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9 **UNITED STATES DISTRICT COURT**  
10 **NORTHERN DISTRICT OF CALIFORNIA**  
11 **SAN JOSE DIVISION**

12 EBAY INC.,

13 Plaintiff,

14 v.

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

19 Defendants.

Case No. C 08-04052 JF PVT

**[PROPOSED] ORDER GRANTING  
EBAY INC.'S MOTION TO  
COMPEL RESPONSES TO  
REQUESTS FOR PRODUCTION,  
INTERROGATORIES AND  
REQUESTS FOR ADMISSION**

Hearing Date: October 27, 2009

Time: 10:00 a.m.

Judge: Hon. Patricia V. Trumbull

1 eBay's Motion to Compel Responses to Requests for Production, Interrogatories  
2 and Requests for Admission was heard by the Court on October 27, 2009. Upon  
3 consideration of the papers submitted and the arguments of counsel, and for good cause  
4 shown, the Court hereby GRANTS Plaintiff's Motion and ORDERS:

- 5 1. that Defendant Kessler's Flying Circus's objections to eBay's  
6 Interrogatories on the grounds of the Fifth Amendment are stricken and  
7 Kessler's Flying Circus shall provide supplemental responses to those  
8 interrogatories within 15 days of this Order;
- 9 2. that Defendants Thunderwood Holdings, Inc.'s and BrianDunning.com's  
10 objections to eBay's Interrogatories and Requests for Admission on the  
11 grounds of the Fifth Amendment are stricken and those Defendants shall  
12 provide supplemental responses to those interrogatories and requests for  
13 admission within 15 days of this Order;
- 14 3. that, notwithstanding their continuing invocations of their Fifth Amendment  
15 rights, within 15 days of this Order Defendants Brian Dunning and Todd  
16 Dunning produce all documents responsive to eBay's First and Second Sets  
17 of Requests for Production that were previously obtained by the FBI; and
- 18 4. that Defendants Brian Dunning, Todd Dunning, Kessler's Flying Circus,  
19 Thunderwood Holdings, Inc., BrianDunning.com and Dunning Enterprise,  
20 Inc. exercise any and all rights that they may have to obtain documents from  
21 Rackspace US, Inc. that may be responsive to eBay's First and Second Sets  
22 of Requests for Production and, as otherwise compelled by this Order or as  
23 previously set forth in discovery responses or agreed by the parties, produce  
24 documents responsive to those requests for production within 15 days of this  
25 Order.

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IT IS SO ORDERED.

DATED: \_\_\_\_\_

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The Honorable Patricia V. Trumbull  
United States Magistrate Judge