

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

[JOINT FILING — SEE SIGNATURE PAGE FOR LIST OF COUNSEL]

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
OAKLAND DIVISION

eBay Inc. and Microsoft Corporation,
Plaintiffs and Counterclaim-Defendants,
vs.
Kelora Systems, LLC,
Defendant and Counterclaim-Plaintiff.

No. 4:10-cv-4947-CW (filed Nov. 2, 2010)

**JOINT STIPULATION AND ~~PROPOSED~~
ORDER PERMITTING KELORA
SYSTEMS, LLC, TO FILE A SINGLE
BRIEF REGARDING CLAIM
CONSTRUCTION AND SUMMARY
JUDGMENT OF NOT MORE THAN 60
PAGES NO LATER THAN OCTOBER 11,
2011 [Civil L.R. 6-2 & 7-12]**

Cabela's Inc.,
Plaintiff and Counterclaim-Defendant,
vs.
Kelora Systems, LLC,
Defendant and Counterclaim-Plaintiff.

No. 4:11-cv-1398-CW (filed Mar. 23, 2011)
(related case)

1 Kelora Systems, LLC,)
2)
3 *Plaintiff and Counterclaim-Defendant,*)
4 vs.)
5 Target Corporation; OfficeMax Incorporated;)
6 Rockler Companies, Inc.; 1-800-Flowers.com,)
7 Inc.; Amazon.com, Inc.; Dell, Inc.; Office)
8 Depot, Inc.; Newegg Inc.; Costco Wholesale)
9 Corporation; Hewlett-Packard Company;)
10 CircuitCity.com Inc.; Audible, Inc.; and)
11 Zappos.com, Inc.,)

12 *Defendants and Counterclaim-Plaintiffs.*)
13 OfficeMax Incorporated,)
14 *Third-Party Plaintiff,*)
15 vs.)
16 Adobe Systems Incorporated,)
17 *Third-Party Defendant.*)

No. 4:11-cv-1548-CW (filed Nov. 8, 2010)
(related case)

18 Nebraska Furniture Mart, Inc.,)
19 *Plaintiff and Counterclaim-Defendant,*)
20 vs.)
21 Kelora Systems, LLC,)
22 *Defendant and Counterclaim-Plaintiff.*)

No. 4:11-cv-2284-CW (filed Feb. 3, 2011)
(related case)

JOINT STIPULATION

23 The parties agree that, in response to the single 60-page brief that Defendants filed on claim
24 construction and summary judgment on September 15, 2011, in all four actions listed above, Kelora
25 will file a single brief of not more than 60 pages in all four actions listed above, and the deadline for
26 Kelora to file its brief shall be extended from Thursday, October 6, to Tuesday, October 11, 2011.
27 Pursuant to Civil L.R. 6-2(a), this stipulated request to change time is accompanied by a declaration
28 from counsel for Kelora, which is below.

1 Kelora also agrees that its brief filed on or before October 11 will not include any cross
2 motion.

3 These agreements do not affect any other deadlines in the four actions listed above, but the
4 parties agree to meet and confer after October 11 about the deadline and number of pages for
5 Defendants' reply brief, which is currently due on Thursday, October 27, 2011.

6
7 IT IS SO STIPULATED, THROUGH COUNSEL OF RECORD.

8
9 DATED: September 23, 2011

10
11 By: /s/ Shawn G. Hansen

By: /s/ Richard A. Cederoth

12 Robert D. Becker (Bar No. 160648)

<rbecker@manatt.com>

13 Ronald S. Katz (Bar No. 85713)

<rkatz@manatt.com>

14 Shawn G. Hansen (Bar No. 197033)

<shansen@manatt.com>

15 MANATT, PHELPS & PHILLIPS, LLP

1001 Page Mill Road, Building 2

16 Palo Alto, California 94304

Telephone: (650) 812-1300

17 Facsimile: (650) 213-0260

18 *Attorneys for Kelora Systems, LLC*

David T. Pritikin (*pro hac vice*)

<dpritikin@sidley.com>

Richard A. Cederoth (*pro hac vice*)

<rcederoth@sidley.com>

SIDLEY AUSTIN LLP

One S. Dearborn Street

Chicago, Illinois 60603

Telephone: (312) 853-7000

16 Facsimile: (312) 853-7036

Theodore W. Chandler (Bar No. 219456)

<tchandler@sidley.com>

Aaron M. Farber (Bar No. 270851)

