

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

CITY OF CHICAGO, ILLINOIS)	FILED: JUN 6, 2008
)	08CV3281
Plaintiff,)	JUDGE MANNING
)	MAGISTRATE JUDGE KEYS
v.)	RCC
)	
eBAY INC.,)	
)	
)	
Defendant.)	

NOTICE OF REMOVAL

Pursuant to 28 U.S.C. §§ 1332 and 1441, defendant eBay Inc. (“eBay”) hereby gives notice of the removal of this civil action from the Circuit Court of Cook County, Illinois, Law Division, to the United States District Court for the Northern District of Illinois. In support of this Notice of Removal, defendant states as follows:

1. Plaintiff City of Chicago commenced this action by filing a Complaint in the Circuit Court of Cook County, Illinois, Law Division, Tax & Miscellaneous Remedies Section, on May 19, 2008, styled *City of Chicago, Illinois v. eBay Inc.*, No. 2008L050524 (the “State Court Action”). See Complaint, attached hereto as Ex. A.

2. The Complaint alleges that defendant eBay facilitates the resale of tickets to sporting events, cultural events and other amusements taking place in the City of Chicago and seeks a declaratory judgment that eBay is required to collect and remit taxes allegedly due under the City’s Amusement Tax Ordinance if and to the extent that the price of such tickets exceeds their face value. The City also seeks a writ of mandamus compelling eBay to produce its books and records to the City’s Department of Revenue so the Department can conduct an audit, the

imposition of fines for failing to produce such books and records in response to the City's demand, and a monetary judgment for the amount of taxes, plus interest and penalties, that eBay allegedly owes to the City. *See* Complaint at 1 (describing the "Nature of the Action").

3. Defendant eBay accepted service of the summons and Complaint in the State Court Action on May 19, 2008.

4. This Notice of Removal is timely because it is being filed within thirty (30) days from the date the defendant was served with the summons and Complaint. *See* 28 U.S.C. § 1446(b).

GROUND FOR REMOVAL

5. Removal is proper under 28 U.S.C. §§ 1332 and 1441 because there is complete diversity of citizenship between the plaintiff and the defendant and the amount in controversy exceeds \$75,000. *See, e.g., City of Philadelphia v. Opinion Dynamics Corp.*, 185 F.Supp.2d 442 (E.D. Pa. 2002) (action to collect municipal taxes was properly removed based on diversity jurisdiction); *School Board of the Parish of St. Charles, Louisiana v. Quala Systems, Inc.*, 159 F.Supp.2d 295 (E.D. La. 2001) (same).

6. Specifically, as plaintiff alleges in its Complaint (¶ 1), the City of Chicago was at the time this action was commenced, and continues to be, a municipal corporation and a home rule unit under the Illinois Constitution of 1970. As such, it is a citizen of Illinois. *See Illinois v. City of Milwaukee*, 406 U.S. 91, 97 (1972) ("It is well settled that for the purposes of diversity of citizenship, political subdivisions are citizens of their respective States"); *City of Chicago v. Yukon National Bank*, 1984 U.S. Dist. LEXIS 15715 at *3 (N.D. Ill. June 20, 1984) (the City of Chicago is "a citizen of Illinois for diversity purposes")

7. Defendant eBay was at the time this action was commenced and continues to be a Delaware corporation with its principal place of business in California.

8. While the City's Complaint does not set forth a specific sum of damages sought against eBay, it is apparent that the amount in controversy is in excess of \$75,000, exclusive of interest and costs. Among other things, the City claims that eBay has facilitated the resale of "thousands" of tickets to amusements taking place in the City of Chicago from 2000 to the present, which allegedly subjected it to an obligation to collect and remit taxes under the Amusement Tax Ordinance. Complaint ¶¶ 19-21. The City also seeks to impose on eBay penalties for its failure to comply with a letter sent by the City requesting the production of documents relating to the posting of tickets for sale on eBay's website during the period from January 1, 2000 through the present. The City claims that it is entitled to a daily fine of \$300 to \$500 for each day after December 13, 2007 that the requested records are not produced. Complaint ¶¶ 29-30. As of the date the Complaint was filed, the maximum fines that could be levied under the City's approach equaled \$75,000.

COMPLIANCE WITH REMOVAL PROCEDURES

9. eBay has complied with all of the procedural requirements for removal set forth in 28 U.S.C. § 1446. As noted above, the notice of removal is being filed within 30 days of the service of the lawsuit.

10. Notice of this Removal is being provided to plaintiff, through its attorneys of record, Weston W. Hanscom and Jason L. Rubin, City of Chicago, Department of Law, Revenue Litigation Division, 30 N. LaSalle Street, Suite 900, Chicago, Illinois 60602, and the Circuit Court of Cook County, Illinois.

11. Pursuant to § 1446(d), a copy of this Notice of Removal will be filed with the Circuit Court of Cook County, in Case No. 2008 L 050524.

12. A copy of all process, pleadings and orders served on the defendant is attached hereto.

WHEREFORE, for the foregoing reasons, defendant removes this action from the Circuit Court of Cook County, Illinois to the United States District Court for the Northern District of Illinois, Eastern Division and respectfully requests that the Court exercise jurisdiction over this action.

Respectfully submitted,

eBay Inc.

Dated: June 6, 2008

By: s/Lori E. Lightfoot
One of its attorneys

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CERTIFICATE OF SERVICE

I, Lori E. Lightfoot, an attorney, hereby certify that on June 6, 2008, I caused a copy of the foregoing Notice of Removal to be served via United States Mail, first class postage prepaid, upon the following:

Weston W. Hanscom
Jason L. Rubin
City of Chicago
Department of Law
Revenue Litigation Division
30 North LaSalle Street, Suite 900
Chicago, IL 60602-2580

s/Lori E. Lightfoot_____