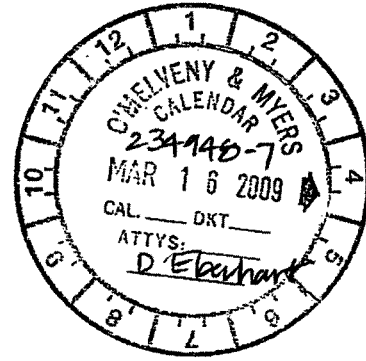


EXHIBIT 5



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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,)
15)
16 v.)
17)
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)
25 Defendants.)
26)
27)
28)

22 PROPOUNDING PARTY: Plaintiff EBAY, INC.
23 RESPONDING PARTY: Defendant SHAWN HOGAN
24 SET NUMBER: One

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

1

I. PRELIMINARY STATEMENT

2 The Federal Bureau of Investigation has seized documents and materials potentially related to the
3 present action. As of the date of these responses, the FBI has not returned all of the seized materials to
4 Defendant, some of which may be responsive to Plaintiff's requests hereunder. Further, FBI Special
5 Agent Melanie Adams and Assistant United States Attorney Kyle F. Walding inform that Defendant is
6 the subject of a grand jury investigation and that it is anticipated that criminal charges will be filed.
7 Because Plaintiff has attempted to assert various claims under state and federal criminal statutes as well
8 as common law fraud, and seeks to conduct discovery with respect to the same via the subject requests
9 for production, Defendant hereby asserts his privilege against self-incrimination (as specifically set forth
10 below) under the Fifth Amendment to the United States Constitution (*United States v. Balsys* (1998) 524
11 U.S. 666, 672; *Lefkowitz v. Turley* (1973) 414 U.S. 70, 77); the Federal Rules of Evidence, Rule 501; the
12 California Constitution, Article 1, Section 15; and California Evidence Code section 940.

13 Defendant further objects because conducting discovery is premature and inappropriate at this
14 time. Upon the transfer of this action to the appropriate forum, Defendant intends to seek a stay of this
15 action (and/or any other appropriate relief), including a stay of all discovery in this matter, pending the
16 resolution of any potential criminal proceedings and/or until the statute of limitations on any such
17 criminal proceedings has run. To the extent Defendant determines that there is no longer a threat of
18 criminal prosecution, Defendant expressly reserves the right to withdraw his assertion of the privilege
19 against self-incrimination, to supplement his responses accordingly (in whole or in part), and to object to
20 the use or disclosure of the following responses, including the assertion of the privilege against self
21 incrimination, for any purpose whatsoever.

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

28 /././

1 Defendant further objects to the definitions set forth in Plaintiff's requests; these objections
 2 include, but are not limited to, the following: "Hogan," "Hogan Entities," "Commission Junction," and
 3 "eBay" are compound, vague and ambiguous. The definition of "eBay" is further unduly burdensome
 4 and oppressive in that the phrases "eBay's internationally operated websites," and "any and all divisions,
 5 subdivisions, departments or subsidiaries of eBay" constitute information within Plaintiff's control
 6 and/or are unknown to Defendant. The definition of "Commission Junction" is unduly burdensome and
 7 oppressive in that the phrase "all parent organizations, divisions, subdivisions, departments or
 8 subsidiaries" reference information that is outside Defendant's control and/or is unknown to Defendant.

9 Defendant incorporates each of the foregoing objections in Defendant's responses below.

10 **II. RESPONSES**

11 **REQUEST FOR PRODUCTION NO. 1**

12 All documents relating to eBay, including all agreements, terms of service and terms and
 13 conditions.

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

15 Objection. Defendant objects to this request on the grounds that it violates Defendant's privilege
 16 against self-incrimination under the Fifth Amendment to the United States Constitution; the Federal
 17 Rules of Evidence, Rule 501; the California Constitution, Article 1, Section 15; and California Evidence
 18 Code section 940. Defendant further objects because this request may be construed to seek the
 19 production and inspection of documents which are privileged from disclosure by the attorney-client
 20 relationship and/or the attorney work product doctrine. Defendant further objects because this demand
 21 may be construed to seek the production and inspection of documents which contain proprietary/
 22 confidential information, trade secrets, and/or violates Defendant's right to privacy. Defendant further
 23 objects because this request seeks the production of documents which are neither relevant to the subject
 24 matter of this action, nor likely to lead to the discovery of admissible evidence. Defendant further
 25 objects because this request is vague and ambiguous. Defendant further objects because this request is
 26 overbroad, unduly burdensome and oppressive. Further, Defendant incorporates the above Preliminary
 27 Statement herein by reference in full.

