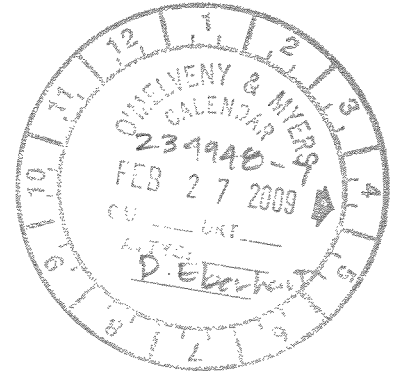


EXHIBIT 14



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and Dunning Enterprise, Inc.

8 UNITED STATES DISTRICT COURT
9 FOR THE NORTHERN DISTRICT OF CALIFORNIA
10 SAN JOSE DIVISION

11
12 EBAY, INC.,

13 Plaintiff,

14 v.

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

19 Defendants.

CASE NO.: CV-08-4052 JF

**DEFENDANT TODD DUNNING'S
RESPONSES TO PLAINTIFF'S FIRST
SET OF REQUESTS FOR
PRODUCTION**

20 PROPOUNDING PARTY: PLAINTIFF EBAY INC.

21 RESPONDING PARTY: DEFENDANT TODD DUNNING

22 SET NUMBER: ONE
23
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25
26
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1 Defendant Todd Dunning ("Defendant") hereby submits the following objections
 2 and responses to the Request for Production of Documents Set One propounded by Plaintiff Ebay, Inc.
 3 ("Plaintiff").

4 GENERAL STATEMENT

5 Defendant has invoked his privilege against self-incrimination pursuant to the Fifth
 6 Amendment to the U.S. Constitution, *Lefkowitz v. Turley*, 414 U.S. 70, 77 (1973), Federal Rules of
 7 Evidence Rule 501, Article 1, Section 15 of the California Constitution, and California Evidence Code
 8 section 940. Should Defendant determine that there is no longer the threat of potential criminal
 9 prosecution and elect to withdraw his privilege against self-incrimination in the future, Defendant
 10 expressly reserves the right to supplement his responses.

11 Furthermore, the Federal Bureau of Investigation has seized all documents and computers,
 12 disk drives, hard drives, cell phones and servers containing information potentially related to this
 13 matter. Assistant United States Attorney Kyle F. Waldinger in charge of this investigation has refused
 14 all requests to provide defendants with a copy of the material seized by the FBI. Those items and
 15 records may contain information responsive to the requests below, but those items and records are not
 16 in the possession, custody or control of defendants.

17 At the time of making Defendant's initial disclosures, Defendant produced all documents
 18 relevant to this case that are in his possession, custody and control. Commission Junction, Inc. has
 19 also produced documents in the related state action *Commission Junction, Inc. v. Thunderwood*
 20 *Holdings, Inc., et al.*, Superior Court, Orange County, Case No. 30-2008 00101025 that may include
 21 documents responsive to this request, but such documents are subject to a Confidentiality Order.

22 REQUEST FOR PRODUCTION NO. 1:

23 All documents relating to eBay, including all agreements, terms of service and terms and
 24 conditions.

25 RESPONSE TO REQUEST FOR PRODUCTION NO. 1:

26 Defendant objects to this request on the grounds that it violates Defendant's privilege against
 27 self-incrimination pursuant to the Fifth Amendment to the U.S. Constitution, *Lefkowitz v. Turley*, 414
 28 U.S. 70, 77 (1973), Federal Rules of Evidence Rule 501, Article 1, Section 15 of the California

1 Constitution, and California Evidence Code section 940. Defendant further objects on the ground that
 2 this request is vague and ambiguous, overbroad, unduly burdensome and oppressive. Defendant
 3 further objects that this request seeks documents which are neither relevant to the subject matter of
 4 this action, nor reasonably calculated to lead to the discovery of admissible evidence. Defendant
 5 further objects to this request on the grounds that, as phrased, the request seeks documents the
 6 disclosure of which might violate the attorney-client privilege and/or the work product doctrine.
 7 Defendant further objects to this request on the ground that it seeks production of trade secrets or
 8 other confidential information.

9 REQUEST FOR PRODUCTION NO. 2:

10 All documents relating to, or Communications with, eBay or any current or former employee
 11 of eBay.

12 RESPONSE TO REQUEST FOR PRODUCTION NO. 2:

13 Defendant objects to this request on the grounds that it violates Defendant's privilege against
 14 self-incrimination pursuant to the Fifth Amendment to the U.S. Constitution, *Lefkowitz v. Turley*, 414
 15 U.S. 70, 77 (1973), Federal Rules of Evidence Rule 501, Article 1, Section 15 of the California
 16 Constitution, and California Evidence Code section 940. Defendant further objects on the ground that
 17 this request is duplicative, vague and ambiguous, overbroad, unduly burdensome and oppressive.
 18 Defendant further objects that this request seeks documents which are neither relevant to the subject
 19 matter of this action, nor reasonably calculated to lead to the discovery of admissible evidence.
 20 Defendant further objects to this request on the grounds that, as phrased, the request seeks documents
 21 the disclosure of which might violate the attorney-client privilege and/or the work product doctrine.
 22 Defendant further objects to this request on the ground that it seeks production of trade secrets or
 23 other confidential information.

