

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

TYLER DIVISION

DATE: February 6, 2012

JUDGE
LEONARD DAVIS

REPORTER: Judy Werlinger

LAW CLERKS: Allan Bullwinkel

EOLAS TECHNOLOGIES INCORPORATED, ET AL	CIVIL ACTION NO: 6:09-CV-446
V	JURY SELECTION (TRIAL A)
ADOBE SYSTEMS INCORPORATED, ET AL	
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: 9:10 am

ADJOURN: 5:30 pm

TIME:	MINUTES:
9:10 am	Preliminary Proceedings: Pretrial matters taken up.
	Court addressed the parties on preliminary matters. John Campbell responded. Ed Reines responded.
	Court addressed the parties on preliminary jury instructions, docket #326--Dft objections to invalidity trial. Ed Reines responded to Proposed Jury Instructions by Plaintiffs, docket# 1316. Ed Reines objected to the Court's preliminary jury instructions and wants jury to know that infringement has not been found. Court OVERRULED objections.
	Court addressed the parties on Emergency motion for demonstrative. Kevin Burgess responded on motion to strike on production. Jennifer Doan responded. Court grants Plaintiff's Emergency Motion to Strike Defendant's late produced documents, video demonstrations, source code and previously unidentified prior art, docket #1317 as a Motion in Limine and is not striking it at this time. Jennifer Doan objected to Plaintiff's demonstrative. (1993 Code). Mike McKool responded. Jennifer Doan replied. Court OVERRULED Jennifer Doan's objection.

DAVID J. MALAND, CLERK

FILED: 2.6.2012

BY: *Amy Strother*, Courtroom Deputy

TIME:	MINUTES:
	Bill Tucker addressed the court on Plaintiff's Emergency Motion to Strike Defendant's late produced documents, video demonstrations, source code and previously unidentified prior art (docket #1317). Court reiterated that the motion was granted (docket #1317).
	Court inquired as to Plaintiff's Emergency Motion to Strike the supplemental Errata Sheet of Eric Bina,(docket #1313). Josh Budwin responded. Jennifer Doan responded. Court GRANTED the motion.
	Court addressed the court on Motions in Limine. Ed Reines responded (4 motions #1 dkt#1189). John Campbell responded. Reines replied. Court GRANTS the Motion in Limine regarding litigation. Reines addresses issues #5 and #7. John Campbell responded. Court GRANTED Motion in Limine regarding heighten validity but not the background info. Court GRANTS issues #5 and #7. Reines addresses issue #8. John Campbell responded. Court DENIES issue #8. Reines responded. Court advised parties to meet and confer about the verbiage. Reines addresses the last issue. Mike McKool responded. Court DENIES the motion.
	Mike Jones addressed the court on a 10 minute warning on voir dire. Mike McKool responded.
	John Campbell addresses the Court on Plaintiff's exhibit #34. Ed Reines responded. John Campbell replied. Court OVERRULED Objections . Campbell addresses the Court on Plaintiff's exhibit # 461. Reines responded. Campbell replied. Reines replied. Court GRANTED Motion in Limine (opening statements). Campbell addressed the Court on Plaintiff's exhibit #409. Reines responded. Court OVERRULED Objections.
9:55 am	Court in recess.
10:09 am	Jury panel seated in the Courtroom.
10:09 am	Case called. Parties announced ready. (See Sign-In sheets)
	Court addressed the Jury Panel and welcomed them to jury service. Court gave the parties a brief overview of the case.
	Court conducted voir dire examination of the jury panel.
	Court asked counsel for the plaintiff to introduce self, co-counsel, clients and any witnesses from the East Texas area.
	Mr. McKool introduced self, co-counsel, clients and any witnesses from the East Texas area. Court inquired if anyone knew anyone mentioned. Juror #2 advised she knew of one of the witnesses.
	Mike Jones introduced self, co-counsel and clients. Court inquired if anyone knew anyone mentioned. No response.
	Jennifer Doan introduced self, co-counsel and client. Court inquired if anyone knew anyone mentioned. No response.
	Court inquired if anyone knew anyone mentioned by Mr. Jones and Ms. Doan. No response.
	Jason Wolff introduced self, co-counsel and client. Court inquired if anyone knew anyone mentioned. No response.

TIME:	MINUTES:
	Eric Buether introduced self, co-counsel and client. Court inquired if anyone knew anyone mentioned. No response.
	Thomas Duston introduced self, co-counsel and client. Court inquired if anyone knew anyone mentioned. No response.
	Neil McNabney introduced self and client. Court inquired if anyone knew anyone mentioned. No response.
	Mark Matuschak introduced self, co-counsel and client. Court inquired if anyone knew anyone mentioned. No response.
	Court asked Mr. McKool to conduct voir dire of the jury panel on behalf of Plaintiffs.
	Mike Jones and Jennifer Doan conducted voir dire of the jury panel on behalf of the defendants.
	Court continued voir dire examination.
11:12 am	Court in recess.
11:30 am	Trial resumed. Jury panel seated in the courtroom.
	Court asked Clerk to read the names of the jurors selected. Clerk read the 8 names of the jurors. Court thanked and excused the remaining Jury Panel. Court asked the Clerk to administer oath to jury panel. Jury sworn.
	Court gave the jury some preliminary instructions.
11:38 am	Court addressed the jury and excused them for lunch. Court in recess until 12:30pm.
12:30 pm	Jury not present. Court addressed the parties on the 7:00 pm filing rule.
	John Campbell addressed the court on Plaintiff's witness testimony and on invoking the rule on experts and corporate representatives. Jennifer Doan responded. Court will invoke the rule upon return of jurors. Mr. Campbell responded. Mr. Reines responded. Mr. Campbell addressed the court on prior sworn testimony. Jennifer Doan responded.
	Jennifer Doan addressed the Court on changing the slides for opening statements. Mr. Campbell responded. Court addressed the parties of swearing in all witnesses.
12:35 pm	Court asked for jury to be brought in. Jury entered and seated in the courtroom.
	Court addressed the Jury and welcomed them back. Court gave the jury preliminary instructions.
	Court recognized Plaintiff for opening statement.
	Mr. McKool presented opening statements to the Jury on behalf of the Plaintiffs.
	Ms. Doan presented opening statements to the Jury on behalf of the Defendants, Yahoo and Amazon.
	Doug Lumish presented opening statements to the Jury on behalf of the Defendants, Google and YouTube.

