

**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.	§	

**PLAINTIFFS THE REGENTS OF THE UNIVERSITY OF CALIFORNIA
AND EOLAS TECHNOLOGIES INCORPORATED’S RESPONSE TO THE
STATEMENT BY GO DADDY, CDW AND JC PENNEY REGARDING
DEFENDANTS’ MOTION IN LIMINE, ISSUE NO. 4 [DKT. NO. 1190]**

Defendants Go Daddy, CDW, and J.C. Penney filed a “statement” regarding Defendants’ Motion in Limine issue 4, which seeks to preclude “suggestion, testimony, or argument regarding any Eolas Technologies Inc. litigation settlement agreements and resulting licenses”. [Dkt. No. 1189 at 4-6]. In their “statement”, Defendants Go Daddy, CDW, and J.C. Penney argue that “[t]he Microsoft license and settlement agreements would therefore be highly relevant to the Microsoft Server Defendants’ defenses should they go to trial, and the Court should not exclude this evidence in any trial involving these defendants.” [Dkt. No. 1190 at 2]. Accordingly, to the extent that Defendants Go Daddy, CDW, and J.C. Penney express their

opposition to the remaining Defendants' efforts to preclude evidence regarding the Microsoft license, Plaintiffs support such opposition. To the extent that Defendants Go Daddy, CDW, and J.C. Penney argue that their license defense is an issue for the jury to decide, Plaintiffs disagree, and as set forth in their Notice of Issues to Be Tried to the Bench [Dkt. No. 1173], Plaintiffs contend that Defendants' license defense is for the Court to decide.

Dated: January 13, 2012.

McKool Smith, P.C.

/s/ Mike McKool

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CERTIFICATE OF SERVICE

The undersigned certifies that the foregoing document, attachment, and exhibits were filed electronically in compliance with Local Rule CV-5(a) and, therefore, was served on all counsel of record on January 13, 2011.

/s/ Gretchen K. Curran
Gretchen K. Curran