

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

Eolas Technologies Incorporated,	§
	§
Plaintiff	§
v.	§
	§
Adobe Systems Inc., Amazon.com, Inc.	§
Apple Inc., Argosy Publishing, 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,	§
	§
Defendants.	§

Civil Action No. 6:09-cv-446

**DEFENDANT TEXAS INSTRUMENTS INCORPORATED’S  
ANSWER TO THE PATENT INFRINGEMENT COMPLAINT OF  
PLAINTIFF EOLAS TECHNOLOGIES INCORPORATED**

Defendant Texas Instruments Incorporated (“TI”) hereby answers the Complaint for Patent Infringement of Eolas Technologies Incorporated (“Eolas” or “Plaintiff”) as follows:

**I. PARTIES**

1. TI is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 1 of the Complaint and, therefore, denies them.

2. The allegations of paragraph 2 are not directed to TI, and therefore no answer is required. TI is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 2, and therefore denies them.

3. The allegations of paragraph 3 are not directed to TI, and therefore no answer is required. TI is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 3, and therefore denies them.

4. The allegations of paragraph 4 are not directed to TI, and therefore no answer is required. TI is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 4, and therefore denies them.

5. The allegations of paragraph 5 are not directed to TI, and therefore no answer is required. TI is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 5, and therefore denies them.

6. The allegations of paragraph 6 are not directed to TI, and therefore no answer is required. TI is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 6, and therefore denies them.

7. The allegations of paragraph 7 are not directed to TI, and therefore no answer is required. TI is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 7, and therefore denies them.

8. The allegations of paragraph 8 are not directed to TI, and therefore no answer is required. TI is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 8, and therefore denies them.

9. The allegations of paragraph 9 are not directed to TI, and therefore no answer is required. TI is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 9, and therefore denies them.

10. The allegations of paragraph 10 are not directed to TI, and therefore no answer is required. TI is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 10, and therefore denies them.

11. The allegations of paragraph 11 are not directed to TI, and therefore no answer is required. TI is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 11, and therefore denies them.

12. The allegations of paragraph 12 are not directed to TI, and therefore no answer is required. TI is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 12, and therefore denies them.

13. The allegations of paragraph 13 are not directed to TI, and therefore no answer is required. TI is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 13, and therefore denies them.

14. The allegations of paragraph 14 are not directed to TI, and therefore no answer is required. TI is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 14, and therefore denies them.

15. The allegations of paragraph 15 are not directed to TI, and therefore no answer is required. TI is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 15, and therefore denies them.

16. The allegations of paragraph 16 are not directed to TI, and therefore no answer is required. TI is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 16, and therefore denies them.

17. The allegations of paragraph 17 are not directed to TI, and therefore no answer is required. TI is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 17, and therefore denies them.

18. The allegations of paragraph 18 are not directed to TI, and therefore no answer is required. TI is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 18, and therefore denies them.

19. The allegations of paragraph 19 are not directed to TI, and therefore no answer is required. TI is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 19, and therefore denies them.

20. The allegations of paragraph 20 are not directed to TI, and therefore no answer is required. TI is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 20, and therefore denies them.

21. The allegations of paragraph 21 are not directed to TI, and therefore no answer is required. TI is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 21, and therefore denies them.

22. TI admits to the allegations contained in paragraph 22 of the Complaint.

23. The allegations of paragraph 23 are not directed to TI, and therefore no answer is required. TI is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 22, and therefore denies them.

24. The allegations of paragraph 24 are not directed to TI, and therefore no answer is required. TI is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 23, and therefore denies them.

## **II. JURISDICTION AND VENUE**

25. TI incorporates its responses contained in the paragraphs above as though fully set forth here.

26. TI admits that the Complaint includes claims of patent infringement that arise under the patent laws of the United States, 35 U.S.C. § 101 *et seq.* TI admits that this Court has subject matter jurisdiction over this action.

27. Solely with respect to TI, TI admits that it is subject to this Court's personal jurisdiction.

28. Solely with respect to TI, TI admits that venue is proper.

## **III. PATENT INFRINGEMENT**

29. TI incorporates its responses contained in the paragraphs above as though fully set forth here.

30. From the face of the United States Patents 5,838,906 ("the '906 Patent) and 7,599,985 ("the '985 Patent"), the title and date of issuance seems to be as alleged in paragraph 30 of the Complaint. Beyond that, TI is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 30 of the Complaint and, therefore, denies these allegations.

