

ESTTA Tracking number: **ESTTA884127**

Filing date: **03/19/2018**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	91233999
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Submission	Motion for Summary Judgment  <b>Yes</b> , the Filer previously made its initial disclosures pursuant to Trademark Rule 2.120(a); OR the motion for summary judgment is based on claim or issue preclusion, or lack of jurisdiction.  The deadline for pretrial disclosures for the first testimony period as originally set or reset: <b>03/20/2018</b>
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Attachments	Motion for Summary Judgment.pdf(251037 bytes ) Exhibit 1 pt. 1.pdf(5284979 bytes ) Exhibit 1 pt. 2.pdf(4801921 bytes ) Exhibit 1 pt. 3.pdf(1833749 bytes ) Exhibit 1 pt. 4.pdf(3687954 bytes ) Exhibit 1 pt. 5.pdf(3987497 bytes ) Exhibit 1 pt. 6.pdf(4637153 bytes ) Exhibit 1 pt. 7.pdf(1621070 bytes ) Exhibit 1 pt. 8.pdf(1450556 bytes ) Exhibit 2.pdf(1404344 bytes ) Exhibit 3.pdf(364199 bytes )

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

<p>EBAY, INC.,</p> <p style="text-align:center">Opposer,</p> <p style="text-align:center">v.</p> <p>NICHOLAS G. BOUCHER DBA MYGEEKBAY.COM,</p> <p style="text-align:center">Applicant.</p>	<p><b>Opposition No.:</b> 91233999</p> <p><b>Mark:</b> MYGEEKBAY.COM</p> <p><b>Serial. No.:</b> 87/061,043</p>
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**EBAY’S MOTION FOR SUMMARY JUDGMENT**

Pursuant to Federal Rule of Civil Procedure 56 and Trademark Trial and Appeal Board Manual of Procedure (“TBMP”) § 528 (2017), eBay, Inc. (“eBay” or “Opposer”) respectfully moves for summary judgment in its opposition to the mark MYGEEKBAY.COM, and requests that Applicant Nicholas G. Boucher DBA MYGEEKBAY.COM’s application to register MYGEEKBAY.COM (“Applicant’s Mark”) (SN 87/061,043) (the “Application”) be denied. In particular, eBay seeks summary judgment in its favor on Count I (Likelihood of Confusion) and Count II (Likelihood of Dilution) of its Opposition.

**I. INTRODUCTION**

Due to Applicant’s failure to respond to Opposer’s Requests for Admission, Applicant has admitted, by operation of law, that (1) Opposer’s EBAY Marks are valid and famous and that they have been continuously used since long before Applicant filed its Application, (2) Applicant’s Mark is likely to cause confusion with Opposer’s prior used and registered EBAY Marks, and (3) Applicant’s Mark is likely to dilute Opposer’s famous EBAY Marks. These admissions, together with other undisputed facts (including as set forth in the Declarations of

Amber Leavitt (**Exhibit 1**) and Hope Hamilton (**Exhibit 2**), warrant that summary judgment be granted for Opposer.

## II. STATEMENT OF UNDISPUTED FACTS

### A. Opposer’s EBAY Marks

eBay is one of the world’s leading online marketplaces, serving millions of users worldwide, and featuring millions of goods and services offered for sale on its website at <http://www.ebay.com> at any given time. (Declaration of Amber Leavitt (“Leavitt Decl.”), attached as **Exhibit 1**, ¶ 2.) Since launching its online marketplace in September 1995, eBay has continuously used its EBAY Marks in interstate commerce in the United States and abroad in connection with a wide variety of goods and services. (*Id.* ¶ 3.)

eBay owns numerous United States Trademark Registrations covering the EBAY mark, the first of which was registered in 1999, including but not limited to those set forth below:<sup>1</sup>

TRADEMARK	REG. NO.	REG. DATE	CLASS(ES)
EBAY	2,218,732	January 19, 1999	35
EBAY	2,367,932	July 18, 2000	28
EBAY	2,501,043	October 23, 2001	14
EBAY	2,518,652	December 11, 2001	25
EBAY	2,522,630	December 25, 2001	20
EBAY	2,578,260	June 11, 2002	18
EBAY	2,592,515	July 9, 2002	38
EBAY	2,604,374	August 6, 2002	21
EBAY	2,666,767	December 24, 2002	25
EBAY	2,700,675	March 25, 2003	9
EBAY	2,700,836	March 25, 2003	16
EBAY	2,744,717	July 29, 2003	38
EBAY	2,810,863	February 3, 2004	16
EBAY	2,913,401	December 21, 2004	41
EBAY	2,926,481	February 15, 2005	41
	4,408,423	September 24, 2013	35, 36, 38

<sup>1</sup> The marks set forth in the below registrations, together with Opposer’s common law rights in the EBAY marks are collectively referred to as the “EBAY Marks.”

TRADEMARK	REG. NO.	REG. DATE	CLASS(ES)
EBAY	2,218,732	January 19, 1999	35
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EBAY	2,913,401	December 21, 2004	41
EBAY	2,926,481	February 15, 2005	41
	4,408,423	September 24, 2013	35, 36, 38
WHEN IT'S ON YOUR MIND, IT'S ON EBAY	4,105,599	February 28, 2012	35
	4,338,835	May 21, 2013	35
	5,008,322	July 26, 2016	9, 14, 16, 18, 20, 21, 25, 28, 30, 41, 42, 45

(Leavitt Decl., ¶ 15 & Ex. J (attaching TSDR and registration certificates).) The registrations noted above cover various goods and services, including online auction services in Class 35, which directly overlap with the Application. All of the above registrations covering the EBAY mark are valid and subsisting, and many are now incontestable pursuant to 15 U.S.C. §§ 1065 and 1115(b). (*Id.* ¶ 16 & Ex. J.) Opposer's registrations for its EBAY Marks are not limited with respect to channels of trade, classes of consumers, or other matters. (*Id.* ¶ 17 & Ex. J.)

eBay has expended considerable money and effort in promoting the EBAY marks, and goods and services offered in connection with these marks, both in the United States and abroad. (*Id.* ¶¶ 4, 13 & Exs. A and I.) eBay and its brand have also received numerous awards and

recognitions, and have been acclaimed by the media worldwide. (*Id.* ¶¶ 7-8 & Ex. E.) For example, the EBAY mark is currently the 34th most valuable brand in the world, according to Interbrand “Best Global Brands 2017 Rankings.” (*Id.*) The website <www.ebay.com> ranks as the 9<sup>th</sup> most visited website in the United States of America and the 42<sup>nd</sup> most visited website in the world. (*Id.* ¶ 6 & Ex. C.) Moreover, there have been thousands of unsolicited stories in television, radio, and print media highlighting eBay’s innovative and successful efforts in online person-to-person trading and sales. (*Id.* ¶ 7 & Ex. D.)

eBay markets its services to all classes of consumers, including collectors of science fiction and comic book memorabilia, and science fiction and comic book aficionados who utilize eBay’s marketplace to sell such memorabilia. (*Id.* ¶¶ 9-12.) Indeed, eBay’s dedicated “Collectible Comics” section of its website allows consumers to browse such niche categories as “Platinum Age Comics (1897-1937),” “Collectible Manga,” and “Collectible Newspaper Comics,” among many others. (*Id.* ¶ 11 & Ex. G.) eBay’s platform additionally allows users to limit their searches to comics certified by various professional comic certification and grading agencies, such as CBCS, CGC, and PGX. (*Id.*) In addition to these sort and filter tools, eBay provides buying guidance to comic book collectors via online buying guides and articles. (*Id.*) Similarly, collectors can easily peruse various science fiction memorabilia at eBay’s Science Fiction & Horror Collectibles site. (*Id.* ¶ 12 & Ex. H.)

eBay has spent hundreds of millions of dollars advertising and promoting its online marketplace services under the EBAY Marks. (*Id.* ¶ 13 & Ex. I.) As a result of years of extensive advertising, promotion, and enduring commercial success, eBay has over 168 million active buyers in 190 markets around the world, with one billion live listings featuring hundreds of different categories of goods and services. (*Id.* ¶ 5.) And Opposer’s EBAY Marks have become

highly recognizable and famous, and are among eBay’s most important business assets. (*Id.* ¶ 14.)

**B. Applicant and Its MYGEEKBAY.COM Mark**

In June 2016, twenty years after eBay launched its now famous online marketplace, Applicant filed a use-based application under Trademark Act Section 1(a), 15 U.S.C. § 1051(a), to register the standard character mark MYGEEKBAY.COM for “on-line auction services” in Class 35. (*See* Declaration of Hope Hamilton (“Hamilton Decl.”), attached as **Exhibit 2**, ¶ 5 & Ex. A) (attaching Application File Wrapper).) Applicant’s Mark substantially copies and calls to mind Opposer’s EBAY Marks, merely swapping “E” for “MY GEEK” and using the arbitrary and distinctive term “BAY” for online marketplace services. The Application covers the exact same services—“on-line auction services”—claimed in Opposer’s Registration Nos. 2,218,732, 4,408,423, and 4,105,599, and is not restricted with respect to channels of trade, classes of customers, or any other matter.

Notwithstanding that the Application is not restricted, Applicant has represented that MYGEEKBAY.COM “represents the culture of comics books, sci-fi, animation, toys, video games, and cosplay as well as several other aspects of the geek culture.” (Answer ¶ 6a.)

**C. Applicant’s Participation in Telephonic Discovery Conference with Interlocutory Attorney**

On June 8, 2017, Applicant participated in a telephonic discovery conference before the Board, conducted by Interlocutory Attorney M. Catherine Faint. (Hamilton Decl. ¶ 10.) During that conference, the Board provided an extensive explanation of the discovery process, including the process of making and responding to requests for production, interrogatories, and requests for admissions. (*Id.*)

Following that discovery conference, the Board issued a June 15, 2017 Order, in which, among other things, the Board (1) again discussed discovery and expressly noted Trademark Rule 2.120 governing discovery, (2) strongly recommended that the Applicant seek legal representation, (3) cautioned that “[s]trict compliance with the Trademark Rules of Practice and, where applicable, the Federal Rules of Civil Procedure, is expected of all parties before the Board,” and (4) urged Applicant “to frequently consult the *Trademark Trial and Appeal Board Manual of Procedure (TBMP)*” available from the USPTO website. (*Id.* ¶ 11, Ex. E.)

**D. Applicant’s Admissions of Likelihood of Confusion and Dilution**

On October 30, 2017, Opposer served its First Requests for Admission (“RFAs”), Interrogatories, and First Requests for Production of Documents (collectively, the “Requests”) to Applicant. (*Id.* ¶ 6 & Ex. B (attaching RFAs).) Opposer served the Requests by email as agreed between the parties and pursuant to the Board’s June 15, 2017 Order. (*Id.* 7-8, Exs. C & D.) Applicant did not respond to Opposer’s Requests; and, more specifically, Applicant did not respond to Opposer’s RFAs. (*Id.* ¶ 9.) Therefore, by operation of law (*see infra* Section III.B.), Applicant has admitted the following key facts, which are now undisputed:

**Standing & Priority**

- eBay’s EBAY Marks (defined above and in the RFAs) were “registered by Opposer prior to the filing date of the Application to register Applicant’s mark MYGEEKBAY.COM.” (*Id.* Ex. B, RFA Nos. 1-18.)
- eBay’s EBAY Marks are “used by Opposer in connection with online auction services” and have been used in this manner since prior to Applicant’s first use of or filing date for MYGEEKBAY.COM. (*Id.* RFA Nos. 19-22.)

- “Opposer has exclusive rights to Opposer’s Marks for online auction services.” (*Id.* RFA No. 49.)

### **Similarity of the Marks**

- Applicant’s “MYGEEKBAY.COM mark is highly similar to EBAY.” (*Id.* RFA No. 23.)
- “[T]he MYGEEKBAY.COM mark incorporates the distinctive and dominant part of Opposer’s Mark, the ‘BAY’ suffix.” (*Id.* RFA. No. 38)

### **Strength of the EBAY Marks**

- “EBAY is arbitrary for online auction services.” (*Id.* RFA No. 33.)
- “BAY is arbitrary for online auction services.” (*Id.* RFA No. 34.)
- “[T]he ‘BAY’ suffix in Opposer’s Marks is distinctive for online auction services.” (*Id.* RFA No. 37.)

### **Similarity of the Services / Channels of Trade**

- “Opposer’s Marks and Applicant’s Marks are used (or will be used) on identical services, namely, online auction services.” (*Id.* RFA No. 45.)

### **Similarity of Consumers**

- “Opposer’s Marks and Applicant’s Mark are used (or will be used) to offer services to the same general class of consumers, namely, online consumers.” (*Id.* RFA No. 46.)
- “[T]he services offered or to be offered under Opposer’s Marks and Applicant’s Mark are or will be offered to consumers of science fiction memorabilia.” (*Id.* RFA No. 47.)

### **Intent of the Applicant**

- “Applicant was aware that Opposer was using EBAY in connection with online auction services prior to filing the Application to register Applicant’s Mark.” (*Id.* RFA No. 50.)

- “Applicant selected the MYGEEKBAY.COM mark with knowledge of” and “to create a purposeful association with Opposer’s Marks.” (*Id.* RFA No. 51-52.)
- “Applicant chose to combine MYGEEK with BAY because BAY connotes online auction services.” (*Id.* RFA No. 39.)

### **Confusion**

- “Consumers are likely to confuse Applicant or Applicant’s Mark with Opposer and Opposer’s Mark.” (*Id.* RFA No. 44.)
- “Consumers are likely to associate Applicant’s Mark with Opposer’s Marks, including because of the term BAY used with an online auction website.” (*Id.* RFA No. 40.)
- “Consumers are likely to concluded that Applicant or Applicant’s Mark are approved by Opposer.” (*Id.* RFA No. 42.)
- “Consumers are likely to conclude[] that Applicant or Applicant’s Mark are affiliated with Opposer and its [] online auction website.” (*Id.* RFA No. 43.)

### **Fame & Dilution of the EBAY Marks**

- “Applicant’s use and registration of MYGEEKBAY.COM is likely to cause dilution of the famous EBAY Marks, including blurring, tarnishing, and/or weakening the connection in consumers’ minds between the EBAY Marks and eBay’s goods and services.” (*Id.* RFA No. 53.)

## **III. ARGUMENT**

### **A. Summary Judgment Standard**

Summary judgment is appropriate where there are no genuine issues of material fact in dispute, thus leaving the case to be resolved as a matter of law. *See* Fed. R. Civ. P. 56; 37 C.F.R. § 2.116(a); *see also Fram Trak Indus. Inc. v. WireTracks LLC*, 77 U.S.P.Q.2d 2000, 2004

(TTAB 2006). The question of likelihood of confusion is ultimately a question of law, and the Board encourages resolution of proceedings through summary judgment, where appropriate. *INB Nat'l Band v. Metrohost, Inc.*, 22 U.S.P.Q.2d 1585, 1585 (TTAB 1992) (abrogated on unrelated grounds); *Sweats Fashions, Inc. v. Pannill Knitting Co.*, 4 U.S.P.Q.2d 1793, 1795 (Fed. Cir. 1987). The Board must give the nonmoving party the benefit of all reasonable inferences to be drawn from the undisputed facts. *Fram Trak Indus.*, 77 U.S.P.Q.2d at 2004. Where the moving party's motion is supported by evidence sufficient to indicate no genuine issue of material fact, the burden shifts to the nonmoving party to demonstrate the existence of specific, genuinely-disputed facts that must be resolved at trial. *Id.* The nonmoving party may not rely on mere allegations and assertions of counsel, but must designate specific portions of the record or produce additional evidence showing the existence of a genuine issue of material fact. *Id.*

#### **B. Requests For Admissions Deemed Admitted As Matter of Law**

Pursuant to Federal Rule of Civil Procedure 36(a)(3), “[a] matter is admitted unless, within 30 days after being served, the party to whom the request is directed serves on the requesting party a written answer or objection addressed to the matter and signed by the party or its attorney.”

Opposer served the RFAs by email on October 30, 2017, making Applicant's responses due November 29, 2017. *See* Fed. R. Civ. P. 36(a)(3); TBMP § 403.03. Applicant never responded. (Hamilton Decl. ¶ 6-9.) Because Applicant failed to timely respond to Opposer's RFAs, Applicant waived the right to object to the RFAs. *See* TBMP § 403.03. Moreover, due to Applicant's failure to respond to Opposer's RFAs, each request is automatically deemed admitted by operation of law. *See* Fed. R. Civ. P. 36(a)(3); TBMP § 407.03(a); *see also* *Fram*

*Trak Indus.*, 77 U.S.P.Q.2d at 2005 (TTAB 2006); *Pinocchio's Pizza, Inc. v. Sandra Inc.*, 11 U.S.P.Q.2d 1227, 1228, n.5 (TTAB 1989).<sup>2</sup>

**C. Undisputed Facts Compel Summary Judgment Be Entered In Favor Of Opposer**

As a result of Applicant's admissions and the other evidence of record, there are no disputed issues of material fact with respect to eBay's First and Second Claims for Relief, which are based on Likelihood of Confusion and Trademark Dilution. eBay is therefore entitled to summary judgment on both Claims.

**1. Count I: Likelihood of Confusion, 15 U.S.C. § 1025(d)**

eBay is entitled to summary judgment on its likelihood of confusion claim because (1) it has standing to maintain this proceeding; (2) it is the prior user of its pleaded EBAY Marks; and (3) contemporaneous use of the parties' respective marks in connection with their respective services would be likely to cause confusion, mistake, or to deceive consumers. *Fram Trak Indus.*, 77 U.S.P.Q.2d at 2004 (citing *Hornblower & Weeks, Inc. v. Hornblower & Weeks, Inc.*, 60 U.S.P.Q.2d 1733, 1735 (TTAB 2001)).<sup>3</sup>

First, Opposer's numerous registrations for its EBAY Marks, many of which are incontestable, constitute *prima facie* and/or conclusive evidence of Opposer's ownership of the EBAY Marks and of Opposer's exclusive right to use those Marks for the goods and services set forth in the registration certificates. 15 U.S.C. §§ 1057, 1065, 1115(b). (*See also* Leavitt Decl., ¶¶ 15-16, Ex. J.)

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<sup>2</sup> In the event the Board denies this Motion, Opposer will move the Board for sanctions, including default judgment, for Applicant's failure to respond to Opposer's Requests. *See* 37 C.F.R. § 2.120(g)(2); TBMP § 527.01.

<sup>3</sup> Likelihood of confusion is analyzed using the *DuPont* factors. *In re E. I. DuPont deNemours & Co.*, 177 U.S.P.Q. 563, 476 F.2d 1357 (CCPA 1973). Where the evidence regarding these factors is so compelling that no evidence not already of record could be expected to cause the Board to come to a different conclusion, summary judgment is appropriate. *Kellogg Co. v. Pack'Em Enters., Inc.*, 21 U.S.P.Q.2d 1142, 1144-45 (Fed. Cir. 1991).

*Second*, Opposer has established—and Applicant has admitted—that it is the prior user of the EBAY Marks. *See supra* Section II (RFA Nos. 1-22). (*See also* Leavitt Decl. ¶ 3; Hamilton Decl., ¶¶ 6-9, Ex. B.)

*Third*, Applicant has admitted that “[c]onsumers are likely to confuse Applicant or Applicant’s Mark with Opposer and Opposer’s Mark.” (Hamilton Decl., Ex. B RFA No. 44.) And if this admission alone were not enough to settle the matter of likelihood of confusion, the record also contains evidence and admissions establishing that at least the following dispositive factors of likelihood of confusion weigh in Opposer’s favor:

Strength of Opposer’s EBAY Marks: Opposer’s EBAY Marks have been in use for over 20 years, with global brand recognition and presence, ranked the 34th most valuable brand in the world, having over 168 million active buyers, and with <www.ebay.com> ranked as the 9<sup>th</sup> most visited website in the United States. *See supra* Section II; (*see also* Leavitt Decl., ¶¶ 3-8.) Applicant has admitted that eBay owns prior, valid rights in its EBAY Marks, and that the EBAY mark is famous in connection with online marketplace services.<sup>4</sup> *See supra* Section II.D. The EBAY Marks therefore are entitled to a broad scope of protection. *See, e.g., Kenner Parker Toys*, 22 U.S.P.Q.2d at 1456.

It also bears emphasis that, in a similar case, the United States Court of Appeals for the Ninth Circuit held that the EBAY Marks are famous and further recognized the strength of the BAY suffix for an online marketplace. In *Perfumebay.com Inc. v. eBay Inc.*, 506 F.3d 1165 (9th Cir. 2007) (“*Perfumebay.com*”), the applicant applied to register the mark PERFUME BAY for interactive retail store services featuring perfumes and to use Perfumebay.com as an online

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<sup>4</sup> In addition to Applicant’s admission of fame, eBay’s longstanding use of the EBAY Marks and substantial sales, advertising, and promotions incorporating these Marks is compelling evidence of fame. *See Jiffy, Inc. v. Jordan Indus., Inc.*, 481 F.2d 1323, 1324 (C.C.P.A. 1973); *Specialty Brands, Inc. v. Coffee Bean Distribs., Inc.*, 223 U.S.P.Q. 1281, 1284 (TTAB 1984).

marketplace for perfume and beauty products. (Decision attached as **Exhibit 3.**) The Ninth Circuit recognized the distinctiveness of the BAY component of the EBAY Marks, holding that the term “BAY” is the dominant aspect of the EBAY Marks, and found that use of the mark PERFUMEBAY in connection with an online marketplace specializing in perfume would dilute the EBAY Marks. *Id.* at 1181 (noting that the mark PERFUMEBAY may cause consumers to “no longer associate the usage of the “Bay” suffix with eBay’s unique services”; consequently “the uniqueness of eBay’s mark is diluted in direct proportion to the extent consumers, particularly internet users, disassociate the eBay mark with eBay’s services.”).

Similarity of the marks: Applicant has admitted that “MYGEEKBAY.COM is highly similar to EBAY” and “that the ‘BAY’ suffix in Opposer’s Marks is distinctive for online auction services.” (Hamilton Decl., Ex. B, RFA Nos. 23, 37.) Likelihood of confusion dramatically increases where the services are very similar and the relevant marks are nearly identical. *See, e.g., Gillette Canada Inc. v. Ranir Corp.*, 23 U.S.P.Q.2d 1768, 1773 (TTAB 1992); *In re Concordia Int’l Forwarding Corp.*, 222 U.S.P.Q. 355 (TTAB 1983). Because “[t]he MYGEEKBAY.COM mark incorporates the distinctive and dominant part of Opposer’s Mark, the ‘BAY’ suffix,” and because “[t]he ‘BAY’ suffix in Opposer’s Marks is distinctive for online auction services” (Hamilton Decl., Ex. A, RFA Nos. 37-38), the marks at issue here should be considered highly similar for purposes of likelihood of confusion analysis. *See AutoZone Parts, Inc. v. Dent Zone Companies, Inc.*, 100 U.S.P.Q.2d 1356, 1362 (TTAB 2011) (“Both of respondent’s marks [DENT ZONE] and petitioner’s AUTOZONE mark consists of or contain the distinctive term ZONE . . . . Thus, both petitioner’s and respondent’s marks suggest a place or zone for automobile-related services.”); *Apple Computer v. TVNET.net, Inc.*, 90 U.S.P.Q.2d 1393, 1397-98 (TTAB 2007) (granting summary judgment in favor of Apple based on likelihood

of confusion between ITUNES and VTUNES.NET, both used for competitive goods and services).

Similarity of the services and trade channels: Applicant has admitted that “Opposer’s Marks and Applicant’s Marks are used (or will be used) on identical services, namely, online auction services.” (Hamilton Decl., Ex. B, RFA No. 45.) Moreover, because neither the Application nor Opposer’s registrations for its EBAY Marks delimit specific channels of trade, no such limitation must be considered in deciding this Opposition. *See 3 McCarthy on Trademarks & Unfair Competition* § 20:15 (4th ed. 2014) (Board must presume “the goods move through all reasonable trade channels . . . to all usual classes of consumers for such goods”); *see Miles Labs., Inc. v. Naturally Vitamin Supplement Inc.*, 1 U.S.P.Q.2d 1445, 1450 (TTAB 1987). In light of the record and Applicant’s admission, the marks should be considered to have identical services and trade channels for purposes of this motion.

Similarity of consumers: Applicant has admitted that “Opposer’s Marks and Applicant’s Marks are used (or will be used) to offer services to the same general class of consumers, namely, online consumers.” (Hamilton Decl., Ex. B, RFA No. 46.) And even though the Application is not limited to specific consumers, the record also shows that there is still overlap between Applicant’s and Opposer’s intended consumers, namely with online services “offered to consumers of science fiction memorabilia.” (*Id.* RFA No. 47.) In light of these admissions, there is no dispute that Opposer and Applicant use their respective marks to target the same class of consumers, and this factor therefore weighs in favor of Opposer.

Applicant’s knowledge and intent: In addition to having constructive knowledge of Opposer’s EBAY Marks (15 U.S.C. § 1072), Applicant has admitted prior knowledge of the EBAY Marks. Applicant also admit that its intent in selecting -BAY as a suffix was to call to the

minds of consumers an online auction website. (*Id.* RFA Nos. 39, 50-52.) Courts routinely look to the intent of a junior user in selecting a disputed mark when analyzing the mark for likelihood of confusion purposes, as such intent “demonstrates the junior user’s true opinion as to . . . whether confusion is likely.” *Kemp v. Bumble Bee Seafoods, Inc.*, 398 F.3d 1049, 1057 (8th Cir. 2005); *see also Little Caesar Enters., Inc. v. Pizza Caesar, Inc.*, 834 F.2d 568, 572 (6th Cir. 1987) (“[A] defendant who purposely chooses a particular mark because it is similar to that of a senior user is saying, in effect, that he thinks there is at least a possibility that he can divert some business from the senior user—and the defendant ought to know at least as much about the likelihood of confusion as the trier of fact.”). Because Applicant selected the MYGEEKBAY.COM mark with the intent to “create a purposeful association with Opposer’s Marks,” this factor weighs heavily in favor of Opposer. (Hamilton Decl., Ex. B, RFA No. 52.)

