

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TYLER DIVISION**

**EOLAS TECHNOLOGIES, INC., AND
THE REGENTS OF THE UNIVERSITY
OF CALIFORNIA**

Plaintiff,

v.

ADOBE SYSTEMS, INC., et al.,

Defendants.

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No. 6:09-cv-00446-LED

**CITIGROUP INC.’S ANSWER
TO PLAINTIFF’S THIRD AMENDED COMPLAINT**

Defendant Citigroup Inc. (“Citigroup”) respectfully submits this Answer to Plaintiff’s Third Amended Complaint for Patent Infringement as follows:

I. PARTIES

1. Citigroup lacks knowledge or information sufficient to form a belief as to the truth of Plaintiff’s allegations in paragraph 1.
2. Citigroup lacks knowledge or information sufficient to form a belief as to the truth of Plaintiff’s allegations in paragraph 2.
3. Citigroup lacks knowledge or information sufficient to form a belief as to the truth of Plaintiff’s allegations in paragraph 3.
4. Citigroup lacks knowledge or information sufficient to form a belief as to the truth of Plaintiff’s allegations in paragraph 4.
5. Citigroup lacks knowledge or information sufficient to form a belief as to the truth of Plaintiff’s allegations in paragraph 5.

6. Citigroup admits that it is a Delaware corporation with its principal place of business at 399 Park Avenue, New York, New York, but otherwise denies Plaintiff's allegations in paragraph 6.

7. Citigroup lacks knowledge or information sufficient to form a belief as to the truth of Plaintiff's allegations in paragraph 7.

8. Citigroup lacks knowledge or information sufficient to form a belief as to the truth of Plaintiff's allegations in paragraph 8.

9. Citigroup lacks knowledge or information sufficient to form a belief as to the truth of Plaintiff's allegations in paragraph 9.

10. Citigroup lacks knowledge or information sufficient to form a belief as to the truth of Plaintiff's allegations in paragraph 10.

11. Citigroup lacks knowledge or information sufficient to form a belief as to the truth of Plaintiff's allegations in paragraph 11.

12. Citigroup lacks knowledge or information sufficient to form a belief as to the truth of Plaintiff's allegations in paragraph 12.

13. Citigroup lacks knowledge or information sufficient to form a belief as to the truth of Plaintiff's allegations in paragraph 13.

II. JURISDICTION AND VENUE

14. In response to paragraph 14, Citigroup incorporates by reference its responses to paragraphs 1-13 as if fully set forth herein.

15. With respect to Plaintiff's allegations in paragraph 15, Citigroup does not contest that this Court has subject matter jurisdiction with respect to this matter. Citigroup otherwise

denies the allegations in paragraph 15 and specifically denies committing, or being liable for, any act of infringement.

16. To the extent the allegations in paragraph 16 are directed against defendants other than Citigroup, Citigroup lacks knowledge or information sufficient to form a belief as to the truth of those allegations. To the extent the allegations in paragraph 16 are directed against Citigroup, Citigroup does not contest personal jurisdiction with respect to this matter but otherwise denies the allegations in paragraph 16.

17. Citigroup denies the allegations in paragraph 17.

III. [ALLEGED] PATENT INFRINGEMENT

18. In response to paragraph 18, Citigroup incorporates by reference its responses to paragraphs 1-17 as if fully set forth herein.

19. Citigroup admits only that the '906 Patent issued on November 17, 1998 and the '985 Patent issued on October 6, 2009. Citigroup lacks knowledge or information sufficient to form a belief as to the truth of Plaintiff's remaining allegations in paragraph 19.

20. Citigroup lacks knowledge or information sufficient to form a belief as to the truth of Plaintiff's allegations in paragraph 20.

21. Citigroup lacks knowledge or information sufficient to form a belief as to the truth of Plaintiff's allegations in paragraph 21.

22. Citigroup lacks knowledge or information sufficient to form a belief as to the truth of Plaintiff's allegations in paragraph 22.

23. Citigroup lacks knowledge or information sufficient to form a belief as to the truth of Plaintiff's allegations in paragraph 23.

24. Citigroup denies Plaintiff's allegations in paragraph 24.

25. Citigroup lacks knowledge or information sufficient to form a belief as to the truth of Plaintiff's allegations in paragraph 25.

26. Citigroup lacks knowledge or information sufficient to form a belief as to the truth of Plaintiff's allegations in paragraph 26.

