

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TEXAS
TYLER DIVISION**

Eolas Technologies Incorporated,

Plaintiff,

vs.

Adobe Systems Inc.; Amazon.com, Inc.; Apple Inc.; CDW Corp.; Citigroup Inc.; eBay Inc.; Frito-Lay, Inc.; The Go Daddy Group, Inc.; Google Inc.; J.C. Penney Corporation, 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.

No. 6:09-cv-00446-LED (Filed Oct. 6, 2009)

**ORIGINAL PROSECUTION OF
U.S. PATENT NO. 5,838,906**

APPLICATION NO. 08/324,443

FILED: October 17, 1994

ISSUED: November 17, 1998

“906 PH”

Adobe Systems Inc.; Amazon.com, Inc.; Apple Inc.; CDW LLC; eBay Inc.; Frito-Lay, Inc.; The Go Daddy Group, Inc.; Google Inc.; J.C. Penney Corporation, Inc.; JPMorgan Chase & Co.; New Frontier Media, Inc.; Office Depot, Inc.; Perot Systems Corp.; Playboy Enterprises International, Inc.; Rent-A-Center, Inc.; Staples, Inc.; Oracle America, Inc. f/k/a Sun Microsystems, Inc.; Texas Instruments Inc.; Yahoo! Inc.; and YouTube, LLC,

Counterclaimants,

vs.

Eolas Technologies Incorporated,

Counterdefendant.

I, SHUBHAM MUKHERJEE, declare:

1. I am an associate in the Chicago office of the law firm Sidley Austin LLP, counsel of record to Apple, Inc. I have personal knowledge of the facts stated in this declaration (unless stated otherwise) and, if called as a witness, I could and would testify competently to these facts under oath. As to those matters stated on information and belief, I am informed and believe them to be true and correct to the best of my knowledge.

2. On October 21, 2010, the Defendants to this litigation served to Eolas Technologies, Inc. a certified copy and a certification of the United States Patent and Trademark Office file wrapper corresponding to the original prosecution of U.S. Patent No. 5,838,906. (*See* PH_001_0000775641 – PH_001_0000776910.) In view of the length of certain file wrappers associated with this litigation, and for the convenience of the parties, the Defendants to this litigation concurrently served copies of select file wrapper transactions for this prosecution in a separate bates range. (*See* PH_001_0000783777 – PH_001_0000784194.) The exhibits listed below are taken from this latter bates range.

3. The following is an index for the exhibits appended hereto:

Paper No.	Date	Description	Beginning Bates No.
906 PH Ex. 1	10/17/1994	Application as Filed	PH_001_0000783799
906 PH Ex. 2	05/06/1996	Non-Final Rejection	PH_001_0000783863
906 PH Ex. 3	08/06/1996	Amendment A	PH_001_0000783879
906 PH Ex. 4	12/13/1996	Final Rejection	PH_001_0000783929
906 PH Ex. 5	01/08/1997	Declaration of M. Doyle	PH_001_0000783943
906 PH Ex. 6	01/08/1997	Applicant Response	PH_001_0000783957
906 PH Ex. 7	01/24/1997	Final Rejection	PH_001_0000783997
906 PH Ex. 8	02/19/1997	Communication to Examiner	PH_001_0000784009
906 PH Ex. 9	02/26/1997	Examiner Interview Summary	PH_001_0000784011
906 PH Ex. 10	03/26/1997	Non-Final Rejection	PH_001_0000784013
906 PH Ex. 11	06/02/1997	Amendment B	PH_001_0000784029
906 PH Ex. 12	08/25/1997	Final Rejection	PH_001_0000784091
906 PH Ex. 13	10/31/1997	Communication to Examiner	PH_001_0000784099
906 PH Ex. 14	11/06/1997	Examiner Interview Summary	PH_001_0000784125
906 PH Ex. 15	12/23/1997	Declaration of M. Doyle	PH_001_0000784129
906 PH Ex. 16	12/23/1997	Response to Final Rejection	PH_001_0000784131
906 PH Ex. 17	03/30/1998	Notice of Allowability	PH_001_0000784167
906 PH Ex. 18	01/27/1998	Interview Summary	PH_001_0000784173

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct and that this declaration was executed in Chicago on February 4, 2011.

/s/ Shubham Mukherjee
SHUBHAM MUKHERJEE