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9	UNITED STATES D	ISTRICT COURT
10	NORTHERN DISTRIC	T OF CALIFORNIA
11	SAN JOSE I	DIVISION
12	ELAN MICROELECTRONICS CORPORATION,	Case No. C-09-01531 RS
13	Plaintiff,	APPLE, INC.'S ANSWER TO ELAN MICROELECTRONICS
14	V.	CORPORATION'S COMPLAINT FOR PATENT INFRINGEMENT
15	APPLE, INC.,	Hon. Richard Seeborg
16	Defendant.	Demand for Jury Trial
17 18	Defendant Apple Inc. ("Apple") h	y and through its undersigned counsel, hereby
19	responds to Plaintiff Elan Microelectronics C	
20	Infringement ("Complaint") as follows:	corporation's (Elan) Complaint for Tatent
21	I.	
22	ANSW	/FR
23	PART	
24	1. Apple is without knowledge	e or information sufficient to form a belief as to
25	the truth of the statements in Paragraph 1 of th	e Complaint, and, on that basis, denies those
26	allegations.	
27	2. Apple admits that U.S. Pate	ent 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
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and Mouse Operations on a Touch Sensor Pad." Apple is without knowledge or information sufficient to form a belief as to the truth of the allegations concerning Elan's purported ownership of all right and title to the '352 patent and, therefore, denies those allegations. Except as so expressly admitted herein, Apple denies the allegations in Paragraph 2 of the Complaint.

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

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

JURISDICTION AND VENUE

- 5. Apple admits that Elan's Complaint purports to be an action that arises under the patent laws of the United States, 35 U.S.C. § 1 *et seq.*, but denies any wrongdoing or liability on its own behalf for the reasons stated herein. Apple admits that this Court has subject matter jurisdiction under 28 U.S.C. §§ 1331 and 1338(a). Except as so expressly admitted herein, Apple denies the allegations in Paragraph 5 of the Complaint.
- 6. Apple admits that it resides in this district, has a regular place of business in this district, and has and does sell products and provide services to persons within this district. Apple denies that it has committed any acts of infringement within this district and specifically denies any wrongdoing, infringement, inducement of infringement or contribution to infringement. Apple admits that venue is proper as to Apple in this District pursuant to 28 U.S.C. §§ 1391(b) and 1400(b). Except as so expressly admitted herein, Apple denies the allegations in Paragraph 6 of the Complaint.

THE DISPUTE

- 7. Apple denies the allegations in Paragraph 7 of the Complaint.
- 8. Apple denies the allegations in Paragraph 8 of the Complaint.

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1	9. Apple admits that it designs, markets and sells computer and consumer
2	electronics products including touch-sensitive input devices. Apple admits that it does or has
3	designed, marketed, and sold the Apple iBook, PowerBook and MacBook portable computers,
4	iPhone mobile phones and iPod Touch digital medial player devices, which do or have included
5	touch-sensitive input devices. Except as so expressly admitted herein, Apple denies the
6	allegations in Paragraph 9 of the Complaint.
7	FIRST CLAIM
8	10. Apple refers to and incorporates herein its answers as provided in
9	Paragraphs 1-9 above.
10	11. Apple denies the allegations in Paragraph 11 of the Complaint.
11	12. Apple denies the allegations in Paragraph 12 of the Complaint.
12	13. Apple denies the allegations in Paragraph 13 of the Complaint.
13	14. Apple denies the allegations in Paragraph 14 of the Complaint.
14	15. Apple denies the allegations in Paragraph 15 of the Complaint.
15	SECOND CLAIM
16	16. Apple refers to and incorporates herein its answers as provided in
17	Paragraphs 1-15 above.
18	17. Apple denies the allegations in Paragraph 17 of the Complaint.
19	18. Apple denies the allegations in Paragraph 18 of the Complaint.
20	19. Apple denies the allegations in Paragraph 19 of the Complaint.
21	20. Apple denies the allegations in Paragraph 20 of the Complaint.
22	21. Apple denies the allegations in Paragraph 21 of the Complaint.
23	PRAYER FOR RELIEF
24	22. Apple denies that Elan is entitled to any of the relief sought in its prayer for
25	relief. Apple has not directly or indirectly infringed the '352 and '353 patents, either literally or
26	by the doctrine of equivalents, willfully or otherwise. Elan is not entitled to recover statutory
27	damages, compensatory damages, enhanced damages, an accounting, injunctive relief, costs, fees,
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APPLE'S ANSWER 3 Case No. C-09-01531 RS

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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1	SIXTH DEFENSE – NOTICE
2	29. To the extent Elan seeks damages for alleged infringement prior to it
3	giving actual or constructive notice of the '352 and '353 patents to Apple, the relief sought by
4	Elan is barred by 35 U.S.C. § 287.
5	SEVENTH DEFENSE – NO INJUNCTIVE RELIEF
6	30. To the extent Elan seeks injunctive relief for alleged infringement, the
7	relief sought by Elan is unavailable because any alleged injury to Elan is not immediate o
8	irreparable and because Elan has an adequate remedy at law for any alleged injury.
9	DEMAND FOR JURY TRIAL
10	31. Pursuant to Rule 38 of the Federal Rules of Civil Procedure, Apple hereby
11	demands a trial by jury on all issues so triable.
12	PRAYER FOR RELIEF
13	WHEREFORE, Apple prays for judgment as follows on Elan's Complaint and or
14	Apple's Answer:
15	A. That Elan's Complaint be dismissed with prejudice and that Elan take
16	nothing;
17	B. That judgment be entered in favor of Apple against Elan on Elan'
18	Complaint;
19	C. That pursuant to 35 U.S.C. § 285 and/or other applicable laws, Elan'
20	conduct be found to render this an exceptional case and that Apple be
21	awarded its attorneys' fees incurred in connection with this action;
22	D. That Elan be required to pay Apple's costs of suit;
23	E. That Apple be awarded such other and further relief as the court may deen
24	just and proper.
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APPLE'S ANSWER 5 Case No. C-09-01531 RS

1	Dated: June 12, 2009	WEIL, GOTSHAL & MANGES LLP
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