

# Exhibit 11

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March 5, 2010

## **VIA E-MAIL (w/o enclosures) and U.S. Mail (w/ enclosures)**

Christopher C. Carnaval  
King & Spalding, LLP  
1185 Avenue of the Americas  
New York, NY 10036

Re: *Eolas Technologies Incorporated v. Adobe Systems, Inc., et. al*; Civil Action No. 6:09-CV-00446-LED; United District Court of Texas; Eastern District.

Dear Mr. Carnaval:

In compliance with P.R. 3-1 and 3-2 and the Court's Docket Control Order, Eolas Technologies Incorporated ("Eolas") hereby submits its "Disclosure of Asserted Claims and Preliminary Infringement Contentions" and accompanying document production.

Pursuant to P.R. 2-2, some of the document production accompanying Eolas' "Disclosure of Asserted Claims and Preliminary Infringement Contentions" is marked "Highly Confidential." All documents labeled or designated as "Highly Confidential" shall be deemed "Confidential" within the meaning of P.R. 2-2 and thereby limited to outside attorneys of record and the employees of such outside attorneys.

### **I. Asserted Claims and Priority Dates**

Eolas asserts the following claims against Google Inc.:

U.S. Patent No. 5,838,906: claims 1-14.

U.S. Patent No. 7,599,985: claims 1-47.

Eolas has endeavored to identify the asserted claims on a per-accused instrumentality basis in the chart in Section II, *infra*.

Each of the claims asserted with respect to U.S. Patent Nos. 5,838,906 ("the '906 patent") and 7,599,985 ("the '985 patent") are entitled to a priority date at least as early as October 17, 1994.

## II. Accused Instrumentalities

The accused instrumentalities are specifically identified in the claim charts included on the DVD enclosed herewith as exhibits 1-18.

Chart Exhibit No.	Defendant	Chart	Infringement Theory
1.	<b>Google</b>	906 - Google - Chrome (see also instrumentalities identified therein) (accused of infringing claims 1-14 of the '906 patent and claims 1-47 of the '985 patent)	Direct/Indirect (i.e., contributory infringement and/or inducement)/DOE
2.		906 - Google - Chart 1 (see also instrumentalities identified therein) (accused of infringing claims 1-14 of the '906 patent and claims 1-47 of the '985 patent)	Direct/Indirect/DOE
3.		906 - Google - Other Domains (see also instrumentalities identified therein) (accused of infringing claims 1-14 of the '906 patent and claims 1-47 of the '985 patent)	Direct/Indirect/DOE
4.		906 - Android for mobile devices (see also instrumentalities identified therein) (accused of infringing claims 1-14 of the '906 patent and claims 1-47 of the '985 patent)	Direct/Indirect/DOE
5.		906 - Google - Phone - Chart1 (see also instrumentalities identified therein) (accused of infringing claims 1-14 of the '906 patent and claims 1-47 of the '985 patent)	Direct/Indirect/DOE
6.		985 - Google - Chart 1 (see also instrumentalities identified therein) (accused of infringing claims 1-14 of the '906 patent and claims 1-47 of the '985 patent)	Direct/Indirect/DOE
7.		985 - Google - Other Domains (see also instrumentalities identified therein) (accused of infringing claims 1-14 of the '906 patent and claims 1-47 of the '985 patent)	Direct/Indirect/DOE
8.		985 - Google - AdSense (see also instrumentalities identified therein) (accused of infringing claims 36-47 of the '985 patent only)	Direct/Indirect/DOE
9.		985 - Google - Documents (see also instrumentalities identified therein) (accused of infringing claims 36-47 of the '985 patent only)	Direct/Indirect/DOE
10.		985 - Google - Gmail (see also instrumentalities identified therein) (accused of infringing claims 36-47 of the '985 patent only)	Direct/Indirect/DOE

