Exhibit 1

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

EOLAS TECHNOLOGIES INCORPORATED **Plaintiff,** **v.** **ADOBE SYSTEMS INCORPORATED*, et al*.** **Defendants.**	Civil Action No. 6:09-CV-446 (LED)

DEFENDANTS' PROPOSED TERMS AND CLAIM ELEMENTS FOR CONSTRUCTION

I. INTRODUCTION

Pursuant to Rule 4-1 of the Rules of Practice for Patent Cases before the Eastern District of Texas, Defendants hereby submit their proposed terms and claim elements for construction of the claims of U.S. Patent Nos. 5,838,906 (the '906 patent) and 7,599,985 (the '985 patent) (collectively, the "patents-in-suit"). Plaintiff has asserted all 61 claims of the patents-in-suit against Defendants. Among these claims, Defendants contend that the claim terms, phrases, and clauses identified below should be construed by the Court. In addition, where indicated in Part III below, Defendants contend that certain terms, phrases, and clauses are governed by and should be addressed in accordance with 35 U.S.C. § 112 ¶ 6. To the extent a term, phrase, or clause appears in both Part II and Part III below, Defendants contend that if it is agreed or

decided that § 112 ¶ 6 does not apply to one or more instances of that term, phrase, or clause, then the term, phrase, or clause appearing in Part II should still be construed by the Court, without reference to § 112 ¶ 6.

Defendants' discovery and investigation in connection with this lawsuit are continuing, and, thus, these disclosures are based on information obtained to date. Numerous Defendants have pointed out the failure of Plaintiff's infringement contentions to provide the specificity required by P.R. 3-1, and thus the Court will be holding a hearing in several weeks on August 31, 2010, to address Plaintiff's infringement contentions. Defendants reserve the right to amend or supplement their identification of terms, phrases, and clauses for construction, including the identification of claim elements governed by 35 U.S.C. § 112 ¶ 6, in the event they obtain or discern additional information through further investigation, discovery, or disclosure from Plaintiff. In addition, Defendants reserve the right to seek construction of, or treatment in accordance with 35 U.S.C. § 112 ¶ 6 for, any term, phrase, or clause listed by Plaintiff. Finally, to the extent Plaintiff is asserting infringement of any claim of the the '906 patent before issuance of the C2 reexamination certificate on February 3, 2009, then Defendants contend that the Court should compare the scope of those claims in the C2 reexamination certificate to the scope of the claims before reexamination to determine the extent to which Eolas may pursue its infringement claims in light of 35 U.S.C. §§ 252, 307 (e.g., "intervening rights").

II. CLAIM TERMS AND CLAIM ELEMENTS REQUIRING CONSTRUCTION

1.

a. "utilized by said browser to identify and locate [an / said] executable application"

b. "with the browser application: … utilizing the type information to identify and locate an executable application"

c. "cause the client workstation to utilize the browser to: … utilize the type information to identify and locate an executable application external to the file"

d. "utilized by the browser to identify and locate said executable application"

e. "with the browser application: … identifying and locating an executable application

f. "executable application … is identified and located by the browser"

2.

a. "automatically [invoking / invoke] [the / said] executable application"

b. "executable application is automatically invoked by the browser"

3. “workstation”

4. “network server”

5. “executable application”

6. “object”

7.

a. “type information”

b. “object [has / having] type information associated with it”

8.

a. "enable interactive processing of said object"

b. “[enable / enabling] an end-user to directly interact with [said / the / an] object”

9.

a. "[first] hypermedia document"

b. "[first] distributed hypermedia document"

c. “file”

d. "file containing information to enable a browser application to display [, on] [said/the] [client workstation,] at least [a / said] portion of [a / said] distributed hypermedia document”

10.

a. “text format”

b. “embed text format”

11.

a. "embed text format, located at a first location in said first distributed hypermedia document"

b. "embed text format [which] correspond[s/ing] to [a / said] first location in the document"

c. "a display area created at [a / said / the] first location within [a / the] portion of [a / the / said] [first] [distributed] hypermedia document"

12. “interactively control[ling]”

