

EXHIBIT 6

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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,
AND DOES 1-20,

18 Defendants.
19

CASE NO.: CV-08-4052 JF

**DEFENDANT DUNNING
ENTERPRISE, INC.'S
SUPPLEMENTAL RESPONSES TO
PLAINTIFF'S FIRST SET OF
INTERROGATORIES**

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22 PROPOUNDING PARTY: PLAINTIFF EBAY INC.

23 RESPONDING PARTY: DEFENDANT DUNNING ENTERPRISE, INC.

24 SET NUMBER: ONE
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1 Defendant Dunning Enterprise, Inc. hereby submits the following supplemental objections and
2 responses to the First Set of Interrogatories propounded by Plaintiff Ebay, Inc. ("Plaintiff").

3 GENERAL STATEMENT

4 Todd Dunning, the President of Defendant Dunning Enterprise, Inc. ("Defendant"), has
5 invoked his privilege against self-incrimination pursuant to the Fifth Amendment to the U.S.
6 Constitution, *Lefkowitz v. Turley*, 414 U.S. 70, 77 (1973), Federal Rules of Evidence Rule 501, Article
7 1, Section 15 of the California Constitution, and California Evidence Code section 940. Todd
8 Dunning was the only active employee or knowledgeable person regarding any activities of Dunning
9 Enterprise, Inc. Should Mr. Dunning determine that there is no longer the threat of potential criminal
10 prosecution and elect to withdraw the assertion of his privilege against self-incrimination in the future,
11 Defendant expressly reserves the right to supplement its responses.

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

18 INTERROGATORY NO. 1:

19 Identify all persons or entities with knowledge regarding Dunning Enterprise's participation,
20 manipulation or interaction in any Affiliate Marketing Program including eBay's Affiliate Marketing
21 Programs including, but not limited to, all methods, techniques and technologies, software, source
22 code, Javascript and HTML code, used by Dunning Enterprise to obtain revenue from, or otherwise
23 interact with, participate in or manipulate any Affiliate Marketing Program.

24 SUPPLEMENTAL RESPONSE TO INTERROGATORY NO. 1

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

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1 grounds that this interrogatory is vague and ambiguous, overbroad, unduly burdensome and
2 oppressive. Defendant further objects on the grounds that that the term "manipulation" and
3 "manipulate" are vague, argumentative and conclusory. Defendant further objects that to the extent
4 this interrogatory seeks information related to programs other than eBay's Affiliate Marketing
5 Program, the interrogatory is neither relevant to the subject matter of this action, nor reasonably
6 calculated to lead to the discovery of admissible evidence. Defendant further objects to this
7 interrogatory on the grounds that it seeks production of trade secrets or other confidential information.
8 Subject to and without waiving the foregoing objections and based on Defendant's reasonable belief as
9 to the meaning of this interrogatory, Defendant responds as follows: Defendant did not participate on
10 its own behalf in any eBay Affiliate Marketing Program.

11 INTERROGATORY NO. 2:

12 Identify all Internet Forums at, within or through which Dunning Enterprise discussed any
13 aspect of their participation, manipulation of or interaction with eBay's Affiliate Marketing Programs,
14 or any other Affiliate Marketing Program.

15 SUPPLEMENTAL RESPONSE TO INTERROGATORY NO. 2

16 Defendant objects to this interrogatory on the grounds that it violates Mr. Dunning's privilege
17 against self-incrimination pursuant Fifth Amendment to the U.S. Constitution, *Lefkowitz v. Turley*,
18 414 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 grounds
20 that this interrogatory is vague and ambiguous, overbroad, unduly burdensome and oppressive.
21 Defendant further objects that to the extent this interrogatory seeks documents related to programs
22 other than eBay's Affiliate Marketing Program, the interrogatory is neither relevant to the subject
23 matter of this action, nor reasonably calculated to lead to the discovery of admissible evidence.
24 Defendant further objects on the grounds that that the term "manipulation" is vague, argumentative
25 and conclusory. Defendant further objects to this interrogatory on the grounds that it seeks production
26 of trade secrets or other confidential information. Subject to and without waiving the foregoing
27 objections and based on Defendant's reasonable belief as to the meaning of this interrogatory,
28

1 Defendant responds as follows: There are no such internet forums known to this defendant as this
2 defendant did not participate on its own behalf in any eBay Affiliate Marketing Program.

3 Dated: August 25, 2009

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5 By: 

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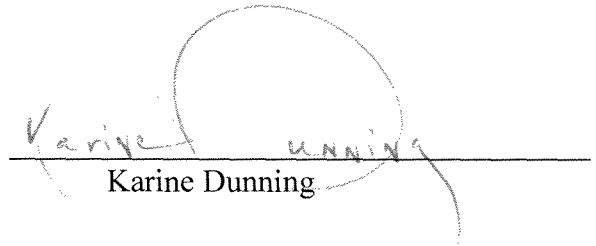
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VERIFICATION

I, Karine Dunning, declare:

I am the Secretary and Chief Financial Officer of Dunning Enterprise, Inc. I have read the foregoing **DEFENDANT DUNNING ENTERPRISE, INC.'S SUPPLEMENTAL RESPONSES TO PLAINTIFF'S FIRST SET OF INTERROGATORIES** and know its contents, and am informed and believe the matters therein stated are true, and on that basis state they are true.

I declare under penalty of perjury that the foregoing is true and correct. Executed this 17th day of June, 2009.


Karine Dunning

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