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UNITED STATES DISTRICT COURT
 NORTHERN DISTRICT OF CALIFORNIA
 SAN JOSE DIVISION

IN RE: EBAY LITIGATION

Case No. C 07-2198 RMW

ORDER RE: SCHEDULING

Date: N/A
 Time: N/A
 Courtroom: 6, 4th Floor
 Judge: Hon. Ronald M. Whyte

1 Having reviewed the submissions of the parties and good cause appearing therefor, the
2 Court orders as follows:

3 1. No Formal Pre-Motion Fact Discovery:

4 a. No later than November 30, 2011, Defendant will supplement the Sample
5 Data Set (Sample Data Set - eBay-ML000316.xls), which has already been produced to Plaintiffs,
6 with bid information and other data for the listings currently included in the Sample Data Set, on
7 which eBay may rely in connection with the Motion.

8 b. The Sample Data Set, together with all supplemental data provided by
9 eBay (collectively, “the Data Set”), may be used in connection with either Party’s pleadings and
10 expert reports in connection with the Motion. Both Parties reserve all rights to contest the other
11 Party’s arguments, analyses, findings, observations, and conclusions related to the Data Set.
12 Notwithstanding the foregoing, for purposes of this Motion, neither Party shall challenge the
13 other Party’s arguments, analyses, findings, observations, or conclusions with respect to the
14 Motion on the ground that the Data Set includes an insufficient number of listings to support
15 reliable conclusions in support of or in opposition to the Motion.

16 2. Due date for eBay’s Motion: eBay shall file its Motion for Summary Judgment no
17 later than January 27, 2012.

18 3. Further Discovery:

19 a. Further Fact Discovery – No later than February 17, 2012 the parties shall
20 meet and confer regarding the scope of additional fact discovery to be conducted, if any, by
21 Plaintiffs related to the issues raised in the Motion. Any discovery conducted in connection with
22 this Motion shall be limited in scope to the issues presented in the Motion, i.e., the viability of
23 Plaintiffs’ theory of damages/restitution. The deadline for completing such further fact discovery
24 is April 17, 2012. Based on the court’s understanding of the nature of defendant’s contemplated
25 motion, little, if any, further discovery will be necessary. If the Parties cannot agree on the scope
26 or timing of additional fact discovery per this paragraph the parties may raise the matter with the
27 Court by letter or telephone conference call and need not file formal motions to compel additional
28 discovery.

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b. Expert Discovery:

i. eBay's Expert: No later than January 27, 2012, concurrently with service of its Motion for Summary Judgment, eBay shall serve Plaintiffs with the report and disclosure for any expert who offered testimony or analysis in support of its Motion.

ii. Plaintiffs' Expert (if any): No later than April 23, 2012 Plaintiffs shall serve eBay with any expert report and disclosure of any expert whose testimony or analysis Plaintiffs intend to offer in connection with Plaintiffs' opposition to eBay's Motion for Summary Judgment.

iii. eBay's Rebuttal Expert (if any): No later than May 11, 2012, eBay shall serve Plaintiffs with any Rebuttal expert report and disclosure.

iv. Expert Depositions must be completed by June 8, 2012.

4. Deadline for Plaintiffs' Request to File Cross-Motion for Summary Judgment/Partial Summary Judgment: If Plaintiffs intend to renew their request to file a cross-motion for partial summary judgment as to the viability of their damages theory, they must request permission to do so by submitting a letter to the Court no later than April 27, 2012. No later than May 4, 2012, eBay may submit a letter to the Court setting forth its position in response as to whether Plaintiff should be allowed to file a cross-motion. In the event the Court grants Plaintiffs' request, the Parties shall meet and confer regarding an alternative briefing schedule, and the deadlines imposed in paragraphs 5 to 7 shall be vacated.

5. Deadline for Opposition to Motion for Summary Judgment: July 9, 2012

6. Deadline for eBay's Reply Brief: August 6, 2012

7. Hearing: August 24, 2012 or as soon thereafter as may be heard by the Court.

All other deadlines are vacated as having been superseded by this Order.

IT IS SO ORDERED.

Dated: _____



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