

EXHIBIT 2

McKool Smith

A PROFESSIONAL CORPORATION • ATTORNEYS

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

300 West 6th Street
Suite 1700
Austin, Texas 78701

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

September 3, 2010

VIA E-MAIL:

Joseph P. Reid
Fish & Richardson
12390 El Camino Real
San Diego, CA 92130
858.678.4705
reid@fr.com

David J. Healey
Fish & Richardson PC
1221 McKinney Street, Suite 2888
Houston, TX 77010
713/654-5310 (Direct Dial)
healey@fr.com

Douglas E. Lumish
Weil Gotshal & Manges
201 Redwood Shores Parkway
Redwood City, CA 94065
650/802-3028 (Direct Dial)
doug.lumish@weil.com

David T. Pritikin
Sidley Austin - Chicago
Bank One Plaza
One South Dearborn Ave
Chicago, IL 60603
312/853-7359 (Direct Dial)
dpritikin@sidley.com

Scott Wayne Breedlove
Vinson & Elkins
2001 Ross Avenue
3700 Trammel Crow Center
Dallas, TX 75201
214/220-7993 (Direct Dial)
sbreedlove@velaw.com

Thomas L. Duston
Marshall Gerstein & Borun
233 S. Wacker Drive
6300 Sears Tower
Chicago, IL 60606
312/474-6300 (Direct Dial)
tduston@marshallip.com

Edwin R. DeYoung
Locke Lord Bissell & Liddell LLP
2200 Ross Ave.
Suite 2200
Dallas, TX 75201
214/740-8500 (Direct Dial)
edeyoung@lockelord.com

Jeffrey K. Joyner
Greenberg Taurig, LLP
2450 Colorado Ave.
Suite 400E
Santa Monica, CA 90404
310/586-7700
joynerj@gtlaw.com

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Thomas M. Melsheimer
Fish & Richardson
1717 Main Street
Suite 5000
Dallas, TX 75201
214/292-4001 (Direct Dial)
melsheimer@fr.com

Scott T. Weingaertner
King & Spalding, LLP
1185 Avenue of the Americas
New York, NY 10036
212/556-2227 (Direct Dial)
sweingaertner@kslaw.com

Christopher M. Joe
Buether Joe & Carpenter
1700 Pacific, Suite 2390
Dallas, TX 75201
214/466-1272 (Direct Dial)
Chris.Joe@BJCIPLaw.com

Joel Mark Freed
McDermott Will & Emery
600 13th Street, NW, 12th Floor
Washington, DC 20005-3096
202/756-8080 (Direct Dial)
jfreed@mwe.com

Michael Simons
Akin Gump Strauss Hauer & Feld
300 W. 6th Street, Suite 2100
Austin, TX 78701
512/499-6253 (Direct Dial)
msimons@akingump.com

Kenneth Jurek
McDermott Law Firm
227 West Monroe Street
Chicago, IL 60606
312/984-7767 (Direct Dial)
kjurek@mwe.com

Barton E. Showalter
Baker & Botts
2001 Ross Ave.
Suite 600
Dallas, TX 75201
214/953-6509 (Direct Dial)
bart.showalter@bakerbotts.com

Avelyn Marie Ross
Vinson & Elkins
2801 Via Fortuna
Suite 100
Austin, TX 78746
512/542-8411 (Direct Dial)
aross@velaw.com

Michael Ernest Richardson
Beck Redden & Secrest
1221 McKinney
Suite 4500
Houston, TX 77010
713/951-6284 (Direct Dial)
mrichardson@brsfirm.com

Eric Hugh Findlay
Findlay Craft
6760 Old Jacksonville Highway
Suite 101
Tyler, TX 75703
903/534-1100 (Main Number)
efindlay@findlaycraft.com

Carl R. Roth
The Roth Law Firm
115 N. Wellington
Suite 200
P.O. Box 876
Marshall, TX 75671
903/935-1665 (Main Number)
cr@rothfirm.com

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

Counsel:

We are concerned about the state of the defendants' source code production in this case. As you are aware, the defendants were required to produce or make available for inspection source code for the accused products by September 1, 2010. *See* dkt. 381.

We have endeavored to set forth herein what we presently believe the state of the source code production is for each defendant. To the extent that our understanding is incorrect, please provide us with prompt clarification.

Additionally, we request that each defendant provide us with an index listing the source code that they have made (or will make) available for inspection. Eolas provided an index of this nature in its source code production letter dated August 12, 2010. Receiving an index listing the source code that each defendant has produced will allow us to ascertain, in advance of our in-person source code inspection, whether the code produced by each defendant is adequate.