Based on the at least the foregoing undisputed facts, the *DuPont* factors favor a finding of likelihood of confusion in favor of Opposer. eBay is therefore entitled to summary judgment on its claim that the Application should be refused registration.

## **2. Count II: Likelihood of Dilution, 15 U.S.C. § 1125(c)**

eBay is also entitled to summary judgment on its dilution claim because there are no genuine disputes that (1) the EBAY Marks are famous; (2) Applicant is making commercial use of the MYGEEKBAY.COM mark in commerce; (3) Applicant’s use began after Opposer’s EBAY Marks became famous; and (4) Applicant’s use presents a likelihood of dilution of the distinctive value of the EBAY Marks. *Perfumbay.com*, 506 F.3d at 1180 (citing *Avery Dennison Corp. v. Sumpton*, 189 F.3d 868, 874 (9th Cir. 1999)). There is no dispute that the record and Applicant’s admissions establish each of these factors.

*First*, Applicant has admitted that the EBAY Marks are famous. (Hamilton Decl., Ex. B, RFA No. 53.) Even without this admission, the record is rich with evidence of fame, including Interbrand’s “Best Global Brands 2017 Rankings” and widespread media recognition and acclaim, as well as the Ninth Circuit’s 2007 holding that “eBay possesses a famous and widely known mark, and has expended considerable resources in attaining this status.” *Perfumebay.com*, 506 F.3d at 1181.

*Second*, the use-based Application covers the broad service of “on-line auction services,” and Applicant is, in fact, making commercial use of its MYGEEKBAY.COM mark by offering online auction services via the website associated with the <mygeekbay.com> domain name, as can be seen in the specimen of use submitted by Applicant in support of the Application. (Hamilton Decl. ¶ 5, Ex. A.) Such services are identical to those offered by Opposer under its famous EBAY Marks.

*Third*, Applicant’s use began after the EBAY Marks became famous. More specifically, the EBAY Marks were at least famous at least as early as 2007. *See Perfumebay.com*, 506 F.3d at 1181. And Applicant admits that both its Application and use commenced well after that date. The Application was filed on June 6, 2016, naming a first use date of July 5, 2013. (Hamilton Decl. ¶ 5, Ex. A.)

*Fourth*, and finally, Applicant has admitted that “Applicant’s use and registration of MYGEEKBAY.COM is likely to cause dilution of the famous EBAY Marks, including blurring, tarnishing, and/or weakening the connection in consumers’ minds between the EBAY Marks and eBay’s goods and services.” (Hamilton Decl., Ex. B, RFA No. 53.)

Just as in the *Perfumebay.com* case, where the defendant’s use of the “BAY” suffix was found to dilute the EBAY mark, so too does Applicant’s use and registration of

MYGEEKBAY.COM dilute the EBAY Marks. If Applicant's mark is allowed to register, "consumers may no longer associate the usage of the 'Bay' suffix with eBay's unique services, specifically the sale of products on an internet-based marketplace. The uniqueness of eBay's mark is diluted in direct proportion to the extent consumers, particularly internet users, disassociate the eBay mark with eBay's services." *Perfumebay.com*, 506 F.3d at 1181.

Having satisfied all dilution factors, eBay is entitled to summary judgment on its claim that the Application should be refused on the basis of likelihood of dilution under 15 U.S.C. § 1125(c).

#### IV. CONCLUSION

For the reasons set forth above, eBay requests the Board enter judgment in its favor, and refuse the Application based on (1) likelihood of confusion under 15 U.S.C. § 1052(d), and (2) likelihood of dilution under 15 U.S.C. § 1125(c). Pursuant to TBMP § 528.03, the Opposition must be suspended with respect to all matters not germane to this motion. In the event that the motion is denied, Opposer requests that the close of discovery be reset to no sooner than sixty days from the date of the Board's order denying the motion.

March 19, 2018

Respectfully submitted,

/Hope Hamilton/

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**Attorneys for Opposer eBay, Inc.**

**CERTIFICATE OF SERVICE**

The undersigned certifies that on March 19, 2018, I served a copy of the above motion, together with the exhibits thereto by email on the following:

Nicholas G. Boucher  
DBA MyGeekBay.com  
604 Galleon Dr. NW  
Albuquerque, New Mexico 87121  
[nboucher@2392@gmail.com](mailto:nboucher@2392@gmail.com)  
[admin@mygeekbay.net](mailto:admin@mygeekbay.net)

/Mark Moore/

\_\_\_\_\_

Mark Moore

10549192\_6

# Exhibit 1

Declaration of Amber Leavitt

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

<p>EBAY, INC.,</p> <p style="text-align:center">Opposer, v.</p> <p>NICHOLAS G. BOUCHER DBA MYGEEKBAY.COM,</p> <p style="text-align:center">Applicant.</p>	<p><b>Opposition No.:</b> 91233999</p> <p><b>Mark:</b> MYGEEKBAY.COM</p> <p><b>Serial. No.:</b> 87/061,043</p>
---	--

**DECLARATION OF AMBER LEAVITT**

I, Amber Leavitt, declare as follows:

1. I am the Senior Director of Global of Intellectual Property for Opposer eBay, Inc. (“eBay”). In that capacity, I am familiar with the facts of this case and am competent and authorized to make this Declaration on behalf of the Opposer. The facts set forth below are known to me personally or based upon my review of records kept by eBay in the ordinary course of business.
2. eBay is one of the world’s leading online marketplaces, serving millions of users worldwide, and featuring millions of goods and services offered for sale on its website at <http://www.ebay.com> at any given time.
3. Since launching its online marketplace in September 1995, eBay has continuously used the mark EBAY in interstate commerce in the United States and in commerce between the United States and foreign countries in connection with a wide variety of goods and services.
4. eBay has expended considerable money and effort in promoting the EBAY Marks, and goods and services offered in connection with these marks, both in the United States and internationally. (See true and correct copies of print advertisements attached as **Exhibit A.**)

5. Today eBay has over 168 million active buyers in 190 markets around the world, with 1 billion live listings featuring hundreds of different categories of goods and services including comic book and science fiction memorabilia, art, electronics, books, music to list a few. (See true and correct copies of examples of listings from the eBay website, attached as **Exhibit B.**)

6. The website www.ebay.com is ranked as the 9<sup>th</sup> most visited website in the United States of America and the 42<sup>nd</sup> most visited website in the world. (See a true and correct copy of a printout reflecting this ranking, attached as **Exhibit C.**)

7. In addition to its own advertising efforts, eBay has been the subject of thousands unsolicited stories in television, radio, and print media that highlight eBay's innovative and successful efforts in online person-to-person trading and sales. (See true and correct copies of various examples, attached as **Exhibit D.**)

8. As a result of eBay's significant investment in advertising and promotional efforts, the EBAY mark is currently the 34<sup>th</sup> most valuable brand in the world, according to Interbrand "Best Global Brands 2017 Rankings." (See a true and correct copy of Interbrand's "Best Global Brands 2017 Rankings," showing that the EBAY mark is currently the 34<sup>th</sup> most valuable brand in the world, attached as **Exhibit E.**)

9. Some of eBay's most successful advertising campaigns have featured partnerships with owners of comic book and science fiction memorabilia. For example, eBay has partnered with companies such as Disney for movie releases and spent millions of dollars advertising its collections for various science fiction series, including the Star Wars movie franchise and related memorabilia. (See a true and correct copy of website printouts reflecting these partnerships, attached as **Exhibit F.**)

10. EBAY online marketplace services are provided nationally and internationally through the Internet and are marketed to and used by consumers from all walks of life including science fiction and comic book collectors and aficionados.

11. eBay provides a dedicated “Collectible Comics” section of its website, which allows consumers to browse collectible comics, sort by category or certification and grading agencies (such as CBCS, CGC, and PGX), and provides buying guidance for collectible comics and memorabilia. (See true and correct website printouts, attached as **Exhibit G.**)

12. eBay also provides a dedicated “Science Fiction & Horror Collectibles” section of its website, which caters to collectors of science fiction memorabilia. (See true and correct website printouts, attached as **Exhibit H.**)

13. eBay has spent hundreds of millions of dollars advertising and promoting its online marketplace services under the EBAY Marks. (See true and correct copy of excerpts of eBay’s 10K reports for the last five years showing advertising expenditures, attached as **Exhibit I.**)

14. As a result of years of extensive advertising and investment, and resulting consumer recognition, the EBAY Marks are among eBay’s most important business assets.

15. Attached as **Exhibit J** are true and correct copies of each of the Registrations and TSDR Printouts for each of Opposer’s EBAY Marks, the first of which was registered in 1999.

16. All of the registrations attached as **Exhibit J** are valid and subsisting, and many are now incontestable pursuant to 15 U.S.C. §§ 1065 and 1115(b).

17. Opposer's registrations for its EBAY Marks are not limited with respect to channels of trade, classes of consumers, or other matters.

I declare under penalty of perjury that the above is true and correct to the best of my knowledge.

Date: 15 March 2018



Amber Leavitt  
Senior Director of Global Intellectual Property  
eBay, Inc.

# Declaration of Amber Leavitt

## Exhibit A



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## eBay Pours More Resources Into Selling Wine



Photograph by Baz Ratner — Reuters

Coming  
by Fortune

By **LEENA RAO** April 27, 2016

EBay has premiered a new category for lovers of zinfandel, chardonnay, and Bordeaux.

The e-commerce company opened a new area on Wednesday for buying and selling wine, part of its push to be a marketplace for nearly all kinds of merchandise.

EBay previously allowed wine sales in its marketplace, generally in the home and garden category. This is the first time the company has formalized wine sales by creating a specific channel for it where shoppers can filter the selection based on criteria like rare wines, varietal, region, and price.

The new area is in partnership with Drync, a company that provides software for wineries and distributors sell online. Wineries using Drync can now also choose to also

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E-COMMERCE STARTUP

# The Success Story of EBAY – An e-Commerce Giant With Humble Beginning

 Mirza Azhar Baig  
Oct 27, 2017



The success of any business requires complete dedication and commitment. You got to fill your days with hardships, the intention and excitement to make grow something. Precisely, the success of EBay presents a great story of hardships and excitement with which they grew their business from zero to a great multinational e-commerce platform. It has provided a fair and successful platform for the online consumer to consumer and business to consumer sales and services.

### Business Plan

The ideal success of eBay has been recognized due to its exclusive business plan. This plan allows the customers and businesses to provide an authentic ecommerce platform for auctioning of new or used items in a very low price. EBay, however, an e-Commerce Giant, initiated this sort of business plan with a humble beginning for the first time in history at that time. They got the help of ecommerce website builders for getting them designed an ecommerce website. Thus, it got an appreciating success from day one.

### Investment For Startup

The startup of EBay has not been that much easy enough and they ran out of money. They had a great idea, but they couldn't hang on for long. Things generally take four times as long to accomplish and cost at least twice as much as you'd expect. A startup requires many factors

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accomplish and cost at least twice as much as you'd expected. Any startup requires money for inventory, advertising, and to buy the necessary hardware, software, and services for the new trade. They started as a garage operation with low overhead. They got a small loyal and dedicated team to work, perhaps inch into profitability in a few months. They were thinking over larger operations, but might have taken some months or a year or more to flourish into a profitable business.

## Finding Out Stuff To Sell

Initially, there was a big problem for eBay to finding enough stuff to sell. Being a seller, they had that challenge and tried their level best to fulfill their requirements. They worked with dedication to getting the stuff to sell. They appropriately managed the stuff and even collected money for packing and shipping auction items. Some sellers thought that they can make the most of the money by making their own products to get them sale on eBay. Therefore, they thought of adding value to selling items to keep very cheap in price.

### THE FIRST SOLD

*The founder of eBay, Pierre Omidyar, remembers the First Sold on EBAY and describes how the first item was sold. They listed a broken laser pointer on auction after they created their business website. That broken laser pointer on auction attracted many people and received numerous bids. Finally, the auction ended for that broken item with its sales amount almost \$15 (\$14.83). It was really unbelievable, but a successful start for eBay. Finally, Pierre wrote the evergreen memory in the history of eBay for everyone.*

## Never Thought of Selling Discarded Items

Every company reaches to its success after hardships and facing great challenges during the startup. Such company knows the reliability of selling goods and they never sell junk or discarded items to customers. Selling junk to your customers means to end up your own business with your own hands. eBay had started their business clearly with authentic products and never even thought of selling discarded products. Thus, they got good bidding on their every item and got a great gain in their profit to acquire success.

## Best Customer Service

Your business will be a success if you have fulfilled in providing the best customer service to your customers. It is necessary to provide the ideal services to your customers and to make them satisfied in all aspects. Your success lies in keeping your customers happy with your best services. It builds a unified trust on your business for long and they become your potential clients for good.

## Maintaining Records

The ideal key to success is to keep your records well maintained. It is really necessary to keep a record of your business sales and purchase. So, it looks also a good thing to maintain a complete detailed record of your customers who purchased what item(s) at what date and time everything. You should also maintain a record of your inventory, money spent on purchasing item(s). Moreover, to maintain money gained from purchasing, collected sales tax and money you owed or paid to customers etc.

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### Mirza Azhar Baig

Senior Content Producer / Editor at ArpaTech

Azhar has been producing web content, articles, and writes creative blogs for different industries. He is also performing a major role as Senior Content Editor at ArpaTech.



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sell through eBay.

At launch, eBay will have 11,000 listings for wines that range from rare finds to wines you might drink everyday. eBay's head of wine, Alyssa Steele, explained that sellers manage the shipping process, so delivery times may vary.

For more about eBay, watch:



Steele declined to comment about what fees wineries pay to sell their wine. But she said that it is similar to what other sellers pay to use the platform.

eBay said that the global wine market is estimated to do \$35 billion in sales this year providing a potentially lucrative channel for eBay's marketplace. In some ways, eBay is playing catch up to Amazon, which started its own wine vertical in 2012. Other competitors include Wine.com, and of course, the wineries themselves.

Wine sales online can be tricky. Due to state regulations around the sale and delivery of alcohol, some states don't allow consumers to ship wine to their homes.

This isn't the first luxury vertical eBay has tackled in the past year. In 2015, eBay debuted a partnership with Sotheby's to live stream the auction house's auctions of artwork on the marketplace.

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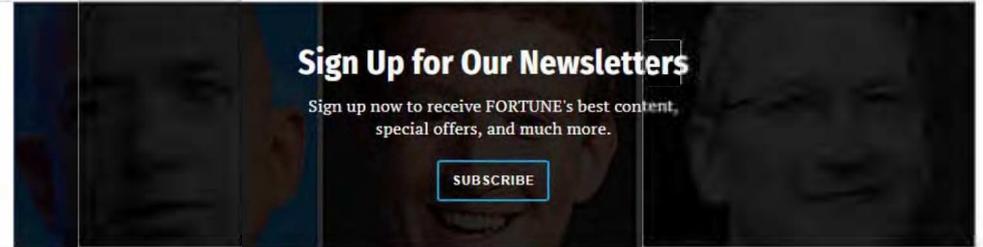
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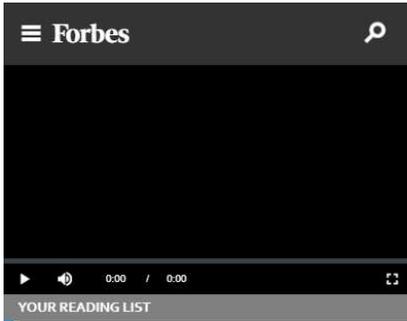
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How eBay Is Working To Expand Its Seller Base?

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The Little Black Book of Billionaire Secrets

# How eBay Is Working To Expand Its Seller Base?



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**Trefis Team**, Contributor

Recently, eBay announced a strategic relationship with BigCommerce that allows the latter's merchants to seamlessly list their products and manage their inventory on the eBay marketplace. The partnership will give the merchants of BigCommerce access to eBay's 162 million active buyers and increase the selection of products available on eBay's marketplace. While this relationship promotes a multi-channel seamless online selling environment for merchants, it can significantly expand eBay's seller base and enhance its portfolio of products. We believe that, as eBay works on its turnaround plan, this relationship should add positively to its transaction volume. As more small merchants use its platform for their products, it should attract more buyers and drive revenues for the company in future.

[See our complete analysis for eBay](#)

### More Small Businesses Can Make eBay's Inventory Richer For Buyers

One of the key goals of eBay's turnaround plan is provide unique and differentiated inventory for its buyers by partnering with boutique and small business owners to sell on its marketplace. Through the strategic relationship with BigCommerce, merchants running their businesses with BigCommerce will be able to efficiently sell on eBay's market place. The integration will allow sellers to operate more efficiently with the ability to list, manage and sell on the eBay marketplace through BigCommerce's control panel. It will also enable sellers to sync stock levels and eBay orders with their online stores, create bulk listings on the eBay platform rapidly and reach more buyers using eBay's global shipping program. As eBay focusses on bringing unique and differentiated inventory to its platform, a seamless multi-channel selling experience for small merchants should attract more sellers to its marketplace. BigCommerce has tens of thousands of merchants selling in more than 150 countries and fast growing brands are selling up to \$ 50 million annually on its platform. Providing its buyers with access to this huge seller base on its

platform can benefit eBay and improve its transaction volumes.

We estimate the average spend per user on eBay's platform to increase from around \$523 in 2016 to \$556 by the end of our forecast period.



If the average spend per transaction on eBay's platform increases substantially and reaches \$600 by the end of our forecast period, there can be a 10% upside to our price estimate.

As eBay executes its turnaround plan, it aims to broaden its offering. Clearly, the partnership with BigCommerce should enable the company to move closer to this goal. A rich inventory of products offered by the numerous sellers on BigCommerce's platform should attract more buyers in future and can potentially increase the average spend on eBay's marketplace. If the company is able to enter into more such strategic relationships in future, eBay should see growth in its revenues in the long term.

**Global Large Cap | U.S. Mid & Small Cap | European Large & Mid Cap**

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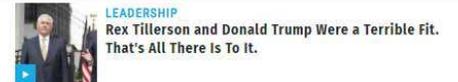
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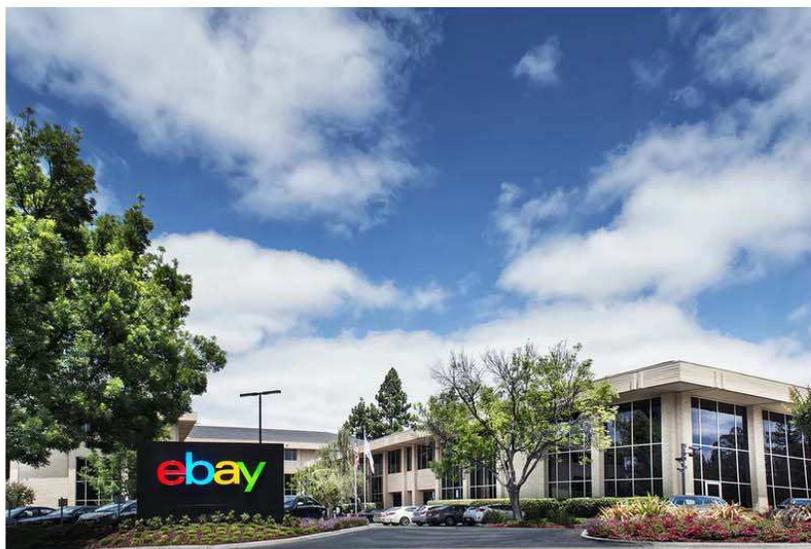




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# EBay Extends Drop Off Service to 1,600 FedEx Stores



Online marketplace eBay's new campus. Photograph courtesy of eBay

Read Disturbing Details of Silicon Valley's Underground Sex Party Scene

by Fortune



By PHIL WAHBA May 10, 2016

EBay (EBAY, -2.14%) is rolling out drop-off locations for its Valet service to 1,600 FedEx (FDX, +2.00%) U.S. stores in the coming months, the latest attempt by an e-commerce player to give customers more ways to send orders.

The extension comes on the heels of tests in Atlanta and Los Angeles, and the program could give users of eBay's Valet service a new way to reach far more sellers while building up the still-small service.

eBay Valet, a service launched two years ago, seeks to simplify selling items on eBay; instead of a user needing to individually list, price, and ship their goods, eBay Valet

Stories From



handles the entire process. Usually, Valet takes a 20%-40% commission on sales for its service. The FedEx tie-up is a way to help eBay Valet become less reliant on mail delivery and reach far more customers across the U.S. through those hundreds of additional drop-off locations.



Small Business Firewall



The agreement follows moves by many retailers to facilitate delivery. CVS (CVS, -0.45%) recently announced a partnership with tech start-up with Curbside to offer pickup for online orders without requiring a customer to go into the store. Wal-Mart (WMT, +0.16%) is expanding its curbside grocery pickup to new stores and new markets in the United States.



What's more, the partnership—admittedly a small part of either company's business—could be one way to fight back at Amazon.com (AMZN, -0.15%), which has been encroaching on eBay's business and threatened that of FedEx by ramping up its own delivery infrastructure, including expanding its fleet of cargo planes in a bid to have more control over shipping.

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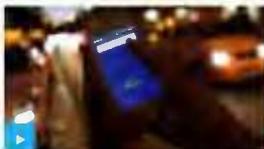
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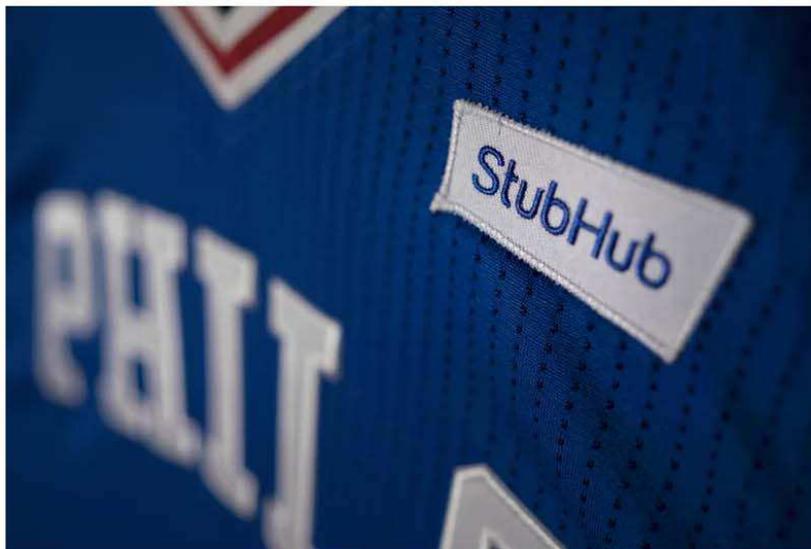
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## EBay is Drastically Expanding StubHub's Reach



Courtesy of StubHub

By DAVID MEYER May 24, 2016

EBay (EBAY, -0.06%) has bought a Spain-based ticket marketplace called Ticketbis, which it will fold into its StubHub business.

Ticketbis, which is headquartered in Bilbao, has a presence in 47 countries, and eBay hopes it will help extend StubHub's reach further into Latin America and Europe, while also entering the Asia Pacific region.

StubHub launched in Mexico this month, and in Germany and the U.K. in 2015 and 2012 respectively. Having more-or-less copied the business model, Ticketbis claims to be the market leader in southern Europe and Latin America.

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"The acquisition of Ticketbis will allow us to connect millions more people with inspiring events," StubHub president Scott Cutler said in a statement.

Meanwhile, eBay president Devin Wenig said the acquisition "reaffirms [eBay's] commitment to investing in StubHub and helping fuel its momentum."

That said, eBay did not disclose the terms of the transaction, though it said the acquisition is not expected to affect the guidance it has already laid out for Q2 2016 or the full financial year. It expects the deal to close in the middle of this year.

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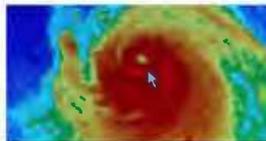
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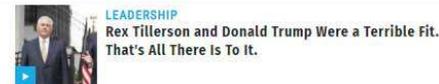
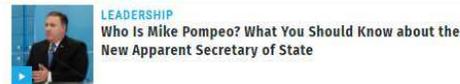
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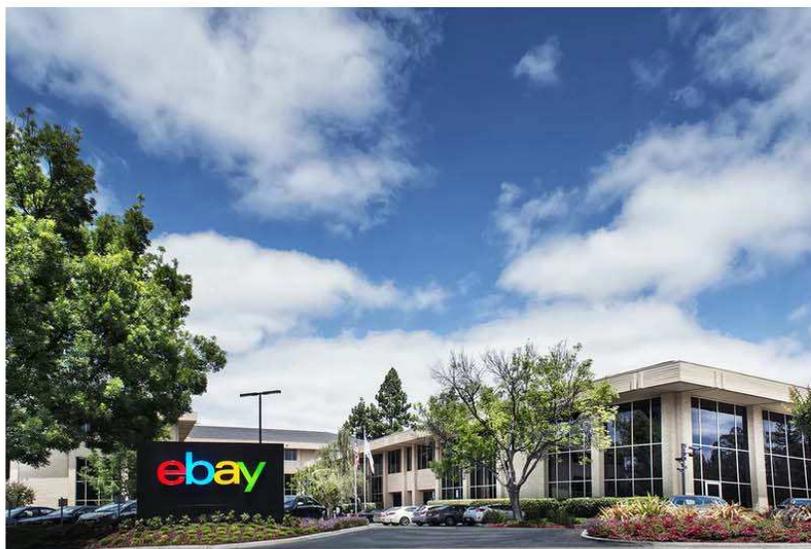
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# How eBay Survived While Other Disruptive Markets Disappeared



Online marketplace eBay's new campus. Photograph courtesy of eBay

By JOHN HAGEL III and JOHN SEELY BROWN | June 30, 2016

“Create a platform.”

