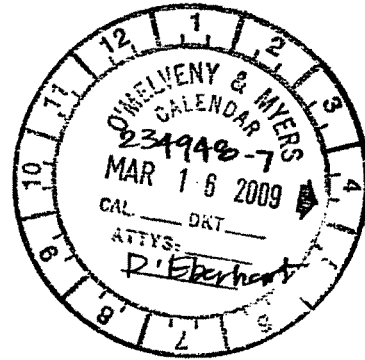


EXHIBIT 17



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7 Attorneys for Defendants, SHAWN HOGAN
8 and DIGITAL POINT SOLUTIONS, INC.

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

12 EBAY, INC.,) Case No. CV 08-04052 JF PVT
13)
14 Plaintiff,) **DEFENDANT DIGITAL POINT**
15) **SOLUTIONS, INC.'S RESPONSES TO**
16 v.) **PLAINTIFF'S REQUESTS FOR**
17) **PRODUCTION (SET ONE)**
18 DIGITAL POINT SOLUTIONS, INC., SHAWN)
19 HOGAN, KESSLER'S FLYING CIRCUS,)
20 THUNDERWOOD HOLDINGS, INC., TODD)
21 DUNNING, DUNNING ENTERPRISE, INC.,)
22 BRIAN DUNNING, BRIANDUNNING.COM,)
23 and Does 1-20,)
24 Defendants.)

22 PROPOUNDING PARTY: Plaintiff EBAY, INC.
23 RESPONDING PARTY: Defendant DIGITAL POINT SOLUTIONS, INC.
24 SET NUMBER: One

26 Defendant DIGITAL POINT SOLUTIONS, INC. ("Defendant") hereby responds to the Plaintiff
27 EBAY, INC.'s ("Plaintiff's") First Set of Requests for Production, as follows:
28

1 **I. PRELIMINARY STATEMENT**

2 Defendant SHAWN HOGAN ("Mr. Hogan") has asserted his privilege against self-incrimination
3 under the Fifth Amendment to the United States Constitution (*United States v. Balsys* (1998) 524 U.S.
4 666, 672; *Lefkowitz v. Turley* (1973) 414 U.S. 70, 77); the Federal Rules of Evidence, Rule 501; the
5 California Constitution, Article 1, Section 15; and California Evidence Code section 940. The provision
6 of any responses by Defendant hereunder shall not be construed to be a waiver of the same.

7 Defendant further objects because conducting discovery is premature and inappropriate at this
8 time. FBI Special Agent Melanie Adams and Assistant United States Attorney Kyle F. Walding inform
9 that Defendant is the subject of a grand jury investigation and that it is anticipated that criminal charges
10 will be filed. Upon the transfer of this action to the appropriate forum, Defendant intends to seek a stay
11 of this action (and/or any other appropriate relief), including a stay of all discovery in this matter,
12 pending the resolution of any potential criminal proceedings and/or until the statute of limitations on any
13 such criminal proceedings has run. To the extent Mr. Hogan determines that there is no longer a threat
14 of criminal prosecution and/or elects to withdraw his assertion of the privilege against self-incrimination,
15 Defendant expressly reserves the right to supplement these responses accordingly (in whole or in part),
16 and to object to the use or disclosure of the following responses for any purpose whatsoever.

17 Defendant further objects to the subject interrogatories in that Defendant's Motion to Dismiss
18 Plaintiff's First Amended Complaint was granted with leave to amend as to Plaintiff's claims under the
19 Racketeer Influenced and Corrupt Organizations Act and other fraud-based claims and discovery is
20 therefore premature. *Williams v. WMX Technologies, Inc.*, 112 F.3d 175, 178 (5th Cir. 1997) (in fraud
21 cases, the requisite elements must be adequately laid out "before access to the discovery process is
22 granted." (emphasis in original)).

23 Defendant further objects to the definitions set forth in Plaintiff's requests as compound, vague
24 and ambiguous; these objections further include, but are not limited to, the following: "DPS" is
25 overbroad, unduly burdensome and oppressive in that it purports to apply to third parties collectively
26 and/or individually, to information subject to the attorney-client privilege, and purports to seek responses
27 from Mr. Hogan as phrased. "eBay" is further unduly burdensome and oppressive in that the phrases
28 "eBay's internationally operated websites," and "any and all divisions, subdivisions, departments or

1 subsidiaries of eBay” reference information that is within Plaintiff’s control and/or is unknown to
2 Defendant. Defendant further objects because the term “Cookie Stuffing” is vague and ambiguous
3 Defendant incorporates each of the foregoing objections in Defendant’s responses below.

4 **II. RESPONSES**

5 **REQUEST FOR PRODUCTION NO. 1**

6 All documents relating to eBay, including all agreements, terms of service and terms and
7 conditions.

8 **Response to Request for Production No. 1:**

9 Objection. This request, including the use of the definitions provided for “DPS” and “eBay,” is
10 vague and ambiguous, overbroad, and unduly burdensome and oppressive. Defendant further objects
11 because this request may be construed to seek the production and inspection of documents which are
12 privileged from disclosure by the attorney-client relationship and/or the attorney work product doctrine.
13 Defendant further objects because this request may be construed to seek the production and inspection of
14 documents which contain proprietary/confidential information. Defendant further objects because Mr.
15 Hogan, as the sole shareholder of Defendant and the only person with authority to verify responses on
16 the corporation’s behalf, has invoked his privilege against self incrimination under the Fifth Amendment
17 to the United States Constitution; the Federal Rules of Evidence, Rule 501; the California Constitution,
18 Article 1, Section 15; and California Evidence Code section 940. Further, Defendant incorporates the
19 above Preliminary Statement herein by reference in full.

