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Adobe Systems Incorporated v. Childers et al.

The Court, having read and considered the Joint Stipulation for Permanent Injunction and Dismissal with Prejudice that has been executed by Plaintiff Adobe Systems Incorporated ("Plaintiff") and Defendants Adam Childers, an individual, and Softwaremedia.com, Inc. (collectively "Defendants") in this action, and good cause appearing therefore, hereby:

ORDERS that based on the Parties' stipulation and only as to Defendants, their successors, heirs, and assignees, this Injunction shall be and is hereby entered in the within action as follows:

- This Court has jurisdiction over the parties to this action and over the subject matter hereof pursuant to 17 U.S.C. § 101 *et seq.*, 15 U.S.C. § 1051, *et seq.*, 15 U.S.C. § 1121, and 28 U.S.C. §§ 1331 and 1338. Service of process was properly made against Defendants.
- 2) Plaintiff claims to be the owner of all rights in and to the copyright and trademark registrations listed in Exhibits A and B attached hereto and incorporated herein by this reference (collectively referred to herein as "Plaintiff's Properties").
- 3) Plaintiff has alleged that Defendants have made unauthorized uses of Plaintiff's Properties or substantially similar likenesses or colorable imitations thereof. Defendants have denied all allegations raised by Plaintiff's complaint.
- 4) Defendants and their agents, servants, employees and all persons in active concert and participation with them who receive actual notice of the Injunction are hereby restrained and enjoined from:
 - a) Infringing Plaintiff's Properties, either directly or contributorily, in any manner, including, but not limited to, manufacturing, importing, distributing, advertising, selling and/or offering for sale any product which features any of Plaintiff's Properties, including, but not limited to, any product sold outside specified channels or in a manner which violates the terms of Plaintiff's distribution or license agreements (collectively "Unauthorized Products"), including, but not necessarily limited to,
 - Any original equipment manufacturer versions ("OEM") of Plaintiff's software products, without the accompanying hardware with which the OEM software was originally distributed;

- ii) Any academic or educational versions of Plaintiff's software distributed to any unqualified purchaser, without seeking proper proof of academic affiliation, or in any other manner which violates the restrictions on academic or educational software as outlined in Plaintiff's distribution and license agreements; or
- iii) Any grey market software, which is defined as any version of Plaintiff's product sold or distributed within a geographic region in which the software was not intended to be sold or distributed.
- b) The definition of Unauthorized Products does not include, nor does this Injunction prohibit, Defendants from distributing, advertising, selling and/or offering to sell any authorized versions of Plaintiff's software which have been legitimately manufactured and distributed specifically including 1) full retail versions intended for distribution within the United States, including TLP open licenses 2) Plaintiff's OEM software, including OEM products labeled "for bundles only" or with other similar language, that are distributed with the accompanying hardware with which it was originally distributed; and 3) academic or educational versions of Plaintiff's products sold to a qualified user in accordance with the controlling distribution agreement.
- c) Defendants, and their agents, servants, employees and all persons in active concert and participation with them who receive actual notice of the Injunction are hereby restrained and enjoined specifically from:
 - i) Importing, manufacturing, distributing, advertising, selling and/or offering for sale the Unauthorized Products or any other products which picture, reproduce, copy or use the likenesses of or bear a substantial similarity to any of Plaintiff's Properties;
 - ii) Importing, manufacturing, distributing, advertising, selling and/or offering for sale in connection with any Unauthorized Products any promotional materials,

labels, packaging or containers which picture, reproduce, copy or use the likenesses of or bear a confusing similarity to any of Plaintiff's Properties;