28 *///*

1 **REQUEST FOR PRODUCTION NO. 2**

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

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

5 Objection. Defendant objects to this request on the grounds that it violates Defendant's privilege
6 against self-incrimination under the Fifth Amendment to the United States Constitution; the Federal
7 Rules of Evidence, Rule 501; the California Constitution, Article 1, Section 15; and California Evidence
8 Code section 940. Defendant further objects because this request may be construed to seek the
9 production and inspection of documents which are privileged from disclosure by the attorney-client
10 relationship and/or the attorney work product doctrine. Defendant further objects because this demand
11 may be construed to seek the production and inspection of documents which contain proprietary/
12 confidential information, trade secrets, and/or violates Defendant's right to privacy. Defendant further
13 objects because this request seeks the production of documents which are neither relevant to the subject
14 matter of this action, nor likely to lead to the discovery of admissible evidence. Defendant further
15 objects because this request is vague and ambiguous. Defendant further objects because this request is
16 overbroad, unduly burdensome and oppressive. Further, Defendant incorporates the above Preliminary
17 Statement herein by reference in full.

18 **REQUEST FOR PRODUCTION NO. 3**

19 All documents relating to payment of commissions or other revenue obtained by Hogan or Hogan
20 Entities through participation in, interaction with or manipulation of eBay's Affiliate Marketing
21 Program.

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

23 Objection. Defendant objects to this request on the grounds that it violates Defendant's privilege
24 against self-incrimination under the Fifth Amendment to the United States Constitution; the Federal
25 Rules of Evidence, Rule 501; the California Constitution, Article 1, Section 15; and California Evidence
26 Code section 940. Defendant further objects because this request may be construed to seek the
27 production and inspection of documents which are privileged from disclosure by the attorney-client
28 relationship and/or the attorney work product doctrine. Defendant further objects because this demand

1 may be construed to seek the production and inspection of documents which contain proprietary/
2 confidential information, trade secrets, and/or violates Defendant's right to privacy. Defendant further
3 objects because this request is vague and ambiguous. Defendant further objects because this request is
4 compound, overbroad, unduly burdensome and oppressive. Defendant further objects because this
5 request is argumentative with respect to its use of the term "manipulation." Further, Defendant
6 incorporates the above Preliminary Statement herein by reference in full.

7 **REQUEST FOR PRODUCTION NO. 4**

8 All documents relating to eBay's Affiliate Marketing Program, including, but not limited to, all
9 methods and technologies used by Hogan or Hogan Entities to obtain revenue from, manipulate or
10 otherwise interact with eBay's Affiliate Marketing Program, including, but not limited to, all software;
11 source code, Javascript, and HTML code.

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

13 Objection. Defendant objects to this request on the grounds that it violates Defendant's privilege
14 against self-incrimination under the Fifth Amendment to the United States Constitution; the Federal
15 Rules of Evidence, Rule 501; the California Constitution, Article 1, Section 15; and California Evidence
16 Code section 940. Defendant further objects because this request may be construed to seek the
17 production and inspection of documents which are privileged from disclosure by the attorney-client
18 relationship and/or the attorney work product doctrine. Defendant further objects because this demand
19 may be construed to seek the production and inspection of documents which contain proprietary/
20 confidential information, trade secrets, and/or violates Defendant's right to privacy. Defendant further
21 objects because this request is vague and ambiguous. Defendant further objects because this request is
22 compound, overbroad, unduly burdensome and oppressive. Defendant further objects because this
23 request is argumentative with respect to its use of the term "manipulate." Further, Defendant
24 incorporates the above Preliminary Statement herein by reference in full.

25 **REQUEST FOR PRODUCTION NO. 5**

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

28 ///

1 Response to Request for Production No. 5:

2 Objection. Defendant objects to this request on the grounds that it violates Defendant's privilege
3 against self-incrimination under the Fifth Amendment to the United States Constitution; the Federal
4 Rules of Evidence, Rule 501; the California Constitution, Article 1, Section 15; and California Evidence
5 Code section 940. Defendant further objects because this request may be construed to seek the
6 production and inspection of documents which are privileged from disclosure by the attorney-client
7 relationship and/or the attorney work product doctrine. Defendant further objects because this demand
8 may be construed to seek the production and inspection of documents which contain proprietary/
9 confidential information, trade secrets, and/or violates Defendant's right to privacy. Defendant further
10 objects because this request is overbroad, not reasonably particularized, and seeks the production of
11 documents which are neither relevant to the subject matter of this action, nor likely to lead to the
12 discovery of admissible evidence. Defendant further objects because this request is vague and
13 ambiguous. Defendant further objects because this request is unduly burdensome and oppressive.
14 Further, Defendant incorporates the above Preliminary Statement herein by reference in full.

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 Hogan or Hogan Entities to direct or refer Users to eBay as part
18 of eBay's Affiliate Marketing Program.

19 Response to Request for Production No. 6:

20 Objection. Defendant objects to this request on the grounds that it violates Defendant's privilege
21 against self-incrimination under the Fifth Amendment to the United States Constitution; the Federal
22 Rules of Evidence, Rule 501; the California Constitution, Article 1, Section 15; and California Evidence
23 Code section 940. Defendant further objects because this request may be construed to seek the
24 production and inspection of documents which are privileged from disclosure by the attorney-client
25 relationship and/or the attorney work product doctrine. Defendant further objects because this demand
26 may be construed to seek the production and inspection of documents which contain proprietary/
27 confidential information, trade secrets, and/or violates Defendant's right to privacy. Defendant further
28 objects because this request is vague and ambiguous. Defendant further objects because this request is

1 overbroad, unduly burdensome and oppressive. Further, Defendant incorporates the above Preliminary
2 Statement herein by reference in full.

