

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

TYLER DIVISION

DATE: January 24, 2012

JUDGE
LEONARD DAVIS

REPORTER: Shea Sloan

LAW CLERKS: Allan Bullwinkel, Eman Sojoodi, Nicole Mitchell

EOLAS TECHNOLOGIES INCORPORATED	CIVIL ACTION NO: 6:09-CV-446
V	MOTIONS HEARING
ADOBE SYSTEMS INCORPORATED	
ATTORNEYS FOR PLAINTIFFS	ATTORNEY FOR DEFENDANT
SEE SIGN-IN SHEETS	

On this day, came the parties by their attorneys and the following proceedings were had:

OPEN: 9:00AM

ADJOURN: 4:40 PM

TIME:	MINUTES:
9:00AM	Case called. PARTIES ANNOUNCED READY. (SEE SIGN-IN SHEETS)
	Court addressed the parties.
	Court asked for brief opening statement. John Campbell presented brief opening statement to Court.
	Mike Jones presented brief opening statement.
	Court inquired what has been resolved in re: motions (dkt# 860,868, 902, 1151, 1152, and 1154). Mr. Lumish responded. Mr. Beuther responded. Mr. Scherkenbach responded. Mr. Jones responded to CitiGroup's Motion to Exclude the Expert Report and Opinion of Roy Weinstein (docket # 1127), exclude testimony. Mr. Campbell responded
	Mike Jones addressed the court on Motion for Summary Judgment on willfulness. Ms. Doan addressed the court on docket # 907 and advised it has been withdrawn.
	Court will take up motions, Daubert, and the Microsoft License Agreement. Mr. McKool addressed the Court.

DAVID J. MALAND, CLERK

BY: *Amy Strother*, Courtroom Deputy

TIME:	MINUTES:
9:12am	Courtroom Sealed.
	Court asked for Defendants to lead off with three summary judgment motions (docket #790, 876, and 870).
	Mr. Scherkenbach addressed the Court.
	Mr. McNabnay presented Motion for Summary Judgment on behalf of Go Daddy (docket #790).
	Tom Duston presented Motion for Summary Judgment (docket# 876). Mr. Buether responded on behalf of J.C. Penney. James Batchelder responded on behalf of Google and You Tube.
	Court inquired if issue of one-way or two-way came up at claim construction. Mr. Batchelder responded and continued with his Motion for Summary Judgment.
	Court inquired if all defendants agree all are legal issues and not a fact issue. Mr. Batchelder responded. Mr. Duston responded.
	Court inquired what would be the dispute if Court denied Motion for Summary Judgment. Mr. Duston responded. Mr. Buether responded. Mr. McNabnay responded.
	Mr. Scherkenbach presented Adobe's Motion for Summary Judgment (docket #870).
	Mr. McKool responded to all Motions for Summary Judgment on the Microsoft Licenses. Mr. Campbell responded to Adobe's motion.
	Mr. McNabnay replied. Mr. Duston replied. Mr. Batchelder replied.
10:47am	Court in Recess.
11:04am	Court resumes. Courtroom unsealed.
	Mike Jones addressed the Court on Daubert Motions, (docket #861, 901, 903, 904, 905 and 1127); all regarding Roy Weinstein. Mr. Campbell responded. Mike Jones replied.
	Ed Reines addressed the Court. Michael Florey responded on behalf of Adobe regarding Defendant's Motion to Exclude Expert Testimony of Roy Weinstein (docket #903). Mr. Duston replied on behalf of CDW. Mark Matuschak replied on behalf of Staples. John Lane replied on behalf of Go Daddy. Mr. Buether replied on behalf of J.C. Penney. Mr. Campbell replied on behalf of Plaintiffs.
12:45 pm	Court in Recess.
2:00 pm	Court resumes.
	Sasha Rao, on behalf of Google and You Tube, addressed the Court on Defendant's Joint Motion for Partial Summary Judgment of Non-Infringement Based on Divided Infringement (docket #874). Kevin Burgess on behalf of Plaintiffs responded.
	Mike Jones addressed the court. James Batchelder on behalf of Google and YouTube addressed the Court on Defendant's Motion for Summary Judgment of No Enhanced Damages for Willful Infringement (docket #873). Gretchen Curran, on behalf of Plaintiffs, responded.