TIME:	MINUTES:
	Court addressed the jury and excused them until 2:30 pm
2:10 pm	Court in recess.
2:32 pm	Jury returns to the courtroom.
2:32 pm	Trial resumes.
	<p>Court asked witnesses to stand and state their names and be sworn: Michael David Doyle, William Tinsley Tucker, David Filo, James Stetson, David M. Martin, Eric Bina, Pei Wei, Scott Silvey, Dave Raggett, Richard Phillips, Dale Dougherty, and Nicholas Godici.</p> <p>Rule is invoked.</p>
	<p>Mr. Campbell offered a list of exhibits Monday, February 6, 2012. Court asked that it be marked as Plaintiff's Exhibit List 1, and without objection, exhibits admitted. Plaintiff's Exhibit List 1 lists: Plaintiff's Exhibits 1 through 6, 8, 9, 12, 13, 19, 21, 23, 54 through 56, 58 through 60, 407, 408, 410, 411, 413, 441.</p>
	<p>Josh Thane offered a list of exhibits Monday, February 6, 2012. Court asked that it be marked as Defendant's Exhibit List 1, and without objection, exhibits admitted. Defendant's Exhibit List 1 lists: Defendant's Exhibits 1 through 33, 35, 36, 38 through 71, 76, 77, 81 through 90, 95 through 103, 105 through 113, 118 through 120, 122, 123, 124, 126 through 130, 135, 139, 140, 141, 143, 145 through 154, 164, 165, 167 through 170, 172 through 183, 186A, 188 through 191, 195, 199 through 202, 206 through 213, 215 through 218, 223 through 229, 231 through 237, 239 through 242, 250, 251A, 251B, 253, 258, 269 through 271, 281 through 285, AD43, AD73, C107 through C116, C118, C126, G1, G2, G9, G15 through G18, G20, G119 through G122, G156, G166, G 168, G170 and G177.</p>
	<p>Plaintiff's call Dr. Michael Doyle to the witness stand. Witness previously sworn. Direct examination of witness by Mr. McKool. Mr. McKool passed the live demonstration to the jury. No objections. Mr. McKool asked to show video from the witness. No objections. Discussed Plaintiff's exhibit 12, previously admitted and also discussed Plaintiff's exhibit 1 and 2.</p>
	Mr. McKool passed the witness.
	Cross examination of Dr. Doyle by Jennifer Doan. regarding Plaintiff's exhibit 1, 12 and 3.
	Ms. Doan passed the witness to co-counsel Doug Lumish. Continued cross examination of witness by Mr. Lumish.
	Redirect examination of witness by Mr. McKool.
	Recross examination of witness by Jennifer Doan.
4:16 pm	Court addressed the jury and recessed them until 4:25 pm
4:16 pm	Court in recess.
4:25 pm	Trial resumed. Jury seated in the courtroom

TIME:	MINUTES:
	Defendant's call Eric Bina to the witness stand. Witness previously sworn. Direct examination of witness by Jennifer Doan. Defendant's offered Defendant's Exhibit 79A, 79B, 79C, and 79D , and with no objections, exhibits admitted.
	Direct examination of witness by Jennifer Doan continued.
	Bench conference held.
	Direct examination of witness by Jennifer Doan continued.
	Direct examination of witness by Jennifer Doan continued. Court inquired as to length of time left for direct examination. Ms. Doan responded (5 minutes).
	Direct examination of witness by Jennifer Doan continued.
	Bench conference held.
	Court instructed Jury to disregard the last question and answer by the witness.
	Cross examination of Eric Bina by Josh Budwin.
	Court inquires to time limit from Mr. Budwin on his cross examination. Court addresses the jury on the time limit. Jury agrees to continue.
	Cross examination of Eric Bina by Josh Budwin continued.
	Bench conference held.
	Cross examination of Eric Bina by Josh Budwin continued.
	Redirect examination of witness by Jennifer Doan.
	Redirect examination of witness by Jennifer Doan continued.
	Recross examination of witness by Josh Budwin.
	Redirect examination of witness by Jennifer Doan.
5:25 pm	Court addressed the jury to return by 9:00 am on Tuesday, February 7, 2012 and reminded them of the Court's instructions. Jury is excused.
	Court gave the parties their times. Plaintiff has used 1 hour and 9 minutes and Defendants have used 1 hour and 29 minutes.
5:30 pm	There being nothing further, Court adjourned for the day.