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ATOPTECH, INC.

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

SYNOPSIS, INC.,

Plaintiff,

v.

ATOPTECH, INC.,

Defendant.

Case No. 3:13-cv-02965 MMC (DMR)

**FURTHER PRETRIAL STIPULATION
AND ~~PROPOSED~~ ORDER REGARDING
TRIAL DISCLOSURES**

Date: February 22, 2016
Time: 9:00 A.M.
Judge: Hon. Maxine M. Chesney
Courtroom: 7, 19th Floor

1 Plaintiff Synopsys, Inc. ("Synopsys") and Defendant ATopTech, Inc. ("ATopTech")
2 (together, "the Parties"), by and through the undersigned counsel, submit this Stipulation and
3 Proposed Order Regarding Trial Disclosures.

4 WHEREAS the Parties have met and conferred about Synopsys' proposed trial
5 disclosures, included in section IX of the Joint Pretrial Statement filed on January 29, 2016 (ECF
6 No. 555); and

7 WHEREAS the Parties have met and conferred regarding various disclosures and
8 exchanges to take place during trial and wish to facilitate the orderly and efficient exchange of
9 such information.

10 NOW, THEREFORE, IT IS HEREBY STIPULATED AND AGREED by the Parties as
11 follows:

12 **STIPULATION ON TRIAL DISCLOSURES**

13 The Parties agree to the following exchange and notice schedule for trial disclosures:

14 **A. Corporate Representative:**

15 1. On February 15, 2016 at 6:00 pm, the parties identified their corporate
16 representative at trial. The parties will promptly meet and confer regarding any objections to the
17 corporate representative being present at any aspect of the trial.

18 **B. Demonstratives:**

19 2. The parties will exchange demonstratives to be used in opening statements by 2:00
20 pm the day before opening statements, and any revisions by 4:00 pm the day before opening
21 statements; provide any objections to such demonstratives by 6:00 p.m. on the day before opening
22 statements; and by 7:00 pm on the day before opening statements, meet and confer to resolve any
23 objections to opening statement demonstratives.

24 3. The parties will exchange demonstratives to be used in direct or adverse direct
25 examination of witnesses by 5:30 pm the day before their intended use; provide any objections to
26 such demonstratives by 7:30 p.m. on the day before their intended use and; by 9:30 pm on the day
27 before their intended use, meet and confer to resolve any objections to the demonstratives.

28 4. Subject to adjustments as may be required based on the schedule for closing

1 arguments, the parties will exchange demonstratives to be used in closing arguments by 5:00 pm
2 the day before closing arguments; provide any objections to such demonstratives by 8:00 p.m. on
3 the day before closing arguments and; by 9:00 pm on the day before closing arguments, meet and
4 confer to resolve any objections to the closing argument demonstratives.

5 5. Any demonstratives will be provided to opposing counsel as a color copy in PDF
6 form. If a demonstrative contains video, animations, or “builds,” it will be provided to opposing
7 counsel on DVD, CD, thumb drive, or FTP.

8 6. Subject to the Court’s instructions on this matter, if good faith efforts to resolve
9 objections to demonstratives fail, the objecting party shall bring any outstanding objections to the
10 Court’s attention prior to the opening statements, prior to the applicable witness being called to
11 the witness stand or prior to closing arguments, as applicable.

12 7. This provision on demonstratives does not apply to demonstratives created during
13 testimony or demonstratives to be used for cross examination, neither of which need to be
14 provided to the other side in advance of their use. In addition, blow-ups or highlights of exhibits,
15 parts of exhibits or testimony are not required to be provided to the other side in advance of their
16 use.

17 **C. Live Witnesses:**

18 8. On February 15, 2016 at 6:00 pm, the parties identified the witnesses likely to
19 testify live at trial.

20 9. No later than 5:30 pm the day before a witness may be called on direct
21 examination, the offering party will provide the name(s) and order of the witnesses to be called.