<afarber@sidley.com>

SIDLEY AUSTIN LLP

555 West Fifth Street, Suite 4000

Los Angeles, California 90013

Telephone: (213) 896-6000

17 Facsimile: (213) 896-6600

<Kelora-Microsoft-eBay@sidley.com>

18 *Counsel for Plaintiff and Counterclaim-*
19 *Defendant eBay Inc.*

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

By: /s/ Richard A. Cederoth

David T. Pritikin (*pro hac vice*)
<dpitikin@sidley.com>
Richard A. Cederoth (*pro hac vice*)
<rcederoth@sidley.com>

SIDLEY AUSTIN LLP
One S. Dearborn Street
Chicago, Illinois 60603
Telephone: (312) 853-7000
Facsimile: (312) 853-7036

Theodore W. Chandler (Bar No. 219456)
<tchandler@sidley.com>

Aaron M. Farber (Bar No. 270851)
<afarber@sidley.com>

SIDLEY AUSTIN LLP
555 West Fifth Street, Suite 4000
Los Angeles, California 90013
Telephone: (213) 896-6000
Facsimile: (213) 896-6600

<Kelora-Microsoft-eBay@sidley.com>

David E. Killough (Bar No. 110719)
<davkill@microsoft.com>

MICROSOFT CORPORATION
One Microsoft Way, 8/2076
Redmond, Washington 98052
Telephone: (425) 703-8865
Facsimile: (425) 869-1327

*Counsel for Plaintiff and Counterclaim-
Defendant Microsoft Corporation*

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

By: /s/ Wendy K. Akbar

Gregory P. Sitrick (*pro hac vice*)
<gregory.sitrick@quarles.com>

Wendy K. Akbar (*pro hac vice*)
<wendy.akbar@quarles.com>

QUARLES & BRADY LLP
One Renaissance Square
Two North Central Avenue
Phoenix, Arizona 85004
Telephone: (602) 229-5200
Facsimile: (602) 420-5198

Jeffrey L. Fillerup (Bar No. 120543)
<jfillerup@luce.com>
LUCE, FORWARD, HAMILTON & SCRIPPS LLP
Rincon Center II
121 Spear Street, Suite 200
San Francisco, California 94105
Telephone: (415) 356-4600
Facsimile: (415) 356-3881

Callie A. Bjurstrom (Bar No. 137816)
<cbjurstrom@luce.com>
LUCE, FORWARD, HAMILTON & SCRIPPS LLP
600 West Broadway, Suite 2600
San Diego, California 92101
Telephone: (619) 699-2586
Facsimile: (619) 645-5323

*Attorneys for Plaintiff and Counterclaim-
Defendant Cabela's Inc.*

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

By: /s/ Richard S. Zembek

Dan D. Davison (*pro hac vice*)
<ddavison@fulbright.com>
FULBRIGHT & JAWORSKI L.L.P.
2200 Ross Avenue, Suite 2800
Dallas, Texas 75201
Telephone: (214) 855-8000
Facsimile: (214) 855-8200

Richard S. Zembek (*pro hac vice*)
<rzembek@fulbright.com>
Daniel S. Leventhal (*pro hac vice*)
<dleventhal@fulbright.com>
FULBRIGHT & JAWORSKI L.L.P.
Fulbright Tower
1301 McKinney, Suite 5100
Houston, Texas 77010
Telephone: (713) 651-5151
Facsimile: (713) 651-5246

Gilbert A. Greene (*pro hac vice*)
<ggreene@fulbright.com>
FULBRIGHT & JAWORSKI L.L.P.
600 Congress Avenue, Suite 2400
Austin, Texas 78701
Telephone: (512) 474-5201
Facsimile: (512) 536-4598

John A. O'Malley (Bar No. 101181)
<jomalley@fulbright.com>
Aaron D. Gopen (Bar No. 268451)
<agopen@fulbright.com>
FULBRIGHT & JAWORSKI L.L.P.
555 South Flower Street, 41st Floor
Los Angeles, California 90071
Telephone: (213) 892-9200
Facsimile: (213) 892-9494

*Attorneys for Defendants and
Counterclaim-Plaintiffs Target
Corporation; Amazon.com, Inc.; Office
Depot, Inc.; Costco Wholesale
Corporation; Hewlett-Packard Company;
Audible, Inc.; and Zappos.com, Inc.*

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

By: /s/ John S. Letchinger

John S. Letchinger (*pro hac vice*)
<letchinger@wildman.com>

Douglas S. Rupert (*pro hac vice*)
<rupert@wildman.com>

E. Tim Walker (*pro hac vice*)
<walker@wildman.com>

WILDMAN, HARROLD, ALLEN & DIXON LLP
225 West Wacker Drive, Suite 2800
Chicago, Illinois 60606
Telephone: (312) 201-2000
Facsimile: (312) 201-2555