20 **REQUEST FOR PRODUCTION NO. 2**

21 All documents relating to, or Communications with, eBay or any current or former employee of
22 eBay.

23 **Response to Request for Production No. 2:**

24 Objection. This request, including the use of the definitions provided for “DPS” and “eBay,” is
25 vague and ambiguous, overbroad, and unduly burdensome and oppressive. Defendant further objects
26 because this request may be construed to seek the production and inspection of documents which are
27 privileged from disclosure by the attorney-client relationship and/or the attorney work product doctrine.
28 Defendant further objects because this request may be construed to seek the production and inspection of

1 documents which contain proprietary/confidential information. Defendant further objects because Mr.
2 Hogan, as the sole shareholder of Defendant and the only person with authority to verify responses on
3 the corporation's behalf, has invoked his privilege against self incrimination under the Fifth Amendment
4 to the United States Constitution; the Federal Rules of Evidence, Rule 501; the California Constitution,
5 Article 1, Section 15; and California Evidence Code section 940. Further, Defendant incorporates the
6 above Preliminary Statement herein by reference in full.

7 **REQUEST FOR PRODUCTION NO. 3**

8 All documents relating to payment of commissions or other revenue obtained by DPS through
9 participation in, interaction with or manipulation of eBay's Affiliate Marketing Program.

10 **Response to Request for Production No. 3:**

11 Objection. This request, including the use of the definitions provided for "DPS" and "eBay," is
12 vague and ambiguous, overbroad, and unduly burdensome and oppressive. Defendant further objects
13 because this request is compound and argumentative with respect to the term "manipulation." Defendant
14 further objects because this request may be construed to seek the production and inspection of
15 documents which are privileged from disclosure by the attorney-client relationship and/or the attorney
16 work product doctrine. Defendant further objects because this request may be construed to seek the
17 production and inspection of documents which contain proprietary/confidential information. Defendant
18 further objects because Mr. Hogan, as the sole shareholder of Defendant and the only person with
19 authority to verify responses on the corporation's behalf, has invoked his privilege against self
20 incrimination under the Fifth Amendment to the United States Constitution; the Federal Rules of
21 Evidence, Rule 501; the California Constitution, Article 1, Section 15; and California Evidence Code
22 section 940. Further, Defendant incorporates the above Preliminary Statement herein by reference in full.

23 **REQUEST FOR PRODUCTION NO. 4**

24 All documents relating to eBay's Affiliate Marketing Program, including, but not limited to, all
25 methods and technologies used by DPS to obtain revenue from, manipulate or otherwise interact with
26 eBay's Affiliate Marketing Program, including, but not limited to, all software, source code, Javascript,
27 and HTML code.

28 /././

1 Response to Request for Production No. 4:

2 Objection. This request, including the use of the definitions provided for “DPS” and “eBay,” is
3 vague and ambiguous, overbroad, and unduly burdensome and oppressive. Defendant further objects
4 because this request is compound, and is argumentative with respect to the term “manipulate.”
5 Defendant further objects because this request may be construed to seek the production and inspection of
6 documents which are privileged from disclosure by the attorney-client relationship and/or the attorney
7 work product doctrine. Defendant further objects because this request may be construed to seek the
8 production and inspection of documents which contain proprietary/confidential information. Defendant
9 further objects because Mr. Hogan, as the sole shareholder of Defendant and the only person with
10 authority to verify responses on the corporation’s behalf, has invoked his privilege against self
11 incrimination under the Fifth Amendment to the United States Constitution; the Federal Rules of
12 Evidence, Rule 501; the California Constitution, Article 1, Section 15; and California Evidence Code
13 section 940. Further, Defendant incorporates the above Preliminary Statement herein by reference in full.

14 **REQUEST FOR PRODUCTION NO. 5**

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

17 Response to Request for Production No. 5:

18 Objection. This request, including the use of the definitions provided for “DPS” and “eBay,” is
19 vague and ambiguous, overbroad, and unduly burdensome and oppressive. Defendant further objects
20 because this request may be construed to seek the production and inspection of documents which are
21 privileged from disclosure by the attorney-client relationship and/or the attorney work product doctrine.
22 Defendant further objects because this request may be construed to seek the production and inspection of
23 documents which contain proprietary/confidential information. Defendant further objects because Mr.
24 Hogan, as the sole shareholder of Defendant and the only person with authority to verify responses on
25 the corporation’s behalf, has invoked his privilege against self incrimination under the Fifth Amendment
26 to the United States Constitution; the Federal Rules of Evidence, Rule 501; the California Constitution,
27 Article 1, Section 15; and California Evidence Code section 940. Further, Defendant incorporates the
28 above Preliminary Statement herein by reference in full.

1 **REQUEST FOR PRODUCTION NO. 6**

2 All documents reflecting the number of Users who allegedly clicked on an advertisement for
3 eBay used, or purported to be used, by DPS to direct or refer Users to eBay as part of eBay's Affiliate
4 Marketing Program.