13. “distributed application”

14.

a. “display [said / the] object”

b. “object is being displayed”

15.

a. "said executable application to execute on said client workstation in order to display said object and enable an end-user to directly interact with said object"

b. "said executable application to execute on said client workstation in order to display said object and enable interactive processing of said object"

c. "the executable application . . . to execute on the client workstation in order to display the object and enable an end-user to directly interact with the object"

d. "directly interact with an object by utilizing said executable application to interactively process said object while the object is being displayed"

e. "the client workstation to display an object and enable an end-user to directly interact with said object while the object is being displayed"

f. "an executable . . . to enable an end-user to directly interact with an object while the object is being displayed"

g. "the executable application . . . to enable an end-user to directly interact with the object[,] while the object is being displayed"

16.

a. "A computer program product . . . comprising a computer usable medium having computer readable program code physically embodied therein, said computer

program product further comprising: computer readable program code for causing said client workstation to execute a browser application"

b. "computer readable media encoded with software"

17. "pars[e/es/ed/ing]"

18.

a. “identify[ing] an embed text format”

b. “an embed text format . . . is identified”

19. “specifies the location of at least a portion of [an / said] object”

III. CLAIM TERMS AND CLAIM ELEMENTS THAT SHOULD BE GOVERNED BY SECTION 112 PARAGRAPH 6

Defendants contend that the following terms, phrases, and clauses are governed by and should be addressed in accordance with 35 U.S.C. § 112, ¶ 6.

1. In independent claim 6 of the '906 patent:

- computer readable program code for causing said client workstation to execute a browser application to parse a first distributed hypermedia document to identify text formats included in said distributed hypermedia document and to respond to predetermined text formats to initiate processes specified by said text formats;

- computer readable program code for causing said client workstation to utilize said browser to display, on said client workstation, at least a portion of a first hypermedia document received over said network from said server, wherein the portion of said first hypermedia document is displayed within a first browser-controlled window on said client workstation, wherein said first distributed hypermedia document includes an embed text format, located at a first location in said first distributed hypermedia document, that specifies the location of at least a portion of an object external to the first distributed hypermedia document, wherein said object has type information associated with it utilized by said browser to identify and locate an executable application external to the first distributed hypermedia document, and wherein said embed text format is parsed by said browser to automatically invoke said executable application to execute on said client workstation in order to display said object and enable an end-user to directly interact with said object within a display area created at said first location within the portion of said first distributed hypermedia document being displayed in said first browser-controlled window.

2. In dependent claim 7 of the '906 patent:

- wherein said executable application is a controllable application and further comprising: computer readable program code for causing said client workstation to interactively control said controllable application on said client workstation via inter-process communications between said browser and said controllable application.

- computer readable program code for causing said client workstation to interactively control said controllable application on said client workstation via inter-process communications between said browser and said controllable application.

3. In dependent claim 8 of the '906 patent:

   - wherein the communications to interactively control said controllable application continue to be exchanged between the controllable application and the browser even after the controllable application program has been launched.

4. In dependent claim 13 of the '906 patent:

   - wherein additional instructions for controlling said controllable application reside on said network server, wherein said computer readable program code for causing said client workstation to interactively control said controllable application on said client workstation includes: computer readable program code for causing said client workstation to issue from the client workstation, one or more commands to the network server; computer readable program code for causing said network server to execute one or more instructions in response to said commands; computer readable program code for causing said network server to send information to said client workstation in response to said executed instructions; and computer readable program code for causing said client workstation to process said information at the client workstation to interactively control said controllable application.

   - computer readable program code for causing said client workstation to issue from the client workstation, one or more commands to the network server;

   - computer readable program code for causing said network server to execute one or more instructions in response to said commands;

   - computer readable program code for causing said network server to send information to said client workstation in response to said executed instructions;

   - computer readable program code for causing said client workstation to process said information at the client workstation to interactively control said controllable application.

5. In dependent claim 14 of the '906 patent:

   - wherein said additional instructions for controlling said controllable application

reside on said client workstation.