24 REQUEST FOR PRODUCTION NO. 3:

25 All documents relating to payment of commissions or other revenue obtained by Todd
 26 Dunning through participation in, interaction with or manipulation of eBay's Affiliate Marketing
 27 Program.

28 ///

1 RESPONSE TO REQUEST FOR PRODUCTION NO. 3:

2 Defendant objects to this request on the grounds that it violates Defendant's privilege against
3 self-incrimination pursuant to the Fifth Amendment to the U.S. Constitution, *Lefkowitz v. Turley*, 414
4 U.S. 70, 77 (1973), Federal Rules of Evidence Rule 501, Article 1, Section 15 of the California
5 Constitution, and California Evidence Code section 940. Defendant further objects on the ground that
6 the this request is vague and ambiguous, overbroad, unduly burdensome and oppressive. Defendant
7 further objects on the grounds that that the term "manipulation" is vague, argumentative and
8 conclusory. Defendant further objects to this request on the grounds that, as phrased, the request
9 seeks documents the disclosure of which might violate the attorney-client privilege and/or the work
10 product doctrine. Defendant further objects to this request on the ground that it violates Defendant's
11 right to privacy, and seeks production of trade secrets or other confidential information.

12 REQUEST FOR PRODUCTION NO. 4:

13 All documents relating to eBay's Affiliate Marketing Program, including, but no limited to, all
14 methods and technologies used by Todd Dunning to obtain revenue from, manipulate or otherwise
15 interact with, eBay's Affiliate Marketing Program, including, but not limited to, all software, source
16 code, Javascript, and HTML code.

17 RESPONSE TO REQUEST FOR PRODUCTION NO. 4:

18 Defendant objects to this request on the grounds that it violates Defendant's privilege against
19 self-incrimination pursuant to the Fifth Amendment to the U.S. Constitution, *Lefkowitz v. Turley*, 414
20 U.S. 70, 77 (1973), Federal Rules of Evidence Rule 501, Article 1, Section 15 of the California
21 Constitution, and California Evidence Code section 940. Defendant further objects on the ground that
22 this request is vague and ambiguous, overbroad, unduly burdensome and oppressive. Defendant
23 further objects on the grounds that that the term "manipulate" is vague, argumentative and conclusory.
24 Defendant further objects to this request on the grounds that, as phrased, the request seeks documents
25 the disclosure of which might violate the attorney-client privilege and/or the work product doctrine.
26 Defendant further objects to this request on the ground that it violates Defendant's right to privacy,
27 and seeks production of trade secrets or other confidential information.

28 ///

1 REQUEST FOR PRODUCTION NO. 5:

2 All documents relating to advertisements for eBay used, or purported to be used, on any
3 website or ad network that directed or referred Users to eBay as part of eBay's Affiliate Marketing
4 Program.

5 RESPONSE TO REQUEST FOR PRODUCTION NO. 5:

6 Defendant objects to this request on the grounds that it violates Defendant's privilege against
7 self-incrimination pursuant to the Fifth Amendment to the U.S. Constitution, *Lefkowitz v. Turley*, 414
8 U.S. 70, 77 (1973), Federal Rules of Evidence Rule 501, Article 1, Section 15 of the California
9 Constitution, and California Evidence Code section 940. Defendant further objects on the ground that
10 this request is vague and ambiguous, overbroad, unduly burdensome and oppressive. Defendant
11 further objects to this request on the grounds that, as phrased, the request seeks documents the
12 disclosure of which might violate the attorney-client privilege and/or the work product doctrine.
13 Defendant further objects to this request on the ground that it seeks production of trade secrets or
14 other confidential information.

15 REQUEST FOR PRODUCTION NO. 6:

16 All documents reflecting the number of Users who allegedly clicked on an advertisement for
17 eBay used, or purported to be used, by Todd Dunning to direct or refer Users to eBay as part of eBay's
18 Affiliate Marketing Program.

19 RESPONSE TO REQUEST FOR PRODUCTION NO. 6:

20 Defendant objects to this request on the grounds that it violates Defendant's privilege against
21 self-incrimination pursuant to the Fifth Amendment to the U.S. Constitution, *Lefkowitz v. Turley*, 414
22 U.S. 70, 77 (1973), Federal Rules of Evidence Rule 501, Article 1, Section 15 of the California
23 Constitution, and California Evidence Code section 940. Defendant further objects on the ground that
24 this request is vague and ambiguous, overbroad, unduly burdensome and oppressive. Defendant
25 further objects to this request on the grounds that, as phrased, the request seeks documents the
26 disclosure of which might violate the attorney-client privilege and/or the work product doctrine.
27 Defendant further objects to this request on the ground that it seeks production of trade secrets or
28 other confidential information.

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1 REQUEST FOR PRODUCTION NO. 7:

2 All documents relating to methods or techniques intended to, or causing, a User's browser to
3 load any eBay webpage, webpage content or data therefrom.

