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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

NUANCE COMMUNICATIONS, INC.,
Plaintiff,
v.
ABBY USA SOFTWARE HOUSE, INC., a
California corporation, ABBYY SOFTWARE,
LTD., a Cyprus corporation, ABBYY
PRODUCTION, LLC, a Russian corporation, and
LEXMARK INTERNATIONAL, INC., a
Delaware corporation,
Defendants.

Case No. C 08-02912 JSW MEJ

**[PROPOSED] ORDER
GRANTING NUANCE'S
MOTION FOR LEAVE TO
SUPPLEMENT PUTNAM
EXPERT REPORT**

1 Having considered the parties' submissions, the Court finds that the supplementation of
2 the expert report of Jonathan D. Putnam is justified ~~and harmless in light of ABBYY's prior~~
3 ~~misconduct~~. The Court therefore grants Nuance's Motion for Leave to Supplement Putnam
4 Expert Report. Substantive objections to the Report are not precluded by this Order.

5 Dr. Putnam's supplemental expert report is deemed timely disclosed pursuant to Federal
6 Rule of Civil Procedure 26 and is accepted into the case in its entirety.

7 If he so chooses, ABBYY's damages expert may provide Nuance with his supplemental
8 rebuttal expert report on or before Friday, June 7, 2013, provided such report is strictly limited to
9 rebutting Dr. Putnam's supplemental report.

10 If ABBYY's damages expert's supplemental rebuttal report is timely provided to Nuance,
11 it will be deemed timely disclosed pursuant to Rule 26 without requiring a motion for leave, but
12 without prejudice to Nuance's ability to seek to strike the report, in whole or in part, on grounds
13 other than timeliness.

14 If Defendants decide to conduct a follow-up deposition of Dr. Putnam, Nuance shall make
15 Dr. Putnam available by no later than Friday, June 14, 2013, for a deposition of no more than two
16 hours on-the-record, with questioning limited to the subject matter of Dr. Putnam's supplemental
17 expert report.

18 If Nuance decides to conduct a follow-up deposition of Defendants' damages expert,
19 Defendants shall make their damages expert available by no later than Friday, June 14, 2013, for
20 a deposition of no more than two hours on-the-record, with questioning limited to the subject
21 matter of Defendants' damages expert's supplemental expert report.

22 **IT IS SO ORDERED.**

23 Dated: May 29, 2013

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25 _____
26 Jeffrey S. White
27 United States District Judge
28