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 12 RUDOLPH TECHNOLOGIES, INC.

13 UNITED STATES DISTRICT COURT
 14 NORTHERN DISTRICT OF CALIFORNIA
 15 SAN JOSE DIVISION

17 MEHRDAD NIKOONAHAD,)
)
 18 Plaintiff,)
)
 19 v.)
)
 20 RUDOLPH TECHNOLOGIES, INC. and)
 DOES 1-25, inclusive,)
 21 Defendants.)

CASE NO.: C 08-2290 JF
**REQUEST FOR CONTINUANCE OF
 CASE MANAGEMENT
 CONFERENCE UNTIL
 COMPLETION OF SCHEDULED
 MEDIATION AND [PROPOSED]
 ORDER THEREON; AND UPDATE
 TO PRIOR JOINT STATEMENT**

Current date: March 12, 2010
 Time: 10:30 AM
 Dept: 3
 Judge: Hon. Jeremy Fogel

**REQUESTED NEW CONFERENCE
 DATE: APRIL 30, 2010**

1 The mediation of this action has been scheduled for April 14, 2010. The mediation will
2 occur in Palo Alto before an experienced professional mediator. Plaintiff Mehrdad Nikoonahad
3 and defendant Rudolph Technologies, Inc. (“Rudolph”) therefore jointly request a continuance of
4 the Case Management Conference currently scheduled for March 12, 2010 so that the
5 Conference occurs after the mediation has been completed. The parties request the Court to
6 continue the Conference to April 30, 2010.

7 The parties also respectfully submit the following update to the Joint Case Management
8 Statement that was filed on December 24, 2009.

9 **BACKGROUND**

10 On May 13, 2009, the Court entered an order granting in part and denying in part
11 Rudolph’s motion to dismiss Nikoonahad’s second amended complaint without leave to amend.
12 Pursuant to that order, the Court dismissed all claims except for Nikoonahad’s claim for breach
13 of the implied covenant of good faith and fair dealing. Rudolph filed its answer to the second
14 amended complaint and counterclaims on June 1, 2009. On September 4, 2009, the Court
15 entered an order granting Nikoonahad’s motion to dismiss Rudolph’s counterclaims with leave to
16 file amended counterclaims by October 5, 2009. Rudolph did not file amended counterclaims.

17 At the June 19, 2009, Case Management Conference the Court ordered the parties to
18 mediate this dispute within 90 days of completing certain discovery.

19 **UPDATE TO PRIOR JOINT STATEMENT**

20 The parties submitted a joint statement regarding the status of this case on December 24,
21 2009. *See* Docket No. 90. The following developments have occurred since the filing of that
22 joint statement.

23 1. On December 16, 2009, Magistrate Judge Trumbull ordered the parties to meet and
24 confer and submit a joint, or else their respective, form of a proposed protective order governing
25 confidentiality that tracks the language of the Court’s model protective order. The parties
26 submitted the requested proposed protective order to Judge Trumbull on January 7, 2010.

27 2. On January 19, 2010, plaintiff served his written responses to Rudolph’s first set of
28 written discovery requests and interrogatories. On February 8, 2010, following meet-and-confer

1 correspondence between the parties, plaintiff served amended written responses to Rudolph's
2 first set of interrogatories. On February 17, 2010, plaintiff served amended written responses to
3 Rudolph's first set of document requests and produced documents responsive to Rudolph's
4 document requests.

5 3. On January 26 and February 25, 2010, Rudolph produced documents responsive to
6 plaintiff's document requests.

7 4. The parties are continuing to discuss certain outstanding discovery issues. Rudolph
8 has also issued a second set of requests for the production of documents.

9 5. At the time of the June 2009 case management conference, the parties contemplated
10 conducting a limited number of depositions before mediating this lawsuit. In February 2010, the
11 parties agreed to conduct a mediation prior to incurring the time and expense of depositions. The
12 parties selected a mediator and scheduled the mediation to occur on April 14, 2010 in Palo Alto.

13 **THE PARTIES' JOINT REQUEST**

14 The parties jointly request a continuance of the Case Management Conference currently
15 scheduled for March 12, 2010, so that the parties can report the results of the mediation to the
16 Court. The parties request the Court to continue the Conference to April 30, 2010, which is
17 approximately two weeks after the mediation.

18
19 Dated: March 3, 2010

ARDELL JOHNSON

20 By: /s/ Ardell Johnson
Ardell Johnson

21 Attorney for Plaintiff
22 MEHRDAD NIKOONAHAD

23 Dated: March 3, 2010

WILSON SONSINI GOODRICH & ROSATI
Professional Corporation

25 By: /s/ Rodney G. Strickland, Jr.
Rodney G. Strickland, Jr.

26 Attorneys for Defendant
27 RUDOLPH TECHNOLOGIES, INC.
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[PROPOSED] ORDER

Pursuant to the parties' request that the Case Management Conference be rescheduled for a date after the parties' April 14, 2010 mediation, IT IS HEREBY ORDERED that the Case Management Conference previously scheduled for March 12, 2010 shall be continued to April 30, 2010 at 10:30a.m.

DATED: 3/11/2010



THE HON. JEREMY HOEL
UNITED STATES DISTRICT JUDGE

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Pursuant to General Order 45, the undersigned certifies that concurrence in the filing of the document was obtained from each of the signatories above.

Dated: March 3, 2010

By: /s/ Anthony J Weibell
Anthony J Weibell