

# **EXHIBIT 18**

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**From:** Kennedy, Colleen  
**Sent:** Friday, September 18, 2009 12:46 PM  
**To:** 'seyamack@coastlawgroup.com'; Ross Campbell  
**Cc:** Eberhart, David; Bunzel, Sharon M.  
**Subject:** eBay v. DPS, et al.

Seyamack and Ross,

We have considered your proposal that Defendant Digital Point Solutions, Inc. ("DPS, Inc.") would provide substantive responses to each of our outstanding discovery requests if eBay agrees not to take the position that such production would constitute a waiver of Shawn Hogan's Fifth Amendment privilege. As we discussed this morning, it has long been eBay's position that DPS, Inc. has no Fifth Amendment privilege and is therefore required to respond to this discovery in full regardless of any proposed compromise. We are prepared to agree that if you provide substantive responses immediately, we would not contend that any provision of such responses would waive any Fifth Amendment privilege held by Shawn Hogan.

However, because of your refusal, for more than six months, to provide substantive responses by DPS, Inc.--not to mention your last-minute offer of this proposed compromise--we must require that you provide the supplemental discovery responses on behalf of DPS, Inc. by the close of business on Monday. Otherwise, we will move forward with our current plan to move to compel against DPS, Inc. on Tuesday. Please note, moreover, that we will move to compel if DPS, Inc. does not provide considered responses to each individual interrogatory, RFA and RFP, as opposed to blanket or boilerplate statements that DPS, Inc. has no information or documents in its possession.

Please advise whether you will agree to provide these responses on Monday.

Best regards,  
Colleen

**Colleen Kennedy**  
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9/29/2009