

# EXHIBIT C

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June 10, 2011

## Via Electronic Mail

Ms. Sonal Mehta  
Weil, Gotshal & Manges LLP  
201 Redwood Shores Parkway  
Redwood Shores, CA 94065-1134

Re: *Elan Microelectronics Corp. v. Apple Inc.*, C-09-01531-RS

Dear Sonal:

I write regarding certain deficiencies in Apple's responses to Elan's Third Set of Request for Production and Third Set of Interrogatories.

## **Document Requests**

**Req. Nos. 73, 77, 79, 88, 90, 91, 93, 94, 95, 97 and 98:** Apple stated in its response that it will produce relevant non-privileged documents. Other than a handful of settlement agreements, we have not received any productions from Apple that are responsive to these requests, including the spreadsheets reelecting sale, profit and cost data of Apple's Accused Products. Please immediately confirm a date certain for the production of responsive documents for these requests. To the extent Apple contends that it has produced responsive documents to these requests, please identify such documents by production numbers.

**Req. Nos. 75, 76 and 78:** Req. 75 relates to the nature or the type of the costs identified in Req. 73; Req. 76 calls for estimates, projections, forecasts, budgets, marketing plans, strategic plans, operating plans for the Accused Products and Req. 78 relates to the finance information for the Accused Instrumentality (such as touch pads and touch screens of parts thereof that performs Multi-Touch or require the use of multiple fingers) rather than just the Accused Products. Apple only responded that it will produce financial information reflecting revenues, units sold, cost, overhead and R&D expenses of the Accused Products. Apple's response, thus, is incomplete. Apple's unilateral narrowing of the scope of these requests is also inappropriate. Please confirm, immediately, whether Apple will be producing documents responsive to these requests.

**Req. Nos. 80, 81 and 92:** Apple states that these requests are duplicative to Elan's previous requests, but that it will produce additional relevant and non-privileged

documents. When can we expect to receive the relevant production for these requests? To the extent Apple claims that it has completed its production for any of these requests, please identify the relevant documents by production numbers.

**Req. Nos. 82-85 and 96:** These requests relate to the Apple's "Apps" sold for iOS devices require the use of multi-touch input. Contrary to Apple's assertion that information relating to these Apps is overly broad and not calculated to lead to admissible evidence, they are highly relevant to Elan's damages case and narrowly tailored to the Apps that require the use of multiple fingers. Apple also refused to produce the data relating to its Apps on the ground that such financial information is publicly available. Even assuming the data is publicly available, it does not alleviate Apple's discovery obligations to produce relevant documents within Apple's possession, control or custody that are called for by Elan's document requests. Accordingly, please confirm immediately whether Apple will produce documents responsive to these requests. To the extent Apple claims that publicly available data relating to its Apps are complete, accurate and reliable app-by-app sales information, please provide us the source(s) of such data.

**Req. Nos. 87 and 89:** Req. 87 relates to the licensing and licensing negotiation of Apple's patents which is highly relevant to the party's damages case. Req. 89 relates to the technology Apple has licensed-in for the Accused Products. Apple's licensing activities, licensing trend and past royalty rates as they relate to the Accused Products, even outside of the accused function are relevant to the damages case. Accordingly, please confirm immediately, that Apple will produce documents responsive to these requests.

**Req. No. 99:** This request calls for the U.S. patents Apple claims is practiced in the Accused Products and any royalty payment information, if there are any, for these patents. Apple's response is therefore incomplete. Accordingly, please confirm immediately, whether Apple will produce documents responsive to these requests.

**Interrogatories:**

**Interrogatory 16:** Apple has identified a handful licenses in response to this interrogatory. Please confirm that documents within production range APEL0072987-73076 constitute the entirety of Apple's inbound and outbound licenses relevant to the Accused Instrumentality and/or Apple's Multi-Touch technology consistent with the relevant scope of this request as set forth above.

**Interrogatory 17:** This interrogatory requests persons most knowledgeable regarding Apple's licenses relating to Apple's Multi-Touch technology or the Accused Instrumentalities. Apple refused to respond to this interrogatory. Apple's licenses relating to the technology at issue are highly relevant to this case. Therefore, Elan is entitled to question witness(es) and/or Apple employee(s) that are knowledgeable

regarding these licenses and Apple's IP licensing policy. Please confirm, immediately, whether Apple will provide substantive response to this interrogatory.

**Interrogatory 19:** Apple responds to this interrogatory by stating that it will produce documents responsive to this interrogatory. Please provide a date certain for Apple's production relating to the units of the Accused Instrumentality Apple purchased and the costs incurred for the purchasing these units and when Apple will specifically identify these documents as responsive to this interrogatory.

**Interrogatory 20-22:** As explained above, discovery relating to iOS Apps are highly relevant to Elan's damages case and narrowly tailored to the Apps that feature the use of multiple fingers. Contrary to Apple's assertion, the information sought is not publically available. Further, even assuming the data relating to Apps is publically available, it does not alleviate Apple's obligation to produce information and documents within its possession, custody or control. Please confirm, immediately, whether Apple will provide substantive response to this request. Furthermore, to the extent Apple takes the position that the publically available data relating to its Apps are reliable, accurate, and complete, please provide the sources of such data.

**Interrogatory 23:** This interrogatory seeks the identification of US Patent(s), whether issued or licensed to Apple, that are practiced in Apple Accused Products for the *Accused Instrumentality*, and the identity of any royalties that Apple has paid or is paying for the licensed patents. The term "Accused Instrumentality" is defined as "any touch-sensitive input device including touch screen or touchpad or any components, parts of such devices, made by or on behalf of or otherwise obtained by Apple, that is incorporated into or implemented by Apple's Accused Products, that is capable of detecting the simultaneous presence of two or more objects including fingers or switching between handwriting and key entry modes, incorporates the Multi-Touch technology, relates to the subject matter, embodiments of and/or limitations of any claims of the Elan Patents." Apple's response, therefore, is incomplete at a minimum and not on point. Apples Local Rule 3-1(g) disclosure relates to whether Apple's own asserted patents practice its products. The listed US patents from Mr. Hotelling and Mr. Westerman do not identify whether they relate to the Accused Instrumentality. Furthermore, Apple did not identify any Apple licensed patents responsive to this interrogatory. Accordingly, we request that Apple supplement its answer or confirm that there are no issued U.S. patents that practice the Accused Instrumentality in Apple Accused products.

Ms. Sonal Mehta

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We sincerely hope to resolve these discovery issues without Court assistance. However, we will file a motion to compel for any of the above discovery referenced in this letter should Apple refuse to produce them. We are available to meet and confer on the above issues on Friday, June 17. Please confirm when you will be available.

Sincerely,

A handwritten signature in blue ink that reads "Jane Bu". The signature is written in a cursive, flowing style.

Jane Bu