

Exhibit S

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

EOLAS TECHNOLOGIES INCORPORATED,	§	
	§	
<i>Plaintiff,</i>	§	Civil Action No. 6:09-cv-00446-LED
	§	
vs.	§	Jury Trial Demanded
	§	
ADOBE SYSTEMS INCORPORATED, et al.	§	
	§	
<i>Defendants.</i>	§	

**J.C. PENNEY CORPORATION, INC.'S FIRST AMENDED RESPONSE TO
PLAINTIFF'S FIRST SET OF INTERROGATORIES (NOS. 1, 2, 3, AND 5)
[Confidential, Attorney Eyes Only]**

Pursuant to Rules 26 and 33 of the Federal Rules of Civil Procedure, Defendant J.C. Penney Corporation, Inc. ("JCP"), hereby serves its objections and first amended responses to Plaintiff Eolas Technologies Incorporated ("Eolas") First Set of Interrogatories (Nos. 1-5) to be Separately Answered by Each Defendant (the "Interrogatories").

PRELIMINARY STATEMENT

JCP incorporates by reference its Preliminary Statement set forth in its Response to Plaintiff's First Set of Interrogatories (Nos. 1-5).

GENERAL OBJECTIONS

JCP incorporates by reference its General Objections set forth in its Response to Plaintiff's First Set of Interrogatories (Nos. 1-5).

INTERROGATORIES

INTERROGATORY NO. 1:

Separately for each Accused Product, identify and describe all documents generated,

Tel: 512-499-8811	
Akamai 8 Cambridge Center, Cambridge, MA 02142 Tel: 877-325-2624	Access and use of www.jcpenney.com and jcpenneybrands.com .
Terradon Communication Group 401 Jacobson Drive Poca, WV 25159 Tel: 304-755-1324	Access and use of www.jcpenney.net
Lifetouch Tom Booth, Director of Information Systems 11000 Viking Drive, Ste 400 Eden Prairie, MN 55344 www.lifetouch.com	Access and use of www.jcpportraits.com .
Ms. Kate Coultas (Ms. Coultas can be contacted through JCP's counsel)	Access and use of www.jcpenneybrands.com and www.jcpenney.net .
Mr. John Moser (Mr. Moser can be contacted through JCP's counsel)	Access and use of www.jcpenney.com

INTERROGATORY NO. 2:

Separately for each Accused Product, identify the worldwide geographic location(s) (e.g. city, state and country) of all of Your servers, or servers of which You are aware, which host, provide access to, or make available, or which have hosted, provided access to, or made available, each Accused Product and identify the web server technology (e.g. Apache, etc.) which underlies or powers each server identified and identify the person(s) most knowledgeable and the documents related to Your response to this Interrogatory. This Interrogatory is limited to October 2004 to the present time.

FIRST AMENDED RESPONSE TO INTERROGATORY NO. 2:

JCP incorporates by reference its Preliminary Statement and each of its General Objections. JCP further objects to this Interrogatory on the grounds that (1) it is overbroad, unduly burdensome, oppressive and compound; (2) it is vague, ambiguous, and undefined as to the terms "Accused Product," "server," "web server technology," "underlies," and "powers;" (3) it seeks to impose obligations upon JCP beyond those set forth in the Federal Rules of Civil Procedure; (4) it seeks information neither relevant to any material issue, claim or defense in this action, nor reasonably calculated to lead to the discovery of admissible evidence; (5) it seeks information not within JCP's custody, possession, or control; (6) it seeks information about the website located at www.jcpportraits.com which JCP does not own or operate; and (7) it seeks information that is readily available or accessible to Eolas, or has provided to Eolas.

Furthermore, JCP objects that the Interrogatory contains at least three discrete subparts within the meaning of Fed.R.Civ.P. 33, such as geographic locations of servers, web server technology, and identification of person(s) most knowledgeable; and as such constitute at least three separate interrogatories, and will be treated as such for the purposes of the interrogatory limit set forth in the Joint Agreed Discovery Order. *See* Dkt. 247.

Subject to and without waiving the foregoing objections, JCP states that to the extent that JCP associates access the website addressable as jcpenny.com or jcp.com from workstations located at JCP headquarters in Plano, Texas, or located at administrative offices at JCP stores and support facilities, or from JCP laptops accessing the JCP network remotely, the associates access and use the website directly through servers owned or controlled by JCP located in Lenexa, Kansas or Columbus, Ohio. The JCP web servers operate with Microsoft Windows Server 2003 with Internet Information Services 6.0.

