EXHIBIT C

1	YITAI HU (SBN 248085)	
2	yitai.hu@alston.com SEAN P. DEBRUINE (SBN 168071)	
3	sean.debruine@alston.com ELIZABETH H. RADER (SBN 184963)	
4	elizabeth.rader@alston.com JANE HAN BU (SBN 240081)	
5	jane.bu@alston.com JENNIFER LIU (SBN 268990)	
6	celine.liu@alston.com PALANI P. RATHINASAMY (SBN 269852)	
7	palani.rathinasamy@alston.com ALSTON & BIRD LLP	
8	275 Middlefield Road, Suite 150 Menlo Park, CA 94025-4008	
9	Telephone: 650-838-2000 Facsimile: 650-838-2001	
10	Attorneys for Plaintiff and Counterdefendant	
11	ELAN MICROELECTRONICS CORPORATION	
12		
13	UNITED STATES DISTRICT COURT	
14	NORTHERN DISTRICT OF CALIFORNIA	
15	SAN FRANCISCO DIVISION	
16		
17	ELAN MICROELECTRONICS CORPORATION,	Case No. 09-cv-01531 RS (PSG)
18	Plaintiff,	ELAN MICROELECTRONICS CORPORATION'S AMENDED
19	V.	DISCLOSURE OF ASSERTED CLAIMS AND INFRINGEMENT CONTENTIONS
20	APPLE, INC.,	AND INFRINGENIENT CONTENTIONS
21	Defendant.	
22	AND RELATED COUNTERCLAIMS	
23		
24		
25		
26		
27		
28		
	ELAN'S AMENDED DISCLOSURE OFASSERTED CLAIMS AND INFRINGEMENT CONTENTIONS	Case No. 09-cv-01531 RS (PSG)

Plaintiff Elan Microelectronics Corporation ("Elan") submits its Amended Disclosure of
Asserted Claims and Infringement Contentions regarding infringement of Elan's U.S. Patent No.
5,825,352 ("the '352 patent") and U.S. Patent No. 7,274,353 ("the '353 patent") (collectively
"Elan's patents") in accordance with Patent Local Rule 3-1, the Joint Case Management Statement
and Order and the agreement of the parties. Discovery is ongoing in this matter between Elan and
the Defendant Apple, Inc. ("Apple"), and, therefore, Elan reserves its right to amend its disclosure
of asserted claims and infringement contentions.

8

I.

THE CLAIMS ASSERTED TO BE INFRINGED

9 Pursuant to Patent L. R. 3-1(a), Elan presently asserts that Apple has been and is now 10 infringing Elan's '352 and '353 patents. Specifically, Elan believes that Apple has been or is now 11 infringing at least claims 1-2, 4, 6, 7, 10, 12, 14, 16, 18, 21, 24, 26, and 30 of the '352 patent 12 ("asserted claims of '352 patent") under 35 U.S.C. §§271(a) and (b) and claims 1, 3-4, 6-7, 9-10, 13 and 12 of the '353 patent ("asserted claims of the '353 patent") under 35 U.S.C. §§271(a). Discovery is ongoing between Elan and Apple and other claims may be found to infringe Elan's 14 15 patents. Accordingly, Elan reserves its right to assert additional claims of Elan's patents upon completion of discovery in this matter. 16

17

II. THE ACCUSED INSTRUMENTALITIES

18 Pursuant to Patent L. R. 3-1(b), Elan asserts that certain families of Apple's products 19 infringe the asserted claims of the '352 patent, including at least the MacBook series or family, 20 including but not limited to the MacBook, MacBook Air, and MacBook Pro, the iBook G4 (Mid 21 2005) series, and at least the PowerBook G4 series or family released after February 2005 22 (collectively "the accused laptops"), the iPhone series or family, including but not limited to 23 iPhone, iPhone 3G, iPhone 3GS, and iPhone 4 products, the iPod touch series or family, including 24 but not limited to the iPad and iPad 2 products, (collectively the "iOS products"), the Magic 25 Mouse series or family and the Magic Trackpad series or family.

