

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

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| Eolas Technologies Incorporated, | § | |
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| Plaintiff, | § | Civil Action No. 6:09-cv-446 |
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| | § | |
| vs. | § | |
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| Adobe Systems Inc., Amazon.com, Inc., Apple 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 | § | JURY TRIAL |
| | § | |
| Defendants. | § | |

**JOINT AGREED MOTION FOR EXTENSION OF TIME TO FILE AGREED DOCKET
CONTROL ORDER AND AGREED DISCOVERY ORDER**

Plaintiff Eolas Technologies, Inc. (“Eolas”) and Defendants Adobe Systems Inc., Amazon.com, Inc., Apple 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 file this joint agreed motion to extend the deadline to file their agreed docket control and agreed discovery order from March 15, 2010 until March 22, 2010 and would show the Court as follows:

I.

Pursuant to the Court's Order dated March 5, 2010 (dkt. 233) the deadline for filing the agreed docket control and agreed discovery order is March 15, 2010. As set forth herein, the parties have been working diligently to meet this date. However, despite the efforts of the parties, the parties are presently unable to meet this date. The parties seek leave from the Court to extend the March 15, 2010 deadline by one week, until March 22, 2010. This additional one week extension will allow the parties to continue to meet and confer in good faith in an effort to reach an agreed docket control and agreed discovery order, or at least to narrow the scope of their dispute.

II.

In an effort to reach an agreed docket control and agreed discovery order, the parties have met and conferred on three occasions (March 5, March 10, and March 12, 2010). The parties presently believe that they are close to reaching an agreement on the docket control and discovery orders, or at least narrowing the scope of their dispute.

III.

This motion is not made for delay, and should not impact any other deadline applicable to this litigation.

IV.

Accordingly, the parties respectfully request that the Court grant this Motion and extend the deadline to file their agreed docket control order and discovery order from March 15, 2010 until March 22, 2010.

Dated: March 15, 2010.

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| <p>MCKOOL SMITH, P.C. <u>/s/ Mike McKool</u> Mike McKool Lead Attorney Texas State Bar No. 13732100 mmckool@mckoolsmith.com Douglas Cawley Texas State Bar No. 04035500 dcawley@mckoolsmith.com Luke McLeroy Texas State Bar No. 24041455 lmcleroy@mckoolsmith.com MCKOOL SMITH, P.C. 300 Crescent Court, Suite 1500 Dallas, Texas 75201 Telephone: (214) 978-4000 Telecopier: (214) 978-4044</p> <p>Sam F. Baxter Texas State Bar No. 01938000 sbaxter@mckoolsmith.com McKool Smith, P.C. 104 E. Houston St., Ste. 300 P.O. Box O Marshall, Texas 75670 Telephone: (903) 923-9000 Telecopier: (903) 923-9095</p> <p>Kevin L. Burgess Texas State Bar No. 24006927 kburgess@mckoolsmith.com Steven J. Pollinger Texas State Bar No. 24011919 spollinger@mckoolsmith.com Josh W. Budwin Texas State Bar No. 24050347 jbudwin@mckoolsmith.com MCKOOL SMITH, P.C. 300 West Sixth Street, Suite 1700 Austin, Texas 78701 Telephone: (512) 692-8700 Telecopier: (512) 692-8744 ATTORNEYS FOR PLAINTIFF EOLAS TECHNOLOGIES, INC.</p> | <p><u>/s/ David J. Healey (with permission)</u> David J. Healey Fish & Richardson PC 1221 McKinney Street, Suite 2888 Houston, TX 77010 healey@fr.com Lead Counsel for Adobe Systems Incorporated</p> <p><u>/s/ Douglas E. Lumish (with permission)</u> Douglas E. Lumish Weil Gotshal & Manges 201 Redwood Shores Parkway Redwood City, CA 94065 doug.lumish@weil.com Lead Counsel for Amazon.com, eBay Inc., and Yahoo! Inc.</p> <p><u>/s/ David T. Pritikin (with permission)</u> David T. Pritikin Sidley Austin - Chicago Bank One Plaza One South Dearborn Ave Chicago, IL 60603 dpritikin@sidley.com Lead Counsel for Apple, Inc.</p> <p><u>/s/ Scott Wayne Breedlove (with permission)</u> Scott Wayne Breedlove Vinson & Elkins 2001 Ross Avenue 3700 Trammel Crow Center Dallas, TX 75201 sbreedlove@velaw.com Lead Counsel for Blockbuster Inc.</p> <p><u>/s/ Thomas L. Duston (with permission)</u> Thomas L. Duston Marshall Gerstein & Borun 233 S. Wacker Drive 6300 Sears Tower Chicago, IL 60606 tduston@marshallip.com Lead Counsel for CDW Corporation</p> |
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CERTIFICATE OF SERVICE

The undersigned certifies that the foregoing document was filed electronically in compliance with Local Rule CV-5(a). As such, this document was served on all counsel who have consented to electronic service on March 15, 2010. Local Rule CV-5(a)(3)(A).

/s/ Josh Budwin
Josh Budwin