

**UNITED STATES DISTRICT COURT
DISTRICT OF CONNECTICUT**

MERCEXCHANGE, L.L.C.,

Plaintiff,

v.

eBAY, INC., and HALF.COM, INC.,

Defendants.

Miscellaneous No. 3:07mc38 (JBA)

**(Case No. 2:01-CV-736 Pending in
the United States District Court for
the Eastern District of Virginia)**

February 15, 2007

**MOTION OF RESPONDENT KENNETH NAHAN AND MERCEXCHANGE, L.L.C.
FOR RECONSIDERATION OF EX PARTE ORDER GRANTING DEFENDANTS'
MOTION TO COMPEL ENFORCEMENT OF SUBPOENA DUCES TECUM**

Respondent Kenneth Nahan ("Nahan") and Plaintiff MercExchange, L.L.C.

("MercExchange") respectfully move that the Court reconsider its Order of February 9, 2007 and deny defendants' motion to compel enforcement of their subpoena *duces tecum* upon Mr. Nahan. The Court's expedited ex parte ruling of February 9 effectively denied Mr. Nahan with notice and the opportunity to be heard with respect to these issues. While Mr. Nahan will produce documents in response to the subpoena and the Court's Order on February 16, defendants' subpoena is substantially overbroad and exceeds the scope of discovery as expressly limited by the Trial Court. For that reason, the Trial Court has pending before it a motion for protective order pertaining to defendants' overreaching subpoenas upon Mr. Nahan and other third parties.

The grounds for this motion are stated in detail in the accompanying brief in support.

Dated: February 15, 2007

Respectfully submitted,

KENNETH NAHAN
and MERCEXCHANGE, L.L.C.,

By:



Edward R. Scofield (CT00455)
ZELDES, NEEDLE & COOPER
1000 Lafayette Blvd.
P.O. Box 1740
Bridgeport, Connecticut 06606-1740
(203) 333-9441 (tel)
(203) 333-1489 (fax)
email: escotland@znclaw.com

Gregory N. Stillman (admitted in Virginia)
HUNTON & WILLIAMS, LLP
500 East Main Street
Suite 1000
Norfolk, Virginia 23510
Telephone (757) 640-5300
Facsimile: (757) 625-7720

Thomas J. Cawley (admitted in Virginia)
David M. Young (admitted in Virginia)
HUNTON & WILLIAMS, LLP
1751 Pinnacle Drive, Suite 1700
McLean, Virginia 22102
Telephone: (703) 714-7400
Facsimile: (703) 714-7410

Scott L. Robertson (admitted in D.C.)
Jennifer A. Albert (admitted in D.C.)
Brian M. Buroker (admitted in D.C.)
HUNTON & WILLIAMS, LLP
1900 K Street, N.W.
Washington, D.C. 20006-1109
Telephone: (202) 955-1500
Facsimile: (202) 778-2201

Attorneys for Respondent
Kenneth Nahan and Plaintiff
MercExchange, L.L.C.

CERTIFICATE OF SERVICE

I hereby certify that on the 15th day of February, 2007, I caused a copy of the foregoing **MOTION OF RESPONDENT KENNETH NAHAN AND PLAINTIFF MERCEXCHANGE, L.L.C. FOR RECONSIDERATION OF EX PARTE ORDER GRANTING DEFENDANTS' MOTION TO COMPEL ENFORCEMENT OF SUBPOENA DUCES TECUM** to be served as follows:

By Hand Upon:

David R. Schaefer
Brenner, Saltzman & Wallman
271 Whitney Ave., P.O. Box 1746
New Haven, CT 06511-1746

By Overnight Mail Upon:

Jeffrey G. Randall
Skadden, Arps, Slate, Meagher & Flom, LLP
525 University Avenue
Suite 1100
Palo Alto, CA 94301

Allan M. Soobert
Skadden, Arps, Slate, Meagher & Flom, LLP
1440 New York Avenue, NW
Washington, DC 20005