4 RESPONSE TO REQUEST FOR PRODUCTION NO. 7:

5 Defendant objects to this request on the grounds that it violates Defendant's privilege against
6 self-incrimination pursuant to the Fifth Amendment to the U.S. Constitution, *Lefkowitz v. Turley*, 414
7 U.S. 70, 77 (1973), Federal Rules of Evidence Rule 501, Article 1, Section 15 of the California
8 Constitution, and California Evidence Code section 940. Defendant further objects on the ground that
9 this request is vague and ambiguous, overbroad, unduly burdensome and oppressive. Defendant
10 further objects to this request on the grounds that, as phrased, the request seeks documents the
11 disclosure of which might violate the attorney-client privilege and/or the work product doctrine.
12 Defendant further objects to this request on the ground that it violates Defendant's right to privacy,
13 and seeks production of trade secrets or other confidential information.

14 REQUEST FOR PRODUCTION NO. 8:

15 All documents sufficient to identify all advertising networks, advertising syndication services
16 or websites used or purportedly used by Todd Dunning to advertise or promote eBay or to interact in
17 any way with eBay or eBay's Affiliate Marketing Programs.

18 RESPONSE TO REQUEST FOR PRODUCTION NO. 8:

19 Defendant objects to this request on the grounds that it violates Defendant's privilege against
20 self-incrimination pursuant to the Fifth Amendment to the U.S. Constitution, *Lefkowitz v. Turley*, 414
21 U.S. 70, 77 (1973), Federal Rules of Evidence Rule 501, Article 1, Section 15 of the California
22 Constitution, and California Evidence Code section 940. Defendant further objects on the ground that
23 this request is vague and ambiguous, overbroad, unduly burdensome and oppressive. Defendant
24 further objects to this request on the grounds that, as phrased, the request seeks documents the
25 disclosure of which might violate the attorney-client privilege and/or the work product doctrine.
26 Defendant further objects to this request on the ground that it violates Defendant's right to privacy,
27 and seeks production of trade secrets or other confidential information.

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1 REQUEST FOR PRODUCTION NO. 9:

2 All documents sufficient to identify all Affiliate Marketing Programs, not including eBay's
3 Affiliate Marketing Program, with whom Todd Dunning obtained revenue or otherwise interacted.

4 RESPONSE TO REQUEST FOR PRODUCTION NO. 9:

5 Defendant objects to this request on the grounds that it violates Defendant's privilege against
6 self-incrimination pursuant to the Fifth Amendment to the U.S. Constitution, *Lefkowitz v. Turley*, 414
7 U.S. 70, 77 (1973), Federal Rules of Evidence Rule 501, Article 1, Section 15 of the California
8 Constitution, and California Evidence Code section 940. Defendant further objects on the ground that
9 this request is vague and ambiguous, overbroad, unduly burdensome and oppressive. Defendant
10 further objects that to the extent this request seeks documents related to programs other than eBay's
11 Affiliate Marketing Program, the request is neither relevant to the subject matter of this action, nor
12 reasonably calculated to lead to the discovery of admissible evidence. Defendant further objects to
13 this request on the grounds that, as phrased, the request seeks documents the disclosure of which
14 might violate the attorney-client privilege and/or the work product doctrine. Defendant further objects
15 to this request on the ground that it violates Defendant's right to privacy, and seeks production of trade
16 secrets or other confidential information.

17 REQUEST FOR PRODUCTION NO. 10:

18 All documents relating to and/or describing methods and techniques used by any other
19 Affiliate Marketing Program that Todd Dunning interacted with, participated in or manipulated.

20 RESPONSE TO REQUEST FOR PRODUCTION NO. 10:

21 Defendant objects to this request on the grounds that it violates Defendant's privilege against
22 self-incrimination pursuant to the Fifth Amendment to the U.S. Constitution, *Lefkowitz v. Turley*, 414
23 U.S. 70, 77 (1973), Federal Rules of Evidence Rule 501, Article 1, Section 15 of the California
24 Constitution, and California Evidence Code section 940. Defendant further objects on the ground that
25 this request is vague and ambiguous, overbroad, unduly burdensome and oppressive. Defendant
26 further objects on the grounds that that the term "manipulated" is vague, argumentative and
27 conclusory. Defendant further objects that to the extent this request seeks documents related to
28 programs other than eBay's Affiliate Marketing Program, the request is neither relevant to the subject

1 matter of this action, nor reasonably calculated to lead to the discovery of admissible evidence.
 2 Defendant further objects to this request on the grounds that, as phrased, the request seeks documents
 3 the disclosure of which might violate the attorney-client privilege and/or the work product doctrine.
 4 Defendant further objects to this request on the ground that it violates Defendant's right to privacy,
 5 and seeks production of trade secrets or other confidential information.

6 REQUEST FOR PRODUCTION NO. 11:

7 All documents sufficient to identify the source of any technology, technique or methods used
 8 by Todd Dunning to participate in, manipulate or interact with the eBay Affiliate Marketing Program,
 9 or any other Affiliate Marketing Program.

