

EXHIBIT 4



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September 10, 2009

VIA FACSIMILE AND MAIL

Perry Robinson
Rackspace US, Inc.
9725 Datapoint Drive, Ste. 100
San Antonio, TX 78229

Re: *eBay Inc. v. Digital Point Solutions, Inc., et al., Case No. CV-08-4052*
JF

Dear Mr. Robinson:

I write regarding the Amended Subpoena served by eBay on Rackspace US, Inc. ("Rackspace") on June 9, 2009. On August 31, 2009, Leo Presiado, counsel for Defendants in the above-captioned litigation Brian Dunning, Thunderwood Holdings, Inc. and BrianDunning.com ("Defendants"), informed eBay that Rackspace has agreed to produce all materials responsive to the Amended Subpoena to his firm for review prior to production to eBay. eBay does not object to Rackspace producing these materials to Defendants' counsel first, provided that Rackspace also preserves a copy of all responsive materials. eBay's agreement to the proposed review by the Defendants' counsel does not waive eBay's right to seek an order compelling a complete production from Rackspace directly to eBay.

Additionally, in your June 16, 2009 letter in response to the Amended Subpoena, you agreed that Rackspace would produce directly to eBay billing records and agreements between Defendants and Rackspace. Such documents are business records of Rackspace and do not require any review by Defendants' counsel. eBay therefore requests immediate production of those materials.

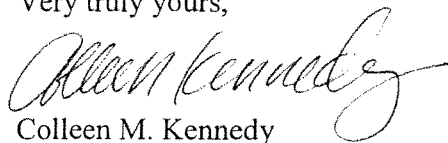
We also note that the materials currently being stored at Rackspace by any or all of Defendants Brian Dunning, Todd Dunning, Thunderwood Holdings, Inc., BrianDunning.com, Kessler's Flying Circus and Dunning Enterprise, Inc. are also likely to be responsive to discovery requests made directly to Defendants by eBay in connection with the above-captioned litigation, and those requests impose discovery obligations on Defendants independent of Rackspace's response to the Amended Subpoena. We understand that Brian Dunning is authorized to access all Defendants' materials stored at Rackspace; if there is any reason why Mr. Dunning is not entitled to access those materials, please let us know.

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Finally, Defendants' counsel have informed us of their intention to file a motion seeking a stay of the above-captioned litigation pending the federal government's criminal investigation of Defendants' "cookie stuffing" scheme. Even assuming Defendants file such a motion, eBay will oppose it and expects that the Court will deny the motion. Regardless, any motion by Defendants does not affect Rackspace's current obligation to respond to the Amended Subpoena unless and until the Court alters Rackspace's obligations. Rackspace's production must proceed forthwith.

Very truly yours,



Colleen M. Kennedy
for O'MELVENY & MYERS LLP

cc: David R. Eberhart, Esq.
Patrick K. McClellan, Esq.
Leo J. Presiado, Esq.
Stewart H. Foreman, Esq.