EXHIBIT B

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February 1, 2011

VIA E-MAIL:

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

Dear Mark:

I write in response to your January 28, 2011 letter regarding Eolas' asserted claims (herein after "your letter"). You complain in your letter that Eolas has not done enough and that the defendants are not satisfied with the number of claims Eolas dropped. However, contrary to the assertions made in your letter, reducing the size and scope of this case in order to bring it to trial is a two-way street. Now, rather than complain that Eolas has not done enough, it is time for the defendants to uphold their end of the bargain. This was discussed in the meet and confer that proceeded the January 11, 2011 filing of the Joint Report. *See* dkt. 553.

Eolas has taken a meaningful first-step and has dropped 16 of the formerly asserted 61 claims, including 6 of 15 independent claims. Now, it is time for the defendants to follow through and (1) provide Eolas with the discovery it has been seeking for months, and (2) drop some of the defendants' prior art assertions. Once the defendants take these steps, Eolas will be in a position to further reduce the number of asserted claims as it explained in the Joint Report.

Despite Eolas' undertaking to reduce the number of asserted claims, the defendants have yet to remedy the discovery deficiencies Eolas complained of in the Joint Report, and, in fact, the discovery shortcomings have worsened since that time. As examples:

- JPMorgan, Texas Instruments and Citibank still have produced less than 100 documents each. Eolas has been trying to work with these defendants for months, and the deficiencies persist. Eolas is working to schedule meet and confers with their lead and local counsel as preludes to motions to compel.
- Apple, Adobe and Oracle have significant issues with their privilege logs and document productions. Eolas is working to schedule meet and confers with their lead and local counsel as a prelude to a motion to compel.
- In Eolas' first review of Apple's source code, Eolas noted that Apple failed to produce the source code for all of its accused products. Eolas requested that Apple correct this issue yet, in its follow-up inspection three months later, the very same code deficiencies persisted. Eolas is working to schedule meet and confers with Apple's lead and local counsel as a prelude to a motion to compel.
- Google refuses to supplement its written discovery responses, schedule the depositions indicated below, or produce documents related to its ongoing litigation with Oracle related to the Android accused products, among other issues.
- On the dates indicated in the chart below, Eolas noticed the following 30(b)(1) and 30(b)(6) depositions. Many of these depositions have been outstanding for months, and only a very few have been scheduled. By Eolas' count, 37 of the 39 depositions noticed over the past several months remain outstanding. This is inexcusable. The defendants'

unwillingness to schedule these depositions in a timely manner unfairly hinders Eolas' case preparation:

	SERVED TO	DATE SERVED	TYPE OF DEPO	NOTICED DATE	Confirmed Date
1.	Apple	11/29/10	30(b)(1)	12/13/2010 1:00 pm PST	None
2.	CDW	12/09/10	30(b)(1)	01/17/2011 9:00 am CST	2/15/2011 10:00 am CST
3.	Office Depot	12/09/10	30(b)(1)	1/19/2011 9:00 am CST	None
4.	Amazon	12/23/10	30(b)(1)	1/24/2011 10:00 am PST	None
5.	eBay	12/23/10	30(b)(1)	1/26/2011 10:00 am PST	None
6.	Apple	01/07/11	30(b)(1)	3/7/2011 9:00 am PST	None
7.	Apple	01/07/11	30(b)(1)	3/8/2011 9:00 am PST	None
8.	CDW	01/07/11	30(b)(1)	2/28/2011 9:00 am CST	None
9.	CDW	01/07/11	30(b)(1)	3/1/2011 9:00 am CST	None

10.	Office Depot	01/07/11	30(b)(1)	3/3/2011 9:00 am EST	None
11.	Office Depot	01/07/11	30(b)(1)	3/4/2011 9:00 am EST	None
12.	Google	01/07/11	30(b)(1)	1/26/2011 9:00 am PST	None
13.	Google	01/07/11	30(b)(1)	1/24/2011 9:00 am PST	None
14.	Google	01/07/11	30(b)(1)	1/25/2011 9:00 am PST	None
15.	JC Penney	01/10/11	30(b)(1)	2/11/2011 9:00 am CST	None
16.	Office Depot	01/13/11	30(b)(6)	2/10/2011 10:00 am CST	None
17.	JC Penney	01/13/11	30(b)(6)	2/16/2011 10:00 am CST	None
18.	New Frontier	01/13/11	30(b)(6)	2/9/2011 10:00 am CST	None
19.	Perot	01/13/11	30(b)(6)	2/14/2011 10:00 am CST	None
20.	Go Daddy	01/13/11	30(b)(6)	2/15/2011 10:00 am CST	None
21.	CDW	01/13/11	30(b)(6)	2/11/2011 10:00 am CST	None
22.	Staples	01/14/11	30(b)(1)	2/4/2011 10:00 am EST	None