31. TI is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 31 of the Complaint and, therefore, denies these allegations.

32. The allegations of paragraph 32 are not directed to TI, and therefore no answer is required. TI is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 32, and therefore denies them.

33. The allegations of paragraph 33 are not directed to TI, and therefore no answer is required. TI is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 33, and therefore denies them.

34. The allegations of paragraph 34 are not directed to TI, and therefore no answer is required. TI is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 34, and therefore denies them.

35. The allegations of paragraph 35 are not directed to TI, and therefore no answer is required. TI is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 35, and therefore denies them.

36. The allegations of paragraph 36 are not directed to TI, and therefore no answer is required. TI is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 36, and therefore denies them.

37. The allegations of paragraph 37 are not directed to TI, and therefore no answer is required. TI is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 37, and therefore denies them.

38. The allegations of paragraph 38 are not directed to TI, and therefore no answer is required. TI is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 38, and therefore denies them.

39. The allegations of paragraph 39 are not directed to TI, and therefore no answer is required. TI is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 39, and therefore denies them.

40. The allegations of paragraph 40 are not directed to TI, and therefore no answer is required. TI is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 40, and therefore denies them.

41. The allegations of paragraph 41 are not directed to TI, and therefore no answer is required. TI is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 41, and therefore denies them.

42. The allegations of paragraph 42 are not directed to TI, and therefore no answer is required. TI is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 42, and therefore denies them.

43. The allegations of paragraph 43 are not directed to TI, and therefore no answer is required. TI is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 43, and therefore denies them.

44. The allegations of paragraph 44 are not directed to TI, and therefore no answer is required. TI is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 44, and therefore denies them.

45. The allegations of paragraph 45 are not directed to TI, and therefore no answer is required. TI is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 45, and therefore denies them.

46. The allegations of paragraph 46 are not directed to TI, and therefore no answer is required. TI is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 46, and therefore denies them.

47. The allegations of paragraph 47 are not directed to TI, and therefore no answer is required. TI is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 47, and therefore denies them.

48. The allegations of paragraph 48 are not directed to TI, and therefore no answer is required. TI is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 48, and therefore denies them.

49. The allegations of paragraph 49 are not directed to TI, and therefore no answer is required. TI is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 49, and therefore denies them.

50. The allegations of paragraph 50 are not directed to TI, and therefore no answer is required. TI is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 50, and therefore denies them.

51. The allegations of paragraph 51 are not directed to TI, and therefore no answer is required. TI is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 51, and therefore denies them.

52. TI denies the allegations contained in paragraph 52, including but not limited to the allegations that it has directly and/or indirectly infringed, or is continuing to infringe, directly and/or indirectly, the '906 Patent and/or the '985 Patent.

53. The allegations of paragraph 53 are not directed to TI, and therefore no answer is required. TI is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 53, and therefore denies them.



54. The allegations of paragraph 54 are not directed to TI, and therefore no answer is required. TI is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 54, and therefore denies them.

55. TI denies the allegations contained in paragraph 55 of the complaint.

56. TI denies the allegations contained in paragraph 56 of the complaint. To the extent that the allegations contained in paragraph 56 are directed at Defendants other than TI, no answer is required. TI is without knowledge or information sufficient to form a belief as to the truth of the allegations against Defendants other than TI contained in paragraph 56, and therefore denies them.

57. TI denies the allegations contained in paragraph 57 of the complaint. To the extent that the allegations contained in paragraph 57 are directed at Defendants other than TI, no answer is required. TI is without knowledge or information sufficient to form a belief as to the truth of the allegations against Defendants other than TI contained in paragraph 57, and therefore denies them.

58. TI denies the allegations contained in paragraph 58 of the complaint. To the extent that the allegations contained in paragraph 58 are directed at Defendants other than TI, no answer is required. TI is without knowledge or information sufficient to form a belief as to the truth of the allegations against Defendants other than TI contained in paragraph 58, and therefore denies them.

#### **PLAINTIFF'S REQUEST FOR RELIEF**

TI denies that Plaintiff is entitled to any of its requests for relief against TI.

## **AFFIRMATIVE DEFENSES**

TI's Affirmative Defenses are provided below. TI reserves the right to amend its Answer to add additional Affirmative Defenses.

### **FIRST AFFIRMATIVE DEFENSE**

59. TI restates its responses as set forth above as if separately set forth herein.

60. TI has not and does not directly or indirectly (such as by inducement or contributory infringement) infringe any of the claims of the '906 Patent or the '985 Patent either literally or under the Doctrine of Equivalents.

