EXHIBIT F

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

EOLAS TECHNOLOGIES, INC.,	)	Civil Action No. 6:09-cv-446
	)	
Plaintiff,	)	
	)	HIGHLY CONFIDENTIAL –
vs.	)	ATTORNEY'S EYES ONLY
	)	
ADOBE SYSTEMS INC., et al.,	)	
	)	
Defendants.	)	
	)	

EXPERT REPORT OF DAVID M. MARTIN JR.

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- In discussing the '906 patent, the W3C noted that it "may affect all Web pages involving dynamically loaded browser extensions that use external data and which feature some kind of interactivity. Such browser extensions are widely used today e.g. for integrating audio, video, and interactive media applications into Web pages. This could therefore affect a large number of Web pages."
- The W3C also noted that the potentially impacted standards "include HTML-related specifications."

MIT resp. to EOLAS subp. 0281-0283.

106. In its discussions, the PAG—like the common interest group—indicated that "there was widespread agreement that a solution that minimizes the effect of changes to Web software, Web sites and the user experience was needed." *See* ADBE0193975. Nonetheless, despite recognizing the importance of Eolas's patented technology to the HTML standard, forming the Eolas-specific PAG and requesting reexamination of Eolas's '906 patent, the W3C and its members—including various defendants in this case—did not modify the HTML standard to remove Eolas's patented technology. In fact, the development of the standard from 2003 to today—including the most recent version of the HTML standard discussed previously—shows the continued use (and in fact expansion of prior use) of Eolas's patented technology in the standard. A specific example of this expanded use is the inclusion of the new <video> and <audio> tags in the most recent version of the standard.

IV.J.   The Level of Skill in the Art

107. The '906 and '985 patents describe distributed hypermedia systems and methods for automatically invoking executable applications providing interaction and display of embedded objects within a hypermedia document. In my opinion, these patents are directed to those with a level of skill corresponding to a bachelor's degree in computer science or equivalent experience. In 1994 when the '906 patent was filed, I held a bachelor's degree in computer science and had been working in the software field for 15 years. I installed, used, and demonstrated Mosaic in 1993.

IV.K.   Construction of Claim Terms

108. I have considered both parties' claim construction proposals.[8] I understand that the court has not yet issued a claim construction ruling. Therefore, in this report, I have used the claim terms according to their plain and ordinary meaning to a person of ordinary skill in the art familiar with the '906 and '985 patents and file histories. I reserve the right, if the court permits it, to supplement my report if and when the court issues a claim construction ruling.

109. My analysis as explained in this report applies to almost all of both parties' proposed claim terms.

110. However, the defendants' proposal to construe "embed text format" as a "tag" does not make sense to me in light of their proposal to construe "text format" as "tags or symbols that specify document formatting". Nonetheless, HTML tags, such as the <EMBED TYPE="type" HREF="href"...> example in the shared patent specification, are equivalent to HTML elements in that both perform substantially the same function (associating a tag name with data) in substantially the same way (specifying the tag name in proximity to specifying associated data) to achieve substantially the same result (a data structure that associates data with a tag name).

111. The defendants' proposal to construe "embed text format [which] correspond[s/ing] to [a / said] first location in the document" as "tag located at the place in the received file where the embedded object will appear within the displayed document" does not make sense to me, because places in the received file (character offsets from the beginning of the file or line numbers) are not the same as places in the displayed document (node addresses in a dynamically allocated memory structure or screen locations). The closest meaning that makes sense to me is "tag located at the place in the received document where the embedded object will appear within the displayed document."

112. Defendants propose to construe "embed text format" as "tag located at the place in the received document where the embedded object will appear within the displayed document." In my opinion, a person of ordinary skill in the art familiar with the '906 and '985 patents and file histories would not

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[8] See Ex. A to Eolas' Reply Claim Construction Brief, February 18, 2011.

import these constraints to the term "embed text format," since the issue of correspondence to the

document is explicitly addressed in other limitations in every claim of the patents, rendering the

proposed constraints to "embed text format" either redundant or contradictory. Nonetheless, every

displayed document I have identified as containing an "embed text format" under the plain and ordinary

meaning of the term is equivalent to one containing the "tag located at the place in the received

document where the embedded object will appear within the displayed document." For example,

consider the following two document fragments.

```
<html><body>
<div id="firstloc">
</div>
<p>Plain text</p>
<script>
document.getElementById('firstloc').innerHTML = "Interactive object";
</script></body></html>
```

Figure 5: Excerpt A

113. Excerpt A, containing a <script> embed text format under the plain and ordinary meaning,

describes a document fragment that displays the string "Interactive object" followed by "Plain text".[9] It

does this because the <script> embed text format names a part of the document in which "Embedded

object" is to appear, and the <script> thereby corresponds to that location in the document.

114. Excerpt A is effectively interchangeable with Excerpt B, which also describes a document

fragment that displays "Embedded object" followed by "Plain text". Excerpt B contains a <script>

embed text format under the plain and ordinary meaning, and it is also an embed text format under the

defendants' proposal.

```
<html><body>
```

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[9] The string "Interactive object" is of course a simple example and not a true interactive object, and therefore the construct is technically not an embed text format. However, this string could be replaced with a string specifying an appropriate interactive object in the excerpts.

```
<div id="firstloc">
<script>
document.write("Interactive object");
</script>
</div>
<p>Plain text</p>
</body></html>
```

Figure 6: Excerpt B

115. In other words, the two approaches perform the same function (causing "Interactive object" to appear embedded in the same area of the displayed document), in substantially the same way (running a script to dynamically compute and add the "Interactive object" to the document), achieving substantially the same result (documents that are visually indistinguishable).

116. Defendants propose to construe "identifying" as "parsing". In my opinion, a person of ordinary skill in the art familiar with the '906 and '985 patents and file histories would consider "parsing" to be only one of many possible kinds of "identifying". Nonetheless, consider Excerpt C below.

```
<html><body>
<div id="firstloc"></div>
<script>
document.getElementById('firstloc').appendChild(document.createTextNod
e("Interactive object"));
</script>
<p>Plain text</p>
</body></html>
```

Figure 7: Excerpt C

117. In Excerpt C, the browser identifies the text node with content "Interactive object", and this document describes content that is indistinguishable from the document described by Excerpt B when displayed. In my opinion, these two techniques perform substantially the same function (causing "Interactive object" to appear embedded in the same area of the displayed document), in substantially