- iii) Engaging in any conduct that tends falsely to represent, or is likely to confuse, mislead or deceive purchasers, Defendants' customers and/or members of the public to believe, that the actions of Defendants, the products sold by Defendants, or Defendants themselves are connected with Plaintiff, are sponsored, approved or licensed by Plaintiff, or are affiliated with Plaintiff; and
- iv) Affixing, applying, annexing or using in connection with the importation, manufacture, distribution, advertising, sale and/or offer for sale or other use of any Unauthorized Products, a false description or representation, including words or other symbols, tending to falsely describe or represent such Unauthorized Products as being those of Plaintiff.
- 5) Each side shall bear its own fees and costs of suit.
- 6) Except as provided herein, all claims alleged in the Complaint are dismissed with prejudice.
- 7) This Injunction shall be deemed to have been served upon Defendants at the time of its execution by the Court.
- 8) The Court finds there is no just reason for delay in entering this Injunction and, pursuant to Rule 54(a) of the Federal Rules of Civil Procedure, the Court directs immediate entry of this Injunction against Defendants.
- 9) The Court shall retain jurisdiction of this action to entertain such further proceedings and to enter such further orders as may be necessary or appropriate to implement and enforce the provisions of this Injunction.
- 10) The above-captioned action shall be reopened should Defendants default under the terms of the Settlement Agreement.

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· l	This Court shall retain jurisdiction over the Defendants for the purpose of making further
3	orders necessary or proper for the construction or modification of this permanent injunction; the
4	enforcement hereof; and the punishment of any violations hereof.
5	DATED: October 14, 2011
6	Jeffrey Swhits
7	Hor deffey S. White Judge, United Justice Court for the Northern District of California
8	PRESENTED BY:
9	J. Andrew Coombs,
10	A Professional Corporation
11	By: Nicole Clocy
12	J. Andrew Coombs Nicole L. Drey
13	Attorneys for Plaintiff Adobe Systems Incorporated
14	
15	McCurdy & Leibl, LLP
16	By: Degrand Soyce
17	John D. McCurdy Reagan Elizabeth Boyce
18	Attorneys for Defendants Adam Childers, and Softwaremedia.com, Inc.
19	
20	
21	
22 23	
24	

EXHIBIT A Copyright Registrations

Title of Work	Copyright Registration No.
Acrobat 3D	TX0006277233
Acrobat Capture 1.0.	TX0004559023
Acrobat Capture 1.0.	TX0004559023
Acrobat Capture 2.0.	TX0004509574
Acrobat Capture 2.0.	TX0004509574
Acrobat Catalog for Windows.	TX0004001286
Acrobat Catalog for Windows.	TX0004001286
Acrobat Distiller 2.1 for Macintosh.	TX0004169553
Acrobat Distiller 2.1 for Macintosh.	TX0004169553
Acrobat Distiller 2.1 for Microsoft Windows.	TX0004169555
Acrobat Distiller 2.1 for Microsoft Windows.	TX0004169555
Acrobat Distiller for Microsoft Windows.	TX0003893510
Acrobat Distiller for Microsoft Windows.	TX0003893510
Acrobat Exchange 2.0 for Macintosh.	TX0004001287
Acrobat Exchange 2.0 for Macintosh.	TX0004001287
Acrobat Exchange 2.1 for Macintosh.	TX0004169554
Acrobat Exchange 2.1 for Macintosh.	TX0004169554
Acrobat Exchange 2.1 for UNIX.	TX0004231310
Acrobat Exchange 2.1 for UNIX.	TX0004231310
Acrobat Exchange and Acrobat Reader for Macintosh.	TX0003611923
Acrobat Exchange and Acrobat Reader for Macintosh.	TX0003611923
Acrobat Exchange and Acrobat Reader for Windows.	TX0003611922
Acrobat Exchange and Acrobat Reader for Windows.	TX0003611922
Acrobat Reader 2.0 for Windows.	TX0003893506
Acrobat Reader 2.0 for Windows.	TX0003893506
Acrobat Reader 3.0.	TX0004509573
Acrobat Reader 3.0.	TX0004509573
Acrobat Search for Macintosh.	TX0003991344
Acrobat Search for Windows.	TX0003978856
Acrobat Search for Windows.	TX0003978856
Acrobat.	TX0001644799
Adobe Accelio Capture Advanced Client 4.0 for Windows.	TX0005553357
Adobe Accelio Integrate Suite 6.0 for Windows.	TX0005553342
Adobe Acrobat 3.0 for Macintosh, Windows and UNIX.	TX0004583920
Adobe Acrobat 3.0 for Macintosh, Windows and UNIX.	TX0004583920
Adobe Acrobat 4.0.	TX0004961793
Adobe Acrobat 5.0 for Macintosh.	TX0005545266
Adobe Acrobat 5.0 for Windows.	TX0005545265
Adobe Acrobat 5.0 Getting Started Guide.	TX0005545267
Adobe Acrobat 6.0 for Macintosh.	TX0005748744
Adobe Acrobat 6.0 for Windows.	TX0005748745
Adobe Acrobat 7.0 Standard for Macintosh.	TX0006045087
Adobe Acrobat 7.0 Standard for Windows.	TX0006045086
Adobe Acrobat 8 Professional for Macintosh.	TX0006390830
Adobe Acrobat 8 Professional for Windows.	TX0006390827