### **SECOND AFFIRMATIVE DEFENSE**

61. TI restates its responses as set forth above as if separately set forth herein

62. The '906 Patent and the '985 Patent are invalid or void for failing to satisfy the conditions of patentability as set forth in 35 U.S.C §§100, 101, 102, 103 and 112.

### **THIRD AFFIRMATIVE DEFENSE**

63. TI restates its responses as set forth above as if separately set forth herein.

64. Eolas is estopped from construing any valid claim of the '906 Patent or the '985 Patent to be infringed literally or by the Doctrine of Equivalents by any act of TI due to the disclosures of prior art or to the admissions or statements made to the U.S. Patent and Trademark Office during prosecution of the patents in suit or because of the disclosure or language of the specification or claims thereof.

### **FOURTH AFFIRMATIVE DEFENSE**

65. TI restates its responses as set forth above as if separately set forth herein.

66. To the extent that Eolas, or any predecessors in interest to the '906 Patent or the '985 Patent, failed to properly mark any of their relevant products as required by 35 U.S.C. §287

or otherwise give proper notice that TI's actions actually infringed the '906 Patent and the '985 Patent, TI is not liable to Eolas for the acts alleged to have been performed before TI received notice that it was infringing the '906 Patent and the '985 Patent.

**FIFTH AFFIRMATIVE DEFENSE**

67. TI restates its responses as set forth above as if separately set forth herein.

68. To the extent that Eolas asserts that TI indirectly infringes, either by contributory infringement or inducement, TI is not liable to Eolas for the acts alleged to have been performed before TI knew that its actions would cause the indirect infringement.

**SIXTH AFFIRMATIVE DEFENSE**

69. TI restates its responses as set forth above as if separately set forth herein.

70. Eolas' claims against TI are improper to the extent that any allegedly infringing products are directly or indirectly provided to TI or by TI to an entity having an express or implied license to the '906 Patent and/or the '985 Patent.

**SEVENTH AFFIRMATIVE DEFENSE**

71. TI restates its responses as set forth above as if separately set forth herein.

72. Eolas is not entitled to any injunctive relief as demanded because any injury to Eolas is neither immediate nor irreparable, and Eolas has adequate remedies at law.

**COUNTERCLAIMS**

73. TI restates its responses as set forth above as if separately set forth herein.

74. TI has not directly or indirectly infringed, contributed to or induced infringement of any valid or enforceable claim of the '906 Patent or the '985 Patent, and has not otherwise committed any acts in violation of 35 U.S.C. §271.

75. The '906 Patent and the '985 Patent are invalid for failing to meet the conditions for patentability as set forth in 35 U.S.C. §§100, 101, 102, 103 and 112.

76. An actual controversy exists between TI and Eolas concerning the alleged infringement and validity of the '906 Patent and the '985 Patent by virtue of Eolas' complaint herein.

77. TI is entitled to judgment from this Court that neither the '906 Patent nor the '985 Patent are infringed by TI and that both are invalid.

78. This is an exceptional case entitling TI to an award of its attorney's fees incurred in connection with this action pursuant to 35 U.S.C. §285.

79. TI continues to investigate this matter and reserves the right to amend its Answer and/or Counterclaims to assert any additional defenses or counterclaims that come to light upon further investigation and discovery.

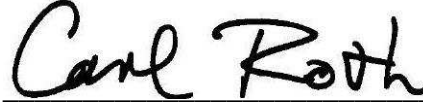
#### **PRAYER FOR RELIEF**

WHEREFORE TI prays that:

80. the Court dismiss the Complaint against TI with prejudice;
81. the Court declare that TI has not and does not infringe the '906 Patent or the '985 Patent;
82. the Court declare that the '906 Patent and the '985 Patent are invalid;
83. the Court declare that Eolas is not entitled to any remedy or relief whatsoever against TI;
84. the Court award TI its costs, together with reasonable attorneys fees and all of its expenses for this suit because this is an exceptional case under 35 U.S.C. §285; and
85. the Court award TI such other relief as this Court may deem just and proper.

Respectfully submitted,

TEXAS INSTRUMENTS INCORPORATED,  
By its attorneys,



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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) this 22<sup>nd</sup> day of October, 2009. Any other counsel of record will be served by facsimile transmission and/or first class mail.



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Carl R. Roth