

# EXHIBIT D

1 MATTHEW D. POWERS (Bar No. 104795)  
matthew.powers@weil.com  
2 EDWARD R. REINES (Bar No. 135960)  
edward.reines@weil.com  
3 SONAL N. MEHTA (Bar No. 222086)  
sonal.mehta@weil.com  
4 WEIL, GOTSHAL & MANGES LLP  
Silicon Valley Office  
5 201 Redwood Shores Parkway  
Redwood Shores, CA 94065  
6 Telephone: (650) 802-3000  
Facsimile: (650) 802-3100  
7

8 Attorneys for Apple Inc.

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

12 ELAN MICROELECTRONICS  
13 CORPORATION,

14 Plaintiff and Counterclaim  
15 Defendant,

16 v.

17 APPLE INC.,

18 Defendant and Counterclaim  
19 Plaintiff.

Case No. C-09-01531 RS

APPLE INC.'S FIRST SUPPLEMENTAL  
RESPONSES AND OBJECTIONS TO  
ELAN MICROELECTRONICS  
CORPORATION'S FIRST REQUEST  
FOR DOCUMENTS AND THINGS TO  
APPLE, INC.

Hon. Richard Seeborg

Demand for Jury Trial

20 Pursuant to Federal Rule of Civil Procedure 34, Defendant and Counterclaim  
21 Plaintiff Apple Inc. ("Apple") hereby supplements its responses to Plaintiff and Counterclaim  
22 Defendant Elan Microelectronics Corporation's ("Elan") First Requests for Documents and  
23 Things to Apple, Inc. ("Requests"), as follows:

24 **GENERAL OBJECTIONS**

25 Apple makes the following General Objections to the Requests, which apply to  
26 each Request therein regardless of whether a General Objection is specifically incorporated into a  
27 response to a particular request.  
28

1 burdensome and because it requests information not relevant to a claim or defense in this action  
2 and not reasonably calculated to lead to the discovery of admissible evidence.

3 Subject to and without waiving its objections, Apple will produce non-privileged  
4 documents sufficient to identify individuals who have participated in the design, development, or  
5 marketing of the relevant functionalities of any products that Apple identifies as embodying the  
6 asserted claims of the Apple Patents, to the extent such documents exist in its possession,  
7 custody, or control.

8 **REQUEST NO. 12:**

9 All documents concerning the construction, scope, infringement, non-  
10 infringement, validity, invalidity, enforceability, or unenforceability of any claims of the Apple  
11 Patents, or the related patents or related patent applications.

12 **RESPONSE TO REQUEST NO. 12:**

13 In addition to its General Objections, Apple objects to this Request to the extent it  
14 calls for information protected by the attorney-client privilege, work product doctrine or any other  
15 applicable privilege or immunity. Apple further objects to this Request as premature because it  
16 seeks expert opinion evidence and because discovery is ongoing. Apple further objects to this  
17 request as overbroad and unduly burdensome insofar as it seeks the production of documents and  
18 things not in Apple's possession, custody, or control, including publicly available documents or  
19 information equally accessible to Elan. Apple further objects to this Request as premature insofar  
20 as it seeks the production of documents relating to claim construction, infringement or invalidity  
21 contentions or expert opinions before the time specified for such a production under this Court's  
22 rules and schedule.

23 Subject to and without waiving its objections, Apple will produce non-privileged  
24 documents responsive to this request according to the Court's rules and schedule to the extent  
25 such documents exist in its possession, custody, or control.

26 **REQUEST NO. 13:**

27 All documents and things concerning any instance in which the validity,  
28 enforceability, or construction of any claim contained in any of the Apple Patents or any related  
patents or related patent applications has been challenged or questioned, including, without  
limitation, all documents relating to any action or proceeding concerning any of the Apple Patents  
or any related patents or related patent applications.

1 applicable privilege or immunity. Apple further objects to this Request as overbroad and unduly  
2 burdensome and because it requests information not relevant to a claim or defense in this action  
3 and not reasonably calculated to lead to the discovery of admissible evidence. Apple objects to  
4 this Request to the extent it seeks publicly available documents or information equally accessible  
5 to Elan.

6 **REQUEST NO. 18:**

7 Two functional samples of any devices made or sold by Apple that embody any  
8 claim of the Apple Patents, along with any manuals or other documents provided to purchasers of  
9 that product.

10 **RESPONSE TO REQUEST NO. 18:**

11 In addition to its General Objections, Apple objects to this request as overbroad  
12 and unduly burdensome insofar as it seeks products that are available for purchase by Elan.

13 Subject to and without waiving its objections, Apple will make any products that  
14 Apple identifies as embodying the asserted claims of the Apple Patents available for purchase.

15 **REQUEST NO. 26:**

16 All documents and things concerning any allegations, accusations, or assertions by  
17 Apple of infringement by any third-party of any of the Apple Patents.

18 **RESPONSE TO REQUEST NO. 26:**

19 In addition to its General Objections, Apple objects to this Request to the extent it  
20 calls for information protected by the attorney-client privilege, work product doctrine or any other  
21 applicable privilege or immunity. Apple further objects to this Request as overbroad and unduly  
22 burdensome and because it requests information not relevant to a claim or defense in this action  
23 and not reasonably calculated to lead to the discovery of admissible evidence. Apple objects to  
24 this Request to the extent it seeks publicly available documents or information equally accessible  
25 to Elan. Apple further objects to this Request to the extent it seeks information that is the  
26 confidential or proprietary information of a third party that is in Apple's possession subject to an  
27 obligation to a third party.

