

1 [Counsel identified on signature page]

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**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN FRANCISCO DIVISION**

EOLAS TECHNOLOGIES  
INCORPORATED,  
  
Plaintiff,  
  
v.  
  
GOOGLE INC.,  
  
Defendant.

Case No: 3:17-cv-01138-JST  
**JOINT STIPULATION AND ~~PROPOSED~~  
ORDER SETTING EARLY SUMMARY  
JUDGMENT AND CLAIM  
CONSTRUCTION RECONSIDERATION  
BRIEFING SCHEDULES**

EOLAS TECHNOLOGIES  
INCORPORATED,  
  
Plaintiff,  
  
v.  
  
AMAZON.COM, INC.,  
  
Defendant.

Case No: 3:17-cv-03022-JST

EOLAS TECHNOLOGIES  
INCORPORATED,  
  
Plaintiff,  
  
v.  
  
WAL-MART STORES, INC.,  
  
Defendant.

Case No: 3:17-cv-03023-JST

1 Pursuant to Court’s Minute Entry regarding the Case Management Conference held  
2 August 2, 2017 (ECF No. 372), and Civil Local Rule 7-12, Plaintiff Eolas Technologies  
3 Incorporated (“Eolas”) and Defendants Google Inc. (“Google”), Amazon.com, Inc. (“Amazon”),  
4 and Wal-Mart Stores, Inc. (“Walmart”) (collectively, “Defendants”), by and through their  
5 respective attorneys, hereby submit the following Joint Stipulation, as follows:

6 WHEREAS, at the August 2, 2017 Case Management Conference, the Court ordered that  
7 Defendants are allowed to file a single motion for summary judgment regarding double  
8 patenting, obviousness-type double patenting, collateral estoppel, and/or res judicata (including  
9 *Kessler* doctrine);

10 WHEREAS, at the August 2, 2017 Case Management Conference, the Court ordered that  
11 Eolas may cross-move for summary judgment regarding double patenting, obviousness-type  
12 double patenting, collateral estoppel, and/or res judicata (including *Kessler* doctrine);

13 WHEREAS, at the August 2, 2017 Case Management Conference, the Court ordered that  
14 the parties meet and confer as to a briefing schedule for such summary judgment motions;

15 WHEREAS, at the August 2, 2017 Case Management Conference, the Court ordered that  
16 the parties meet and confer as to a briefing schedule for reconsideration of claim construction  
17 with respect to the term “interactive-content application”;

18 NOW THEREFORE IT IS HEREBY STIPULATED AND THE PARTIES JOINTLY  
19 REQUEST that the Court enter the below briefing schedule for the early summary judgment and  
20 claim construction reconsideration motions.

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DEADLINE DESCRIPTION	DATE
Defendants file motion for summary judgment	Friday, September 15, 2017
Defendants file motion for limited reconsideration of claim construction	Tuesday, September 26, 2017

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<b>DEADLINE DESCRIPTION</b>	<b>DATE</b>
Eolas files opposition brief, and if desired cross-motion for summary judgment	Friday, October 6, 2017
Eolas files opposition brief to motion for limited reconsideration of claim construction	Friday, October 13, 2017
Defendants file reply brief for Defendants' motion for summary judgment, and opposition brief to Eolas's cross-motion for summary judgment, if one was filed	Wednesday, October 18, 2017
Technology Tutorial	<del>At Court's convenience</del>
Eolas files reply brief for Eolas's cross-motion for summary judgment, if one was filed	Wednesday, October 25, 2017
Defendants file reply brief to motion for limited reconsideration of claim construction	Wednesday, October 25, 2017

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<b>DEADLINE DESCRIPTION</b>	<b>DATE</b>
Hearing on summary judgment motions	<del>Wednesday, November 1, 2017, if the Court is available</del> <sup>1,2</sup>
Claim Construction Hearing	At Court's convenience

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<sup>1</sup> Defendants believe that the Court will be better prepared for a hearing on Defendants' summary judgment motion, as well as Defendants motion for reconsideration regarding "interactive-content application," if the Court conducts the technology tutorial first. If the Court has no earlier dates available for a technology tutorial, Defendants suggest that since all parties appear to be available on November 1, the Court conduct the tutorial on that date, and hold the hearing on the summary judgment motion on December 5, the date the parties are available for the Further Case Management Conference. In response to Eolas's footnote below, counsel for Google is unavailable November 6-17, 2017 due to a trial in another matter.

<sup>2</sup> Eolas is amenable to Defendants' proposal to have a tutorial on November 1, 2017 in conjunction with the summary judgment hearing, if the Court desires. On the other hand, a change of date for a hearing on Defendants' summary judgment motion from November 1 to December 5, 2017 is strongly disfavored by Eolas. If a date other than November 1 is needed, Eolas's counsel is available for a hearing on November 2, 9, or 16. As noted at the Case Management Conference, Eolas continues to believe that the hearing on Defendants' summary judgment motion should be heard in advance of the December 5th Further Case Management Conference so that the conference will be more productive and so that the parties may quickly resume case deadlines after that conference. Further, it would be very inconvenient for Eolas's counsel to prepare for and attend a December 5 hearing that would encompass summary judgment issues in view of a previously-scheduled claim construction hearing on December 1 in Marshall, Texas, particularly given the other alternative dates in November upon which the hearing could be scheduled depending on Defendants' and Court availability. To be clear, however, Eolas and its counsel remain available for the Further Case Management Conference on December 5.

1 DATED: August 4, 2017

Respectfully submitted,

2  
3 By /s/ Kevin Burgess

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*Attorneys for Defendant Wal-Mart Stores, Inc.*

**PROPOSED ORDER**

Plaintiff Eolas Technologies Incorporated and Defendants Google Inc. (“Google”), Amazon.com, Inc. (“Amazon”), and Wal-Mart Stores, Inc. (“Walmart”) (collectively, “Defendants”) have stipulated to the below briefing schedule.

<b>DEADLINE DESCRIPTION</b>	<b>DATE</b>
Defendants file motion for summary judgment	Friday, September 15, 2017
Defendants file motion for limited reconsideration of claim construction	Tuesday, September 26, 2017
Eolas files opposition brief, and if desired cross-motion for summary judgment	Friday, October 6, 2017
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Defendants file reply brief for Defendants’ motion for summary judgment, and opposition brief to Eolas’s cross-motion for summary judgment, if one was filed	Wednesday, October 18, 2017
Technology Tutorial	<del>At Court’s convenience</del> October 31, 2017 at 2:00 p.m.
Eolas files reply brief for Eolas’s cross-motion for summary judgment, if one was filed	Wednesday, October 25, 2017
Defendants file reply brief to motion for limited reconsideration of claim construction	Wednesday, October 25, 2017
Hearing on summary judgment motions	<del>Wednesday, November 1, 2017</del> December 5, 2017 at 2:00 p.m.

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<b>DEADLINE DESCRIPTION</b>	<b>DATE</b>
Claim Construction Hearing	At Court's convenience

The parties' joint stipulation is GRANTED. The parties shall submit briefs pursuant to the above schedule.

PURSUANT TO STIPULATION, IT IS SO ORDERED.

DATED: August 8, 2017

  
Honorable Jon S. Tigar  
United States District Judge