

# Exhibit K



# McKool Smith

A PROFESSIONAL CORPORATION • ATTORNEYS

Josh Budwin  
Direct Dial: (512) 692-8727  
jbudwin@mckoolsmith.com

300 West 6<sup>th</sup> Street  
Suite 1700  
Austin, Texas 78701

Telephone: (512) 692-8700  
Telecopier: (512) 692-8744

February 11, 2011

## VIA E-MAIL:

John Fedock  
Attorney  
Vinson & Elkins LLP  
2801 Via Fortuna, Suite 100  
Austin, TX 78746-7568  
[jfedock@velaw.com](mailto:jfedock@velaw.com)

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 John:

I write in response to your February 2, 2011 correspondence (hereinafter “your letter”). We cannot agree with the suggestion made in your letter. Rather, Eolas’ position—based upon its present understanding of the claims at-issue—is set forth in its August 23, 2010 and January 11, 2011 correspondence. As set forth therein, claims 24 and 28 are claims in which the software-related limitations are satisfied solely by software plug-ins or the executable application. Accordingly, for these claims Eolas contends that infringement is found solely within the plug-in. Similarly, claims 20 and 40 are claims in which the software-related limitations are satisfied solely by server software. Accordingly, for these claims Eolas contends that infringement is found solely within the server.

Eolas’ reading of these claims is consistent with recent authority from the Federal Circuit. *See e.g. BMC Res., Inc. v. Paymentech, L.P.*, 498 F.3d 1373, 1381 (Fed. Cir. 2007) (citations omitted) (Finding “[a] patentee can usually structure a claim to capture infringement by a single party. In this case, for example, BMC could have drafted its claims to focus on one entity. The steps of the claim might have featured references to a single party’s supplying or receiving each element of the claimed process.”); *See also Uniloc USA Inc. v. Microsoft Corp.*, No. 03-CV-0440 (Fed. Cir. Jan. 4, 2011) (“As we noted in *BMC*, ‘[a] patentee can usually structure a claim to capture infringement by a single party,’ by ‘focus[ing] on one entity.’ ... [T]his court agrees with the district court that ‘[a]ccepting Microsoft’s argument that the local side of Claim 19 requires an end-user’s participation, similar to the surgeons’ participation in *Cross Medical*, would be akin to importing a method step into this software system—something the language of Claim 19 does not support.”).

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Sincerely,

A handwritten signature in black ink, appearing to read "Josh Budwin". The signature is fluid and cursive, with a prominent initial "J" and a long, sweeping underline.

Josh Budwin

cc:

Gentry C. McLean  
David B. Weaver

[Playboy-Eolas@velaw.com](mailto:Playboy-Eolas@velaw.com)