

UNITED STATES DISTRICT COURT
DISTRICT OF CONNECTICUT

MERCEXCHANGE, L.L.C.,
Plaintiff,
v.
eBAY INC. AND HALF.COM, INC.,
Defendants.
Case No. 2:01-CV-736
(Pending the United States
District Court for the Eastern
District of Virginia)
February 2, 2007

DECLARATION OF DAVID R. SCHAEFER IN SUPPORT OF DEFENDANTS
EBAY INC.'S AND HALF.COM, INC'S MOTION TO COMPEL KENNETH NAHAN
TO COMPLY WITH A SUBPOENA DUCES TECUM

I, David R. Schaefer, declare as follows:

1. I am an attorney admitted to practice before this Court. I am an attorney with Brenner, Saltzman & Wallman LLP, counsel of record for eBay Inc. and Half.com, Inc. in this action. I have personal knowledge of the facts herein and, if called as a witness, could and would testify competently as to their truth.

2. Attached hereto as Exhibit 1 is a true and correct copy of MercExchange, L.L.C. v. eBay Inc., 2006 U.S. Dist. LEXIS 91059 (E.D. Va. Dec. 18, 2006).

3. Attached hereto as Exhibit 2 is a true and correct copy of eBay's Requests for Production to Kenneth Nahan, dated January 12, 2007.

4. Attached hereto as Exhibit 3 is a true and correct copy of a letter from Brian J. Ankenbrandt to Gregory N. Stillman discussing meeting and conferring, dated January 26, 2007.

5. Attached hereto as Exhibit 4 is a true and correct copy of a letter from Gregory N. Stillman to Jeffrey G. Randall discussing Hunton & Williams' representation of Kenneth Nahan, dated January 19, 2007.

6. Attached hereto as Exhibit 5 is a true and correct copy of Kenneth Nahan's Objections to eBay's Subpoena Duces Tecum, dated January 24, 2007.

7. Attached hereto as Exhibit 6 is a true and correct copy of a letter from Jeffrey G. Randall to Gregory N. Stillman giving notice of the instant motion, dated February 1, 2007.

8. Attached hereto as Exhibit 7 is a true and correct copy of *Bariteau v. Krane*, 206 F.R.D. 129 (W.D. Ken. 2001).

9. Attached hereto as Exhibit 8 is a true and correct copy of *Saylavee LLC v. Hockler*, 2005 U.S. Dist. LEXIS 39802 (D. Conn. June 14, 2005).

10. Attached hereto as Exhibit 9 is a true and correct copy of *Garrett v. Sprint PCS*, 2002 U.S. Dist. LEXIS 1914 at *3 (D. Kan. Jan. 31, 2002).

11. Attached hereto as Exhibit 10 is a true and correct copy of *Martin Mathys N.V. v. Maint. Repair Tech. Co.*, 2006 U.S. Dist. LEXIS 33403 (D. Conn. May 25 2006).

12. Attached hereto as Exhibit 11 is a true and correct copy of *Kimbro v. I.C. Sys.*, 2002 U.S. Dist. LEXIS 14599 (D. Conn. Jul. 22, 2002).

13. Attached hereto as Exhibit 12 is a true and correct copy of the stipulated protective order signed by the United States District Court for the Eastern District of Virginia on March 8, 2002 (Dkt. 26).

14. Attached hereto as Exhibit 13 is a true and correct copy of a letter from Gregory N. Stillman to Jeffrey G. Randall discussing Hunton & Williams' representation of Alfred Weaver, dated January 19, 2007.

15. Attached hereto as Exhibit 14 is a true and correct copy of a letter from Gregory N. Stillman to Jeffrey G. Randall discussing Hunton & Williams' representation of Altitude Capital Partners, dated January 19, 2007.

16. Attached hereto as Exhibit 15 is a true and correct copy of a letter from Gregory N. Stillman to Jeffrey G. Randall discussing Hunton & Williams' representation of Nordlicht & Hand, dated January 22, 2007.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct and that this Declaration was executed on February 2, 2007, at New Haven, Connecticut.

s/David R. Schaefer

David R. Schaefer

CERTIFICATE OF SERVICE

I hereby certify that I caused a true and correct copy of the foregoing Declaration of David R. Schaefer in Support of Defendants eBay Inc.'s and Half.com, Inc's Motion to Compel Kenneth Nahan to Comply with a Subpoena Duces Tecum to be served this 2nd day of February, 2007 via overnight delivery on all counsel and pro se parties of record as follows:

Gregory N. Stillman, Esquire
Hunton & Williams
SunTrust Center #1000
Norfolk, VA 23510

Scott L. Robertson, Esquire
Hunton & Williams
1900 K Street, N.W.
Washington, DC 20006

Seth P. Waxman, Esquire
Wilmer, Cutler, Pickering, Hale and Dorr LLP
1875 Pennsylvania Avenue, N.W.
Washington, DC 20006

s/David R. Schaefer

David R. Schaefer (ct04334)