10 RESPONSE TO REQUEST FOR PRODUCTION NO. 11:

11 Defendant objects to this request on the grounds that it violates Defendant's privilege against
 12 self-incrimination pursuant to the Fifth Amendment to the U.S. Constitution, *Lefkowitz v. Turley*, 414
 13 U.S. 70, 77 (1973), Federal Rules of Evidence Rule 501, Article 1, Section 15 of the California
 14 Constitution, and California Evidence Code section 940. Defendant further objects on the ground that
 15 this request is vague and ambiguous, overbroad, unduly burdensome and oppressive. Defendant
 16 further objects on the grounds that that the term "manipulate" is vague, argumentative and conclusory.
 17 Defendant further objects that to the extent this request seeks documents related to programs other
 18 than eBay's Affiliate Marketing Program, the request is neither relevant to the subject matter of this
 19 action, nor reasonably calculated to lead to the discovery of admissible evidence. Defendant further
 20 objects to this request on the grounds that, as phrased, the request seeks documents the disclosure of
 21 which might violate the attorney-client privilege and/or the work product doctrine. Defendant further
 22 objects to this request on the ground that it violates Defendant's right to privacy, and seeks production
 23 of trade secrets or other confidential information.

24 REQUEST FOR PRODUCTION NO. 12:

25 All documents sufficient to identify any individuals, groups, books, manuals or other materials
 26 consulted by Todd Dunning while developing any technology, technique or method used by Todd
 27 Dunning to participate in, manipulate or interact with the eBay Affiliate Marketing Program, or any
 28 other Affiliate Marketing Program.

1 RESPONSE TO REQUEST FOR PRODUCTION NO. 12:

2 Defendant objects to this request on the grounds that it violates Defendant's privilege against
3 self-incrimination pursuant to the Fifth Amendment to the U.S. Constitution, *Lefkowitz v. Turley*, 414
4 U.S. 70, 77 (1973), Federal Rules of Evidence Rule 501, Article 1, Section 15 of the California
5 Constitution, and California Evidence Code section 940. Defendant further objects on the ground that
6 this request is vague and ambiguous, overbroad, unduly burdensome and oppressive. Defendant
7 further objects on the grounds that that the term "manipulate" is vague, argumentative and conclusory.
8 Defendant further objects that to the extent this request seeks documents related to programs other
9 than eBay's Affiliate Marketing Program, the request is neither relevant to the subject matter of this
10 action, nor reasonably calculated to lead to the discovery of admissible evidence. Defendant further
11 objects to this request on the grounds that, as phrased, the request seeks documents the disclosure of
12 which might violate the attorney-client privilege and/or the work product doctrine. Defendant further
13 objects to this request on the ground that it violates Defendant's right to privacy, seeks production of
14 trade secrets or other confidential information.

15 REQUEST FOR PRODUCTION NO. 13:

16 All documents relating to Commission Junction, including all agreements, terms of service and
17 terms and conditions.

18 RESPONSE TO REQUEST FOR PRODUCTION NO. 13:

19 Defendant objects to this request on the grounds that it violates Defendant's privilege against
20 self-incrimination pursuant to the Fifth Amendment to the U.S. Constitution, *Lefkowitz v. Turley*, 414
21 U.S. 70, 77 (1973), Federal Rules of Evidence Rule 501, Article 1, Section 15 of the California
22 Constitution, and California Evidence Code section 940. Defendant further objects on the ground that
23 this request is vague and ambiguous, overbroad, unduly burdensome and oppressive. Defendant
24 further objects to this request on the grounds that, as phrased, the request seeks documents the
25 disclosure of which might violate the attorney-client privilege and/or the work product doctrine.
26 Defendant further objects to this request on the ground that it seeks production of trade secrets or
27 other confidential information.

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1 REQUEST FOR PRODUCTION NO. 14:

2 All documents relating to, or Communications with, Commission Junction or any current or
3 former employee of Commission Junction.

4 RESPONSE TO REQUEST FOR PRODUCTION NO. 14:

5 Defendant objects to this request on the grounds that it violates Defendant's privilege against
6 self-incrimination pursuant to the Fifth Amendment to the U.S. Constitution, *Lefkowitz v. Turley*, 414
7 U.S. 70, 77 (1973), Federal Rules of Evidence Rule 501, Article 1, Section 15 of the California
8 Constitution, and California Evidence Code section 940. Defendant further objects on the ground that
9 this request is vague and ambiguous, overbroad, unduly burdensome and oppressive. Defendant
10 further objects to this request on the grounds that, as phrased, the request seeks documents the
11 disclosure of which might violate the attorney-client privilege and/or the work product doctrine.
12 Defendant further objects to this request on the ground that it seeks production of trade secrets or
13 other confidential information.

14 REQUEST FOR PRODUCTION NO. 15:

15 All documents relating to, or Communications with, Digital Point Solutions, Inc., Kessler's
16 Flying Circus, Thunderwood Holdings, Inc., Dunning Enterprise, Inc., or briandunning.com.

17 RESPONSE TO REQUEST FOR PRODUCTION NO. 15:

18 Defendant objects to this request on the grounds that it violates Defendant's privilege against
19 self-incrimination pursuant to the Fifth Amendment to the U.S. Constitution, *Lefkowitz v. Turley*, 414
20 U.S. 70, 77 (1973), Federal Rules of Evidence Rule 501, Article 1, Section 15 of the California
21 Constitution, and California Evidence Code section 940. Defendant further objects on the ground that
22 this request is vague and ambiguous, overbroad, unduly burdensome and oppressive. Defendant
23 further objects that this request seeks documents which are neither relevant to the subject matter of
24 this action, nor reasonably calculated to lead to the discovery of admissible evidence. Defendant
25 further objects to this request on the grounds that, as phrased, the request seeks documents the
26 disclosure of which might violate the attorney-client privilege and/or the work product doctrine.
27 Defendant further objects to this request on the ground that it violates Defendant's right to privacy,
28 seeks production of trade secrets or other confidential information.

