

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

EOLAS TECHNOLOGIES
INCORPORATED,

Plaintiff,

vs.

ADOBE SYSTEMS INC., et al.,

Defendants.

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Civil Action No. 6:09-cv-00446
Judge Leonard Davis

Jury Trial Demanded

**DECLARATION OF MARK RISHER IN SUPPORT OF
DEFENDANTS' MOTION TO TRANSFER**

I, Mark Risher, do state and declare as follows:

1. I am employed as the Senior Director of Project Management for Yahoo! Mail at Defendant Yahoo! Inc. ("Yahoo!"). I have been employed at Yahoo! for two and a half years, and my responsibilities have related to the development of the software infrastructure of Yahoo!'s accused websites the entire time. I make this declaration in support of Defendants' Motion to Transfer, filed herewith. Unless otherwise stated, the matters contained in this declaration are of my own personal knowledge and, if called as a witness, I could and would testify competently to the matters set forth herein.

2. Yahoo! is a Delaware corporation headquartered in Sunnyvale, California. Approximately 5,067 employees work at Yahoo!'s Sunnyvale, California, Santa Clara, California, and San Francisco, California offices (collectively and individually, the "Northern

California Offices”). In addition to these offices, approximately 1,191 employees work at Yahoo!’s Burbank, California, Santa Monica, California, San Diego, California, and Carlsbad, California offices (collectively and individually, the “Southern California Offices”). Yahoo! operates an office in Richardson, Texas that employs 108 people. None of Yahoo!’s offices are located in the Eastern District of Texas.

3. I understand that Plaintiff Eolas Technologies Inc. alleges that “Yahoo! has directly and/or indirectly infringed (by inducement and/or contributory infringement), and is continuing to infringe, directly and/or indirectly, the ‘906 patent and/or the ‘985 patent in this District or otherwise within the United States by making, using, selling, offering to sell, and/or importing in or into the United States: (i) webpages and content to be interactively presented in browsers, including, without limitation, the webpages and content accessible via www.yahoo.com and maintained on servers located in and/or accessible from the United States under the control of Yahoo!; (ii) software, including without limitation, software that allows content to be interactively presented in and/or served to browsers; and/or (iii) computer equipment, including, without limitation, computer equipment that stores, serves, and/or runs any of the foregoing (‘accused products’).”

4. Yahoo! has key sales, finance, and engineering staff that work in Yahoo!’s Northern California Offices. Yahoo!’s Northern California Offices also serve as a center for its product research and development, product sales and licensing, and corporate marketing affairs.

5. The research, design, and development of the accused products predominantly occurred in Yahoo!’s Northern California and Southern California Offices. Generally, employees within Yahoo!’s User Experience Design group defined the requirements for the visual aspects of the accused products. Software engineers known as front-end developers

subsequently researched, designed, and developed the software for the accused products, including implementing the desired visual aspects. These developers operate within front-end engineering teams assigned to the various Yahoo! Properties, such as Yahoo! Mail, Yahoo! Sports, and Yahoo! Finance. In addition, engineers within Yahoo!'s Platform Technology Group researched, designed, and developed software tools for the accused products that may have been utilized by front-end developers.

6. Directors of Engineering at Yahoo! are responsible for overseeing the research, design, and development of the company's products, including the accused products. These Directors of Engineering supervise the employees whose job duties relate to the research, design, and development of the company's products, including the accused products. Yahoo! employs approximately 419 Directors of Engineering in the United States. Approximately 81% of these Directors of Engineering work in Yahoo!'s Northern California Offices, and approximately 90% of these Directors of Engineering are located in Yahoo!'s Northern California and Southern California Offices.

7. The Richardson, Texas office does not employ any Directors of Engineering related to the research, design, or development of the accused products and the Richardson, Texas office does not employ any employees within Yahoo!'s User Experience Design group. On information and belief, any potentially relevant information from Yahoo! employees or documents that reside in Yahoo!'s Richardson, Texas office is likely cumulative of information possessed by employees or documents that reside in Yahoo!'s Northern California and Southern California Offices.

8. My understanding is that the Richardson, Texas office employs up to five employees whose job duties potentially relate to the research, design, or development of the

accused products. A subset of these employees have job duties that relate to front-end development, and these employees work at the direction of and are managed by employees that work in Yahoo!'s Sunnyvale, California office. The remaining potentially-relevant employees are part of a development team organized under the Platform Technology Group. These employees work at the direction of and are managed by a Director of Engineering based in Yahoo!'s Cambridge, Massachusetts office, and this Director of Engineering works at the direction of and is managed by a Director of Engineering based in Yahoo!'s Sunnyvale, California office. The additional team members are based in Yahoo!'s Cambridge, Massachusetts office and Yahoo!'s Northern California and Southern California Offices. The team also included a lead software engineer until October, 2009. This engineer, who is a Director of Engineering, has always worked, and currently works, in Yahoo!'s Sunnyvale, California office.

9. Virtually all of Yahoo!'s business documents and records relating to the research, design, and development of the accused products are located in Yahoo!'s Northern California Offices. The master servers for Yahoo!'s corporate email system are located in Yahoo!'s Northern California Offices, and electronic documents created in Yahoo! offices are stored in a datacenter located in Santa Clara, California.

10. The master copy of the software code for the accused products is housed in datacenters in Sunnyvale, California. Similarly, records relating to the usage, access, and alteration of the software code are maintained at Yahoo!'s Northern California Offices.

11. Upon information and belief, none of the research, design, and development of the accused products occurred or occurs within the Eastern District of Texas.

I declare under penalty of perjury that the foregoing is true and correct and that this declaration was executed on February 2, 2010 in Sunnyvale, California.



Mark Risher