

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

Eolas Technologies, Inc.,)	
)	
Plaintiff,)	
)	Civil Action No. 6:09-cv-446
v.)	Judge Leonard E. Davis
)	
Adobe Systems Inc., et al.,)	
)	
Defendants.)	
)	
_____)	

**JOINDER BY DEFENDANT STAPLES, INC.
IN MOTION TO TRANSFER TO THE U.S. DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
PURSUANT TO 28 U.S.C. § 1404(a)**

Defendant Staples, Inc. (“Staples”) hereby joins in the request to transfer this action made by Defendants Adobe Systems, Inc., Amazon.com, Inc., Apple Inc., Blockbuster Inc., Ebay, Inc., The Go Daddy Group, Inc., Google, Inc., JPMorgan Chase & Co., New Frontier Media Inc., Playboy Enterprises International, Inc., Sun Microsystems Inc., and YouTube, LLC in their Motion to Transfer to the U.S. District Court for the Northern District of California Pursuant to 28 U.S.C. §1404(a) (filed Feb. 10, 2010) [Dkt.No.214] (“Motion to Transfer”).

In its Response to the Motion to Transfer, Eolas Technologies, Inc. (“Eolas”) argues that the Eastern District of Texas is more appropriate than the Northern District of California with respect to Staples because Massachusetts, where Staples is headquartered, “is much closer to the EDTX than to the NDCA.” (Response at 7.) Eolas argues that this fact somehow tips the “sources of proof” factor toward the Eastern District of Texas. However, Staples has significant contacts with the Northern District of California—indeed, much more substantial contacts than it

has with the Eastern District of Texas. While Staples' headquarters are located in Massachusetts, its largest physical presence in the United States is in California. For example:

- Staples has 216 retail stores in California, including 39 in the Northern District. (*See* Declaration of Paul Van Camp (June 14, 2010) (attached hereto as Exhibit 1) ¶ 9.) By contrast, Staples only has 55 retail stores in Texas, with 11 stores in the Eastern District. (*Id.* ¶ 8.)
- Staples has 29 non-retail facilities in California, with six of those facilities in the Northern District. (*Id.* ¶ 9.) It also only has 18 non-retail facilities in Texas, with one in the Eastern District. (*Id.* ¶ 8.)

Staples has approximately 5,100 employees at its California retail stores, and approximately 2,000 employees at its California non-retail facilities. (Declaration of Joanne Donahue (June 11, 2010) (attached hereto as Exhibit 2) ¶ 7.) Staples has approximately 1,100 employees at its Texas retail stores and approximately 1,200 employees at its Texas non-retail facilities. (*Id.* ¶ 6.)

Eolas also suggests that Defendants' motion be denied because severance of Defendants for whom transfer would be inappropriate is improper. (Response at 14-15.) This argument does not apply to Staples, which would properly be included in a transfer to the Northern District of California. That is, the accused functionality on the staples.com website is provided by products made by Adobe and sold to Staples. Accordingly, much of the information regarding the alleged infringement by Staples will involve witnesses and documents associated with Adobe and located in the Northern District of California. As set forth in the materials already filed by other Defendants, numerous witnesses relevant to the claims and defenses of this litigation are located in the Northern District of California. (*See* Motion to Transfer at 2-6.)

Staples' connection to California is stronger than its connection to Texas. For this reason, and for the reasons stated in the Motion to Transfer, Staples respectfully joins in the requested transfer of this action to the Northern District of California.

Date: June 14, 2010

Respectfully submitted,

/s/ Kate Hutchins

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Certificate of Service

The undersigned hereby certifies that all counsel of record who are deemed to have consented to electronic service are being served with a copy of this document via the Court's CM/ECF system per Local Rule CV-5(a)(3) on June 14, 2010.

/s/ Kate Hutchins

Kate Hutchins