

# **EXHIBIT 7**

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February 9, 2010

*VIA FACSIMILE*Colleen M. Kennedy, Esq.  
O'Melveny & Myers LLP  
Two Embarcadero Center, 28<sup>th</sup> Floor  
San Francisco, CA 94111Re: *eBay, Inc. v. Digital Point Solutions, Inc., et al.*  
USDC Case No. CV-08-4052 JF

Dear Colleen:

This letter is written in response to your letter of yesterday.

Your contention that this firm's clients are in contempt of Judge Fogel's January 12<sup>th</sup> Order is not well taken. The date by which the subject discovery is to be provided was discussed with David Eberhardt of your office at the conclusion of the January 29<sup>th</sup> hearing – at which you were not present. As requested by Mr. Eberhardt, the Rackspace documents were produced to your office on February 3, 2010. As to the remaining discovery, it was my understanding that the parties were contemplating a 30-day time line from the date of the hearing - i.e, March 1, 2010. More specifically, as I recall, Mr. Foreman proposed this time line, which was not met with objection by Mr. Eberhardt.

The 30-day time line is reasonable in light of the fact that Judge Fogel has not yet ruled on Defendants' motion to stay the action. In addition, although the subject Requests were served by eBay more than a year ago, eBay did not bother to commence the motion to compel process until just last October (eight months after Defendants' responses were served). Your contention that eBay's discovery attempts have been delayed on account of Defendants is simply not credible.

RUS, MILIBAND & SMITH

Colleen M. Kennedy, Esq.

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As such, assuming Judge Fogel's ruling on Defendants' motion to stay the action issues prior (and the motions are denied), the remaining discovery will be served by March 1, 2010. If you would like to discuss the matter further, please do not hesitate to contact me.

Very truly yours,

RUS, MILIBAND & SMITH  
A Professional Corporation



LEO J. PRESIADO

cc: Stewart Foreman, Esq.  
Patrick McClellan, Esq.  
Ross Campbell, Esq.