

**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.	§	

**JOINT SUBMISSION OF JURY MATERIALS
FOR INVALIDITY TRIAL**

Plaintiff Eolas Technologies Corporation (“Plaintiff”) and 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 (“Defendants”), hereby submit the following jury materials for the invalidity trial:

Attached as Exhibit A hereto are the parties’ Joint Proposed Preliminary Jury Instructions for Invalidation Trial, with bracketed and highlighted individual proposals.

Attached as Exhibit B hereto are the parties’ Joint Proposed Final Jury Instructions for Invalidation Trial, with bracketed and highlighted individual proposals.

Attached as Exhibit C hereto is the parties' Proposed Verdict Form for Invalidity Trial.

The parties reserve the right to amend, supplement, or modify these proposed jury materials as the case proceeds toward the final pre-trial conference and trial, and as the parties continue to meet and confer regarding these materials. Additionally, the parties do not waive any objections to issues that are the subject of pending motions, including *Daubert* motions, motions to strike, motions for summary judgment, and motions *in limine*. Furthermore, the parties reserve their objections to other parties' individual proposals in the instructions and on the verdict forms.

DATED: February 2, 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
(903) 531-3535
(903) 533-9687- Facsimile

**ATTORNEYS FOR PLAINTIFF
EOLAS TECHNOLOGIES INC.
AND THE REGENTS OF THE
UNIVERSITY OF CALIFORNIA**

By: */s/ Douglas E. Lumish* (with permission)
Douglas E. Lumish, CA State Bar No.
183863

Jeffrey G. Homrig, CA State Bar No.
215890

Joseph H. Lee, CA State Bar No. 248046
Parker C. Ankrum, CA State Bar No.
261608

**KASOWITZ, BENSON, TORRES &
FRIEDMAN, LLP**

333 Twin Dolphin Drive, Suite 200
Redwood Shores, CA 94065
Tel: (650) 453-5170; Fax: (650) 453-5171
Email: dlumish@kasowitz.com
Email: jhomrig@kasowitz.com
Email: jlee@kasowitz.com
Email: pankrum@kasowitz.com
Jonathan K. Waldrop, GA State Bar No.
731103

**KASOWITZ, BENSON, TORRES &
FRIEDMAN, LLP**

1360 Peachtree St., N.E., Suite 1150
Atlanta, GA 30309
Tel: (404) 260-6080; Fax: (404) 260-6081
Email: jwaldrop@kasowitz.com
James R. Batchelder (*pro hac vice*)
Sasha G. Rao (*pro hac vice*)

Brandon H. Stroy (*pro hac vice*)
Rebecca R. Hermes (*pro hac vice*)
Lauren N. Robinson (*pro hac vice*)

ROPES & GRAY LLP

1900 University Avenue, 6th Floor
East Palo Alto, California 94303-2284
Tel: (650) 617-4000; Fax: (650) 617-4090
Email: james.batchelder@ropesgray.com
Email: sasha.rao@ropesgray.com
Email: brandon.stroy@ropes.gray.com
Email: lauren.robinson@ropesgray.com
Email: rebecca.hermes@ropesgray.com

Han Xu (*pro hac vice*)

ROPES & GRAY LLP

Prudential Tower, 800 Boylston St.
Boston, MA 02199-3600
Tel: (617) 951-7000; Fax: (617) 951-7050
Email: han.xu@ropesgray.com

Daryl Joseffer (*pro hac vice*)

King & Spalding

1700 Pennsylvania Avenue, NW, Suite 200
Washington, DC 2006-4707
Tel: (202) 737-0500; Fax: (202) 626-3737
djoseffer@kslaw.com

Michael E. Jones, TX State Bar No.
10929400

Allen F. Gardner, TX State Bar No.
24043679

POTTER MINTON

A Professional Corporation
110 N. College, Suite 500
Tyler, TX 75702
Tel: (903) 597-8311; Fax: (903) 593-0846
Email: mikejones@potterminton.com
Email: allengardner@potterminton.com