1 REQUEST FOR PRODUCTION NO. 16:

2 All Communications with Brian Dunning or Shawn Hogan.

3 RESPONSE TO REQUEST FOR PRODUCTION NO. 16:

4 Defendant objects to this request on the grounds that it violates Defendant's privilege against
5 self-incrimination pursuant to the Fifth Amendment to the U.S. Constitution, *Lefkowitz v. Turley*, 414
6 U.S. 70, 77 (1973), Federal Rules of Evidence Rule 501, Article 1, Section 15 of the California
7 Constitution, and California Evidence Code section 940. Defendant further objects on the ground that
8 this request is vague and ambiguous, overbroad, unduly burdensome and oppressive. Defendant
9 further objects that this request seeks documents which are neither relevant to the subject matter of
10 this action, nor reasonably calculated to lead to the discovery of admissible evidence. Defendant
11 further objects to this request on the ground that it violates privacy rights of Defendant and third
12 parties, and seeks production of trade secrets or other confidential information.

13 REQUEST FOR PRODUCTION NO. 17:

14 All documents relating to, or Communications with, Rachael Hughes, or any companies or
15 entities owned, controlled, affiliated with or used by Rachael Hughes, relating to eBay's Affiliate
16 Marketing Program including, but not limited to, any agreements with Rachael Hughes and company
17 and any technology transferred to or from Rachael Hughes and company.

18 RESPONSE TO REQUEST FOR PRODUCTION NO. 17:

19 Defendant objects to this request on the grounds that it violates Defendant's privilege against
20 self-incrimination pursuant to the Fifth Amendment to the U.S. Constitution, *Lefkowitz v. Turley*, 414
21 U.S. 70, 77 (1973), Federal Rules of Evidence Rule 501, Article 1, Section 15 of the California
22 Constitution, and California Evidence Code section 940. Defendant further objects on the ground that
23 this request is vague and ambiguous, and Plaintiff has failed to identify the person or entity Rachel
24 Hughes. Defendant further objects that this request seeks documents which are neither relevant to the
25 subject matter of this action, nor reasonably calculated to lead to the discovery of admissible evidence.

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1 REQUEST FOR PRODUCTION NO. 18:

2 All documents sufficient to describe all phone numbers, email addresses, web pages, instant
3 messenger or mail accounts and social network accounts maintained, formerly maintained or
4 registered to Todd Dunning.

5 RESPONSE TO REQUEST FOR PRODUCTION NO. 18:

6 Defendant objects to this request on the grounds that it violates Defendant's privilege against
7 self-incrimination pursuant to the Fifth Amendment to the U.S. Constitution, *Lefkowitz v. Turley*, 414
8 U.S. 70, 77 (1973), Federal Rules of Evidence Rule 501, Article 1, Section 15 of the California
9 Constitution, and California Evidence Code section 940. Defendant further objects on the ground that
10 this request is vague and ambiguous, overbroad, unduly burdensome and oppressive. Defendant
11 further objects that this request seeks documents which are neither relevant to the subject matter of
12 this action, nor reasonably calculated to lead to the discovery of admissible evidence. Defendant
13 further objects to this request on the ground that it violates Defendant's right to privacy, and seeks
14 production of trade secrets or other confidential information.

15 REQUEST FOR PRODUCTION NO. 19:

16 Documents sufficient to identify any Aliases used by Todd Dunning in any Internet Forum at
17 or within which Todd Dunning discussed any aspect of their participation in, manipulation of or
18 interaction with eBay's Affiliate Marketing Program, or any other Affiliate Marketing Programs,
19 including, but not limited to, forums such as blogs, listservs, Usenet newsgroups or chat rooms.

20 RESPONSE TO REQUEST FOR PRODUCTION NO. 19:

21 Defendant objects to this request on the grounds that it violates Defendant's privilege against
22 self-incrimination pursuant to the Fifth Amendment to the U.S. Constitution, *Lefkowitz v. Turley*, 414
23 U.S. 70, 77 (1973), Federal Rules of Evidence Rule 501, Article 1, Section 15 of the California
24 Constitution, and California Evidence Code section 940. Defendant further objects on the ground that
25 this request is vague and ambiguous, overbroad, unduly burdensome and oppressive. Defendant
26 further objects that to the extent this request seeks documents related to programs other than eBay's
27 Affiliate Marketing Program, the request is neither relevant to the subject matter of this action, nor
28 reasonably calculated to lead to the discovery of admissible evidence. Defendant further objects on

1 the grounds that that the term "manipulation" is vague, argumentative and conclusory. Defendant
 2 further objects to this request on the ground that it violates Defendant's right to privacy, and seeks
 3 production of trade secrets or other confidential information.

4 REQUEST FOR PRODUCTION NO. 20:

5 Documents sufficient to identify any Internet Forum at or within which Todd Dunning
 6 discussed any aspect of his participation in, manipulation of or interaction with eBay's Affiliate
 7 Marketing Programs, or any other Affiliate Marketing Programs, including, but not limited to, forums
 8 such as blogs, listservs, Usenet newsgroups or chat rooms.