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1	Adobe Acrobat 8 Standard for Macintosh.	TX0006390829
	Adobe Acrobat 8 Standard for Windows.	TX0006390828
2	Adobe Acrobat Approval 5.0 for Macintosh.	TX0005654837
3	Adobe Acrobat Approval 5.0 for Macintosh.	TX0005654837
	Adobe Acrobat Approval 5.0 for Windows.	TX0005436556
	Adobe Acrobat Capture 3.0 source code.	TX0005199559
7	Adobe Acrobat Connect 1.0 for Macintosh.	TX0006390834
5	Adobe Acrobat Connect 1.0 for Windows.	TX0006390835
	Adobe Acrobat Distiller Server 5.0.5.	TX0005758527
6	Adobe Acrobat Distiller Server 6.0 for UNIX.	TX0005847807
	Adobe Acrobat Distiller Server 6.0 for Windows.	TX0005847832
7	Adobe Acrobat eBook Reader v. 2.0.	TX0005335249
0	Adobe Acrobat eBook Reader v. 2.0.	TX0005335250
8	Adobe Acrobat Elements 1.0 for Windows.	TX0005611299
9	Adobe Acrobat Elements 6.0 for Windows.	TX0005780821
,	Adobe Acrobat Elements Server 6.0 for Windows.	TX0005848340
10	Adobe Acrobat Fill in 4.0.	TX0004241942
	Adobe Acrobat Inproduction 1.0.	TX0005200942
11	Adobe Acrobat Inproduction 1.0.	TX0005200942
	Adobe Acrobat Messenger 1.0.	TX0005241268
12	Adobe Acrobat Reader 5.0 for Macintosh.	TX0005412874
10	Adobe Acrobat Reader 5.0 for Windows.	TX0005412875
13	Adobe Acrobat Reader 5.0.5 for AIX.	TX0005605114
14	Adobe Acrobat Reader 5.0.5 for HP-UX.	TX0005605113
14	Adobe Acrobat Reader 5.0.5 for Solaris.	TX0005617024
15	Adobe Acrobat Reader 5.05 for Linux.	TX0005617021
	Adobe Acrobat Reader 5.1 for Macintosh.	TX0005620676
16	Adobe Acrobat Reader 5.1 for Windows.	TX0005620677
	Adobe Acrobat Reader for Palm OS 1.0 for Windows.	TX0005422793
17	Adobe Acrobat Reader for Palm OS 2.0 (Macintosh)	TX0005617023
18	Adobe Acrobat Reader for Palm OS 2.0 (Windows)	TX0005617022
10	Adobe Acrobat Reader for Palm OS Beta Windows.	TX0005422794
19	Adobe Acrobat Reader for Pocket PC : Version 1.0.	TX0005489269
	Adobe ActiveShare 1.0.	TX0005086423
20	Adobe ActiveShare 1.5 for Windows.	TX0005267528
	Adobe After Effects: 7.0 Professional for Windows.	TX0006277334
21	Adobe After Effects: Version 5.0 for Macintosh.	TX0005392887
22	Adobe After Effects : Version 5.0 for Windows.	TX0005438054
22	Adobe After Effects : Version 5.5 for Macintosh.	TX0005493399
23	Adobe After Effects : Version 5.5 for Windows.	TX0005493400
23	Adobe After Effects: Version 6.0 for Macintosh.	TX0005777908
24	Adobe After Effects: Version 6.0 for Windows.	TX0005777907
	Adobe After Effects 3.0 for Macintosh.	TX0004643401
25	Adobe After Effects 4.0 for Macintosh and Windows.	TX0005011464
	Adobe After Effects 5.5 Plug-in Power Pack for MacIntosh.	TX0005546626
26	Adobe After Effects 5.5 Plug-in Power Pack for Windows.	TX0005546627
27	Adobe After Effects 6.5 for Macintosh.	TX0005934788
27	Adobe After Effects 7.0 Standard for Macintosh.	TX0006277333
28	Adobe After Effects 7.0 Standard for Windows.	TX0006277335
20		

