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

IN RE: EBAY LITIGATION

No. C-07- 2198 RMW

**ORDER APPOINTING
LEAD COUNSEL FOR THE CLASS**

Judge: Honorable Ronald M. Whyte

Trial Date: Not yet set

Having considered Plaintiffs’ Joint Motion to Appoint Lead Counsel, Defendant eBay, Inc.’s (“eBay”) opposition, and the arguments of counsel,

IT IS HEREBY ORDERED that Plaintiffs’ Joint Motion to Appoint Lead Counsel is GRANTED as follows:

ORGANIZATION OF PLAINTIFFS’ COUNSEL

1. Pursuant to Federal Rule of Civil Procedure 23(g), the Court appoints the following firms as Plaintiffs’ Co-Lead Counsel: BAILEY & GALYEN and MARKUN ZUSMAN & COMPTON, LLP.

1 2. Plaintiffs will employ a unified approach to all issues, including discovery and
2 settlement, to be coordinated internally by Co-Lead Counsel. Disagreements among Plaintiffs'
3 counsel, if any, will be resolved by Co-Lead Counsel, who will have final authority for all
4 decisions on behalf of Plaintiffs.

5 3. eBay's counsel may rely upon all agreements made with Plaintiffs' Co-Lead
6 Counsel, and such agreements are binding on Plaintiffs.

7 4. Communication on behalf of Plaintiffs will be made through Co-Lead Counsel.

8 5. The Court appoints Edward S. Zusman of MARKUN ZUSMAN & COMPTON, LLP as
9 Liaison Counsel. Liaison Counsel shall have the following duties:

- 10 a. Receiving communications from the Court and from eBay;
11 and
- 12 b. Except with regard to documents filed with the Court
13 through the ECF system, receiving and, as appropriate,
14 distributing notices, orders, motions, briefs, and any other
15 documents or communications from the Court or eBay's
16 counsel on behalf of all Plaintiffs' counsel, convening
17 meetings of Plaintiffs' counsel, and advising Plaintiffs'
18 counsel of developments.

19 6. Co-lead counsel shall have the following duties:

- 20 a. Executing the orders of the Court concerning the conduct of
21 the litigation. This includes participating in drafting
22 pleadings, motions, oral argument, written discovery,
23 depositions, or pre-trial preparation and settlement. Co-
24 Lead Counsel may organize and delegate to other Plaintiffs'
25 counsel matters to the extent appropriate for the efficient
26 prosecution of the case;
- 27 b. Designating and supervising the efforts of other Plaintiffs'
28 counsel in a manner to ensure that the prosecution of the
 case for the Plaintiffs is conducted efficiently and
 effectively;
- c. Monitoring the activities of all Plaintiffs' counsel to ensure
 that schedules are met and unnecessary expenditures of time
 and funds are avoided, including the avoidance of
 unnecessary or duplicative communications among, and
 unnecessary or duplicative attendance by, Plaintiffs'
 counsel;
- d. Determining and presenting (in briefs, oral argument, or any
 such fashion as may be appropriate, personally or by a

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designee) to the Court and opposing parties the position of the Plaintiffs on all matters;

- e. Coordinating the initiation and conduct of discovery on behalf of the Plaintiffs consistent with the requirements of the Federal Rules of Civil Procedure, including the preparation of Interrogatories, Requests for Production of Documents, Requests for Admissions and examination of witnesses in deposition;
- f. Maintaining adequate time and disbursement records for all Plaintiffs' counsel;
- g. Assessing common litigation costs and collecting assessments as appropriate and necessary;
- h. Calling meetings of themselves and/or other Plaintiffs' counsel as appropriate or necessary from time to time;
- i. Initiating and conducting settlement negotiations with eBay's counsel;
- j. Making a good faith recommendation to the Court on the allocation of any attorneys' fees awarded by the Court; and
- k. Performing any other such duties as may be necessary for the litigation.

7. eBay may seek modification of this Order if it concludes that efforts on behalf of Plaintiffs have become unduly burdensome or inefficient.

IT IS SO ORDERED.

Dated: November 19, 2010


JUDGE RONALD M. WHYTE