

EXHIBIT B

1 IN THE UNITED STATES DISTRICT COURT
2 FOR THE EASTERN DISTRICT OF TEXAS
3 TYLER DIVISION

4 EOLAS TECHNOLOGIES, INC.,)

DOCKET NO. 6:09cv446

5 - vs -

Tyler, Texas

6 ADOBE SYSTEMS, INC.,)

12:30 p.m.

7 ET AL

February 6, 2012

8 TRANSCRIPT OF TRIAL
9 AFTERNOON SESSION
10 BEFORE THE HONORABLE LEONARD DAVIS,
11 UNITED STATES CHIEF DISTRICT JUDGE, AND A JURY

12 A P P E A R A N C E S

13 FOR THE PLAINTIFFS:

14 MR. MIKE McKOOL

15 MR. DOUGLAS CAWLEY

16 MS. ROSEMARY SNIDER

17 MR. TOM FASONE

18 MS. ADA BROWN

MS. HOLLY ENGELMANN

19 MR. IVAN WANG

McKOOL SMITH

300 Crescent Court, Ste. 1500

Dallas, TX 75201

20 COURT REPORTERS:

MS. JUDITH WERLINGER

MS. SHEA SLOAN

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23 Proceedings taken by Machine Stenotype; transcript was
24 produced by a Computer.
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1 browsers, Mr. Pei (sic) and Mr. Silvey.

2 With that, I thank you very much for your
3 time. I look forward to talking with you again. Thank
4 you.

5 THE COURT: All right. Thank you,
6 Mr. Lumish.

7 All right. Ladies and Gentlemen of the
8 Jury, that concludes the opening statements. We're
9 going to take a short break until 2:30. Then we'll come
10 back and we'll start the evidence.

11 Please remember my instructions: Don't
12 discuss the case among yourselves.

13 Enjoy your break and be back at 2:30.

14 COURT SECURITY OFFICER: All rise.

15 (Recess was taken.)

16 COURT SECURITY OFFICER: All rise for the
17 jury.

18 (Jury in.)

19 THE COURT: Please be seated.

20 All right, Ladies and Gentlemen of the
21 Jury. We're about to start the evidence part of the
22 trial, but first I'm going to swear in all of the
23 witnesses that are going to be testifying in the case.

24 So if you're a witness for any party
25 that's going to be testifying in the case, if you will,

1 please stand to be sworn.

2 All right. We're going to start up here
3 and if you'll very loudly, so the COURT Reporter can
4 hear you, state your name, please.

5 WITNESS: Michael David Doyle.

6 WITNESS: William Tinsley Tucker.

7 WITNESS: David Filo.

8 WITNESS: James Stetson.

9 WITNESS: David M. Martin.

10 WITNESS: Eric Bina.

11 WITNESS: Pei Wei.

12 WITNESS: Scott Silvey.

13 WITNESS: Dave Raggett.

14 WITNESS: Richard Phillips.

15 WITNESS: Dale Dougherty.

16 WITNESS: Nicholas Godici.

17 THE COURT: All right. If you will,
18 raise your right hand and be sworn.

19 You may swear the witnesses.

20 (Witnesses sworn.)

21 THE COURT: All right. Thank you. You
22 may be seated.

23 All right. Now, the Rule has been
24 invoked in this case, which means that if you're a
25 witness to this case, other than an expert witness or a

1 party representative, then you are to wait outside the
2 courtroom during any of the testimony in this case.

3 So if you're not a party -- if you're a
4 witness and you're not a party representative or an
5 expert who will be testifying, if you will, please leave
6 the courtroom at this time.

7 Don't discuss the case with anyone.
8 Don't discuss it among yourselves. The only persons you
9 may discuss it with are your attorneys.

10 And counsel, please be sure all of your
11 witnesses under the Rule.

12 (Witnesses leave the courtroom.)

13 THE COURT: All right. Now, does
14 Plaintiff have any exhibits it wishes to offer into
15 evidence at this time?

16 MR. CAMPBELL: Yes, Your Honor. We have
17 a list that we tendered to the Court that is a list of
18 unobjected-to exhibits.

19 THE COURT: All right. And that is
20 titled what?

21 MR. CAMPBELL: Plaintiff's Trial Exhibit
22 List 1, February 6th, 2012.

23 THE COURT: Okay. All right. Plaintiff
24 Eolas's Trial Exhibit List No. 1 will be marked as such.

25 And is there any objection to the trial

1 15 minutes ago. You ought to be able to get your form
2 objection in earlier.

3 THE COURT: Okay. He's not an expert
4 witness, though, right?

5 MS. DOAN: Absolutely not.

6 THE COURT: Isn't that expressing an
7 opinion?

8 MS. DOAN: That it was not new?

9 THE COURT: Yes.

10 MS. DOAN: He can testify all day long it
11 wasn't new.

12 THE COURT: No, he can't.

13 Objection sustained.

14 (End of bench conference).

15 THE COURT: All right, Ladies and
16 Gentlemen, you will disregard the last question and
17 answer of this witness.

18 Q. (By Ms. Doan) Mr. Bina, have you ever talked
19 to the Patent Office about your technology and your
20 specific first-hand knowledge of what was going on in
21 the field in 1993?

22 A. No.

23 Q. Thank you.

24 MS. DOAN: Pass the witness.

25 THE COURT: All right.

1 Cross-examination.

2 MR. BUDWIN: Thank you, Your Honor.

3 THE COURT: Counsel, let me ask you: Do
4 you have an estimate of how long your Cross will be?

5 MR. BUDWIN: Well, my colleagues told me
6 if I go longer than 15 minutes, they'll be very angry
7 with me; so hopefully it will be short.

8 THE COURT: Let me ask the jury: We can
9 either recess and come back in the morning, or we can go
10 another 15 minutes and finish with this witness.

11 Anybody have a problem with going for
12 another 15 minutes? If you do, just raise your hand.

13 We've got to get this in. We can either
14 do it today or we can do it tomorrow. We've got a lot
15 of testimony to cover. So I think if we could press
16 ahead and finish with this witness this evening, we'll
17 probably finish quicker than if we come back in the
18 morning and do it.

19 UNIDENTIFIED FEMALE JUROR: I have no
20 problem.

21 MR. BUDWIN: All right. Thank you.

22 May it please the Court.

23 CROSS-EXAMINATION

24 BY MR. BUDWIN:

25 Q. Mr. Bina, my name is Josh Budwin, and I