9 RESPONSE TO REQUEST FOR PRODUCTION NO. 20:

10 Defendant objects to this request on the grounds that it violates Defendant's privilege against
 11 self-incrimination pursuant to the Fifth Amendment to the U.S. Constitution, *Lefkowitz v. Turley*, 414
 12 U.S. 70, 77 (1973), Federal Rules of Evidence Rule 501, Article 1, Section 15 of the California
 13 Constitution, and California Evidence Code section 940. Defendant further objects on the ground that
 14 this request is vague and ambiguous, overbroad, unduly burdensome and oppressive. Defendant
 15 further objects on the grounds that that the term "manipulation" is vague, argumentative and
 16 conclusory. Defendant further objects that to the extent this request seeks documents related to
 17 programs other than eBay's Affiliate Marketing Program, the request is neither relevant to the subject
 18 matter of this action, nor reasonably calculated to lead to the discovery of admissible evidence.
 19 Defendant further objects to this request on the ground that it violates Defendant's right to privacy,
 20 seeks production of trade secrets or other confidential information.

21 REQUEST FOR PRODUCTION NO. 21:

22 Documents sufficient to identify all internet service providers (ISPs) and IP addresses used by
 23 Todd Dunning.

24 RESPONSE TO REQUEST FOR PRODUCTION NO. 21:

25 Defendant objects to this request on the grounds that it violates Defendant's privilege against
 26 self-incrimination pursuant to the Fifth Amendment to the U.S. Constitution, *Lefkowitz v. Turley*, 414
 27 U.S. 70, 77 (1973), Federal Rules of Evidence Rule 501, Article 1, Section 15 of the California
 28 Constitution, and California Evidence Code section 940. Defendant further objects on the ground that

1 this request is vague and ambiguous, overbroad, unduly burdensome and oppressive. Defendant
2 further objects that this request seeks documents which are neither relevant to the subject matter of
3 this action, nor reasonably calculated to lead to the discovery of admissible evidence. Defendant
4 further objects to this request on the ground that it violates Defendant's right to privacy, seeks
5 production of trade secrets or other confidential information.

6 REQUEST FOR PRODUCTION NO. 22:

7 Documents sufficient to identify all computers, servers, electronic data storage and hosting
8 companies, entities, or facilities used by Todd Dunning.

9 RESPONSE TO REQUEST FOR PRODUCTION NO. 22:

10 Defendant objects to this request on the grounds that it violates Defendant's privilege against
11 self-incrimination pursuant to the Fifth Amendment to the U.S. Constitution, *Lefkowitz v. Turley*, 414
12 U.S. 70, 77 (1973), Federal Rules of Evidence Rule 501, Article 1, Section 15 of the California
13 Constitution, and California Evidence Code section 940. Defendant further objects on the ground that
14 this request is vague and ambiguous, overbroad, unduly burdensome and oppressive. Defendant
15 further objects that this request seeks documents which are neither relevant to the subject matter of
16 this action, nor reasonably calculated to lead to the discovery of admissible evidence. Defendant
17 further objects to this request on the ground that it violates Defendant's right to privacy, seeks
18 production of trade secrets or other confidential information.

19 REQUEST FOR PRODUCTION NO. 23:

20 Documents sufficient to identify any entity used or hired to maintain or restore electronic data
21 or systems relating to Todd Dunning's participation in, manipulation of or interaction with eBay's
22 Affiliate Marketing Program.

23 RESPONSE TO REQUEST FOR PRODUCTION NO. 23:

24 Defendant objects to this request on the grounds that it violates Defendant's privilege against
25 self-incrimination pursuant to the Fifth Amendment to the U.S. Constitution, *Lefkowitz v. Turley*, 414
26 U.S. 70, 77 (1973), Federal Rules of Evidence Rule 501, Article 1, Section 15 of the California
27 Constitution, and California Evidence Code section 940. Defendant further objects on the ground that
28 this request is vague and ambiguous, overbroad, unduly burdensome and oppressive. Defendant

1 further objects on the grounds that that the term "manipulation" is vague, argumentative and
2 conclusory. Defendant further objects to this request on the ground that it violates Defendant's right to
3 privacy, seeks production of trade secrets or other confidential information.

4 REQUEST FOR PRODUCTION NO. 24:

5 Documents sufficient to identify software used to clean, reformat or erase hard-drives used by
6 Todd Dunning, or any equipment owned, used or maintained by Todd Dunning.

7 RESPONSE TO REQUEST FOR PRODUCTION NO. 24:

8 Defendant objects to this request on the grounds that it violates Defendant's privilege against
9 self-incrimination pursuant to the Fifth Amendment to the U.S. Constitution, *Lefkowitz v. Turley*, 414
10 U.S. 70, 77 (1973), Federal Rules of Evidence Rule 501, Article 1, Section 15 of the California
11 Constitution, and California Evidence Code section 940. Defendant further objects on the ground that
12 this request is vague and ambiguous, overbroad, unduly burdensome and oppressive. Defendant
13 further objects that this request seeks documents which are neither relevant to the subject matter of
14 this action, nor reasonably calculated to lead to the discovery of admissible evidence. Defendant
15 further objects to this request on the ground that it violates Defendant's right to privacy, seeks
16 production of trade secrets or other confidential information.