Clinton J. McCord (Bar No. 204749)
<mccord@wildman.com>

WILDMAN, HARROLD, ALLEN & DIXON LLP
9665 Wilshire Boulevard, Suite 200
Beverly Hills, California 90212
Telephone: (310) 860-8700
Facsimile: (310) 860-3800

*Attorneys for Defendant and Counterclaim-
Plaintiff OfficeMax Incorporated*

By: /s/ Niall A. MacLeod

Niall A. MacLeod (*pro hac vice*)
<niall.macleod@btlaw.com>

Aaron A. Myers (*pro hac vice*)
<aaron.myers@btlaw.com>

BARNES & THORNBURG LLP
225 South Sixth Street, Suite 2800
Minneapolis, Minnesota 55402
Telephone: (612) 333-2111
Facsimile: (612) 333-6798

Stephen R. Mick (Bar No. 131569)
<smick@btlaw.com>

BARNES & THORNBURG LLP
2049 Century Park East
Los Angeles, California 90067
Telephone: (310) 284-3880
Facsimile: (310) 284-3894

*Attorneys for Defendant and Counterclaim-
Plaintiff Rockler Companies, Inc.*

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

By: /s/ Catherine E. Hart

Vaibhav P. Kadaba (*pro hac vice*)
<wkadaba@kilpatricktownsend.com>
Catherine E. Hart (*pro hac vice*)
<chart@kilpatricktownsend.com>
KILPATRICK TOWNSEND & STOCKTON LLP
1100 Peachtree Street, Suite 2800
Atlanta, Georgia 30309
Telephone: (404) 815-6500
Facsimile: (404) 815-6555

David B. Perry (State Bar No. 255925)
<dperry@kilpatricktownsend.com>
KILPATRICK TOWNSEND & STOCKTON LLP
Two Embarcadero Center, Eighth Floor
San Francisco, California 94111
Telephone: (415) 576-0200
Facsimile: (415) 576-0300

*Attorneys for Defendant and Counterclaim-
Plaintiff 1-800-Flowers.com, Inc.*

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

By: /s/ David S. Bloch

Kimball R. Anderson (*pro hac vice*)
<kanderson@winston.com>

Marlon E. Lutfiyya (*pro hac vice*)
<mlutfiyya@winston.com>

WINSTON & STRAWN LLP
35 West Wacker Drive
Chicago, Illinois 60601
Telephone: (312) 558-5600
Facsimile: (312) 558-5700

Howard I. Shin (*pro hac vice*)
<hshin@winston.com>

WINSTON & STRAWN LLP
200 Park Avenue
New York, New York 10166
Telephone: (212) 294-6700
Facsimile: (212) 294-4700

David S. Bloch (State Bar No. 184530)
<dbloch@winston.com>

WINSTON & STRAWN LLP
101 California Street
San Francisco, California 94111
Telephone: (415) 591-1000
Facsimile: (415) 591-1400

*Attorneys for Defendant and Counterclaim-
Plaintiff Dell, Inc.*

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

By: /s/ Kent E. Baldauf, Jr.

Kent E. Baldauf, Jr. (*pro hac vice*)
<kbaldaufjr@webblaw.com>
Bryan P. Clark (*pro hac vice*)
<bclark@webblaw.com>

THE WEBB LAW FIRM
One Gateway Center
420 Ft. Duquesne Blvd., Suite 1200
Pittsburgh, Pennsylvania 15222
Telephone: (412) 471-8815
Facsimile: (412) 471-4094

Phillip F. Shinn (State Bar No. 112051)
<pshinn@foxrothschild.com>
FOX ROTHSCHILD LLP
235 Pine Street, Suite 1500
San Francisco, California 94104
Telephone: (415) 364-5558
Facsimile: (415) 391-4436

*Attorneys for Defendant and Counterclaim-
Plaintiff Newegg Inc.*

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

By: /s/ Sarah E. Barrows

Sarah E. Barrows (Bar No. 253278)
<barrowss@gtlaw.com>
GREENBERG TRAUIG, LLP
153 Townsend Street, 8th Floor
San Francisco, California 94107
Telephone: (415) 655-1300
Facsimile: (415) 707-2010

