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February 8, 2010

VIA FACSIMILE AND MAIL

Leo J. Presiado
Rus, Miliband & Smith
2211 Michelson Dr., 7th Floor
Irvine, California 92612

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

Dear Leo:

I write regarding Judge Fogel's January 12, 2010 order granting eBay's motion to compel against your clients Brian Dunning, BrianDunning.com and Thunderwood Holdings, Inc. ("Defendants"), and this letter constitutes eBay's effort to initiate a meet and confer pursuant to Civil L.R. 37-1(a) regarding Defendants' contempt of that order. It has now been nearly four weeks since the order was issued, yet Defendants have neither complied with the order nor given any indication of when they will comply. At the January 29, 2010 hearing, Judge Fogel made clear that his January 12 order is in effect and requires Defendants to produce discovery forthwith. As such, there is no legal basis for Defendants to delay their compliance with that order. Nor should there be any practical barriers to Defendants' immediate compliance, given that eBay's discovery requests have been pending for more than a year. Defendants must comply with the order immediately.

Pursuant to Civil L.R. 37-1(a), please advise me of a time tomorrow when you can confer telephonically regarding this matter. I am generally available.

Very truly yours,

Colleen M. Kennedy
for O'MELVENY & MYERS LLP

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