**ATTORNEYS FOR DEFENDANTS
GOOGLE, INC. AND YOUTUBE, LLC**

By: /s/ Edward R. Reines (with permission)

Edward R. Reines

Jared Bobrow

Sonal N. Mehta

Aaron Y. Huang

Andrew L. Perito

WEIL, GOTSHAL & MANGES LLP

201 Redwood Shores Parkway
Redwood Shores, CA 94065
Telephone: (650) 802-3000
Facsimile: (650) 802-3100
Email: edward.reines@weil.com
Email: jared.bobrow@weil.com
Email: sonal.mehta@weil.com
Email: aaron.huang@weil.com
Email: andrew.perito@weil.com
Doug W. McClellan
doug.mcclellan@weil.com

WEIL, GOTSHAL & MANGES LLP

700 Louisiana, Suite 1600
Houston, TX 77002
Telephone: (713) 546-5000
Facsimile: (713) 224-9511
Jennifer H. Doan
Texas Bar No. 08809050
Joshua R. Thane
Texas Bar No. 24060713

HALTOM & DOAN

Crown Executive Center, Suite 100
6500 Summerhill Road
Texarkana, TX 75503
Telephone: (903) 255-1000
Facsimile: (903) 255-0800
Email: jdoan@haltomdoan.com
Email: jthane@haltomdoan.com
Otis Carroll (Bar No. 3895700)
Deborah Race (Bar No. 11648700)

IRELAND, CARROLL & KELLEY, P.C.

6101 South Broadway, Suite 500
Tyler, Texas 75703
Telephone: (903) 561-1600
Facsimile: (903) 581-1071
Email: fedsery@icklaw.com

**ATTORNEYS FOR DEFENDANTS
AMAZON.COM, INC. and YAHOO!
INC.**

By: /s/ David J. Healey (with permission)

David J. Healey

healey@fr.com

FISH & RICHARDSON P.C.

1 Houston Center

1221 McKinney Street, Suite 2800

Houston, TX 77010

Telephone: (713) 654-5300

Facsimile: (713) 652-0109

OF COUNSEL:

Frank E. Scherkenbach

scherkenbach@fr.com

FISH & RICHARDSON P.C.

One Marina Park Drive

Boston, MA 02110-1878

Telephone: (617) 542-5070

Facsimile: (617) 542-8906

Jason W. Wolff

wolff@fr.com

FISH & RICHARDSON P.C.

12390 El Camino Real

San Diego, CA 92130

Telephone: (858) 678-5070

Facsimile: (858) 678-5099

Michael E. Florey

florey@fr.com

FISH & RICHARDSON P.C.

60 South 6th Street, Ste. 3200 RBC Plaza

Minneapolis, MN 55402

Telephone: (612) 335-5070

Facsimile: (612) 288-9696

ATTORNEYS FOR DEFENDANT

ADOBE SYSTEMS INC.

By: /s/ Thomas L. Duston (with permission)

Thomas L. Duston

tduston@marshallip.com

Julianne M. Hartzell

jhartzell@marshallip.com

John R. Labbé

jlabbé@marshallip.com

Scott A. Sanderson (*pro hac vice*)

ssanderson@marshallip.com

MARSHALL, GERSTEIN &

BORUN LLP

6300 Willis Tower

233 South Wacker Drive
Chicago, IL 60606-6357
Telephone: (312) 474-6300
Facsimile: (312) 474-0448
Eric H. Findlay (Bar No. 00789886)
efindlay@findlaycraft.com
Brian Craft (Bar No. 04972020)
bcraft@findlaycraft.com

