

APPENDIX A

**Appendix A ISO Elan Opposition To Apple Motion To Compel Elan Depositions in NDCA
Comparison between Apple ITC 30(b)(6) Topics and NDCA Case Topics**

Topics relating to Apple's claims only

Topics relating to Elan's claims or both parties' claims

Topics that are completely redundant to ITC topics and Elan will not be producing a witness

Apple NDCA 30(b)(6) Topics At Issue	Similar or Redundant Apple ITC 30(b)(6) Topics	Elan Witnesses Already Testified in California	Whether Elan Will Produce Witness For This Topic
<p>1. The <i>design, development, structure, function, and operation of Elan Touchpads or touchscreens</i> that have been sold or offered for sale in, or imported into, the United States.</p>	<p>Apple 2nd 30(b)(6) Notice Topic 4: The <i>research, design, development, implementation, and testing of any Elan product or technology</i> (including, but not limited to, any product, apparatus, method, invention, system, service, prototype, drawing, design, schematic, invention, embodiment or item) allegedly covered by the '352 Patent, including, but not limited to, the identity of each person who participated in or has knowledge of the research, design, development, implementation, and testing; and the identity, name, design, features, function, structure, and operation of any such products or technology.</p>	<p>Mr. Maco Tang on November 22, 2011</p>	<p>Yes; relates to Apple claims Elan designee: Mr. Eric Yang (possibly one additional witness)</p>
<p>2. The <i>sales and marketing of Elan Touchpads or touchscreens</i> that have been sold or offered for sale in, or imported into, the United States, including</p>	<p>Apple 2nd 30(b)(6) Notice Topic 6: Any attempts by Elan, persons employed by Elan, or persons acting on behalf of Elan to <i>market, sell, or otherwise commercialize</i></p>	<p>Mr. Ian Chung, Nov 15-16, 2010</p>	<p>Yes; relates to Apple claims Elan designee: Mr. Ian Chung (possibly one</p>

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without limitation, all efforts to sell, market or promote the inclusion or use of Elan Touchpads or touchscreens in products sold, offered for sale, imported, or intended for sale, offer for sale, importation or use in the United States.	<i>any product or prototype covered by the '352 Patent</i> including, but not limited to, the first demonstration of such product, the first use of such product, the first sale or offer to sell or license of such product, the date(s) when Elan began marketing, offering for sale, or selling such product or prototype, the identity of each person involved in such marketing or selling, and Documents relating to any of the foregoing.		additional witness)
3. Elan's communications and contacts with third parties relating to the actual or potential supply or inclusion of Elan Touchpads or touchscreens in products that have been sold or offered for sale in, or imported into, the United States.	Apple 2nd 30(b)(6) Notice Topic 6 (see above)	Mr. Ian Chung, Nov 15-16, 2010.	Yes; relates to Apple claims Elan designee: Mr. Ian Chung (possibly one additional witness)
4. The <i>transfer or acquisition of rights to or in US Patent No. 5,825,352</i> , including without limitation, all agreements by or between Logitech, Inc., K-Tech Devices Corp., Elantech Devices Corp. and/or Elan.	Apple 2nd 30(b)(6) Notice Topic 7: 7. The facts and circumstances concerning <i>Elan's acquisition of the '352 Patent</i>	Mr. Wayne Chang, Nov 15 and 16, 2010	No. This Topic is completely redundant to the testimonies already taken in the ITC Action.
5. The merger or acquisition of K-Tech Devices Corp. with or by Elantech	Apple 2nd 30(b)(6) Notice Topic 7: 7. The facts and circumstances concerning	Mr. Wayne Chang, Nov 15 and 16, 2010	No. This Topic is completely redundant to the testimonies already