3 **REQUEST FOR PRODUCTION NO. 7**

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

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

7 Objection. Defendant objects to this request on the grounds that it violates Defendant's privilege
8 against self-incrimination under the Fifth Amendment to the United States Constitution; the Federal
9 Rules of Evidence, Rule 501; the California Constitution, Article 1, Section 15; and California Evidence
10 Code section 940. Defendant further objects because this request may be construed to seek the
11 production and inspection of documents which are privileged from disclosure by the attorney-client
12 relationship and/or the attorney work product doctrine. Defendant further objects because this demand
13 may be construed to seek the production and inspection of documents which contain proprietary/
14 confidential information and/or trade secrets. Defendant further objects because this request is vague
15 and ambiguous. Defendant further objects because this request is overbroad, not reasonably
16 particularized, and unduly burdensome and oppressive. Further, Defendant incorporates the above
17 Preliminary Statement herein by reference in full.

18 **REQUEST FOR PRODUCTION NO. 8**

19 All documents sufficient to identify all advertising networks, advertising syndication services or
20 websites used or purportedly used by Hogan or Hogan Entities to advertise or promote eBay or to
21 interact in any way with eBay or eBay's Affiliate Marketing Programs.

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

23 Objection. Defendant objects to this request on the grounds that it violates Defendant's privilege
24 against self-incrimination under the Fifth Amendment to the United States Constitution; the Federal
25 Rules of Evidence, Rule 501; the California Constitution, Article 1, Section 15; and California Evidence
26 Code section 940. Defendant further objects because this request may be construed to seek the
27 production and inspection of documents which are privileged from disclosure by the attorney-client
28 relationship and/or the attorney work product doctrine. Defendant further objects because this demand

1 may be construed to seek the production and inspection of documents which contain proprietary/
2 confidential information, trade secrets, and/or violates Defendant's right to privacy. Defendant further
3 objects because this request is vague and ambiguous. Defendant further objects because this request is
4 overbroad, unduly burdensome and oppressive. Further, Defendant incorporates the above Preliminary
5 Statement herein by reference in full.

6 **REQUEST FOR PRODUCTION NO. 9**

7 All documents sufficient to identify all Affiliate Marketing Programs, not including eBay's
8 Affiliate Marketing Program, with whom Hogan or Hogan Entities obtained revenue or otherwise
9 interacted.

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

11 Objection. Defendant objects to this request on the grounds that it violates Defendant's privilege
12 against self-incrimination under the Fifth Amendment to the United States Constitution; the Federal
13 Rules of Evidence, Rule 501; the California Constitution, Article 1, Section 15; and California Evidence
14 Code section 940. Defendant further objects because this request may be construed to seek the
15 production and inspection of documents which are privileged from disclosure by the attorney-client
16 relationship and/or the attorney work product doctrine. Defendant further objects because this demand
17 may be construed to seek the production and inspection of documents which contain
18 proprietary/confidential information, trade secrets, and/or violates Defendant's right to privacy.
19 Defendant further objects because this request seeks the production of documents which are neither
20 relevant to the subject matter of this action, nor likely to lead to the discovery of admissible evidence.
21 Defendant further objects because this request is vague and ambiguous. Defendant further objects
22 because this request is overbroad, unduly burdensome and oppressive. Further, Defendant incorporates
23 the above Preliminary Statement herein by reference in full.

24 **REQUEST FOR PRODUCTION NO. 10**

25 All documents relating to and/or describing methods and techniques used by any other Affiliate
26 Marketing Program that Hogan or Hogan Entities interacted with, participated in or manipulated.

27 ///

28 ///

1 Response to Request for Production No. 10:

2 Objection. Defendant objects to this request on the grounds that it violates Defendant's privilege
3 against self-incrimination under the Fifth Amendment to the United States Constitution; the Federal
4 Rules of Evidence, Rule 501; the California Constitution, Article 1, Section 15; and California Evidence
5 Code section 940. Defendant further objects because this request may be construed to seek the
6 production and inspection of documents which are privileged from disclosure by the attorney-client
7 relationship and/or the attorney work product doctrine. Defendant further objects because this demand
8 may be construed to seek the production and inspection of documents which contain
9 proprietary/confidential information, trade secrets, and/or violates Defendant's right to privacy.
10 Defendant further objects because this request is overbroad, not reasonably particularized, and seeks the
11 production of documents which are neither relevant to the subject matter of this action, nor likely to lead
12 to the discovery of admissible evidence. Defendant further objects because this request is vague and
13 ambiguous, and is argumentative with respect to its use of the term "manipulated." Defendant further
14 objects because this request is unduly burdensome and oppressive. Further, Defendant incorporates the
15 above Preliminary Statement herein by reference in full.

16 REQUEST FOR PRODUCTION NO. 11

17 All documents sufficient to identify the source of any technology, technique or method used by
18 Hogan or Hogan Entities to participate in, manipulate or interact with eBay Affiliate Marketing Program,
19 or any other Affiliate Marketing Program.

