



JONES DAY

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July 14, 2016

Dated: July 14, 2016

*Insufficient notice and improper form of request.

VIA CM/ECF

Hon. Maxine M. Chesney
United States District Court for the Northern District of California
450 Golden Gate Avenue
San Francisco, CA 94102

Re: Pretrial Conference in *Synopsis, Inc. v. ATopTech, Inc.*, No. 3:13-cv-02965-MMC

Dear Judge Chesney:

Synopsis respectfully requests that the Court schedule a pretrial conference on Tuesday, July 19, 2016 at 3:00 p.m. in anticipation of the parties' July 25 bench trial on ATopTech's equitable estoppel defense.

A pretrial conference is warranted because ATopTech has declined to identify the non-ATopTech witnesses it actually intends to call at trial. In its list of witnesses *likely* to be called at trial, ATopTech has identified eight former and current Synopsis employees and independent contractors. See ECF No. 783-1 at 44-50, 72-74.¹ But seven of these witnesses were never disclosed by ATopTech in the copyright case and its belated designation of such witnesses violates the parties' September 2015 stipulation. As set forth in Synopsis' pending *Motion in Limine No. 2*, ATopTech should be precluded from calling these previously undisclosed witnesses at trial. A pretrial conference will allow the Court to decide Synopsis' pending *in limine* motion to ensure an orderly trial.

A pretrial conference also will provide the opportunity to establish time limits for opening statements and for each party to present its case. And, to the extent ATopTech is permitted to examine previously undisclosed witnesses, a pretrial conference should be held to settle on the identity and order of witnesses that will actually be called at trial. While ATopTech has acknowledged that it does not intend to call all the non-ATopTech witnesses identified on its list, it has declined to provide Synopsis with a final list. For the sake of efficient trial management, and out of respect for the professional schedules of Synopsis' former and current employees, a pretrial conference should be held to determine the parties' final witness lists.

¹ The non-ATopTech witnesses include Dr. Dwight Hill, Noel Strader, Richard Goldman, Stephen Meier, Mark Lewis, Sridhar Panchapakesan, Mark B. Lefevre, and Mustafa Celik.

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Respectfully submitted,

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/s/Robert A. Mittelstaedt

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ATTORNEYS FOR SYNOPSIS, INC.