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Devices Corp.	Elan's acquisition of the '352 Patent		taken in the ITC Action
7. The conception and reduction to practice of US Patent No. 7,274,353.	N/A	N/A	Yes; relates to Elan claims; however, will be a very short subject matter deposition since no 353 patent inventors are still employed by Elan. Elan designee: Mr. Wayne Chang
8. <i>Licensing or efforts to license US Patent No. 5,825,352, US Patent No. 7,274,353</i> and related patents, including without limitation, the nature, terms, and scope of any license or offer to license; all efforts to license and all <i>negotiations related to the licensing; discussions or communications</i> relating to possible business agreements or arrangements relating to or arising out of licensing discussions; and discussions or	First Set of 30(b)(6) Notice, Topics 6-9 6. <i>The entities with whom Elan has discussed or negotiated a license or settlement agreement including or otherwise relating to the '352 Patent</i> but which have not entered into a license or settlement agreement, or have only entered into a license or settlement agreement of narrower scope than proposed by Elan, and the information of which Elan is aware relating to why those entities have not entered into license or settlement	Mr. Wayne Chang, Nov 15 and 16, 2010	No. This Topic is completely redundant to the testimonies already taken in the ITC Action. Further Elan has responded in its interrogatory response that it has not licensed or even attempted to license the 353 patent.

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<p>communications with prospective licensees, including but not limited to <i>demand letters, notice letters, presentations and claim charts.</i></p>	<p>agreements of the full scope proposed by Elan.</p> <p>7. Elan's communications with any entity relating to asserting or enforcing the '352 Patent or other patents in its portfolio, including <i>cease and desist letters and claim charts.</i></p> <p>9. <i>All facts and circumstances related to any licenses and licensing negotiations</i> (including, but not limited to, evaluating, offering, requesting, pursuing, and executing licenses) including or otherwise concerning the '352 Patent, including, but not limited to, the identity of each person involved in or with knowledge of any license or licensing negotiations, the facts and circumstances of any license or licensing negotiations, Communications made relating to licenses or licensing negotiations (including Communications relating to the scope, infringement, validity, or enforceability of, or prior art to, the '352 Patent, as well as any royalty reports), the outcome of any licensing negotiations, the terms of any license agreements resulting from any</p>		

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	licensing negotiations (including the name and location of the licensee and the amount of royalties or other type of compensation paid), products licensed, dates and volumes of sales of licensed products, the revenue, gross margin, net profit, or loss attributable to any licenses, all facts related to any action Elan has used to enforce any license, all facts related to Elan's investments to exploit the '352 Patent through licensing, and Documents relating to any of the foregoing.		
9. The <i>settlement</i> of any claim relating to US Patent No. 5,825,352, US Patent No. 7,274,353 and related patents, including without limitation, <i>settlement negotiations</i> .	<p>See above, see also, First Set of 30(b)(6) Topic Nos. 4, 5, 8:</p> <p>4. Any <i>negotiations</i> related to licenses or potential licenses encompassing the '352 Patent.</p> <p>5. The terms of any licenses or draft licenses encompassing the '352 Patent.</p> <p>8. The <i>settlement and license agreements</i> between Elan and Synaptics, Elan and Averatec, and Elan and Prostar, the history of those agreements before and</p>	Mr. Wayne Chang, Nov 15 and 16, 2010	No. This Topic is completely redundant to the testimonies already taken in the ITC Action.

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	after their execution, and any discussions or efforts to renegotiate those agreements that have occurred or have been proposed or that Elan anticipates.		
10. The revenues, sales, costs, profits, margins, expenses and other financial information for the Elan Touchpads or touchscreens that have been sold or offered for sale in, or imported into, the United States.	<p>Apple 1st Set of 30(b)(6) Deposition Topic No 5.</p> <p>5. The identity and the price, cost, and any other numerical valuation of touchpads and touchscreens allegedly covered by the '352 Patent manufactured by, for, or under authorization from Elan, including the relative value of these components as compared to the products that contain them.</p>	Mr. Ian Chung; Nov. 15-16.	<p>Yes, relates to both parties' claims.</p> <p>Elan designee: Mr. Ian Chung and Ms. Liling Lai (limited to the authentication and explanation of the sales spreadsheets)</p>
11. Elan's <i>knowledge of Apple's alleged infringement of each asserted claim of US Patent No. 5,825,352 and US Patent No. 7,274,353.</i>	<p>Apple 2nd 30(b)(6) Notice Topic 9:</p> <p>9. Elan's efforts to identify Apple products that Elan contends infringe the '352 Patent, any information or evaluation gathered or considered by Elan in its decision to accuse Apple of infringement, any reverse engineering or tests of Apple products or components performed or requested by Elan, the facts, circumstances,</p>	Mr. Wayne Chang, Nov 15 and 16, 2010	Yes, relates to Elan claim; however the subject matter of the deposition will be short and the responsive and non-privileged information has been provided via interrogatory responses.