6. In independent claim 9 of the '906 patent:

- computer readable program code for causing said client workstation to execute a browser application to parse a first distributed hypermedia document to identify text formats included in said distributed hypermedia document and to respond to predetermined text formats to initiate processes specified by said text formats;

- computer readable program code for causing said client workstation to utilize said browser to display, on said client workstation, at least a portion of a first hypermedia document received over said network from said server, wherein the portion of said first hypermedia document is displayed within a first browser-controlled window on said client workstation, wherein said first distributed hypermedia document includes an embed text format, located at a first location in said first distributed hypermedia document, that specifies the location of at least a portion of an object external to the first distributed hypermedia document, wherein said object has type information associated with it utilized by said browser to identify and locate an executable application external to the first distributed hypermedia document, and wherein said embed text format is parsed by said browser to automatically invoke said executable application to execute on said client workstation in order to display said object and enable interactive processing of said object within a display area created at said first location within the portion of said first distributed hypermedia document being displayed in said first browser-controlled window; wherein said executable application is a controllable application and further comprising: computer readable program code for causing said client workstation to interactively control said controllable application of said client workstation via inter-process communications between said browser and said controllable application; wherein the communications to interactively control said controllable application continue to be exchanged between the controllable application and the browser even after the controllable application program has been launched; and wherein additional instructions for controlling said controllable application reside on said network server, wherein said computer readable program code for causing said client workstation to interactively control said controllable application on said client workstation includes: computer readable program code for causing said client workstation to issue, from the client workstation, one or more commands to the network server; computer readable program code for causing said network server to execute one or more instructions in response to said commands; computer readable program code for causing said network server to send information to said client workstation in response to said executed instructions; and computer readable program code for causing said client workstation to process said information at the client workstation to interactively control said controllable application.

- computer readable program code for causing said client workstation to interactively control said controllable application of said client workstation via inter-process communications between said browser and said controllable application;

- wherein additional instructions for controlling said controllable application reside on said network server, wherein said computer readable program code for causing said client workstation to interactively control said controllable application on said client workstation includes: computer readable program code for causing said client workstation to issue, from the client workstation, one or more commands to the network server; computer readable program code for causing said network server to execute one or more instructions in response to said commands; computer readable program code for causing said network server to send information to said client workstation in response to said executed instructions; and computer readable program code for causing said client workstation to process said information at the client workstation to interactively control said controllable application.

- computer readable program code for causing said client workstation to issue, from the client workstation, one or more commands to the network server;

- computer readable program code for causing said network server to execute one or more instructions in response to said commands;

- computer readable program code for causing said network server to send information to said client workstation in response to said executed instructions;

- computer readable program code for causing said client workstation to process said information at the client workstation to interactively control said controllable application.

7. In independent claim 10 of the '906 patent:

- computer readable program code for causing said client workstation to execute a browser application to parse a first distributed hypermedia document to identify text formats included in said distributed hypermedia document and to respond to predetermined text formats to initiate processes specified by said text formats;

- computer readable program code for causing said client workstation to utilize said browser to display, on said client workstation, at least a portion of a first hypermedia document received over said network from said server, wherein the portion of said first hypermedia document is displayed within a first browser-controlled window on said client workstation, wherein said first distributed hypermedia document includes an embed text format, located at a first location in said first distributed hypermedia document, that specifies the location of at least a portion of an object external to the first distributed hypermedia document, wherein said object has type information associated with it utilized by said browser to identify and locate an executable application external to the first distributed hypermedia document, and wherein said embed text format is parsed by said browser to automatically invoke said executable application to execute on said client workstation in order to display said object and enable interactive processing of said object within a display area created at said first

location within the portion of said first distributed hypermedia document being displayed in said first browser-controlled window; wherein said executable application is a controllable application and further comprising: computer readable program code for causing said client workstation to interactively control said controllable application on said client workstation via inter-process communications between said browser and said controllable application; wherein the communications to interactively control said controllable application continue to be exchanged between the controllable application and the browser even after the controllable application program has been launched; wherein additional instructions for controlling said controllable application reside on said network server, wherein said computer readable program code for causing said client workstation to interactively control said controllable application on said client workstation includes: computer readable program code for causing said client workstation to issue, from the client workstation, one or more commands to the network server; computer readable program code for causing said network server to execute one or more instructions in response to said commands; computer readable program code for causing said network server to send information to said client workstation in response to said executed instructions; and computer readable program code for causing said client workstation to process said information at the client workstation to interactively control said controllable application; and wherein said additional instructions for controlling said controllable application reside on said client workstation.

