

J.C. Penney Company, Inc. Accordingly, an amended complaint naming J.C. Penney Corporation, Inc. is being filed concurrently with this motion to dismiss.

Eolas and J.C. Penney Company, Inc. further stipulate that all fees, costs and expenses relating to the above-captioned litigation (including, but not limited to, attorneys' fees) shall be borne solely by the Party incurring the same.

The Parties respectfully request that the Court grant their Motion and dismiss without prejudice their respective claims against each other. This dismissal shall have no bearing on Eolas' claims with respect to the other defendants in the above-captioned action or the correctly named corporate entity of J.C. Penney Corporation, Inc.

DATED: December 7, 2010

Respectfully submitted,

McKool Smith, P.C.

/s/ Kevin Burgess

Kevin L. Burgess

Texas State Bar No. 24006927

kburgess@mckoolsmith.com

Steven J. Pollinger

Texas State Bar No. 24011919

spollinger@mckoolsmith.com

Josh W. Budwin

Texas State Bar No. 24050347

jbudwin@mckoolsmith.com

Matthew B. Rappaport

Texas State Bar No. 24070472

mrappaport@mckoolsmith.com

McKool Smith, P.C.

300 West Sixth Street, Suite 1700

Austin, Texas 78701

Telephone: (512) 692-8700

Telecopier: (512) 692-8744

Mike McKool

Lead Attorney

Texas State Bar No. 13732100

mmckool@mckoolsmith.com

Douglas Cawley

Texas State Bar No. 04035500

dcawley@mckoolsmith.com

McKool Smith, P.C.

300 Crescent Court, Suite 1500

Dallas, Texas 75201

Telephone: (214) 978-4000

Telecopier: (214) 978-4044

Sam F. Baxter

Texas State Bar No. 01938000

sbaxter@mckoolsmith.com

McKool Smith, P.C.

104 E. Houston St., Ste. 300

P.O. Box ●

Marshall, Texas 75670

Telephone: (903) 923-9000

Telecopier: (903) 923-9095

**ATTORNEYS FOR PLAINTIFF
EOLAS TECHNOLOGIES INC.**

/s/ Christopher M. Joe with Permission

Christopher M. Joe

joec@gtlaw.com

Brian Carpenter

carpenterb@gtlaw.com

Eric W. Buether

buethere@gtlaw.com

BUETHER JOE & CARPENTER

2200 Ross Avenue, Suite 5200

Dallas, Texas 75201

Telephone: (214) 665-3600

Facsimile: (214) 665-3601

Jeffrey K. Joyner (admitted *pro hac vice*)

joynerj@gtlaw.com

Jeffrey F. Yee (admitted *pro hac vice*)

yeej@gtlaw.com

GREENBERG TAURIG, LLP

2450 Colorado Avenue, Suite 400E

Santa Monica, California 90404

Telephone: (310) 586-7700

Facsimile: (310) 586-7800

Diane Lettelleir

dlettell@jcpenny.com

J.C. PENNEY COMPANY, INC.

6501 Legacy Drive (MS-1122)

Plano, TX 75024

972.431.5012

**ATTORNEYS FOR DEFENDANT
J.C. PENNEY COMPANY, INC.**

CERTIFICATE OF SERVICE

The undersigned certifies that the foregoing document was filed electronically in compliance with Local Rule CV-5(a). As such, this document was served on all counsel who have consented to electronic services on this the 7th day of December, 2010. Local Rule CV-5(a)(3)(A).

/s/ Sam F. Baxter

Sam F. Baxter