17 REQUEST FOR PRODUCTION NO. 25:

18 All documents sufficient to identify all business entities or fictitious business names currently
19 or formerly maintained by Todd Dunning.

20 RESPONSE TO REQUEST FOR PRODUCTION NO. 25:

21 Defendant objects to this request on the grounds that it violates Defendant's privilege against
22 self-incrimination pursuant to the Fifth Amendment to the U.S. Constitution, *Lefkowitz v. Turley*, 414
23 U.S. 70, 77 (1973), Federal Rules of Evidence Rule 501, Article 1, Section 15 of the California
24 Constitution, and California Evidence Code section 940. Defendant further objects on the ground that
25 this request is vague and ambiguous, overbroad, unduly burdensome and oppressive. Defendant
26 further objects that this request seeks documents which are neither relevant to the subject matter of
27 this action, nor reasonably calculated to lead to the discovery of admissible evidence.

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1 REQUEST FOR PRODUCTION NO. 26:

2 All documents filed by Todd Dunning with any Secretary of State.

3 RESPONSE TO REQUEST FOR PRODUCTION NO. 26:

4 Defendant objects to this request on the grounds that it violates Defendant's privilege against
5 self-incrimination pursuant to the Fifth Amendment to the U.S. Constitution, *Lefkowitz v. Turley*, 414
6 U.S. 70, 77 (1973), Federal Rules of Evidence Rule 501, Article 1, Section 15 of the California
7 Constitution, and California Evidence Code section 940. Defendant further objects on the ground that
8 this request is overbroad, unduly burdensome and oppressive. Defendant further objects that this
9 request seeks documents which are neither relevant to the subject matter of this action, nor reasonably
10 calculated to lead to the discovery of admissible evidence.

11 REQUEST FOR PRODUCTION NO. 27:

12 Documents sufficient to show the structure and organization of all companies or other entities
13 owned or controlled by Todd Dunning that were involved in or interacted with any Affiliate
14 Marketing Program.

15 RESPONSE TO REQUEST FOR PRODUCTION NO. 27:

16 Defendant objects to this request on the grounds that it violates Defendant's privilege against
17 self-incrimination pursuant to the Fifth Amendment to the U.S. Constitution, *Lefkowitz v. Turley*, 414
18 U.S. 70, 77 (1973), Federal Rules of Evidence Rule 501, Article 1, Section 15 of the California
19 Constitution, and California Evidence Code section 940. Defendant further objects on the ground that
20 this request is vague and ambiguous, overbroad, unduly burdensome and oppressive. Defendant
21 further objects that this request seeks documents which are neither relevant to the subject matter of
22 this action, nor reasonably calculated to lead to the discovery of admissible evidence.

23 REQUEST FOR PRODUCTION NO. 28:

24 Documents sufficient to identify all employees, contractors or temporary employees of Todd
25 Dunning, their dates of employment, duties, salary and any other compensation.

26 RESPONSE TO REQUEST FOR PRODUCTION NO. 28:

27 Defendant objects to this request on the grounds that it violates Defendant's privilege against
28 self-incrimination pursuant to the Fifth Amendment to the U.S. Constitution, *Lefkowitz v. Turley*, 414

1 U.S. 70, 77 (1973), Federal Rules of Evidence Rule 501, Article 1, Section 15 of the California
 2 Constitution, and California Evidence Code section 940. Defendant further objects on the ground that
 3 this request is vague and ambiguous, overbroad, unduly burdensome and oppressive. Defendant
 4 further objects that this request seeks documents which are neither relevant to the subject matter of
 5 this action, nor reasonably calculated to lead to the discovery of admissible evidence. Defendant
 6 further objects to this request on the ground that it violates privacy rights of third parties, seeks
 7 production of trade secrets or other confidential information.

8 REQUEST FOR PRODUCTION NO. 29:

9 All documents sufficient to identify all assets and financial accounts (including those outside
 10 of the United States) maintained or formerly maintained by Todd Dunning.

11 RESPONSE TO REQUEST FOR PRODUCTION NO. 29:

12 Defendant objects to this request on the grounds that it violates Defendant's privilege against
 13 self-incrimination pursuant to the Fifth Amendment to the U.S. Constitution, *Lefkowitz v. Turley*, 414
 14 U.S. 70, 77 (1973), Federal Rules of Evidence Rule 501, Article 1, Section 15 of the California
 15 Constitution, and California Evidence Code section 940. Defendant further objects on the ground that
 16 this request is vague and ambiguous, overbroad, unduly burdensome and oppressive. Defendant
 17 further objects that this request seeks documents which are neither relevant to the subject matter of
 18 this action, nor reasonably calculated to lead to the discovery of admissible evidence. Defendant
 19 further objects to this request on the ground that it violates Defendant's right to privacy and seeks
 20 confidential financial information.

