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**UNITED STATES DISTRICT COURT  
 NORTHERN DISTRICT OF CALIFORNIA  
 SAN JOSE DIVISION**

12 EBAY INC.,

13 Plaintiff,

14 v.

15 DIGITAL POINT SOLUTIONS, INC.,  
 16 SHAWN HOGAN, KESSLER'S  
 17 FLYING CIRCUS, THUNDERWOOD  
 18 HOLDINGS, INC., TODD DUNNING,  
 19 BRIAN DUNNING,  
 20 BRIANDUNNING.COM, and DOES 1-  
 21 20,

22 Defendants.

Case No. C 08-4052 (PVT)

**DECLINATION TO PROCEED  
 BEFORE A MAGISTRATE JUDGE AND  
 REQUEST FOR REASSIGNMENT TO A  
 UNITED STATES DISTRICT JUDGE**

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The undersigned party hereby respectfully declines to consent to the assignment of this case to a United States Magistrate Judge for trial and disposition and hereby requests the reassignment of this case to a United States District Court Judge pursuant to Local Rule 73-1(a)(1).

Dated: September 3, 2008

O'MELVENY & MYERS LLP

By:           /s/ David R. Eberhart            
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Attorneys for Plaintiff eBAY INC.

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