28 Subject to and without waiving its objections, Apple will produce non-privileged  
documents responsive to this request, to the extent such documents exist in its possession,

1 custody, or control.

2 **REQUEST NO. 27:**

3 Exclusive of documents produced to Apple by Elan during this litigation, all  
4 documents and things in the possession, custody, or control of Apple concerning, relating to, or  
5 describing the Elan Product(s) or prototypes thereof, including, but not limited to, all documents  
6 relating to any testing, analysis, or evaluations of the Elan Product(s).

6 **RESPONSE TO REQUEST NO. 27:**

7 In addition to its General Objections, Apple objects to this Request to the extent it  
8 calls for information protected by the attorney-client privilege, work product doctrine or any other  
9 applicable privilege or immunity. Apple further objects to this Request as overbroad and unduly  
10 burdensome and because it requests information not relevant to a claim or defense in this action  
11 and not reasonably calculated to lead to the discovery of admissible evidence.

12 Subject to and without waiving its objections, Apple will produce non-privileged  
13 documents sufficient to show testing, analysis or evaluation of the relevant functionality of Elan  
14 products to the extent such documents exist in its possession, custody, or control.

15 **REQUEST NO. 28:**

16 All documents supporting, referring to, or relating to Apple's contentions that Elan  
17 infringes the Apple Patents.

18 **RESPONSE TO REQUEST NO. 28:**

19 In addition to its General Objections, Apple objects to this Request to the extent it  
20 calls for information protected by the attorney-client privilege, work product doctrine or any other  
21 applicable privilege or immunity. Apple objects to this Request to the extent it seeks publicly  
22 available documents or information equally accessible to Elan. Apple further objects to this  
23 Request as premature insofar as it seeks the production of documents relating to claim  
24 construction, infringement or invalidity contentions before the time specified for such a  
25 production under this Court's rules and schedule.

26 Subject to and without waiving its objections, Apple will produce non-privileged  
27 documents responsive to this request according to the Court's rules and schedule to the extent  
28 such documents exist in its possession, custody, or control.

1 **REQUEST NO. 29:**

2 All documents and things relating to or comprising Apple's communications with  
3 Elan's customers or potential customers concerning the Apple Patents, Elan's Product(s), or  
4 products that incorporate Elan's Product(s).

4 **RESPONSE TO REQUEST NO. 29:**

5 In addition to its General Objections, Apple objects to this Request to the extent it  
6 calls for information protected by the attorney-client privilege, work product doctrine or any other  
7 applicable privilege or immunity. Apple further objects to this Request as overbroad and unduly  
8 burdensome and because it requests information not relevant to a claim or defense in this action  
9 and not reasonably calculated to lead to the discovery of admissible evidence. Apple objects to  
10 this Request to the extent it seeks publicly available documents or information equally accessible  
11 to Elan.

12 Subject to and without waiving its objections, Apple will produce non-privileged  
13 documents sufficient to show Apple's communications with Elan's customers or potential  
14 customers concerning the relevant functionality of Apple Patents, Elan's Product(s), or products  
15 that incorporate Elan's Products, to the extent such documents exist in its possession, custody, or  
16 control.

17 **REQUEST NO. 30:**

18 All documents relating to any infringement of Apple's Patents by Elan's Product.

19 **RESPONSE TO REQUEST NO. 30:**

20 In addition to its General Objections, Apple objects to this Request to the extent it  
21 calls for information protected by the attorney-client privilege, work product doctrine or any other  
22 applicable privilege or immunity. Apple objects to this Request to the extent it seeks publicly  
23 available documents or information equally accessible to Elan. Apple further objects to this  
24 Request as premature insofar as it seeks the production of documents relating to claim  
25 construction, infringement or invalidity contentions before the time specified for such a  
26 production under this Court's rules and schedule.

27 Subject to and without waiving its objections, Apple will produce non-privileged  
28 documents responsive to this request according to the Court's rules and schedule to the extent

1 **REQUEST NO. 63:**

2 All documents and things evidencing any erosion of the price of Apple's  
3 Product(s) attributable to Elan's alleged infringement.

4 **RESPONSE TO REQUEST NO. 63:**

5 In addition to its General Objections, Apple objects to this Request to the extent it  
6 calls for information protected by the attorney-client privilege, work product doctrine or any other  
7 applicable privilege or immunity. Apple further objects to this Request as overbroad and unduly  
8 burdensome and because it requests information not relevant to a claim or defense in this action  
9 and not reasonably calculated to lead to the discovery of admissible evidence. Apple objects to  
10 this Request to the extent it seeks publicly available documents or information equally accessible  
11 to Elan.

12 **REQUEST NO. 64:**

13 All documents concerning or identifying Apple's policy and past decisions in  
14 licensing any of the Apple Patents.

15 **RESPONSE TO REQUEST NO. 64:**

16 In addition to its General Objections, Apple objects to this Request to the extent it  
17 calls for information protected by the attorney-client privilege, work product doctrine or any other  
18 applicable privilege or immunity. Apple further objects to this Request as overbroad and unduly  
19 burdensome and because it requests information not relevant to a claim or defense in this action  
20 and not reasonably calculated to lead to the discovery of admissible evidence.

21 Subject to and without waiving its objections, Apple will produce non-privileged  
22 documents sufficient to show actual or proposed licensing of any of the Apple Patents, to the  
23 extent such documents exist in its possession, custody, or control.

24 Dated: January 26, 2010

WEIL, GOTSHAL & MANGES LLP

25  
26 By:           /s/ Sonal N. Mehta            
27 Sonal N. Mehta  
28 Attorneys for Defendant and  
Counterclaim Plaintiff Apple Inc.