JCP further states that public customers access and use the website addressable as www.jcpenney.com or jcp.com from servers owned or controlled by Akamai located in approximately 70 countries equipped with proprietary software. The source code for the website addressable as www.jcpenney.com or jcp.com resides on servers owned or controlled by JCP located in Lenexa, Kansas or Columbus, Ohio. Certain content displayed by the website

addressable as www.jcpenney.com or jcp.com is accessed from servers located at Akamai's hosting environments and/or Adobe hosting environments. In addition, the source code for the website addressable as jcpenneybrands.com resides on servers owned or controlled by Akamai.

JCP understands that the website addressable as www.jcpportraits.com is made available from servers that are physically located in Minneapolis, Minnesota. JCP also understands that the website addressable as www.jcpenney.net is made available from servers owned or controlled by Terradon Communication Group and that such server(s) are physically located in Poca, West Virginia. The following are persons most knowledgeable of the location and operation of the servers identified in JCP's response to this Interrogatory.

Name and Contact Information	Description of knowledge
Akamai 8 Cambridge Center, Cambridge, MA 02142 Tel: 877-325-2624	Location and operating systems of servers hosting certain content for JCP. Location and operating systems of servers hosting www.jcpenneybrands.com and providing access to and use of www.jcpenney.com .
Terradon Communication Group 401 Jacobson Drive Poca, WV 25159 Tel: 304-755-1324	Location and operating systems of servers hosting www.jcpenney.net
Lifetouch Tom Booth, Director of Information System 11000 Viking Drive, Ste 400 Eden Prairie, MN 55344 www.lifetouch.com	Location and operating systems of servers hosting www.jcpportraits.com .

Ms. Kate Coultas (Ms. Coultas can be contacted through JCP's counsel)	Location of servers hosting www.jcpennybrands.com and www.jcpenny.net.
Mr. John Moser (Mr. Moser can be contacted through JCP's counsel)	Location and operating systems of servers providing access to www.jcpenny.com for users within the JCP network.

INTERROGATORY NO. 3:

Separately for each Accused Product, identify the number and percentage of users, customers, or others of whom You are aware, who access, and/or make use of the Accused Products utilizing the following browser technologies:

- a. Microsoft Internet Explorer (including mobile versions)
- b. Apple Safari for Windows
- c. Apple Safari for Apple operating systems
- d. Apple Safari for the Apple iPhone or iPod
- e. Browsers for BlackBerry (including the BlackBerry browser)
- f. Google Chrome for Windows
- g. Google Chrome for Apple operating systems
- h. Google Android
- i. Google Chrome for Linux
- j. Firefox for Windows
- k. Firefox for Apple operating systems
- l. Firefox for Linux
- m. Opera for Windows
- n. Opera for Apple operating systems
- o. Opera for Linux

interrogatories, and will be treated as such for the purposes of the interrogatory limit set forth in the Joint Agreed Discovery Order. *See* Dkt. 247.

Subject to and without waiving the foregoing objections, JCP directs Eolas to the HTML codes for <www.jcpenney.com>, <www.jcpenney.net>, <www.jcpenneybrands.com>, and <www.jcportraits.com>, which are publicly available through the “View Source” functionality on most browsers, from which the answer may be derived.

By: /s/ Jeffrey F. Yee
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**ATTORNEYS FOR DEFENDANT
J.C. PENNEY CORPORATION, INC.**

CERTIFICATE OF SERVICE

The undersigned hereby certifies that the foregoing document was served via electronic mail on counsel of record on this 13th day of November, 2010.

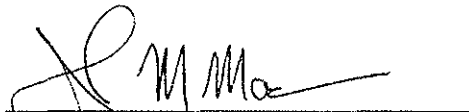
/s/ Jeffrey F. Yee

Jeffrey F. Yee

VERIFICATION

I, John Moser, Site Operation Director of J.C. Penney Corporation, Inc., have read the foregoing J.C. Penney Corporation, Inc.'s First Amended Response to Plaintiff's First Set of Interrogatories (Nos. 1-5), and as determined by a reasonable investigation, I am informed and believe that the factual matters stated in response to Interrogatory Nos. 1-3, exclusive of objections, stated in the foregoing responses are true and correct to the best of my knowledge.

I declare under the penalty of perjury under the laws of the United States that the foregoing is true and correct, and that this Verification was executed on this 19th day of November, 2010 at Plano, Texas.



John Moser