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 14 Attorneys for Plaintiff  
 NUANCE COMMUNICATIONS, INC.

16 UNITED STATES DISTRICT COURT  
 17 NORTHERN DISTRICT OF CALIFORNIA  
 18 SAN FRANCISCO DIVISION

19 NUANCE COMMUNICATIONS, INC.,

20 Plaintiff,

21 v.

22 ABBYY USA SOFTWARE HOUSE, INC., a  
 23 California corporation, ABBYY SOFTWARE,  
 24 LTD., a Cyprus corporation, ABBYY  
 25 PRODUCTION, LLC, a Russian corporation, and  
 LEXMARK INTERNATIONAL, INC., a  
 Delaware corporation,

26 Defendants.

Case No. C 08-02912 JSW MEJ

**STIPULATION AND  
 [PROPOSED] ORDER  
 SHORTENING TIME FOR  
 BRIEFING AND HEARING ON  
 NUANCE'S MOTION FOR  
 LEAVE TO SUPPLEMENT  
 PUTNAM EXPERT REPORT**

1 Pursuant to Civil L.R. 6-2, Plaintiff Nuance Communications, Inc. (“Nuance”), and  
2 Defendants ABBYY Software House, Inc., ABBYY Software, Ltd., ABBYY Production, LLC  
3 (collectively, “ABBYY Defendants”), and Lexmark International, Inc. (“Lexmark”), file this joint  
4 stipulation regarding the briefing and hearing schedule for Nuance’s concurrently filed Motion  
5 for Leave to Supplement Putnam Expert Report.

6 WHEREAS, Nuance moved for discovery sanctions against the ABBYY Defendants for  
7 late production of documents in August 2012 (Dkt. No. 499);

8 WHEREAS, Magistrate Judge James issued an order relating to Nuance’s request for  
9 sanctions (Dkt. No. 571);

10 WHEREAS, in January 2013, the Court granted Nuance “an extension of eight weeks for  
11 discovery limited to the discrete issues relating to the ABBYY Defendants’ later production and  
12 require[d] the ABBYY Defendants to timely re-produce relevant witnesses[,]” (Dkt. No. 582);

13 WHEREAS, after completing the additional depositions, Nuance’s expert Dr. Putnam  
14 (Nuance’s damages expert) prepared a supplemental expert report, a copy of which was provided  
15 to Defendants on May 6, 2013;

16 WHEREAS, the parties had numerous meet and confer discussions, including one in  
17 person meeting, to discuss whether Defendants would agree to a joint request for leave to add the  
18 supplemental report to the case and to coordinate logistics for a supplemental rebuttal report and  
19 depositions;

20 WHEREAS, those meet and confer efforts were unsuccessful;

21 WHEREAS, Nuance’s Motion for Leave to Supplement Expert Report seeks the Court’s  
22 permission to supplement Dr. Putnam’s expert report in light of the ABBYY Defendants’ late  
23 production and additional discovery sanctioned by the Court;

24 WHEREAS, Defendants oppose Nuance’s Motion for Leave;

25 WHEREAS, the Court’s April 2, 2013 Order Setting Schedule (Dkt. No. 649) set the  
26 Pretrial Conference for July 22, 2013, at 2:00 p.m., Jury Selection for August 7, 2013, at  
27 8:00 a.m., and Trial for August 12, 2013, at 8:00 a.m;

1 WHEREAS, pursuant to Civil L.R. 7-2(a) and the Court's Standing Civil Orders and  
2 Scheduling Notes, Nuance's Motion for Leave would not be heard until at least July 12, 2013;

3 WHEREAS, the parties are in the midst of trial preparations and agree that early  
4 resolution of Nuance's Motion for Leave will provide the parties with needed time to prepare any  
5 rebuttal expert report responding to Nuance's supplements, conduct additional depositions of the  
6 experts if needed, and generally prepare for trial in light of the permitted scope for expert  
7 testimony at trial; and

8 WHEREAS, the requested shortening of time will have no effect on the remaining  
9 schedule for the case.

10 NOW, THEREFORE, IT IS HEREBY STIPULATED and agreed to by and between the  
11 parties, through their respective counsel, that the following briefing and hearing schedule for  
12 Nuance's Motion for Leave shall be adopted:

- 13 • Defendants' opposition must be filed by ~~Tuesday, May 28, 2013;~~ Friday, May 24, 2013
- 14 • Plaintiff's reply must be filed by ~~Thursday, May 30, 2013;~~ Tuesday, May 28, 2013
- 15 • the hearing, if desired by the Court, will be held on Friday, May 31st, 2013, at  
16 9:00 a.m. in Courtroom 19.

17 All briefs will comply with the page limit requirements set forth in the Court's Standing  
18 Civil Orders, Paragraph 7.

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**IT IS SO STIPULATED.**

Dated: May 21, 2013

MORRISON & FOERSTER LLP

By: /s/ Brooks M. Beard

BROOKS M. BEARD

Attorneys for Plaintiff  
NUANCE COMMUNICATIONS,  
INC.

Dated: May 21, 2013

FINNEGAN, HENDERSON, FARABOW,  
GARRETT & DUNNER, LLP

By: /s/ Erik R. Puknys

Erik R. Puknys

Attorneys for Defendants  
ABBYY USA SOFTWARE HOUSE,  
INC., ABBYY SOFTWARE, LTD.,  
ABBYY PRODUCTION, LLC, and  
LEXMARK INTERNATIONAL, INC.

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**ORDER**

Pursuant to stipulation,

**IT IS SO ORDERED.**

Dated: May 22, 2013



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Honorable Jeffrey S. White  
United States District Judge