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Attorneys for Defendant  
 ATOPTECH, INC.

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

21 SYNOPSYS, INC.,  
 22 Plaintiff,  
 23 v.  
 24 ATOPTECH, INC.,  
 25 Defendant.

**Case No. 3:13-cv-02965-MMC (DMR)**  
**REVISED JOINT ~~(PROPOSED)~~**  
**ORDER REGARDING SCHEDULE**  
**FOR ATOPTECH'S FOURTH**  
**AMENDED COUNTERCLAIMS**

1           WHEREAS, Synopsys filed its Amended Complaint on November 25, 2013, asserting  
2 claims for copyright infringement (Count I), breach of contract and breach of covenant of good  
3 faith and fair dealing (Counts XI-XII), and patent infringement (Counts II-V) (ECF No. 43)<sup>1</sup>;

4           WHEREAS, on March 13, 2015, ATopTech filed its First Amended Answer and  
5 Counterclaims, which asserted a copyright misuse counterclaim and several antitrust claims  
6 including a claim under Section 7 of the Clayton Act challenging two acquisitions and claims  
7 under Section 1 and 2 of the Sherman Act for tying and monopolization (ECF No. 252);

8           WHEREAS, on April 9, 2015, the Court bifurcated Synopsys's patent claims from its  
9 copyright and breach of contract claims, but deferred ruling on whether to bifurcate ATopTech's  
10 copyright misuse and antitrust counterclaims pending resolution of Synopsys' motion to dismiss  
11 (ECF No. 280);

12           WHEREAS, on April 27, 2015, the Court entered an Order setting deadlines and  
13 discovery limits on "Synopsys' patent claims (Counts II-V)" (ECF No. 291), which provides that  
14 fact discovery closes on July 15, 2016, expert discovery closes on October 15, 2016, dispositive  
15 motions shall be filed by December 15, 2016, and trial shall commence on February 27, 2017<sup>2</sup>;

16           WHEREAS, by Orders issued on May 8, 2015, August 7, 2015, and November 18, 2015  
17 (ECF Nos. 294, 342, 455), the Court dismissed ATopTech's copyright misuse defense claim and  
18 certain of its antitrust counterclaims and denied Synopsys' motion to dismiss regarding Count III,  
19 Count VI, and Count VIII to the extent they challenge certain license restrictions;

20           WHEREAS, on November 25, 2015, ATopTech filed its Fourth Amended Answer and  
21 Counterclaims, which asserts the remaining Antitrust Counterclaims that were not dismissed by  
22 the Court (ECF No. 471) (the "Antitrust Counterclaims");

23           WHEREAS, on December 15, 2015, Synopsys filed its Amended Answer to the  
24 Counterclaim (ECF No. 486);

25 \_\_\_\_\_  
26 <sup>1</sup> Synopsys' Amended Complaint was supplemented on January 26, 2016 to include  
supplemental copyright registration certificate numbers. *See* ECF No. 523; *see also* ECF No. 596  
(order denying motion to dismiss Supplemental Complaint).

27 <sup>2</sup> On July 30, 2015, the Clerk issued a Notice confirming the deadlines for the Copyright  
28 and Breach of Contract claims and the Patent Claims (ECF. 333).

1           WHEREAS, on November 19, 2015, the Court bifurcated the Antitrust Counterclaims  
2 from the copyright and breach of contract claims (ECF No. 456), and the parties agreed to meet  
3 and confer regarding a proposed schedule for the Antitrust Counterclaims (ECF No. 465, p. 60-  
4 61);

5           WHEREAS, a jury trial on Synopsys' copyright and breach of contract claims (Counts I,  
6 XI-XII) concluded on March 10, 2016;

7           WHEREAS, a bench trial is set for July 25, 2016 on ATopTech's equitable estoppel  
8 affirmative defense;

9           WHEREAS, the parties have conducted minimal discovery related to the Antitrust  
10 Counterclaims to date and no Case Management Conference has been held or set;

11           WHEREAS, the parties agree that the Antitrust Counterclaims should be bifurcated from  
12 the patent claims (Counts II-V) because the claims involve separate, complex bodies of law and  
13 involve distinct factual and legal issues;

14           WHEREAS, the parties agree that discovery on the Antitrust Counterclaims should be  
15 deferred until thirty days after the entry of a verdict at the trial on the patent claims, in light of the  
16 time and cost associated with the equitable estoppel bench trial and the ongoing patent discovery  
17 and ultimate trial on the patent claims; and

18           WHEREAS, the parties agree that the period of time required to complete proceedings on  
19 the Antitrust Counterclaims shall not, in and of itself, constitute a basis for entry of partial  
20 judgment under Rule 54(b) as to any other claims.

21           NOW, THEREFORE the parties jointly submit the following proposed deadlines relating  
22 to ATopTech's Fourth Amended Counterclaims:

23  
24  
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26  
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28

**Proposed Schedule for ATopTech’s Fourth Amended Counterclaims:**

<b>DEADLINE</b>	<b>EVENT</b>
30 days after entry of a verdict at the trial on Synopsys’ Patent Claims	Discovery commences. Any discovery previously served will be deemed served as of this date
30 days after commencement of Fact Discovery	Updates to Rule 26 Initial Disclosures
Six months after commencement of Fact Discovery	Close of Fact Discovery, including third-party discovery
30 days after conclusion of Fact Discovery	ATopTech’s Opening Expert Report(s)
30 days after service of ATopTech’s Opening Expert Report	Synopsys’s Expert Report(s)
21 days after service of Synopsys’s Rebuttal Report	ATopTech Rebuttal Expert Reports
21 days after service of ATopTech’s Rebuttal Expert Reports	Close of Expert Discovery
30 days after Close of Expert Discovery	Motion for Summary Judgment
3 weeks after filing Motions for Summary Judgment	Opp. to Motion for Summary Judgment
2 weeks after filing Oppositions	Reply in support of Motion for Summary Judgment
TBD	Hearing on Motion for Summary Judgment
TBD	Pre-Trial Conference
TBD	Trial

1 Dated: June 23, 2016

Respectfully submitted,

2 JONES DAY

3 By: /s/ David C. Kiernan  
David C. Kiernan

4 Attorneys for Plaintiff  
5 SYNOPSIS, INC.

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

8 ARNOLD & PORTER

9 By: /s/ Paul Alexander  
Paul Alexander

10 Attorneys for Defendant  
11 ATOPTECH, INC.

12  
13 The above joint proposed deadlines relating to ATopTech's Fourth Amended  
14 Counterclaims is approved and all parties shall comply with its provisions.

15 **IT SO ORDERED.**

16  
17 Dated: June 24, 2016

18 By: Maxine M. Chesney  
Hon. Maxine Chesney  
19 United States District Judge