27. Citigroup lacks knowledge or information sufficient to form a belief as to the truth of Plaintiff's allegations in paragraph 27.

28. Citigroup lacks knowledge or information sufficient to form a belief as to the truth of Plaintiff's allegations in paragraph 28.

29. Citigroup lacks knowledge or information sufficient to form a belief as to the truth of Plaintiff's allegations in paragraph 29.

30. Citigroup lacks knowledge or information sufficient to form a belief as to the truth of Plaintiff's allegations in paragraph 30.

31. Citigroup lacks knowledge or information sufficient to form a belief as to the truth of Plaintiff's allegations in paragraph 31.

32. To the extent the allegations in paragraph 32 are directed against defendants other than Citigroup, Citigroup lacks knowledge or information sufficient to form a belief as to the truth of those allegations. To the extent the allegations in paragraph 32 are directed against Citigroup, Citigroup denies the allegations.

33. To the extent the allegations in paragraph 33 are directed against defendants other than Citigroup, Citigroup lacks knowledge or information sufficient to form a belief as to the truth of those allegations. To the extent the allegations in paragraph 33 are directed against Citigroup, Citigroup denies the allegations.

34. To the extent the allegations in paragraph 34 are directed against defendants other than Citigroup, Citigroup lacks knowledge or information sufficient to form a belief as to the truth of those allegations. To the extent the allegations in paragraph 34 are directed against Citigroup, Citigroup denies the allegations.

35. To the extent the allegations in paragraph 35 are directed against defendants other than Citigroup, Citigroup lacks knowledge or information sufficient to form a belief as to the truth of those allegations. To the extent the allegations in paragraph 35 are directed against Citigroup, Citigroup denies the allegations.

IV. PRAYER FOR RELIEF

Citigroup denies that Plaintiff is entitled to any of the relief requested in paragraphs A-E of its Prayer for Relief, or to any relief whatsoever from Citigroup. Citigroup specifically denies committing, or being liable for, any act of infringement.

V. JURY DEMAND

No response is required to Plaintiff's jury demand.

CITIGROUP ADDITIONAL DEFENSES

1. Citigroup has not directly or indirectly infringed and is not directly or indirectly infringing any valid claim(s) of the '906 Patent or the '985 Patent.

2. The claims of the '906 Patent and the '985 Patent are invalid, void and/or unenforceable for failure to comply with the requirements of 35 U.S.C. §§ 102, 103 and/or 112.

3. Plaintiff's claims are barred, in whole or in part, under the doctrine of laches, waiver, and/or estoppel.

4. Plaintiff's claims are barred, in whole or in part, under the doctrine of unclean hands.

5. Plaintiff's Complaint fails to state a claim for which relief can be granted.

6. Plaintiff's claims are barred, in whole or in part, due to Plaintiff's failure to reasonably mitigate its damages, if any.

7. Plaintiff's claims are barred, in whole or in part, to the extent that any of the allegedly infringing products are directly or indirectly provided to Citigroup from or by an entity that has an express or implied license to the '906 patent or the '985 patent.

8. Plaintiff's claims against Citigroup are barred, in whole or in part, by licenses to at least the following: Microsoft, Oracle (Sun), and Apple.

9. Plaintiff's claims for damages as against Citigroup are barred, in whole or in part, by the doctrine of exhaustion.

10. The asserted patents are unenforceable under the doctrine of inequitable conduct and/or the doctrine of infectious unenforceability, and all causes of action based on those patents also must be dismissed under the doctrine of unclean hands. The particularized factual bases supporting this defense are set forth in the Expert Report submitted by Nicholas Godici on July 20, 2011 in this case, which is incorporated herein by reference. Additional factual bases are set forth in the Amended Answer filed on behalf of co-defendant YouTube [Docket No. 797] at Affirmative Defense 13, which is also incorporated herein by reference.

11. Plaintiff's claims against Citigroup are barred, in whole or in part, by the doctrine of intervening rights.

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Date: October 11, 2011

Respectfully submitted,

/s/ M. Scott Fuller

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ATTORNEYS FOR DEFENDANT
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CERTIFICATE OF SERVICE

The undersigned hereby certifies that all counsel of record who are deemed to have consented to electronic service are being served with a copy of this document via the Court's CM/ECF system per Local Rule CV-5(a)(3) this 11th day of October, 2011.

/s/ M. Scott Fuller