That seems to be the answer—in today’s economy, and more importantly, in tomorrow’s—for incumbents faced with rapidly evolving technologies, shifting customer expectations, and a pestilence of new competitors.

But as our [research on the patterns of disruption](#) shows, the disruptor can quickly become the disruptee. Despite the advantages that typically benefit early-movers, many first-in platforms are vulnerable to increasing margin pressure, if not displacement, from those who follow with a better platform or better terms. All platforms are not

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created equal when it comes to creating a sustainable advantage.

And so, the question is how first-movers can secure their advantage: Will the same low barriers to entry that make one entrant a successful disruptor hold the door open for a flood of competitors, each ready to claim the customer?

Right now, many gig workers find work on multiple on-demand service platforms. They move between them depending on time of day, rates, and promotions. Some customers of these services do the same. If using multiple platforms requires little more than carrying multiple apps on a phone, will this practice continue? Similarly, will independent producers continue to spread their business across shops like [eBay](#), [Etsy](#), and [Amazon \(AMZN, +0 18%\)](#), as well as smaller platforms? Or will they migrate onto their own sites, leaving the big aggregators behind once they've established a loyal following?

For these reasons and others, simply having a platform may not be sufficient to sustain an advantage any more. Because ease of participation is a basic requirement when seeking to attract many participants, easy onboarding can quickly turn into low commitment and easy off-boarding. And while platform owners could try to lock participants into some type of exclusive and proprietary relationship, that might make the next upstart—the one without restrictive clause—look more appealing.

At the end of the day, the major problem is not making a platform appealing enough to participants. Platforms that connect participants in ways that improve everyone's performance will create value for the platform owner and make it more “sticky” for its users. And these successful platforms tend to focus more on depth and breadth of learning than on efficiency of transactions.

To understand how this might work, consider today's platforms. Broadly, a platform is made of layers of capabilities, infrastructure, and standards that players in the market can use to interact more efficiently—to connect, coordinate, and collaborate—and to create value for themselves. It is more than just connecting buyers and sellers and taking a transaction fee for services rendered.

That's a good place to start. But there may be an opportunity to become even more valuable—and sticky—by creating learning platforms. Unlike the efficiency-focused pure marketplace platforms, these are designed to foster deeper, trust-based relationships and make it easy for participants to share insights and work together to accelerate performance.

Consider [eBay \(EBAY, -2.03%\)](#). As a classic aggregation platform, it brings together:

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choices from multiple suppliers on one side and demand from customers on the other, just like other leading marketplace platforms. But on another part of the platform, eBay connects vendors with each other.

This part of the platform started with discussion forums for sellers who were new to e-commerce or new to business itself. Eventually it encouraged the formation of groups around specific interests or types of products. Vendors learned from each other about listings, marketing, search engine optimization, shipping, and other tactics.

Groups like this can help to foster a sense of community and loyalty. The questions and insights shared in the groups are pertinent and timely for other vendors and can help vendors to improve more rapidly than figuring it out on their own.

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Etsy (ETSY, +0.21%) has taken a similar approach, facilitating the creation of "teams" and creating a team fellowship program for additional mentoring and support. Here, too, teams form around shared interests and categories. Teams such as The Old Farmhouse Gathering, a group for primarily whimsical and folk art crafters, have hundreds of members and defined leadership that mobilizes participants around promotion events and causes and policies important to the members.



Robust discussion forums and group management tools, such as those offered on the Etsy and eBay vendor platforms, can be further enhanced for learning by explicitly creating environments to make it easy for users to collaborate around specific challenges. At the same time, platform owners have to manage the tension between empowering vendors to creatively find solutions—which for some vendors means pushing back against the restrictions and policies of the platform—and protecting that other important part of a platform: the customers.

Difficulty inevitably arises when the challenge the participants coalesce around becomes the platform owner itself. Nonetheless, while a learning platform may not be able to overcome an inadequate product or resolve the tension between customers and sellers, the learning platform itself can foster a sense of commitment to make the platform better, not to mention stickier, when others beckon.

How to start? Incrementally. There's no need to over-engineer a learning platform. In fact, doing so can send the wrong message. The platform should continue to evolve to support and accelerate its participants, to become a structure that facilitates and encourages learning as well as a structure that is itself learning. Consider starting simply with a place to ask questions, then see what types of questions are asked and answered. It should be easy to find answers—and related questions—that have already been addressed.

Over time, it's important to create structures that enable participants to form communities and interact around the most popular topics. You can use all of this to understand the economics and aspirations of participants on the platform and make the platform better.

*John Hagel III, Deloitte Services LLP, is the co-chairman of the Deloitte Center for the Edge based in Silicon Valley. John Seely Brown is the independent co-chairman of the Deloitte Center for the Edge.*

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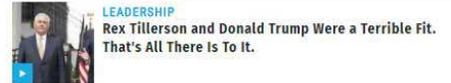
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# eBay Is Adding This Budding Tech to Boost Home Decor Business



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by Fortune

By [LEENA RAO](#) October 17, 2016

eBay debuted a new way it plans to take on e-commerce giant Amazon on Monday, focusing on the home decor and accessories market.

The online marketplace, which has 164 million active buyers according to the company, is curating collections of furniture and home accessories sold through the site into a new gateway called eBay Collective. Shoppers can shop by categories, such as tables, beds, or lighting.

Consumers can also shop by certain decorating style, such as “American Classics” or “Eastern Influence.” Additionally, eBay is adding image recognition technology to allow

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shoppers to flip through images of various interior design schemes, and eBay's technology will suggest similar items listed on the site based on user preferences and selections.

Dubbed "Shop the Look," the feature is powered by visual search technology acquired through the purchase of startup Corrigan earlier this year. Shoppers can hover over an image, and eBay's search engine will rummage through furniture listings to surface inventory matching (or nearly matching) that particular portion of the image.

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eBay isn't the only company to be focusing on visual search. Social scrapbooking site Pinterest, which is also popular among interior design enthusiasts for home decor inspiration, is [working to improve](#) its visual search methods. Amazon does some curation of furniture and home accessories, but it doesn't have this kind of image recognition technology for suggesting similar items based on photos and images alone.

In February, eBay CEO Devin Wenig [said](#) that the company was working to help shoppers narrow down searches through the company's listings, estimated to total more than a billion.

eBay reports third quarter earnings on Wednesday.

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# eBay opens U.S. platform to Africa with MallforAfrica.com partnership

Posted Aug 22, 2017 by [Jake Bright \(@JakeRBright\)](#)



**Jake Bright**  
CONTRIBUTOR



Jake Bright is a writer and author in New York City. He is co-author of *The Next Africa*.

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Americans can now buy African goods on eBay through the company's partnership with [MallforAfrica.com](#).

Starting this week, products from select vendors in six African countries are available on eBay's U.S. shopping site. The collaboration starts in style, with opening merchandise categories of fashion, art, jewelry, and clothing.

For the new program, MallforAfrica selects the sellers and handles payments on its proprietary platform. DHL is the shipping partner. Online

shoppers can browse the entire collection on eBay's [Mall for Africa Store](#).

The new online channel expands an existing relationship between the two e-commerce companies. In 2016, they launched the [eBay Powered by MallforAfrica](#) platform allowing

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U.S. vendors to sell in Africa.



"A year ago our focus was about how we could work with a partner to overcome shipping, payment, and trade barriers to offer eBay's selection in Africa," Sylvie de Wever, eBay's General Manager of Latin America and US exports, told TechCrunch.

"If you think about our purpose, which is connecting millions of buyers and sellers around the world and creating economic opportunity, it makes sense to open up the American market to sellers in Africa," she said.

To start, the program taps goods from merchants in Nigeria, Kenya, Ghana, South Africa, and Burundi, according to de Wever. "We'll be adding more sellers and more countries," she said.

On the selection of African vendors, "The main criteria are that the products be made in Africa and quality—making sure it's a quality product that we can ship within the categories selected," said MallforAfrica CEO Chris Folyan.



To ensure both, MallforAfrica created a new association, the **Africa Made Product Standards (AMPS)**, to verify made in Africa status and merchandise standards. Initial vendors include African art and craft site Qeturah and accessory brand Eclectic Chique.

Both MallforAfrica's Folyan and eBay's de Wever underscored the partnership to sell select African products on eBay is not charity. "This is very much about expanding the reach of African sellers, enabling their platforms, and allowing them to earn and compete globally," said de Wever.

Folyan sees value for the continent in connecting African sellers to the global digital market. "We're going to help Africans get on the e-commerce roadmap and make sure people see there are amazing products coming out of Africa," he said.

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"The end result is not just artisans getting known, it's about giving them a platform expand their businesses, to make money, to send their kids to school, to impact their families," he added.

MallforAfrica was founded in 2011 to solve challenges global consumer goods companies face when entering African markets. With a unique payment and delivery system, it serves as a digital broker and logistics manager between U.S. retailers and African consumers. The venture has backing from UK private equity firm [Helios Investment Partners](#) and alliances with companies such as clothier [Hawes and Curtis](#) and department store Macy's.

While digital sales revenue in Africa is expected to exceed \$75 billion by 2025, there's no reliable estimate of the potential marketplace for online African goods in the U.S., according to Chris Folyan.

Still, he's optimistic. "We know this will be a pretty big market," he said, noting demand at two levels. "There's this wave of interest in African centric designs in mainstream fashion. You've seen brands such as Chanel and Dolce Gabbana elevate that. Then you have Africans in the U.S. who want to reconnect with their heritage."

In addition to being one of the most educated demographics in America, Africans have become one of the fastest growing immigrant populations, according to data from [Pew](#) and the [U.S. Census Bureau](#).

eBay's new partnership has another interesting tech angle: the ability of e-commerce to leapfrog government trade policy.

The last major [legislation](#) expanding trade between the U.S. and Africa dates back to 2000. E-commerce partnerships don't wait for congressional approval.

"We've seen people all over the world want to trade, regardless of regulation" said eBay's Sylvie de Wever.



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# Millions of American small business owners feel left behind. This is how tech can help

Devin Wenig, Opinion contributor Published 6:00 a.m. ET Jan. 19, 2018

We have a structural advantage in tech, so let's make the most of it.



(Photo: John G. Mabanglo, epa)

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In the last few decades, the technology sector has been a cornerstone of innovation in the United States. It has sparked rapid growth, provided access to global markets and created entirely new, massive industries — generating an estimated \$1.3 trillion and accounting for about 8% of U.S. GDP.

Despite all this, we see greater divides between a few, tech-rich, urban hot spots and the rest of the country. Many feel left behind by globalization, technology innovation and particularly automation.

The entire U.S. economy is moving rapidly to a tech-enabled one, and because of that it's critical to focus on the role tech can play to revitalize communities impacted by the flight of manufacturing jobs. And this needs to go beyond reskilling everyone to become tech workers.

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One of the most meaningful ways technology companies can make an equitable impact is by bringing back to life the real engine of the U.S. economy — small businesses.

Small businesses are already the biggest generator of jobs in America. They make up almost half of private sector employment. Those of us in tech and in the public sector need to take the next step to rev that engine more.

We have seen that small businesses have largely been locked into local — and sometimes depressed — markets. Less than 2% of all U.S. small businesses export. On the other hand, over 95% of American small businesses on the eBay marketplace export.

Technology platforms like ours link these businesses to the world, creating more local jobs and resilient local economies. We are in favor of tax reform and infrastructure expansion as a way to generate jobs, but getting small businesses to adopt technology in the right way — which would in turn help them scale — could dwarf the benefits of these reforms in terms of job creation.

In recent years, Detroit, Denver, Boston, Salt Lake City, Austin and Dallas have emerged as tech hubs, apart from Silicon Valley. The reality is that the next phase of the tech build-out has to extend to the entire country. The question, then, is how can we enable the adoption, and will government officials embrace...



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we change the support, and will government officials embrace — or constrain — it.

This is the foundation of a partnership between eBay and Akron, Ohio — taking local businesses who often struggle in their markets and giving them effective, affordable tools to reach a new world of consumers.

Once known as the rubber capital because of its tire manufacturing plants, Akron has seen jobs go away as manufacturing moved overseas. The city has been looking for ways to connect with the wider world.

We are trying something new — a retail revival initiative in Akron that uses the power of the online marketplace and technology to build a reservoir of resources to help entrepreneurs scale.

Small businesses, like Tiny Circuits that designs and builds small open source electronics in an old rubber factory in Akron, will benefit from exposure on technology platforms like ours. It will help them gain access to 190 markets around the globe.

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Creating pathways between remote areas and urban centers is beneficial in recirculating economic prosperity. Instead of painting the tech sector and innovation as job destroyers, we need a new model of public-private tech partnership where technology companies and public officials come together to rev the small business engine.

For our part, we are going to do more to reach out to communities like Akron. We want to work with small enterprises, and help them be job generators.

But we cannot do that successfully without strong public-private partnerships. We need the government to facilitate investment in reliable, high-speed broadband in rural areas. We need net neutrality so that if small business owners build their own digital platforms, they won't be disadvantaged. We also need fair taxation with appropriate small business exemptions, to allow small businesses in the U.S. to be able to compete and thrive.

As technology becomes the central focus of our lives, it's up to us in the industry and the government to have candid conversations about the role we play in architecting the next industrial revolution. At the end of the day, the U.S. economy is going to be a technology economy. And we should ensure it is inclusive and equitable for all.

*Devin Wenig is the president and CEO of eBay.*

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## eBay boosts its Japanese business with an acquisition

Posted Feb 28, 2018 by [Jon Russell \(@jonrussell\)](#)



eBay is ramping up its presence in Japan via its latest investment in Asia.

The U.S. online retail giant [announced](#) today that it has acquired the Japan-based business of pan-Asia e-commerce company Giosis, which is called Qoo10.jp, in an undisclosed deal.

eBay originally set up Singapore-based Giosis in 2010 alongside Korea's Gmarket, and as part of today's deal it will give up its equity in the Giosis business outside of Japan. In particular, that refers to Giosis' network of e-commerce sites that cover Singapore, Indonesia, Malaysia, Hong Kong, and China. [Giosis raised \\$82.1 million from Singapore Press Holdings and others back in 2015.](#)

Elsewhere in Asia, eBay [invested in India's Amazon rival Flipkart](#) last year as part of a \$1.4 billion funding round that saw Flipkart take over the local eBay India business. That deal represented a pivot as such since [eBay had originally placed its India bet on Snapdeal](#), which [massively scaled back its operations](#) last year after rejected a potential acquisition by Flipkart.

eBay had an unsuccessful effort in China which [ended in 2006.](#)

Japan has been a relative ray of sunshine compared to other parts of Asia. While it doesn't

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eBay is an online marketplace. The platform connects millions of buyers with sellers globally utilizing PayPal to ensure secure transactions. eBay products can be sold either via a silent auction in which users are able to input the maximum price they are willing to pay and for which the site will automatically increase bids as necessary up to that maximum, or via the Buy It Now feature that enables ...

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Japan has been a relatively slow burner compared to other parts of Asia. While recent reports provide local customer figures, the company said it enables "thousands of Japanese businesses" to sell products to the 170 million active buyers that it claims worldwide. The Qoo10.jp looks like an effort to grow a business that sells to customers inside Japan. eBay said that Qoo10.jp has around two million. That's a fairly significant number, but it is some way short of Rakuten, which dominates the Japanese e-commerce space with nearly 90 million registered shoppers.

Beyond online retail, Rakuten also offers banking and financial services to help raise engagement with customers.

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RETAIL

# eBay Expands Cross-Border Logistics Network With New Joint Venture

By PYMNTS  
Posted on March 8, 2018



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Online retailer **eBay** has launched a joint venture with a unit of Citic Private Equity Funds Management Co. Ltd., eyeing a boost to cross-border logistics and, of course, speeding delivery to far-flung end consumers.

As reported by **Caixin Global** on Thursday (March 8), eBay signed an agreement with the Citic unit, Orange Connex Holding, with the joint venture to be called Orange Connex Ltd. (or OCL).

OCL has, in turn, debuted SpeedPAK for the region, which is being billed as a new shipping program through eBay, geared toward cross-border activity and eCommerce sellers based in China.

As noted by Caixin Global, SpeedPAK is an upgrade to **eBay's** other shipping initiatives and, per a statement by the firms, dovetails with "eBay's 2018 corporate goal of driving a better buying experience and bringing in more active buyers."

The total transit time offered by SpeedPAK now is eight to 12 business days and spans the United States. Rollouts next quarter will enable service in the United Kingdom, Australia, Italy, France, Spain and Germany.

John Lin, eBay global VP of international cross-border trade, said, as quoted by Caixin, "Our investment in OCL and the launch of SpeedPAK are of great significance ... as (the latter) enables end-to-end management of shipping processes and greatly enhances the buyer experience. In the future, more buyers around the world can enjoy high-quality products with great prices from China in a more convenient and faster way."

The eBay announcement comes on the heels of the Sept. 2017 news that Alibaba Group Holding is **investing** just under \$16 billion to build out its own global logistics network.

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# Everything Is Not Awesome For LEGO

By PYMNTS  
Posted on March 8, 2018



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# EBay partners with fashion marketplace Spring in growing rivalry with Amazon, Wal-Mart

- Spring sells merchandise by Michael Kors, Coach and Urban Outfitters, among more than 1,500 other brands.
- The e-retailer will now bring hundreds of those relationships to eBay.
- Increasingly, companies are finding ways to partner with smaller brands to grow their product offerings and appeal to shoppers.

Lauren Thomas | @laurenthomasx3  
Published 1:01 PM ET Wed, 13 Sept 2017



David A. Grogan | CNBC  
Devin Wenig, CEO, eBay

As Amazon, Wal-Mart and Target work faster than ever to beef up their e-commerce operations, one of America's earlier internet marketplaces has fallen off some shoppers' radars.

But don't count eBay out of the race to the top.

The company is partnering with Spring, a New York-based fashion e-retailer, to bring hundreds of big-name accessories and apparel brands to ebay.com.

Shoppers will now be able to browse the looks of David Yurman, Rag & Bone, Mango and Chloe on eBay's website, the same site that lets customers bid on toys, power tools and motorcycles. Like its retail rival Amazon, eBay's in the business of everything.

EBay's latest move shows the e-retailer is still trying to grow its online marketplace and shed from its image any perception of poor quality or too much hassle. Today, more than 80 percent of merchandise sold on eBay is new, and nearly 90 percent of items bought on the website are purchased without a bidding component.

It also reflects a bigger shift in the industry.

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"The Spring and eBay partnership is evidence of a growing trend in which retailers are partnering — instead of competing — with other retailers," Jill Ramsey, vice president of merchandising at eBay, said.

"With Spring, we can bring even more coveted merchandise to our buyers, making it easier than ever to discover their own version of perfect."

The [Spring storefront](#) on eBay's website will function like a boutique, the companies explained, where shoppers should be pleased to find more of their favorite brands in one place. At least that's the goal, as consumers today are faced with more options of places, both online and offline, to ring up purchases.

"Spring's mission is to bring top brands to consumers at a variety of tastes, style and prices," Spring CEO Alan Tisch said about his company.

"Our new partnership with eBay helps further this mission and expand our reach," Tisch added. "Both Spring and eBay are committed to offering unparalleled selection across the best brands — including the newest, hottest styles, sold-out or hard-to-find merchandise, and great deals for every price and style."

Founded in 2014 by Tisch, his brother, David, and Octavian Costache, Spring's selection of products from more than 1,500 brands online today includes those by Michael Kors, Coach and Urban Outfitters.

It's not the exclusivity factor that sets Spring apart from other retailers or online players — [Coach](#) and [Michael Kors](#), for example, can be purchased via many outlets.

Spring, though, has managed to curate an assortment of hundreds of fashion-forward brands, all within one site, and now it hopes to bring that same concept to eBay, making the internet marketplace a "dedicated destination" for women looking for Bobbi Brown makeup or a pair of Tory Burch sandals.

And both eBay and Spring agree that the more than 300 fresh brands coming to ebay.com should likewise benefit from the partnership. It's something that's expected to put their logos in front of more faces, maybe in front of some shoppers who weren't in the market for those products before.

As eBay's Ramsey pointed out, the idea of a big company deciding to partner with a niche name in the retail space is nothing new.

Wal-Mart has been on its own acquisition spree, buying e-retailers Moosejaw, ModCloth, Jet.com, and most recently announcing plans to acquire Bonobos. While its smaller competitor, Target, was keeping quiet for a while, the company last month [announced plans to acquire a transportation logistics company](#) to help speed deliveries. Target is also [partnering with smaller brands](#) to roll out exclusive products in its stores and online.

On Tuesday, Target [announced](#) its latest collaboration, with a couple featured on the home renovation network, HGTV. Chip and Joanna Gaines will be designing Hearth & Hand, an exclusive line of home and lifestyle goods, for Target stores and Target.com.

Amazon has indicated a similar interest in working with retailers, such as [Sears](#) and [Kohls](#), to either [sell the retailers' brands on Amazon.com](#), or work to get more [Amazon-branded merchandise, such as the Echo](#),

into brick-and-mortar stores that the internet giant doesn't have.

Tisch told CNBC that Spring will become more of a partner with eBay, and will help curate fashion catalogs for eBay customers ahead of the holidays. He added that in working with eBay, the two are sure to face more competition from Amazon in the market for apparel and accessories in the future.

But unlike Amazon, which has shown interest in rolling out its own private-label lines, Spring is sticking with growing its relationships with existing brand names.

On Wednesday, eBay's stock was climbing near 1 percent and is up almost 30 percent in 2017. The stock hit a fresh intraday high of \$38.50.

### WATCH: EBay marketplace continues to show improvement



**Lauren Thomas**  
Retail Reporter

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# Declaration of Amber Leavitt

## Exhibit B

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Science Fiction/Fantasy Paperback Book Lot INSTANT COLLECTION "Free Shipping"

2 product ratings | Write a review

Condition: Good
This listing with a mix of both Science Fiction AND Fantasy - Go to our store and check out our NEW!

Quantity: 1 More than 10 available 295 sold / See feedback

Was: US\$634.95

You save: \$6.99 (20% off)

Price: US \$27.96

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Add to cart

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Add to collection

Seller information: howiesbookcellar (7732) 100% Positive feedback. Save this Seller, Contact seller, Visit store: Howie's Book Cellar, See other items.



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Have one to sell? Sell now

100% buyer satisfaction 295 sold More than 78% sold

Shipping: FREE Economy Shipping | Item location: Mooreville, North Carolina, United States | Ships to: Worldwide

Delivery: Estimated on or before Sat, Mar. 17 to

Payments: PayPal VISA MasterCard American Express

Credit Cards processed by PayPal

PayPal CREDIT

Get more time to pay | Apply Now | See terms

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Returns: 30 day returns. Buyer pays for return shipping | See details

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Description Shipping and payments Report Item

Seller assumes all responsibility for this listing. Last updated on Feb 04, 2018 08:34:51 PST. View all revisions

ebay item number: 370615975371

Item specifics

Table with item details: Condition: Good, Seller Notes, Subject: Science Fiction, Topic: Science Fiction Space, Language: English, Format: Paperback, Media Type: Book, Title/Series: Future, Type: Book.



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SCIENCE FICTION/FANTASY PAPERBACK MIXED LOT

The buyer will receive 10 lbs(pounds) of "Science Fiction & Fantasy Mixed Lot" paperback books. Books will be SELECTED RANDOMLY. NO duplicates/double copies of the same books.

\*\* YOU MAY OR MAY NOT RECEIVE BOOKS FROM THE PHOTO, BUT ALL WILL BE A SCIENCE FICTION/FANTASY MIXTURE

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The books can range from **GOOD** to **LIKE NEW** condition.

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\$7.16  
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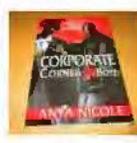
MICHIGAN COOKS COLLECTION Food-Cook

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\$18.05  
Free shipping



Corporate Corner Boys by Anya Nicole AFRICAN A

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2 product ratings



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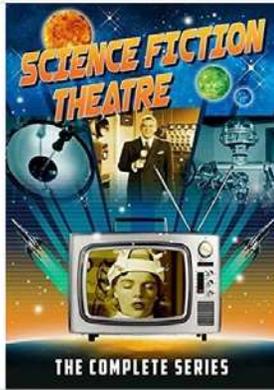
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Have one to sell? Sell now

### Science Fiction Theatre: The Complete Series DVD

★★★★★ 10 product ratings

Condition: Brand New

Quantity: 1 More than 10 available 64 sold / See feedback

List price: \$49.98

You save: \$20.54 (41% off)

Now: US \$29.44

Buy It Now

Add to cart

Add to watch list

Add to collection

100% buyer satisfaction 64 sold More than 78% sold

Shipping: FREE Economy Shipping | See details

Item location: Springfield, VT, USA, United States

Ships to: Worldwide | See details

Delivery: Estimated between Wed, Mar. 14 and Wed, Mar. 21

Use Expedited Shipping to get it by Mar. 15

Payments: PayPal VISA MasterCard American Express

Credit Cards processed by PayPal

PayPal CREDIT

Get more time to pay | See terms

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Returns: 30 day returns. Buyer pays for return shipping | See details

Guarantee: eBay MONEY BACK GUARANTEE | See details

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blowitoutahere (1677624) 99.2% Positive feedback

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Description Shipping and payments Report item

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eBay item number: 191917704470

#### Item specifics

Condition:	Brand New: An item that has never been opened or removed from the manufacturer's sealing (if applicable) item ... Read more	Genre:	TV Shows
Rating:	NR	Format:	DVD
UPC:	011301621474		

#### Product Details

##### Product Details

Number of Discs:	9
Rating:	Not Rated
UPC:	011301621474

##### Additional Details

Genre:	TV Shows
Format:	DVD

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### Science Fiction Theatre: The Complete Series DVD

Release Date: 12 May 2015  
 Label: Timeless  
 Format: DIGITAL VIDEO DISC  
 No. of Discs: 9

#### About Us

Welcome to BlowItOutaHere on eBay! We offer great prices on a large selection of CDs, DVD, Blu-rays other music and movie related items. We have been in business for several years and ship hundreds of thousands of packages to satisfied customers each year.