Michael A. Nicodema (*pro hac vice*)
<nicodemam@gtlaw.com>
David M. Joyal (*pro hac vice*)
<joyald@gtlaw.com>
Barry J. Schindler (*pro hac vice*)
<schindlerb@gtlaw.com>
Douglas R. Weider (*pro hac vice*)
<weider@gtlaw.com>
GREENBERG TRAUIG, LLP
200 Park Avenue, P.O. Box 677
Florham Park, New Jersey 07932
Telephone: (973) 360-7900
Facsimile: (973) 301-8410

Mary-Olga Lovett (*pro hac vice*)
<lovettm@gtlaw.com>
GREENBERG TRAUIG, LLP
1000 Louisiana Street, Suite 1700
Houston, Texas 77002
Telephone: (713) 374-3500
Facsimile: (713) 374-3505

*Attorneys for Defendant and Counterclaim-
Plaintiff CircuitCity.com Inc.*

By: /s/ Ted G. Dane

Ted G. Dane (Bar No. 143195)
<Ted.Dane@mto.com>
Andrew W. Song (Bar No. 236588)
<Andrew.Song@mto.com>
MUNGER, TOLLES & OLSON LLP
355 South Grand Avenue, 35th Floor
Los Angeles, California 90071
Telephone: (213) 683-9100
Facsimile: (213) 687-3702

*Attorneys for Plaintiff and Counterclaim-
Defendant Nebraska Furniture Mart, Inc.*

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

SIGNATURE ATTESTATION

Pursuant to General Order No. 45(X)(B), I hereby certify that concurrence in the filing of this document has been obtained from each of the other signatories shown above.

/s/ Shawn G. Hansen

1 **DECLARATION OF SHAWN G. HANSEN**

2
3 I, Shawn G. Hansen, declare as follows:

4 1. I am a partner with the law firm of Manatt, Phelps and Phillips, counsel for Kelora
5 Systems, LLC (“Kelora”) in the above-captioned actions. The facts below are true and correct,
6 within my own personal knowledge, including through my communications with my colleagues and
7 my review of materials in my role as counsel in these actions. If called upon to do so, I could and
8 would competently testify as to those facts.

9 2. This declaration is submitted in support of Kelora’s requested relief herein.

10 3. Ray R. Larson was not disclosed in the initial disclosures of Newegg, Nebraska
11 Furniture Mart, or Cabela’s, was first disclosed to Kelora as a witness through the filing of the
12 Accused Infringers’ Single Joint Opening Brief on September 15, 2011, and thus Kelora has had no
13 prior opportunity or reason to seek discovery from Mr. Larson;

14 4. On September 16, 2011, I emailed the Accused Infringers’ counsel requesting that
15 Mr. Larson and another witness who provided a declaration in support of the Accused Infringers’
16 Single Joint Opening Brief be made available for deposition by September 27, 2011, nine days in
17 advance of the current deadline for Kelora’s Single Opening Brief, and which brief is to include
18 Kelora’s Opposition and any cross-motion.

19 5. Counsel for Nebraska Furniture Mart advised me by email on September 21, 2011,
20 that Mr. Larson “will be out of the country through the end of next week, but he is available on
21 Monday, October 3, in the afternoon (after 1:30 pm).” Thus, Mr. Larson is not available for
22 deposition on his declaration until the afternoon of October 3, 2011, three days in advance of the
23 current deadline for Kelora’s Single Opening Brief;

24 6. Kelora believes that because Professor Larson is not available for deposition until
25 October 3, 2011, Kelora may need additional time beyond the October 6, 2011 deadline to avoid
26 prejudice in the preparation of Kelora’s Single Opening Brief;

27 7. No other order changing time has been granted by this Court in these cases regarding
28

1 the parties' briefs regarding claim construction and summary judgment;

2 8. The only effect of granting the requested relief will be to extend by five days the date
3 by which Kelora must file its Single Opening Brief;

4 I declare under the pains and penalty of perjury, under the laws of California and the United
5 States, that the foregoing is true and correct. Executed this 23rd day of September, 2011 at Palo
6 Alto, California.

7
8 /s/ Shawn G. Hansen
Shawn G. Hansen

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

PROPOSED ORDER

PURSUANT TO STIPULATION, IT IS HEREBY ORDERED THAT in response to the single 60-page brief that Defendants filed on claim construction and summary judgment on September 15, 2011, in all four actions listed above, Kelora shall file a single brief of not more than 60 pages in all four actions listed above, and the deadline for Kelora to file its brief shall be extended from Thursday, October 6, to Tuesday, October 11, 2011. The brief that Kelora files on or before October 11 shall not include any cross motion.

SO ORDERED.

Dated: 9/27/2011



CLAUDIA WILKEN
United States District Judge