

1 Yitai Hu (SBN 248085)
 (yitai.hu@alston.com)
 2 Sean P. DeBruine (SBN 168071)
 (sean.debruine@alston.com)
 3 S.H. Michael Kim (SBN 203491)
 (michael.kim@alston.com)
 4 C. Augustine Rakow (SBN 254585)
 (augie.rakow@alston.com)
 5 **ALSTON & BIRD LLP**
 Two Palo Alto Square
 6 3000 El Camino Real, Ste 400
 Palo Alto, CA 94306-2112
 7 Phone: (650) 838-2000
 Fax: (650) 838-2001

8
 9 T. Hunter Jefferson (admitted pro hac vice)
 (hunter.jefferson@alston.com)
ALSTON + BIRD LLP
 10 One Atlantic Center
 1201 West Peachtree Street
 11 Atlanta, GA 30309-3424
 Telephone: 404-881-7333
 12 FACSIMILE: 404-253-8863

13 Attorneys for Plaintiff
 ELAN MICROELECTRONICS
 14 CORPORATION

15 UNITED STATES DISTRICT COURT
 16 NORTHERN DISTRICT OF CALIFORNIA

19 ELAN MICROELECTRONICS
 CORPORATION,
 20
 21 Plaintiff and Counterclaim
 Defendant,
 22
 v.
 23 APPLE INC.,
 24
 25 Defendant and Counterclaim
 Plaintiff.

MATTHEW D. POWERS (Bar No. 104795)
 matthew.powers@weil.com
 JARED BOBROW (Bar No. 133712)
 jared.bobrow@weil.com
 DOUGLAS E. LUMISH (Bar No. 183863)
 douglas.lumish@weil.com
 SONAL N. MEHTA (Bar No. 222086)
 sonal.mehta@weil.com
 DEREK C. WALTER (Bar. No. 246322)
 derek.walter@weil.com
 NATHAN GREENBLATT (Bar No. 262279)
 nathan.greenblatt@weil.com
 WEIL, GOTSHAL & MANGES LLP
 Silicon Valley Office
 201 Redwood Shores Parkway
 Redwood Shores, CA 94065
 Telephone: (650) 802-3000
 Facsimile: (650) 802-3100

Case No. C-09-01531 RS (PVT)
 FIRST AMENDED JOINT CLAIM
 CONSTRUCTION AND PREHEARING
 STATEMENT

Hon. Richard Seeborg
 Claim Construction Hearing:
 June 23, 2010, 1:30 pm

1 Pursuant to Northern District of California Patent Local Rule 4-3, Elan
2 Microelectronics Corporation (“Elan”) and Apple Inc. (“Apple”) jointly submit this First
3 Amended Joint Claim Construction and Prehearing Statement.

4 **I. PROPOSED CLAIM CONSTRUCTIONS AND SUPPORTING EVIDENCE**

5 Pursuant to Patent Local Rule 4-2(c), the parties have met and conferred regarding
6 the submission of this First Amended Joint Claim Construction and Prehearing Statement. The
7 proposed constructions and supporting evidence for U.S. Pat. Nos. 5,825,352 (“the ‘352 patent”),
8 7,274,353 (“the ‘353 patent”), 5,764,218 (“the ‘218 patent”), and 7,495,659 (“the ‘659 patent”),
9 including agreed constructions, are identified in Exhibits A to D hereto, respectively. As noted in
10 Exhibits A to D, the parties anticipate proffering expert evidence on claim construction. The
11 parties exchanged expert reports concerning the construction of disputed terms on February 22,
12 2010.

13 Pursuant to Patent Local Rule 4-3(c), the parties jointly identify the following
14 terms as most significant to resolution of the case:

- 15 1. ‘353 patent: “a first pattern on said panel for representing a mode switch to
16 switch said touchpad between a key mode and a handwriting mode,” “a
17 first pattern on said panel for representing a mode switch to switch said
18 touchpad between a key mode and a mouse mode,” and “a first pattern on
19 said panel for representing a mode switch to switch said touchpad between
20 a mouse mode and a handwriting mode”¹ (**identified by both parties**)
- 21 2. ‘353 patent: “a plurality of second patterns on said plurality of regions for
22 operation in said key and handwriting modes,” “a plurality of second
23 patterns on said plurality of regions for operation in said key and mouse
24 modes,” and “a plurality of second patterns on said plurality of regions for
operation in said mouse and handwriting modes”² (**identified by both parties**)
- 25 3. ‘352 patent: “identify a first maxima in a signal corresponding to a first
26 finger,” “identify a minima the following the first maxima” and “identify a
27 second maxima in a signal corresponding to the second finger following
28 said minima”³ (**identified by Apple**)

25 ¹ The parties contemplate that these terms will be briefed together because the dispute is the
26 same for each of the parallel limitations.

27 ² The parties contemplate that these terms will be briefed together because the dispute is the
28 same for each of the parallel limitations.

³ Apple contemplates that these terms will be briefed together because the dispute is the
same for each of the parallel limitations.

