

# EXHIBIT A

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## VIA EMAIL

June 28, 2010

Josh Budwin, Esq.  
McKool Smith  
300 West 6th Street, Suite 1700  
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Re: *Eolas Technologies Incorporated v. Adobe Systems Inc., et al.*  
USDC-Eastern District of Texas-Tyler Division  
Civil Action No. 6:09-CV-446 (LED)



ATLANTA

BOSTON

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NEW YORK

SILICON VALLEY

SOUTHERN CALIFORNIA

TWIN CITIES

WASHINGTON, DC

Dear Josh:

I write further to Eolas's infringement contentions and some document production issues we have encountered to date.

As we have discussed on our earlier calls, many of the products identified in Eolas's infringement contentions have a long history, many pre-dating the patents-in-suit. However, we understand that Eolas's contentions implicate every version of Acrobat (*see, e.g.*, 906 - Adobe - PDF - Authoring Tools and Players (Final).pdf at 1 of 146), Director (*see, e.g.*, 985 - Adobe Authoring Tools and Players (Final).pdf at 3, 52, 54, 58, and 73 of 247), Framemaker (*see, e.g.*, 906 - Adobe - PDF - Authoring Tools and Players (Final).pdf at 3, 55, 67, 72, and 94 of 146), and Pagemaker (*see, e.g.*, 906 - Adobe - PDF - Authoring Tools and Players (Final).pdf at 3, 55, 67, 72, and 94 of 146).

We have already informed you of some of our issues with Eolas's contentions, though short of resolving the substantive issues we still need assistance from Eolas on document production. The issue is zeroing in on the materials for these products that Eolas actually cares about as opposed to everything about the products. While you earlier told me that would be focusing on what you termed the "interactivity" features, it appears from Eolas's contentions that everything about the products is allegedly interactive – saving a file, zooming, moving between pages, etc.

### Director:

Director 1.0 was released in 1989, 2.0 in 1990, 3.0 in 1991, and 3.1 in 1993. Below are pictures of the only copies of these Director products we have located to date (from left to right, the photos are from 1.0, 2.0, 3.0 and 3.1). Actually copying these materials has proven difficult because of their media format and age—most of the products have floppies for a Macintosh computer and vendors no longer seem to have

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the equipment to make copies. We will be offering these products and several others for inspection and copying by Eolas, however, we would like to work out a protocol for copying so that there are not disputes about the authenticity or accuracy of any copies, or mishandling or damaging of the copies we have located.



As for what we have located, we found copies Director and several related applications, including: MusicWorks (used for generating and playing music), VideoWorks (used for bitmap painting and creating animations and sounds, follow on to MusicWorks), VideoWorks Interactive (used for creating presentations), MazeWars (not a MicroMind product, but a popular game played over networks using VideoWorks files and engine), VideoWorks 2, HyperCard Driver (allowed playing of VideoWorks II movies in a HyperCard stack), MacroMind Player (allowed creation of “projectors” or players that would play a VideoWorks file), Accelerator (high performance player for VideoWorks files), Hook Up! (not a MacroMind product, but a popular game allowing VideoWorks files to be played within Hip Software’s multimedia authoring tool), OVW (VideoWorks animation engine packaged for use in other applications), Director 1, Director 2, MediaMaker (application that assists in authoring videos), XObject Kit (developer kit so users could make XObjects for use with Director, MediaMaker or other products such as MacroMind 3D that supported XObjects), Macromedia MultiMedia Manager (“M5”) (later release of OVW), Director 3, TitleMaker (application built using OVW library, was for generating animated titles), Windows Player (used to create a Windows projector for Director movies), Director 3.1, Director 4, Director 5, Director 6, Director 7, Director 8, Director 8.5, Director MX, Director MX 2004, and Director 11. Again, these materials are being made available for inspection and copying.

#### Acrobat:

The Acrobat family of products dates back to 1990. Many of the features identified in your contentions have been available since no later than October 16, 1993. Your charts, for instance, provide a red box around the alleged “interactive” features, which are basically every function in the product. *See, e.g., 906 - Adobe - PDF - Authoring Tools and Players (Final).pdf at 61 of 146:*

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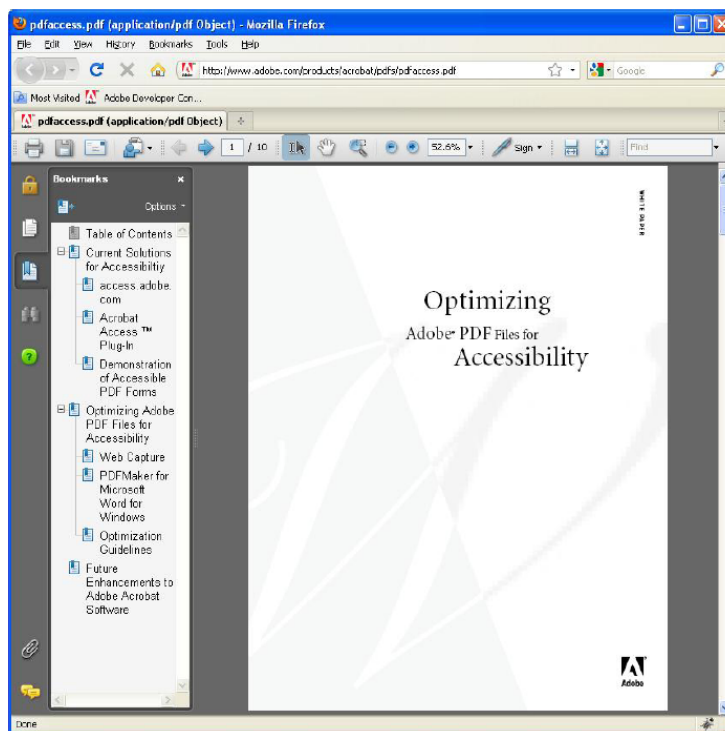


