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 8 ELAN MICROELECTRONICS CORPORATION

9 UNITED STATES DISTRICT COURT
 10 NORTHERN DISTRICT OF CALIFORNIA
 11 SAN JOSE DIVISION

12 ELAN MICROELECTRONICS) Case No. C-09-01531 RS
 13 CORPORATION,)
)
 14 Plaintiff,) **ELAN MICROELECTRONICS**
) **CORPORATION'S OPPOSITION TO**
 15 v.) **MOTION TO SHORTEN TIME FOR**
) **MOTION FOR LEAVE TO FILE A**
 16 APPLE, INC.,) **SURREPLY**
)
 17 Defendant.)
)
 18)

19 APPLE, INC.,) **Demand for Jury Trial**
)
 20 Counterclaimant,)
)
 21 v.)
)
 22 ELAN MICROELECTRONICS)
 CORPORATION,)
 23)
 24 Counterdefendant.)
)

1 Pursuant to Civil Local Rule 6-3(c) Plaintiff Elan Microelectronics Corp. (“Elan”) hereby
2 opposes defendant Apple, Inc.’s (“Apple”) Motion to Shorten Time for its Motion for Leave to File a
3 Surreply (“Motion to Shorten Time” or “Motion”) (Dkt. No. 30). Elan opposes this Motion to Shorten
4 Time because the underlying Motion for Leave to File a Surreply is unfounded. Contrary to Apple’s
5 position, Elan’s Reply in support of its Motion to Strike Apple, Inc.’s Third, Fourth and Fifth
6 Counterclaims (Dkt. No. 25) correctly addressed spurious arguments raised for the first time in Apple’s
7 opposition. Any further argument concerning those issues can and will be presented to the Court at the
8 hearing on the underlying Motion to Dismiss scheduled for tomorrow, August 26, 2009. Moreover, the
9 briefing schedule Apple requests by this Motion would not have allowed Elan sufficient time to
10 respond to the Motion For Leave To File¹, and would introduce uncertainty as to what papers the Court
11 will consider at that hearing. As such, Elan opposes the motion. Nevertheless, to the extent the Court
12 might consider Apple’s Motion for Leave to File a Surreply in connection with the hearing tomorrow
13 on Elan’s underlying Motion to Dismiss, Elan today filed its Opposition to the Motion for Leave to File
14 a Surreply (Dkt. No. 32). As such, this Motion to Shorten Time should be denied.

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16 Dated: August 25, 2009

Respectfully submitted,

ALSTON + BIRD LLP

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19 By: _____ /s/
Sean P. DeBruine

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21 Attorneys for Plaintiff and Counterdefendant
ELAN MICROELECTRONICS CORPORATION

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28 ¹ Apple asks for an order that Elan respond to the Motion for Leave to File by yesterday, August 25, the day before this opposition was due or the Court is to consider this motion. Civ. L.R. 6-3(c) and (d).