

1 Seyamack Kouretchian (State Bar No. 171741)
 2 Seyamack@CoastLawGroup.com
 3 Ross Campbell (State Bar No. 234827)
 4 Rcampbell@Coast LawGroup.com
 5 COAST LAW GROUP, LLP
 6 1140 South Coast Highway
 Encinitas, California 92024
 Tel: (760) 942-8505
 Fax: (760) 942-8515

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	Plaintiff,)	DECLARATION OF SHAWN HOGAN IN
)	SUPPORT OF OPPOSITION TO
14	v.)	PLAINTIFF'S MOTION TO COMPEL
)	
15	DIGITAL POINT SOLUTIONS, INC., SHAWN)	Date: November 13, 2009
	HOGAN, KESSLER'S FLYING CIRCUS,)	Time: 9:00 a.m.
16	THUNDERWOOD HOLDINGS, INC., TODD)	Judge: Hon. Patricia V. Trumbull
	DUNNING, DUNNING ENTERPRISE, INC.,)	Dept.: Courtroom 5
17	BRIAN DUNNING, BRIANDUNNING.COM,)	
	and Does 1-20,)	
18)	
)	
19	Defendants.)	
)	
20)	

21
 22 I, Shawn Hogan, declare:

23 1. I am an individual residing in San Diego, California, and am a named defendant in the
 24 above-captioned civil action commenced by eBay, Inc. (Plaintiff). I have firsthand personal knowledge
 25 of the facts set forth herein.

26 2. I am the founder and sole shareholder, officer, director, and representative of defendant
 27 Digital Point Solutions, Inc. I am the only person that has conducted business on behalf of the
 28 corporation. Digital Point Solutions, Inc. was incorporated on May 14, 2007; a true and correct copy of

1 the Articles of Incorporation of Digital Point Solutions, Inc. are attached hereto as Exhibit 1. Digital
2 Point Solutions, Inc. never conducted business with Plaintiff at any time, and never participated in
3 Plaintiff's affiliate marketing program. For instance, Digital Point Solutions, Inc. never signed up to be
4 an affiliate in Plaintiff's affiliate marketing program and never entered into any affiliate-related
5 agreements. Further, Digital Point Solutions, Inc. never provided its tax identification number to
6 Plaintiff, and never sought or received any commissions or other payments from Plaintiff or Commission
7 Junction. Further, Digital Point Solutions, Inc. did not conduct any business of any kind until the Fall of
8 2007.

9 3. I have conducted business (and continue to conduct business) as a sole proprietorship,
10 including during the relevant time frames alleged in Plaintiff's Second Amended Complaint. The sole
11 proprietorship was formed in early 1996.

12 I declare under penalty of perjury under the laws of the United States of America and the
13 State of California that the foregoing is true and correct.

14 DATED: October 23, 2009

s/Shawn Hogan
COAST LAW GROUP, LLP
Attorney for Defendants, Shawn Hogan
and Digital Point Solutions, Inc.

EXHIBIT 1

State of California
Secretary of State



I, DEBRA BOWEN, Secretary of State of the State of California, hereby certify:

That the attached transcript of 2 page(s) has been compared with the record on file in this office, of which it purports to be a copy, and that it is full, true and correct.



IN WITNESS WHEREOF, I execute this certificate and affix the Great Seal of the State of California this day of

MAY 19 2007

DEBRA BOWEN
Secretary of State

2998539

ARTICLES OF INCORPORATION
OF
DIGITAL POINT SOLUTIONS, INC.

ENDORSED - FILED
in the office of the Secretary of State
of the State of California

MAY 14 2007

ONE: The name of this corporation is Digital Point Solutions, Inc.

TWO: The purpose of this corporation is to engage in any lawful act or activity for which a corporation may be organized under the General Corporation Law of California other than the banking business, the trust company business or the practice of a profession permitted to be incorporated by the California Corporations Code.

THREE: The name and address in this state of the corporation's initial agent for service of process is:

Shawn D. Hogan
8465 Regents Road, Apt. 448
San Diego, CA 92122

FOUR: This corporation is authorized to issue only one class of shares of stock; and the total number of shares which this corporation is authorized to issue is one million (1,000,000).

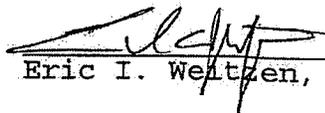
FIVE: (a) The liability of the directors of this corporation for monetary damages shall be eliminated to the fullest extent permissible under California law.

(b) The corporation is authorized to provide indemnification of agents (as defined in Section 317 of the California Corporations Code) through bylaw provisions, agreements with the agents, vote of shareholders or disinterested directors,

or otherwise, in excess of the indemnification otherwise permitted by Section 317 of the California Corporations Code, subject only to the limits set forth in Section 204 of the California Corporations Code with respect to actions for breach of duty to the corporation or its shareholders. The corporation is further authorized to provide insurance for agents as set forth in Section 317 of the California Corporations Code, provided that, in cases where the corporation owns all or a portion of the shares of the company issuing the insurance policy, the company and/or the policy must meet one of the two sets of conditions set forth in Section 317, as amended.

(c) Any repeal or modification of the foregoing provisions of this Article FIVE by the shareholders of this corporation shall not adversely affect any right or protection of an agent of this corporation existing at the time of such repeal or modification.

Dated: May 1, 2007


Eric I. Weitzen, Incorporator

