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 ATOPTECH, INC.

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

20 SYNOPSYS, INC.,
 21 Plaintiff,
 22 v.
 23 ATOPTECH, INC.,
 24 Defendants.

Case No. 3:13-cv-02965-MMC (DMR)
STIPULATION AND ~~PROPOSED~~ ORDER
STAYING PATENT CLAIMS (COUNTS II –V)
PENDING *INTER PARTES* REVIEW
Date: August 15, 2014
Time: 9:00 a.m.
Judge: Hon. Maxine M. Chesney
Courtroom: 7, 19th Floor

1 Plaintiff Synopsys, Inc. (“Synopsys”) and Defendant ATopTech, Inc. (“ATopTech,” and
2 together with Synopsys, the “Parties”), by and through their respective counsel, stipulate and
3 agree as follows:

4 WHEREAS, on November 25, 2013, Synopsys filed an Amended Complaint (ECF No. 43)
5 in this action, alleging claims for copyright infringement, patent infringement, breach of contract
6 and breach of the implied covenant of good faith and fair dealing;

7 WHEREAS, on December 5, 2013, ATopTech filed a Motion to Dismiss certain of
8 Synopsys’ claims (ECF No. 44), which motion remains pending and no hearing date has been set;

9 WHEREAS, on March 7, 2014, this Court disqualified ATopTech’s counsel O’Melveny
10 Meyers (ECF No. 91) and on May 29, 2014 the Federal Circuit denied ATopTech’s petition for a
11 writ of mandamus appealing this Court’s disqualification order (ECF No. 113);

12 WHEREAS, this Court ordered ATopTech to cause new counsel to appear by June 16,
13 2014 and ordered the parties to appear for a Case Management Conference on July 25, 2014 (ECF
14 No. 112);

15 WHEREAS, on June 10, 2014, attorneys from Dickstein Shapiro appeared on behalf of
16 ATopTech (ECF Nos. 116-120);

17 WHEREAS, on July 11, 2014 Synopsys filed a Motion to Disqualify Dickstein Shapiro
18 LLP (ECF No. 128), which motion is set for hearing on August 15, 2014;

19 WHEREAS, on July 11, 2014, ATopTech filed petitions for *inter partes* review of all four
20 patents at issue in this litigation, U.S. Patent Nos. 6,405,348, 6,507,941, 6,237,127, and 6,567,967
21 (“the Patents-in-Suit”) before the Patent Trial and Appeal Board (“PTAB”) of the United States
22 Patent and Trademark Office;

23 WHEREAS, on July 11, 2014, ATopTech filed a Motion To Stay Patent Claims Pending
24 *Inter Partes* Review (ECF No. 136) seeking a partial stay of the action with respect to Synopsys’s
25 patent claims (Counts II - V);

26 WHEREAS, the Parties have met and conferred and, subject to the Court’s approval, have
27 agreed to a partial stay of the action with respect to the patent claims;

28 NOW, THEREFORE, IT IS HEREBY STIPULATED by the Parties, through their

1 respective counsel of record, that:

2 1. Synopsis's patent claims (Counts II - V) are stayed pending the PTAB's decision
3 on whether to institute *inter partes* review of the Patents-in-Suit (the "Partial Stay"). Synopsis
4 will serve ATopTech with its identification of asserted claims for each of the Patents-in-Suit on or
5 before August 8, 2014, but all other deadlines pursuant to the Patent Local Rules are suspended.
6 The August 15, 2014 hearing date for Defendant's Motion to Stay Patent Claims Pending *Inter*
7 *Partes* Review (ECF No. 136) is vacated.

8 2. The Parties shall jointly file a status report within 10 days of the date after the
9 PTAB's decision whether to grant *inter partes* review. In the event that none of the *inter partes*
10 review petitions are granted, the stay of Synopsis's patent claims will be automatically lifted. In
11 the event fewer than all of the petitions are granted, the parties shall jointly discuss whether they
12 believe the Partial Stay should be lifted or modified and shall apprise the Court of their respective
13 positions. Should the PTAB institute *inter partes* review on all four of the Patents-in-Suit, the
14 Partial Stay shall remain in effect until the PTAB issues a final written decision on all instituted
15 *inter partes* review proceedings.

16 3. If the Partial Stay remains in place following the grant of some or all of the *inter*
17 *partes* review petitions, the Parties shall jointly file a status report within 10 days of the date on
18 which the last of the PTAB's final written decision is rendered on the *inter partes* reviews. Upon
19 notice of issuance of the PTAB's final written decision to the Court, the stay is lifted subject to
20 further order of the Court.

21 4. This Order is without prejudice to either party filing a motion to lift the stay upon
22 a showing of good cause.

23 5. The Partial Stay will not include any of the non-patent claims (Counts I, VI and
24 VII), nor shall it disturb the schedule for the pending Motion to Disqualify Dickstein Shapiro LLP.

25 **IT IS SO STIPULATED.**

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Dated: July 22, 2014

Respectfully submitted,
JONES DAY

By: /s/ Patrick T. Michael
Patrick T. Michael

Attorneys for Plaintiff
SYNOPSIS, INC.

In accordance with Local Rule 5-1(i)(3), the above signatory attests that concurrence in the filing of this document has been obtained from the signatory below.

Dated: July 22, 2014

DICKSTEIN SHAPIRO

By: /s/ Deborah E. Fishman
Deborah E. Fishman

Attorneys for Defendant
ATOPTECH, INC.

IT IS SO ORDERED.

DATED: July 22, 2014

By: 
Hon. Maxine M. Chesney

SVI-149513v1