

VACATE and REMAND; and Opinion Filed November 19, 2014.



**In The
Court of Appeals
Fifth District of Texas at Dallas**

No. 05-14-00925-CV

EBAY INC., Appellant

V.

ZURVITA, INC., Appellee

**On Appeal from the 14th Judicial District Court
Dallas County, Texas
Trial Court Cause No. DC-14-04897**

MEMORANDUM OPINION

Before Justices Bridges, Lang-Miers, and Myers
Opinion by Justice Lang-Miers

The parties have filed a joint motion to dismiss the appeal, vacate the trial court's order, and remand this case to the trial court with instructions to enter judgment denying with prejudice appellee's petition to perpetuate testimony from eBay. We grant the motion to the extent that we set aside the trial court's order without regard to the merits and remand the case to the trial court for rendition of judgment in accordance with the parties' agreement. *See* TEX. R. APP. P. 42.1(a)(2).

/Elizabeth Lang-Miers/
ELIZABETH LANG-MIERS
JUSTICE



**Court of Appeals
Fifth District of Texas at Dallas**

JUDGMENT

EBAY INC., Appellant

No. 05-14-00925-CV V.

ZURVITA, INC., Appellee

On Appeal from the 14th Judicial District
Court, Dallas County, Texas
Trial Court Cause No. DC-14-04897.
Opinion delivered by Justice Lang-Miers.
Justices Bridges and Myers participating.

In accordance with this Court's opinion of this date, we **VACATE** the trial court's order without regard to the merits and **REMAND** the case to the trial court for rendition of judgment in accordance with the parties' agreement.

We **ORDER** that each party bear its own costs of this appeal.

Judgment entered this 19th day of November, 2014.