FINDLAY CRAFT, LLP
6760 Old Jacksonville Highway
Suite 101
Tyler, TX 75703

Telephone: (903) 534-1100
Facsimile: (903) 534-1137

**ATTORNEYS FOR DEFENDANT
CDW LLC**

By: */s/ M. Scott Fuller (with permission)*

Edwin R. DeYoung (Bar No. 05673000)
edeyoung@lockelord.com

Roy W. Hardin (Bar No. 08968300)
rhardin@lockelord.com

Roger Brian Cowie (Bar No. 00783886)
rcowie@lockelord.com

M. Scott Fuller (Bar No. 24036607)
sfuller@lockelord.com

Galyn Gafford (Bar No. 24040938)
ggafford@lockelord.com

LOCKE LORD LLP
2200 Ross Avenue, Suite 2200
Dallas, TX 75201-6776
Telephone: (214) 740-8000
Facsimile: (214) 740-8800

Eric L. Sophir (*pro hac vice*)
eric.sophir@srdenton.com

SNR DENTON US LLP
1301 K Street, NW, Suite 600, East Tower
Washington, D.C. 20005

Telephone: (202) 408-6470
Facsimile: (202) 408-6399

**ATTORNEYS FOR DEFENDANT
CITIGROUP INC.**

By: /s/ Proshanto Mukherji (with permission)
Thomas M. Melsheimer (Bar No. 13922550)
txm@fr.com
Neil J. McNabney (Bar No. 24002583)
njm@fr.com
Carl E. Bruce (Bar No. 24036278)
ceb@fr.com

FISH & RICHARDSON P.C.
1717 Main Street, Suite 5000
Dallas, TX 75201
Telephone: (214) 747-5070
Facsimile: (214) 747-2091
Proshanto Mukherji (*pro hac vice*)
pvm@fr.com

FISH & RICHARDSON P.C.
One Marina Park Drive
Boston, MA 02110-1878
Telephone: (617) 542-5070
Facsimile: (617) 542-8906
**ATTORNEYS FOR DEFENDANT
THE GO DADDY GROUP, INC.**

By: /s/ Christopher M. Joe (with permission)
Christopher M. Joe (Bar No. 00787770)
chrisjoe@bjciplaw.com
Brian Carpenter (Bar No. 03840600)
brian.carpenterb@bjciplaw.com
Eric W. Buether (Bar No. 03316880)
eric.buethere@bjciplaw.com
BUETHER JOE & CARPENTER, LLC
1700 Pacific, Suite 2390
Dallas, TX 75201
Telephone: (214) 466-1270
Facsimile: (214) 635-1842
**ATTORNEYS FOR DEFENDANT
J.C. PENNEY CORPORATION**

By: /s/ Donald R. Steinberg (with permission)
Mark G. Matuschak (*pro hac vice*)
mark.matuschak@wilmerhale.com
Donald R. Steinberg (*pro hac vice*)
donald.steinberg@wilmerhale.com

**WILMER CUTLER PICKERING HALE
AND DORR LLP**

60 State Street
Boston, MA 02109
Telephone: (617) 526-6000
Facsimile: (617) 526-5000
Kate Hutchins (*pro hac vice*)
kate.hutchins@wilmerhale.com

**WILMER CUTLER PICKERING HALE
AND DORR LLP**

399 Park Avenue
New York, NY 10011
Telephone: (212) 230-8800
Facsimile: (212) 230-8888
Daniel V. Williams, (*pro hac vice*)
daniel.williams@wilmerhale.com

**WILMER CUTLER PICKERING HALE
AND DORR LLP**

1875 Pennsylvania Avenue NW
Washington, DC 20006
Telephone: (202) 663-6000
Facsimile: (202) 663-6363
Michael E. Richardson (Bar No. 24002838)
mrichardson@brs firm. com

BECK REDDEN & SECREST

1221 McKinney, Suite 4500
Houston, TX 77010
Telephone: (713) 951-6284
Facsimile: (713) 951-3720

**ATTORNEYS FOR DEFENDANT
STAPLES, INC.**

CERTIFICATE OF SERVICE

The undersigned certifies that the foregoing document was filed electronically in compliance with Local Rule CV-5(a). This document was served on all counsel by email on February 2, 2012.

/s/ John Campbell

John Campbell