21 REQUEST FOR PRODUCTION NO. 30:

22 Documents constituting Todd Dunning's individual tax returns for the years 2003 to the
 23 present.

24 RESPONSE TO REQUEST FOR PRODUCTION NO. 30:

25 Defendant objects to this request on the grounds that it violates Defendant's privilege against
 26 self-incrimination pursuant to the Fifth Amendment to the U.S. Constitution, *Lefkowitz v. Turley*, 414
 27 U.S. 70, 77 (1973), Federal Rules of Evidence Rule 501, Article 1, Section 15 of the California
 28 Constitution, and California Evidence Code section 940. Defendant further objects on the ground that

1 this request is vague and ambiguous, overbroad, unduly burdensome and oppressive. Defendant
 2 further objects that this request seeks documents which are neither relevant to the subject matter of
 3 this action, nor reasonably calculated to lead to the discovery of admissible evidence. Defendant
 4 further objects to this request on the ground that it violates Defendant's right to privacy, and seeks
 5 privileged financial information, *see e.g.*, California Revenue and Taxation Code section 19542.

6 REQUEST FOR PRODUCTION NO. 31:

7 All documents relating to the transfer or assumption of any liability by Todd Dunning.

8 RESPONSE TO REQUEST FOR PRODUCTION NO. 31:

9 Defendant objects to this request on the grounds that it violates Defendant's privilege against
 10 self-incrimination pursuant to the Fifth Amendment to the U.S. Constitution, *Lefkowitz v. Turley*, 414
 11 U.S. 70, 77 (1973), Federal Rules of Evidence Rule 501, Article 1, Section 15 of the California
 12 Constitution, and California Evidence Code section 940. Defendant further objects to this request on
 13 the grounds that, as phrased, the request seeks documents the disclosure of which might violate the
 14 attorney-client privilege and/or the work product doctrine. Defendant further objects on the ground
 15 that this request is vague and ambiguous, overbroad, unduly burdensome and oppressive. Defendant
 16 further objects that this request seeks documents which are neither relevant to the subject matter of
 17 this action, nor reasonably calculated to lead to the discovery of admissible evidence. Defendant
 18 further objects to this request on the ground that it violates Defendant's right to privacy, and seeks
 19 production of trade secrets or other confidential information.

20 REQUEST FOR PRODUCTION NO. 32:

21 All documents relating to any insurance policies relevant to this action.

22 RESPONSE TO REQUEST FOR PRODUCTION NO. 32:

23 Defendant objects to this request on the grounds that it violates Defendant's privilege against
 24 self-incrimination pursuant to the Fifth Amendment to the U.S. Constitution, *Lefkowitz v. Turley*, 414
 25 U.S. 70, 77 (1973), Federal Rules of Evidence Rule 501, Article 1, Section 15 of the California
 26 Constitution, and California Evidence Code section 940. Defendant further objects to this request on
 27 the grounds that, as phrased, the request seeks documents the disclosure of which might violate the

28 ///

1 attorney-client privilege and/or the work product doctrine. Defendant further objects on the ground
2 that this request is vague and ambiguous.

3 Dated: February 26, 2009

FREELAND COOPER & FOREMAN LLP

5 By: 

6 Stewart H. Foreman
7 Attorneys for Defendants Todd Dunning and
8 Dunning Enterprises, Inc.

FREELAND COOPER & FOREMAN LLP

150 Spear Street, Suite 1800
San Francisco, California 94105

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CERTIFICATE OF SERVICE

I am employed in the City and County of San Francisco, State of California. I am over the age of eighteen and not a party to the within action; my business address is 150 Spear Street, Suite 1800, San Francisco, California 94105.

On February 26, 2009, I served the foregoing document described as follows:

Defendant Todd Dunning's Responses to Plaintiff's First Set of Requests for Production

by placing a true and correct copy thereof enclosed in a sealed envelope addressed to the party(ies) of record whose name(s) and address(es) appear below:

SEE ATTACHED SERVICE LIST

[BY MAIL - CCP § 1013a] I caused such sealed envelope with postage thereon fully prepaid to be placed in the United States mail at San Francisco, California, for collection and mailing to the office of addressee(s) on the date shown herein following ordinary business practice.

[HAND-DELIVERY/Personal/Messenger - CCP § 1011] I caused such envelope to be hand-delivered by a courier, who personally delivered such envelope to the office of the addressee(s) on the date herein.

[BY FACSIMILE - CCP § 1013(e)] - I caused such document(s) to be transmitted via facsimile electronic equipment transmission on the party(ies), whose name(s), address(es) and fax number(s) are listed above, on the date stated herein and at the time set forth on the attached transmission reported indicating that the facsimile transmission was complete and without error.

[BY FEDEX (Overnight Delivery) - CCP § 1013(c)] I caused such envelope to be delivered to the Federal Express Office in San Francisco, California, with whom we have a direct billing account, to be delivered on the next business day.

[BY E-MAIL or ELECTRONIC TRANSMISSION] . Based on a court order or agreement of the parties to accept service by e-mail or electronic transmission, I caused the documents to be sent to the persons at the email addresses listed above. I did not receive within a reasonable time after the transmission, any electronic message or other indication that the transmission was unsuccessful.

[STATE] I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

[FEDERAL] Service was made under the direction of a member of the bar of this Court who is admitted to practice and is not a party to this cause.

Executed on February 26, 2009, at San Francisco, California.



Joyce E. Johnson

FREELAND COOPER & FUREMAN LLP
150 Spear Street, Suite 1800
San Francisco, California 94105

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ATTACHED SERVICE LIST

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