We are a US seller and all of our products are brand new and factory sealed from the manufacturer. We sell only original, licensed content from authorized record labels and movie studios. Please help us fight piracy and avoid buying illegal CD and DVD copies.

#### Blu-ray and DVD Region Codes

Please note that 99.9% of our DVD and Blu-ray listings are Region 1/A for playback in North American players. This also includes bonus DVDs that come with CDs. If you have any questions about the region code for a specific item, please feel free to contact customer service through the eBay message system and they will be happy to assist you.

#### Shipping

We process and ship orders Monday through Friday. Currently we only ship within the United States including all U.S. Territories (Guam, Puerto Rico, Virgin Islands, etc.), military APO/FPO addresses, and many international locations. Please see the shipping tab for specific details. Once your payment has been received, please allow one day for processing.

Orders shipping to Hawaii, Alaska and U.S. Territories take several days longer to arrive using the Economy shipping method. If you need your order quickly, please choose the Standard shipping method in these areas.

We are proud to offer a combined shipping discount if you purchase multiple items. We charge the regular price for the first item and only \$1.50 for each additional item for every shipping method. You should see the option when you check out. If you do not, please purchase the items and hold off on payment. We will receive a notice about a combined shipment and send an invoice with the total charges. Sorry, once an item has been paid for we are unable to combine it with another purchase.

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website. You can also use the USPS website, but you will only see the tracking for the USPS portion of the shipment.

**Standard Shipping Service** - Our Standard Shipping method uses the US Postal Services First Class Mail. You can expect to receive your order in 2-5 business days with this service once the package ships. Tracking for this delivery method can be found on the USPS website.

**Expedited Shipping Service** - If you wish to receive your order quicker, our expedited service uses UPS 2nd Day Air. You can expect to receive your package in 2 business days from the date of processing with this service. **Please note that UPS does not deliver to PO Boxes.** This method is only available for physical addresses.

**International Shipping Service** - International orders are shipped via DHL Global Service. Please allow at least 10 business days for international shipments to arrive. However, due to customs delays it may take longer. Sorry, international expedited service is not available.

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**Please Note:** Import duties, taxes, and charges are not included in the item price or shipping cost. These charges are the buyer's responsibility. Please check with your country's customs office to determine what these additional costs will be prior to bidding or buying. International Shipments also require the same billing and shipping address.

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Now: **US \$36.85**



Stephen King's It DVD Region 1 CLK/FRA/SPA/EUR

List price: ~~US \$29.98~~  
Now: **US \$23.59**



Stephen King's It Blu-ray

List price: ~~US \$34.98~~  
Now: **US \$19.95**



Jesse Stone: Lost in Paradise DVD

List price: ~~US \$44.98~~  
Now: **US \$10.37**



Avatar: The Last Airbender - The Complete Series DVD

List price: ~~US \$39.98~~  
Now: **US \$24.37**

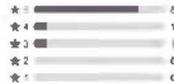
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### Ratings and Reviews

Write a review

4.7  
10 product ratings



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★★★★★  
by ottokarandbano  
Jan 22, 2016

#### Science Fiction Theater was ahead of its time

Before Twilight Zone or Outer Limits, this was a great series that started out each episode with a scientific fact and wove a fictional story around that subject. I saw these episodes a child and I enjoyed them then as I enjoy them now. I think this series is great!

Verified purchase: Yes | Condition: Pre-Owned | Sold by: discountsmore



★★★★★  
by mabasic  
Mar 27, 2017

#### Blast from the past

When American thought science was a good thing. In other words, the good old days.

Verified purchase: Yes | Condition: New | Sold by: blowitoutahere



★★★★★  
by eamoduz20  
Oct 04, 2016

#### Science fiction theatre

Love it remember it from my childhood very much fun

Verified purchase: Yes | Condition: Pre-Owned | Sold by: moviegreats



★★★★★  
by duffalcoanddaisy  
Sep 29, 2016

#### Sci Fi theater

great value

Verified purchase: Yes | Condition: New | Sold by: thinkgreat



★★★★★  
by p300gaf  
Nov 03, 2016

#### So far

Just as I remember watching them as a young adult. My younger nephew is also enjoying the DVD quality

Verified purchase: Yes | Condition: New | Sold by: thinkgreat



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Have one to sell? Sell now

Funko Pint-Size: SCIENCE FICTION - GAMESTOP EXCLUSIVES!

Condition: New
Pint Size: Science Fiction
Quantity: 1 More than 10 available 20 sold / See feedback

Price: US \$4.99

Buy It Now

Add to cart

Add to watch list

Add to collection

100% buyer satisfaction 20 sold More than 64% sold

Shipping: FAST 'N FREE On or before Thu, Mar. 15 Item location: Austin, Texas, United States Ships to: United States and many other countries | See details

Payments: PayPal VISA MasterCard American Express Credit Cards processed by PayPal

PayPal CREDIT Get more time to pay Acquire Now | See details See details

Returns: 30 day returns. Buyer pays for return shipping | See details

Guarantee: eBay MONEY BACK GUARANTEE | See details Get the item you ordered or get your money back. Covers your purchase price and original shipping.

Add to watch list

Seller information: popplastic\_42 (594 #) 99.8% Positive feedback Save this Seller Contact seller Visit store Popplastic Store See other items



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SPONSORED Pop! Games: Resident Evil - Leon S. Kennedy FUNKO #156 \$12.99 Free shipping



SPONSORED Funko Pint Size Heroes Science Fiction \$4.99 + \$3.75



SPONSORED Funko Pint Size Heroes: Science Fiction - One Mystery Toy Figure \$8.04 Free shipping



Funko Pint Size Heroes Collection You Pick: 250 to choose from! \$1.00 + \$2.99



Funko Pint-Size: SCIENCE FICTION - GAMESTOP EXCLUS... \$4.99 Free shipping

Description Shipping and payments

Report item

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Item specifics

Condition: New: A brand new, unused, unopened, undamaged item (including handmade items). See the seller's listing for full details. Read more Brand: Funko Featured Refinements: Funko Mystery Minis

New. Bag and insert included. Will be shipped with care.

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eBay item number: 322830720547

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US \$5.99



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US \$5.99



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Funko Mystery Minis: WALKING DEAD: IN MEMORIAM - 1/72

US \$4.99



Funko Mystery Minis: STAR WARS: THE LAST JEDI

US \$5.99

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FUNKO Disney Pint Size Heroes! Series 2 Lilo And Stitch Hot Top...  
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Funko Pint Size Heroes, Black Panther, Black Panther, T'Challa  
\$1.99  
+ \$3.50



funko pint size heroes power rangers complete common set  
\$40.00  
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\$8.04  
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### Black Dog 1/72 Science Fiction Mech Robot M11XR7 Stryker "Snow Beaver" SFT72004

★★★★★ Be the first to write a review

Condition: **New**  
Quantity:  3 available / 2 sold

Was: ~~US \$44.75~~  
You save: **\$6.71 (15% off)**  
Price: **US \$38.04**

**Buy It Now**  
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**Seller information**  
dragon-hobby (47314) ★  
100% Positive feedback

---

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30-day returns Located in United States 13 watchers

Shipping: **FAST 'N FREE**  
On or before **Thu, Mar. 15**  
Item location: Sterling, Virginia, United States  
Dispatch to: Worldwide

Payments: **PayPal** VISA MasterCard Discover American Express  
Credit Cards processed by PayPal

**PayPal CREDIT**  
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Returns: 30 day returns. Buyer pays for return shipping. 15% restocking fee may apply | [See details](#)

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\$7.99  
+ \$3.95



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+ \$9.90



Takara Thunderbirds Thunderbird 2 Rescue Mecha Collection 1/144...  
\$460.00  
+ Shipping



Black Dog 1/72 XP-ARV "Little John" Model 268 QT Mech Walk...  
\$38.04  
\$44.75  
Free shipping

#### Description Shipping and payments

Report item

Seller assumes all responsibility for this listing.  
Last updated on: Oct 09, 2017 12:34:34 PDT [View all revisions](#)

ebay item number: 171171421514

#### Item specifics

Condition:	New: A brand-new, unused, unopened, undamaged item (including handmade items). <a href="#">See the seller's listing...</a> <a href="#">Read more</a>	Brand:	Black Dog
MPN:	SFT72004	Recommended Age Range:	14+
UPC:	Does not apply		

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Worldwide Shipping

## Black Dog 1/72 Science Fiction Mech Robot M11XR7 Stryker "Snow Beaver" SFT72004

#### Pictures





**Description**

Brand new!

This is a pure resin fantasy tank kit from Black Dog.

**Important!** This item is unassembled and unpainted. All extra model kit(s) and figure(s) in the pictures are for illustrative purposes only, and they are **not** included.

**About Black Dog:**

Black Dog is a Czech Republic aftermarket company producing excellent quality resin updates, conversion and accessory sets as well as figures.

Black Dog castings have established excellent reputation among modelers with their resin quality. They have repeatedly impressed modelers with their fine rendered parts which leads to the distinctiveness of final kit. Their boxes are nice and sturdy with nicely done box art which can act as your painting guide.

Please check out our other items

US \$43.94	US \$28.94	US \$4.94	UK \$10.94	US \$18.94

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Paypal eChecks are not instant payments. They need to clear before shipping.

Payment is required within **5 days** after the auction. If you have any extenuating circumstances preventing payment to be made within 5 days, you must notify us immediately of the expected payment date. Failure to comply with this will result in suspension from bidding things with us.

**Important!** Please note that items bought from different ebay country sites (US, UK, DE, etc.) can not be combined for payment.

34128

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Black Dog 1/72 Sorense Friction Tank Su W (1) 544 "Hörpöb" Kirov  
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Adult Men's Science Fiction Show Star Trek Final Frontier Sublimated T-Shirt Tee

Condition: New without tags
Size: Select
Quantity: 1 3 available

Price: US \$30.95

Buy It Now

Add to cart

Add to watch list

Add to collection

Free delivery in 4 days 30-day returns Located in United States

Shipping: FAST 'N FREE On or before Thu, Mar, 15
Item location: Walnut Lake, Michigan, United States
Ships to: Worldwide

Payments: PayPal VISA MasterCard American Express
Credit Cards processed by PayPal

PayPal CREDIT Get more time to pay. See details

Returns: 30 day returns. Buyer pays for return shipping. See details

Guarantee: eBay MONEY BACK GUARANTEE. Get the item you ordered or get your money back. Covers your purchase price and original shipping.

Add to watch list

Seller information: fancydressoutfit (58935) 99.7% Positive feedback. Save this Seller, Contact seller, Visit store, See other items.

People who viewed this item also viewed

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JUSTICE LEAGUE OF AMERICA Heroes 2-Sided Sublimated All O... \$27.94 Free shipping



STAR TREK FINAL FRONTIER MENS SUBLIMATION T-SHIRT \$21.99 + \$3.99

Description Shipping and payments

Report item

Seller assumes all responsibility for this listing. Last updated on Mar 01, 2018 16:03:38 PST View all revisions

eBay Item number: 252762818800

Item specifics

Condition: New without tags. A brand-new, unused, and unworn item (including handmade items) that is not in original packaging or ... Read more
Color: Sublimated White
Sleeve Length: Short Sleeve
Pattern: Character Print
Theme: Adventure SciFi Intergalaxy Space Ship Spock Enterprise Star Trek
Gender: Men
Brand: Star Trek
Style: Graphic Tee
Size Type: Regular
Size (Men's): Small-3XL
Material: 100% Polyester

Item description

Choose between adult men's Small-3XL. An adult men's t-shirt. Does not include anything else. Men's Shirt Sizes: Juniors. Suggested for females. This is a form fitting style shirt not to be confused with youth.

See full item description

Explore more options: Theme

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# Declaration of Amber Leavitt

## Exhibit C

Find Website Traffic Statistics:

### ebay.com Traffic Statistics

This site's metrics are estimated  
Is this your site? [Certify your site's metrics.](#)

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#### How popular is ebay.com?

**Alexa Traffic Rank**  
How is this site ranked relative to other sites?



Global Rank

**42**

Rank in United States

**9**

**Monthly Unique Visitor Metrics**  
Past 30 Days — Last Updated March 08, 2018

Country	Estimated Unique Visitors	Estimated Visits	Estimated Pageviews
<b>United States</b>	Advanced Plan Only	Advanced Plan Only	Advanced Plan Only

Loyalty Metrics	Visits per Visitor	Pageviews per Visit	Monthly Pageviews per Visitor
Based on unique visitor estimates	Advanced Plan Only	Advanced Plan Only	Advanced Plan Only

[Data for this site available in the Advanced plan. Subscribe to View](#)

#### Audience Geography

Where are this site's visitors located?

Visitors by Country



Country	Percent of Visitors	Rank in Country
United States	55.2%	9
Japan	4.3%	61
China	3.2%	115
Russia	2.0%	67
Canada	1.8%	40

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#### How engaged are visitors to ebay.com?

**Bounce Rate**  
**28.10%** **-1.0%**

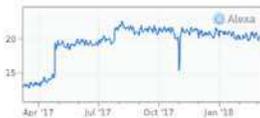
**Daily Pageviews per Visitor**  
**7.12** **-0.9%**

**Daily Time on Site**  
**9:37** **-1.0%**

#### Where do ebay.com's visitors come from?

##### Search Traffic

What percentage of visits to this site come from a search engine?



**20.50%** **-2.0%**

##### Top Keywords from Search Engines

Which search keywords send traffic to this site?

Keyword	Percent of Search Traffic
1. ebay	1.83%
2. ebay motors	0.21%
3. ebay official site	0.21%
4. ebay login	0.05%
5. ebay online shopping	0.04%

[Subscribe to view more keywords for ebay.com](#)

##### Upstream Sites

Which sites did people visit immediately before this site?

Site	Percent of Unique Visits
1. google.com	16.1%
2. amazon.com	3.9%
3. youtube.com	3.9%
4. aliexpress.com	2.4%
5. google.ru	2.2%

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#### Where do ebay.com's visitors go next?

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## What sites link to ebay.com?

7

Total Sites Linking In

197,599

Site	Page
1. baidu.com	toeba.baidu.com/#viewhandlejennifer
2. qq.com	gaoqq.com/article/detail/29182
3. amazon.com	instanc.amazon.com/farm/mph/boutique/20
4. yeha.com	printmaking101.blog.yeha.com/1465886
5. sina.com.cn	blog.sina.com.cn/alan9110

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## What sites are related to ebay.com?

7

### Similar Websites by Audience Overlap

- amazon.com
- walmart.com
- pininterest.com
- reddit.com
- ebay.com

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### Other Sites Owned

- ebayireland.com
- myebay.com
- sew.egit.ile

### Categories with Related Sites

- Shopping & Auctions
- World & Region > Norway > Appliances

## Where do visitors go on ebay.com?

7

Subdomain	Percent of Visitors
ebay.com	95.81%
sgm.ebay.com	1.55%
mesg.ebay.com	0.71%
my.ebay.com	7.59%
ptg.ebay.com	7.85%

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## How fast does ebay.com load?

7

Average 12.996 Seconds, 96% of sites are faster

## Where can I find more info about ebay.com?

7

[Add Logo](#) 

**Site Description**  
International person to person auction site with products shipped into other countries

How did ebay.com look in the past?

[Edit Site Info](#)

## Who visits ebay.com?

7

### Audience Demographics

How similar is this site's audience to the general internet population?



[Competitor Keyword Matrix](#)  
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# Declaration of Amber Leavitt

## Exhibit D

Feb 7, 2018



# New Program Supports U.S. Retailers Who Are 'Always Open on eBay'

By: eBay News Team

eBay partners with sellers to help connect their online and offline efforts.



Today, we are launching **Always Open on eBay** to support our sellers who also own physical retail stores, helping them showcase their products, attract new customers, and grow their business. Participating retailers receive co-branded collateral for their physical space that promotes their eBay store, where their customers can shop at any time, and from anywhere.

As the retail industry undergoes a transformation, and the lines between online and offline shopping continue to blur, many physical stores face increasing challenges, particularly those that are small and medium-sized businesses. In fact, more stores shut their doors in 2017 than any other year on record, according to a recent study by UBS.

Driving traffic, and ultimately sales, is the overarching concern of most retailers. So how do eBay sellers, many of whom are small businesses and local entrepreneurs with physical stores, keep up as technology rapidly alters the retail landscape?



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Diversity & Inclusion

Find out what it means to eBay



"We're sharply focused on helping our sellers solve their most pressing challenges," eBay VP of Global Trust and Seller Experience Bob Kupbens said. "We believe that Always Open is one way we can further enable our seller community and drive incremental traffic and sales to their businesses on eBay."

eBay exists as a commerce platform to empower entrepreneurs of all kinds. The company has continued to introduce enhancements and provide tools to its sellers to support them and their businesses.

A similar example of how eBay is harnessing technology on behalf of small businesses is a recently launched effort, Retail Revival, that will leverage eBay's global marketplace to support and drive local business development in Akron, Ohio. Together, we see Always Open and Retail Revival as complementary initiatives that share a common goal of economic empowerment.

"I've been an eBay seller for almost a decade, and it's great that I can co-brand my store with eBay and drive additional sales," said Brad Woehl, owner of San Francisco-based American Cyclery. "Our store has definitely experienced a decline in customers coming through our door in recent years. Partnering with eBay has made the difference between us just surviving and us actually prospering as a business."

Always Open on eBay is launching with 30 sellers based in New York and the San Francisco Bay Area and is offered at no cost to sellers. If you are an existing eBay seller with a physical retail store – or a retail store who has not yet brought your business online – and are interested in learning more about this program, please visit [ebay.com/alwaysopen](http://ebay.com/alwaysopen).

TOPICS: [Announcements](#), [Commerce](#)

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# eBay's secret of success

Glyn Moody



### Profits may be new for Amazon, but eBay has had them from the start

There is something faintly absurd about the milestone status accorded to Amazon.com's [first profits](#). That something so ordinary in business terms can become so extraordinary indicates how necessary the recent e-commerce shakeout really was.

What makes the situation particularly odd is that another dotcom has been happily churning out profits more or less from day one, and yet it has received disproportionately little attention.

The [latest earnings figures](#) for eBay are, as usual, good and getting better, but have occasioned little in the way of comment. Even more impressive is the fact that eBay's share price has resolutely defied the [dotcom downturn](#). Such an across-the-board success cries out for an explanation. [The issue](#) unbecomingly. Fortunately, the Internet Archive lets us savour the [details](#).

It is clear from this that eBay has always fed off the enthusiasms - some would say obsessions - of its users. One immediate advantage of this is the natural way in which communities of users form based around their common interests.

It also brings into play a lucrative process of natural selection, whereby it is the most determined users that tend to turn to eBay most. This, in turn, means that they are likely to bid more fiercely against rivals when they find what they are looking for.

Here is a case where being the first mover really did confer an advantage. As word got out through collector networks that eBay was a good place to look for obscure items, so sellers were also attracted by this growing pool of buyers, which fed the virtuous circle yet further. Later auction sites have only

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flourished to the extent that they have been able to offer specialised services or benefits not otherwise available on eBay.

With a user base that tends to grow itself, the company has been shrewd in capitalising on that asset in other ways, notably fixed-price sales.

More recently, it has also been successful in selling this audience to major retailers, in what amounts to a new kind of auction-flavoured Web advertising. Here click-throughs lead to sales in a natural fashion through continuity with the surrounding pages, rather than turning into a distracting sideways move away from the main page, as is the case with conventional banner ads.

Two good examples in the field of computers are offered by [IBM](#) and [Sun](#), both of which now routinely sell computers to the eBay membership from the eBay site.

The reason that all of these different approaches contribute royally to eBay's bottom line is that its fundamental business model is to act as a mediator between parties - and to take a percentage of the sales. This must be the dream of all online companies, since it frees eBay from worrying about the details, and lets it concentrate on maximising its membership base and the overall use that it makes of the site.

In a way, though, the reason eBay is so successful is because it offers something quite amazing:

a genuine interface between the Internet and everyday life. It allows anyone on the Internet to search not Web pages, as Yahoo or Google do, but through the physical world for objects rather than information. This achievement, the company's great secret, is perhaps the main reason why eBay is a truly special dotcom - and unfailingly profitable.

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This was last published in February 2002

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## eBay's (EBAY) Marketplace is Expected to Do Well in 2018

March 05, 2018, 01:12:00 PM EDT By Zacks Equity Research, [Zacks.com](#)



Shutterstock photo

eBay Inc. **EBAY** is a well-established player in the e-commerce space and also has a first-mover advantage. To maintain its dominance, eBay has introduced several measures to fuel growth in its Marketplaces business.

eBay has been giving more data to its marketplace sellers. These data include price guidance, restocking guidance and more insight into inventory such as

demand signals for the right products, price and timing. Additionally, eBay continues to increase user engagement and satisfaction by driving traffic to its top-rated sellers. As a result, same-store sales at these retailers continue to grow at a healthy rate. The company expanded the use of social channels, which is significantly increasing traffic growth.

Also, Raymond James' analyst Aaron Kessler remains encouraged by the company's growth in its marketplace business. He believes that platform changes, product innovation and promoted listings will help in driving the Marketplace business in 2018. Consequently, the analyst has upgraded its rating based on the company's growth in its marketplace business.

Following the upgrade, eBay's shares were up 1.61% to \$42.95. In a year's time, the stock has gained 29.2% underperforming its industry's growth of 65.7%.



He

believes that gross merchandise volume (GMV) growth will continue to accelerate this year driven by enhancements to the buyer experience. In the recently reported fourth quarter, Marketplace GMV grew 9% year over year on a reported basis and 6% on an FX-Neutral basis. Total GMV of \$24.4 million grew 10% from the prior-year quarter on a reported and 7% on a FX-neutral basis.

The analyst believes that the company's Promoted Listings product will be accretive to earnings in 2018. In the last reported quarter, nearly 160,000 sellers used promoted listings to advertise more than 100 million items. That accounted for 50% of sequential revenue growth in the fourth quarter.

Bottom Line

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eBay is one of the world's largest online trading communities with a powerful marketplace for sale of goods and services by individuals and small businesses. The company enables trade on a local, national and international basis with local sites in numerous markets in the United States and country-specific sites in the United Kingdom, Canada, Germany, Austria, France, Italy, Japan, Korea and Australia.

The company is making all efforts to improve its Marketplace business. It is currently re-platforming itself by building product catalogs on structured data, enhancing mobile platform, rolling out new browse-inspired shopping journeys and strengthening its brand. Last year, eBay partnered with Facebook to boost its Marketplace business.

Also, the company accelerated its partnership deals to enhance its Marketplace. eBay partnered with Spring to offer a wide range of apparel and accessories through ebay.com. The company is anticipated to benefit from added selection of luxury brands. Moreover, the company is offering daily deals on Facebook's Mobile Marketplace and getting access to the latter's huge user base in return.

However, intensifying competition in the e-Commerce space as well as foreign exchange headwinds remain major concerns for the stock.

#### eBay Inc. Price and Consensus



Consensus | eBay Inc. Quote

#### Zacks Rank and Stocks to Consider

eBay has a Zacks Rank #3 (Hold). A few better-ranked stocks in the technology sector are PetMed Express [PETS](#) , Teradyne [TER](#) and Brady Corporation [BRC](#) . While PetMed and Teradyne sport a Zacks Rank #1 (Strong Buy), Brady Corporation carries a Zacks Rank #2 (Buy). You can see [the complete list of today's Zacks #1 Rank stocks here](#) .

Long-term earnings per share growth rate for PetMed, Teradyne and Brady Corporation is projected to be 10%, 12% and 7.5%, respectively.

#### The Hottest Tech Mega-Trend of All

Last year, it generated \$8 billion in global revenues. By 2020, it's predicted to blast through the roof to \$47 billion. Famed investor Mark Cuban says it will produce "the world's first trillionaires," but that should still leave plenty of money for regular investors who make the right trades early.

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# This is Why eBay Is a Top Large-Cap Stock Pick

Revenue growth may soon accelerate for eBay.



By [Wayne Duggan](#), Contributor | March 1, 2018, at 9:01 a.m.



Internet retailer eBay is Credit Suisse's top large-cap stock pick (Getty Images)

Compared to the larger, higher-profile FANG stocks, [eBay Inc](#) (Nasdaq: [EBAY](#)) doesn't get

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compared to the larger, higher-profile FAANG stocks, [eBay Inc.](#) (NASDAQ: EBAY) doesn't get nearly as much love from Wall Street as a long-term internet investment.

