

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

|  |   |   |
|--|---|---|
| <b>Eolas Technologies Incorporated,</b>            | § |   |
|  | § |   |
| <b>Plaintiff,</b>                                  | § | <b>Civil Action No. 6:09-CV-00446-LED</b> |
|  | § |   |
| <b>vs.</b>   | § |   |
|  | § |   |
| <b>Adobe Systems Inc., Amazon.com, Inc.,</b>       | § | <b>JURY TRIAL</b>                         |
| <b>Apple Inc., Argosy Publishing, Inc.,</b>        | § |   |
| <b>Blockbuster Inc., CDW Corp.,</b>                | § |   |
| <b>Citigroup Inc., eBay Inc., Frito-Lay, Inc.,</b> | § |   |
| <b>The Go Daddy Group, Inc., Google Inc.,</b>      | § |   |
| <b>J.C. Penney Company, Inc., JPMorgan</b>         | § |   |
| <b>Chase &amp; Co., New Frontier Media, Inc.,</b>  | § |   |
| <b>Office Depot, Inc., Perot Systems Corp.,</b>    | § |   |
| <b>Playboy Enterprises International, Inc.,</b>    | § |   |
| <b>Rent-A-Center, Inc., Staples, Inc., Sun</b>     | § |   |
| <b>Microsystems Inc., Texas Instruments Inc.,</b>  | § |   |
| <b>Yahoo! Inc., and YouTube, LLC</b>               | § |   |
|  | § |   |
| <b>Defendants.</b>                                 | § |   |

**FRITO-LAY’S UNOPPOSED MOTION FOR EXPEDITED BRIEFING ON  
FRITO-LAY’S EMERGENCY MOTION FOR SEPARATE TRIAL AND TO  
RESET PRETRIAL SCHEDULE**

On August 15, 2011, Defendant Frito-Lay, Inc. (“Frito-Lay”) filed its Emergency Motion For Separate Trial And To Reset Pretrial Schedule (Dkt. 852, “Motion”). Frito-Lay requests that the Court issue an expedited briefing schedule on this Motion and address this Motion on an expedited basis.

The issues raised in the Motion are straight-forward, and the final pre-trial is set on September 22, 2011, just about five weeks away. The parties will benefit from knowing the result of Frito-Lay’s Motion in order to prepare for trial accordingly. Frito-Lay respectfully requests that the Court set an expedited briefing schedule for the Motion as set out below:

Eolas's opposition brief due on: August 19, 2011;

Frito-Lay's reply brief due on August 26, 2011;

Eolas's sur-reply brief due on August 29, 2011;

Oral Hearing requested on August 31, 2011.

Dated: August 15, 2011

Respectfully submitted,

/s/ Douglas R. McSwane, Jr.

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**ATTORNEYS FOR DEFENDANT  
FRITO-LAY, INC.**

**CERTIFICATE OF SERVICE**

The undersigned certifies that the foregoing document was filed electronically in compliance with Local Rule CV-5(a). As such, this document was served on all counsel who have consented to electronic service. Local Rule CV-5(a)(3)(A) on this August 15, 2011.

/s/ Douglas R. McSwane, Jr.  
Douglas R. McSwane, Jr.

**CERTIFICATE OF CONFERENCE**

I hereby certify that counsel for Frito-Lay, Inc. conferred with counsel for Eolas Technologies Incorporated on August 12, 2011, regarding the foregoing motion, who represented that Eolas Technologies Incorporated does not oppose this motion.

Dated: August 15, 2011

/s/ Douglas R. McSwane, Jr.  
Douglas R. McSwane, Jr.