

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

Eolas Technologies Incorporated, §
Plaintiff, § Civil Action No. 6:09-CV-00446-LED
vs. §
Adobe Systems Inc., Amazon.com, Inc., § JURY TRIAL
Apple Inc., Argosy Publishing, Inc., §
Blockbuster Inc., CDW Corp., §
Citigroup Inc., eBay Inc., Frito-Lay, Inc., §
The Go Daddy Group, Inc., Google Inc., §
J.C. Penney Company, Inc., JPMorgan §
Chase & Co., New Frontier Media, Inc., §
Office Depot, Inc., Perot Systems Corp., §
Playboy Enterprises International, Inc., §
Rent-A-Center, Inc., Staples, Inc., Sun §
Microsystems Inc., Texas Instruments Inc., §
Yahoo! Inc., and YouTube, LLC §
Defendants. §

ORDER GRANTING PLAINTIFFS' AND DEFENDANTS'
JOINT OMNIBUS MOTION IN LIMINE

The Court, having considered Plaintiffs' and Defendants' Joint Omnibus Motion in
Limine, finds that those motion in limine topics should be granted.

It is therefore ordered that:

For Motions in Limine Topics Proposed by Plaintiffs:

- 1) Defendants J.C. Penney Company, Inc., Adobe Systems Inc., Staples, Inc., and Citigroup
Inc. are precluded from presenting any argument, testimony, evidence, or reference to the effect
that Plaintiffs have licensed the "adult entertainment", "pornography", or "adult entertainment
industries" or that the licensed technology is used to provide pornographic and other online adult
videos and other media.

2) Plaintiffs and Defendants Yahoo! Inc., Amazon.com, Inc., and CDW Corp. are precluded from presenting against one another any argument, evidence, testimony, or reference to the retention agreement between the parties and their counsel or any reference to the nature of the agreement.

3) All Defendants (Adobe Systems Inc., Staples, Inc., J.C. Penney Company, Inc., The Go Daddy Group, Inc., Google Inc., YouTube LLC, Yahoo! Inc., Amazon.com, Inc., CDW Corp., and Citigroup Inc.) are precluded from presenting any argument, evidence, testimony, or reference to either Plaintiff as a “patent troll” or “patent pirate”.

4) Plaintiffs and Defendants Adobe Systems Inc., The Go Daddy Group, Inc., and Citigroup Inc. are precluded from presenting against one another any argument, evidence, testimony, or reference to legal and expert fees and expenses incurred by the parties in prosecuting and defending this litigation and/or incurred in a typical patent litigation, including but not limited to SI267566-578. This agreement will not in any way restrict use at trial of Eolas’ business plans, including argument, evidence, testimony, or reference to Eolas’ statements in Business Plans to the effect of making the cost of a license less than the cost of fighting an infringement suit.

5) Plaintiffs and Defendants CDW Corp. and J.C. Penney Company, Inc. are precluded from presenting against one another any argument, evidence, testimony, or reference to legal fees and expenses incurred by the parties in prosecuting and defending this litigation and/or incurred in a typical patent litigation, including but not limited to SI267566-578. This agreement will not in any way restrict use at trial of Eolas’ business plans, including argument, evidence, testimony, or reference to Eolas’ statements in Business Plans to the effect of making the cost of a license less than the cost of fighting an infringement suit.

6) Plaintiffs and all Defendants in this case (Adobe Systems Inc., Amazon.com, Inc., CDW Corp., Citigroup Inc., The Go Daddy Group, Inc., Google Inc., J.C. Penney Company, Inc., Staples, Inc., Yahoo! Inc., and YouTube, LLC) are precluded from presenting against one another any argument, evidence, testimony, or reference to (1) any jury study or focus groups that have been conducted by either party or (2) the use by either party of a shadow jury during trial.

For Motions *in Limine* Topics Proposed by Defendants Yahoo! Inc. and Amazon.com, Inc.:

1) Plaintiffs and Defendants Yahoo! Inc., Amazon.com, Inc., and CDW Corp. are precluded from presenting against one another any evidence, testimony, or argument concerning company firings and/or layoffs as a result of this litigation and/or damages awards.