Finally, even if the accused products for a given defendant comprise no more than websites, source code may still need to be produced. It is not necessarily true that the source code for websites is publically-available. For example, Eolas requires access to the source code for past versions of the accused websites during the damages period which precedes Eolas' filing of this case. Please see my letter of July 28, 2010 regarding representative products — this may help lessen the burden of producing past versions of the accused websites and/or updating your code production as changes and updates are made to the accused websites. As another example, for certain claims, our infringement contentions may reference activities which take place on the server. This server-side code needs to be produced. Moreover, to the extent that the client-facing website code has been compressed, obfuscated, had comments removed, etc., we still need the original, non-altered form of the source code for the website to be produced. If you are amenable to our proposal regarding representative products and/or you contend that the sum total of the source code for your accused websites is publicly-available in its original non-obfuscated, non-compressed, non-altered and with comments form, please provide us with written confirmation of this on an accused website by accused website basis.

Adobe: In letter correspondence dated August 25, 2010 identified "code for major releases of Flash Player 6 forward, Acrobat 6 forward, Director 10 forward (includes Shockwave), and code for the Adobe websites identified in the contentions" as being available for inspection. Thank you for this correspondence. On September 2, 2010, Eolas sent letter correspondence requesting clarification of the code Adobe has made available, including an index listing the code made available for inspection.

Amazon: Has produced no source code. Please provide a prompt identification of the source code Amazon will make available for inspection. Please pay careful attention to the source code for the accused Amazon web applications (e.g. search suggest, product previewer, related product slider, etc.).

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Apple: Correspondence dated August 25, 2010 stated “Apple’s source code will be available for inspection in Sidley’s Palo Alto office starting 9/1.” Thank you for your correspondence. On September 2, 2010, Eolas sent e-mail correspondence and requested that Apple provide an index identifying the source code it has made available for inspection.

Blockbuster: Has produced no source code. Please provide a prompt identification of the source code Blockbuster will make available for inspection.

CDW: Has produced no source code. Please provide a prompt identification of the source code CDW will make available for inspection. Please pay careful attention to the source code for the accused CDW web applications (e.g. AutoComplete, etc.).

CitiGroup: Has produced no source code. Please provide a prompt identification of the source code Citi will make available for inspection. Please pay careful attention to the source code for the accused Citi banking system.

eBay: Has produced no source code. Please provide a prompt identification of the source code eBay will make available for inspection. Please pay careful attention to the source code for the accused eBay web applications (e.g. AutoFill, etc.).

Frito-Lay/J.C. Penney/Rent-a-Center: Correspondence dated September 1, 2010 stated source code was available for inspection in Greenberg’s Dallas office. Thank you for your correspondence. Please provide us an index identifying the source code made available for inspection for each of Frito-Lay, J.C. Penney and Rent-a-Center.

The Go Daddy Group: Has produced no source code. Please provide a prompt identification of the source code GoDaddy will make available for inspection.

Google/YouTube: In letter correspondence dated September 2, 2010, Eolas requested that Google provide an index “listing all of the source code you have produced to us to-date, labeled as ‘open source’ and/or made available for inspection.” This same correspondence also requested that Google produce source code for the accused web applications (e.g. Google Search Suggest, Google Maps, Google Gmail, video.google.com, etc.) in their original non-obfuscated and non-compressed form.

J.P.Morgan: In letter correspondence dated September 2, 2010, stated that “JP Morgan will produce representative versions of the accused websites code in lieu of producing evidence of each and every change to its websites over the applicable time frame.” Thank you for correspondence. In email correspondence dated September 3, 2010, Eolas requested that J.P.Morgan “provide us with an index listing the source code that JPMorgan is making available for inspection.” We also reminded J.P.Morgan that Eolas’ infringement contentions extend to “JPMorgan’s banking systems, in addition to its websites.”

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New Frontier Media: In letter correspondence dated August 29, 2010 stated that “website source code is available for inspection” in Austin, Texas. Thank you for your correspondence. Please provide us an index identifying the source code made available for inspection.

Office Depot: Has produced no source code. Please provide a prompt identification of the source code Office Depot will make available for inspection. Please pay careful attention to the source code for the accused Office Depot web applications (e.g. search suggest, etc.).

Perot Systems: In letter correspondence dated September 1, 2010 stated that it “makes its source code available for inspection” in Dallas, Texas. Thank you for your correspondence. Please provide us an index identifying the source code made available for inspection.

Playboy Enterprises: In letter correspondence dated September 1, 2010 stated that “server-side source code” is available for inspection in Austin, Texas and that “client-side code” is available for access over the internet (with the Playboy-supplied password). Thank you for correspondence. Please provide us an index identifying the source code made available for inspection.

Staples: Has produced no source code. Please provide a prompt identification of the source code Staples will make available for inspection. Please pay careful attention to the source code for the accused Staples web applications (e.g. search suggest, etc.).

Oracle America (f/k/a Sun Microsystems): In letter correspondence dated September 1, 2010 provided an index listing the source code made available for inspection. Thank you for your correspondence. Does Oracle plan to make source code available for the accused websites? If so, can you please provide us with an index of that code as well?