23.	JP Morgan	01/18/11	30(b)(1)	2/11/2011 9:00 am EST	None
24.	JP Morgan	01/18/11	30(b)(1)	2/10/2011 9:00 am EST	None
25.	Citigroup	01/19/11	30(b)(1)	2/9/2011 9:00 am EST	2/25/2011 10:00 am EST
26.	Google	01/19/11	30(b)(1)	2/8/2011 10:00 am PST	None
27.	Google	01/19/11	30(b)(1)	2/10/2011 10:00 am PST	None
28.	Google	01/19/11	30(b)(1)	2/14/2011 10:00 am PST	None
29.	Google	01/19/11	30(b)(1)	2/11/2011 10:00 am PST	None
30.	Google	01/19/11	30(b)(1)	2/9/2011 10:00 am PST	None
31.	Google	01/19/11	30(b)(1)	2/7/2011 10:00 am PST	None
32.	Google	01/19/11	30(b)(1)	2/15/2011 10:00 am PST	None
33.	Amazon	01/19/11	30(b)(1)	2/11/2011 9:30 am PST	None
34.	eBay	01/19/11	30(b)(1)	2/21/2011 9:30 am PST	None
35.	Staples	01/19/11	30(b)(1)	2/17/2011 9:30 am EST	None

36.	Adobe	01/21/11	30(b)(1)	2/28/2011 9:00 am PST	None
37.	Adobe	01/21/11	30(b)(1)	3/1/2011 9:00 am PST	None
38.	YouTube	01/25/11	30(b)(6)	2/17/2011 10:00 am PST	None
39.	Google	01/25/11	30(b)(6)	2/16/2011 10:00 am PST	None

The defendants have no legitimate reason why they have failed to provide discovery in a timely manner. The outstanding mandamus petition at the Federal Circuit does not provide an excuse for failing to timely schedule depositions and provide other discovery. *See* dkt. 247 at ¶ 14 ("No Excuses. . . . Absent court order to the contrary, a party is not excused from disclosure because there are pending motions to dismiss, to remand or to change venue."). As Eolas explained in the Joint Report, it is unable to meaningfully identify additional claims to drop until the defendants uphold their end of the bargain and correct their numerous and long-standing discovery deficiencies. Defendants have yet to do so and instead continue to ignore Eolas' requests for discovery.

Likewise, as Eolas discussed in the meet and confer, and as you mention in your letter, the defendants agreed to drop some of their prior art assertions. This has yet to happen, and the defendants continue to drag their feet. We look forward to the defendants making a meaningful reduction in the volume of asserted prior art.

Finally, as Eolas has explained multiple times, and as set forth in Eolas' opening claim construction brief:

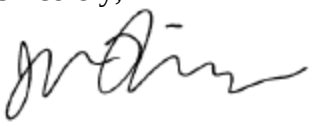
> [D]ropping asserted claims will <u>not</u> meaningfully reduce the number of claim construction disputes the Court must resolve. Dkt. 479 at 1. As shown in Eolas' Brief [dkt. 537], eight of the ten

> disputed issues of claim construction appear in every asserted claim of the patents-in-suit. Eolas' Brief at 8-26. And, the defendants' contention that various claims should be construed pursuant to 35 U.S.C. § 112, ¶ 6 is belied by the absence of the word "means" together with the numerous authorities cited by Eolas. *Id*. at 26-28. Defendants are unable to demonstrate otherwise. Therefore, a reduction in the number of asserted claims at this time will not meaningfully reduce the number of claim construction disputes the Court must resolve

Dkt. 553 at 3. If you contend otherwise, please explain the basis of your contention.

We look forward to the defendants' prompt attention to the issues raised herein.

Sincerely,



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