Many of these features were available in Acrobat 1.0, which was released in 1993:



Copies of old versions of Acrobat will—because Adobe has so few and they are so old—also be made available for inspection and copying. We have located the following versions of the program: Acrobat 1, Acrobat 3, Acrobat 4, Acrobat 4.0.5, Acrobat 5, Acrobat 6, Acrobat Distiller 1, Acrobat Pro 2, Acrobat Professional 6.0, Acrobat Reader 3, and Acrobat Standard 6.0.

The second issue I want to address with Acrobat touches on the substance of Eolas's contentions, which is impacting our collection efforts. The contentions show Acrobat pages that are opened after clicking on the link to PDF file—the PDF file is not displayed in a portion of the hypermedia document at all. *See, e.g.,* 906 – Adobe – PDF Authoring Tools and Players (Final).pdf at 46 of 146.



Eolas's contentions are contrary to what it told the Patent Office about (1) how the alleged executable application could be invoked and (2) where the object was

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supposed to be displayed. Moreover, it appears that Eolas's contentions as to PageMaker and FrameMaker are premised on the ability to create PDF files. *See* 906 – Adobe – PDF – Authoring Tools and Players (Final).pdf at 4 of 146.

As I noted above, PDF files could be created from Acrobat since 1993. We do not understand what features are at issue or what Eolas needs discovery on. It seems either the products can create PDF files or not and that much information is discernable from simply using the products themselves and publicly available information. Moreover, your contentions do not specify what it is about PDF files themselves that is the issue. Where this is particularly problematic from a production standpoint is that Eolas's contentions allege that infringement is based on "any other tools used to create pdf or similar content." PostScript is similar to PDF and this ensnares everything Adobe has done since it was founded in 1982, indeed PDF files as they are now known were initially called "Interchange PostScript" or IPS files. *See* <http://www.adobe.com/aboutadobe/pressroom/pdfs/fastfacts.pdf>. Moreover, FrameMaker and PageMaker files can also have content similar to PDF files, and they have been around even longer. We are at a loss to understand what exactly you need from Adobe that you do not already have.

PageMaker:

PageMaker was released in 1985 by Aldus Corporation, which was headquartered in Seattle. Adobe acquired Aldus in 1994. The product was mostly retired in 2001, eight years before Eolas filed suit, though some minor development continued until 2004. InDesign is the successor product for PageMaker. It is unclear what you need for this product; it appears you have everything you need and we are trying to locate archives for old copies of the product dating back 25 years. We have located copies of PageMaker 1.2, 2.0, 3, 4, 5, 6, 6.5, 7, and 7.02. These materials will be available for inspection and copying.

FrameMaker:

FrameMaker was released in 1986. Adobe acquired Frame Technology Corporation, which was also based in San Jose, in 1995. The FrameMaker product is no longer actively developed but has been mostly maintained out of Adobe's facilities in India since approximately 2002. Again, it is unclear what you need for this product; it appears you have everything you need and we are (again) trying to locate archives of old copies of the product also dating back nearly 25 years. We have located copies FrameMaker 3, 4, 5, 5.5, 6.0, 7.0, and 7.1. We also have leads on earlier versions, though expect we will only locate manuals at this point. These materials are being made available for inspection and copying.

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Beyond the above products, we have also located copies of the following products, which will be available for inspection and copying: Dreamweaver 2, 3, MX, and MX 2004; Flash 3, 4, and MX; InDesign 1, 1.5, 2.0, and CS. And we have also located in Macromedia's San Francisco office over 300 submissions of what we understand are files made with Director or Flash by third parties. Many, though not all, of these materials are still in their sealed mailing envelopes and we are reluctant to open them without some sort of agreement with you. It appears they were made around the 2004-2005 time-frame and were submitted as part of a program called "Made with Macromedia." If there are additional products you do not already have and would like to inspect, please identify them to me.

As we locate additional materials, they will also be available for inspection and copying, which is in addition to other materials we are producing as we said we would (e.g. in native format). We are not opposed to trying to make these materials available in advance of the Patent Local Rule 3.4(a) production date. Please contact me to arrange logistics and a protocol for inspection and copying.

Regarding the production scope issues, please contact me to discuss how to proceed. The scale and size of potential custodians—both current and former employees, particularly in view of technology acquired through acquisitions—as well as data sources in view of the over 20 years of development of the alleged infringing products makes collection from all potential sources unworkable. Nevertheless, apart from the above materials, Adobe is also in the process of collecting information from its employees believed to be the most relevant and general repositories of information it has located to date. It would be helpful to discuss which custodians and keywords now, and we could do this on a feature-by-feature basis. Adobe does not intend to collect data from every witness of the potentially hundreds—if not thousands—of employees who may have information that is potentially relevant to the case.

Regards,

/s/

Jason W. Wolff

JYW/lqm