However, [eBay](#) is Credit Suisse's top large-cap stock pick, and analyst Paul Bieber says eBay has several catalysts ahead that could help drive impressive earnings and revenue growth in coming years.

[See: [7 of the Best Stocks to Buy for 2018.](#)]

According to Bieber, [eBay](#) could add as much as \$2 billion in revenue and \$500 million in profits via intermediating payments on roughly \$8 billion in gross merchandise volume sales on its platform by 2021. Earlier this year, eBay announced it is cutting ties with former subsidiary PayPal Holdings (PYPL) starting in 2021. PayPal has served as eBay's primary payments processor, but eBay will soon be taking over this business itself along with new partner Adyen.

PayPal will stay on a payment option for eBay customers until at least 2023, a move which Bieber says which will help smooth the transition and eliminate potential conversion risks.



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"If we apply a 15x multiple to the payment business and discount it back to 2018, we estimate that the payment opportunity could be worth \$4.50 per share in value," Bieber says.

In addition to the payments business, Bieber says eBay's StubHub business and/or classified business could be worth \$10 billion in the long term. He says eBay's focus on structured data and its investments in marketing will also likely pay off big for long-term investors. Finally, Bieber says [eBay's](#) recent acquisition of Giosis' Japan business helps boost the company's footprint in Asia and strengthen its cross-border trading capabilities.



## The Most Important Ages for Retirement Planning



The Most Important Ages for Retirement Planning: Age 50



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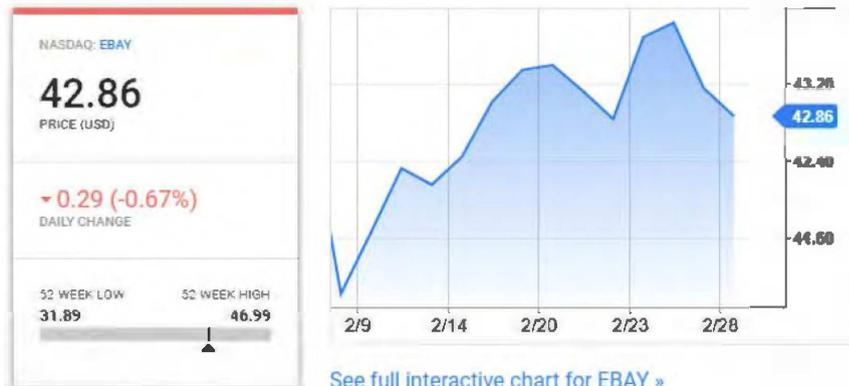
"The bottom line is that the eBay acceleration thesis continues to play out, aggressive share repurchases are shrinking the float and the payments opportunity now represents material option value," Biber says. "eBay is our favorite large-cap idea."

Morningstar analyst R.J. Hottovy also says eBay's data-driven merchandising, improved seller tools and other platform improvements are positives for the stock, but eBay is still dealing with the Amazon.com (AMZN) threat.

[See: [10 Investing Themes to Remember for 2018.](#)]

"Despite platform enhancements and transition into payment intermediation, we still harbor some concerns about eBay's ability keep occasional users engaged with Amazon continuing to find new ways to bring small and midsize business, or SMB, sellers onto its third-party platform," Hottovy says.

Credit Suisse has an "outperform" rating and \$51 price target for eBay. Morningstar has a "fairly valued" rating and \$44 fair value estimate for [EBAY stock](#).



Data as of 4:00 pm on 2/28/2018

Tags: [investing](#), [stock market](#), [eBay](#), [retailers](#), [internet](#), [PayPal](#)

**Wayne Duggan** is a freelance investment strategy reporter with a focus on energy and emerging market stocks. He has a degree in brain and cognitive sciences f... [full bio »](#)

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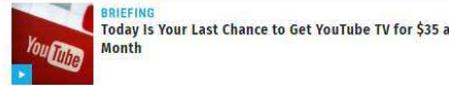
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TECH • EBAY

# EBay Wants to Make Online Shopping More Fun



Jasper Sanidad Photography

By BLOOMBERG February 13, 2018

EBay Inc. will roll out new augmented reality features this year to make buying and selling goods on the website more engaging, and is exploring a credit program for sellers to encourage them to keep their money on the platform.

The San Jose, California-based marketplace said it's working on an AR kit that, for



example, will let car enthusiasts see how the images of new wheels would look on their vehicles before making a purchase. Another feature will help sellers select the correct box size for an item by overlaying an image of the box on the merchandise.

EBay had a strong holiday quarter with 170 million buyers on the platform and a 10 percent increase in gross merchandise volume to \$24.4 billion. That is a key metric of the value of all goods and tickets sold on the company's marketplaces.

**We know you needed a bigger car**



Shoppers look to EBay for unique items at good prices and quick delivery is not the only factor that influences their spending decisions, Chief Executive Officer Devin Wenig said Tuesday in San Francisco at a technology conference sponsored by Goldman Sachs Group Inc. Wenig sought to convince investors there is room for EBay in a market dominated by Amazon.com Inc., which offers delivery of some items in as little as an hour.

"A lot of people say e-commerce is about one thing: logistics. That's not true," Wenig said. "Cost, convenience and the inventory itself matters a lot as well."

Wenig predicted retail consolidation and brick-and-mortar store closures will continue due to overcapacity created before the internet connected buyers with the merchandise. The marketplace plans to add more apparel and home goods, which is helping to balance its customer base by attracting younger shoppers and women, Wenig said. EBay has traditionally skewed toward older men, he said.

"Moving a brand takes years. It doesn't take quarters," Wenig said.

EBay's key strategies to maintain growth include improving the way artificial intelligence and data are used to personalize what visitors see on the home page and introducing features such as the AR tools to make online shopping more fun, Mohan Patt, EBay's vice president of buyer experiences, said in an interview. The goal is to expand EBay's customer reach beyond mission-shoppers who know precisely what they want to enthusiasts in different categories seeking inspiration, Patt said.

"Personalization is all about getting you to buy things you didn't know you wanted," he said.

EBay announced Tuesday that it hired data scientist Jan Pedersen to run its artificial intelligence efforts that will bring new shopping experiences to the marketplace.



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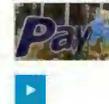
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reusersen most recently worked as vice president of data science at social media platform Twitter Inc.

The company also is considering a program to give sellers credits to entice them to use the money they make on eBay to buy additional items on the marketplace, Patt said. That feature will become possible as eBay transitions to a new payment provider after its relationship with long-time partner [PayPal Holdings Inc.](#), he said.

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Jan 22, 2018



# A Record \$84 Million Raised for Charities through eBay in 2017

By: *eBay News Team*

With nearly \$810 million dollars raised to date, 2018 is off to a dynamic start with TIME'S UP and GRAMMY charity auctions.



Today, eBay announced that together with its global community, it raised \$84 million for charities in 2017, bringing the total funds raised to nearly \$810 million since 2003.

"With \$84 million through eBay for Charity in 2017, we are demonstrating our commitment to supporting the thousands of charities who use our platform to connect and raise funds every day," said Brenda Halkias, General Manager of eBay for Charity. "This year, we will continue to focus on leveraging our platform for good and delivering new experiences on behalf of the eBay community. Together with our eBay buyers and sellers, we aim to raise \$1 billion for charities by 2020."

Through eBay for Charity, we enable millions of people to come together and make an impact. The program allows charities to sell items and raise funds with discounted fees, and consumers are able to buy and sell to benefit charities or just give at checkout. Businesses can also support their favorite organizations by donating a percentage of the proceeds from their sales. In 2017 alone, on average, \$160 was raised every minute.

In 2017, high profile auctions of one-of-a-kind experiences and items brought in large charitable donations. The annual Power Lunch with Warren Buffett raised almost \$2.7 million for GLIDE, a San Francisco-based charity that has a mission of breaking the cycles of poverty and marginalization; while an exclusive sculpture and print created by artist Ai Weiwei raised nearly \$800,000 for the Public Art Fund, which helps bring contemporary art to New York City; and Ryan Adams' acoustic guitar with signed original lyrics resulted in over \$63,000 to the ACLU, which works to defend and preserve individual rights and liberties.

In addition to partnerships with some of the biggest and well-known celebrities and charities, the true power of eBay's charitable platform lies in everyday donations from people around the world rallying behind important causes. In the wake of recent natural disasters and as a humanitarian response, the eBay community donated over \$700,000 directly to related charities in 2017.

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Looking ahead to 2018, eBay for Charity will launch a variety of high profile campaigns in partnership with some of the biggest stars and brands to help raise funds for significant causes. From equality to women's rights to environmental sustainability to animal welfare, eBay for Charity is working to help connect the community to the causes they care most about. In January, eBay for Charity partnered with TIME'S UP and Condé Nast to auction off the black dresses and tuxedos worn by the attendees of the historic 75th Annual Golden Globe Awards, benefiting the TIME'S UP Legal Defense Fund. In February, eBay for Charity will celebrate the 60th Annual GRAMMY Awards by raising funds with GRAMMY artists and nominees with the platform's longtime partners the GRAMMY Foundation and MusiCares

The infographic features a central illustration of a diverse group of people, with a dog on the left and a cat on the right. The background is a mix of green and brown tones. It includes various icons like a dollar sign, a heart, and a clock.

**eBay**

## A Record \$84 Million Raised for Charities through eBay in 2017

Total Funds Raised: Nearly \$810 million since 2003

**EBAY'S 2020 GOAL:**  
Raise \$1 billion in charitable donations

**aBay sellers created OVER SEVEN MILLION charitable listings**

**\$160 was raised every minute**

**139.6K charities were favorited**

**IN THE U.S. THE MOST FAVORITED CHARITIES WERE:**  
St. Jude's, American Red Cross, and the American Society for the Prevention of Cruelty to Animals

**IN THE U.K., THE MOST FAVORITED CHARITIES WERE:**  
Cancer Research UK, Frengle, and Prince Fluffy Kareem

### Most popular categories for selling for charity\*

- Nonfiction books
- Women's Clothing
- Laptops & Netbooks

The widget has a dark background with the eBay logo in the top left. It features an orange RSS icon and the text 'EBAY NEWSROOM RSS FEED'. A 'Subscribe now' link with a right-pointing arrow is located at the bottom right.

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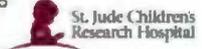
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- 5  St. Jude Children's Research Hospital

**2017 HIGHEST GROSSING LISTINGS BENEFITING CHARITY\*\***

Power Lunch with Warren Buffett benefiting GLIDE

**\$2,679,001**

2  
Exclusive Artist's Hand Cast by Ai Weiwei benefiting The New York Public Art Fund

**\$683,100**

Exclusive "Odyssey" Poster by Ai Weiwei benefiting The New York Public Art Fund

**\$101,500**

Ryan Adams' Harmony Buck Owens Acoustic Guitar + Signed Original Lyrics benefiting the ACLU

**\$63,200**

Banksy 1 of 1 Original Signed Print "Choose Your Weapon" benefiting charity.water

**\$50,200**

6  Wimbledon Experience benefiting the V Foundation

**\$28,200**

7  GRAMMY VIP Weekend benefiting GRAMMY Foundation and MusicCares

**\$27,800**

9 TAG Heuer 1000th Tourbillon COSC Certified benefiting Connected to Eternity

**\$26,101**

One-of-a-Kind 2017 Large Heart by Alfred White "Midnight Garden Heart" benefiting San Francisco General Hospital Foundation

**\$25,600**

10  Alabama Exp benefiting the V Foundation

**\$25,000**

Unless noted, data reflects global data from eBay for 1/1/17 - 12/31/17.  
\*Listed in order of funds raised \*\*Data reflects high profile charity listings where 100% of funds went to charity



18<sup>TH</sup> ANNUAL

## Power Lunch with Warren Buffett Auction has Ended

Thank you for participating and supporting GLIDE in their mission to create a radically inclusive, just and loving community mobilized to alleviate suffering and break the cycles of poverty and marginalization.



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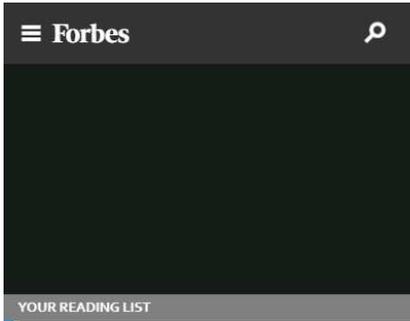
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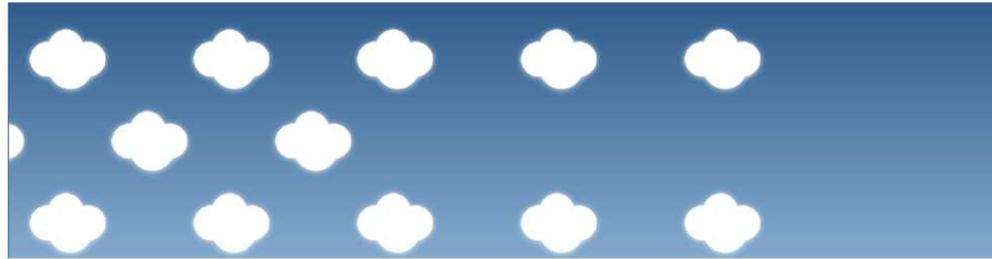


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The Little Black Book of Billionaire Secrets

# eBay Earnings Preview: Focusing On Replatforming For A Better User Experience



**JJ Kinahan**, CONTRIBUTOR  
*I am the Chief Market Strategist at TD Ameritrade* FULL BIO

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EBAY Earnings Preview: What Might Be Expected For Q2 Results?

eBay reports second-quarter earnings after market close on Thursday, July 20. As more



consumers shop online and it faces competition from Amazon, Walmart and many more, the company has focused on carving a niche for itself in the ecommerce world with its Marketplace, Stubhub, and Classifieds segments.

In the last quarter, eBay's gross merchandise volume (GMV), the total dollar amount of merchandise sold across its marketplaces, was reported to have increased 2% to \$20.9 billion. Excluding the impact of foreign exchange rates, management reported a 5% increase. GMV is one metric used by ecommerce analysts because these companies ultimately generate revenues through the fees earned from sales on their platforms.

Another metric for ecommerce companies that is routinely followed by analysts is the number of active buyers a site has. In the first quarter, eBay reported it had added 2 million active buyers, a 4% increase from the 167 million reported in Q4 2016. CEO Devin Wenig partially attributed that rise to a "relatively robust consumer-spending environment" on the company's earnings conference call.

One factor beyond improved consumer spending that might be helping eBay's GMV and number of active buyers is its ongoing efforts to improve its platform. Over the past several quarters, the company has made several changes including a redesign of its website, and on the back end the company has been focused on what it calls its "structured data initiative", which is focused on improving the user experience on its Marketplace platform by making products easier to find.

The company also recently announced a price match guarantee on more than 50,000 items in the United States. eBay said it "guarantees that an eligible deal will be the best price online, or eBay will match the lower price of a competitor."



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FIGURE 1: EBAY OUTPERFORMING. eBay has been outperforming the broader tech sector since the start of the year. After the recent tech rally that started at the

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TECH • EBAY

# EBay Shares Soar on Stronger-Than-Expected Holiday Sales



Photo by Justin Sullivan—Getty Images

By **REUTERS** January 25, 2017

EBay reported a 3.1% rise in quarterly revenue for the holiday period, offering a bright spot for investors as the company's revamped online marketplace attracted more buyers and helped sell more products.

Ebay has been revamping its platform to help it compete better with bigger e-commerce rival [Amazon.com](#) as well as traditional retailers.

Shares of [eBay \(EBAY, -2.03%\)](#) were up 7.5% at \$32.49 in extended trading on Wednesday.

Ebay, which spun off its main growth engine PayPal in 2015, has revamped its platform

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to offer a bigger selection of products and brands.

The company now also requires sellers to give more details on items to attract younger shoppers and has been cutting listing costs.

The company said its gross merchandise volume, or the total value of all goods sold on its sites, rose 2.2% to \$22.34 billion in the quarter.

The company's net income rose to \$5.94 billion, or \$5.30 per share, in the fourth quarter ended Dec. 31, from \$477 million, or 39 cents per share, a year earlier.

The boost in net income was driven by a non-cash \$4.6 billion income tax benefit related to a legal structure realignment, mostly impacting its international entities.

Excluding one-time items, eBay earned 54 cents per share, in-line with estimates.

*For more about e-commerce, watch:*



Revenue rose to \$2.40 billion from \$2.32 billion, in line with the average analysts' estimate of \$2.40 billion, according to Thomson Reuters I/B/E/S.

The company forecast first-quarter adjusted profit of 46-48 cents per share and revenue of \$2.17 billion-\$2.21 billion.

Analysts on average were expecting a profit of 50 cents per share and revenue of \$2.21 billion.

The company also forecast full-year adjusted profit of \$1.98-\$2.03 per share, missing estimates of \$2.06 per share, and revenue of \$9.3 billion-\$9.5 billion, compared with estimates of \$9.36 billion.

Source: [IBTimes.com](#)

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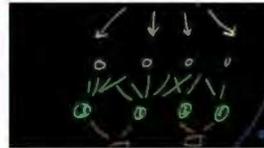
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# EBay To Sell More African Goods in U.S. as MallforAfrica Tie-Up Expands



By DAVID MEYER August 22, 2017

The online marketplace eBay has expanded its partnership with MallforAfrica, a service that makes it easier for shoppers in certain African countries to buy goods from retailers in countries such as the U.S. and U.K., from Amazon and Nordstrom to Marks & Spencer and Debenhams.

As reported by TechCrunch, the new arrangement will see goods flow in the other direction: merchants in South Africa, Nigeria, Kenya, Ghana and Burundi are making their wares available through eBay's U.S. website starting this week.

This follows last year's launch of an "eBay powered by MallforAfrica" site that opened up a sales route into those countries for U.S. merchants, many of whom are wary about mailing items to African countries, due to a perceived risk of fraud. This evolved into the eBayforAfrica.com website in May this year.

Sylvie de Wever, eBay's general manager for Latin America and U.S. exports, told TechCrunch that more African countries would be added to the program, though she did not provide a timescale.

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“This is very much about expanding the reach of African sellers, enabling their platforms, and allowing them to earn and compete globally,” she said. Early participants include [Nigerian retailer Qeturah](#) and [Eclectic Chique](#), a fashion brand also based in Nigeria. (MallforAfrica’s founders are from the West African nation, too.)

MallforAfrica has growth funding from U.K. venture capital firm Helios Investment Partners.

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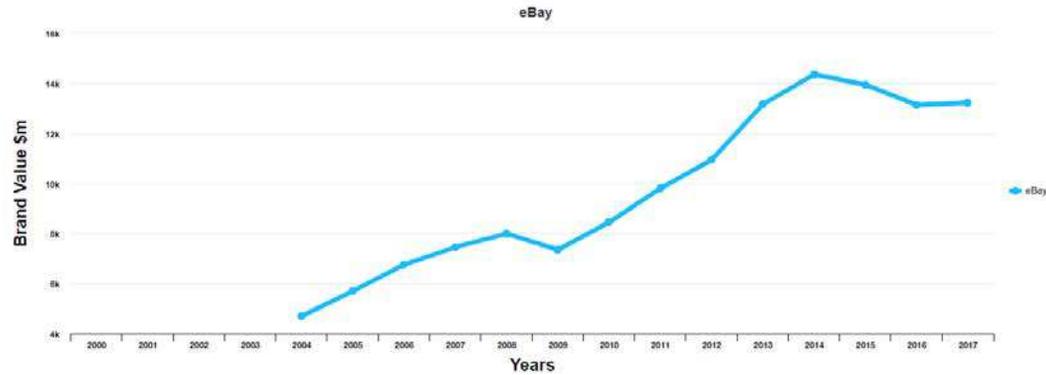


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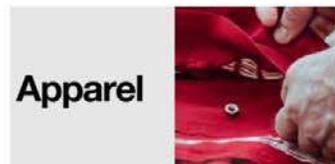
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# Declaration of Amber Leavitt

## Exhibit F

# Star Wars: The Force Awakens

Scott Parent  
December 17, 2015  
- eBay Buzz, US News



A long time ago in a galaxy far, far away, the first Star Wars films spawned an iconic cultural legacy. On December 18, after 10 years of anticipation, the seventh episode of the series premieres. Fans across the globe have been eagerly awaiting the release of **Star Wars: The Force Awakens**, and this cinematic event offers an opportunity for publishers to get in on the hype. eBay's selection of Star Wars goodies will appeal to lifelong fans along with the new generation of movie buffs discovering the saga for the first time. Fuel the fandom by directing your visitors to the **Star Wars** landing page. This is no Jedi mind trick; an epic selection of memorabilia can really be found at up to **25% off**.

Serious fanatics will be pleased to find a variety of **collectibles** and **comics**, while those new to the world of Star Wars can play catch up with **boxed sets**. The fandom goes well beyond actual movies – eBay offers out-of-this-world **video games**, **trading cards** and **posters** as well as **action figures**, **LEGO sets** and **toys**. If your visitors are looking to give their homes or wardrobes a sci-fi makeover, encourage them to check out **home décor**, **apparel** and **costumes** inspired by the series.

eBay is promoting **Star Wars** site-wide, so don't miss your chance to get in on the action. Highlighting Star Wars items in categories relevant to your site's visitors is a great way to grab attention and increase earnings.

If you have questions, leave them in the comments below, and may the Force be with you.

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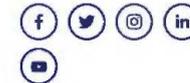
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Analysis

# Sotheby's and eBay Join Forces for \$500,000 Sold-Out 'Star Wars' Auction

The online sale reached a new niche of film fans.

Eileen Kinsella, December 14, 2015



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Canadian *Star Wars: Empire Strikes Back* seven figure multi-pack (1980). Image: Courtesy of Sotheby's.

As fan anticipation grows ahead of the much-hyped release of *Star Wars: The Force Awakens*—slated for December 18—Sotheby's and eBay joined forces for a Star Wars-themed sale this past Friday December 11 and realized \$502,202. In what is termed a "white glove" sale in the auction trade, the sale of toys, action figures, and "autographed rarities" from the collection of Japanese designer NIGO, sold all 175 lots offered for a 100-percent sell through rate by lot and value.

Following the sale, titled "Return of the NIGO," Sotheby's director of e-commerce, Josh Pullan, said the results "exceeded all expectations, with 71 percent of lots on offer selling above their high estimates and with 460

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bidders participating—87 percent of which were new to Sotheby's."

Of course, *Star Wars* collectibles are a proven commodity at auction, between [Princess Leia's \\$96,000 golden "slave bikini"](#) and an £18,000 (about \$27,000) [Boba Fett action figure](#) both hitting the block this year. At Sotheby's, the highest-selling lot was a Canadian *Star Wars: Empire Strikes Back* seven-figure multi-pack (1980), that sold for \$32,500, or more than double the high \$12,000 estimate. It was followed by the \$27,500 winning bid for two *Star Wars* 'Power of the Force' Coin sets (1985), which was more in keeping with its presale estimate (\$25,000 to \$35,000).



Star Wars Luke Skywalker action figure with double-telescoping saber (1978).  
Image: Courtesy of Sotheby's.

The third highest lot was a Luke Skywalker action figure holding a double telescoping saber (1978), which sold for \$25,000, well above the \$12,000–18,000 high estimate. A *Star Wars* "Early Bird Certificate" package store display from 1977, sold for \$20,000, also far above its \$7,000–9,000 estimate.

And a Hungarian Boba Fett action figure (1989) with a relatively modest estimate of \$3,000–5,000, sold for triple the high estimate, at \$15,000.

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## Star Wars Commemorative Notes exclusively on eBay



By Chris Dawson December 4, 2017 - 5:00 pm

Star Wars fans and collectors across the globe will get the chance to own an official commemorative note that has been specially created to celebrate the launch of the year's most anticipated film, Star Wars: The Last Jedi, the follow up to the UK's biggest film of all time.

The note will be available exclusively on eBay UK and has been created using the technological and design expertise of British company De La Rue, a company that provides currency to over two thirds of the world's countries, including the United Kingdom. This forms



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part of a special initiative between Disney and the [GREAT Britain Campaign](#) to celebrate the 40 years of British creativity behind the Star Wars films.

This Christmas, Disney UK has combined forces to launch a broad campaign across its range of businesses and its partners' platforms to raise money, awareness and to create magical memories for the children under hospice care. 100% of the money raised from the commemorative note will be donated to Together for Short Lives, on behalf of [Star Wars: Force for Change](#). Together for Short Lives, a UK-based charity, supports children's hospices and all children with life-threatening and life-limiting conditions and their families. Star Wars: Force for Change, a charitable initiative from Lucasfilm and Disney, harnesses the strength of Star Wars to empower and improve the lives of children around the world.

## How to buy a Star Wars Commemorative Note

eBay will be the exclusive home to a limited run of 1,000 commemorative notes, available at a fixed price of £100 plus a further 50 unique premium notes up for auction. Expect these to sell out in record time when they go live on Thursday 7th December from 8pm GMT. The 1,000 commemorative notes will become available to buy at a fixed price on [ebay.co.uk/starwars](#) and the 50 premium notes will be up for auction for 10 days until Sunday 17th December 2017.

The notes are crafted with 100% cotton cylinder mould paper, securitised and printed in De La Rue's high security proofing department based in Hampshire. They incorporate an original light side/dark side artwork composition and several special features including serial numbers; pattern work of the First Order and Resistance emblems; hidden scenes (discoverable under 365nm UV light); hidden messages in microtext (discoverable with an eye glass); a message in Aurebesh, one of the languages of the galaxy; and the signature of Director/Writer Rian Johnson.