5 **Response to Request for Production No. 6:**

6 Objection. This request, including the use of the definitions provided for "DPS" and "eBay," is
7 vague and ambiguous, overbroad, and unduly burdensome and oppressive. Defendant further objects
8 because this request may be construed to seek the production and inspection of documents which are
9 privileged from disclosure by the attorney-client relationship and/or the attorney work product doctrine.
10 Defendant further objects because this request may be construed to seek the production and inspection of
11 documents which contain proprietary/confidential information. Defendant further objects because Mr.
12 Hogan, as the sole shareholder of Defendant and the only person with authority to verify responses on
13 the corporation's behalf, has invoked his privilege against self incrimination under the Fifth Amendment
14 to the United States Constitution; the Federal Rules of Evidence, Rule 501; the California Constitution,
15 Article 1, Section 15; and California Evidence Code section 940. Further, Defendant incorporates the
16 above Preliminary Statement herein by reference in full.

17 **REQUEST FOR PRODUCTION NO. 7**

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

20 **Response to Request for Production No. 7:**

21 Objection. This request, including the use of the definitions provided for "DPS" and "eBay," is
22 vague and ambiguous, overbroad, and unduly burdensome and oppressive. Defendant further objects
23 because this request may be construed to seek the production and inspection of documents which are
24 privileged from disclosure by the attorney-client relationship and/or the attorney work product doctrine.
25 Defendant further objects because this request may be construed to seek the production and inspection of
26 documents which contain proprietary/confidential information. Defendant further objects because Mr.
27 Hogan, as the sole shareholder of Defendant and the only person with authority to verify responses on
28 the corporation's behalf, has invoked his privilege against self incrimination under the Fifth Amendment

1 to the United States Constitution; the Federal Rules of Evidence, Rule 501; the California Constitution,
 2 Article 1, Section 15; and California Evidence Code section 940. Further, Defendant incorporates the
 3 above Preliminary Statement herein by reference in full.

4 **REQUEST FOR PRODUCTION NO. 8**

5 All documents sufficient to identify all advertising networks, advertising syndication services or
 6 websites used or purportedly used by DPS to advertise or promote eBay or to interact in any way with
 7 eBay or eBay's Affiliate Marketing Programs.

8 **Response to Request for Production No. 8:**

9 Objection. This request, including the use of the definitions provided for "DPS" and "eBay," is
 10 vague and ambiguous, overbroad, and unduly burdensome and oppressive. Defendant further objects
 11 because this request may be construed to seek the production and inspection of documents which are
 12 privileged from disclosure by the attorney-client relationship and/or the attorney work product doctrine.
 13 Defendant further objects because this request may be construed to seek the production and inspection of
 14 documents which contain proprietary/confidential information. Defendant further objects because Mr.
 15 Hogan, as the sole shareholder of Defendant and the only person with authority to verify responses on
 16 the corporation's behalf, has invoked his privilege against self incrimination under the Fifth Amendment
 17 to the United States Constitution; the Federal Rules of Evidence, Rule 501; the California Constitution,
 18 Article 1, Section 15; and California Evidence Code section 940. Further, Defendant incorporates the
 19 above Preliminary Statement herein by reference in full.

20 **REQUEST FOR PRODUCTION NO. 9**

21 All documents sufficient to identify all Affiliate Marketing Programs, not including eBay's
 22 Affiliate Marketing Program, with whom DPS obtained revenue or otherwise interacted.

23 **Response to Request for Production No. 9:**

24 Objection. This request, including the use of the definition provided for "DPS," is vague and
 25 ambiguous, overbroad, and unduly burdensome and oppressive. Defendant further objects because this
 26 request may be construed to seek the production and inspection of documents which are privileged from
 27 disclosure by the attorney-client relationship and/or the attorney work product doctrine. Defendant
 28 further objects because this request may be construed to seek the production and inspection of

1 documents which contain proprietary/confidential information. Defendant further objects because this
2 request seeks the production of documents which are neither relevant to the subject matter of this action,
3 nor likely to lead to the discovery of admissible evidence. Defendant further objects because Mr. Hogan,
4 as the sole shareholder of Defendant and the only person with authority to verify responses on the
5 corporation's behalf, has invoked his privilege against self incrimination under the Fifth Amendment to
6 the United States Constitution; the Federal Rules of Evidence, Rule 501; the California Constitution,
7 Article 1, Section 15; and California Evidence Code section 940. Further, Defendant incorporates the
8 above Preliminary Statement herein by reference in full.

9 **REQUEST FOR PRODUCTION NO. 10**

10 All documents relating to and/or describing methods and techniques used by any other Affiliate
11 Marketing Program that DPS interacted with, participated in or manipulated.

12 **Response to Request for Production No. 10:**

13 Objection. This request, including the use of the definition provided for "DPS," is vague and
14 ambiguous, overbroad, and unduly burdensome and oppressive. Defendant further objects because this
15 request is compound, and argumentative with respect to the term "manipulated." Defendant further
16 objects because this request may be construed to seek the production and inspection of documents which
17 are privileged from disclosure by the attorney-client relationship and/or the attorney work product
18 doctrine. Defendant further objects because this request may be construed to seek the production and
19 inspection of documents which contain proprietary/confidential information. Defendant further objects
20 because this request seeks the production of documents which are neither relevant to the subject matter
21 of this action, nor likely to lead to the discovery of admissible evidence. Defendant further objects
22 because Mr. Hogan, as the sole shareholder of Defendant and the only person with authority to verify
23 responses on the corporation's behalf, has invoked his privilege against self incrimination under the Fifth
24 Amendment to the United States Constitution; the Federal Rules of Evidence, Rule 501; the California
25 Constitution, Article 1, Section 15; and California Evidence Code section 940. Further, Defendant
26 incorporates the above Preliminary Statement herein by reference in full.