Elan further asserts that Apple's iOS products directly or infringe the asserted claims of the '353 patent. Those families of Apple products that Elan contends to infringe the asserted claims include at least the iPhone series or family, including but not limited to the iPhone, iPhone 3G,

iPhone 3GS, and iPhone 4 products, the iPod touch series or family, and the iPad series or family 1 2 including but not limited to iPad and iPad 2 products. Discovery is ongoing between Elan and Apple and other instrumentalities may be identified to infringe the Elan patents. Accordingly, 3 Elan reserves its right to assert additional claims of the Elan's patents upon completion of 4 5 discovery in this matter.

6

III. **INFRINGEMENT CHARTS**

7 Pursuant to Patent L. R. 3-1(c)-(e), Exhibits A-D set forth where in each of the accused 8 products each element of the asserted claims is found. Elan believes that each element of each asserted apparatus claim is found within each of the Apple accused products in the touchpad or 9 touch screen devices alone or in combination with the products' associated hardware and 10 11 instructions, including software, firmware, and/or device drivers. Elan contends that each element 12 of each asserted claim is literally present or at a minimum present under the doctrine of 13 equivalents in each of the Apple accused products. Apple has directly infringed the asserted method claims through its own use of the accused products to perform all of the steps of the 14 15 claimed methods. The end users of the accused products in the United States directly infringe by using the accused product to perform all of the steps of the claimed methods. Apple has and 16 continues to induce that direct infringement of the asserted method claims by providing the 17 18 accused products that are especially adapted and designed to practice the claimed methods, and by 19 instructing end users to use the accused Apple products to perform the claimed methods through, 20 inter alia, product documentation, help screens and/or files, and sales and marketing material 21 provided to the users. Apple has aided and abetted the users' direct infringement with the 22 intention that the users of its products will perform those patented methods and infringe the 23 asserted claims.

24

Discovery is ongoing between Elan and Apple and accordingly Elan reserves the right to 25 amend or otherwise modify its identification if further relevant information is revealed or 26 circumstances change.

27

IV. **PRIORITY DATE OF ELAN'S PATENTS**

28

Pursuant to Patent L. R. 3-1(e), the asserted inventions claimed in the '352 patent are

entitled to a priority date of at least January 4, 1996, when U.S. Patent Application No. 582,768
 was filed and submitted to the U.S. Patent and Trademark Office. The asserted inventions claimed
 in the '353 Patent are entitled to a priority date of at least April 2, 2003, when application Taiwan
 Patent Application No. 92205217 U was filed to the Taiwan Intellectual Property Office.

5

V.

ELAN'S ASSERTED PRACTICE OF THE CLAIMED INVENTIONS

6 Pursuant to Patent L. R. 3-1(g), Elan contends that all of Elan's touch-sensing products 7 including its SmartPad touchpad products practice at least claims 18-21, 24 and 28 of the '352 8 patent. When incorporated into computer systems and used as intended, end users in the United 9 States practice at least method claims 1, 2, 6 and 7. Elan, at this time, does not intend to rely on 10 the assertion that any of its products practice the asserted claims of the '353 patent. Elan is still 11 conducting its investigation into its disclosures pursuant to Patent L.R. 3-1(g), and reserves the 12 right to modify, amend, and/or supplement the disclosures contained herein.

13

VI. APPLE'S WILLFUL INFRINGEMENT

Pursuant to Pat. L. R. 3-1(h), Elan alleges that Apple's infringement of the '352 patent has been and continues to be willful. Apple was put on actual notice in August 2006 that its touchpad products infringed the '352 patent. Despite knowing of the objectively high risk that it was infringing the patent, Apple continued its infringing acts and, in fact, greatly expanded the number of products practicing the patent claims. On information and belief, Apple continued its infringing acts willfully or in reckless disregard of Elan's patent rights.

20

VII. ACCOMPANYING DOCUMENTS PRODUCTION

Pursuant to Patent L. R. Rule 3-2, Elan has produced and will continue to produce
documents with its disclosure of asserted claims and infringement contentions.

Respectfully submitted,

ALSTON & BIRD LLP

23 DATED: July 22, 2011

24 25

26 27

28

By: /s/ Sean P. DeBruine Sean P. DeBruine Attorneys for Plaintiff ELAN MICROELECTRONICS CORPORATION

LEGAL02/32640599v3