The 50 unique, premium notes will also include an intaglio (a raised, hand-engraving of Rey) and each will have a unique, sequenced serial number.

## Why partner with Star Wars?

Star Wars: The Last Jedi is almost guaranteed to be a massive hit at the box office when the film comes out on the 14th of December. Already, shoppers are searching every three seconds for Star Wars merchandise on eBay so it makes sense for the marketplace to capitalise on the worldwide interest and attract collectors to the site.

As eBay is the only place you'll be able to buy or bid on the commemorative notes and with such limited numbers Star Wars fans will doubtless go crazy to get their hands on one. Anything that eBay can do to drive traffic to the site and highlight eBay as the place to shop has to be a good thing!

*"eBay partnered with The Walt Disney Company earlier this month to launch our first dedicated Star Wars shop (ebay.co.uk/StarWars), offering the most diverse range of Star Wars products and memorabilia for fans of the film. Now, we are giving people the opportunity to own a unique piece of Star Wars history with these limited edition commemorative notes, whilst also raising money for a fantastic cause. With 23 million shoppers on site every month, we are able to tap into the nation's passions and create exciting retail moments like these. On eBay we see shoppers searching every three seconds for Star Wars merchandise and so we are confident that these limited edition notes will result in a buying frenzy that the galaxy has never seen before."*

– Rob Hattrell, VP, eBay UK

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May 9, 2017



# eBay Teams up With Disney to Celebrate the Premiere of “Pirates of the Caribbean: Dead Men Tell no Tales”

Press Release

Shoppers can bid for a chance to attend the Hollywood Premiere and shop unique memorabilia from the Pirates of the Caribbean franchise.



In celebration of the premiere of Disney's and Jerry Bruckheimer Films' *Pirates of the Caribbean: Dead Men Tell No Tales*, eBay is launching exclusive experiences and a selection of new merchandise at [eBay.com/DisneyPirates](http://eBay.com/DisneyPirates). Through this eBay campaign, fans can easily browse and buy unique memorabilia, including officially licensed Disney merchandise, in one destination.

Timed to this launch, Disney will also be teaming up on a series of experiences and memorabilia that will be auctioned off on [eBay for Charity](http://eBay.com/Charity) with all proceeds benefitting the American Red Cross.

- **Travel to the Hollywood Premiere:** From now until May 12, 2017 at 5 p.m. PST, bid for a chance to attend the Hollywood Premiere of Disney's *Pirates of the Caribbean: Dead Men Tell No Tales* and official pre-party on May 18, 2017. You may have the opportunity to meet filmmakers and celebrities, and attend the pre-party, which is exclusively for those attending the premiere. The highest bidder will also receive a signed Disney's *Pirates of the Caribbean: Dead Men Tell No Tales* movie poster. Additionally, in collaboration with Disney, eBay will also be giving the highest bidder a \$2,000 gift card to put towards travel and accommodations. Bid now at <http://www.ebay.com/rpp/pirates-of-the-caribbean/charity>
- **Own Iconic Movie Memorabilia:** Beginning May 19, 2017 at 5 p.m. PST, bid to own exclusive props from the sets of *Pirates of the Caribbean* films, including a treasure chest, a cannonball with chain, goblet, large telescope, longboat oars and more.

"We're thrilled to be collaborating with eBay to create a truly unique shopping experience for Pirates of the

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Caribbean fans," said Lylle Breier, SVP, Global Marketing Partnerships, Promotions, Synergy, Special Events at the Walt Disney Studios. "And we look forward to welcoming special fans to our Hollywood premiere later this month."

"Our marketplace is full of offerings that tap into passions like Disney," said Suzy Deering, Chief Marketing Officer of eBay North America. "These passions, matched with our one-of-a-kind inventory and enhancements to our shopping experience, create a powerful platform for consumers to support causes they care about."

As part of eBay's Pirates of the Caribbean shop, fans can browse and purchase thousands of collectibles, entertainment memorabilia, clothes, toys & accessories, soundtracks, and more inspired by previous films and characters in the franchise. Additionally, new merchandise from the latest film premiering this month will include officially licensed Disney toys including Funko Pop bobblehead toys, a collectible walkie talkie inspired by the movie, costumes, and more.

Visit [eBay.com/DisneyPirates](http://eBay.com/DisneyPirates) for a wide selection of new, in-demand items.

#### **About eBay for Charity**

eBay for Charity is a platform that enables members of the eBay community to donate to causes in the U.S. and abroad. Sellers can donate anywhere between 10-100 percent of the proceeds and buyers can add a donation to their purchase during checkout. To date, more than \$725 million dollars have been raised on eBay for Charity. For more information, visit [www.ebay.com/charityshop](http://www.ebay.com/charityshop).

#### **About the Movie:**

*Johnny Depp returns to the big screen as the iconic, swashbuckling anti-hero Jack Sparrow in the all-new "Pirates of the Caribbean: Dead Men Tell No Tales." The rip-roaring adventure finds down-on-his-luck Captain Jack feeling the winds of ill-fortune blowing strongly his way when deadly ghost sailors, led by the terrifying Captain Salazar (Javier Bardem), escape from the Devil's Triangle bent on killing every pirate at sea—notably Jack. Jack's only hope of survival lies in the legendary Trident of Poseidon, but to find it he must forge an uneasy alliance with Carina Smyth (Kaya Scodelario), a brilliant and beautiful astronomer, and Henry (Brenton Thwaites), a headstrong young sailor in the Royal Navy. At the helm of the Dying Gull, his pitifully small and shabby ship, Captain Jack seeks not only to reverse his recent spate of ill fortune, but to save his very life from the most formidable and malicious foe he has ever faced.*

*"Pirates of the Caribbean: Dead Men Tell No Tales" also stars Kevin R. McNally as Joshamee Gibbs, Golshifteh Farahani as the sea-witch Shansa, David Wenham as Scarfield, Stephen Graham as Scrum, Orlando Bloom as Will Turner, and Geoffrey Rush as Captain Hector Barbossa.*

*Joachim Rønning and Espen Sandberg are directing "Pirates of the Caribbean: Dead Men Tell No Tales" with Jerry Bruckheimer producing. The executive producers are Mike Stenson, Chad Oman, Joe Caracciolo, Jr., Terry Rossio and Brigham Taylor. The story is by Jeff Nathanson and Terry Rossio, and Jeff Nathanson wrote the screenplay. "Pirates of the Caribbean: Dead Men Tell No Tales" drops anchor in U.S. theaters on May 26, 2017.*

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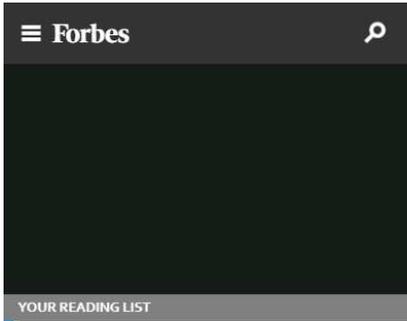
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**Trefis Team**, Contributor

Recently **eBay** announced a partnership with WineDirect, the industry leader in providing a direct-to-consumer service for wineries. The partnership will provide eBay users direct access to 1,400 wines in WineDirect inventory via **eBay Wine**, a marketplace for wine eBay established last May. The recent partnership with WineDirect signals the expansion of eBay's wine portfolio giving consumers more options to choose from collectible, rare and everyday wines based on different varieties and regions. While e-commerce in the wine segment is at a nascent stage and forms only 1-1.5% of total wine sales volume in the U.S., the direct-to-consumer shipping for wines is expected to increase at a rapid pace over the next few years. According to ShipCompliant, wine sale revenues from the DTC/e-commerce channel reached \$2 billion in 2016, registering an 8.1% increase from 2014. We believe eBay's strategy to broaden its wine portfolio will attract more consumers to its platform, driving revenues from this segment in the long term.

## Capturing The Growth In The Online Wine Market Through A Diverse Portfolio

Through its partnership with WineDirect, eBay will offer its shoppers access to a large selection of wines from small and mid-size wineries. Its customers will also be able to send wine bottles as gifts for special occasions. This partnership will lead to a significant increase in eBay's wine portfolio which should attract more buyers to its platform. One of the key aspects of eBay's strategy to increase the number of users on its platform is to offer a wide variety of products, focusing on boutique sellers and providing inventory which is not available elsewhere. Through its partnership with WineDirect, the company is looking to adapt a similar strategy for its wine segment. By offering wines from smaller wineries, the company is providing access to its customers to wines which might not be available online elsewhere. This strategy can increase the number of users on its platform, which is a key driver for its valuation.



We estimate eBay's users will reach nearly 210 million by the end of our forecast period. However, if this number grows at a rapid pace and reaches 240 million by the end of our forecast period, there can be a nearly 10% upside to our price estimate.

eBay is banking on a strategy to have a rich inventory on its platform which will attract buyers looking for convenient options to buy products which are not easily available elsewhere. As it looks to capture the growth in the online wine market, we believe the partnership with WineDirect will broaden its portfolio of wines, bringing in wines from smaller wineries on its platform which should drive user growth in the long term.

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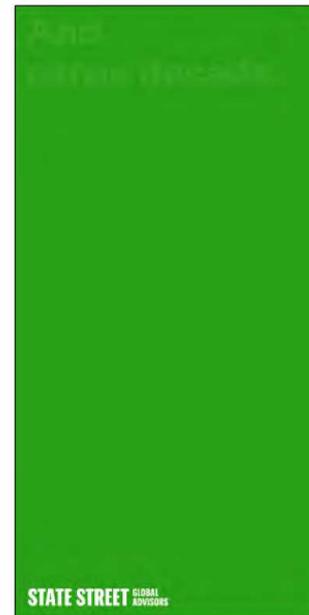
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*This article originally appeared on [HuffPost](#) in September 2016. Since then, the number of campuses participating in the ALL IN Challenge has grown from 150 to 324.*

Feb 2, 2018



# eBay Partners with Mashable to Launch 'Shoppable' Images

By: eBay News Team

New feature allows readers to shop eBay without leaving Mashable stories.



We are happy to announce a new collaboration with Mashable, a worldwide media and entertainment company for culture and tech, to create "shoppable" stories across the UK and US. Combining Mashable's expert recommendations with the consumer discovery power of eBay, the partnership allows Mashable's audience to use eBay to shop, browse and purchase products matching those featured on Mashable – all without ever leaving the Mashable site.

Through the partnership, Mashable journalists will enable readers to shop the looks featured in Mashable by independently curating matching fashion items and more available on eBay's global platform. By clicking on shopping tag icons embedded within Mashable stories, users can view, compare and buy the Mashable team's selections.



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"We know a lot about how people shop on our site, but less about how they shop off it, so we wanted to bring a simplified shopping experience that brings products to Mashable's passionate audience rather than expect them to come to us," said Dan Burdett, Head of eBay EMEA Marketing Lab.

The pilot partnership with Mashable is a pioneering effort from eBay's Marketing Lab, which focuses on developing disruptive marketing solutions. By introducing the new eBay widget to Mashable, the team will be able to better understand the factors that matter most to buyers making purchases off the eBay platform, such as seller reputation and delivery time. Using learned consumer insights from the pilot, Marketing Lab aims to deliver scalable solutions that accelerate eBay's growth.

Users can start shopping [the look](#) today at Mashable.

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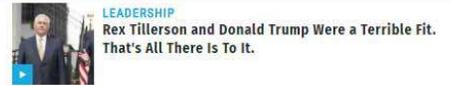
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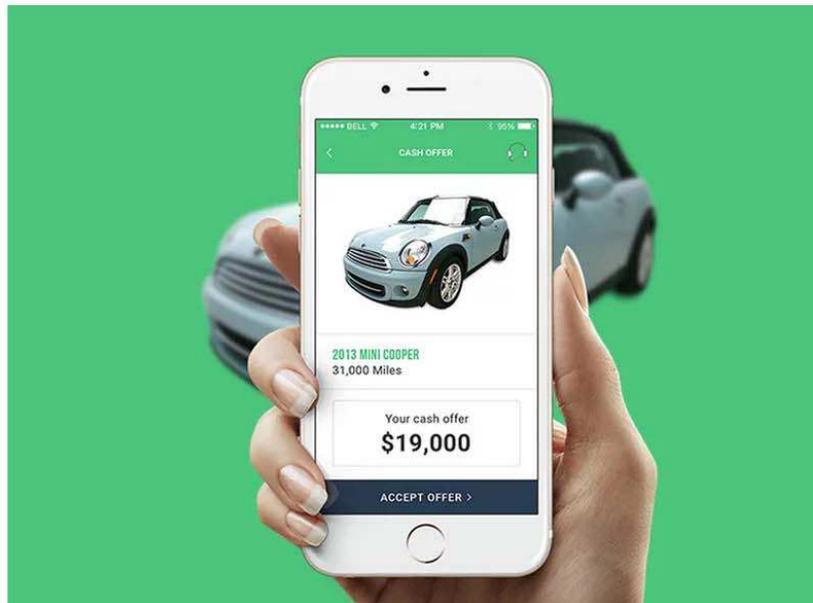


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# eBay Is Working With This Used Car Sales Startup to Sell More Cars



A screenshot of the Vroom.com used car retailer site. Screenshot of Vroom.com

By **KIRSTEN KOROSEC** June 30, 2016

Online used car sales startup Vroom relies on inventory, and eBay wants to inject new life into its own automotive business. Thus, the two companies announced a pilot program that could achieve both goals.

Under a pilot program, Vroom will offer cash to select eBay sellers who have not received or chosen to accept offers for their vehicles at the end of their listing periods. A seller can submit his or her vehicle identification number, photos, and details of the car to Vroom, which will provide a cash voucher in return. There are also certain

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eligibility conditions for the vehicle, related to age, mileage, and title. If the seller accepts the cash offer, Vroom will pick up car from the seller's front door anywhere in the United States.

The program will launch in the third quarter. The partnership comes at a time when companies like Vroom are surging past eBay's own online automotive business. eBay Motors, which launched in 2000, was the go-to place (at least online) for car owners and dealers to find buyers. The business boomed. In 2005, eBay (EBAY, -1.98%) processed \$13 billion worth of vehicle and parts sales.

But local marketplace Craigslist and other online car sites, such as Carmax, started to erode some of eBay's business. An explosion of online car startups, including Vroom, Beepi, Carvana, and Shift have taken over the marketplace; eBay's car and parts business has dropped by nearly 30% in the past five years, according to analyst estimates.

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eBay is trying to grab some of that business back through acquisitions and strategic partnerships. In March, the company bought Cargigi, an advertising services startup that helps car dealers post sales listing on online classified sites.

Unlike other online car retailers that create marketplaces for people to sell cars to each other, Vroom handles the entire transaction. The company takes possession of the used car from the seller, reconditions it, and then delivers it to the buyer's door. The goal is to make buying or selling a used car as quick and painless as ordering an Uber.

*For more about why consumers are avoiding car dealerships, watch:*



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In December, [Vroom raised \\$95 million in equity](#) and used some of those funds to acquire Texas Auto Direct, a competitor known for developing software that significantly reduces the time it takes to process and recondition used vehicles. The equity round brought [Vroom's total venture funding](#) to \$168 million—and about \$35 million in debt funding—since it launched in 2013.

Investors in Vroom include Jeffrey Boyd, the chairman and former CEO of The [Priceline Group \(PCLN, -1.03%\)](#), and Bob Mylod, former CFO of The Priceline Group also invested in the last round. Earlier this month, Priceline's more recent CEO Paul J. Hennessy resigned from his position to take over as chief executive of Vroom.

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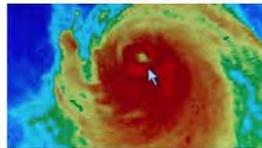
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# eBay UK Brings Star Wars to Life

By: Faisal Alani, Special Contributor

eBay and YouTube personality Colin Furze came together to build a giant AT-ACT playhouse.



With a new movie on the horizon, Star Wars fever is in full effect, and like many young people, six-year-old Harvey from Peterborough, England loves everything about George Lucas' film series. Unlike most young fans though, Harvey doesn't need to add a lightsaber or Lego Death Star to his Christmas list. Instead, he's got a fifteen-foot-tall, twenty-foot-long giant AT-ACT playhouse in his backyard with tons of Star Wars toys hidden in its belly.



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The AT-ACT – an All-Terrain Armored Cargo Transport – appears in the new film *Rogue One: A Star Wars Story* and is a sister vehicle to the four legged AT-AT, first seen in *The Empire Strikes Back*. This massive playhouse version, complete with moving head and guns, drop-down ladders, and a play space in the undercarriage, is the result of a collaboration between eBay and YouTube personality Colin Furze.

Built in Colin's garage workshop just six weeks before being secretly erected in Harvey's garden, the playhouse was a surprise Christmas present for Harvey, who is also a Colin Furze superfan.



"I've seen all the *Star Wars* films and I'm a bit of a fan myself," says Furze, who rose to fame filming the projects he builds in his garage. "So when eBay came to me about building a *Star Wars* play den made entirely from products sourced from the site, I was definitely up for it."

Using a *Hasbro AT-ACT* toy, stills from the film, and online renderings as guides, Colin roped in two friends to help him construct the beast, which is among his biggest projects to date.

"I use eBay to buy pieces for all of my projects, so sourcing materials wasn't a problem," said Furze. "The strangest things we used in the build were woks for the guns, and there are bathroom handrails and paella pans in there, too. A garage wench lowers the ladders down from the belly, and the eyes, which look a bit like *Knight Rider*, are red LED lights."

*Rogue One: A Star Wars Story* debuts in theaters worldwide December 16<sup>th</sup>.



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### eBay partners Mashable to offer shoppable images

Thursday 1 February 2018 | 10:09 AM CET



eBay and Mashable have signed a partnership through which the online marketplace will be able to sell items directly on the media website via shoppable images.

US and UK Mashable readers will now be able to buy eBay products by clicking on the item shown in an image (called a shoppable image). The partnership matches recommended products in editorials with sellers from the online marketplace.

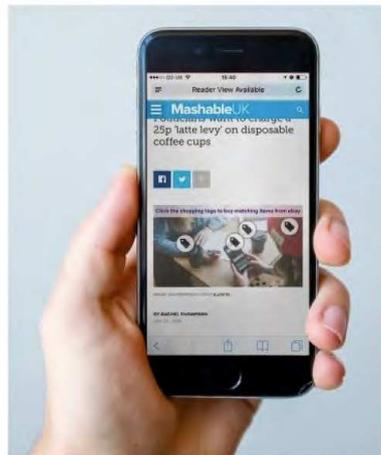


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The two companies have focused on a mobile-first experience and plan to make the process as frictionless as possible.

The decision marks a turn in eBay's marketing strategy as it is the first time that the online marketplace will sell products through a third party.

By introducing the new eBay widget to Mashable, eBay's marketing team will be able to understand whether elements such as seller reputation and delivery times matter as much to consumers than they normally would on the platform.

The marketing team will use the data and learned consumer insights from the pilot to accelerate business growth and deliver scalable solutions.

Keywords: [eBay](#), [Mashable](#), [shoppable images](#), [mobile shopping](#), [ecommerce](#), [mcommerce](#)

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# How An eBay Partnership Turned Into A \$75 Million Acquisition

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Sometimes the end result of partnering with a big company is different than what you initially thought. This was certainly the case for Jack Abraham, the founder of [Milo.com](#). He was working toward a partnership with eBay for his local shopping site when both sides realized there could be a bigger outcome.



"We realized how much larger our combined potential could be if we joined forces," Abraham said. "On our end, eBay's leadership position, user base and resources have the ability to help us achieve our mission of connecting buyers and sellers in a faster and more holistic manner." It was [announced](#) in December 2010 that eBay had decided to acquire Milo for \$75 million, a greater end result than Abraham had originally imagined.

Entrepreneurship runs in Abraham's family. His father started [comScore](#), and he started working there when was just 13 years old. He says his father taught him a lot about entrepreneurship, including the fact tht there are many ups and downs in building a company. "To succeed you must be resilient and rise above the challenges that you will inevitably face," he says. While he grew up around entrepreneurship, he didn't always know that he wanted to start his own company. "I knew I wanted to build great, world changing things that pushed the frontier in terms of what was possible," he says. "I wasn't sure that entrepreneurship was the best venue for this and at first gravitated toward theoretical physics and politics." Later, he says, he became convinced that building something was the best way to direct change.

Abraham recognized the power of the web from an early age. "I observed from an early age how powerful of an impact the web was having on real world behavior. It began with things like email, IM and Skype," he says. By the time he entered his freshman year of college, Facebook had launched and he could see that it was influencing social behavior in the real world. He also had a hunch that the web would similarly influence and impact real-world commerce. "The web had great information on what you could buy but not on where those products were available in the real world at the moment of interest," he says. "We set out to solve that problem."

The company that resulted was Milo, a local shopping site that helped consumers find products in physical stores in their community. It searches store shelves in real-time to find the best price and availability on a given product, and provides user reviews on products. According to Milo's website, 87% of consumers research products online before buying them in person, and Abraham was counting on those consumers to come to Milo. But getting consumers to the site wasn't Abraham's biggest challenge while building the business - it was working with data that wasn't streamlined. "At Milo, we set out to bring

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every product on every shelf of every store in the physical world onto the Internet," he says. "We found out pretty quickly that almost every store had its own customized inventory system that we had to integrate with and extract data from. We then had to normalize the data and build a consumer facing front-end that consolidated all the real-time information and made it appear seamless to the shopper. It was easier said than done."

Luckily he had a few mentors to help him along the way, including former LinkedIn and PayPal executive [Keith Rabois](#), Eventbrite co-founder [Kevin Hartz](#) and YouTube c-founder [Jawed Karim](#). "Keith, Kevin and Jawed were absolutely critical in my development as an entrepreneur and in solving some of the key challenge areas with our business," says. "As a part of our seed round I negotiated a weekly Friday meeting with each of them separately, which was tremendously helpful to shaping me as a leader. I learned most of what I know about building consumer Internet businesses from them." He says for any entrepreneur looking to find great mentors you must be persistent. "I emailed back and forth with Keith Rabois for weeks before he would even meet with me, and when we finally met in person, I was ready to address all of his questions with research-backed answers. After that meeting, Keith decided he wanted to invest and introduced me to Kevin Hartz and Jawed Karim."

Abraham learned about raising funding from his mentors, and while navigating the [\\$4 million round of funding](#) he raised in late 2009. But while working with eBay on the potential acquisition Abraham learned about the importance of both sides being on the same page. "We learned the importance of having a clear set of milestones that are mutually agreed upon, setting a cadence, and following up at regular intervals to make sure both sides are on track," he says. He's now in charge of Local at eBay, and but says he continues to work on entrepreneurial endeavors within the company, just on a larger platform. "Being at eBay allows me to bring our mission to a much larger user base and have a deeper impact in the small business space. Everything we do now is seen on a larger stage, but the innovation from Milo is continuing to happen."

While Abraham went after a big market with Milo (87% of consumers according to his research), he says he advises any young entrepreneur to do the same. "Pick a big market and pursue it relentlessly. Don't follow the crowd and build the hot product of the day or a small niche product. Be contrarian and correct." For now he is focused on driving the local initiatives at eBay and making sure that they remain the commerce leader in both the online and offline space. But next year? Abraham says to stay tuned - after all, he hasn't even seen his 26th birthday.

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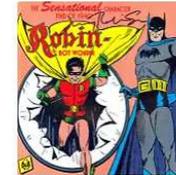
Copper Age (1984-1991)



Bronze Age (1970-1983)



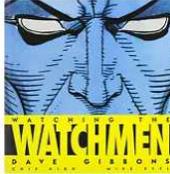
Silver Age (1956-1969)



Golden Age (1938-1955)



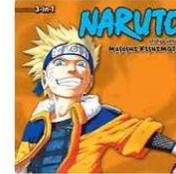
Platinum Age (1897-1937)



Graphic Novels & Trade Paper Backs



Original Comic Art



Manga



Comic Storage Supplies

#### Women in Comics: 20% Proceeds to Women for Women International



Action Comics (DC) #67 1943 VG 4.0



Archie's Girls Betty and Veronica #1 1950 CGC 5.0...



Atom #1 1962 FN 6.0



Blonde Phantom #12 1947 CGC 6.5 1242173002



Jungle Girl (Fawcett Nyoka) #1 1942 FN+

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\$470.00

\$1,120.00

\$680.00

\$3,050.00

\$535.00

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Silver age Comic Grab Bags Marvel, dc, Spider-man, Daredevil, Thor, Hulk, Avengers, Brand new High end grab system. Finally it's here enjoy

★★★★★ 17 product ratings

**\$100.00**

\$6.50 shipping  
195 sold



NEW LISTING GIANT SIZE X-MEN #1 1975 CGC 7.0 Presents beautifully in any collection.

1st appearance of Colossus, Nightcrawler, and Storm. 2nd full appearance of Wolverine. Great book to have in your collection. I'm looking to upgrade to a higher grade, that's why I'm selling this one off. Don't be shy, make an offer. Book is back up as...

★★★★★ 11 product ratings

**\$850.00**

\$11.80 shipping  
or Best Offer



DARK NIGHTS METAL 6 HORN BATMAN HARLEY WHO LAUGHS A B C D VARIANT PRE-SALE 3/28

In the devastating and epic conclusion to DC's cataclysmic event series, heroes from across the universe make their final charge into the unknown to battle the forces of the Dark Multiverse! Space and time, dreams and nightmares, all will collide...

**\$125.00**

\$9.00 shipping  
or Best Offer  
54 watching



AMAZING SPIDER-MAN 798 CLAYTON CRAIN CONNECTING LOGO VARIANT 1st RED GOBLIN 3000

Awesome cover by Clayton Crain showcasing the RED GOBLIN VS SPIDER-MAN! - This is the 3rd cover of the Interconnecting Series! This Variant is the TRADE DRESS Cover with a small print run of 3000 Copies!

