

EXHIBIT D

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From: Bu, Jane
Sent: Tuesday, July 05, 2011 6:46 AM
To: Mehta, Sonal
Cc: Apple Elan WGM Service; Elan Apple Team
Subject: Re: Elan v. Apple: Privilege Logs

Sonal: Elan in its Opposition to Apple's motion to compel expressly stated that it will re-review the privilege logs in light of the issues brought up by Apple challenging Mr. Wayne Chang and Elan in house legal department's legal credentials. Indeed, Apple filed the motion to compel only a few days after bringing up the issue for the very first time without conducting any good faith meet and confer as required by the local rules. Had Apple actually conducted a reasonable meet and confer with Elan, Elan would have offered the revisions instead of unnecessarily troubling the Court with these issues. Exactly as Elan promised both prior to Apple filing the Motion and in its Opposition, we have undertaken significant effort to re-review our logs to determine whether any of the redactions or privilege assertions can be withdrawn based on any intervening events in the case and from the ITC investigation.

During October 2010, Elan served its revised July and September logs and produced over 300 documents involving third parties. As incorrectly characterized by Apple in its motion, instead of 1273 entries, only about 900 entries remained on Elan 's logs at the time Apple filed the Motion. Further, Apple's own motion vaguely groups the documents into three categories. Apple never specified which entries are at issue and Elan is unable to discern precisely which entries Apple's generic challenge encompasses. For that reason, we cannot comply with your request to specifically describe how Elan has "revised" its privilege logs with respect to each of the entries identified in Apple's motion to compel, since we did not know which entries Apple had specified for the Motion to compel in the first place. However, despite Apple's lack of specificity, Elan revised its logs to 1) remove entries related to Synaptics attorney invoices that are already produced due to Judge Lukern's order from the ITC investigation, 2) remove entries that are not relevant to this case but were inadvertently listed on the logs and 3) for majority of the changed entries, after a careful re-review, we decided to withdraw the privilege assertions. The original privilege designations were not improper as you have characterized. After re- evaluating the entries, we decided to take a narrower approach to our privilege assertion in the spirit of eliminating some of the disputes between the parties that are subject to the Motion to Compel. To the extent there are any changes to dates or names for the entries, they are simply corrections to inadvertent clerical mistakes. I believe my explanation above should adequately explain the revisions. Further, for your convenience, Elan did not change the numbering system on these logs, therefore, you could easily ascertain the changes by just looking at the last version of the logs.

As for the remaining entries on the logs, they are privileged communications or work product from Elan generated in anticipation of the Synaptics or Apple litigations or prepared during these litigations that were prepared under outside counsel direction for these litigations. As such, Elan further revised the description of these entries with additional specificity to reflect these events. Although it is our position that Elan's legal department is the functional equivalent of an U.S. in house department, and the fact there are no "licensed" lawyers is irrelevant to the evaluation of the privilege designation of any underlying documents, these revisions effectively remove the need to visit these disputes.

Finally, your characterization of Elan's production of revised logs as creating expense and prejudice to Apple is not well taken, neither is your demand to produce these documents over the holiday weekend. Elan's revision of the logs was a good faith effort to streamline and resolve some of the disputes between the parties subject to the motion without additional Court intervention. As I have said, if Apple had

appropriately met and conferred with Elan prior to filing the Motion, these disputes would have been resolved. With that said, Elan will produce the de-designated documents this week.

Best,

Jane

From: Mehta, Sonal [mailto:Sonal.Mehta@weil.com]
Sent: Saturday, July 02, 2011 3:08 PM
To: Browder, Sissel
Cc: Apple Elan WGM Service; Elan Apple Team
Subject: RE: Elan v. Apple: Privilege Logs

Counsel,

At 6:49 pm on Friday evening before the holiday weekend, Elan served "second revisions" to its privilege logs that appear directly relevant to the 10 am motion hearing set for July 5th. For example, based on an initial review, these "revised" privilege logs state that "Elan will produce" or already has produced hundreds of documents previously withheld on privilege grounds. Indeed, in one log alone, the number of privileged documents went from 730 to 174. These "revised" privilege logs also describe certain documents as "irrelevant and nonresponsive" that were previously identified as responsive but withheld on privilege grounds, or now provide revised descriptions and new information such as dates or authors for numerous entries.

Apple reserves all rights relating to Elan's now-admitted improper privilege assertions and eleventh hour production of the "revised logs," which create obvious expense and prejudice to Apple not only relating to its motion to compel and upcoming hearing, but in Apple's preparation of its case generally, especially in view of the upcoming fact discovery cutoff. In the interim, given the timing of these "revisions" relative to the hearing on Tuesday morning and the holiday weekend, please identify no later than 9 am on Monday, July 4th specifically how Elan has "revised" its privilege logs with respect to each of the entries identified in Apple's motion to compel. Also, for each of the entries for which Elan claims it "will produce" documents that were previously withheld on the basis of privilege, please confirm that the documents will be produced by July 4th so we have the documents before the hearing.

Regards,
Sonal N. Mehta
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From: Browder, Sissel [mailto:Sissel.Browder@alston.com]
Sent: Friday, July 01, 2011 6:59 PM
To: Mehta, Sonal
Cc: Apple Elan WGM Service; Elan Apple Team
Subject: Elan v. Apple: Privilege Logs

Dear Ms. Mehta,

Attached please find Second Revisions of Elan's July 1, September 1, and October 25, 2010 Privilege Logs.

Thank you.

Sissel Browder
Paralegal

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