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 ELAN MICROELECTRONICS  
 11 CORPORATION

12 UNITED STATES DISTRICT COURT  
 13 NORTHERN DISTRICT OF CALIFORNIA  
 14 SAN JOSE DIVISION  
 15

17 ELAN MICROELECTRONICS  
 CORPORATION,  
 18  
 Plaintiff and Counterdefendant,  
 19  
 v.  
 20 APPLE, INC.,  
 21  
 Defendant and Counterplaintiff.  
 22

Case No. 5:09-cv-01531 RS (PSG)  
**DECLARATION OF PALANI P.  
 RATHINASAMY IN SUPPORT OF  
 ELAN MICROELECTRONICS  
 CORPORATION'S UNOPPOSED  
 MOTION TO AMEND INFRINGEMENT  
 CONTENTIONS PURSUANT TO PAT.  
 L.R. 3-6**

Date: August 30, 2011  
 Time: 10:00 AM  
 Courtroom: 5  
 Honorable Paul S. Grewal

23 AND RELATED COUNTERCLAIMS  
 24

1 I, Palani P. Rathinasamy, declare as follows:

2 I am an associate with the law firm of Alston & Bird LLP, counsel to Plaintiff Elan  
3 Microelectronics Corporation (“Elan”) in this action. I have personal knowledge of the following  
4 facts and, if called to testify, I could and would testify competently to the matters stated herein.

5 1. Pursuant to Patent L. R. 3-1, on October 22, 2009 Elan served Apple with Elan’s  
6 Infringement Contentions concerning Elan’s asserted United States Patent No. (“the ’352 Patent”)  
7 and (“the ’353 Patent”). The parties disagreed as to the sufficiency of each party’s infringement  
8 contentions and on December 11, 2009, Elan served its Supplemental Infringement Contentions.

9 2. Elan’s October 22, 2009 and December 11, 2009 Infringement Contentions claimed  
10 infringement of the ’352 Patent by “Apple’s MacBook, MacBook Pro, MacBook Air, iBook G4,  
11 PowerBook G4, iPhone, iPod touch, and Magic Mouse products or product families”. Elan further  
12 explained that this includes “at least MacBook series or family, including but not limited to  
13 MacBook, MacBook Air, and MacBook Pro, iBook G4 (Mid 2005) series, and at least the  
14 PowerBook G4 series or family released after February 2005, iPhone series or family, including  
15 but not limited to iPhone, iPhone 3G, and iPhone 3GS, iPod touch series or family, and Magic  
16 Mouse series or family.”

17 3. Elan’s October 22, 2009 and December 11, 2009 Infringement Contentions alleged  
18 infringement of the ’353 Patent by “Apple’s iPhone and iPod touch products or product families.”  
19 Elan further explained that this includes “at least the iPhone series or family, including but not  
20 limited to iPhone, iPhone 3G, and iPhone 3GS, and iPod touch series or family.”

21 4. Apple announced its iPad product around January 2010 and released the product  
22 around April 2010. Elan filed its ITC complaint on March 28, 2010 asserting that Apple’s  
23 products, including the iPad, infringed Elan’s ’352 Patent and included claim charts setting out  
24 Elan’s infringement allegations.

25 5. Apple announced and released its iPhone 4 and Magic Trackpad products around  
26 June and July of 2010, respectively. On October 8, 2010, Elan supplemented its ITC interrogatory  
27 responses by asserting infringement of the 352 Patent by the iPhone 4 and Magic Trackpad  
28 products and provided a claim chart showing infringement of the Magic Trackpad. Elan provided

1 a claim chart showing infringement of the iPhone 4 on November 4, 2010.

2 6. Apple announced and released its iPad 2 product around March 2011.

3 7. **Exhibit A** is an e-mail from Elan's Counsel to Apple's Counsel on June 14, 2011,  
4 whereby Elan notified Apple that Elan planned to supplement its infringement contentions to  
5 include the iPad 2 product and to refer to the information generated during discovery and the  
6 hearing in the ITC investigation.

7 8. **Exhibit B** is an e-mail from Elan's Counsel to Apple's Counsel on July 13, 2011,  
8 whereby Elan provided Apple with amended infringement contentions and claim charts  
9 identifying infringement of the claims against the accused Apple products. Apple's counsel  
10 responded this week that it would not oppose Elan's request to supplement its contentions.

11 9. **Exhibit C** is Elan's proposed Amended Infringement Contentions. **Exhibits D-G**  
12 **(filed under seal)** are infringement claim charts showing infringement by Apple's products.

13 10. **Exhibit D (filed under seal)** is a consolidated claim chart showing infringement of  
14 Elan's '352 Patent by Apple's MacBook, MacBook Pro, MacBook Air, iPhone  
15 (Original/3G/3GS/4), iPod Touch, iPad (Original/2), Magic Mouse, and Magic Trackpad products.  
16 The original claim chart was served on Apple in the parallel ITC investigation on November 4,  
17 2010. Amended **Exhibit A** adds the iPad 2 product.

18 11. **Exhibit E (filed under seal)** is a consolidated claim chart showing infringement of  
19 Elan's 352 Patent by Apple's Legacy Products. The claim chart incorporates Elan's Motion for  
20 Partial Summary Judgment of Infringement filed on May 5, 2011.

21 12. **Exhibit F (filed under seal)** is a consolidated claim chart showing infringement of  
22 Elan's '353 Patent by Apple's iPhone (Original/3G/3GS/4) and iPad (Original/2) products. The  
23 original claim chart was served on Apple on December 11, 2009. Amended **Exhibit F** adds the  
24 iPhone 4, iPad, and iPad 2 products.

25 13. **Exhibit G (filed under seal)** is a claim chart showing infringement of Elan's '353  
26 Patent by Apple's iPod Touch products. This claim chart is unchanged from the claim chart that  
27 was served on Apple on December 11, 2009.

28 14. Elan accuses the iPhone 4, iPad, iPad 2, and Magic Trackpad of infringing the same

