

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  
APPLICATION NO. 09/075,359**

**FILED: May 8, 1998**

**NOW ABANDONED**

**“359 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.

SHUBHAM MUKHERJEE declares:

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 this prosecution. (*See* PH\_001\_0000779017 – PH\_001\_0000779755.) 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\_0000787693 – PH\_001\_0000787893.) The exhibits listed below are taken from this latter bates range.

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

<b>Paper No.</b>	<b>Date</b>	<b>Description</b>	<b>Bates No.</b>
359 PH Ex. 1	05/08/1998	Original Application	PH_001_0000787699
359 PH Ex. 2	05/08/1998	Preliminary Amendment	PH_001_0000787770
359 PH Ex. 3	09/06/2000	Non-Final Rejection	PH_001_0000787793
359 PH Ex. 4	03/09/2001	Applicant Response	PH_001_0000787808
359 PH Ex. 5	05/22/2001	Final Rejection	PH_001_0000787814
359 PH Ex. 6	11/29/2001	Applicant Response	PH_001_0000787823
359 PH Ex. 7	11/29/2001	Terminal Disclaimer	PH_001_0000787859
359 PH Ex. 8	12/02/2002	Office Action	PH_001_0000787861
359 PH Ex. 9	08/09/2002	Express Abandonment	PH_001_0000787873
359 PH Ex. 10	10/23/2002	Notice of Abandonment	PH_001_0000787874

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