

EXHIBIT 25

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8 and DIGITAL POINT SOLUTIONS, INC.

9 **UNITED STATES DISTRICT COURT**
10 **FOR THE NORTHERN DISTRICT OF CALIFORNIA**
11 **SAN JOSE DIVISION**

12 EBAY, INC.,) Case No. CV 08-04052 JF PVT
13)
14 Plaintiff,) **DEFENDANTS DIGITAL POINT**
15) **SOLUTIONS, INC. AND SHAWN**
16) **HOGAN'S SUPPLEMENTAL INITIAL**
17) **DISCLOSURES**
18 DIGITAL POINT SOLUTIONS, INC., SHAWN)
19 HOGAN, KESSLER'S FLYING CIRCUS,)
20 THUNDERWOOD HOLDINGS, INC., TODD)
21 DUNNING, DUNNING ENTERPRISE, INC.,)
22 BRIAN DUNNING, BRIANDUNNING.COM,)
23 and Does 1-20,)
24 Defendants.)
25)
26)
27)
28)

22 Defendants DIGITAL POINT SOLUTIONS, INC. and SHAWN HOGAN ("Defendants") hereby
23 provide the following supplemental initial disclosures, pursuant to Federal Rule of Civil Procedure, Rule
24 26:

25 **I. PRELIMINARY STATEMENT**

26 Defendants' investigation related to this action has only recently commenced, and formal
27 discovery has not yet begun. Accordingly, these disclosures are based only upon such information and
28 documents presently available to and specifically known to Defendants. It is anticipated that discovery,

1 independent investigation, legal research and analysis, will supply additional facts, add meaning to
2 known facts, and establish new factual and legal conclusions. All such information may lead to
3 substantial additions to, changes in, and/or variations in these responses.

4 Defendants do not, and do not intend to, waive the attorney-client privilege or application of the
5 attorney work-product doctrine in providing these disclosures. The inadvertent disclosure of any
6 information that is privileged, which constitutes attorney work product or that is otherwise exempt from
7 discovery, shall not constitute a waiver of any privilege or applicable objection to the disclosure of such
8 information or the subject matter thereof, or the information contained herein, or the right of Defendants
9 to object to the use of any such information during subsequent proceedings in the above-entitled action.

10 These disclosures are made without waiver of any objections Defendants may have with respect
11 to any subsequent attempted use of the disclosures and Defendants specifically reserve objections as to
12 the competency, privilege, materiality and admissibility of any such materials disclosed herein, including
13 without limitation, the right to object to the use of these disclosures in any subsequent proceedings in the
14 above-entitled action or any other lawsuit, and the right to object on any and all proper grounds, at any
15 time, to other discovery procedures relating to the disclosures herein. Defendants further reserve the
16 right, at any time, upon proper showing, to review, correct, or clarify the following disclosures:

17 **II. DISCLOSURES**

18 **1. *Witnesses***

19 Defendants believe the following individuals may have discoverable information supporting its
20 defenses in this action, and may be called to testify in support of such defenses.

21
22 Alex Schultz, address and telephone number currently unknown. The subject of Mr.
23 Schultz's testimony will relate to the operation of Plaintiff's affiliate marketing program
24 and Defendants' defenses.

25
26 Christine Kim, address and telephone number currently unknown. The subject of Ms.
27 Kim's testimony will relate to the operation of Plaintiff's affiliate marketing program and
28 Defendants' defenses.

1 Present and past managers, representatives, employees of/related to Plaintiff's affiliate
2 marketing program; addresses and telephone numbers currently unknown. The subject of
3 the testimony of these witnesses will relate to the operation of Plaintiff's affiliate
4 marketing program and Defendants' defenses.

5
6 Benjamin Edelman, address and telephone number currently unknown. The subject of
7 Mr. Edelman's testimony will relate to the operation of Plaintiff's affiliate marketing
8 program and Defendants' defenses.

9
10 Currently unidentified Pay Per Click Advertising representative/manager, address and
11 telephone number currently unknown. The subject of the testimony will likely relate to
12 the operation of Plaintiff's affiliate marketing program and Defendants' defenses.

13
14 Margaret Whitman, address and telephone number currently unknown. The subject of
15 Ms. Whitman's testimony will likely relate to the operation of Plaintiff's affiliate
16 marketing program.

17
18 **2. Documents and Things**

19 Defendants may use the following documents, data compilations, and/or tangible things to
20 support its defenses and/or counter-claims:

- 21 · Articles of Incorporation for Defendant Digital Point Solutions, Inc., dated May 14, 2007.
- 22 · Fictitious Business Name Statement filed by Defendant Shawn Hogan with the San Diego
23 County Recorder for the name Digital Point Solutions, dated April 7, 1999.
- 24 · User/affiliate marketing program agreements and compliance reports in Plaintiff's
25 possession.
- 26 · Email communications between Plaintiff and Shawn Hogan during the period in question,
27 including any attachments thereto.
- 28 · Email communications between Commission Junction and Shawn Hogan during the

1 period in question, including any attachments thereto.

2 Defendants reserve the right to use additional documents and/or things identified during the
3 course of discovery as well as the right to supplement the foregoing upon the return of all materials by
4 authorities.

5 **3. Damages**

6 Defendants are not currently claiming damages in this action.

7 **4. Insurance**

8 Not applicable.

9 DATED: February 4, 2009

COAST LAW GROUP LLP

10 By: 

11 Ros M. Campbell
12 Attorneys for Defendants, Shawn Hogan
and Digital Point Solutions, Inc.

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