- computer readable program code for causing said client workstation to interactively control said controllable application on said client workstation via inter-process communications between said browser and said controllable application;

- wherein additional instructions for controlling said controllable application reside on said network server, wherein said computer readable program code for causing said client workstation to interactively control said controllable application on said client workstation includes: computer readable program code for causing said client workstation to issue, from the client workstation, one or more commands to the network server; computer readable program code for causing said network server to execute one or more instructions in response to said commands; computer readable program code for causing said network server to send information to said client workstation in response to said executed instructions; and computer readable program code for causing said client workstation to process said information at the client workstation to interactively control said controllable application; and wherein said additional instructions for controlling said controllable application reside on said client workstation.

- computer readable program code for causing said client workstation to issue, from the client workstation, one or more commands to the network server;

- computer readable program code for causing said network server to execute one or more instructions in response to said commands;

- computer readable program code for causing said network server to send information to said client workstation in response to said executed instructions;

- computer readable program code for causing said client workstation to process said information at the client workstation to interactively control said controllable application;

8. In independent claim 16 of the '985 patent:

   - software comprising computer executable instructions . . . and when the software is executed operable to: receive, at the client workstation from the network server over the network environment, at least one file containing information to enable a browser application to display at least a portion of a distributed hypermedia document within a browser-controlled window; cause the client workstation to utilize the browser to: respond to text formats to initiate processing specified by the text formats; display at least a portion of the document within the browser-controlled window; identify an embed text format corresponding to a first location in the document, the embed text format specifying the location of at least a portion of an object external to the file, with the object having type information associated with it; utilize the type information to identify and locate an executable application external to the file; and automatically invoke the executable application, in response to the identifying of the embed text format, to execute on the client workstation in order to display the object and enable an end-user to directly interact with the object while the object is being displayed within a display area created at the first location within the portion of the hypermedia document being displayed in the browser-controlled window.

9. In dependent claim 17 of the '985 patent:

   - claim 16 where: the information to enable comprises text formats.

10. In dependent claim 18 of the '985 patent:

    - claim 17 where: the text formats are HTML tags.

11. In dependent claim 19 of the '985 patent:
    - claim 16 where: the information contained in the file received comprises at least one embed text format.

12. In independent claim 20 of the '985 patent:

    - communicating via the network server with at least one client workstation over said network in order to cause said client workstation to: receive, over said network environment from said server, at least one file containing information to enable a browser application to display at least a portion of a distributed hypermedia document within a browser-controlled window; execute, at said client workstation, a browser application, with the browser application: responding to text formats to initiate

processing specified by the text formats; displaying, on said client workstation, at least a portion of the document within the browser-controlled window; identifying an embed text format which corresponds to a first location in the document, where the embed text format specifies the location of at least a portion of an object external to the file, where the object has type information associated with it; utilizing the type information to identify and locate an executable application external to the file; and automatically invoking the executable application, in response to the identifying of the embed text format, to execute on the client workstation in order to display the object and enable an end-user to directly interact with the object while the object is being displayed within a display area created at the first location within the portion of the hypermedia document being displayed in the browser-controlled window.

13. In dependent claim 21 of the '985 patent:

- The method of claim 20 where: the information to enable comprises text formats.

14. In dependent claim 22 of the '985 patent:

- The method of claim 21 where: the text formats are HTML tags.

15. In dependent claim 23 of the '985 patent:

- The method of claim 20 where: the information contained in the file received comprises at least one embed text format.