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1 **REQUEST FOR PRODUCTION NO. 11**

2 All documents sufficient to identify the source of any technology, technique or method used by
3 DPS to participate in, manipulate or interact with eBay Affiliate Marketing Program, or any other
4 Affiliate Marketing Program.

5 **Response to Request for Production No. 11:**

6 Objection. This request, including the use of the definitions provided for "DPS" and "eBay," is
7 vague and ambiguous, overbroad, and unduly burdensome and oppressive. Defendant further objects
8 because this request is compound, and argumentative with respect to the term "manipulate." Defendant
9 further objects because this request may be construed to seek the production and inspection of
10 documents which are privileged from disclosure by the attorney-client relationship and/or the attorney
11 work product doctrine. Defendant further objects because this request may be construed to seek the
12 production and inspection of documents which contain proprietary/confidential information. Defendant
13 further objects because this request seeks the production of documents which are neither relevant to the
14 subject matter of this action, nor likely to lead to the discovery of admissible evidence. Defendant further
15 objects because Mr. Hogan, as the sole shareholder of Defendant and the only person with authority to
16 verify responses on the corporation's behalf, has invoked his privilege against self incrimination under
17 the Fifth Amendment to the United States Constitution; the Federal Rules of Evidence, Rule 501; the
18 California Constitution, Article 1, Section 15; and California Evidence Code section 940. Further,
19 Defendant incorporates the above Preliminary Statement herein by reference in full.

20 **REQUEST FOR PRODUCTION NO. 12**

21 All documents sufficient to identify any individuals, groups, books, manuals or other materials
22 consulted by DPS while developing any technology, technique or method used by DPS to participate in,
23 manipulate or interact with the eBay Affiliate Marketing Program, or any other Affiliate Marketing
24 Program.

25 **Response to Request for Production No. 12:**

26 Objection. This request, including the use of the definitions provided for "DPS" and "eBay," is
27 vague and ambiguous, overbroad, and unduly burdensome and oppressive. Defendant further objects
28 because this request is compound, and argumentative with respect to the term "manipulate." Defendant

1 further objects because this request may be construed to seek the production and inspection of
2 documents which are privileged from disclosure by the attorney-client relationship and/or the attorney
3 work product doctrine. Defendant further objects because this request may be construed to seek the
4 production and inspection of documents which contain proprietary/confidential information. Defendant
5 further objects because this request seeks the production of documents which are neither relevant to the
6 subject matter of this action, nor likely to lead to the discovery of admissible evidence. Defendant
7 further objects because Mr. Hogan, as the sole shareholder of Defendant and the only person with
8 authority to verify responses on the corporation's behalf, has invoked his privilege against self
9 incrimination under the Fifth Amendment to the United States Constitution; the Federal Rules of
10 Evidence, Rule 501; the California Constitution, Article 1, Section 15; and California Evidence Code
11 section 940. Further, Defendant incorporates the above Preliminary Statement herein by reference in full.

12 **REQUEST FOR PRODUCTION NO. 13**

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

15 **Response to Request for Production No. 13:**

16 Objection. This request, including the use of the definitions provided for "DPS" and
17 "Commission Junction," is vague and ambiguous, overbroad, and unduly burdensome and oppressive.
18 Defendant further objects because this request may be construed to seek the production and inspection of
19 documents which are privileged from disclosure by the attorney-client relationship and/or the attorney
20 work product doctrine. Defendant further objects because this request may be construed to seek the
21 production and inspection of documents which contain proprietary/confidential information. Defendant
22 further objects because Mr. Hogan, as the sole shareholder of Defendant and the only person with
23 authority to verify responses on the corporation's behalf, has invoked his privilege against self
24 incrimination under the Fifth Amendment to the United States Constitution; the Federal Rules of
25 Evidence, Rule 501; the California Constitution, Article 1, Section 15; and California Evidence Code
26 section 940. Further, Defendant incorporates the above Preliminary Statement herein by reference in full.

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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 Objection. This request, including the use of the definitions provided for "DPS" and
6 "Commission Junction," is vague and ambiguous, overbroad, and unduly burdensome and oppressive.
7 Defendant further objects because this request may be construed to seek the production and inspection of
8 documents which are privileged from disclosure by the attorney-client relationship and/or the attorney
9 work product doctrine. Defendant further objects because this request may be construed to seek the
10 production and inspection of documents which contain proprietary/confidential information and/or trade
11 secrets. Defendant further objects because Mr. Hogan, as the sole shareholder of Defendant and the only
12 person with authority to verify responses on the corporation's behalf, has invoked his privilege against
13 self incrimination under the Fifth Amendment to the United States Constitution; the Federal Rules of
14 Evidence, Rule 501; the California Constitution, Article 1, Section 15; and California Evidence Code
15 section 940. Further, Defendant incorporates the above Preliminary Statement herein by reference in full.

