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 Apple, Inc.

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

12 ELAN MICROELECTRONICS
 CORPORATION,

13 Plaintiff,

14 v.

15 APPLE, INC.,

16 Defendant.

Case No. C-09-01531 RS

APPLE, INC.'S ANSWER TO ELAN
 MICROELECTRONICS
 CORPORATION'S COMPLAINT FOR
 PATENT INFRINGEMENT

Hon. Richard Seeborg

Demand for Jury Trial

18 Defendant Apple, Inc. ("Apple") by and through its undersigned counsel, hereby
 19 responds to Plaintiff Elan Microelectronics Corporation's ("Elan") Complaint for Patent
 20 Infringement ("Complaint") as follows:

21 **I.**

22 **ANSWER**

23 **PARTIES**

24 1. Apple is without knowledge or information sufficient to form a belief as to
 25 the truth of the statements in Paragraph 1 of the Complaint, and, on that basis, denies those
 26 allegations.

27 2. Apple admits that U.S. Patent No. 5,825,352 ("the '352 patent") states on
 28 its face that it is entitled "Multiple Finger Contact Sending Method for Emulating Mouse Buttons

1 and Mouse Operations on a Touch Sensor Pad.” Apple is without knowledge or information
2 sufficient to form a belief as to the truth of the allegations concerning Elan’s purported ownership
3 of all right and title to the ’352 patent and, therefore, denies those allegations. Except as so
4 expressly admitted herein, Apple denies the allegations in Paragraph 2 of the Complaint.

5 3. Apple admits that U.S. Patent No. 7,274,353 (“the ’353 patent”) states on
6 its face that it is entitled “Capacitive Touchpad Integrated with Key and Handwriting Functions.”
7 Apple is without knowledge or information sufficient to form a belief as to the truth of the
8 allegations concerning Elan’s purported ownership of all right and title to the ’353 patent and,
9 therefore, denies those allegations. Except as so expressly admitted herein, Apple denies the
10 allegations in Paragraph 3 of the Complaint.

11 4. Apple admits the allegations in Paragraph 4 of the Complaint.

12 **JURISDICTION AND VENUE**

13 5. Apple admits that Elan’s Complaint purports to be an action that arises
14 under the patent laws of the United States, 35 U.S.C. § 1 *et seq.*, but denies any wrongdoing or
15 liability on its own behalf for the reasons stated herein. Apple admits that this Court has subject
16 matter jurisdiction under 28 U.S.C. §§ 1331 and 1338(a). Except as so expressly admitted herein,
17 Apple denies the allegations in Paragraph 5 of the Complaint.

18 6. Apple admits that it resides in this district, has a regular place of business
19 in this district, and has and does sell products and provide services to persons within this district.
20 Apple denies that it has committed any acts of infringement within this district and specifically
21 denies any wrongdoing, infringement, inducement of infringement or contribution to
22 infringement. Apple admits that venue is proper as to Apple in this District pursuant to 28 U.S.C.
23 §§ 1391(b) and 1400(b). Except as so expressly admitted herein, Apple denies the allegations in
24 Paragraph 6 of the Complaint.

25 **THE DISPUTE**

26 7. Apple denies the allegations in Paragraph 7 of the Complaint.

27 8. Apple denies the allegations in Paragraph 8 of the Complaint.

1 interest, or any other type of recovery from Apple. Elan's prayer should, therefore, be denied in
2 its entirety and with prejudice, and Elan should take nothing.

3 **DEMAND FOR JURY TRIAL**

4 23. Apple does not object to a trial by jury on all issues so triable.

5 **II.**

6 **DEFENSES**

7 As and for its affirmative defenses, Apple alleges as follows:

8 **FIRST DEFENSE – NON-INFRINGEMENT**

9 24. Apple does not infringe and has not directly or indirectly infringed any
10 claims of the '352 and '353 patents, either literally or under the doctrine of equivalents, willfully
11 or otherwise.

12 **SECOND DEFENSE – INVALIDITY**

13 25. Elan's alleged claims for infringement of the '352 and '353 patents are
14 barred because each and every claim of the '352 and '353 patents is invalid for failure to comply
15 with the requirements of Title 35 of the United States Code, including but not limited to
16 Sections 102, 103, and/or 112.

17 **THIRD DEFENSE – LACHES**

18 26. Elan's claims for relief are barred in whole or in part by the doctrine of
19 laches.

20 **FOURTH DEFENSE – ESTOPPEL**

21 27. Elan's claims for relief are barred in whole or in part by the doctrine of
22 equitable estoppel.

23 **FIFTH DEFENSE – STATUTE OF LIMITATIONS**

24 28. To the extent Elan seeks damages for alleged infringement more than six
25 years prior to filing of this action, the relief sought by Elan is barred by 35 U.S.C. § 286.
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SIXTH DEFENSE – NOTICE

29. To the extent Elan seeks damages for alleged infringement prior to its giving actual or constructive notice of the '352 and '353 patents to Apple, the relief sought by Elan is barred by 35 U.S.C. § 287.

SEVENTH DEFENSE – NO INJUNCTIVE RELIEF

30. To the extent Elan seeks injunctive relief for alleged infringement, the relief sought by Elan is unavailable because any alleged injury to Elan is not immediate or irreparable and because Elan has an adequate remedy at law for any alleged injury.

DEMAND FOR JURY TRIAL

31. Pursuant to Rule 38 of the Federal Rules of Civil Procedure, Apple hereby demands a trial by jury on all issues so triable.

PRAYER FOR RELIEF

WHEREFORE, Apple prays for judgment as follows on Elan’s Complaint and on Apple’s Answer:

- A. That Elan’s Complaint be dismissed with prejudice and that Elan take nothing;
- B. That judgment be entered in favor of Apple against Elan on Elan’s Complaint;
- C. That pursuant to 35 U.S.C. § 285 and/or other applicable laws, Elan’s conduct be found to render this an exceptional case and that Apple be awarded its attorneys’ fees incurred in connection with this action;
- D. That Elan be required to pay Apple’s costs of suit;
- E. That Apple be awarded such other and further relief as the court may deem just and proper.

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Dated: June 12, 2009

WEIL, GOTSHAL & MANGES LLP

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