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		1
1	Adobe After Effects CS3 Professional for Windows and Macintosh.	TX0006457851
2	Adobe After Effects Production Bundle : Version 5.5 for Macintosh.	TX0005493398
2	Adobe After Effects Production Bundle : Version 5.5 for Windows.	TX0005493401
3	Adobe After Effects Production Bundle 5.0 for Macintosh.	TX0005392886
	Adobe After Effects Production Bundle 5.0 for Windows.	TX0005392888
4	Adobe After Effects Version 6.5 for Windows.	TX0005934787
	Adobe AlterCast 1.5 for Solaris.	TX0005520581
5	Adobe AlterCast 1.5 for Windows.	TX0005520583
	Adobe Atmosphere : Version 1.0 Public Beta.	TX0005401513
6	Adobe Atmosphere 1.0 for Windows.	TX0005780857
_	Adobe Atmosphere Player 1.0 for Windows.	TX0005748760
7	Adobe Audition 1.0 for Windows.	TX0005777207
0	Adobe Audition 1.5 for Windows.	TX0005932189
8	Adobe Audition 2.0 for Windows.	TX0006277359
9	Adobe Audition 3.0 for Windows.	TX0006816095
	Adobe Barcoded Paper Forms Solution 1.0 for Macintosh.	TX0005936309
10	Adobe Captivate 2 for Windows.	TX0006390833
	Adobe Carlson Regular.	TX0003374876
11	Adobe Caslon Alternate Bold Italic : Version 001.000.	TX0003501138
	Adobe Caslon Alternate Bold.	TX0003501547
12	Adobe Caslon Alternate Italic : Version 001.000.	TX0003501139
	Adobe Creative Suite 2 Premium for Macintosh.	TX0006131248
13	Adobe Creative Suite 2 Premium for Windows.	TX0006131245
14	Adobe Creative Suite 2 Standard for Macintosh.	TX0006131247
14	Adobe Creative Suite 2 Standard for Windows.	TX0006131246
15	Adobe Creative Suite for Macintosh.	TX0005844481
	Adobe Creative Suite for Windows.	TX0005844480
16	Adobe Dreamweaver CS3 Professional for Windows and Macintosh	TX0006534561
	Adobe Exchange 2.0 for Windows.	TX0003961129
17	Adobe Extension Manager CS3 for Windows and Macintosh.	TX0006531581
10	Adobe Fireworks CS3 for Windows and Macintosh.	TX0006531654
18	Adobe Flash CS3 Professional for Windows and Macintosh.	TX0006531604
19	Adobe Flash CS3 Professional for Windows and Macintosh.	TX0006531604
17	Adobe Flash Media Encoder 1.0.	TX0006526716
20	Adobe Flash Media Encoder 1.0.	TX0006526716
	Adobe Flash Player 9 for Linux.	TX0006476523
21	Adobe Flash Player 9 for Linux.	TX0006476523
	Adobe Flash Player 9 for Solaris.	TX0006457897
22	Adobe Illustrator : Version 5.0.1 (Mac).	TX0003846115
22	Adobe Illustrator : Version 5.5 (Mac).	TX0003846114
23	Adobe Illustrator: Version 6.0 Macintosh.	TX0004240043
24	Adobe Illustrator 10 for Macintosh.	TX0005446858
	Adobe Illustrator 10 for Windows.	TX0005446857
25	Adobe Illustrator 3.0.	TX0003000202
	Adobe Illustrator 8.0 for Macintosh and Windows.	TX0004953097
26	Adobe Illustrator 9.0 for Macintosh and Windows.	TX0005159819
	Adobe Illustrator CS for Macintosh.	TX0005780817
27	Adobe Illustrator CS for Windows.	TX0005780806
20	Adobe Illustrator CS3 for Windows and Macintosh.	TX0006531603
28		