16 **REQUEST FOR PRODUCTION NO. 15**

17 All documents relating to, or Communications with, Kessler's Flying Circus, Thunderwood
18 Holdings, Inc., Dunning Enterprise, Inc. or briandunning.com.

19 **Response to Request for Production No. 15:**

20 Objection. This request, including the use of the definition provided for "DPS," is vague and
21 ambiguous, compound, overbroad, and unduly burdensome and oppressive. Defendant further objects
22 because this request may be construed to seek the production and inspection of documents which are
23 privileged from disclosure by the attorney-client relationship and/or the attorney work product doctrine.
24 Defendant further objects because this request violates third party privacy rights. Defendant further
25 objects because Mr. Hogan, as the sole shareholder of Defendant and the only person with authority to
26 verify responses on the corporation's behalf, has invoked his privilege against self incrimination under
27 the Fifth Amendment to the United States Constitution; the Federal Rules of Evidence, Rule 501; the
28

1 California Constitution, Article 1, Section 15; and California Evidence Code section 940. Further,
2 Defendant incorporates the above Preliminary Statement herein by reference in full.

3 **REQUEST FOR PRODUCTION NO. 16**

4 All Communications with Shawn Hogan, Todd Dunning or Brian Dunning.

5 **Response to Request for Production No. 16:**

6 Objection. This request, including the use of the definition provided for "DPS," is vague and
7 ambiguous, overbroad, and unduly burdensome and oppressive. Defendant further objects because this
8 request may be construed to seek the production and inspection of documents which are privileged from
9 disclosure by the attorney-client relationship and/or the attorney work product doctrine. Defendant
10 further objects because this request violates third party privacy rights. Defendant further objects because
11 Mr. Hogan, as the sole shareholder of Defendant and the only person with authority to verify responses
12 on the corporation's behalf, has invoked his privilege against self incrimination under the Fifth
13 Amendment to the United States Constitution; the Federal Rules of Evidence, Rule 501; the California
14 Constitution, Article 1, Section 15; and California Evidence Code section 940. Further, Defendant
15 incorporates the above Preliminary Statement herein by reference in full.

16 **REQUEST FOR PRODUCTION NO. 17**

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

21 **Response to Request for Production No. 17:**

22 Objection. This request is compound, vague and ambiguous. Defendant further objects because
23 the identity of Rachel Hughes and company is unknown to Defendant and/or within Plaintiff's control.
24 Defendant reserves all other appropriate objections until Plaintiff properly identifies the referenced
25 persons/entities. Further, Defendant incorporates the above Preliminary Statement herein by reference in
26 full.

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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 registered
4 to DPS.

5 **Response to Request for Production No. 18:**

6 Objection. This request, including the use of the definition provided for "DPS," is vague and
7 ambiguous, overbroad, compound, and unduly burdensome and oppressive. Defendant further objects
8 because this request may be construed to seek the production and inspection of documents which are
9 privileged from disclosure by the attorney-client relationship and/or the attorney work product doctrine.
10 Defendant further objects because this demand may be construed to seek the production and inspection
11 of documents which contain proprietary/confidential information. Defendant further objects because this
12 request seeks the production of documents which are neither relevant to the subject matter of this action,
13 nor likely to lead to the discovery of admissible evidence. Defendant further objects because Mr. Hogan,
14 as the sole shareholder of Defendant and the only person with authority to verify responses on the
15 corporation's behalf, has invoked his privilege against self incrimination under the Fifth Amendment to
16 the United States Constitution; the Federal Rules of Evidence, Rule 501; the California Constitution,
17 Article 1, Section 15; and California Evidence Code section 940. Further, Defendant incorporates the
18 above Preliminary Statement herein by reference in full.

19 **REQUEST FOR PRODUCTION NO. 19**

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

24 **Response to Request for Production No. 19:**

25 Objection. This request, including the use of the definitions provided for "DPS" and "eBay" is
26 vague and ambiguous, overbroad, and unduly burdensome and oppressive. Defendant further objects
27 because this request is compound, and argumentative with respect to the term "manipulation."
28 Defendant further objects because this request may be construed to seek the production and inspection of

1 documents which are privileged from disclosure by the attorney-client relationship and/or the attorney
2 work product doctrine. Defendant further objects because this demand may be construed to seek the
3 production and inspection of documents which contain proprietary/confidential information. Defendant
4 further objects because this request seeks the production of documents which are neither relevant to the
5 subject matter of this action, nor likely to lead to the discovery of admissible evidence. Defendant
6 further objects because Mr. Hogan, as the sole shareholder of Defendant and the only person with
7 authority to verify responses on the corporation's behalf, has invoked his privilege against self
8 incrimination under the Fifth Amendment to the United States Constitution; the Federal Rules of
9 Evidence, Rule 501; the California Constitution, Article 1, Section 15; and California Evidence Code
10 section 940. Further, Defendant incorporates the above Preliminary Statement herein by reference in full.

11 **REQUEST FOR PRODUCTION NO. 20**

12 Documents sufficient to identify any Internet Forum at or within which DPS discussed any aspect
13 of their participation in, manipulation of or interaction with eBay's Affiliate Marketing Programs, or any
14 other Affiliate Marketing Programs, including, but not limited to, forums such as blogs, listservs, Usenet
15 newsgroups or chat rooms.

