

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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SELLIFY LLC, :
  
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Plaintiff, :
  
:
  
- against - :
  
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AMAZON.COM, INC., :
  
:
  
Defendant. :
  
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:
  
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No. 09 CV 10268 (JSR)

**DECLARATION OF  
KATHRYN M. SHEEHAN**

Kathryn M. Sheehan declares, pursuant to 28 U.S.C. § 1746, as follows:

1. I am Associate General Counsel of Amazon.com, Inc. I submit this declaration in support of Amazon.com’s motion for summary judgment.
2. On July 13, 2009, I received an e-mail letter sent that day by Frank Dehn, Esq. (counsel for the Plaintiff in this action) to Chris Guinn, Esq. (Senior Corporate Counsel at Amazon.com) stating that sponsored advertisements had been purchased on the Google search engine that displayed the messages “Don’t Buy from Scammers” and “Beware the SCAM Artists” when a user searched for the keywords onequality, onequality.com, and onequlaity.com (the “Cutting Edge Ads”). If users clicked on the Cutting Edge Ads, they would be routed directly from Google to the amazon.com website.
3. The e-mail letter from Mr. Dehn alleged that Amazon.com was the source of the Cutting Edge Ads, and that Amazon.com had refused to remove them. Mr. Dehn threatened, on behalf of Sellify LLC, to sue Amazon.com if we did not contact him by July 21, 2009 with a proposal to settle the matter.

4. I confirmed that they were placed *not* by Amazon.com but instead by Cutting Edge Designs, a participant in Amazon.com's Associates Program. (The Associates Program is the Amazon.com program through which independent third parties can sign up to earn advertising fees by advertising Amazon.com products on their own websites.)

5. I also determined that in response to a May 2009 letter from Mr. Dehn, our Associates Program representative contacted Cutting Edge Designs demanding that it cease its activities and warning that if the activities did not cease Amazon.com would close its Associates account and withhold any accrued advertising fees.

6. And indeed, as a result of its failure to comply with our demands, we closed Cutting Edge Designs' Associates account on July 14, 2009, and withheld its accrued advertising fees.

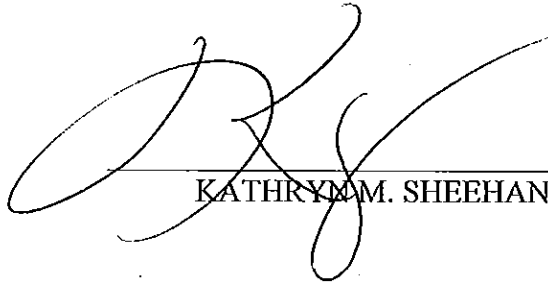
7. I then called Mr. Dehn to inform him that (a) we did not place, encourage, or endorse the Cutting Edge Ads; (b) the Cutting Edge Ads were placed by Cutting Edge Designs; (c) the Cutting Edge Ads were in fact in violation of our Associates Program rules; (d) we promptly contacted Cutting Edge and demanded that it cease its activities upon learning of the existence of the Cutting Edge Ads; and (e) we closed Cutting Edge Designs' Associates account and withheld its accrued advertising fees.

8. I also informed Mr. Dehn that despite the steps that we had taken, we did not – and could not – control Cutting Edge Designs, which was *not* an agent of Amazon.com, and that we had no ability to force Cutting Edge Designs to remove the Cutting Edge Ads. I suggested that he contact Cutting Edge Designs and/or Google, if he had not done so already, to request the removal of the Cutting Edge Ads, since those two entities would (unlike Amazon.com) have the ability to remove the Cutting Edge Ads.

\* \* \*

I declare under penalty of perjury that the foregoing is true and correct.

Executed on June 30<sup>th</sup>, 2010



A handwritten signature in black ink, appearing to read 'Kathryn M. Sheehan', is written over a horizontal line. The signature is stylized and cursive.

KATHRYN M. SHEEHAN