16. In independent claim 24 of the '985 patent:

- A method for running an executable application in a computer network environment . . . the method comprising: enabling an end-user to directly interact with an object by utilizing said executable application to interactively process said object while the object is being displayed within a display area created at a first location within a portion of a hypermedia document being displayed in a browser-controlled window, wherein said network environment is a distributed hypermedia environment, wherein said client workstation receives, over said network environment from said server, at least one file containing information to enable said browser application to display, on said client workstation, at least said portion of said distributed hypermedia document within said browser-controlled window, wherein said executable application is external to said file, wherein said client workstation executes the browser application, with the browser application responding to text formats to initiate processing specified by the text formats, wherein at least said portion of the document is displayed within the browser-controlled window, wherein an embed text format which corresponds to said first location in the document is identified by the browser, wherein the embed text format specifies the location of at least a portion of said object external to the file, wherein the object has type information associated with it, wherein the type information is utilized by the browser to identify and locate said executable application, and wherein the executable application is automatically

invoked by the browser, in response to the identifying of the embed text format.

17. In dependent claim 25 of the '985 patent:

- The method of claim 24 where: the information to enable comprises text formats.

18. In dependent claim 26 of the '985 patent:

- The method of claim 25 where: the text formats are HTML tags.

19. In dependent claim 27 of the '985 patent:

- The method of claim 24 where: the information contained in the file received comprises at least one embed text format.

20. In independent claim 28 of the '985 patent:

- software comprising an executable application . . . operable to: cause the client workstation to display an object and enable an end-user to directly interact with said object while the object is being displayed within a display area created at a first location within a portion of a hypermedia document being displayed in a browser-controlled window, wherein said network environment is a distributed hypermedia environment, wherein said client workstation receives, over said network environment from said server, at least one file containing information to enable said browser application to display, on said client workstation, at least said portion of said distributed hypermedia document within said browser-controlled window, wherein said executable application is external to said file, wherein said client workstation executes said browser application, with the browser application responding to text formats to initiate processing specified by the text formats, wherein at least said portion of the document is displayed within the browser-controlled window, wherein an embed text format which corresponds to said first location in the document is identified by the browser, wherein the embed text format specifies the location of at least a portion of said object external to the file, wherein the object has type information associated with it, wherein the type information is utilized by the browser to identify and locate said executable application, and wherein the executable application is automatically invoked by the browser, in response to the identifying of the embed text format.

21. In dependent claim 29 of the '985 patent:

- The method of claim 28 where: the information to enable comprises text formats.

22. In dependent claim 30 of the '985 patent:

- The method of claim 29 where: the text formats are HTML tags.

23. In dependent claim 31 of the '985 patent:

- The method of claim 28 where: the information contained in the file received comprises at least one embed text format.

24. In independent claim 32 of the '985 patent:

- communicating via a network server with at least one client workstation over said computer network environment in order to cause said client workstation to: receive at said client workstation, over said computer network environment from said server, at least one file containing information to enable a browser application to display, on said client workstation, at least a portion of a distributed hypermedia document within a browser-controlled window; utilize an executable application external to said file to enable an end-user to directly interact with an object while the object is being displayed within a display area created at a first location within the portion of the distributed hypermedia document being displayed in the browser-controlled window, with said network server coupled to said computer network environment, wherein said computer network environment has at least said client workstation and said network server coupled to the computer network environment, wherein said computer network environment is a distributed hypermedia environment, wherein said client workstation executes the browser application, with the browser application responding to text formats to initiate processing specified by the text formats, wherein at least said portion of the document is displayed within the browser-controlled window, wherein an embed text format which corresponds to said first location in the document is identified by the browser, wherein the embed text format specifies the location of at least a portion of said object external to the file, wherein the object has type information associated with it, wherein the type information is utilized by the browser to identify and locate said executable application, and wherein the executable application is automatically invoked by the browser, in response to the identifying of the embed text format.

25. In dependent claim 33 of the '985 patent:

- The method of claim 32 where: the information to enable comprises text formats.

26. In dependent claim 34 of the '985 patent:

- The method of claim 33 where: the text formats are HTML tags.

27. In dependent claim 35 of the '985 patent:

- The method of claim 32 where: the information contained in the file received comprises at least one embed text format.