Chart Exhibit No.	Defendant	Chart	Infringement Theory
11.		985 - Google - Search Suggest (see also instrumentalities identified therein) (accused of infringing claims 36-47 of the '985 patent only)	Direct/Indirect/DOE
12.		985 - Google - Search (see also instrumentalities identified therein) (accused of infringing claims 36-47 of the '985 patent only)	Direct/Indirect/DOE
13.		985 - Google - Chrome (see also instrumentalities identified therein) (accused of infringing claims 36-47 of the '985 patent only)	Direct/Indirect/DOE
14.		985 - Google - Maps (see also instrumentalities identified therein) (accused of infringing claims 36-47 of the '985 patent only)	Direct/Indirect/DOE
15.		985 - Google - Maps Web Service (see also instrumentalities identified therein) (accused of infringing claims 36-47 of the '985 patent only)	Direct/Indirect/DOE
16.		985 - Google - iGoogle (see also instrumentalities identified therein) (accused of infringing claims 36-47 of the '985 patent only)	Direct/Indirect/DOE
17.		985 - Android for mobile devices (see also instrumentalities identified therein) (accused of infringing claims 1-14 of the '906 patent and claims 1-47 of the '985 patent)	Direct/Indirect/DOE
18.		985 - Google - Phone - Chart 1 (see also instrumentalities identified therein) (accused of infringing claims 36-47 of the '985 patent only)	Direct/Indirect/DOE

**III. Infringement Theory**

The infringement theories for each of the accused instrumentalities are specifically identified in the claim charts attached hereto. The infringement theory for each of the accused instrumentalities is also summarized in the chart in Section II above.

In the alternative, Eolas contends that any element found not to be literally infringed is infringed under the doctrine of equivalents because the differences between the claimed inventions and the accused instrumentalities, if any, are insubstantial. Eolas also contends that Google Inc. directly infringes the asserted claims by making, using, offering for sale, selling, and importing in to the United States the accused instrumentalities as well as indirectly infringes by contributing to and/or inducing others (e.g., Google Inc.'s customers or its customers' customers) to directly infringe those claims. Eolas further contends that Google Inc.'s infringement is deliberate and willful entitling Eolas to an injunction, enhanced damages, and attorneys' fees.



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**IV. Claim Charts**

The claim charts attached hereto as Exhibits 1-18 identify where each element of each asserted claim is found within each of the accused instrumentalities, as required under Patent Rule 3-1(c).

**V. Eolas' Embodiments of the Claimed Inventions**

The inventions claimed in some or all of the claims of the '906 and/or '985 patent are embodied in some or all versions of the following products: Visible Embryo Project and/or AnatLab System.

**VI. Document Production Pursuant to P.R. 3-2**

In addition to the DVD containing the claim charts, submitted herewith are 2 DVDs containing Eolas' document production, which include, among other things, documents produced pursuant to P.R. 3-2. The following lists the specific documents that correspond to each category of P.R. 3-2:

P.R. 3-2(a) Documents: none.

P.R. 3-2(b) Documents: EOLASTX-E-0000000001 and EOLASTX-0000000001 - EOLASTX-0000000312. *See also* Appendices A and B to the specification of the '906 patent (included within the P.R. 3-2(c) documents identified *infra*).

P.R. 3-2(c) Documents: EOLASTX-0000000313 - EOLASTX-0000009875.

Additionally, because no Protective Order has been entered in this case, source code related to products that may embody some or all of the claims of Eolas' patents will be made available in accordance with the agreement of the parties for source code production and the date for such production.

Eolas has used its best efforts to identify all responsive P.R. 3-2 documents and only those documents. However, given the volume of documents, some documents may have been inadvertently listed or inadvertently omitted. To the extent such deficiencies are identified, Eolas will supplement its production accordingly.

If you have any questions, please do not hesitate to contact me.

Sincerely,

  
Josh W. Budwin

Enclosures

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cc: Without Production and Enclosures:

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