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Adobe Illustrator.	TX0003380406
Adobe PageMaker 6.0 for Macintosh, Power Macintosh.	TX0004093314
Adobe PageMaker 6.5 Macintosh.	TX0004524555
Adobe PageMaker 7.0 for Macintosh.	TX0005409447
Adobe PageMaker 7.0 for Windows.	TX0005409446
Adobe Pagemaker Plug-in Pack for MacIntosh.	TX0005847834
Adobe Pagemaker Plug-in Pack for Windows.	TX0005847833
Adobe Photoshop : 5.5.	TX0005213806
Adobe Photoshop 6.0.	TX0005196369
Adobe Photoshop 7.0 for Macintosh.	TX0005562147
Adobe Photoshop 7.0 for Windows.	TX0005562148
Adobe Photoshop Album 2.0 for Windows.	TX0005780785
Adobe Photoshop CS for Macintosh.	TX0005780846
Adobe Photoshop CS for Windows.	TX0005780847
Adobe Photoshop CS2 for Macintosh.	TX0006131272
Adobe Photoshop CS2 Official JavaScript Reference	TX0006273756
Adobe Photoshop CS3 for Windows and Macintosh.	TX0006528611
Adobe Photoshop Elements : 4.0 for Macintosh.	TX0006277687
Adobe Photoshop Elements 1.0 for Macintosh and Windows.	TX0005329106
Adobe Photoshop Elements 2.0 for Macintosh.	TX0005592639
Adobe Photoshop Elements 2.0 for Windows.	TX0005592638
Adobe Photoshop Elements 4.0 for Windows.	TX0006139024
Adobe Photoshop Lightroom 1.0 for Macintosh and Windows.	TX0006526701
Adobe Photoshop Macintosh.	TX0003551958
Adobe Photoshop Version 3.0 Mac.	TX0003971820
Adobe Photoshop Version 3.0 Windows.	TX0003616850
Adobe Photoshop Version 5.0 Macintosh and Windows.	TX0004856009
Adobe Photoshop Windows.	TX0003596143
Adobe Photoshop.	TX0004068613
Adobe Photoshop.	TX0003120306
Adobe Photoshop.	TX0002897138
Adobetype Manager Deluxe 4.6 User Guide : Macintosh.	TX0005176752
Adope PhotoDeluxe, V1.0.	TX0004809739
Adope Photoshop: Version 4.0: Macintosh and Windows.	TX0004571653
Authorware 7.0	TX0005800627
Contribute 4 (Mac)	TX0003800027
Designer 6.0 (Win)	TX0005971404
Encore DVD 2.0	TX0003932242
Font Folio 9.0 (Mac)	TX0006277348
Font Folio Open Type	TX0005401449
Form Manager 6.0	TX0005645931
Framemaker 7.0 (Mac)	TX0005596921
Framemaker 7.0 (Win)	TX0005596921 TX0005596919
FreeHand MX (Mac)	TX0005596919
` '	TX0005746988
GoLive CS2 (Mac)	
GoLive CS2 (Win)	TX0006131269
Illustrator CS2 (Mac)	TX0006131282
Illustrator CS2 (Win)	TX0006131283

