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E-Filed 11/4/2010

7 Attorneys for Defendants
8 EBAY INC. and PAYPAL, INC.

9
10 **UNITED STATES DISTRICT COURT**
11 **NORTHERN DISTRICT OF CALIFORNIA**
12 **SAN JOSE BRANCH**

12 DEVINDA FERNANDO, VADIM TSIGEL)
13 on behalf of themselves and all others similarly)
14 situated and on behalf of the general public of)
15 the United States,)

15 Plaintiffs,)

16 v.)

17 EBAY, INC., a foreign corporation,)
18 PAYPAL, INC., a Delaware corporation,)

18 Defendants.)

Case No. 10-CV-01668 JF

**STIPULATION AND [PROPOSED]
ORDER EXTENDING TIME FOR
DEFENDANTS EBAY INC. AND PAYPAL,
INC. TO RESPOND TO PLAINTIFFS'
AMENDED COMPLAINT, CONTINUING
HEARING ON DEFENDANTS' MOTION
TO DISMISS AND CONTINUING CASE
MANAGEMENT CONFERENCE**

Action Filed: April 19, 2010

[Declaration of George S. Azadian lodged
concurrently]

1 WHEREAS, on April 19, 2010, plaintiffs Devinda Fernando and Vadim Tsigel (together,
2 “Plaintiffs”) filed the Complaint in this action, which was served on defendants eBay Inc. and
3 PayPal, Inc. (together, “Defendants”) by personal service on August 18, 2010;

4 WHEREAS, on October 18, 2010, Defendants filed a Motion to Dismiss Plaintiffs’
5 Complaint, which is scheduled for hearing on December 10, 2010;

6 WHEREAS, pursuant to Civil Local Rule 7-3, Plaintiffs’ Opposition must be filed by
7 November 19, 2010;

8 WHEREAS, Plaintiffs have informed Defendants that Plaintiffs will file an Amended
9 Complaint on or before January 7, 2011;

10 WHEREAS, the parties have agreed that Defendants shall have until and including March
11 8, 2011 to respond to Plaintiffs’ Amended Complaint, and if the Amended Complaint is not filed
12 and served on or before January 7, 2011, then Defendants’ time to respond to the Amended
13 Complaint shall be further extended;

14 WHEREAS, given the expected filing of Plaintiffs’ Amended Complaint, the parties have
15 agreed to continue the hearing on Defendants’ Motion to Dismiss from December 10, 2010 to
16 January 28, 2011;

17 WHEREAS, the parties have agreed that, assuming Plaintiffs file and serve an Amended
18 Complaint on or before January 7, 2011, the January 28, 2011 hearing on Defendants’ Motion to
19 Dismiss shall be taken off calendar and Plaintiffs will not be required to file an Opposition;

20 WHEREAS, a Case Management Conference is currently set for November 19, 2010; and

21 WHEREAS, it would promote judicial efficiency to continue the Case Management
22 Conference and the parties submission of their Joint Case Management Statement until after
23 Defendants respond to the Amended Complaint and after the hearing on any motion filed by
24 Defendants in response to the Amended Complaint.

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1 IT IS HEREBY STIPULATED by and between the parties, through their respective counsel
2 of record, that:

3 (a) The hearing on Defendants' Motion to Dismiss shall be continued from December
4 10, 2010 to January 28, 2011;

5 (b) Plaintiffs shall file and serve an Amended Complaint or their Opposition to
6 Defendants' Motion to Dismiss on or before January 7, 2011;

7 (c) Assuming Plaintiffs file and serve an Amended Complaint on or before January 7,
8 2011, then the January 28, 2011 hearing on Defendants' Motion to Dismiss shall be taken off
9 calendar and Plaintiffs will not be required to file an Opposition;

10 (d) Assuming Plaintiffs file an Amended Complaint on or before January 7, 2011,
11 Defendants shall have until and including March 8, 2011 to respond to Plaintiffs' Amended
12 Complaint; and

13 (e) The Case Management Conference, currently set for November 19, 2010 at 10:30
14 a.m., shall be continued until April 22, 2011 at 10:30 a.m., and the parties' Joint Case Management
15 Statement shall be filed by April 8, 2011.

16 Respectfully submitted,

17 Dated: November 2, 2010

STROOCK & STROOCK & LAVAN LLP

19 By /s/ George S. Azadian
20 GEORGE S. AZADIAN

21 Attorneys for Defendants
22 EBAY INC. and PAYPAL, INC.

23 Dated: October __, 2010

MARINA TRUBITSKY & ASSOCIATES, PLLC

24 By _____
25 MARINA TRUBITSKY

26 Attorneys for Plaintiffs
27 DEVINDA FERNANDO and VADIM TSIGEL

28

(a) The hearing on Defendants' Motion to Dismiss shall be continued from December 10, 2010 to January 28, 2011;

(b) Plaintiffs shall file and serve an Amended Complaint or their Opposition to Defendants' Motion to Dismiss on or before January 7, 2011;

(c) Assuming Plaintiffs file and serve an Amended Complaint on or before January 7, 2011, then the January 28, 2011 hearing on Defendants' Motion to Dismiss shall be taken off calendar and Plaintiffs will not be required to file an Opposition;

(d) Assuming Plaintiffs file an Amended Complaint on or before January 7, 2011, Defendants shall have until and including March 8, 2011 to respond to Plaintiffs' Amended Complaint; and

(e) The Case Management Conference, currently set for November 19, 2010 at 10:30 a.m., shall be continued until April 22, 2011 at 10:30 a.m., and the parties' Joint Case Management Statement shall be filed by April 8, 2011.

Respectfully submitted,

Dated: October __, 2010

STROOCK & STROOCK & LAVAN LLP

By

GEORGE S. AZADIAN

Attorneys for Defendants
EBAY INC. and PAYPAL, INC.

Dated: ^{November 2}~~October~~ __, 2010

MARINA TRUBITSKY & ASSOCIATES, PLLC

By

MARINA TRUBITSKY

Attorneys for Plaintiffs
DEVINDA FERNANDO and VADIM TSIGEL

~~PROPOSED~~ ORDER

PURSUANT TO THE STIPULATION, IT IS SO ORDERED.

Dated: 11/4/2010


UNITED STATES DISTRICT JUDGE

STROOCK & STROOCK & LAVAN LLP
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