

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

EOLAS TECHNOLOGIES, INC.

Plaintiff,

vs.

ADOBE SYSTEMS, INC., et al

Defendants.

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**CASE NO. 6:09-CV-446
PATENT CASE**

ORDER

The Court has reviewed the parties' Joint Claim Construction and Prehearing Statement (Docket No. 479). There are two patents in suit and 75 terms in dispute (21 claim terms plus 54 additional terms defendants contend should be construed pursuant to § 112, ¶ 6). Every claim of both patents is alleged against 21 unrelated defendants. The Court is very concerned that the large number of claims and claim terms in this case is unmanageable.

At the August 31, 2010 status conference, the Court discussed the need to narrow this case. It does not appear that the parties have narrowed the case at all. In the Joint Claim Construction and Prehearing Statement, defendants represented to the Court that resolution of the pending preliminary injunction matter in the *Microsoft Corp. v. Eolas Techs, Inc.* case (No. 1:10-cv-03820, N.D. Ill. filed June 18, 2010) would provide an opportunity for the parties to narrow the scope of this case. The Court **ORDERS** the parties to provide an update on the status of this issue and how it will narrow the case.

The parties have represented to the Court that they will need three hours for the *Markman* hearing. It is the Court's standard practice to conclude claim construction hearings by lunch, and

the Court plans to do so in this case. However, the Court also strongly encourages the parties to not merely rest on their briefs for disputed terms. If the terms are not important enough to the parties to require the parties' oral arguments, the Court questions whether the terms are material enough to warrant the Court's time and efforts to construe them. The Court also reminds the parties that the page limits governing dispositive motions pursuant to Local Rule CV-7(a) apply to claim construction briefing and will not be extended absent a showing of good cause

The Court **ORDERS** the parties to meet and confer to: (1) narrow the number of disputed claim terms to a reasonable number; (2) narrow the number of disputed claims to a reasonable number; and (3) discuss proposals regarding how to narrow the case. The parties will file a joint notice regarding the status of disputed claims, disputed claim terms, and the impact of the Microsoft preliminary injunction matter by December 30, 2010.

So ORDERED and SIGNED this 21st day of December, 2010.

A handwritten signature in black ink, appearing to read 'Leonard Davis', written over a horizontal line.

**LEONARD DAVIS
UNITED STATES DISTRICT JUDGE**