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 19 Incorporated

20 UNITED STATES DISTRICT COURT  
 21 NORTHERN DISTRICT OF CALIFORNIA

22 Adobe Systems Incorporated,  
 23 Plaintiff,

24 vs.

25 Anthony Kornrumpf a/k/a Tony Kornrumpf  
 26 and Does 1-10, Inclusive,  
 27 Defendants.

Case No.: CV1002769 CW (DMR)  
 [Assigned for All Purposes to:  
 Hon. Claudia Wilken, Courtroom 2]

**JOINT STIPULATION RE:  
 PRODUCTION OF RECORDS BY  
 THIRD PARTY CUSTODIAN OF  
 RECORDS FOR CHANNEL  
 ADVISOR; ORDER**

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Complaint Filed: 06/24/10

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And Related Actions.

IT IS HEREBY STIPULATED AND AGREED by and between  
 Plaintiff/Counter-Defendant Adobe Systems Incorporated (“ADOBE”) and  
 Defendants/Counter-Plaintiffs Hoops Enterprise, LLC and Tony Kornrumpf,

1 (collectively "HOOPS"), by and through their respective counsel of record,  
2 (hereinafter singularly "PARTY" or collectively (the "PARTIES")), that the  
3 Production of Records by Third Party Custodian of Records for Channel Advisor in  
4 response to the subpoena served by ADOBE will be made pursuant to the terms and  
5 conditions as set forth below.

6 WHEREAS ADOBE served Third Party Custodian of Records for Channel  
7 Advisor with a subpoena on or about November 10, 2010, requiring the production of  
8 records pertaining to accounts maintained in the name of HOOPS on November 22,  
9 2010.

10 WHEREAS HOOPS filed and served a Motion to Quash the subpoena or in the  
11 Alternative sought a Protective Order limiting the manner and subject of production of  
12 records by Third Party Channel Advisor. Said motion was filed in the United States  
13 District Court of North Carolina for the Eastern District on or about November 19,  
14 2010.

15 WHEREAS ADOBE opposed the Motion to Quash filed and served by  
16 HOOPS.

17 WHEREAS the District Court of North Carolina for the Eastern District denied  
18 the Motion to Quash.

19 WHEREAS the PARTIES have continued to meet and confer regarding the  
20 production of records by third parties, including Third Party Channel Advisor.

21 WHEREAS the District Court of California for the Northern District has issued  
22 an order controlling the production of third party records produced by the Custodian  
23 of Records for PayPal, Inc., Google, Inc., and eBay, Inc.

24 WHEREAS the parties have reached an agreement that the production of  
25 records by Third Party Custodian of Records for Channel Advisor shall be made in the  
26 same manner and pursuant to the same terms and conditions for production of records  
27 set forth in the Order issued by the California District Court for the production of  
28 records by Third Parties PayPal, Google and eBay.

1           WHEREFORE the PARTIES hereby stipulate and agree that the production of  
2 records by Third Party Custodian of Records for Channel Advisor, in response to the  
3 subpoena served by ADOBE shall be made as follows:

4           1) All records produced will be limited to the time period of June 19, 2009 to  
5 the present.

6           2) All records will be produced only to counsel of record for Defendants /  
7 Counter-Plaintiffs Tony Kornrumpf and Hoops Enterprise, LLC – McCurdy and  
8 Leibl, LLP, Attention: Ms. Reagan E. Boyce, Esq., 12925 Riverside Drive, Third  
9 Floor, Sherman Oaks, CA 91423 Tel: (818) 380-0123, Fax: (818) 380-0124.

10          3) The records produced in response to the Categories set forth in Exhibit “A”  
11 to the subpoena shall be limited as follows:

12                   A) All account registration information;

13                   B) All payments to Channel Advisor to create any account, or payments  
14 made to Channel Advisor since June 19, 2009 to the present;

15                   C) All transaction/listing records reflecting transactions or listings since  
16 June 19, 2009 to the present; and

17                   D) Emails to and from Chanel Advisor and Tony Kornrumpf and / or  
18 Hoops Enterprise, LLC since June 19, 2009 to the present.

19          4)     Counsel for HOOPS will then review all records produced by Channel  
20 Advisor and redact out all non-ADOBE related records using a list of keywords  
21 provided by counsel for ADOBE, in addition to those already listed in the subpoena.

22          5) Counsel for HOOPS has represented that HOOPS does not intend to use the  
23 non-ADOBE transactions and/or information for any purpose in this case. Should  
24 HOOPS later decide to use such information, Defendants may be barred from doing so  
25 if failure to inform ADOBE of their decision in a timely manner, and/or failure to  
26 provide the non-ADOBE transactions to ADOBE in a timely manner results in  
27 prejudice to ADOBE. ADOBE may bring a motion to the Court to have such evidence  
28 excluded on the basis of prejudice if it believes prejudice has occurred.

1           6) HOOPS shall review and redact transactions that are not related to ADOBE  
2 products, using the keyword list generated by PARTIES. HOOPS may also redact any  
3 information for which HOOPS assert a claim of privilege. The redacted records must  
4 be produced to counsel for ADOBE no later than ten (10) business days from  
5 HOOPS' receipt of the responsive records from Channel Advisor. HOOPS shall have  
6 fifteen (15) business days from receipt of the responsive documents to produce a  
7 detailed privilege log. These deadlines may be extended for good cause upon written  
8 agreement between the PARTIES.

9           7) Counsel for ADOBE shall have a reasonable opportunity to examine the  
10 unredacted, non-privileged records and to perform key word searches on such records  
11 in order to confirm that the redactions were properly made. ADOBE may not receive a  
12 copy of the unredacted records, nor may it take any notes regarding unredacted  
13 records except to note any problems with redactions that it wishes to raise with  
14 HOOPS, and if necessary the Court.

15           8) The PARTIES agree that any further disputes regarding the production,  
16 redaction or claim of privilege, or the review of records produced to counsel for  
17 HOOPS will be resolved by good faith and reasonable meet and confer voice to voice  
18 communications between counsel for the parties. Should the parties be unable to  
19 resolve any disputes regarding these records, including the issues of redaction, claims  
20 of privilege, or production of the records, the PARTIES agree that the District Court  
21 for California, Northern District shall have jurisdiction to resolve any remaining  
22 disputes.

23           9) The production of the Channel Advisor records by HOOPS to ADOBE shall  
24 be subject to and made pursuant to the terms and conditions set forth in the Stipulated  
25 Protective Order which has been filed with and entered by the Court in this matter.

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**ORDER**

FOR GOOD CAUSE SHOWN, the JOINT STIPULATION RE: PRODUCTION OF RECORDS BY THIRD PARTY CUSTODIAN OF RECORDS FOR CHANNEL ADVISOR, filed concurrently herewith, is hereby entered.

If any disputes arise regarding the Chanel Advisor record, including but not limited to any issues involving the production, redaction, review of, or assertion of a claim of privilege related to the subject records, the Parties are Ordered to meet and confer by voice to voice communication in a good faith effort to resolve said disputes. If after such good faith meet and confer efforts, the Parties are still unable to reach a resolution, the Parties may submit a Joint Letter to the Magistrate Judge assigned to this matter for all discovery disputes, Hon. Donna M. Ryu pursuant to her standing order.

PURSUANT TO STIPULATION, IT IS SO ORDERED.

DATED: 3/1/2011

  
Honorable Judge Claudia Wilken  
United States District Judge