TIME:	MINUTES:
	Mr. Campbell addressed the Court regarding Motions in Limine.
	Doug Lumish, on behalf of Google and You Tube, addressed the Court on Daubert Motions (docket #860 and 868, 930 and 1152); all regarding Motions to Strike. Josh Budwin, on behalf of Plaintiffs, responded.
	Court inquired on Plaintiff's Motion to Preclude Reliance on Documents and Facts Related to A/B Testing Produced by J.C. Penney Company, Inc After Close of Fact Discovery (docket #1150)
	Josh Budwin addressed the court on Plaintiff's Motion to Preclude Reliance on Documents and Facts Related to A/B Testing Produced by J.C. Penney Company, Inc. After Close of Fact Discovery (dkt #1150) and J.C. Penney Corporation, Inc's Motion to Strike "Supplemental" Expert Reports of David Martin Disclosing New Infringement Contentions (docket #1152). Mr. Buether, on behalf of J.C. Penny, responded. Josh Budwin replied. Mr. Buether replied.
	Court DENIED Plaintiff's Motion to Preclude Reliance on Documents and Facts Related to A/B Testing Produced by J.C. Penney Company, Inc. After Close of Fact Discovery (docket #1150) and Court DENIED J.C Penny Corporation, Inc's Motion to Strike "Supplemental" Expert Reports of David Martin Disclosing New Infringement Contentions (docket #1152.)
	Mr. Scherkenbach addressed the court on Defendant's Daubert Motion Regarding Portions of the Expert Testimony of David Martin (docket #1151). Kevin Burgess responded.
	Mark Matuschak addressed the Court on Defendant Staples, Inc's Motion to Strike Late-Disclosed Infringement Allegations (docket #930). Josh Budwin responded.
	Court inquires about the Motions in Limine.
	Josh Budwin addressed the Court on Plaintiff's The Regents of the University of California and Eolas Technologies Inc's Omnibus Motion in Limine, MIL#1 (docket #1186). Jennifer Doan responded.
	Court GRANTED IN PART MIL #1 of Plaintiff's The Regents of the University of California and Eolas Technologies Inc's Omnibus Motion in Limine (docket #1186)
	Josh Budwin addressed the Court on MIL #2 of Plaintiff's The Regents of the University of California and Eolas Technologies Inc's Omnibus Motion in Limine.(docket #1186). Jared Bobrow, on behalf of Amazon and Yahoo, responded. Josh Budwin replied.
	Court GRANTED IN PART MIL#2 of Plaintiff's The Regents of the University of California and Eolas Technologies Inc's Omnibus Motion in Limine (docket #1186)
	Doug Cawley addressed the court on MIL #3 of Plaintiff's The Regents of the University of California and Eolas Technologies Inc's Omnibus Motion in Limine (docket #1186), Mike Florey responded. Mr. Cawley replied. Mr. Florey replied.
	Court GRANTED IN PART MIL#3 of Plaintiff's The Regents of the University of California and Eolas Technologies Inc's Omnibus Motion in Limine (docket #1186).
	Mr. Cawley addressed the Court on MIL #4 of Plaintiff's The Regents of the University of California and Eolas Technologies Inc's Omnibus Motion in Limine (docket #1186). Jennifer Doan responded.

TIME:	MINUTES:
	Court GRANTED IN PART MIL#4 of Plaintiff's The Regents of the University of California and Eolas Technologies Inc's Omnibus Motion in Limine (docket #1186).
	Josh Budwin addressed the Court on MIL #5 of Plaintiff's The Regents of the University of California and Eolas Technologies Inc's Omnibus Motion in Limine (docket #1186). Doug Lumish responded.
	Court GRANTED IN PART MIL#5 of Plaintiff's The Regents of the University of California and Eolas Technologies Inc's Omnibus Motion in Limine (docket #1186)
	Mr. Campbell addressed the Court on MIL #1 on Plaintiff's The Regents of the University of California and Eolas Technologies Incorporated' Second Omnibus Motion in Limine Solely for the Validity Trial (docket #1271). Ed Reines responded.
	Court GRANTED MIL #1 on Plaintiff's The Regents of the University of California and Eolas Technologies Incorporated' Second Omnibus Motion in Limine Solely for the Validity Trial (docket #1271).
	Mr. Campbell addressed the Court on MIL#2 of Plaintiff's The Regents of the University of California and Eolas Technologies Incorporated' Second Omnibus Motion in Limine Solely for the Validity Trial (docket #1271). Ed Reines responded.
	Court GRANTED MIL#2 of Plaintiff's The Regents of the University of California and Eolas Technologies Incorporated' Second Omnibus Motion in Limine Solely for the Validity Trial (docket #1271).
	Ed Reines addressed the Court on Defendant's Supplemental Motions in Limine Regarding the Invalidity Trial (docket #1273). Mr. Cawley responded. Ed Reines replied. Mr. Cawley replied.
	Court took under advisement MIL #1 and MIL#2 of Defendant's Supplemental Motions in Limine Regarding the Invalidity Trial (docket #1273) and GRANTED MIL #3.
	Mr. Campbell addressed the Court on Motions in Limine on Licensing Issues. Ed Reines responded. Mr. Cawley responded. Ed Reines replied.
	Jennifer Doan addressed the Court on Defendant's Motion in Limine (docket #1189). Mr. Campbell responded
	Court and parties discussed MIL#1 of Defendant's Motion in Limine (docket #1189).
	Jennifer Doan addressed MIL #2 of Defendant's Motion in Limine (docket #1189). Josh Budwin responded.
	Court DENIED MIL#2 denied of Defendant's Motion in Limine (docket #1189).
	Court advised parties on Trial Plan. Mike Jones responded.
	Mike Jones addressed the Court on Trial Time. Mr. Cawley responded.
	Court and parties discussed trial time for infringement and invalidity.
	Mr. Cawley addressed the Court on the order in which the parties will present each case. Mr. Jones responded.

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TIME:	MINUTES:
	Court inquired about the jury questionnaire and on mediation. Robert Parker responded.
4:40 pm	There being nothing further, Court adjourned.