

# EXHIBIT 1

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

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

*Plaintiffs,*

v.

ADOBE SYSTEMS INC., ET AL.,

*Defendants.*

Civil Action No. 6:09-CV-446 LED

JURY TRIAL DEMANDED

**DECLARATION OF JASON W. WOLFF IN SUPPORT OF REPLY IN SUPPORT OF  
DEFENDANTS' MOTION FOR SUMMARY JUDGMENT OF INVALIDITY UNDER  
SECTION 102(B)**

I, Jason W. Wolff, declare and state as follows:

1. I am a principal at Fish & Richardson P.C., counsel of record in this action for Defendant Adobe Systems Incorporated (“Adobe”). I am a member of the Bar of the State of California and of this Court. I have personal knowledge of the matters stated in this declaration and would testify truthfully to them if called upon to do so.

2. Attached as Exhibits B (Dkt. 1018-2) and C (Dkt. 1018-3) are true and correct copies of Exhibits 4 (January 31, 1993) and 7 (March 4, 1993), respectively, to the deposition of Eric Bina.

3. Attached as Exhibit D (Dkt. 1018-4) are excerpts from the Expert Report on Invalidity by Richard L. Phillips.

4. Attached as Exhibit E (Dkt. 1019) is a document showing part of a July 1993 message thread regarding browsers, which consists of true and correct copies of Exhibit 29 from the Deposition of David C. Martin and Exhibit 13 from the Deposition of Christopher McRae.

5. Eolas statement of fact no. 1 is denied. *See* Mukerji Exhibits 2 and 3 (Dkts. 869-2 and 869-3) particularly Dkts. 869-3 at 1 and 4 and 869-2 at 1 (respectively below):

**Claim Chart For Adobe Showing Indirect Infringement Of  
The '985 Patent Through pdf authoring tools and Direct And/Or Indirect  
Infringement Via Its PDF Viewers**

Claim	Claim Language	Evidence
1pre	A method for running an application program	Adobe indirectly, by induced and/or contributory infringement, infringes all elements of this claim, set forth below, through its pdf authoring tools, including but not limited to: <ul style="list-style-type: none"><li>• Acrobat Standard</li></ul>

		and any other tools used to create pdf or similar content.  For example, users of Adobe pdf authoring tools, the pdf authoring tools themselves and/or the servers hosting the pdf authoring tools (and/or the combination thereof) run an application program in a distributed hypermedia network environment, wherein the network environment comprises at least one client workstation and one network server coupled to the network environment. In addition, Adobe provides the infrastructure (e.g. the authoring tools/servers), in addition to instructions to users, and causes them to use Adobe pdf authoring tools in an infringing manner in their default and expected uses.
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\* Allegation not limited to the browser in use

6. Eolas statement of fact no. 2 is denied. The cited materials do not establish an October 1993 priority date.

7. Regarding Eolas statement of fact no. 3, Defendants agree that claim 1 of the '906 patent includes the quoted limitation, but dispute Eolas's characterization of the claim language.

Eolas has argued a contrary position elsewhere. *See, e.g.*, Dkt. 995 at footnotes 5 and 6:

<sup>5</sup> For the purposes of this response, "environment" refers to the "computer network environment" described in claim 1 of the '906 Patent, the "distributed hypermedia environment" described in claim 6 of the '906 Patent and claims 20–22 of the '985 Patent, and the "distributed hypermedia network environment" described in claims 1–3, 8, 10–11, and 36–43 of the '985 Patent.

<sup>6</sup> "Server-side" claims include independent claims 20 and 40 of the '985 Patent and their dependent claims. They are labeled server-side because they are directly infringed by entities (such as the defendants) that operate web servers. "Browser-side" claims include independent claims 1 and 6 of the '906 Patent and independent claims 1 and 36 of the '985 Patent. They are labeled browser-side because they are directly infringed by entities that make, use, or distribute browsers.

8. Defendants dispute the summary of the testimony in Eolas statement of fact nos. 4 and 5, which are raising a claim construction issue regarding the claim term "browser" as opposed to a "web browser," the latter being the subject of Mr. Wulff's testimony.

9. Eolas statement of fact no. 6 is denied. *See* Exhibit D (Dkt. 1019).

10. Eolas statement of fact no. 7 is denied. *See* Dkt. 869 at 6, figures 1 and 2 and Dkts. 896-2 and 896-3.

Executed this 14th day of October 2011, at San Diego, California.

/s/ Jason W. Wolff  
Jason W. Wolff

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a true and correct copy of the above and foregoing document has been served on October 14, 2011 to all counsel of record who are deemed to have consented to electronic service via the Court's CM/ECF system per Local Rule CV-5(a)(3).

*/s/ Jason W. Wolff* \_\_\_\_\_