**\$27.00**

\$6.00 shipping  
or Best Offer  
35 watching



ROBOCOP 1/4 SCALE STATUE POP CULTURE SHOCK COLLECTIBLES Limited to 600 #soct17-1

From Pop Culture Shock Collectibles. Pop Culture Shock Collectibles proudly announce the Robocop 1/4-scale statue. Sculpted by Klim Kozinevich, Ryan Pinter, and Jerry Macaluso, this masterfully created collectible stands 22" tall with its base...

★★★★★ 1 product rating

**\$319.96**

Was: ~~\$399.95~~  
Free shipping  
or Best Offer  
26 watching  
2 new & refurbished from \$374.95

Brand: Pop Culture Shock



HUGE COMIC BOOK LOT 25 MARVEL DC INDY SUPERMAN BATMAN X-MEN NO DUPLICATES

Examples of publishers that might be included Marvel, DC, Image, Dark Horse, IDW, Dynamite, Valiant, Vertigo, Wildstorm etc. Examples of characters (not comic titles) that may be included Spider-Man, Fantastic Four, Avengers, X-Men, Wolverine, Iron...

**\$14.99**

Free shipping  
or Best Offer  
76 sold



Weapon H 1 Marvel Clayton Crain Incredible Hulk 181 Homage Variant Wolverine  
Near Mint.

**\$38.00**  
\$5.00 shipping  
or Best Offer  
127 sold



Loot Crate Exclusive Action Comics No 1 Superman Unopened Reprint NEW! w COA  
Loot Crate Exclusive Action Comics No 1 June 1938 Superman - Unopened Reprint NEW! with Certificate of Authenticity. Loot Crate Exclusive! But the copies I have look new. Let me say at least like new for the very serious collector.

**\$15.99**  
FAST 'N FREE



THE STAND Omnibus & Companion HC Stephen King Slipcase Set \*SEALED/NEW \$150 cvr  
Hardcover (2 Books with Slipcase), 1,064 pages, full color. Collects The Stand Captain Trips (2008) #1-5, The Stand American Nightmares (2009 Marvel) #1-5, The Stand Soul Survivors (2009 Marvel) #1-5, The Stand Hardcases (2010 Marvel) #1-5, Th...

**\$38.95** Top Rated Plus  
\$9.95 shipping  
96 sold



Hyper Silver Age Comic Grab Bags, Double GOLDS, SILVERS, And Now PLATINUM, Limited  
This will be a hyper GOLD and hyper Silver system. What does that mean well let me explain. There will only be 2 PLATINUM bags in the first 100, but there will be 20 GOLDS and 40 SILVERS. Lets do the math together 40 20 2=62 bags out of 100 tha...

★★★★★ 18 product ratings

**\$49.99**  
\$6.50 shipping  
438 sold



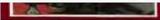
DARK KNIGHT III THE MASTER RACE LEGACY WONDER WOMAN VARIANT ARTGERM  
This is for both the Legacy Edition "Color and B&W" Variant by the artist Stanley "Artgerm" Lau. You will receive the item listed above. These Comic Books are in NM/MINT condition.

**\$44.99**  
\$3.99 shipping  
or Best Offer  
18 sold



THE WALKING DEAD #100 NM+ Barnes & Noble Exclusive Variant Cover Comic 1st Negan

**\$17.95**  
Free shipping  
17 watching



**DARK NIGHTS METAL 6 GREG HORN HARLEY QUINN WHO LAUGHS SPIKED MASK VARIANT BATMAN**

Absolute Beautiful COVER by GREG HORN showcasing THE FIRST COVER APPEARANCE OF THE HARLEY QUINN WHO LAUGHS! Awesome Cover introducing a METALIZED HARLEY WHO LAUGHS and her SPIKED BATMAN WHO LAUGHS...

**\$17.00**

\$6.00 shipping  
or Best Offer

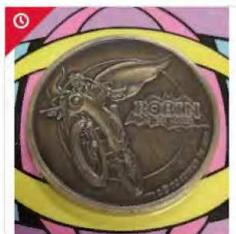


**Creepy Archives Volumes 5,6,7,8,9,10 SEALED, Warren, Dark Horse, hardcovers**

This is a lot of 6 STILL SEALED, hardcover books titled Creepy Archives Volumes 5, 6, 7, 8, 9, and 10. These books collect the 1960s and 1970s fantasy/horror stories originally published by Warren Publishing in Creepy Magazine issues # 21-50.

**\$124.95**

\$14.50 shipping  
Only 1 left!



**Vintage Robin Batman Cartoon Celebrities Bronze Coin Medallion**

**\$23.95**

FAST 'N FREE  
Only 1 left!



**AMAZING SPIDERMAN 796 CLAYTON CRAIN COMICXPOSURE VARIANT RED GOBLIN STORY STARTS**

AMAZING SPIDERMAN 796 COMICXPOSURE CONNECTING VARIANT ! COMICXPOSURE IS DOING EXCLUSIVES FOR ISSUES 796-801. 796-800 ARE A CONNECTING SET, BY CLAYTON CRAIN & 801 A STAND ALONE COVER! (W) Dan Sli...

**\$37.00**

\$6.00 shipping  
or Best Offer  
341 sold



**Marvel Gallery Spider-Man Homecoming Movie Statue PVC DST Diamond Select Toys**

Spider-Man Homecoming Movie Statue. A Diamond Select Toys release! The first Marvel Cinematic Universe Spider-film is here, and we couldn't be happier! Sculpted by Gentle Giant Studios! Marvel Gallery.

**\$41.95**

Free shipping  
Only 1 left!  
2 new & refurbished from \$65.00

Top Rated Plus  
Manufacturer: Diamond Select



**1 UNCANNY X-MEN COMIC GRAB BAG READ BELOW X-MEN 266 1st GAMBITI 244 1st JUBILEE!**

Uncanny X-Men #210 - 1st appearance of the Marauders, Arclight, Harpoon, Malice, Scalphunter, Scrambler, and Vertigo. See below. You have a 1 in 115 chance of getting the first appearance of Gambit or any other key issue!

**\$9.99**

\$3.91 shipping  
or Best Offer  
91 sold



**Eerie (Warren Magazine) #23, 7.0? (1969)**

Eerie (Warren Magazine) #23, 7.0?. Published 1969 by Warren. Cover art by Frank Frazetta.



★★★★★ 1 product rating

**\$20.00**

Was: ~~\$25.00~~  
\$3.99 shipping



**Amazing Adventures #1 (1979) REPRINTS X-MEN #1 Marvel VF/NM KEY STAN LEE KIRBY!!**  
Stan Lee(W), Jack Kirby(A). Amazing Adventures #1 (vol. Marvel 11979. #1. Reprints: "X-Men" from X-Men #1 (1963) and "A Man Called X" from X-Men #38 (1967). st Prints, Rare, Hard to Find, Variants & Key issues available!! )

**\$12.99**

\$3.99 shipping  
or Best Offer

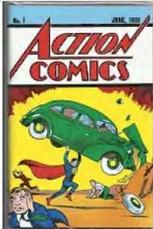


**X-MEN BLUE #21 1ST PRINT MARVEL COMICS 2018 NM POISON-X STORY**

I am not a professional grader. X-MEN BLUE #21 1ST PRINT. POISON-X STORY.

**\$3.95**

\$2.99 shipping



**Superman Action Comics #1 Loot Crate June 1938 UNOPENED Reprint COA FREE SHIP**

Most Action Comic #1 reprints contain only the 13 page Superman story. However, this one reprints the WHOLE 68 page version of Action Comics #1, including all stories and ads on regular newsprint, the same as the original Action Comics #1 fro...

**\$11.99**

Free shipping  
or Best Offer

71 sold



**X-Men Age of Apocalypse Omnibus Magneto Bishop Marvel Comics HC New Sealed \$125**

Here is some information about this volume Charles Xavier is dead - killed in the past during a time-travel accident - and without his dream, the world has become a nightmare!

★★★★★ 4 product ratings

**\$44.95**

\$8.00 shipping

186 sold

4 new & refurbished from \$52.95

👑 Top Rated Plus



**Harley quinn: adults coloring book**

We use a variety of authorized distributors and fulfillment centers all over the country, which means your order should arrive promptly, regardless of where you live. Paperback: 93 pages. Product Information.

★★★★★ 5 product ratings

**\$6.26**

🚚 FAST 'N FREE

12 watching

14 new & refurbished from \$6.09



Marvel Collectors' Item Classics Silver #2 - #21 Silver [Choice] Comic Books

**\$3.00 to \$9.50**

\$4.75 shipping

Top Rated Plus



The Walking Dead Issue #176 Variant Cover "Michonne" Image Comics Sienkiewicz

You are bidding on a The Walking Dead issue #176 variant cover Image comic. This book is a unread copy and will ship bag and boarded I have multiple copies and will choose the best condition books to fill orders.

**\$6.99**

Free shipping

Top Rated Plus



AMAZING SPIDERMAN 797 1:10 ED MCGUINNESS DESIGN VARIANT RED GOBLIN PRE-SALE 3/7

The Green Goblin is back - and scarier than ever! Dan Slott has saved his most harrowing Spider-Man story for last as he and Stuart Immonen kick off the AMAZING SPIDER-MAN story ten years in the making.

**\$19.99**

\$6.00 shipping  
or Best Offer

353 sold



DC Collectibles NEW \* Wonder Woman Amazon Training \* Movie Statue Figurine

Wonder Woman dressed in her Amazon training outfit. Sculpted by James Marsano. Based on Gal Gadot's character in the movie. Wonder Woman (this statue looks most like the actress, in my opinion). Amazing detail and a really neat WW logo base.

**\$131.96**

Was: \$164.95

FAST 'N FREE

23 watching

3 new & refurbished from \$191.77

Top Rated Plus



New Mutants # 100 - First Appearance of X-Force - Fine Copies

**\$3.75**

\$3.17 shipping  
or Best Offer

6 watching



BATMAN WHITE KNIGHT #6 A & #6 B MURPHY VARIANT 2 COMIC SET NEO JOKER BATGIRL

You are purchasing an ungraded, unread, bagged and boarded copy of BATMAN WHITE KNIGHT #6 A & #6 B MURPHY VARIANT 2 COMIC SET NEO JOKER BATGIRL! Estimated 9.4.

**\$7.95**

\$3.75 shipping

3 watching

Top Rated Plus



Deadpool Secret Secret Wars #1 \* Blank Variant Sketch Cover \* Lot of Five (5) NM

Here is a lot of five (5) copies of the Deadpool Secret Secret Wars #1 Blank Cover Variant. These books are perfect for getting original art/sketches on them- straight from the distributor, unread, and NM!



**\$14.99**

Free shipping  
16 sold



The Amazing Spider-Man Volume 1 Omnibus Lee Ditko HC Hard Cover New Sealed \$99

In 1962, in the pages of a comic book slated for cancellation, Stan Lee and Steve Ditko gave birth to one of the most enduring icons in American popular media: the one and only Amazing Spider-Man! The combination was pure magic.

**\$57.95**

\$8.00 shipping

92 watching

6 new & refurbished from \$68.20

Top Rated Plus



WALKING DEAD #178 - Cover B Sienkiewicz - ANDREA - NM - Image - Presale 04/04

WALKING DEAD #178. Condition: New (NM). "NEW WORLD ORDER," Part Four: Princess unleashed! It's possible Princess doesn't quite fit in at the Commonwealth. Publisher: Image. All books come with bags and boards.

**\$3.19**

\$3.63 shipping



**\*\*IN STOCK\*\*** Supergirl (CW TV Series) ArtFX+ Statue Kotobukiya DC Comics

Based on the popular TV series Supergirl! ARTFX Supergirl stands at 1/10 scale and has magnets under her feet for stability when displayed on the included metal display base. Display together with other ARTFX DC TV series character statues from...

**\$64.95**

Free shipping

Only 1 left!

2 new & refurbished from \$89.99

Top Rated Plus

Manufacturer: KOTOBUKIYA



AMAZING SPIDER-MAN #797 1st PRINT NM

Book is NM 9.2 or better - bagged and boarded.

**\$5.99**

\$5.49 shipping

77 sold



1991 The Uncanny X-Men #275 Marvel Jim Lee 1st Print 275th Issue Gatefold Cover

When he moved here in the 1990s he brought them with him. For safety, I consider these for reading or to complete your collection, NOT GRADING. I will do my best to get the problem solved!

**\$2.50**

\$4.00 shipping

or Best Offer

20 watching



AMAZING SPIDERMAN 800 GABRIELLE DELL OTTO 1:25 INCENTIVE VARIANT NM PRE-SALE

AMAZING SPIDERMAN 800 GABRIELLE DELL OTTO 1:25 VARIANT I (W) Dan Slott (A) Stuart Immonen & Various (CA) Gabriele Dell'Otto. • Dan Slott and Stuart Immonen are joined by many of the artists who made the last 10 years of Spider-M...

**\$119.00**



\$6.00 shipping  
or Best Offer  
45 watching



**BATMAN #21 (THE BUTTON) REBIRTH DC COMICS 4/19/17 NEAR MINT**  
(W) Tom King (A/C) Jason Fabok "THE BUTTON" part one! The cataclysmic events of DC UNIVERSE: REBIRTH #1 continue here! The Dark Knight and The Fastest Man Alive, the two greatest detectives on any world, unite to explore the mystery ...  
★★★★★ 32 product ratings

**\$4.99**  
\$4.99 shipping  
9 watching

Top Rated Plus



**TRUE BELIEVERS VENOM VS SPIDER-MAN #1 AMAZING #300 MARVEL NM 2018**  
Representing AMAZING SPIDER-MAN #300! NM condition. FIRST PRINT.

**\$2.99**  
\$3.99 shipping

Top Rated Plus



**AMAZING SPIDER-MAN 797 CLAYTON CRAIN CONNECTING VARIANT 1st RED GOBLIN SOLD OUT!**

This issue is RED HOT continuing the FIRST APPEARANCE and ORIGIN of the RED GOBLIN! The RED GOBLIN is a new Villain using the CARNAGE Symbiote to become a NEW GOBLIN – WOW! Will most likely be a HUGE FIRST APPEARANC...

**\$27.00**  
\$6.00 shipping  
or Best Offer



**VENOM (2018) #1 1:25 Paolo Rivera Variant PRE-SALE MAY 2018 Marvel Spider-Man**  
1:25 PAOLO RIVERA LIMITED VARIANT. VENOM (2018) #1. PRE-ORDER ITEM: scheduled for release in MAY 2018. You should receive your pre-order item on, before or around May 31, 2018.

**\$50.00**  
Was: ~~\$75.00~~  
Free shipping  
or Best Offer  
20 watching



**AMAZING SPIDER-MAN #794 2ND PRINTING IMMOMEN VARIANT RED GOBLIN CARNAGE**

**\$11.99**  
\$3.12 shipping  
or Best Offer  
8 watching

**AMAZING SPIDERMAN 794 COMICXPOSURE VIRGIN VARIANT RED GOBLIN NM PRE-SALE 3/28**  
AMAZING SPIDERMAN 794 COMICXPOSURE VIRGIN VARIANT I THREAT LEVEL RED Part 1. (W) Dan Slott (A/C) Stuart



Immonen. Rated T.

**\$17.00**

\$6.00 shipping  
or Best Offer



Lot of 300+ ALL X-Men Comic Book Closeout Uncanny X-Factor + AN ENTIRE LONGBOX

AN ENTIRE LONGBOX! Some of the titles you can expect to receive in this lot are X-Men, Uncanny X-men, Wolverine, X-Factor, X-Force, Cable, New Mutants, Gambit, Rogue, Nightcrawler, X-23, Cyclops, Storm, Colossus, Magneto, Beast...

**\$97.77**

\$35.00 shipping  
or Best Offer  
13 watching



NIB Pop Culture Shock JADE 1/4 Scale Polystone Statue AP Mortal Kombat

POP CULTURE SHOCK Collectibles is proud to announce the Mortal Kombat Classic JADE 1:4 scale statue based on her appearance from Mortal Kombat 3. This masterfully created collectible stands 19" tall, features a cloth costume and comes wi...

**\$369.99**

\$17.04 shipping  
or Best Offer



Peter Parker: The Spectacular Spider-Man #300 Tyler Kirkham Cover A

Peter Parker: The Spectacular Spider-Man #300 Tyler Kirkham Unknown Exclusive Cover A. (W) Chip Zdarsky (A) Adam Kubert (CA) Tyler Kirkham. An oversized anniversary epic, told the only way your pre-eminent pals in the Spidey-Office know...

**\$23.04**

FAST 'N FREE  
21 watching

Top Rated Plus



NEW LISTING 30x DARK NIGHTS METAL; 10 EXCLUSIVE 10 B & W 10 VIRGIN VG+ to FINE Snyder Capulo

10 copies of DARK NIGHTS: METAL #1. Lot contains 10 copies of the REGULAR EXCLUSIVE, 10 copies of the BLACK AND WHITE EXCLUSIVE VARIANT, and 10 copies of the VIRGIN EXCLUSIVE VARIANT! This run has GREAT Resale value, but ...

**\$64.99**

\$17.00 shipping



CHEAP! Huge 20 Comic Book Lot 1970s - 2010s Marvel DC Indy Mixed Bronze - Modern

One random lot of 20 assorted comic books dated between the 1970s to 2010s. Please see full description for details

★★★★★ 8 product ratings

**\$13.99**

Free shipping  
or Best Offer  
304 sold

### Guides



How to Sell Comics  
by ebaybuyingguides

For decades, comic books have been treasured collector's items that often appreciate in value. If you have one or more comic books that you would like to sell for some extra cash, eBay is a great marketplace...



## Learn how to earn \$30 back

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### Hot This Week



Thanos 17 Marvel JG Jones  
Silver Surfer 4 Homage Varia...  
**\$12.00**  
10 left



AMAZING SPIDER-MAN  
#800 Cover A Alex Ross - HO...  
**\$9.75**  
203 sold



HUGE COMIC BOOK LOT 25  
MARVEL DC INDY SPIDER-...  
**\$10.99**  
111 sold



AMAZING SPIDER-MAN #797  
2nd Print Variant Marvel Coml...  
**\$2.99**  
104 sold



BATMAN #44 Catw  
Rebirth DC Comics  
**\$4.49**  
73 sold



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### Enter the World of Comics with eBay

BAMI ZOOM! SMASH! That's the sound of comic book excitement coming to life and eBay has all the brands, genres and issues any fanboy or fangirl could ever want. Wonder Woman, Batman and Superman comics abound, plus scores of others are only a few clicks away!

### Browse for Rare Comic Books

What is it that you're looking for? A rare vintage comic book featuring one of Superman's first adventures? How about comic collectibles and CGC-graded comic books you can't find in any stores? Never fear! eBay makes it easy to buy comics online and get all the rare titles you need to stock your fortress of solitude or cave of wonder.

### DC and Marvel—The Battle Continues

Most comic book lovers pledge allegiance to either DC Comics—featuring that famous alien from Krypton and Aquaman, among many others—or Marvel comics, which gave us the web-slinging Spider-Man, the New Mutants and patriotic Captain America. With eBay, you don't have to choose sides, because we have plenty of any option. Of course, if you don't fall into either category, we can help there, too, with plenty of independent comics for sale.

### Get Lost in a New Story

Which hero's stories are your favorite? Do the mutants of the [X-Men comics](#) resonate with you, or are you all about The Walking Dead? If you're searching for [Batman comics](#) complete with Bruce Wayne's origin story or the galactic drama of Star Wars comics, eBay has those, too. There are also plenty of other mainstream characters, like the [Incredible Hulk](#), [Fantastic Four](#) and [GI Joe](#) within our archives. You'll also find hundreds of popular and collectible manga titles.

### Classic Stories and Characters

Would you be surprised to know that eBay stocks plenty of Platinum Age and [Silver Age](#) comics? Using our browsing and filtering tools, you can find your favorite classic characters from [Mickey Mouse](#) to Richie Rich, so there's no need to look through multiple comic book stores to find exactly what you want. What a wonderful way to connect with your children over the same characters that have graced page and screen for decades! Sit down, pop open a comic book and lose yourself in the adventure.

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# Declaration of Amber Leavitt

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### Science Fiction & Horror Collectibles

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Lost in Space Collectibles

Planet of the Apes Collectibles

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Resident Evil Collectibles

Smallville Collectibles

Space 1999 Collectibles

Star Trek Collectibles

Star Wars Collectibles

Stargate SG-1 Collectibles

Thunderbird Collectibles

Twilight Collectibles

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No Preference

1 Day Shipping

2 Day Shipping

3 Day Shipping

4 Day Shipping

Condition see all

New

Used

Not Specified

Price

\$ - \$

Buying Format see all

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US Only

North America

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New Disney Parks Exclusive Star Wars Kylo Ren Lightsaber With Stand!  
Includes Removeable Blade Double Boxed During Shipping

**\$209.99**  
Free shipping  
36 sold



Star Wars The Black Series Han Solo Movie Wave 1 Set of 6 Action Figure PRE-ORDER  
Star Wars The Black Series Han Solo Movie Wave 1, Set of 6. Add some awesome to your collection! Bring the next big thing in Star Wars home with The Black Series Han Solo Movie Wave 1 set! Collect them all, and start your collection right here!

**\$129.95**  
Free shipping  
22 watching



The Wand Company Star Trek Bluetooth Communicator  
**\$99.99**  
FAST 'N FREE  
38 watching

▼ worldwide

**Delivery Options**

- Free Shipping
- Free In-store Pickup

**Show only**

- Returns Accepted
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**More refinements...**

see all

see all



**Star Wars: The Force Awakens Black Series Die Cast Kylo Ren & Poe Dam**

Free Shipping on orders over \$9.99 from HasbroToyShop

★★★★★ 3 product ratings

**\$3.99**

Was: ~~\$16.99~~

\$2.99 shipping

165 sold

18 new & refurbished from \$8.85



**Helmet cooling fan kit. Stormtrooper Mandalorian, Cosplay Costume Fett mascot**

2 -4500 RPM Ball Bearing 50mm Wide by 50mm by Tall by 15mm Thick Blower fans. Two fans can run non stop for over 2 hours on a small capacity 2200mAh power bank, and much longer on larger capacity power banks, depending on what you...

★★★★★ 5 product ratings

**\$48.00**

Free shipping

or Best Offer

114 sold



**New Disney Parks Exclusive Star Wars Rey Lightsaber (the last Jedi) With Stand!**

Includes Removeable Blade Double Boxed During Shipping

★★★★★ 4 product ratings

**\$202.99**

Trending at \$220.00 ⓘ

Free shipping

152 sold

12 new & refurbished from \$199.99



**Doctor Who Titans Partners In Time Vinyl Figures Tardis Console 1/18**

Tardis Console 1/18. Doctor Who Titans 12th Partners In Time. I've got quite a bit of miniatures, so make sure you take a good look around. If you need assistance or if there is ever a problem with your order let me know so I can fix it.

**\$17.95**

\$3.95 shipping

Only 1 left!

👑 Top Rated Plus



**1983 Star Wars Return of the Jedi Burger King Coca Cola Glass | Leia & Jabba**

Each item is in great condition.

**\$9.99**

Free shipping

or Best Offer



**Lightsaber Soundboard Module - Sabercore Viridian and Crimson**

2 Sound Fonts - Solid State Motion - Battery Protection

**\$36.99**

Free shipping

or Best Offer

Grand Moff Tarkin Star Wars Black Series 6 Inch Action Figure BPE ORDER



STAR WARS GRAND MOFF TARKIN STAR WARS - BLACK SERIES 6 INCH ACTION FIGURE PRE-ORDER

**\$27.99**

Free shipping

UNOPENED LIGHTSABER (USED AN OPEN-BOX LIGHTSABER FOR PICS). DISNEY PARKS EXCLUSIVE. \* HILL STAN...

★★★★★ 3 product ratings

**\$229.99**

Free shipping  
or Best Offer

31 sold

3 new & refurbished from \$229.99



NEW LISTING | STAR WARS VINTAGE 1981 EMPIRE STRIKES BACK LUKE SKYWALKER HOTH, NO RESERVE!

LUKE IN HOTH BATTLE GEAR 45 BACK CARD, NO RESERVE

**\$25.00**

\$8.50 shipping

1 bid

9d 17h



NEW LISTING | Hot Wheels Star Wars Rogue One: 11 Pack Hero and Villain Starships - NEW

Brand new factory sealed lowest price marked on eBay with free shipping

**\$27.00**

Free shipping  
or Best Offer

**LOT OF 2 SABERS!**



**FX SOUNDS & LIGHTS!**

LOT OF 2 STAR WARS WAR FX SOUND LIGHTSABER LIGHT SABER SWORD TOY BEST PRICE!!! CHANGES COLOR AND MAKES FX SOUNDS WHEN STRUCKS OR SWINGS! SOUND FX AND CHANGES COLOR. LOT OF 2 - STAR WARS LIGHTSABERS. Total length from bottom of hilt to tip of blade is 27.5". Blade itself is 18.5".

**\$23.99**

Free shipping

4,418 sold



Star Wars - Black Series Grand Moff Tarkin 6 Inch Action Figure | NEW! PRE-ORDER

2018 Star Wars A New Hope The Black Series Grand Moff Tarkin. Put your order in now for this new addition to The Black Series! You will receive this item case fresh as soon as it is released! Due to the nature of Pre Order once you place an order...