20 Response to Request for Production No. 11:

21 Objection. Defendant objects to this request on the grounds that it violates Defendant's privilege
22 against self-incrimination under the Fifth Amendment to the United States Constitution; the Federal
23 Rules of Evidence, Rule 501; the California Constitution, Article 1, Section 15; and California Evidence
24 Code section 940. Defendant further objects because this request may be construed to seek the
25 production and inspection of documents which are privileged from disclosure by the attorney-client
26 relationship and/or the attorney work product doctrine. Defendant further objects because this demand
27 may be construed to seek the production and inspection of documents which contain proprietary/
28 confidential information, trade secrets, and/or violates Defendant's right to privacy. Defendant further

1 objects because this request is overbroad, not reasonably particularized, and seeks the production of
2 documents which are neither relevant to the subject matter of this action, nor likely to lead to the
3 discovery of admissible evidence. Defendant further objects because this request is vague and
4 ambiguous, and is argumentative with respect to its use of the term "manipulate." Defendant further
5 objects because this request is compound, unduly burdensome and oppressive. Further, Defendant
6 incorporates the above Preliminary Statement herein by reference in full.

7 **REQUEST FOR PRODUCTION NO. 12**

8 All documents sufficient to identify any individuals, groups, books, manuals or other materials
9 consulted by Hogan or Hogan Entities while developing any technology, technique or method used by
10 Hogan or Hogan Entities while developing any technology, technique or method used by Hogan or
11 Hogan Entities to participate in, manipulate or interact with the eBay Affiliate Marketing Program, or
12 any other Affiliate Marketing Program.

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

14 Objection. Defendant objects to this request on the grounds that it violates Defendant's privilege
15 against self-incrimination under the Fifth Amendment to the United States Constitution; the Federal
16 Rules of Evidence, Rule 501; the California Constitution, Article 1, Section 15; and California Evidence
17 Code section 940. Defendant further objects because this request may be construed to seek the
18 production and inspection of documents which are privileged from disclosure by the attorney-client
19 relationship and/or the attorney work product doctrine. Defendant further objects because this demand
20 may be construed to seek the production and inspection of documents which contain
21 proprietary/confidential information, trade secrets, and/or violates Defendant's right to privacy.
22 Defendant further objects because this request is overbroad, not reasonably particularized, and seeks the
23 production of documents which are neither relevant to the subject matter of this action, nor likely to lead
24 to the discovery of admissible evidence. Defendant further objects because this request is vague and
25 ambiguous, and is argumentative with respect to its use of the term "manipulate." Defendant further
26 objects because this request is compound, unduly burdensome and oppressive. Further, Defendant
27 incorporates the above Preliminary Statement herein by reference in full.

28 /././

1 **REQUEST FOR PRODUCTION NO. 13**

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

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

5 Objection. Defendant objects to this request on the grounds that it violates Defendant's privilege
6 against self-incrimination under the Fifth Amendment to the United States Constitution; the Federal
7 Rules of Evidence, Rule 501; the California Constitution, Article 1, Section 15; and California Evidence
8 Code section 940. Defendant further objects because this request may be construed to seek the
9 production and inspection of documents which are privileged from disclosure by the attorney-client
10 relationship and/or the attorney work product doctrine. Defendant further objects because this demand
11 may be construed to seek the production and inspection of documents which contain proprietary/
12 confidential information, trade secrets, and/or violates Defendant's right to privacy. Defendant further
13 objects because this request is vague and ambiguous. Defendant further objects because this request is
14 overbroad, unduly burdensome and oppressive. Further, Defendant incorporates the above Preliminary
15 Statement herein by reference in full.

16 **REQUEST FOR PRODUCTION NO. 14**

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

19 **Response to Request for Production No. 14:**

20 Objection. Defendant objects to this request on the grounds that it violates Defendant's privilege
21 against self-incrimination under the Fifth Amendment to the United States Constitution; the Federal
22 Rules of Evidence, Rule 501; the California Constitution, Article 1, Section 15; and California Evidence
23 Code section 940. Defendant further objects because this request may be construed to seek the
24 production and inspection of documents which are privileged from disclosure by the attorney-client
25 relationship and/or the attorney work product doctrine. Defendant further objects because this demand
26 may be construed to seek the production and inspection of documents which contain proprietary/
27 confidential information, trade secrets, and/or violates Defendant's right to privacy. Defendant further
28 objects because this request is vague and ambiguous. Defendant further objects because this request is

1 overbroad, unduly burdensome and oppressive. Further, Defendant incorporates the above Preliminary
2 Statement herein by reference in full.

3 **REQUEST FOR PRODUCTION NO. 15**

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

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

7 Objection. Defendant objects to this request on the grounds that it violates Defendant's privilege
8 against self-incrimination under the Fifth Amendment to the United States Constitution; the Federal
9 Rules of Evidence, Rule 501; the California Constitution, Article 1, Section 15; and California Evidence
10 Code section 940. Defendant further objects because this request may be construed to seek the
11 production and inspection of documents which are privileged from disclosure by the attorney-client
12 relationship and/or the attorney work product doctrine. Defendant further objects because this demand
13 may be construed to seek the production and inspection of documents which contain proprietary/
14 confidential information, trade secrets, and/or violates Defendant's right to privacy. Defendant further
15 objects because this request seeks the production of documents which are neither relevant to the subject
16 matter of this action, nor likely to lead to the discovery of admissible evidence. Defendant further
17 objects because this request is vague and ambiguous. Defendant further objects because this request is
18 compound, overbroad, and unduly burdensome and oppressive. Further, Defendant incorporates the
19 above Preliminary Statement herein by reference in full.

