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7 Attorneys for Plaintiff eBay Inc.

8
9 **UNITED STATES DISTRICT COURT**
10 **NORTHERN DISTRICT OF CALIFORNIA**
11 **SAN JOSE DIVISION**

12 EBAY INC.,

13 Plaintiff,

14 v.

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

19 Defendants.

Case No. C 08-04052 JF

DECLARATION OF ADAM R. SAND IN SUPPORT OF EBAY INC.S' CONSOLIDATED OPPOSITION TO (1) THE MOTIONS TO DISMISS THE SECOND AMENDED COMPLAINT BY DEFENDANTS DIGITAL POINT SOLUTIONS, INC., SHAWN HOGAN, THUNDERWOOD HOLDINGS, INC., KESSLER'S FLYING CIRCUS, BRIAN DUNNING, BRIANDUNNING.COM, TODD DUNNING, AND DUNNING ENTERPRISE, INC. ; AND (2) THE MOTIONS TO TRANSFER BY DEFENDANTS DIGITAL POINT SOLUTIONS, INC., SHAWN HOGAN, TODD DUNNING AND DUNNING ENTERPRISE, INC.

1 I, Adam R. Sand, declare as follows:

2 1. I am in-house Litigation Counsel for eBay Inc. I have personal knowledge
3 of the facts set forth in this declaration and, if called to testify as a witness, could and
4 would do so competently.

5 2. eBay's corporate headquarters are located at 2145 Hamilton Avenue, in San
6 Jose, California.

7 3. I have reviewed and am familiar with the following documents served in the
8 above-captioned litigation: eBay's Initial Disclosures, served on January 8, 2009; the
9 Consolidated Initial Disclosures of Defendants Brian Dunning, BrianDunning.com,
10 Thunderwood Holdings, Inc., Todd Dunning, Dunning Enterprise, Inc., and Kessler's
11 Flying Circus, served on January 8, 2009; Defendants Digital Point Solutions, Inc. and
12 Shawn Hogan's Initial Disclosures, served on January 8, 2009; Defendants Digital Point
13 Solutions, Inc. and Shawn Hogan's Supplemental Initial Disclosures, served on February
14 4, 2009; and eBay's Amended Initial Disclosures, served on April 2, 2009.

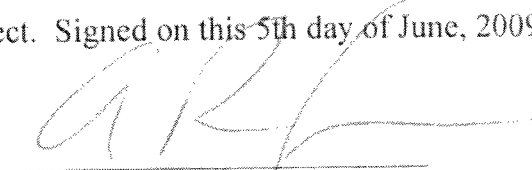
15 4. All but one of the witnesses identified in eBay's Initial Disclosures and
16 Amended Initial Disclosures are current employees of eBay. Stefan Rosner is an
17 employee of Gallivan, Gallivan & O'Melia LLC.

18 5. Although the Consolidated Initial Disclosures of Defendants Brian Dunning,
19 BrianDunning.com, Thunderwood Holdings, Inc., Todd Dunning, Dunning Enterprise,
20 Inc., and Kessler's Flying Circus identify Andrea Kaye and Andreas Fuchs as employees
21 of eBay, eBay's human resources department has been unable to identify either individual
22 as a current or former employee of eBay.

23 6. Except as discussed in the prior paragraph, all of the witnesses whom the
24 parties have listed in their initial disclosures as either current or former eBay employees
25 are residents of the Northern District of California. The following people are current
26 employees of eBay and residents of the San Jose area: Bei Lu, Matt Ackley, Christine
27 Kim, Jorge Laguna, Matt Madrigal, Paul Rushton, Chad Wehrmaker, Caroline Malifaud,
28 Sara Carter, Dan Serpico, Jeerasrin Rakchart, Michelle Fang and Santanu Dey. The

1 following people are former employees of eBay and residents of the Northern District of
2 California: Lily Shen, Dan Burkhart, Jarrod Schwartz, Alex Schultz, and Margaret
3 Whitman.

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5 I declare under penalty of perjury under the laws of the United States and the State
6 of California that the foregoing is true and correct. Signed on this 5th day of June, 2009
7 in San Jose, California.



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Adam R. Sand