28. In independent claim 40 of the '985 patent:

- communicating via the network server with at least one remote client workstation over said computer network environment in order to cause said client workstation to: receive, over said computer network environment from the network server, at least one file containing information to enable a browser application to display at least a portion of a distributed hypermedia document within a browser-controlled window; execute, at said client workstation, a browser application, with the browser application: responding to text formats to initiate processing specified by the text formats; displaying, on said client workstation, at least a portion of the document within the browser-controlled window; identifying an embed text format which corresponds to a first location in the document, where the embed text format specifies the location of at least a portion of an object; identifying and locating an executable application associated with the object; and automatically invoking the executable application, in response to the identifying of the embed text format, in order to enable an end-user to directly interact with the object while the object is being displayed within a display area created at the first location within the portion of the hypermedia document being displayed in the browser-controlled window, wherein the executable application is part of a distributed application, and wherein at least a portion of the distributed application is for execution on the network server.

29. In dependent claim 41 of the '985 patent:

- The method of claim 40 where: the information to enable comprises text formats.

30. In dependent claim 42 of the '985 patent:

- The method of claim 41 where: the text formats are HTML tags.

31. In dependent claim 43 of the '985 patent:

- The method of claim 40 where: the information contained in the file received comprises at least one embed text format.

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SIGNATURE ATTESTATION

I hereby certify that concurrence in the service of this document has been obtained from each of the other signatories shown above.

/s/ Scott A. Sanderson

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CERTIFICATE OF SERVICE

I hereby certify that on the date and in the place shown below, I served **Defendants' Proposed Terms and Claim Elements for Construction** by email, addressed to:

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I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed on August 2, 2010, in San Francisco, California.

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

Eolas Technologies Incorporated,	§	
	§	
Plaintiff,	§	**Civil Action No. 6:09-cv-446**
	§	
	§	
vs.	§	
	§	
Adobe Systems Inc., Amazon.com, Inc., Apple Inc., Blockbuster Inc., CDW Corp., Citigroup Inc., eBay Inc., Frito-Lay, Inc., The Go Daddy Group, Inc., Google Inc., J.C. Penney Company, 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	§	**JURY TRIAL**
	§	
Defendants.	§	

EOLAS' PROPOSED TERMS AND CLAIM ELEMENTS FOR CONSTRUCTION FOR UNITED STATES PATENT NOS. 5,838,906 AND 7,599,985

In compliance with Patent Rule 4-1 and the Court's Docket Control Order of April 9, 2010 (Dkt. 249) Plaintiff Eolas Technologies Inc. believes that the following claim terms and phrases should be construed by the Court during the claim construction process for United States Patent Nos. 5,838,906 ("'906 patent") and 7,599,985 ("'985 patent"). Eolas submits its list of Proposed Terms and Claim Elements for Construction for the '906 and '985 patents to Defendants Adobe Systems Incorporated; Amazon.com, Inc.; Apple, Inc.; Blockbuster Inc.; CDW Corporation; Citigroup Inc.; eBay, Inc.; Frito-Lay, Inc.; Google Inc.; J.C. Penney Company, Inc.; JPMorgan Chase & Co.; New Frontier Media, Inc.; Office Depot, Inc.; Oracle America, Inc. f/k/a Sun Microsystems, Inc.; Perot Systems Corp.; Playboy Enterprises

International, Inc.; Rent-A-Center, Inc.; Staples, Inc.; Texas Instruments, Inc.; The Go Daddy Group, Inc.; Yahoo! Inc.; and YouTube, LLC.

Eolas expressly reserves the right to modify the list of terms and the proposed constructions as claim construction proceeds.

I. United States Patent No. 5,838,906

For the ’906 patent, Eolas respectfully submits the following terms and claim elements for construction:

1. “executable application;”
2. “utilized by said browser to identify and locate;” and
3. “object”

II. United States Patent No. 7,599,985

For the ’985 patent, Eolas respectfully submits the following terms and claim elements for construction:

1. “executable application;”
2. “utilized by the browser to identify and locate;” and
3. “object”

Dated: August 2, 2010.

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