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 7 Dassault Systèmes
 8 SolidWorks Corporation

9 UNITED STATES DISTRICT COURT
 10 NORTHERN DISTRICT OF CALIFORNIA
 11 SAN FRANCISCO DIVISION

13 AUTODESK, INC., a Delaware corporation,
 14 Plaintiff and
 15 Counterdefendant,
 16 v.
 17 DASSAULT SYSTÈMES SOLIDWORKS
 18 CORPORATION, a Delaware corporation,
 19 Defendant and
 Counterclaimant.

Case No. 3:08-cv-04397-WHA

**STIPULATION AND ~~PROPOSED~~
 ORDER REGARDING HEARING ON
 AUTODESK'S MOTION FOR
 SUMMARY JUDGMENT ON
 SOLIDWORKS' COUNTERCLAIMS**

20 Pursuant to Civil Local Rules 6-1(a), 6-2 and 7-12, Defendant Dassault Systèmes
 21 SolidWorks Corporation ("SolidWorks"), hereby respectfully requests that the Court continue the
 22 hearing date on Autodesk's Motion for Summary Judgment on SolidWorks' Counterclaims (Dkt.
 23 No. 77) from November 19, 2009 to December 3, 2009. Plaintiff Autodesk, Inc. ("Autodesk")
 24 stipulates that it has no opposition to such a request.

25 In support of this request, SolidWorks represents as follows (as to which Autodesk makes
 26 no comment):

27 WHEREAS, Autodesk filed a motion for summary judgment on October 13, 2009 (Dkt.
 28 No. 77) with a noticed hearing date of November 19, 2009;

1 WHEREAS, SolidWorks filed a motion for summary judgment, or in the alternative
2 summary adjudication, on October 29, 2009 (Dkt. No. 91) with a noticed hearing date of
3 December 3, 2009;

4 WHEREAS, at the October 13, 2009 discovery hearing, the Court expressed a preference
5 to hear the parties' summary judgment motions separately, unless the motions are "interlocked in
6 some way," such as having the same legal standard (*See Ex. A*);

7 WHEREAS, both parties' motions for summary judgment address puffery in the context
8 of their respective false advertising claims and counterclaims, and will require the application of
9 the same legal standards. For example, Autodesk argues in its motion for summary judgment that
10 its "advertisements constitute non-actionable puffery because they make no specific claims of any
11 kind." (Dkt. No. 77 at 4:3-4) SolidWorks' motion offers a similar puffery argument for its
12 accused web-content advertisement (Dkt. 91 at 28:26-30:21);

13 WHEREAS, SolidWorks' lead trial counsel, Claude Stern, is also not able to attend the
14 currently scheduled November 19, 2009 hearing on Autodesk's Motion for Summary Judgment
15 due to a previously scheduled mediation to be held on the same day in St. Louis, Missouri. This
16 mediation for another matter has been scheduled for over a month by all counsel and their
17 respective clients. It is important that SolidWorks' lead trial counsel be present at the hearing on
18 Autodesk's Motion for Summary Judgment for many reasons, including the fact that the Court
19 and the parties may discuss issues related to trial scheduled for January 11, 2010;

20 WHEREAS, because of the Thanksgiving holiday, the next available Thursday after
21 November 19, 2009 on which the Court could hear summary judgment motions is December 3,
22 2009;

23 WHEREAS, continuing the November 19, 2009 hearing date to December 3, 2009 will
24 not impact the case schedule in any way because there is already a summary judgment hearing
25 scheduled for December 3, 2009 in this case;

26 WHEREAS, the parties have met and conferred and Autodesk does not oppose the
27 continuance of the currently scheduled November 19, 2009 hearing date on Autodesk's Motion
28 for Summary Judgment to December 3, 2009;

1 WHEREAS, in accordance with Civil Local Rule 6-2, there have been four other time
2 modifications, including time to respond to the initial complaint (Dkt. No. 7); time for the Parties
3 to supplement initial disclosures pursuant to Rule 26(a)(1) (Dkt. No. 40); time for third parties to
4 produce documents called for by Rule 45 subpoenas, and for the Parties to supplement
5 interrogatory responses (Dkt. 59); and time to file a motion to compel production (Dkt. 70);

6 NOW THEREFORE, SolidWorks respectfully requests that the hearing date on
7 Autodesk's Motion for Summary Judgment on SolidWorks' Counterclaims (Dkt. No. 77) be
8 continued from November 19, 2009 to December 3, 2009. Autodesk stipulates that it has no
9 objection to this request.

10 Dated: November 3, 2009

QUINN EMANUEL URQUHART OLIVER
& HEDGES, LLP

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13 By: /s/Evette D. Pennypacker
EVETTE D. PENNYPACKER

14 Attorneys for Defendant and
15 Counterclaimant, DASSAULT
SYSTEMES SOLIDWORKS
16 CORPORATION

17 Dated: November 3, 2009

MORRISON & FOERSTER LLP

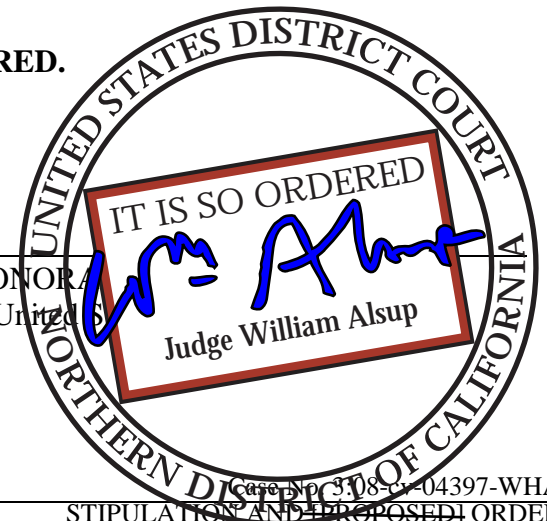
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19 By: /s/David E. Melaugh
DAVID E. MELAUGH

20 Attorneys for Plaintiff and
21 Counterdefendant, AUTODESK, INC.

22 **PURSUANT TO STIPULATION, IT IS SO ORDERED.**

23 Dated: November 5, 2009

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26 HONORABLE
United States



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ATTESTATION

Pursuant to General Order No. 45, I hereby attest that I have on file an email from David E. Melaugh of Morrison & Foerster LLP, attorneys for Plaintiff and Counterdefendant AUTODESK, INC., agreeing to the filing of this electronically filed document.

Dated: November 3, 2009

By: /s/Evette D. Pennypacker
Evette D. Pennypacker