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11 Attorneys for FORMFACTOR, INC.

12 UNITED STATES DISTRICT COURT  
 13 NORTHERN DISTRICT OF CALIFORNIA  
 14 OAKLAND DIVISION

15 FORMFACTOR, INC., a Delaware  
 16 corporation,

17 Plaintiff,

18 v.

19 MICRO-PROBE INCORPORATED, a  
 20 California corporation, and DAVID  
 BROWNE, an individual,

21 Defendants.

CASE NO. 4:10-CV-10-03095 PJH (JCS)

**STIPULATION AND [PROPOSED]  
 ORDER REGARDING FILING SECOND  
 AMENDED COMPLAINT AND  
 MODIFYING CASE SCHEDULE**

Judge: Honorable Phyllis J. Hamilton

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 24 IT IS HEREBY STIPULATED by and between Plaintiff FormFactor, Inc. (“FormFactor”) and Defendants Micro-Probe Incorporated (“Micro-Probe”) and David Browne (“Mr. Browne”) (collectively, “Defendants”), by and through their counsel of record, as follows:

27 WHEREAS, on July 14, 2010, FormFactor filed the Complaint for: Patent Infringement; Breach of Confidence and Conspiracy to Breach Confidence; and Unfair Competition.

28 STIPULATION/[PROPOSED] ORDER REGARDING FILING SECOND AMENDED COMPLAINT / MODIFYING CASE SCHEDULE / CASE NO. CV 10-03095 PJH (JCS)

1           WHEREAS, on August 20, 2010, FormFactor filed the First Amended Complaint for:  
2 Patent Infringement; Misappropriation of Trade Secrets and Conspiracy to Misappropriate Trade  
3 Secrets; Breach of Confidence and Conspiracy to Breach Confidence; and Unfair Competition.

4           WHEREAS, on December 9, 2010, the Court held the initial Case Management Conference  
5 and issued a Minute Order in which the Court adopted Defendants' proposed schedule in the Joint  
6 Case Management Statement and set a Tutorial on September 30, 2011, at 9:00 a.m. and a Claim  
7 Construction hearing on October 12, 2011, at 9:00 a.m.

8           WHEREAS, on February 2, 2011, FormFactor requested Defendants to stipulate to the  
9 filing of FormFactor's Second Complaint for: Patent Infringement; Misappropriation of Trade  
10 Secrets and Conspiracy to Misappropriate Trade Secrets; Breach of Confidence and Conspiracy to  
11 Breach Confidence; and Unfair Competition (the "SAC"), which, among other things, adds two  
12 claims for relief alleging infringement by Micro-Probe of two additional patents. A copy of the  
13 SAC was attached as Exhibit A to the prior version of this Stipulation (Dkt. 79).

14           WHEREAS, Defendants agree to the filing of the SAC on the condition that the case  
15 schedule be modified by sixty days (or as close thereto as possible in light of weekends and the  
16 Court's calendar) as reflected in the "Proposed New Dates" column in the table set forth below.

17           WHEREAS, the only previous time modifications in the case, whether by stipulation or  
18 Court order, have been (a) pursuant to stipulation filed September 2, 2010, the deadline for David  
19 Browne to respond to the complaint was extended by two weeks to September 21, 2010; and  
20 (b) pursuant to stipulation and Court Order (Dkt. No. 70), the deadline for lead counsel to meet and  
21 confer by six days to February 17, 2011.

22           WHEREAS, while the Court in its February 23, 2012 Minute Order following the hearing  
23 on Micro-Probe's Motion for Stay approved a new tutorial date of January 13, 2012 and a new  
24 claim construction date of January 25, 2012, it turns out that no date in January 2012 works for  
25 FormFactor's counsel Robinson, who will be on a vacation to Antarctica during all of January 2012  
26 and the January 13, 2012 date also does not work for Micro-Probe's counsel Fowler, who is  
27 committed to a *Markman* hearing in another case on that date.

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1 NOW, THEREFORE, the parties, by and through their counsel, hereby stipulate and  
2 respectfully request the Court order as follows:

3 1. Subject to the Court's approval, FormFactor may file the SAC.

4 2. Subject to the Court's approval and any modifications made by the Court based  
5 upon the Court's availability to hold the Tutorial and Claim Construction Hearing, the case  
6 schedule will be modified as set forth in the "Proposed New Dates" column in the following table:

7

| 8 <b>EVENT (Patent Local Rule)</b>               | <b>Current Dates</b> | <b>Proposed New Dates</b> |
|--|----------------------|---------------------------|
| 9 Initial Disclosures                            | Already done         | Completed                 |
| 10 Case Management Conference                    | December 9, 2010     | Completed                 |
| 11 Infringement Contentions (3-1, 3-2)           | March 1, 2011        | April 29, 2011            |
| 12 Invalidity Contentions (3-3, 3-4)             | May 16, 2011         | July 15, 2011             |
| 13 Exchange Claim Terms (4-1)                    | May 30, 2011         | July 29, 2011             |
| 14 Meet and Confer re Claim Terms (4-1(b))       | June 13, 2011        | August 12, 2011           |
| 15 Exchange Claim Constructions (4-2)            | June 20, 2011        | August 19, 2011           |
| 16 Meet and Confer re Claim Constructions (4-2c) | July 5, 2011         | September 2, 2011         |
| 17 Joint Claim Construction Statement (4-3)      | July 14, 2011        | September 12, 2011        |
| 18 Close Claim Construction Discovery (4-4)      | August 12, 2011      | October 11, 2011          |
| 19 Patentee's Claim Construction Brief (4-5a)    | August 29, 2011      | November 28, 2011         |
| 20 Opposing Claim Construction Brief (4-5b)      | September 12, 2011   | December 12, 2011         |
| 21 Reply Claim Construction Brief (4-5c)         | September 19, 2011   | December 19, 2011         |
| 22 Tutorial                                      | September 30, 2011   | February 10, 2012         |
| 23 Claim Construction Hearing (4-6)              | October 12, 2011     | February 22, 2012         |

24 Dated: February 25, 2011

FOLEY & LARDNER LLP

25 By: /s/ William J. Robinson

26 William J. Robinson

27 Victor de Gyarfas

28 Gina A. Bibby

Justin M. Sobaje

Attorneys for Plaintiff FORMFACTOR, INC.

1 Dated: February 25, 2011

DLA PIPER LLP (US)

2

By: /s/ Michael G. Schwartz

3

Mark Fowler

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Ronald L. Yin

5

Michael G. Schwartz

6

Saori Kaji

Attorneys for Defendant

MICRO-PROBE INCORPORATED

7 Dated: February 25, 2011

LEWIS BRISBOIS BISGAARD & SMITH LLP

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By: /s/ Deborah F. Sirias

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Deborah F. Sirias

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Attorneys for

DAVID BROWNE

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

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14 DATED: February 28, \_\_\_\_\_, 2011

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**CERTIFICATE OF CONCURRENCE**

I hereby attest that concurrence in the filing of this document have been obtained from counsel for Micro-Probe, Inc. and David Browne.

Dated: February 25, 2011

FOLEY & LARDNER LLP

By: /s/ William J. Robinson  
William J. Robinson  
Attorneys for Plaintiff  
FORMFACTOR, INC.