22 10. Where a party plans to call an adverse witness in its case in chief, that party will
23 notify the other side no later than 5:30 pm two days before that witness may be called, indicating
24 the order the witnesses are likely to be called.

25 **D. Witnesses Called By Deposition:**

26 11. Because the parties anticipate that the deposition designations that they will seek
27 to introduce into evidence at trial may be narrower than those served pretrial, the parties have
28 agreed to the following procedure.

1 12. By 6:00 pm, three days before the presentation of deposition testimony at trial on
2 direct examination, the party intending to introduce the testimony shall provide to opposing
3 counsel the page and line numbers to be presented at trial, a highlighted transcript and a video
4 clip that includes the affirmative designation to be played. The parties will meet and confer
5 regarding the resolution of objections, but agree that objections will not be played for the jury.

6 13. By 6:00 pm the next day, the opposing party will provide any objections to the
7 deposition testimony and shall also identify any counter-designations, by page and line number, a
8 highlighted transcript and a video clip that includes both the affirmative and counter-designations,
9 with all objections removed from the clip for the jury.

10 14. The offering party will provide any objections to the counter-designations by 9:00
11 pm the same day the counter-designations are provided.

12 15. The parties will file with the Court any outstanding objections to the deposition
13 designations the morning of the day before the offering party intends to present such testimony at
14 trial (or at a time designated by the Court).

15 **E. Exhibits:¹**

16 16. By 5:30 pm one day before a witness may be called live on direct or on adverse
17 direct examination, the calling party will provide opposing counsel a list of exhibits that are
18 intended to be used on direct examination with that witness. The parties recognize that there may
19 be a need to supplement its witness exhibit list with exhibits it did not anticipate using and agree
20 that, for good cause, the witness exhibit list may be supplemented no later than one hour prior to
21 calling the witness to the stand.

22 17. By 8:30 pm the day before a direct or adverse direct witness may be called live,
23 the other party will provide any objections to the identified exhibits, as well as any exhibits to be

24 ¹ Synopsys does not stipulate that any of the exhibit exchanges include impeachment
25 exhibits, which are not required to be disclosed under Rule 26(a)(3)(A). Synopsys will disclose
26 all exhibits it plans to enter into evidence on direct, cross, redirect, or recross with a witness, but
27 reserves its right to use any document, including documents that were not previously disclosed,
28 solely for impeachment purposes. To the extent ATopTech maintains that any document, even
one to be used solely for impeachment, must be exchanged on this schedule, Synopsys disagrees
and expressly does not so stipulate. Synopsys cannot anticipate what a witness might say on the
stand, and thus cannot anticipate what documents it might need to impeach a witness.

1 used with that witness.

2 18. By 9:30 the day before a witness may be called live, the calling party will provide
3 its objections to any exhibits identified by the opposing party. Thereafter, the parties will meet
4 and confer to attempt to resolve objections.

5 19. For exhibits that are to be presented by deposition testimony at trial, the offering
6 party will provide a list of any exhibits at the same time as the respective deposition designations.

7 20. The parties will raise with the Court any outstanding objections to the witness
8 exhibits the morning of the day the offering party intends to offer such exhibits (or at a time
9 designated by the Court).

10 Dated: February 21, 2016

Respectfully submitted,

JONES DAY

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

13 Attorneys for Plaintiff
14 SYNOPSIS, INC.
15

16 In accordance with Local Rule 5-1(i)(3), the above signatory attests that concurrence in
17 the filing of this document has been obtained from the signatory below.
18

19 Dated: February 21, 2016

ARNOLD & PORTER LLP

20 By: /s/ Paul Alexander
21 Paul Alexander

22 Attorneys for Defendant
23 ATOPTECH, INC.
24

25 IT IS SO ORDERED.

26 Dated: February 22, 2016

27 
28 Honorable Maxine M. Chesney
United States District Judge