

# EXHIBIT D

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**From:** DeBruine, Sean  
**Sent:** Tuesday, April 13, 2010 12:10 PM  
**To:** Apple Elan WGM Service  
**Cc:** Elan Apple Team  
**Subject:** Claim Construction Briefing

Dear Sonal and Ed

I understand from my brief conversation with Jared on Friday that Apple has not decided whether it will seek to stay the district court case in light of Elan's ITC complaint. The period for the ITC to institute an investigation based on that complaint runs on April 29, yet the parties' claim construction briefs and the upcoming claim construction briefing. In particular, opening briefs are due this Friday, April 16 and Reply briefs on April 30. Elan believes that it does not make sense to file these briefs on this schedule when there is a likelihood that all or part of the case will be stayed. That is particularly true here, when the Markman hearing is not until June 23. In addition, we have not yet resolved the issues regarding Apple's decision to drop its '929 patent claims and the revised Joint Claim Construction Statement. As such, there is still some uncertainty regarding what Markman issues will be briefed.

As such Elan intends to move today for an order continuing the briefing until May 7 and May 28 respectively to allow time to resolve the status of the case after the ITC institutes the investigation. Such a schedule would still have the responsive briefs filed nearly one month before the June 23 hearing. Please let me know if Apple would stipulate to such a continuance.

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