

# **EXHIBIT E**

---

**From:** Mehta, Sonal [Sonal.Mehta@weil.com]  
**Sent:** Tuesday, April 13, 2010 8:11 PM  
**To:** DeBruine, Sean; Apple Elan WGM Service  
**Cc:** Elan Apple Team  
**Subject:** RE: Claim Construction Briefing

Sean,

Apple cannot agree to your proposal to extend the claim construction briefing schedule to May 7 and May 28 for opening and responsive briefs respectively due to Elan's ITC complaint. While the statutory period for Apple to elect a stay would not run until 30 days after an investigation is instituted, if at all, we can tell you that Apple is at present disinclined to elect a stay of the district court action on the '352 patent. As such, it is important that the district court action proceed in full and on schedule. Elan's choice to initiate a parallel ITC investigation right in the midst of claim construction proceedings should not disrupt the current schedule.

Apple is prepared to file its opening claim construction brief on Friday. If Elan needs a short extension to prepare its brief, we are open to discussing it. Otherwise, we plan to comply with the Court's scheduling order.

Regards,  
Sonal N. Mehta  
Weil Gotshal & Manges  
201 Redwood Shores Pkwy  
Redwood Shores, CA 94065  
t: (650) 802-3118  
f: (650) 802-3100  
[sonal.mehta@weil.com](mailto:sonal.mehta@weil.com)

---

**From:** Sean.DeBruine@alston.com [mailto:Sean.DeBruine@alston.com]  
**Sent:** Tuesday, April 13, 2010 12:10 PM  
**To:** Apple Elan WGM Service  
**Cc:** Elan.Apple.Team@alston.com  
**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.

4/13/2010

**Sean DeBruine**  
Alston + Bird LLP  
3000 El Camino Real | Suite 400 | Palo Alto, CA 94306-2112  
650-838-2121 Direct

Eleven Consecutive Years on Fortune® magazine's "The 100 Best Companies to Work For"™

\*\*\*\*\* IRS Circular 230 disclosure: To ensure compliance with requirements imposed by the IRS and other taxing authorities, we inform you that any tax advice contained in this communication (including any attachments) is not intended or written to be used, and cannot be used, for the purpose of (i) avoiding penalties that may be imposed on any taxpayer or (ii) promoting, marketing or recommending to another party any transaction or matter addressed herein. \_\_\_\_\_ NOTICE: This e-mail message and all attachments transmitted with it may contain legally privileged and confidential information intended solely for the use of the addressee. If the reader of this message is not the intended recipient, you are hereby notified that any reading, dissemination, distribution, copying, or other use of this message or its attachments is strictly prohibited. If you have received this message in error, please notify the sender immediately by telephone (404-881-7000) or by electronic mail ([postmaster@alston.com](mailto:postmaster@alston.com)), and delete this message and all copies and backups thereof. Thank you.

---

The information contained in this email message is intended only for use of the individual or entity named above. If the reader of this message is not the intended recipient, or the employee or agent responsible to deliver it to the intended recipient, you are hereby notified that any dissemination, distribution or copying of this communication is strictly prohibited. If you have received this communication in error, please immediately notify us by email ([postmaster@weil.com](mailto:postmaster@weil.com)), and destroy the original message. Thank you.