16 **Response to Request for Production No. 20:**

17 Objection. This request, including the use of the definitions provided for "DPS" and "eBay" is
18 vague and ambiguous, overbroad, compound, and unduly burdensome and oppressive. Defendant
19 further objects because this request is compound, and argumentative with respect to the term
20 "manipulation." Defendant further objects because this request may be construed to seek the production
21 and inspection of documents which are privileged from disclosure by the attorney-client relationship
22 and/or the attorney work product doctrine. Defendant further objects because this demand may be
23 construed to seek the production and inspection of documents which contain proprietary/confidential
24 information. Defendant further objects because this request seeks the production of documents which are
25 neither relevant to the subject matter of this action, nor likely to lead to the discovery of admissible
26 evidence. Defendant further objects because Mr. Hogan, as the sole shareholder of Defendant and the
27 only person with authority to verify responses on the corporation's behalf, has invoked his privilege
28 against self incrimination under the Fifth Amendment to the United States Constitution; the Federal

1 Rules of Evidence, Rule 501; the California Constitution, Article 1, Section 15; and California Evidence
2 Code section 940. Further, Defendant incorporates the above Preliminary Statement herein by reference
3 in full.

4 **REQUEST FOR PRODUCTION NO. 21**

5 Documents sufficient to identify all internet service providers (ISPs) and IP addresses used by
6 DPS.

7 **Response to Request for Production No. 21:**

8 Objection. This request, including the use of the definition provided for "DPS," is vague and
9 ambiguous, overbroad, compound, and unduly burdensome and oppressive. Defendant further objects
10 because this request seeks the production of documents which are neither relevant to the subject matter
11 of this action, nor likely to lead to the discovery of admissible evidence. Defendant further objects
12 because Mr. Hogan, as the sole shareholder of Defendant and the only person with authority to verify
13 responses on the corporation's behalf, has invoked his privilege against self incrimination under the Fifth
14 Amendment to the United States Constitution; the Federal Rules of Evidence, Rule 501; the California
15 Constitution, Article 1, Section 15; and California Evidence Code section 940. Further, Defendant
16 incorporates the above Preliminary Statement herein by reference in full.

17 **REQUEST FOR PRODUCTION NO. 22**

18 Documents sufficient to identify all computers, servers, electronic data storage and hosting
19 companies, entities, or facilities used by DPS.

20 **Response to Request for Production No. 22:**

21 Objection. This request, including the use of the definition provided for "DPS," is vague and
22 ambiguous, overbroad, compound, and unduly burdensome and oppressive. Defendant further objects
23 because this request seeks the production of documents which are neither relevant to the subject matter
24 of this action, nor likely to lead to the discovery of admissible evidence. Defendant further objects
25 because Mr. Hogan, as the sole shareholder of Defendant and the only person with authority to verify
26 responses on the corporation's behalf, has invoked his privilege against self incrimination under the Fifth
27 Amendment to the United States Constitution; the Federal Rules of Evidence, Rule 501; the California
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1 Constitution, Article 1, Section 15; and California Evidence Code section 940. Further, Defendant
2 incorporates the above Preliminary Statement herein by reference in full.

3 **REQUEST FOR PRODUCTION NO. 23**

4 Documents sufficient to identify any entity used or hired to maintain or restore electronic data or
5 systems relating to DPS's participation in, manipulation of or interaction with eBay's Affiliate Marketing
6 Program.

7 **Response to Request for Production No. 23:**

8 Objection. This request, including the use of the definitions provided for "DPS" and "eBay," is
9 vague and ambiguous, overbroad, and unduly burdensome and oppressive. Defendant further objects
10 because this request is compound, and argumentative with respect to the term "manipulation."
11 Defendant further objects because Mr. Hogan, as the sole shareholder of Defendant and the only person
12 with authority to verify responses on the corporation's behalf, has invoked his privilege against self
13 incrimination under the Fifth Amendment to the United States Constitution; the Federal Rules of
14 Evidence, Rule 501; the California Constitution, Article 1, Section 15; and California Evidence Code
15 section 940. Further, Defendant incorporates the above Preliminary Statement herein by reference in full.

16 **REQUEST FOR PRODUCTION NO. 24**

17 Documents sufficient to identify software used to clean, reformat or erase hard-drives used by
18 DPS, or any equipment owned, used or maintained by DPS.

19 **Response to Request for Production No. 24:**

20 Objection. This request, including the use of the definition provided for "DPS," is vague and
21 ambiguous, compound, overbroad, and unduly burdensome and oppressive. Defendant further objects
22 because Mr. Hogan, as the sole shareholder of Defendant and the only person with authority to verify
23 responses on the corporation's behalf, has invoked his privilege against self incrimination under the Fifth
24 Amendment to the United States Constitution; the Federal Rules of Evidence, Rule 501; the California
25 Constitution, Article 1, Section 15; and California Evidence Code section 940. Further, Defendant
26 incorporates the above Preliminary Statement herein by reference in full/

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1 **REQUEST FOR PRODUCTION NO. 25**

2 All documents sufficient to identify all business entities or fictitious business names currently or
3 formerly maintained by DPS.