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	and date(s) of <i>Elan's first awareness of Apple's alleged infringement</i> , the identity of each person who has knowledge of any of the foregoing, and Documents relating to any of the foregoing.		Elan designee: Mr. Wayne Chang
12. Elan’s decision to bring this action against Apple, including, but not limited to, Elan’s decision to assert each of US Patent No. 5,825,352, US Patent No. 7,274,353 and related patents against Apple.	<p>Apple 2nd 30(b)(6) Notice Topics 9 and 11:</p> <p>9. Elan's efforts to identify Apple products that Elan contends infringe the '352 Patent, any information or evaluation gathered or considered by Elan in its decision to accuse Apple of infringement, any reverse engineering or tests of Apple products or components performed or requested by Elan, the facts, circumstances, and date(s) of Elan's first awareness of Apple's alleged infringement, the identity of each person who has knowledge of any of the foregoing, and Documents relating to any of the foregoing.</p> <p>14. Any and all analyses or opinions conducted by, at the request of, or on behalf of Elan on the validity or invalidity, enforceability or unenforceability,</p>	Same as above	Same as above

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	infringement or non-infringement, patentability, or scope of the '352 Patent or any claim thereof, including, but not limited to, all advice of counsel regarding the enforceability of the '352 Patent upon which Elan may rely for any purpose in this Investigation.		
13. All efforts by or on behalf of Elan to satisfy the marking requirements of 35 U.S.C. § 287 for each of US Patent No. 5,825,352, US Patent No. 7,274,353 and related patents.	N/A	N/A	Yes, relates to Elan's claim; however the subject matter of the deposition will be short and the responsive information has been provided via interrogatory responses. Elan designee: TBD
14. Elan's first awareness of the Apple patents-in-suit and actions taken in response, including without limitation, any study, investigation or analysis of the Apple patents-in-suit or related patents.	N/A	N/A	Yes, relates to Apple's claim; the subject matter of the deposition will be short and the responsive and non-privileged information has been provided via interrogatory responses.

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			Elan designee: Mr. Wayne Chang
15. The demonstration, use, and identity of Elan products and literature shown, displayed and/or demonstrated at tradeshow or conferences in the United States, including without limitation, CES.	N/A	N/A	Yes, relates to Apple's claim; the subject matter of the deposition will be short and the responsive and non-privileged information has been provided via interrogatory responses. Elan designee: TBD
16. All indemnity agreements in which Elan has an indemnity obligation to another party related to patent infringement in the United States, including without limitation, for the Apple patents-in-suit.	N/A	N/A	Yes, relates to Apple claims. Elan designee: Mr. Wayne Chang
17. Elan's use or reference to Apple, Apple products or Apple patents in the sales and marketing of Elan products.	N/A	N/A	Yes, relates to Apple claims. Elan designee: Mr. Wayne Chang
18. Communications or contacts with existing or potential customers regarding Apple products or Apple patents.	N/A	N/A	Yes, relates to Apple claims.

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			Elan designee: Mr. Ian Chung (possibly one additional witness)
19. The <i>emulation, use, study, reverse-engineering, or other consideration of any Apple product</i> in the design and development of Elan products.	Apple 2nd 30(b)(6) Depo Notice Topic 11 11. All <i>inspections, analyses, comparisons, examinations, reverse engineering, tests, or evaluations of Apple products</i> , or any components contained therein, conducted by or for Elan	Mr. Wayne Chang, Nov 15 and 16, 2010	Yes, relates to Apple claims. Elan designee: Mr. Eric Yang
20. Authentication of documents and things regarding the foregoing topics.	N/A	N/A	Yes; Relate to both parties' claims; non-substantive topics
21. The identity of persons knowledgeable regarding the foregoing topics.	N/A	N/A	Yes; Relate to both parties' claims; non-substantive topics