20 **REQUEST FOR PRODUCTION NO. 16**

21 All Communications with Todd Dunning or Brian Dunning.

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

23 Objection. Defendant objects to this request on the grounds that it violates Defendant's privilege
24 against self-incrimination under the Fifth Amendment to the United States Constitution; the Federal
25 Rules of Evidence, Rule 501; the California Constitution, Article 1, Section 15; and California Evidence
26 Code section 940. Defendant further objects to the extent this demand violates the privacy rights of
27 Defendant and/or third parties. Defendant further objects because this request seeks the production of
28 documents which are neither relevant to the subject matter of this action, nor likely to lead to the

1 discovery of admissible evidence. Defendant further objects because this request is vague and
2 ambiguous. Defendant further objects because this request is overbroad, unduly burdensome and
3 oppressive. Further, Defendant incorporates the above Preliminary Statement herein by reference in full.

4 **REQUEST FOR PRODUCTION NO. 17**

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

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

10 Objection. Defendant objects to this request on the grounds that it violates Defendant's privilege
11 against self-incrimination under the Fifth Amendment to the United States Constitution; the Federal
12 Rules of Evidence, Rule 501; the California Constitution, Article 1, Section 15; and California Evidence
13 Code section 940. Defendant further objects because this request may be construed to seek the
14 production and inspection of documents which are privileged from disclosure by the attorney-client
15 relationship and/or the attorney work product doctrine. Defendant further objects because this request
16 seeks the production of documents which are neither relevant to the subject matter of this action, nor
17 likely to lead to the discovery of admissible evidence. Defendant further objects because this request is
18 overbroad, vague and ambiguous. Defendant further objects because this request is unduly burdensome
19 and oppressive. Further, Defendant incorporates the above Preliminary Statement herein by reference in
20 full.

21 **REQUEST FOR PRODUCTION NO. 18**

22 All documents sufficient to describe all phone numbers, email addresses, web pages, instant
23 messenger or mail accounts and social network accounts maintained, formerly maintained or registered
24 to Hogan or Hogan Entities.

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

26 Objection. Defendant objects to this request on the grounds that it violates Defendant's privilege
27 against self-incrimination under the Fifth Amendment to the United States Constitution; the Federal
28 Rules of Evidence, Rule 501; the California Constitution, Article 1, Section 15; and California Evidence

1 Code section 940. Defendant further objects because this request may be construed to seek the
2 production and inspection of documents which are privileged from disclosure by the attorney-client
3 relationship and/or the attorney work product doctrine. Defendant further objects because this demand
4 may be construed to seek the production and inspection of documents which contain proprietary/
5 confidential information, trade secrets, and/or violates Defendant's right to privacy. Defendant further
6 objects because this request is overbroad, not reasonably particularized, and seeks the production of
7 documents which are neither relevant to the subject matter of this action, nor likely to lead to the
8 discovery of admissible evidence. Defendant further objects because this request is vague and
9 ambiguous. Defendant further objects because this request is compound, unduly burdensome and
10 oppressive. Further, Defendant incorporates the above Preliminary Statement herein by reference in full.

11 **REQUEST FOR PRODUCTION NO. 19**

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

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

18 Objection. Defendant objects to this request on the grounds that it violates Defendant's privilege
19 against self-incrimination under the Fifth Amendment to the United States Constitution; the Federal
20 Rules of Evidence, Rule 501; the California Constitution, Article 1, Section 15; and California Evidence
21 Code section 940. Defendant further objects because this request may be construed to seek the
22 production and inspection of documents which are privileged from disclosure by the attorney-client
23 relationship and/or the attorney work product doctrine. Defendant further objects because this demand
24 may be construed to seek the production and inspection of documents which contain proprietary/
25 confidential information, trade secrets, and/or violates Defendant's right to privacy. Defendant further
26 objects because this request is overbroad, not reasonably particularized, and seeks the production of
27 documents which are neither relevant to the subject matter of this action, nor likely to lead to the
28 discovery of admissible evidence. Defendant further objects because this request is vague, ambiguous,

1 and argumentative. Defendant further objects because this request is unduly burdensome and oppressive.
2 Further, Defendant incorporates the above Preliminary Statement herein by reference in full.

