

# EXHIBIT 1

STEWART H. FOREMAN

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**VIA FEDERAL EXPRESS**

September 25, 2009

Steve Priolo, Esq.  
 Rackspace US, Inc.  
 9725 Datapoint Drive, Ste. 100  
 San Antonio, TX 78229

**Re: *eBay v. Digital Point Solutions, et.al.***  
***Re: Access to data regarding BrianDunning.com and Kessler's Flying Circus***  
**Our File No.: 4145.2**

Dear Mr. Priolo:

I represent Mr. Todd Dunning and Dunning Enterprise, Inc. in the above referenced matter. As a result of eBay, Inc.'s ongoing discovery efforts in this case, it has become necessary for me to confirm the substance of our telephone conversation on July 30, 2009. I wish to confirm by this letter that you advise me during our telephone conversation that according to Rackspace's records, my clients do not have any right of access, possession, custody or control over any hard drives, devices or data or other information contained therein maintained at Rackspace. Due to privacy issues, you declined to advise me of the identity of the persons or entities who do have the right of access to such information.

If the information in this letter is accurate, please confirm this fact by signing and returning this letter to me as soon as possible. Thank you for your cooperation in this matter. If you have any questions, please do not hesitate to contact me.


Sincerely,

FREELAND COOPER &amp; FOREMAN LLP

  
 Stewart H. Foreman

SHF/

Acknowledged as an accurate statement:

  
 Steve Priolo, Counsel, Rackspace US, Inc.  
 LEGAL SPECIALIST, LITIGATION SUPPORT

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