

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TEXAS
TYLER DIVISION**

Eolas Technologies Incorporated,)
)
 Plaintiff,)
)
 vs.)
)
 Adobe Systems Inc., Amazon.com, Inc.,)
)
 Apple Inc., Argosy Publishing, 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,)
)
 Defendants.)

Civil Action No. 6:09-cv-446
Judge Leonard E. Davis

JURY TRIAL DEMANDED

**OPPOSED MOTION FOR EXPEDITED BRIEFING SCHEDULE FOR CDW’S
MOTIONS TO STRIKE PORTIONS OF THE MARTIN REPORT**

Defendant CDW Corp. (“CDW”), hereby moves this Court for an expedited briefing schedule for CDW’s motions to strike portions of the report of David Martin [Dkt. 868].

CDW’s brief addresses the same infringement allegations challenged in Google, Inc.’s Motion to Strike Portions of the Martin Report [Dkt.860]. An expedited determination of whether or not the new infringement allegations will remain in the case is necessary for CDW’s preparation of responsive expert reports and in anticipation of trial. Eolas has previously requested and been granted expedited briefing schedules on multiple motions. *See, e.g.*, Eolas’ Unopposed Motion for Expedited Briefing on Eolas’ Motion to Set Deadlines for Discovery and Expert Reports [863]; Eolas’ Unopposed Motion for Expedited Briefing on Its Motion for Leave

to Supplement Its P.R. 3-1 Infringement Contentions with Respect to Google Music and Google+ [Dkt. 820]; Joint Motion Regarding Briefing on Eolas' Motion to Compel Discovery from eBay Regarding the eBay/Mercexchange License and Documents from the Deposition of Ajay Gopal [Dkt. 729]; Eolas' Unopposed Motion for Expedited Briefing on Eolas' Motion to Compel Production of Source Code from eBay Inc. and Amazon.com, Inc. [Dkt. 715]; Eolas' Unopposed Motion for Expedited Briefing on Eolas' Motion to Compel Discovery From Adobe Systems Inc. Regarding Investment/Licensing Agreements with Intellectual Ventures Entities [Dkt. 713]; Eolas' Opposed Motion for Expedited Briefing on Eolas' Motion to Compel Discovery from Citigroup, Inc. regarding Web Analytics [Dkt. 690]; Eolas' Opposed Motion for Expedited Briefing on Eolas' Motion to Compel Discovery From Staples, Inc. regarding Web Analytics [Dkt. 676]; Eolas' Unopposed Motion for Expedited Briefing on Eolas' Motion to Compel Designation of Rule 30(b)(6) Witnesses from Amazon, eBay, and Yahoo! And for Yahoo! To Produce Third Party Search Agreements [Dkt. 668].

The Court granted the Unopposed Motion for Briefing Schedule for Google's Motions to Strike Portions of the Martin and Weinstein Reports [Dkt. 850] setting an agreed expedited briefing schedule such that all briefing on Google's motion would be closed on August 29, 2011 [Dkt. 857]. In order to promote judicial efficiency and allow the court to address both motions challenging the newly added Martin material at the same time, CDW respectfully requests the Court enter the following briefing schedule for the aforementioned motions:

August 17 – CDW's Motions due

August 25 – Eolas' Oppositions due

August 30 – CDW's Replies due

Eolas objects to the proposed schedule in light of the recently filed summary judgment motions for which responses are due on September 7, 2011 [pursuant to Dkt. 858].

CDW respectfully requests that the Court grant its Opposed Motion for Briefing Schedule for CDW's Motions to Strike Portions of the Martin Report.

Dated: August 19, 2011

Respectfully submitted,

/s/ Julianne M. Hartzell

Thomas L. Duston
tduston@marshallip.com
Anthony S. Gabrielson
agabrielson@marshallip.com
Scott A. Sanderson
ssanderson@marshallip.com
Marshall, Gerstein & Borun LLP
6300 Willis Tower
233 South Wacker Drive
Chicago, IL 60606-6357
(312) 474-6300

Brian Craft
bcraft@findlaycraft.com
Eric H. Findlay
efindlay@findlaycraft.com
Findlay Craft, LLP
6760 Old Jacksonville Highway, Suite 101
Tyler, TX 75703
(903) 534-1100

Attorneys for Defendant CDW LLC

CERTIFICATE OF CONFERENCE

On August 12 the undersigned and lead counsel for defendant CDW, as well as counsel for other defendants, and counsel for plaintiff Eolas, including lead counsel Mike McKool, participated in an extended meet and confer. During this call the relief sought in this motion was raised and Eolas indicated they were not in a position to agree to said relief. Subsequent to that conference counsel have communicated via email and have been unable to agree on the relief, i.e. an expedited response date to the underlying motion. CDW understands and believes that Eolas remains opposed to this expedited schedule and thus seeks the assistance of the Court.

/s/ Eric H. Findlay _____

CERTIFICATE OF SERVICE

I, Julianne Hartzell, an attorney, hereby certify that on August 19, 2011, I caused a copy of the foregoing Opposed Motion for Expedited Briefing Schedule for CDW's Motions to Strike Portions of the Martin Report to be electronically filed using the CM/ECF system, which sent notification of such filing to all counsel of record.

/s/ Julianne M. Hartzell _____