2) Plaintiffs and Yahoo! Inc., Amazon.com, Inc., CDW Corp., Google Inc., and YouTube, LLC are precluded from presenting against one another any evidence, testimony, or argument of any kind mentioning religion of any particular individuals, including making any general references to religion or religious figures or symbols.

3) Plaintiffs are precluded from presenting against any Defendants any evidence, testimony, or argument referring, mentioning, or otherwise offering evidence of any kind regarding instances in which third parties have used or attempted to use Defendants' websites for any kind of unlawful or immoral purposes.

4) Plaintiffs and Defendants Yahoo! Inc., Amazon.com, Inc., Adobe Systems Inc., Google, Inc., CDW Corp., The Go Daddy Group, Inc., Staples, Inc., and YouTube, LLC are precluded from presenting against one another any evidence, testimony, or argument from any party referring to a prior retention or relationship between any expert with counsel or any party in this case.

5) Plaintiffs are precluded from presenting against any Defendants any evidence, testimony, or argument that they copied the patents-in-suit.

For Motions in *Limine* Topics Proposed by Defendants Adobe Systems Inc., Amazon.com, Inc., Citigroup Inc., The Go Daddy Group, Inc., Google Inc., J.C. Penney Company, Inc., Staples, Inc., Yahoo! Inc., and YouTube, LLC:

1) Plaintiffs and Defendants Adobe Systems Inc., Amazon.com, Inc., Citigroup Inc., The Go Daddy Group, Inc., Google Inc., J.C. Penney Company, Inc., Staples, Inc., Yahoo! Inc., and YouTube, LLC are precluded from presenting against one another any evidence, testimony, argument, or reference to discovery disputes.

2) Plaintiffs and Defendants Adobe Systems Inc., Amazon.com, Inc., Citigroup Inc., The Go Daddy Group, Inc., Google Inc., J.C. Penney Company, Inc., Staples, Inc., Yahoo! Inc., and YouTube, LLC are precluded from presenting against one another any evidence, testimony, argument, or reference to the sufficiency of a party's production, investigation, and document collection efforts, including the content of a party's privilege log.

For Motions in *Limine* Topics Proposed by Defendant CDW Corp. (and for 3, Staples, Inc.):

1) Plaintiffs and Defendant CDW Corp. are precluded from presenting against one another any evidence, testimony, argument, or reference to the cost of defense or argument that the fact that this case is being defended is evidence of the value of the accused features.

2) Plaintiffs are precluded from presenting any evidence against Defendant CDW Corp. that is only relevant to willfulness based on Plaintiffs' representation that it will not pursue willfulness against CDW Corp.

3) Plaintiffs are precluded from presenting any evidence against Defendant Staples, Inc. that is only relevant to willfulness based on Plaintiffs' representation that it will not pursue willfulness against Staples, Inc.

For Motions *in Limine* Topics Proposed by All Defendants:

1) Plaintiffs and all Defendants are precluded from presenting any evidence, testimony, argument, or reference to motions *in limine* filed and the outcomes of such motions.

For Motions *in Limine* Topics Proposed by All Defendants and Modified Thereafter:

1) Plaintiffs and Adobe Systems Inc., Google Inc., YouTube, LLC, Staples, Inc., Citigroup Inc., Amazon.com, Inc., J.C. Penney Company, Inc., The Go Daddy Group, Inc., and Yahoo! Inc. are precluded from presenting any evidence, testimony, argument, or reference to summary judgment motions, motions to strike, and motions to exclude filed and the outcomes of such motions.

It is further ordered that the parties identified in each of the foregoing orders, their counsel, and through their counsel, any and all of their witnesses (whether testifying live or by deposition only), be instructed to refrain from any mention or interrogation, directly or indirectly, in any manner whatsoever, including the offering of documentary evidence or through deposition, of any of the matters set forth in this Order.