3 **REQUEST FOR PRODUCTION NO. 20**

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

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

9 Objection. Defendant objects to this request on the grounds that it violates Defendant's privilege
10 against self-incrimination under the Fifth Amendment to the United States Constitution; the Federal
11 Rules of Evidence, Rule 501; the California Constitution, Article 1, Section 15; and California Evidence
12 Code section 940. Defendant further objects because this request may be construed to seek the
13 production and inspection of documents which are privileged from disclosure by the attorney-client
14 relationship and/or the attorney work product doctrine. Defendant further objects because this demand
15 may be construed to seek the production and inspection of documents which contain
16 proprietary/confidential information, trade secrets, and/or violates Defendant's right to privacy.
17 Defendant further objects because this request is overbroad, not reasonably particularized, and seeks the
18 production of documents which are neither relevant to the subject matter of this action, nor likely to lead
19 to the discovery of admissible evidence. Defendant further objects because this request is vague,
20 ambiguous, and argumentative. Defendant further objects because this request is unduly burdensome
21 and oppressive. Further, Defendant incorporates the above Preliminary Statement herein by reference in
22 full.

23 **REQUEST FOR PRODUCTION NO. 21**

24 Documents sufficient to identify all internet service providers (ISPs) and IP addresses used by
25 Hogan or Hogan Entities.

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

27 Objection. Defendant objects to this request on the grounds that it violates Defendant's 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. Defendant further objects because this request may be construed to seek the
3 production and inspection of documents which are privileged from disclosure by the attorney-client
4 relationship and/or the attorney work product doctrine. Defendant further objects because this demand
5 may be construed to seek the production and inspection of documents which contain proprietary/
6 confidential information, trade secrets, and/or violates Defendant's right to privacy. Defendant further
7 objects because this request is compound, overbroad, not reasonably particularized, and seeks the
8 production of documents which are neither relevant to the subject matter of this action, nor likely to lead
9 to the discovery of admissible evidence. Defendant further objects because this request is vague and
10 ambiguous. Defendant further objects because this request is unduly burdensome and oppressive.
11 Further, Defendant incorporates the above Preliminary Statement herein by reference in full.

12 **REQUEST FOR PRODUCTION NO. 22**

13 Documents sufficient to identify all computers, servers, electronic data storage and hosting
14 companies, entities, or facilities used by Hogan or Hogan Entities.

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

16 Objection. Defendant objects to this request on the grounds that it violates Defendant's 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. Defendant further objects because this request may be construed to seek the
20 production and inspection of documents which are privileged from disclosure by the attorney-client
21 relationship and/or the attorney work product doctrine. Defendant further objects because this demand
22 may be construed to seek the production and inspection of documents which contain proprietary/
23 confidential information, trade secrets, and/or violates Defendant's right to privacy. Defendant further
24 objects because this request is overbroad, not reasonably particularized, and seeks the production of
25 documents which are neither relevant to the subject matter of this action, nor likely to lead to the
26 discovery of admissible evidence. Defendant further objects because this request is vague and
27 ambiguous. Defendant further objects because this request is unduly burdensome and oppressive.
28 Further, Defendant incorporates the above Preliminary Statement herein by reference in full.

1 **REQUEST FOR PRODUCTION NO. 23**

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

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

6 Objection. Defendant objects to this request on the grounds that it violates Defendant's privilege
7 against self-incrimination under the Fifth Amendment to the United States Constitution; the Federal
8 Rules of Evidence, Rule 501; the California Constitution, Article 1, Section 15; and California Evidence
9 Code section 940. Defendant further objects because this request may be construed to seek the
10 production and inspection of documents which are privileged from disclosure by the attorney-client
11 relationship and/or the attorney work product doctrine. Defendant further objects because this demand
12 may be construed to seek the production and inspection of documents which contain proprietary/
13 confidential information, trade secrets, and/or violates Defendant's right to privacy. Defendant further
14 objects because this request is vague and ambiguous, argumentative, overbroad, and unduly burdensome
15 and oppressive. Further, Defendant incorporates the above Preliminary Statement herein by reference in
16 full.

17 **REQUEST FOR PRODUCTION NO. 24**

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

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

21 Objection. Defendant objects to this request on the grounds that it violates Defendant's privilege
22 against self-incrimination under the Fifth Amendment to the United States Constitution; the Federal
23 Rules of Evidence, Rule 501; the California Constitution, Article 1, Section 15; and California Evidence
24 Code section 940. Defendant further objects because this demand may be construed to seek the
25 production and inspection of documents which contain proprietary/confidential information, trade
26 secrets, and/or violates the privacy rights of Defendant and/or third parties. Defendant further objects
27 because this request seeks the production of documents which are neither relevant to the subject matter
28 of this action, nor likely to lead to the discovery of admissible evidence. Defendant further objects

1 because this request is vague and ambiguous, overbroad, and unduly burdensome and oppressive.

2 Further, Defendant incorporates the above Preliminary Statement herein by reference in full.

3 **REQUEST FOR PRODUCTION NO. 25**

4 All documents sufficient to identify all business entities or fictitious business names currently or
5 formerly maintained by Hogan.

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

7 Objection. Defendant objects to this request on the grounds that it violates Defendant's privilege
8 against self-incrimination under the Fifth Amendment to the United States Constitution; the Federal
9 Rules of Evidence, Rule 501; the California Constitution, Article 1, Section 15; and California Evidence
10 Code section 940. Defendant further objects because this request may be construed to seek the
11 production and inspection of documents which are privileged from disclosure by the attorney-client
12 relationship and/or the attorney work product doctrine. Defendant further objects because this demand
13 may be construed to seek the production and inspection of documents which contain proprietary/
14 confidential information, trade secrets, and/or violates Defendant's right to privacy. Defendant further
15 objects because this request is overbroad, not reasonably particularized, and seeks the production of
16 documents which are neither relevant to the subject matter of this action, nor likely to lead to the
17 discovery of admissible evidence. Defendant further objects because this request is vague, ambiguous,
18 and unduly burdensome and oppressive. Further, Defendant incorporates the above Preliminary
19 Statement herein by reference in full.

