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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

12 EBAY, INC.,)
13 Plaintiff,)

No. CV 08-4052 JF
[Filed August 25, 2008]

14 v.)

15 DIGITAL POINT SOLUTIONS, INC.,)
16 SHAWN HOGAN, KESSLER'S)
17 FLYING CIRCUS, THUNDERWOOD)
18 HOLDINGS, INC., TODD DUNNING,)
DUNNING ENTERPISE, INC., BRIAN)
19 DUNNING, BRIANDUNNING.COM,)
and DOES 1 - 10 and 12 - 20,,)

20 Defendants.)

SAN JOSE VENUE

21 UNITED STATES OF AMERICA,)
22 Plaintiff,)

No. CR 10-0495 JF
[Filed June 24, 2010]

23 v.)

24 SHAWN D. HOGAN,)
25 Defendant.)

SAN JOSE VENUE

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NOTICE OF RELATED CASE
CR 03-0217 CRB

1 UNITED STATES OF AMERICA,)
2 Plaintiff,)
3 v.)
4 BRIAN DUNNING,)
5 Defendant.)
6 _____)

No. CR 10-0494 RMW
[Filed June 24, 2010]

NOTICE OF RELATED CASE
IN A CRIMINAL ACTION

SAN JOSE VENUE

7 The United States of America, pursuant to Local Criminal Rule 8-1, hereby notifies the
8 Court that the three above-captioned criminal cases are related. Two of the cases are already
9 assigned to The Honorable Jeremy Fogel, *i.e.*, *Ebay, Inc. v. Digital Point Solutions, Inc. et al.*,
10 CV 08-4052 JF, and *United States v. Shawn D. Hogan*, CR 10-0495 JF. The charges filed in
11 *United States v. Brian Dunning*, CR 10-0494 RMW, involve one of the defendants charged in the
12 civil complaint in case CV 08-4052. In that civil case, the defendants are alleged to have
13 engaged in the same “cookie stuffing” scheme that is the subject of the Indictment in case CR 10-
14 0494 RMW. Moreover, on the same date that the Grand Jury returned an indictment in the
15 *Dunning* case, it returned an indictment in the *Hogan* case. The defendant Hogan is also one of
16 the defendants in the civil case pending before The Honorable Jeremy Fogel and is alleged to
17 have engaged in the same type of “cookie stuffing” as the defendant Dunning. The *Hogan* case
18 was assigned to The Honorable Jeremy Fogel.

19 The recently filed case CR 10-0494 RMW has been assigned to The Honorable Ronald
20 M. Whyte. As noted above, the new case charges the same defendant as in case CV 08-4052 JF
21 and relates to similar conduct. It is also related to similar conduct as alleged in case CR 10-0495
22 JF. The *Dunning* case is therefore “related” within the meaning on Local Rule 8-1(b)(1).
23 Moreover, based upon these facts, all of these cases are related within the meaning of Local Rule
24 8-1(b)(2) because if heard by separate judges they likely would involve substantial duplication of
25 labor by the two judges.

26 Per the requirement of Local Criminal Rule 8-1(c)(4), government counsel states that
27 assignment of these cases to a single judge is likely to conserve judicial resources and promote an

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1 efficient determination of each action.

2 DATED: June 29, 2010

Respectfully submitted,

3 JOSEPH P. RUSSONIELLO
4 United States Attorney

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/s
KYLE F. WALDINGER
Assistant United States Attorney

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