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InCopy CS (Win)	TX0005780858
InDesign CS2 (Mac)	TX0006139165
Macintosh Distiller.	TX0003893508
Macintosh PDF Writer.	TX0003893509
Macintosh Reader.	TX0003893511
Macromedia ColdFusion MX 7	TX0006201577
Macromedia Dreamweaver MX 2004	TX0005852659
Macromedia Fireworks MX 2004	TX0005839595
Macromedia Flash Lite 2.0	TX0006288632
Macromedia Flash Media Server 2	TX0006335779
Macromedia Flash MX 2004 Pro	TX0005852657
Macromedia RoboHelp HTML X5	TX0005944534
Macromedia RoboHelp X5	TX0005944535
Macromedia Shockwave for Authorware Run-time Version 3.5 [for	
Macintosh, Power Macintosh, Windows 3.1/95/NT]	TX0004695283
Macromedia Shockwave for FreeHand 5.0 (for Macintosh, Power	
Macintosh, Windows 3.1/95/NT)	TX0004671697
PhotoDeluxe 2.0 (Mac)	TX0004771678
PhotoDeluxe 2.0 (Win)	TX0004617316
Photoshop CS2 (Win)	TX0006131279
Photoshop Elements 5.0	TX0006389641
Premiere 7.0	TX0005777909
Premiere Elements 3.0	TX0006389647
Premiere Pro 1.5	TX0005931988
Premiere Pro 2.0	TX0006275628
Production Studio 1.0	TX0006277349
Shockwave for Director 5.0.	TX0004700912
Windows PDF Writer.	TX0003893507

EXHIBIT B Trademark Registrations

Trademark Registration No.:	Title of Work:	Rights Owner:
3029061	ADOBE	Adobe Systems Incorporated
2920764	PHOTOSHOP	Adobe Systems Incorporated
3111341	CREATIVE SUITE	Adobe Systems Incorporated
2993457	CO-AUTHOR	Adobe Systems Incorporated
3032288	A	Adobe Systems Incorporated
2983111	VISUAL COMMUNICATOR	Adobe Systems Incorporated
3065143	ADOBE LIVECYCLE	Adobe Systems Incorporated
2725811	ADOBE STUDIO	Adobe Systems Incorporated
2725810	ADOBE STUDIO	Adobe Systems Incorporated
2722546	ADOBE STUDIO	Adobe Systems Incorporated
2557911	CLEARLY ADOBE IMAGING	Adobe Systems Incorporated
2076967	THE ADOBE GROUP	Adobe Systems Incorporated
2081343	Α	Adobe Systems Incorporated
2817626	ROUNDTRIP HTML	Adobe Systems Incorporated
2060488	ILLUSTRATOR	Adobe Systems Incorporated
1988712	ADOBE	Adobe Systems Incorporated
1988711	A	Adobe Systems Incorporated
1988710	A	Adobe Systems Incorporated
1961762	AUTHORWARE	Adobe Systems Incorporated
1956216	ADOBE	Adobe Systems Incorporated
1901149	A ADOBE	Adobe Systems Incorporated
1850242	PHOTOSHOP	Adobe Systems Incorporated
1852943	A	Adobe Systems Incorporated
1651380	ADOBE PHOTOSHOP	Adobe Systems Incorporated
1475793	ADOBE	Adobe Systems Incorporated
1487549	ADOBE SYSTEMS	Adobe Systems Incorporated
	INCORPORATED	
1482233	ADOBE SYSTEMS	Adobe Systems Incorporated
	INCORPORATED	
1486895	ADOBE	Adobe Systems Incorporated
1479408	ADOBE ILLUSTRATOR	Adobe Systems Incorporated
1383131	POSTSCRIPT	Adobe Systems Incorporated

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1463458	POSTSCRIPT	Adobe Systems Incorporated
2520435	MACROMEDIA FLASH	Adobe Systems Incorporated
2650911	MACROMEDIA FLASH	Adobe Systems Incorporated
2852245	FLASH	Adobe Systems Incorporated
2855434	FLASH	Adobe Systems Incorporated
2060488	ILLUSTRATOR	Adobe Systems Incorporated
2068523	ACROBAT	Adobe Systems Incorporated
1997398	ACROBAT CAPTURE	Adobe Systems Incorporated
1901566	SHOCKWAVE	Adobe Systems Incorporated
2294926	DREAMWEAVER	Adobe Systems Incorporated
2091087	PAGEMAKER	Adobe Systems Incorporated