20 **REQUEST FOR PRODUCTION NO. 26**

21 All documents relating to the incorporation of any Hogan Entities.

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

23 Objection. Defendant objects to this request on the grounds that it violates Defendant's privilege
24 against self-incrimination under the Fifth Amendment to the United States Constitution; the Federal
25 Rules of Evidence, Rule 501; the California Constitution, Article 1, Section 15; and California Evidence
26 Code section 940. Defendant further objects because this request may be construed to seek the
27 production and inspection of documents which are privileged from disclosure by the attorney-client
28 relationship and/or the attorney work product doctrine. Defendant further objects because this request

1 seeks the production of documents which are neither relevant to the subject matter of this action, nor
2 likely to lead to the discovery of admissible evidence. Defendant further objects because this request is
3 vague and ambiguous, overbroad, and unduly burdensome and oppressive. Further, Defendant
4 incorporates the above Preliminary Statement herein by reference in full.

5 **REQUEST FOR PRODUCTION NO. 27**

6 All documents filed by Hogan or Hogan Entities with any Secretary of State.

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

8 Objection. Defendant objects to this request on the grounds that it violates Defendant's privilege
9 against self-incrimination under the Fifth Amendment to the United States Constitution; the Federal
10 Rules of Evidence, Rule 501; the California Constitution, Article 1, Section 15; and California Evidence
11 Code section 940. Defendant further objects because this request is overbroad, not reasonably
12 particularized, and seeks the production of documents which are neither relevant to the subject matter of
13 this action, nor likely to lead to the discovery of admissible evidence. Defendant further objects because
14 this request is vague, ambiguous, and unduly burdensome and oppressive. Further, Defendant
15 incorporates the above Preliminary Statement herein by reference in full.

16 **REQUEST FOR PRODUCTION NO. 28**

17 Documents sufficient to show the structure and organization of all Hogan Entities that were
18 involved in or interacted with any Affiliate Marketing Program.

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

20 Objection. Defendant objects to this request on the grounds that it violates Defendant's privilege
21 against self-incrimination under the Fifth Amendment to the United States Constitution; the Federal
22 Rules of Evidence, Rule 501; the California Constitution, Article 1, Section 15; and California Evidence
23 Code section 940. Defendant further objects because this demand may be construed to seek the
24 production and inspection of documents which contain proprietary/confidential information, trade
25 secrets, and/or violates the privacy rights of Defendant and/or third parties. Defendant further objects
26 because this request is overbroad, not reasonably particularized, and seeks the production of documents
27 which are neither relevant to the subject matter of this action, nor likely to lead to the discovery of
28 admissible evidence. Defendant further objects because this request is vague, ambiguous, and unduly

1 burdensome and oppressive. Further, Defendant incorporates the above Preliminary Statement herein by
2 reference in full.

3 **REQUEST FOR PRODUCTION NO. 29**

4 Documents sufficient to identify all employees, contractors or temporary employees of Hogan or
5 Hogan Entities, their dates of employment, duties, salary and any other compensation.

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

7 Objection. Defendant objects to this request on the grounds that it violates Defendant's privilege
8 against self-incrimination under the Fifth Amendment to the United States Constitution; the Federal
9 Rules of Evidence, Rule 501; the California Constitution, Article 1, Section 15; and California Evidence
10 Code section 940. Defendant further objects because this demand may be construed to seek the
11 production and inspection of documents which contain proprietary/confidential information, trade
12 secrets, and/or violates the privacy rights of Defendant and/or third parties. Defendant further objects
13 because this request is overbroad, not reasonably particularized, and seeks the production of documents
14 which are neither relevant to the subject matter of this action, nor likely to lead to the discovery of
15 admissible evidence. Defendant further objects because this request is vague, ambiguous, unduly
16 burdensome and oppressive. Further, Defendant incorporates the above Preliminary Statement herein by
17 reference in full.

18 **REQUEST FOR PRODUCTION NO. 30**

19 All documents constituting any Hogan Entities' annual, quarterly and monthly audited, compiled,
20 reviewed or unaudited financial statements, including all income statements and balance sheets of Hogan
21 Entities.

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

23 Objection. Defendant objects to this request on the grounds that it violates Defendant's privilege
24 against self-incrimination under the Fifth Amendment to the United States Constitution; the Federal
25 Rules of Evidence, Rule 501; the California Constitution, Article 1, Section 15; and California Evidence
26 Code section 940. Defendant further objects because this demand may be construed to seek the
27 production and inspection of documents which contain proprietary/confidential information, trade
28 secrets, and/or violates the right to privacy of Defendant and/or third parties. Defendant further objects

1 because this request is overbroad, not reasonably particularized, and seeks the production of documents
2 which are neither relevant to the subject matter of this action, nor likely to lead to the discovery of
3 admissible evidence. Defendant further objects because this request is vague, ambiguous, and unduly
4 burdensome and oppressive. Further, Defendant incorporates the above Preliminary Statement herein by
5 reference in full.