4 **Response to Request for Production No. 25:**

5 Objection. This request, including the use of the definition provided for "DPS," is vague and
6 ambiguous, overbroad, compound, and unduly burdensome and oppressive. Defendant further objects
7 because this request may be construed to seek the production and inspection of documents which are
8 privileged from disclosure by the attorney-client relationship and/or the attorney work product doctrine.
9 Defendant further objects because this demand may be construed to seek the production and inspection
10 of documents which contain proprietary/ confidential information. Defendant further objects because
11 this request seeks the production of documents which are neither relevant to the subject matter of this
12 action, nor likely to lead to the discovery of admissible evidence. Defendant further objects because Mr.
13 Hogan, as the sole shareholder of Defendant and the only person with authority to verify responses on
14 the corporation's behalf, has invoked his privilege against self incrimination under the Fifth Amendment
15 to the United States Constitution; the Federal Rules of Evidence, Rule 501; the California Constitution,
16 Article 1, Section 15; and California Evidence Code section 940. Further, Defendant incorporates the
17 above Preliminary Statement herein by reference in full.

18 **REQUEST FOR PRODUCTION NO. 26**

19 All documents relating to the incorporation of DPS.

20 **Response to Request for Production No. 26:**

21 Objection. This request, including the use of the definition provided for "DPS," is vague and
22 ambiguous, compound, overbroad, and unduly burdensome and oppressive. Defendant further objects
23 because Mr. Hogan, as the sole shareholder of Defendant and the only person with authority to verify
24 responses on the corporation's behalf, has invoked his privilege against self incrimination under the Fifth
25 Amendment to the United States Constitution; the Federal Rules of Evidence, Rule 501; the California
26 Constitution, Article 1, Section 15; and California Evidence Code section 940. Further, Defendant
27 incorporates the above Preliminary Statement herein by reference in full.

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1 **REQUEST FOR PRODUCTION NO. 27**

2 All documents filed by DPS with any Secretary of State.

3 **Response to Request for Production No. 27:**

4 Objection. This request, including the use of the definition provided for "DPS," is vague and
5 ambiguous, compound, overbroad, and unduly burdensome and oppressive. Defendant further objects
6 because Mr. Hogan, as the sole shareholder of Defendant and the only person with authority to verify
7 responses on the corporation's behalf, has invoked his privilege against self incrimination under the Fifth
8 Amendment to the United States Constitution; the Federal Rules of Evidence, Rule 501; the California
9 Constitution, Article 1, Section 15; and California Evidence Code section 940. Further, Defendant
10 incorporates the above Preliminary Statement herein by reference in full.

11 **REQUEST FOR PRODUCTION NO. 28**

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

15 **Response to Request for Production No. 28:**

16 Objection. This request, including the use of the definition provided for "DPS," is vague and
17 ambiguous, overbroad, compound, and unduly burdensome and oppressive. Defendant further objects
18 because this request may be construed to seek the production and inspection of documents which are
19 privileged from disclosure by the attorney-client relationship and/or the attorney work product doctrine.
20 Defendant further objects because this demand may be construed to seek the production and inspection
21 of documents which contain proprietary/ confidential information. Defendant further objects because
22 this request seeks the production of documents which are neither relevant to the subject matter of this
23 action, nor likely to lead to the discovery of admissible evidence. Defendant further objects because Mr.
24 Hogan, as the sole shareholder of Defendant and the only person with authority to verify responses on
25 the corporation's behalf, has invoked his privilege against self incrimination under the Fifth Amendment
26 to the United States Constitution; the Federal Rules of Evidence, Rule 501; the California Constitution,
27 Article 1, Section 15; and California Evidence Code section 940. Further, Defendant incorporates the
28 above Preliminary Statement herein by reference in full.

1 **REQUEST FOR PRODUCTION NO. 29**

2 Documents sufficient to identify all employees, contractors or temporary employees of DPS, their
3 dates of employment, duties, salary and any other compensation.

4 **Response to Request for Production No. 29:**

5 Objection. This request, including the use of the definition provided for "DPS," is vague and
6 ambiguous, overbroad, and unduly burdensome and oppressive. Defendant further objects because this
7 request seeks the production of documents which are neither relevant to the subject matter of this action,
8 nor likely to lead to the discovery of admissible evidence. Defendant further objects to this request on
9 the ground that it violates privacy rights of third parties. Defendant further objects because this demand
10 may be construed to seek the production and inspection of documents which contain proprietary/
11 confidential information. Defendant further objects because Mr. Hogan, as the sole shareholder of
12 Defendant and the only person with authority to verify responses on the corporation's behalf, has
13 invoked his privilege against self incrimination under the Fifth Amendment to the United States
14 Constitution; the Federal Rules of Evidence, Rule 501; the California Constitution, Article 1, Section 15;
15 and California Evidence Code section 940. Further, Defendant incorporates the above Preliminary
16 Statement herein by reference in full.

17 **REQUEST FOR PRODUCTION NO. 30**

18 All documents constituting DPS's annual, quarterly and monthly audited, compiled, reviewed or
19 unaudited financial statements, including all income statements and balance sheets of DPS.

