

# **EXHIBIT 8**



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NEWPORT BEACH

Two Embarcadero Center, 28th Floor  
San Francisco, California 94111-3823

TELEPHONE (415) 984-8700  
FACSIMILE (415) 984-8701  
www.omm.com

NEW YORK  
SHANGHAI  
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OUR FILE NUMBER  
234,948-0007

WRITER'S DIRECT DIAL  
(415) 984-8826

WRITER'S E-MAIL ADDRESS  
ckennedy@omm.com

February 9, 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 in response to your letter of today's date. I consulted with David Eberhart and Sharon Bunzel—who were both present for the discussions following the January 29 hearing—before sending the February 8 letter and after receiving your response today. It is their clear recollection that eBay never discussed, let alone agreed to, any extension for your clients—whether a 30-day timeline, a March 1 date for compliance, or otherwise. Nor was any “30-day time line” ever discussed by Mr. Foreman. Indeed, nothing in Mr. Foreman's subsequent communications mentions any such timeline and, to the contrary, he has already taken steps (albeit incomplete so far) to promptly comply with the discovery orders.

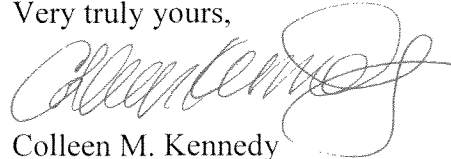
As stated in my February 8 letter, Judge Fogel made abundantly clear at the January 29 hearing that compliance with his January 12 order should not be delayed. Accordingly, your contention that a 30-day delay is “reasonable in light of the fact that Judge Fogel has not yet ruled on Defendants' motion to stay the action” is utterly without basis, and your attempts to delay compliance with the order are unacceptable.

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I therefore must again insist that we meet and confer telephonically regarding your clients' contempt of the January 12 order. Your refusal to participate in a meet-and-confer conference is grounds for sanctions under Civil L.R. 37-1(a). Please let me know your availability for a call tomorrow.

Very truly yours,

A handwritten signature in black ink, appearing to read "Colleen M. Kennedy", written in a cursive style.

Colleen M. Kennedy  
for O'MELVENY & MYERS LLP

cc: David R. Eberhart, Esq.  
Sharon M. Bunzel, Esq.