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6 Attorneys for Defendants
Todd Dunning and Dunning Enterprise, Inc.

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

12 EBAY, INC.,

13 Plaintiff,

14 v.

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

18 Defendants.

CASE NO.: CV-08-4052 JF

**NOTICE OF MOTION AND
MOTION TO DISMISS FIRST
AMENDED COMPLAINT
PURSUANT TO FED. R. CIV.
PROC. 12(b) BY DEFENDANTS
TODD DUNNING AND DUNNING
ENTERPRISE, INC.**

Date: December 12, 2008
Time: 9:00 a.m.
Place: Courtroom 3, 5th Floor
280 South First Street
San Jose, CA 95113

21 TO THE PARTIES AND THEIR COUNSEL OF RECORD:

22 Please take notice that on December 12, 2008, at 9:00 a.m. before The Honorable Jeremy
23 Fogel in Courtroom Number 3, 5th Floor, Federal Court House located at 280 South First Street, San
24 Jose, California 95113, defendants Todd Dunning and Dunning Enterprise, Inc. will and hereby do
25 move the Court for an order dismissing the First Amended Complaint filed by plaintiff eBay, Inc.
26 pursuant to Federal Rule of Civil Procedure 12(b)(1), (3) and (6).