20 **Response to Request for Production No. 30:**

21 Objection. This request, including the use of the definition provided for "DPS," is vague and
22 ambiguous, overbroad, and unduly burdensome and oppressive. Defendant further objects because this
23 request seeks the production of documents which are neither relevant to the subject matter of this action,
24 nor likely to lead to the discovery of admissible evidence. Defendant further objects because this
25 demand may be construed to seek the production and inspection of documents which contain
26 confidential financial information, trade secrets/other proprietary information, and violates Defendant's
27 right to privacy. Defendant further objects because Mr. Hogan, as the sole shareholder of Defendant and
28 the only person with authority to verify responses on the corporation's behalf, has invoked his privilege

1 against self incrimination under the Fifth Amendment to the United States Constitution; the Federal
2 Rules of Evidence, Rule 501; the California Constitution, Article 1, Section 15; and California Evidence
3 Code section 940. Further, Defendant incorporates the above Preliminary Statement herein by reference
4 in full.

5 **REQUEST FOR PRODUCTION NO. 31**

6 All documents sufficient to identify all assets and financial accounts (including those outside of
7 the United States) maintained or formerly maintained by DPS.

8 **Response to Request for Production No. 31:**

9 Objection. This request, including the use of the definition provided for "DPS," is vague and
10 ambiguous, overbroad, and unduly burdensome and oppressive. Defendant further objects because this
11 request seeks the production of documents which are neither relevant to the subject matter of this action,
12 nor likely to lead to the discovery of admissible evidence. Defendant further objects because this
13 demand may be construed to seek the production and inspection of documents which contain
14 confidential financial information, trade secrets/other proprietary information, and violates Defendant's
15 right to privacy. Defendant further objects because Mr. Hogan, as the sole shareholder of Defendant and
16 the only person with authority to verify responses on the corporation's behalf, has invoked his privilege
17 against self incrimination under the Fifth Amendment to the United States Constitution; the Federal
18 Rules of Evidence, Rule 501; the California Constitution, Article 1, Section 15; and California Evidence
19 Code section 940. Further, Defendant incorporates the above Preliminary Statement herein by reference
20 in full.

21 **REQUEST FOR PRODUCTION NO. 32**

22 Documents constituting DPS's corporate tax returns for the years 2003 to the present.

23 **Response to Request for Production No. 32:**

24 Objection. This request, including the use of the definition provided for "DPS," is vague and
25 ambiguous, overbroad, and unduly burdensome and oppressive. Defendant further objects because this
26 request seeks the production of documents which are neither relevant to the subject matter of this action,
27 nor likely to lead to the discovery of admissible evidence. Defendant further objects because this
28 demand may be construed to seek the production and inspection of documents which contain

1 confidential financial information, trade secrets/other proprietary information, and violates Defendant's
 2 right to privacy. Defendant further objects because Mr. Hogan, as the sole shareholder of Defendant and
 3 the only person with authority to verify responses on the corporation's behalf, has invoked his privilege
 4 against self incrimination under the Fifth Amendment to the United States Constitution; the Federal
 5 Rules of Evidence, Rule 501; the California Constitution, Article 1, Section 15; and California Evidence
 6 Code section 940. Further, Defendant incorporates the above Preliminary Statement herein by reference
 7 in full.

8 **REQUEST FOR PRODUCTION NO. 33**

9 All documents relating to the transfer or assumption of any liability by DPS.

10 **Response to Request for Production No. 33:**

11 Objection. This request, including the use of the definition provided for "DPS," is vague and
 12 ambiguous, overbroad, and unduly burdensome and oppressive. Defendant further objects because this
 13 request may be construed to seek the production and inspection of documents which are privileged from
 14 disclosure by the attorney-client relationship and/or the attorney work product doctrine. Defendant
 15 further objects because this demand may be construed to seek the production and inspection of
 16 documents which contain confidential financial information and/or violates Defendant's right to privacy.
 17 Defendant further objects because this request is overbroad and seeks the production of documents
 18 which are neither relevant to the subject matter of this action, nor likely to lead to the discovery of
 19 admissible evidence. Defendant further objects because Mr. Hogan, as the sole shareholder of
 20 Defendant and the only person with authority to verify responses on the corporation's behalf, has
 21 invoked his privilege against self incrimination under the Fifth Amendment to the United States
 22 Constitution; the Federal Rules of Evidence, Rule 501; the California Constitution, Article 1, Section 15;
 23 and California Evidence Code section 940. Further, Defendant incorporates the above Preliminary
 24 Statement herein by reference in full.

25 **REQUEST FOR PRODUCTION NO. 34**

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

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1 Response to Request for Production No. 34:

2 Objection. This request, including the use of the definition provided for "DPS," is vague and
3 ambiguous, overbroad, and unduly burdensome and oppressive. Defendant further objects because this
4 request may be construed to seek the production and inspection of documents which are privileged from
5 disclosure by the attorney-client relationship and/or the attorney work product doctrine. Defendant
6 further objects because Mr. Hogan, as the sole shareholder of Defendant and the only person with
7 authority to verify responses on the corporation's behalf, has invoked his privilege against self
8 incrimination under the Fifth Amendment to the United States Constitution; the Federal Rules of
9 Evidence, Rule 501; the California Constitution, Article 1, Section 15; and California Evidence Code
10 section 940. Further, Defendant incorporates the above Preliminary Statement herein by reference in full.

11 DATED: March 12, 2009

COAST LAW GROUP LLP

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14 By: 

Ross M. Campbell

Attorneys for Defendants, Shawn Hogan
and Digital Point Solutions, Inc.