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7 Attorneys for Plaintiff eBay Inc.

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

18 Defendants.

Case No. C 08-04052 JF PVT

**DECLARATION OF COLLEEN M.
 KENNEDY IN SUPPORT OF EBAY
 INC.'S MOTION TO STRIKE THE
 ANSWER OF DEFENDANTS
 THUNDERWOOD HOLDINGS,
 INC., BRIANDUNNING.COM AND
 KESSLER'S FLYING CIRCUS**

Hearing Date: October 30, 2009
 Time: 9:00 a.m.
 Judge: Hon. Jeremy Fogel

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1 I, Colleen M. Kennedy, declare as follows:

2 1. I am a member of the Bar of the State of California and am associated with
3 the law firm of O'Melveny & Myers LLP, counsel for eBay Inc. in this matter. I submit
4 this Declaration in support of eBay's Motion to Strike the Answer to eBay's Second
5 Amended Complaint filed by Defendants Thunderwood Holdings, Inc.,
6 BrianDunning.com and Kessler's Flying Circus. I have personal knowledge of the facts
7 set forth in this declaration and, if called to testify as a witness, could and would do so
8 under oath.

9 2. Attached hereto as Exhibit 1 is a true and correct copy of the Responses of
10 Thunderwood Holdings, Inc. ("THI") to eBay's First Set of Interrogatories, dated
11 February 26, 2009.

12 3. Attached hereto as Exhibit 2 is a true and correct copy of the Responses of
13 BrianDunning.com to eBay's First Set of Interrogatories, dated February 26, 2009.

14 4. Attached hereto as Exhibit 3 is a true and correct copy of the Responses of
15 Kessler's Flying Circus ("KFC") to eBay's First Set of Interrogatories, dated February 25,
16 2009.

17 5. Attached hereto as Exhibit 4 is a true and correct copy of the Answer of
18 Defendant Dunning Enterprise, Inc. to eBay's Second Amended Complaint, dated
19 September 9, 2009.

20 6. Attached hereto as Exhibit 5 is a true and correct copy of the Answer of
21 Defendants KFC, THI, Brian Dunning and BrianDunning.com to eBay's Second
22 Amended Complaint, dated September 9, 2009.

23 7. Attached hereto as Exhibit 6 is a true and correct copy of
24 BrianDunning.com's Responses to eBay's First Set of Requests for Admission, dated
25 February 26, 2009.

26 8. Attached hereto as Exhibit 7 is a true and correct copy of THI's Responses
27 to eBay's First Set of Requests for Admission, dated February 26, 2009.

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1 I declare under penalty of perjury under the laws of the United States and the State
2 of California that the foregoing is true and correct. Signed on this 25th day of September,
3 2009 in San Francisco, California.

4 /s/ Colleen M. Kennedy

5 Colleen M. Kennedy
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