

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

EOLAS TECHNOLOGIES INCORPORATED,

Plaintiff,

v.

ADOBE SYSTEMS INC., ET AL,

Defendants.

CASE NO. 6:09-cv-446

Hon. Leonard E. Davis

JURY

**DECLARATION OF MARK H. FRANCIS IN SUPPORT OF THE  
GOOGLE INC. AND YOUTUBE, LLC NOTICE OF JOINDER  
TO ADOBE'S MOTION FOR CASE MANAGEMENT CONFERENCE  
AND IDENTIFICATION OF RELATED ISSUES TO BE ADDRESSED**

I, Mark H. Francis, declare as follows:

1. I am an attorney at King & Spalding LLP, 1185 Avenue of the Americas, New York, New York, and I represent Defendants Google Inc. and YouTube, LLC (collectively "Google") in this action. I submit this Declaration in support of the *Google Inc. and YouTube, LLC Notice of Joinder to Adobe's Motion for Case Management Conference and Identification of Related Issues to be Addressed*.

2. Attached as Exhibit 1 is a true and correct copy of the August 13, 2010 letter from Matt Rappaport to Christopher Carnaval.

3. Attached as Exhibit 2 is a true and correct copy of the July 12, 2010 letter from Christopher Carnaval to Josh Budwin.

4. Attached as Exhibit 3 is a true and correct copy of the claims from U.S. Patent No. 5,838,906.

5. Attached as Exhibit 4 is a true and correct copy of pages 34 and 35 of the Eolas infringement contention claim chart served upon Google on March 9, 2010 and entitled *Claim Chart For Google Showing Infringement Of The '985 Patent By Google AdSense (and Doubleclick)* (“the AdSense ‘985 claim chart”).

6. Attached as Exhibit 5 is a true and correct copy of pages 34, 35 and 38 of the AdSense ‘985 claim chart.

7. Attached as Exhibit 6 is a true and correct copy of pages 47–49 of the AdSense ‘985 claim chart.

8. Attached as Exhibit 7 is a true and correct copy of pages 25–28 of the Eolas infringement contention claim chart served upon Google on March 9, 2010 and entitled *Claim Chart For YouTube Showing Infringement Of The '906 Patent By website www.youtube.com* (“the YouTube ‘906 claim chart”).

9. Attached as Exhibit 8 is a true and correct copy of excerpts from a public technical document entitled *Adobe Flash Player 10.1 Administration Guide*, from Adobe’s website at [http://www.adobe.com/devnet/flashplayer/articles/flash\\_player\\_admin\\_guide.html](http://www.adobe.com/devnet/flashplayer/articles/flash_player_admin_guide.html).

10. Attached as Exhibit 9 is a true and correct copy of a public technical document entitled *WebCore Rendering I - The Basics*, produced to Eolas as KS\_GOOGLE\_00005804-5807, from WebKit’s website at <http://webkit.org/blog/114/webcore-rendering-i-the-basics/>.

11. Attached as Exhibit 10 is a true and correct copy of a public technical document entitled *V8 JavaScript Engine* from Google’s website at <http://code.google.com/apis/v8/intro.html>.

12. Attached as Exhibit 11 is a true and correct copy of the March 5, 2010 letter from Josh Budwin to Christopher Carnaval enclosing Eolas’ P.R. 3-1 and 3-2 disclosures.

13. Attached as Exhibit 12 is a true and correct copy of the Google Chrome webpage at <http://www.google.com/chrome/>.

14. Attached as Exhibit 13 is a true and correct copy of the Android webpage at <http://source.android.com/>.

15. Attached as Exhibit 14 is a true and correct copy of pages 1–4 of the Eolas infringement contention claim chart served upon Google on March 9, 2010 and entitled *Claim Chart For Google Showing Infringement Of The '906 Patent By The Google Nexus One And Google Android for Mobile (and other) Devices* (“the Android ‘906 claim chart”).

16. Attached as Exhibit 15 is a true and correct copy of the June 24, 2009 press release from Adobe entitled *Adobe and HTC Bring Flash Platform to Android*, available at <http://www.adobe.com/aboutadobe/pressroom/pressreleases/200906/062409AdobeandHTCBringFlashPlatformtoAndroid.html>.

17. Attached as Exhibit 16 is a true and correct copy of the August 23, 2010 letter from Douglas Cawley to counsel for Defendants’ in this action.

18. Attached as Exhibit 17 is a true and correct copy of excerpts from the Wikipedia article entitled *Usage share of web browsers*, available at [http://en.wikipedia.org/wiki/Usage\\_share\\_of\\_web\\_browsers](http://en.wikipedia.org/wiki/Usage_share_of_web_browsers).

19. Attached as Exhibit 18 is a true and correct copy of excerpts from the Wikipedia article entitled *Usage share of operating systems*, available at [http://en.wikipedia.org/wiki/Usage\\_share\\_of\\_operating\\_systems](http://en.wikipedia.org/wiki/Usage_share_of_operating_systems).

20. Attached as Exhibit 19 is a true and correct copy of a public technical document entitled *How Chromium Displays Web Pages*, produced to Eolas as KS\_GOOGLE\_00008122-8126, from Google’s website at <http://www.chromium.org/developers/design-documents/displaying-a-web-page-in-chrome>.


21. Attached as Exhibit 20 is a true and correct copy of pages 1-3 and 14-17 of the Eolas infringement contention claim chart served upon Google on March 9, 2010 and entitled *Claim Chart For Google, Inc. Showing Infringement Of The '906 Patent By Google Inc.'s Websites* (“the Google Websites ‘906 claim chart”).

22. Attached as Exhibit 21 is a true and correct copy of pages 1–4 of the Eolas infringement contention claim chart served upon Google on March 9, 2010 and entitled *Claim Chart For Google Inc. Showing Infringement Of The '906 Patent By website Google.com* (“the Google.com ‘906 claim chart”).

23. Attached as Exhibit 22 is a true and correct copy of the May 25, 2010 letter from Mark Francis to Josh Budwin.

24. Attached as Exhibit 23 is a true and correct copy of the June 14, 2010 letter from Josh Budwin to Mark Francis.

I declare under penalty of perjury that the foregoing is true and correct, and that this declaration was executed on August 26, 2010, in New York, New York.

By  \_\_\_\_\_  
Mark H. Francis