Apple Elan WGM Service  
**Subject:** Meet and confer re depositions of Elan witness

Derek,

I am writing to confirm our conversation earlier today regarding the depositions of Elan witness and to emphasize some salient points.

As we discussed, the statement that Elan would bring "Elan employees" and inventors to the NDCA was made with the intention of covering witnesses for Elan's claims. We have not revisited that language since Apple only recently noticed any such depositions in this case. I also note, and as we have discussed in our Opposition to Apple Motion to Compel, at the time Elan made the original CMC statement, three of the 353 inventors had already left the company and such information was clearly represented to Apple in Elan's Initial Rule 26 Disclosure dated September 2009. The fourth and last inventor left Elan's employ shortly thereafter, so Elan is no longer in a position to provide any of the inventors in the United States.

As you are no doubt aware, the presumption is that corporate employees will be deposed where they work. Apple has not given us any reason to change this presumption. That is especially the case here where Apple has noticed a large number of depositions, demanded that they occur in a short period of time and where many of the depositions it is demanding are redundant of testimony already taken from witness previously made available in the United States. Even under Apple's reading of the CMC statement, that provision does not give Apple the unfettered right to notice entire departments at Elan, nor to seek purely redundant depositions. Yet that is precisely what Apple has done. Apple has noticed the individual depositions of Mr. Eric Yang, Draco Wu, and Leo Chen, all of whom are engineers in the same department.

In addition, in our conversation you expressly demanded that Elan provide witnesses in the United States to testify on topics nearly identical to the topics on which Elan employees have already been deposed, in the United States. For example, Apple's First Notice of Deposition of Elan issued in the ITC action, Topics 1-9, are essentially identical to Apple's current 30(b)(6) Topics 4,5,8, and 9. (We also note that Elan has affirmatively responded in its response to Apple Interrogatory No. 7, that Elan has not licensed or attempted to license the 353 Patent). Therefore, these topics are completely redundant. Apple has provided no good reason why Elan should be put to the burden of providing witness for these topics at all, much less incur the burden and expense of bringing those witnesses to the United States. Indeed, in the January 20, 2011 joint CMC statement, we have agreed that "[e]ach party has made voluminous production of documents, and depositions of party witnesses, inventors and non-parties have taken place. Much of this discovery has been undertaken in connection with the ITC investigation. Remaining topics of discovery include completion of document productions, depositions of certain individuals named as inventors and party witnesses relating to the accused functionalities, as well as damages-related discovery including sales and profits derived from the accused products." With that said, if Apple can narrow these topics to the subjects not covered in the previous depositions, we will consider providing witnesses for limited depositions in Taiwan.

This underscores our position that economy, efficiency and flexibility favor the depositions going forward in Taiwan. Indeed, including the five individual employees Apple has noticed, we are looking at about 9-10 witness depositions. While Elan is inquiring into witnesses' visa status, such procedure will not be trivial, neither is the disruption to normal work flow and cost Elan will incur to bring these witnesses to the NDCA.

Further, as you are already aware from Mr. Chung's deposition, Elan's touchpad and touchscreen departments are located in separate locations. Thus any given Elan employee is much more familiar with either Elan's touchpad or touchscreen product lines, not both. The ability of a witness to obtain additional information should they not recall a particular subject matter in a 30(b)(6) topic will be greatly enhanced by having corporate resources readily available. If Elan is forced to bring its witnesses to NDCA, Elan will certainly designate the most knowledgeable witnesses and prepare them on the products they don't know from daily experience. Given the sheer number of depositions Apple is demanding, Elan simply will not be able to provide more than 1 witness for all Elan product related topics. However, if the depositions were to taken place in Taiwan, Elan will have the added benefit to have immediate access to other employees. As such, if necessary and within reason, Elan is willing to produce two witnesses for each topic relating to Elan products to best comprehensively cover Apple's deposition topics. As I also discussed, for shorter depositions, perhaps Apple should consider video conferencing as an alternative approach.

During the meet and confer, I have provided you the identifies of Elan's designated 30(b)(6) witnesses. We will re-confirm the witness designations with Elan and will provide you the final list of the designated witnesses and their Chinese names shortly.

Finally, we have not heard any response from Apple relating Elan's 30(b)(6) depositions or Elan's June 10, 2011 letter discussing the serious document production deficiencies from Apple. Other than a few licenses, we have not received any damages documents from Apple, for example sales volume, revenue and cost data. In light of the approaching discovery cut-off, please confirm that Apple is available on Friday for a meet and confer to discuss these outstanding discovery issues.

Best,

Jane

***Alston & Bird LLP***

*275 Middlefield Road | Suite 150 | Menlo Park, CA 94025  
650-838-2019 Direct*

*650-838-2001 Fax*

\*\*\*\*\* IRS Circular 230 disclosure: To ensure compliance with requirements imposed by the IRS and other taxing authorities, we inform you that any tax advice contained in this communication (including any attachments) is not intended or written to be used, and cannot be used, for the purpose of (i) avoiding penalties that may be imposed on any taxpayer or (ii) promoting, marketing or recommending to another party any transaction or matter addressed herein.

\_\_\_\_\_  
NOTICE: This e-mail message and all attachments transmitted with it may contain legally privileged and confidential information intended solely for the use of the addressee. If the reader of this message is not the intended recipient, you are hereby notified that any reading, dissemination, distribution, copying, or other use of this message or its attachments is strictly prohibited. If you have received this message in error, please notify the sender immediately by telephone (404-881-7000) or by electronic mail (postmaster@alston.com), and delete this message and all copies and backups thereof. Thank you.