6 **REQUEST FOR PRODUCTION NO. 31**

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

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

10 Objection. Defendant objects to this request on the grounds that it violates Defendant's privilege
11 against self-incrimination under the Fifth Amendment to the United States Constitution; the Federal
12 Rules of Evidence, Rule 501; the California Constitution, Article 1, Section 15; and California Evidence
13 Code section 940. Defendant further objects because this demand may be construed to seek the
14 production and inspection of documents which contain proprietary/confidential information, trade
15 secrets, and/or violates the right to privacy of Defendant and/or third parties. Defendant further objects
16 because this request is overbroad, not reasonably particularized, and seeks the production of documents
17 which are neither relevant to the subject matter of this action, nor likely to lead to the discovery of
18 admissible evidence. Defendant further objects because this request is vague, ambiguous, and unduly
19 burdensome and oppressive. Further, Defendant incorporates the above Preliminary Statement herein by
20 reference in full.

21 **REQUEST FOR PRODUCTION NO. 32**

22 Documents constituting all Hogan Entities' tax returns for the years 2003 to the present.

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

24 Objection. Defendant objects to this request on the grounds that it violates Defendant's privilege
25 against self-incrimination under the Fifth Amendment to the United States Constitution; the Federal
26 Rules of Evidence, Rule 501; the California Constitution, Article 1, Section 15; and California Evidence
27 Code section 940. Defendant further objects because this demand may be construed to seek the
28 production and inspection of documents which contain confidential financial information and/or violates

1 the right to privacy of Defendant and/or third parties. Defendant further objects because this request is
2 overbroad, not reasonably particularized, and seeks the production of documents which are neither
3 relevant to the subject matter of this action, nor likely to lead to the discovery of admissible evidence.
4 Defendant further objects because this request is vague, ambiguous, and unduly burdensome and
5 oppressive. Further, Defendant incorporates the above Preliminary Statement herein by reference in full.

6 **REQUEST FOR PRODUCTION NO. 33**

7 Documents constituting Hogan's individual tax returns for the years 2003 to the present.

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

9 Objection. Defendant objects to this request on the grounds that it violates Defendant's privilege
10 against self-incrimination under the Fifth Amendment to the United States Constitution; the Federal
11 Rules of Evidence, Rule 501; the California Constitution, Article 1, Section 15; and California Evidence
12 Code section 940. Defendant further objects because this demand may be construed to seek the
13 production and inspection of documents which contain confidential financial information and/or violates
14 Defendant's right to privacy. Defendant further objects because this request is overbroad and seeks the
15 production of documents which are neither relevant to the subject matter of this action, nor likely to lead
16 to the discovery of admissible evidence. Defendant further objects because this request is vague,
17 ambiguous, and unduly burdensome and oppressive. Further, Defendant incorporates the above
18 Preliminary Statement herein by reference in full.

19 **REQUEST FOR PRODUCTION NO. 34**

20 All documents relating to the transfer or assumption of any liability by Hogan or Hogan Entities.

21 **Response to Request for Production No. 34:**

22 Objection. Defendant objects to this request on the grounds that it violates Defendant's privilege
23 against self-incrimination under the Fifth Amendment to the United States Constitution; the Federal
24 Rules of Evidence, Rule 501; the California Constitution, Article 1, Section 15; and California Evidence
25 Code section 940. Defendant further objects because this request may be construed to seek the
26 production and inspection of documents which are privileged from disclosure by the attorney-client
27 relationship and/or the attorney work product doctrine. Defendant further objects because this demand
28 may be construed to seek the production and inspection of documents which contain proprietary

1 /confidential information, trade secrets, and/or violates Defendant's right to privacy. Defendant further
2 objects because this request is overbroad, not reasonably particularized, and seeks the production of
3 documents which are neither relevant to the subject matter of this action, nor likely to lead to the
4 discovery of admissible evidence. Defendant further objects because this request is vague, ambiguous,
5 and unduly burdensome and oppressive. Further, Defendant incorporates the above Preliminary
6 Statement herein by reference in full.

7 **REQUEST FOR PRODUCTION NO. 35**

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

9 **Response to Request for Production No. 35:**

10 Objection. Defendant objects to this request on the grounds that it violates Defendant's privilege
11 against self-incrimination under the Fifth Amendment to the United States Constitution; the Federal
12 Rules of Evidence, Rule 501; the California Constitution, Article 1, Section 15; and California Evidence
13 Code section 940. Defendant further objects because this request may be construed to seek the
14 production and inspection of documents which are privileged from disclosure by the attorney-client
15 relationship and/or the attorney work product doctrine. Defendant further objects because this request is
16 vague and ambiguous. Further, Defendant incorporates the above Preliminary Statement herein by
17 reference in full.

18 DATED: March 12, 2009

COAST LAW GROUP LLP

19
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21 By: 

Ross M. Campbell

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