Texas Instruments: Has produced no source code. Please provide a prompt identification of the source code Texas Instruments will make available for inspection.

Sincerely,



Josh Budwin

cc: All other counsel of record

Defendant	Counsel	E-mail
Adobe Systems Incorporated	Joseph P. Reid	reid@fr.com
	Jason W. Wolff	wolff@fr.com
Amazon.com Inc.	Matthew Powers Jared B. Bobrow Joseph H. Lee Christian Hurt	Amazon-Eolas@weil.com

Defendant	Counsel	E-mail
Apple, Inc.	Richard A. Cederoth Shubham Mukherjee Duy D. Nguyen Teague I. Donahey Theodore Whitley Chandler	apple-eolas@sidley.com
	Eric Albritton Matthew Clay Harris	apple@emafirm.com
Blockbuster Inc.	David Kent Wooten	Blockbuster-Eolas@velaw.com
	Deron R. Dacus Shannon Marie Dacus	derond@rameyflock.com shannond@rameyflock.com
CDW Corporation	Juliane Hartzell Scott A. Sanderson Anthony S. Gabrielson	eolas@marshallip.com
	Eric Hugh Findlay	efindlay@findlaycraft.com
	Brian Craft	bcraft@findlaycraft.com
Citigroup Inc.	Roger Brian Cowie Galyn Dwight Gafford Michael Scott Fuller Roy William Hardin Jason E. Mueller	Citibank.Eolas@lockelord.com
	Eric L. Sophir	esophir@kslaw.com
	Alexas D. Skucas	askucas@kslaw.com
eBay Inc.	Matthew Douglas Powers Christian J. Hurt Jared B. Bobrow Joseph H. Lee	eBay-Eolas@weil.com
Frito-Lay, Inc. and Rent-A-Center, Inc.	Jeffrey F. Yee	Frito-JCP-RAC-Eolas@gtlaw.com
	Chris Joe	Chris.Joe@BJCIPLaw.com
	Brian Carpenter	Brian.Carpenter@BJCIPLaw.com
	Eric W. Buether	Eric.Buether@BJCIPLaw.com
The Go Daddy Group, Inc.	Neil J. McNabnay	mcnabnay@fr.com
	J. Nicholas Bunch	bunch@fr.com
	Proshanto Mukherji	mukherji@fr.com
Google Inc. and YouTube	Robert F. Perry Mark H. Francis Christopher C. Carnaval	Google-Eolas@kslaw.com
	Michael E. Jones	mikejones@potterminton.com
	Allen F. Gardner	allengardner@potterminton.com
J.C. Penney Company, Inc.	Brian Carpenter	Brian.Carpenter@BJCIPLaw.com
	Eric W. Buether	Eric.Buether@BJCIPLaw.com

Defendant	Counsel	E-mail
	Jeffrey Joyner Jeffrey Yee	Frito-JCP-RAC-Eolas@gtlaw.com
J.P. Morgan Chase & Co.	Debra Elaine Gunter	debby@yw-lawfirm.com
	David Crump	dcrump@mwe.com
	Steve Shahida	sshahida@mwe.com
	Herbert A. Yarbrough, III	trey@yw-lawfirm.com
New Frontier Media, Inc.	Anthony T. Pierce	eolaslitigation@akingump.com
Office Depot	David M. Stein	dstein@mwe.com
	Suzanne M. Wallman	swallman@mwe.com
	Brett E. Bachtell	bbachtell@mwe.com
	J. Thad Heartfield	thad@jth-law.com
Perot Systems Corp.	Douglas Mark Kubehl David O. Taylor Vernon E. Evans Roger J. Fulghum Paula D. Heyman Kevin J. Meek Scott Partridge	DLEolasTeam@bakerbotts.com
	Deron R. Dacus Shannon Marie Dacus	ddacus@rameyflock.com shannond@rameyflock.com
Playboy Enterprises International	Gentry C. McLean David B. Weaver John A. Fedock	Playboy-Eolas@velaw.com
Staples, Inc.	Alexandra McTague	alexandra.mctague@wilmerhale.com
	Donald R. Steinberg	don.steinberg@wilmerhale.com
	Mark Matuschak	mark.matuschak@wilmerhale.com
	Daniel V. Williams	daniel.williams@wilmerhale.com
	Kate Hutchins	kate.hutchins@wilmerhale.com
Sun Microsystems, Inc.	Mark D. Fowler Kathryn B. Riley	Oracle-Eolas@dlapiper.com
Texas Instruments, Inc.	Amanda Aline Abraham	aa@rothfirm.com
	Brendan Clay Roth	br@rothfirm.com
Yahoo! Inc.	Matthew Douglas Powers Christian J. Hurt Jared B. Bobrow Joseph H. Lee	Yahoo-Eolas@weil.com
	Deborah J. Race	drace@icklax.com
	Otis W. Carroll, Jr.	fedserv@icklax.com