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8   UNITED STATES DISTRICT COURT

9   NORTHERN DISTRICT OF CALIFORNIA

10   SAN JOSE DIVISION

11

12 EBAY INC.,   Case No. C 08-04052 JF PVT

                    Plaintiff,   **DECLARATION OF JEAN B.
13   NIEHAUS IN SUPPORT OF EBAY
                                                  INC.'S REPLY IN SUPPORT OF
14   v.   MOTION TO STRIKE THE
                                                  ANSWER OF DEFENDANTS
15 DIGITAL POINT SOLUTIONS, INC.,   THUNDERWOOD HOLDINGS,
    SHAWN HOGAN, KESSLER'S   INC., BRIANDUNNING.COM AND
16 FLYING CIRCUS, THUNDERWOOD   KESSLER'S FLYING CIRCUS**
    HOLDINGS, INC., TODD DUNNING,
17 DUNNING ENTERPRISE, INC., BRIAN   Hearing Date: November 20, 2009
    DUNNING, BRIANDUNNING.COM,   Time: 9:00 a.m.
18 and DOES 1-20,   Judge: Hon. Jeremy Fogel

                    Defendants.
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                                                         NIEHAUS DECL. ISO REPLY
                                                          ISO MOTION TO STRIKE
                                                         CASE NO. C-08-4052 JF PVT

1   I, Jean B. Niehaus, declare as follows:

2   1.   I am a member of the Bar of the State of California and am associated with

3   the law firm of O'Melveny & Myers LLP, counsel for eBay Inc. in this matter. I submit

4   this Declaration in support of eBay's Reply in support of its Motion to Strike the Answer

5   of Defendants Thunderwood Holdings, Inc., BrianDunning.com and Kessler's Flying

6   Circus. I have personal knowledge of the facts set forth in this declaration and, if called to

7   testify as a witness, could and would do so under oath.

8   2.   Attached hereto as **Exhibit 1** is a true and correct copy of Kessler's Flying

9   Circus's Responses to eBay's Requests for Admission, dated February 25, 2009.

10

11   I declare under penalty of perjury under the laws of the United States and the State

12   of California that the foregoing is true and correct. Signed on this 6th day of November,

13   2009 in San Francisco, California.

14   ____/s/ Jean B. Niehaus_____
                                       Jean B. Nieahus
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