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April 29, 2005

**OUR FILE NUMBER  
532,350-001**

**VIA E-FILING**

**WRITER'S DIRECT DIAL  
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Hon. Bernard Zimmerman  
United States District Court  
Northern District of California  
450 Golden Gate Avenue  
San Francisco, California 94102

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**Re: Synopsys, Inc. v. Magma Design Automation, Inc., C-04-03923-MMC (BZ)**

Your Honor:

Magma Design Automation, Inc. ("Magma") respectfully requests that the Court (1) clarify its previous order regarding Synopsys Inc.'s ("Synopsys") attempt to designate as confidential the entire transcript of and exhibits to Lukas van Ginneken's April 26 and 27, 2005 deposition, and (2) issue an order designating as non-confidential all portions of and exhibits to that transcript *other than* the following, for which Magma requests Attorneys and Consultants Only treatment: (a) Exhibits 22, 24 and 27 and testimony relating thereto (pp. 154-180, 350:2-358:19, and 422:4-435:5) (relating to allegedly confidential Synopsys documents), (b) Exhibits 15 and 31 testimony relating thereto (pp. 87:20-89:11, 330:2-331:10) (relating to confidential IBM documents), (c) confidential testimony relating to Magma's products (435:6-439:21), and (d) Exhibit 32 and testimony relating thereto (360:15-371:14) (relating to a confidential Magma document). Magma also requests an order preventing Synopsys from designating as confidential those portions of Dr. van Ginneken's deposition testimony regarding his declaration dated March 10, 2005 as publicly filed by Synopsys on April 11, 2005. By publicizing Dr. van Ginneken's declaration and then attempting to keep his testimony about this declaration and other directly related subjects confidential, Synopsys is improperly attempting to use confidentiality designations as a sword and a shield and thereby prevent Dr. van Ginneken from publicly clarifying the testimony in a publicly-filed declaration.

On April 11, 2005, Synopsys filed a declaration of Dr. van Ginneken in support of two summary judgment motions. Synopsys filed this declaration the same day it dismissed its \$100 million suit against Dr. van Ginneken. Some of the exhibits to the declaration were filed under seal, but the entire text of the declaration was publicly filed. Shortly after Synopsys filed the declaration, it mysteriously appeared on various Internet sites. Magma and Dr. van Ginneken have suffered and continue to suffer harm to their business and reputation as a result of negative

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publicity surrounding the publication of this declaration. As Dr. van Ginneken's deposition testimony confirms, his declaration is incomplete and misleading in many material respects.

On April 26, 2005, Magma deposed Dr. van Ginneken. At the outset of the deposition, Synopsys stated that it would be designating the *entire* transcript confidential under a draft protective order. Magma stated that this blanket designation was improper under Your Honor's January 30, 2002 Addendum to Protective Order. Questioning proceeded. Later in the deposition, Synopsys refused to permit Magma to question Dr. van Ginneken about several documents that Synopsys asserted contain confidential Synopsys information because Dr. van Ginneken would not sign an agreement to be bound by a draft stipulated protective order (there is no finalized protective order in this case).

During a break in the deposition, the parties spoke with law clerk Robert Nolan on the record to attempt to resolve these disputes. After speaking with Your Honor, Mr. Nolan called the parties later that day and instructed the parties on the record that exhibits and testimony that a party specifically identified as confidential should be separately bound and sealed and treated as confidential. He said that the parties could, if necessary, thereafter file motions to resolve the proper treatment of those documents and testimony. Mr. Nolan did not say that the parties could perform blanket confidential designations of the entire transcript. In good faith, at the deposition Magma offered to give Synopsys until the close of business today to review and designate the transcript, but Synopsys has apparently declined this offer.

Synopsys has taken the position on the record that the entire transcript is confidential despite the fact that the vast majority of its deals with the public van Ginneken declaration, patents, published articles, and other non-confidential matters. Magma believes such blanket designation to be inconsistent with the Court's instructions and the Addendum to Protective Order as well an abuse of any good-faith designation protocol.

Very truly yours,

/s/ Christopher D. Catalano

Christopher D. Catalano  
for O'Melveny & Myers LLP