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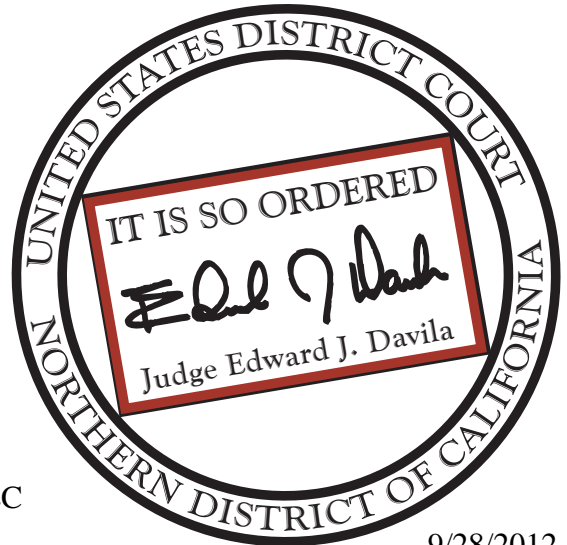
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9/28/2012

18 UNITED STATES DISTRICT COURT

19 NORTHERN DISTRICT OF CALIFORNIA - SAN JOSE DIVISION

20 RICHARD NOLL, Individually and on behalf
of all others similarly situated,

21 Plaintiff,

22 AND

23 RHYTM MOTOR SPORTS, LLC,
Individually and on behalf of all others
24 similarly situated

25 Plaintiff/Intervenor,

26 v.

27 EBAY INC.,

28 Defendant.

Case No. 5:11 CV-04585 EJD

**STIPULATION SETTING BRIEFING
SCHEDULE FOR EBAY INC.'S RESPONSE
TO CONSOLIDATED COMPLAINT**

Courtroom: 4
Judge: Hon. Edward J. Davila
Trial Date: None Set

1 This Stipulation is entered into by and among plaintiffs Richard Noll (“Noll”) and Rhythm
2 Motor Sports LLC (“Rhythm”) (collectively “Plaintiffs”) and defendant eBay Inc. (“eBay”) (Plaintiffs and eBay collectively “the Parties”), by and through their respective counsel.

3
4 WHEREAS, on September 4, 2012, the Court granted Rhythm’s motion to intervene and
5 ordered Rhythm to file its complaint in intervention (the “Rhythm Complaint”) by September 18,
6 2012 and Plaintiffs to file a consolidated complaint by October 2, 2012 [Docket No. 83];

7 WHEREAS, on September 18, 2012, the Rhythm Complaint was filed in the above-
8 captioned action [Docket No. 84];

9 WHEREAS, Plaintiffs acknowledge that eBay need not file a separate response to the
10 Rhythm Complaint and will instead respond to all claims brought by Rhythm by filing a response
11 to the consolidated complaint to be filed in this matter. Plaintiffs acknowledge that by responding
12 to the consolidated complaint and not the Rhythm Complaint, eBay is not waiving or foregoing
13 any rights, defenses, or counterclaims it may have in connection with Rhythms claims;

14 WHEREAS, under Civil Local Rule 6-2, parties may stipulate in writing to request an
15 extension of time within which to respond to a motion to dismiss and for eBay to file a reply
16 thereto;

17 WHEREAS, extending the date for Plaintiffs to respond to a motion to dismiss and for
18 eBay to file a reply thereto as set forth below will not alter the date of any event or deadline
19 already fixed by Court order;

20 **IT IS HEREBY STIPULATED THAT:**

- 21 1. eBay need not respond to the Rhythm Complaint;
- 22 2. eBay, by responding to the consolidated complaint and not the Rhythm Complaint,
23 is not waiving or foregoing any rights, defenses, or counterclaims it may have in connection with
24 Rhythm’s claims;
- 25 3. eBay shall file its response to the consolidated complaint (answer, move, or
26 otherwise respond) no later than October 17, 2012;
- 27 4. If eBay files a motion, Plaintiffs’ opposition shall be filed no later than
28 November 2, 2012; and

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5. eBay shall file its reply in support of any such motion no later than November 16, 2012.

Dated: September 26, 2012

COOLEY LLP

/s/ James M. Penning
JAMES M. PENNING (229727)

Attorneys For Defendant EBAY INC.

Dated: September 26, 2012

FIGARI & DAVENPORT, LLP

/s/ Keith R. Verges
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11 Plaintiff/Intervenor RHYTHM MOTOR SPORTS, LLC

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ATTESTATION PURSUANT TO CIVIL LOCAL RULE 5-1(i)(3)

Pursuant to Civil Local Rule 5-1(i)(3) regarding signatures, I attest under penalty of perjury that the concurrence in the filing of this document has been obtained from its signatory.

/s/ James M. Penning

1062505 v1/HN