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 UNOPPOSED MOTION FOR LEAVE TO FILE TWO ADDITIONAL MOTION IN LIMINE ISSUES SOLELY FOR THE "INVALIDITY TRIAL"

Plaintiffs file this Unopposed Motion¹ for Leave to File Two Additional Motion *in*Limine Issues Solely for the Validity Trial and in support thereof would show as follows:

I. ARGUMENT

Pursuant to the Court's Standing Order, which provides that "[e]ach side is limited to one motion in limine addressing no more than ten disputed issues" [Standing Order at 2], on January

¹ Plaintiffs and Defendants met and conferred on January 21, 2012 to discuss their prospective motion *in limine* issues. Each side indicated that they sought to file additional motion *in limine* issues and agreed that they would each file by 6:00 PM CST Sunday, January 22, 2012 their additional motion *in limine* issues. The parties further agreed that each side would file by 4:00 PM CST Monday, January 24, 2012 their responses to the other side's motion *in limine* issues.

6, 2012, Plaintiffs file their Omnibus Motion *in Limine* addressing ten disputed issues. [Dkt. No. 1186]. During the Court's January 19, 2012 hearing, the Court determined that the case would be tried in four trials, beginning with a jury trial solely on "invalidity". [Dkt. No. 1258 at 2]. In light of the Court's decision, Plaintiffs seek leave to file two additional motion *in limine* issues to preclude the presentation of any argument, evidence, testimony, or reference to (i) Plaintiffs' damages or infringement claims or (ii) Eolas' business success or failure, as set forth in Plaintiffs' Second Omnibus Motion *in Limine* Solely for the Validity Trial. While Defendants do not agree that such argument, evidence, testimony, or reference to the matters set forth in Plaintiffs' Second Omnibus Motion *in Limine* Solely for the Validity Trial should be precluded, they do not opposed the relief Plaintiffs request in this Motion—that Plaintiffs be granted leave to file two additional motion *in limine* issues.

II. CONCLUSION

In light of the foregoing, Plaintiffs respectfully request the Court grant Plaintiffs' Motion, granting them leave to file two additional motion *in limine* issues for the validity trial.

Dated: January 22, 2012.

McKool Smith, P.C.

/s/ Mike McKool

Mike McKool

Lead Attorney

Texas State Bar No. 13732100

mmckool@mckoolsmith.com

Douglas Cawley

Texas State Bar No. 04035500

dcawley@mckoolsmith.com

Holly Engelmann

Texas State Bar No. 24040865

hengelmann@mckoolsmith.com

McKool Smith, P.C.

300 Crescent Court, Suite 1500

Dallas, Texas 75201

Telephone: (214) 978-4000

Telecopier: (214) 978-4044

Kevin L. Burgess

Texas State Bar No. 24006927

kburgess@mckoolsmith.com

Josh W. Budwin

Texas State Bar No. 24050347

jbudwin@mckoolsmith.com

Gretchen K. Curran

Texas State Bar No. 24055979

gcurran@mckoolsmith.com

Matthew B. Rappaport

Texas State Bar No. 24070472

mrappaport@mckoolsmith.com

J.R. Johnson

Texas State Bar No. 24070000

jjohnson@mckoolsmith.com

MCKOOL SMITH, P.C.

300 West Sixth Street, Suite 1700

Austin, Texas 78701

Telephone: (512) 692-8700

Telecopier: (512) 692-8744

Robert M. Parker
Texas State Bar No. 15498000
rmparker@pbatyler.com
Robert Christopher Bunt
Texas Bar No. 00787165
rcbunt@pbatyler.com
Andrew T. Gorham

Texas State Bar No. 24012715

tgorham@pbatyler.com

PARKER, BUNT & AINSWORTH, P.C.

100 E. Ferguson, Suite 1114

Tyler, Texas 75702

Telephone: (903) 531-3535 Telecopier: (903) 533-9687

ATTORNEYS FOR PLAINTIFFS
THE REGENTS OF THE UNIVERSITY
OF CALIFORNIA AND EOLAS
TECHNOLOGIES INCORPORATED

CERTIFICATE OF CONFERENCE

I hereby certify that the parties met and conferred regarding the relief requested in this Motion on January 21, 2012. Defendants are unopposed to the relief requested in this Motion—that Plaintiffs be granted leave to file two additional motion *in limine* issues for the validity trial.

/s/ Gretchen K. Curran
Gretchen K. Curran

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, thus, was served on all counsel of record on January 22, 2011.

/s/ Gretchen K. Curran
Gretchen K. Curran