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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

ELAN MICROELECTRONICS CORPORATION,

No. C 09-01531 RS (JCS)

Plaintiff(s),

**NOTICE OF SETTLEMENT
CONFERENCE AND SETTLEMENT
CONFERENCE ORDER
(PATENT CASE)**

v.

APPLE, INC.,

Defendant(s).

TO ALL PARTIES AND COUNSEL OF RECORD:

The above matter was referred to Magistrate Judge Joseph C. Spero for settlement purposes.

You are hereby notified that a further Settlement Conference is scheduled for **September 21, 2011, at 9:30 a.m.**, in Courtroom G, 15th Floor, Federal Building, 450 Golden Gate Avenue, San Francisco, California 94102.

IT IS HEREBY ORDERED that Plaintiff(s) shall make a settlement proposal, in writing, by **September 7, 2011**, with a copy to the undersigned. Defendant(s) shall respond and make a counter-proposal, in writing, by **September 12, 2011**, with a copy to the undersigned.

It is the responsibility of counsel to ensure that whatever discovery is needed for all sides to evaluate the case for settlement purposes is completed by the date of the Settlement Conference.

Counsel shall cooperate in providing discovery informally and expeditiously.

Lead trial counsel shall appear at the Settlement Conference with the parties. Any party who is not a natural person shall be represented by the person(s) with **unlimited** authority to negotiate a settlement. A person who needs to call another person not present before agreeing to any settlement does not have unlimited authority. If a party is a governmental entity, its governing body shall

United States District Court
For the Northern District of California

1 designate one of its members or a senior executive to appear at the Settlement Conference with
2 authority to participate in the Settlement Conference and, if a tentative settlement agreement is
3 reached, to recommend the agreement to the governmental entity for its approval. An insured party
4 shall appear with a representative of the carrier with full authority to negotiate up to the limits of
5 coverage. Personal attendance of a party representative will rarely be excused by the Court, and
6 then only upon separate written application demonstrating substantial hardship served on opposing
7 counsel and lodged as early as the basis for the hardship is known but no later than the Settlement
8 Conference Statement.

9 Each party shall prepare a Settlement Conference Statement, which must be LODGED with
10 the undersigned's Chambers no later than **September 14, 2011**. Please 3-hole punch the document
11 at the left side.

12 **Each party shall also submit their Settlement Conference Statement, and any previous**
13 **Settlement Conference Statements, in .pdf format and email their statement to**
14 **JCSPO@cand.uscourts.gov.**

15 The Settlement Conference Statement should **not** be electronically filed with the Clerk of the
16 Court, and need not be served on opposing counsel. The parties are encouraged, however, to
17 exchange Settlement Conference Statements. If Settlement Conference Statements are exchanged,
18 any party may submit an additional confidential settlement letter to the Court not to exceed three (3)
19 pages. The contents of this confidential settlement letter will not be disclosed to the other parties.

20 The Settlement Conference Statement shall include the following:

- 21 1. A brief statement of the facts of the case.
- 22 2. A brief statement of the claims and defenses including, but not limited to, statutory or
23 other grounds upon which the claims are founded, and a **candid** evaluation of the parties' likelihood
24 of prevailing on the claims and defenses. The more candid the parties are, the more productive the
25 conference will be.
- 26 3. A list of the key facts in dispute and a brief statement of the **specific** evidence
27 relevant to a determination of those facts.
- 28 4. A summary of the proceedings to date and any pending motions.

- 1 5. An estimate of the cost and time to be expended for further discovery, pretrial and trial.
2 6. The relief sought, including an itemization of damages.
3 7. The party's position on settlement, including present demands and offers and a history
4 of past settlement discussions. The Court's time can best be used to assist the parties in completing
5 their negotiations, not in starting them. The parties are urged to carefully evaluate their case before
6 taking a settlement position since extreme positions hinder the settlement process.

7 Settlement Conference Statements **may** be submitted on CD-ROM with hypertext links to
8 exhibits. Otherwise, the portion of exhibits on which the party relies shall be highlighted.

9 It is not unusual for the conference to last three (3) or more hours. Parties are encouraged to
10 participate and frankly discuss their case. Statements they make during the conference will not be
11 admissible at trial in the event the case does not settle. The parties should be prepared to discuss
12 such issues as:

- 13 1. Their settlement objectives.
14 2. Any impediments to settlement they perceive.
15 3. Whether they have enough information to discuss settlement. If not, what additional
16 information is needed.
17 4. The possibility of a creative resolution of the dispute.

18 The parties shall notify Chambers immediately at (415) 522-3691 if this case settles prior to
19 the date set for Settlement Conference. Counsel shall provide a copy of this order to each party who
20 will participate in the conference.

21 IT IS SO ORDERED.

22
23 Dated: September 2, 2011

24 
25 _____
26 JOSEPH C. SPERO
27 United States Magistrate Judge
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