STAR TREK VI DIAMOND SELECT USS ENTERPRISE NCC 1701 A UNDISCOVERED COUNTRY SHIP

2015 Release New Paint & Sounds - SOLD OUT FROM DIAMOND

★★★★★ 2 product ratings

**\$79.99**

\$13.15 shipping

11 watching

5 new & refurbished from \$79.99



KYLO REN Deluxe Force FX LightSaber Star Wars Black Series TFA master MR 3

Star Wars TFA Kylo Ren Force FX Lightsaber Prop Replica Kylo Ren's sword features a distinctive blade, plus authentic lights and sounds. Based on the design from Star Wars: The Force Awakens! An elegant weapon, indeed.



**\$129.95**  
 \$25.00 shipping  
 or Best Offer  
 Only 1 left!



D23 Expo 2017 Disney Store Star Wars Princess Leia and Darth Vader Figure Doll

**\$140.50**  
 Free shipping  
 Only 1 left!



Twelfth Doctor's Sonic Screwdriver Programmable TV Remote - NIB

Check out these technical specs from the Twelfth Doctor's Sonic Screwdriver Universal Remote Control. This advanced, gesture-based, infrared remote can learn the control codes from almost any regular remote control.

**\$68.00**  
 Free shipping  
 or Best Offer



Star Trek U.S.S. Curry NCC-42254 Model with Magazine #116 by Eaglemoss

Imported from the U.K. with limited distribution in the U.S., these models are not easy to find for sale in the United States. The U.S.S. Curry NCC-42254 was a 24th-century Starfleet vessel that fought with the Second Fleet during the Dominion War.

**\$34.90**  
 Free shipping  
 9 watching

Top Rated Plus



Ultrasabers Custom Battle Scar Pattern FX LightSaber with Orange Blade Windows

You can switch the blade out if you want as well. This is a one of a kind saber so get it while you can! Takes 4 AAA batteries which are included. No sound, its just for dueling or martial arts.

**\$130.00**  
 \$12.00 shipping  
 or Best Offer



Star Wars Darth Vader Amber Thermo-formed Bubble Lense Set

Up for sale is a STAR WARS: Darth Vader Amber Hero Thermo-formed Acrylic Lens Set just like the original. As you can see these lenses are molded to fit the helmet just like the originals. Lenses are ready for trimming and installation.

**\$25.99**  
 Free shipping



Star Wars Han Solo Droid Caller Kobold Flash ANH Screen Accurate 1:1 A New Hope

Same dimensions as the original Kobold Droid Caller worn by Han Solo • Has the Kobold emblem, just like the original! ALL Quality built Belts should have this. We do not include the C-Clip with our Caller.

★★★★★ 3 product ratings

**\$28.95**

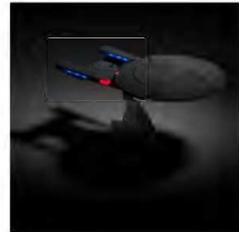


\$6.95 shipping  
or Best Offer  
252 sold



Philadelphia Eagles vs The Evil Empire Patriots collectable newspaper Super Bowl  
Super collectable "Star Wars" themed Philadelphia Inquirer 24 page special section from 2/2/18. Front cover page features Nick Foles, Doug Peterson and the beloved underdog Philadelphia Eagles vs the Evil Empire of Brady, Belichick and the hated Ne...  
★★★★★ 4 product ratings

**\$17.95**  
Free shipping  
200 sold



**Star Trek TNG U.S.S. Enterprise NCC-1701-D Bluetooth Speaker**

"Let's make sure that history never forgets the name. Enterprise," Captain Picard once said, and we never have. The result: the Galaxy-class NCC-1701-D. It was huge, it was graceful, and when under attack it could separate into two parts!

**\$144.95**  
Free shipping



**BEST Lightsaber Wall Mount**

This lightsaber wall mount was a custom design for real custom lightsaber hilts. This mount is 3D printed and reinforced to withstand the weight of any hilt made. The wall mount comes with all hardware to install and can be set into just sheet-rock.

**\$10.00**  
\$5.50 shipping  
or Best Offer  
78 sold



**Doctor Who Tardis Police Box Novelty Aluminum Sign, TARDIS, new**

BEST DEAL ON THE WEB!Y our looking at a replica of the the PUBLIC CALL sign which is EMBOSSED, similar to the one from the hit TV show DR. WHO It is true to the original in it's design. This sign is NEW, looks great hanging on any wall and is...

**\$13.99**  
Trending at \$16.98  
Free shipping  
512 sold



**STAR WARS Light Saber DOUBLE RED DARTH MAUL SITH LORD Lightsaber Licensed NEW**

Official double-ended light saber for the Sith. Color: Red. Does it light up: yes. Sounds: No. GET IT FAST! WE'VE GOT IT!  
★★★★★ 4 product ratings

**\$30.99**  
Free shipping  
Benefits charity



Dual Basic Helmet Fan Kit - Cosplay, Costume, Stormtrooper Mandalorian mascot  
2 - 4500 RPM Ball Bearing 50mm Wide by 50mm by Tall by 15mm Thick Blower fans connected to USB male connector. Wires from each fan to the Y connection are 13", from the Y connection to the end of the USB are 11".

**\$30.00**  
Free shipping



49 watching



Star Trek Art Asylum / Diamond Select black handle toy pistol gun phaser replica  
Star Trek Art Asylum black handle phaser unopened box. First edition 2003. Since some phasers may be low in power each phaser will come with an extra set of batteries.

**\$55.00**

Free shipping  
46 sold



Replica Obi Wan Kenobi Lightsaber Star Wars ANH 3D Printed ABS Cosplay Ben

Star Wars - A New Hope - Obi Wan Kenobi Lightsaber. 3d print is high quality abs 20% infill, 11"x2.5"x2.25". This is a 100% professional, 1-1 full cosplay lightsaber. Saber is hand and spray painted.

★★★★★ 5 product ratings

**\$59.99**

\$4.99 shipping  
or Best Offer  
89 sold



Star Wars Bladebuilders Blast Tech Lightsaber Sixth Scale Figure

Free Shipping on orders over \$9.99 from HasbroToyShop

★★★★★ 5 product ratings

**\$8.99**

Was: \$29.99  
Free shipping  
223 sold  
8 new & refurbished from \$8.99



NEW LISTING Lot Of 3 Burger King Coca Cola 1983 Star Wars Return Of The Jedi Cups (140)

Lot Of 3 Burger King Coca Cola. Proceeds are used to support local programs and services. Year: 1983. We promise to resolve your concerns quickly and professionally.

**\$9.99**

\$14.80 shipping  
Benefits charity

0 bids  
6d 21h  
Brand: Lucasfilm



Doctor Who Tardis Ceramic Cookie Jar

High quality ceramic construction. You should always be careful with giving your information on the internet. So who are we? We buy all our products direct from the manufacturer. Our main products are toys and costumes.

★★★★★ 1 product rating

**\$25.99**

Was: \$36.24  
Free shipping  
38 sold



Star Trek: The Original TV Series Authentic Phaser Costume Toy Rubies NEW MOC

This phaser was made in 2009 by Rubies as a costume prop for their popular Star Trek uniform line. It is screen accurate size, has sound and operates on 2 AAA batteries (not included). This is a mint on the card, unused toy.

**\$16.95**

Free shipping  
12 watching

Top Rated Plus



NEW LISTING Disney Parks Exclusive Star Wars Kylo Ren Last Jedi Lightsaber Detachable Blade

Brand new release disney parks exclusive star wars last jedi kylo ren lightsaber with detachable blade.



**\$215.00**

Free shipping  
**\$99.99**

\$37.25 shipping

0 bids  
1d 23h

Top Rated Plus

< 1 2 3 4 5 6 7 8 9 10 >

### Make an Offer



Lightsaber Soundboard Module -  
Sabercore Viridian and Crimson

**\$36.99**

Free shipping

Make Offer



HASBRO STAR WARS THE BLACK  
SERIES ROGUE ONE #24 K-2SO, NEW

**\$14.99**

Free shipping

Make Offer



### You May Also Like



Decorative  
Collectibles



Militaria



Collectible Comics



Collectible Knives,  
Swords, Blades,...



Collectible An  
Art & Char

### Hot This Week



Winn-Dixie Star Wars Cosmic  
Shells \*\*PICK WHAT YOU...

**\$0.99**

102 sold



STAR TREK 50TH  
ANNIVERSARY COLLECTO...

**\$0.99**

18 sold



Custom Ghostbusters 1 Name  
Tag Patch with a male/HOOK...

**\$11.00**

16 sold



STAR WARS WINN DIXIE Bi-Io  
Cosmic Shell Cards # 1 - 72 ...

**\$0.99**

16 sold



Lightsaber Soundbc  
- Sabercore Viridian

**\$36.99**

15 sold

### Top Rated



Sabers CHOP Lightsaber LED  
Light up Chopsticks 2 Pair Re...

★★★★★ (7)

100% agree - Would  
recommend



Doctor Who TARDIS Projection  
Alarm Clock

★★★★★ (19)

100% agree - Would  
recommend





\$6.09 New



\$22.78 New



### Save on Science Fiction & Horror Collectibles



New Disney Parks Exclusive Star Wars Rey Lightsaber (th...  
**\$179.99**  
Trending at \$220.00



STAR WARS WAR FX SOUND LIGHTSABER LIGHT SABER...  
**\$8.50**  
Trending at \$10.06



Darth Vader ToothSaber  
**\$35.18**  
Trending at \$38.29



S.H.Figuarts Star Wars Elite Praetorian Guard (Heavy Bla...  
**\$43.88**  
Trending at \$47.95



Star Trek TOS Clas...  
**\$60.00**  
Trending at \$85.81

EXTRA **30%** OFF  
WHEN YOU BUY 25  
OR MORE



From newkadia



### Limited Time Deals

Free Shipping Included



Star Wars Han Solo In Carbonite 2 oz High Relief...  
**\$149.99**  
\$199.99 | 25% OFF



Uncle Milton Kylo Ren Mini Light Saber Black and Red T...  
**\$7.97**



NWT Loungefly Star Wars Multi-Symbol All Over Print...  
**\$35.99**  
\$39.99 | 10% OFF

### Best Selling



Rey Lightsaber Star Wars The Last Jedi. Disney Starwars.  
★★★★★ (3)  
**\$179.99 New**



Star Wars FX Sound Lightsaber Light Saber Sword Toy Best  
★★★★★ (6)  
**\$8.50 New**



### Got one to sell?

Get it in front of 160+ million buyers.

#### What Are Some Ideal Collectibles to Look for When Starting a Science Fiction and Horror Collection?

Science fiction and horror collectibles encompass many iconic television and film titles, including "Star Wars," "Buffy the Vampire Slayer," and "Dr. Who." When looking for valuable finds, items like action figures, pins, vehicle models, patches, trading cards, and apparel are ideal collectibles. Whenever possible, browse official and licensed items to discover authentic collectibles for your assortment of toys and treasures.

#### What Are Some Tips for Collecting Action Figures?

When first starting an action figure collection, focus on a specific theme to start with and do research to determine which toys you might want to look for first. Inspect toys for damage and blemishes, as action figures with missing limbs, worn paint, and missing accessories are often less valuable. If possible, look for complete toy sets that have all of the parts and even the original box. Attending toy conventions is a great way to get some advice from seasoned collectors. Finally, make sure that the action figures have proper care and storage, including clear cases for display in moisture-free places.

#### How Should You Properly Package and Store Collectible Items?

To maintain their value, take extra precaution when packaging and storing collectibles such as action figures, comic books, LEGO sets, and trading cards. Always lay comic books flat in a container, and if possible use protective Mylar sleeves to keep them separated. Store action figures and toys in original boxes, but keep them inside of containers and away from direct sunlight. Take extra precaution with breakable collectibles like plates, glassware, and fragile figurines, wrapping them in paper, soft cloth, or bubble wrap before placing them into containers. Fill empty spaces between fragile items using peanuts or extra bubble wrap, and stack lighter containers on top of heavier ones.

[Tell us what you think](#)



# Declaration of Amber Leavitt

## Exhibit I



**UNITED STATES  
SECURITIES AND EXCHANGE COMMISSION**

Washington, D.C. 20549

**Form 10-K**

**ANNUAL REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934**  
For the fiscal year ended December 31, 2013 .

OR

**TRANSITION REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934**  
For the Transition Period from        to        .

Commission file number 000-24821

**eBay Inc.**

(Exact name of registrant as specified in its charter)

**Delaware**  
(State or other jurisdiction of  
incorporation or organization)

**77-0430924**  
(I.R.S. Employer  
Identification Number)

**2065 Hamilton Avenue**  
**San Jose, California**  
(Address of principal  
executive offices)

**95125**  
(Zip Code)

**Registrant's telephone number, including area code:**  
**(408) 376-7400**

**Securities registered pursuant to Section 12(b) of the Securities Exchange Act of 1934:**

<u>Title of each class</u>	<u>Name of exchange on which registered</u>
<b>Common stock</b>	<b>The Nasdaq Global Select Market</b>

**Securities registered pursuant to Section 12(g) of the Securities Exchange Act of 1934:**

None

Indicate by check mark if the registrant is a well-known seasoned issuer, as defined in Rule 405 of the Securities Act. Yes  No

Indicate by check mark if the registrant is not required to file reports pursuant to Section 13 or Section 15(d) of the Exchange Act. Yes  No

Indicate by check mark whether the registrant (1) has filed all reports required to be filed by Section 13 or 15(d) of the Exchange Act during the preceding 12 months (or for such shorter period that the registrant was required to file such reports), and (2) has been subject to

such filing requirements for the past 90 days. Yes  No

Indicate by check mark whether the registrant has submitted electronically and posted on its corporate Web site, if any, every Interactive Data File required to be submitted and posted pursuant to Rule 405 of Regulation S-T (§ 232.405 of this chapter) during the preceding 12 months (or for such shorter period that the registrant was required to submit and post such files). Yes  No

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The following table summarizes operating expenses, non-operating items and provision for income taxes as a percentage of net revenues for the periods presented:

	Year Ended December 31,		
	2013	2012	2011
<b>Sales and marketing</b>	19%	21%	21%
Product development	11%	11%	11%
General and administrative	11%	11%	12%
Provision for transaction and loan losses	5%	4%	4%
Amortization of acquired intangible assets	2%	2%	2%
Interest and other, net	1%	1%	13%
Provision for income taxes	4%	3%	6%

### ***Sales and Marketing***

Sales and marketing expenses consist primarily of advertising costs and marketing programs (both online and offline), employee compensation, contractor costs, facilities costs and depreciation on equipment. Online marketing expenses represent traffic acquisition costs in various channels such as paid search, affiliates marketing and display advertising. Offline advertising includes brand campaigns, buyer/seller communications and general public relations expenses.

Sales and marketing expense increased by \$147 million , or 5% , in 2013 compared to 2012 . The increase in sales and marketing expense was due primarily to higher employee-related expenses (including consultant costs, facility costs and equipment-related costs), partially offset by a decrease in professional services fees and marketing program efficiencies. The decrease in marketing program costs was due primarily to a shift in focus from customer acquisition to customer retention (for which certain associated expenses are recorded as a reduction in revenue instead of sales and marketing expense). Sales and marketing expense as a percentage of net revenues were 19% and 21% in 2013 and 2012 , respectively.

Sales and marketing expense increased by \$478 million, or 20%, in 2012 compared to 2011. The increase in sales and marketing expense was due primarily to higher employee-related expenses (including consultant costs, facility costs and equipment-related costs), marketing program costs to drive consumer engagement and the impact from acquisitions, primarily GSI. Sales and marketing expense as a percentage of net revenues were 21% in both 2012 and 2011.

### ***Product Development***

Product development expenses consist primarily of employee compensation, contractor costs, facilities costs and depreciation on equipment. Product development expenses are net of required capitalization of major site and other product development efforts, including the development of our next generation platform architecture, migration of certain platforms, seller tools and Payments services projects. Our top technology priorities include mobile, user experience, search, platform and new products such as payment code and those that allow us to continue pursuing our omnichannel strategy. Capitalized internal use and website development costs were \$299 million , \$285 million and \$212 million in 2013 , 2012 and 2011 , respectively, and are primarily reflected as a cost of net revenues when amortized in future periods.

Product development expenses increased by \$195 million , or 12% , in 2013 compared to 2012 . The increase was due primarily to higher employee-related costs (including consultant costs, facility costs and equipment-related costs) driven by increased investment in platform, search, mobile and offline, as well as an increase in professional service fees. Product development expenses as a net percentage of revenues were 11% in both 2013 and 2012 .

Product development expenses increased by \$338 million, or 27%, in 2012 compared to 2011. The increase was due primarily to higher employee-related costs (including consultant costs, facility costs and equipment-related costs) driven by increased investment in platform, search, mobile and offline and the impact from acquisitions, primarily GSI. Product development expenses as a net percentage of revenues were 11% in both 2012 and 2011.

Cost of net revenues consists primarily of costs associated with payment processing, customer support, site operations, fulfillment and interest expense on borrowings incurred to finance Bill Me Later's portfolio of loan receivables. Significant components of these costs include bank transaction fees, credit card interchange and assessment fees, interest expense on indebtedness incurred to finance the purchase of consumer loan receivables related to Bill Me Later accounts, employee compensation, contractor costs, facilities costs, depreciation of equipment and amortization expense.

### *Marketplaces*

Marketplaces cost of net revenues increased \$247 million , or 19% , in 2013 compared to 2012 . The increase was due primarily to the growth in GMV. Marketplaces cost of net revenues as a percentage of Marketplaces net revenues increased by 1.1 percentage points during 2013 compared to 2012 due primarily to our investment in site operations infrastructure and customer support programs.

Marketplaces cost of net revenues increased \$63 million, or 5%, in 2012 compared to 2011. The increase was due primarily to increases in our customer support costs and site operations associated with our GMV growth. Marketplaces cost of net revenues as a percentage of Marketplaces net revenues decreased during 2012 compared to the prior year due primarily to improved operating leverage in our site operations infrastructure, partially offset by investment in customer support programs.

### *Payments*

Payments cost of net revenues increased \$466 million , or 21% , in 2013 compared to 2012 due primarily to the impact of growth in net TPV and growth in our customer support initiatives. Payments cost of net revenues as a percentage of Payments net revenues increased by 0.8 percentage points during 2013 compared to 2012 due primarily to these same factors.

Payments cost of net revenues increased \$343 million, or 18%, in 2012 compared to 2011 due primarily to the impact of growth in net TPV. Payments cost of net revenues as a percentage of Payments net revenues decreased during 2012 compared to 2011 due primarily to a lower transaction expense rate driven largely by the impact of certain regulatory changes, primarily the Durbin amendment of the Dodd-Frank Wall Street Reform and Consumer Protection Act.

### *Enterprise*

Enterprise cost of net revenues increased \$125 million , or 18% , during 2013 compared to 2012 due primarily to the impact of growth in Merchandise Sales as well as amortization expense driven by the initial roll out of the new suite of commerce technologies. Enterprise cost of net revenues as a percentage of Enterprise net revenues increased by 9.6 percentage points during 2013 compared to 2012 due primarily to these same factors.

Enterprise cost of net revenues were \$696 million during 2012 and \$374 million in 2011. Cost of net revenues attributable to the Enterprise segment for 2011 are reflected from June 17, 2011 (the date the acquisition of GSI was completed). Accordingly, comparisons with Enterprise's cost of revenues for 2012 to 2011 are not meaningful.

### ***Summary of Operating Expenses, Non-Operating Items and Provision for Income Taxes***

The following table summarizes changes in operating expenses, non-operating items and provision for income taxes for the periods presented:

	Year Ended December 31,			Change from 2012 to 2013		Change from 2011 to 2012		
	2013	2012	2011	in Dollars	in %	in Dollars	in %	
	(In millions, except percentage changes)							
Sales and marketing	\$ 3,060	\$ 2,913	\$ 2,435	\$ 147	5 %	\$ 478	20 %	
Product development	1,768	1,573	1,235	195	12 %	338	27 %	
General and administrative	1,703	1,567	1,364	136	9 %	203	15 %	
Provision for transaction and loan losses	791	580	517	211	36 %	63	12 %	
Amortization of acquired intangible assets	318	335	267	(17)	(5)%	68	25 %	
Interest and other, net	95	196	1,537	(101)	(52)%	(1,341)	(87)%	
Provision for income taxes	(610)	(475)	(681)	(135)	28 %	206	(30)%	

***Advertising expense***

We expense the costs of producing advertisements at the time production occurs and expense the cost of communicating advertisements in the period during which the advertising space or airtime is used, in each case as sales and marketing expense. Internet advertising expenses are recognized based on the terms of the individual agreements, which are generally over the greater of the ratio of the number of impressions delivered over the total number of contracted impressions, on a pay-per-click basis, or on a straight-line basis over the term of the contract. Advertising expense totaled \$1.0 billion, \$1.1 billion and \$977 million for the years ended December 31, 2013, 2012 and 2011, respectively.

***Stock-based compensation***

We have equity incentive plans under which we grant equity awards, including stock options, restricted stock units, performance-based restricted stock units, performance share units and nonvested shares, to our directors, officers and employees. We primarily issue restricted stock units. We determine compensation expense associated with restricted stock units based on the fair value of our common stock on the date of grant. We determine compensation expense associated with stock options based on the estimated grant date fair value method using the Black-Scholes valuation model. We generally recognize compensation expense using a straight-line amortization method over the respective vesting period for awards that are ultimately expected to vest. Accordingly, stock-based compensation expense for 2013, 2012 and 2011 has been reduced for estimated forfeitures. When estimating forfeitures, we consider voluntary termination behaviors as well as trends of actual option forfeitures. We recognize a benefit from stock-based compensation in equity to the extent that an incremental tax benefit is realized by following the ordering provisions of the tax law. In addition, we account for the indirect effects of stock-based compensation on the research tax credit and the foreign tax credit through our consolidated statement of income.

***Provision for transaction losses***

We are exposed to losses due to payment card and other payment misuse, as well as non-performance of and credit losses from sellers. Provisions for these items represent our estimate of actual losses based on our historical experience and actuarial techniques, as well as economic conditions. Provision for transaction losses includes PayPal's transaction loss expense as well as losses resulting from our customer protection programs on and off our platforms.

***Income taxes***

We account for income taxes using an asset and liability approach, which requires the recognition of taxes payable or refundable for the current year and deferred tax liabilities and assets for the future tax consequences of events that have been recognized in our financial statements or tax returns. The measurement of current and deferred tax assets and liabilities is based on provisions of enacted tax laws; the effects of future changes in tax laws or rates are not anticipated. If necessary, the measurement of deferred tax assets is reduced by the amount of any tax benefits that are not expected to be realized based on available evidence.

We report a liability for unrecognized tax benefits resulting from uncertain tax positions taken or expected to be taken in a tax return. We recognize interest and penalties, if any, related to unrecognized tax benefits in income tax expense.

***Cash and cash equivalents***

Cash and cash equivalents are short-term, highly liquid investments with original maturities of three months or less when purchased and are mainly comprised of bank deposits, certificates of deposit, money market funds and commercial paper.

***Allowance for doubtful accounts and authorized credits***

We record our allowance for doubtful accounts based upon our assessment of various factors. We consider historical experience, the age of the accounts receivable balances, credit quality of our customers, current economic conditions and other factors that may affect our customers' ability to pay. The allowance for doubtful accounts and authorized credits was \$106 million and \$89 million at December 31, 2013 and 2012, respectively.



**UNITED STATES  
SECURITIES AND EXCHANGE COMMISSION**

Washington, D.C. 20549

**Form 10-K**

ANNUAL REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934  
For the fiscal year ended December 31, 2014 .

OR

TRANSITION REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934  
For the Transition Period from            to            .

Commission file number 000-24821

**eBay Inc.**

(Exact name of registrant as specified in its charter)

**Delaware**  
(State or other jurisdiction of  
incorporation or organization)

**77-0430924**  
(I.R.S. Employer  
Identification Number)

**2065 Hamilton Avenue**  
**San Jose, California**  
(Address of principal  
executive offices)

**95125**  
(Zip Code)

Registrant's telephone number, including area code:  
**(408) 376-7400**

**Securities registered pursuant to Section 12(b) of the Securities Exchange Act of 1934:**

Title of each class

**Common stock**

Name of exchange on which registered

**The Nasdaq Global Select Market**

**Securities registered pursuant to Section 12(g) of the Securities Exchange Act of 1934:**

**None**

Indicate by check mark if the registrant is a well-known seasoned issuer, as defined in Rule 405 of the Securities Act. Yes  No

Indicate by check mark if the registrant is not required to file reports pursuant to Section 13 or Section 15(d) of the Exchange Act. Yes  No

Indicate by check mark whether the registrant (1) has filed all reports required to be filed by Section 13 or 15(d) of the Exchange Act during the preceding 12 months (or for such shorter period that the registrant was required to file such reports), and (2) has been subject to such filing requirements for the past 90 days. Yes  No

Indicate by check mark whether the registrant has submitted electronically and posted on its corporate Web site, if any, every Interactive Data File required to be submitted and posted pursuant to Rule 405 of Regulation S-T (§ 232.405 of this chapter) during the preceding 12 months (or for such shorter period that the registrant was required to submit and post such files). Yes  No

---

The following table summarizes operating expenses, non-operating items and provision for income taxes as a percentage of net revenues for the periods presented:

	Year Ended December 31,		
	2014	2013	2012
Sales and marketing	20%	19%	21%
Product development	11%	11%	11%
General and administrative	10%	11%	11%
Provision for transaction and loan losses	5%	5%	4%
Amortization of acquired intangible assets	1%	2%	2%
Interest and other, net	—%	1%	1%
Provision for income taxes	19%	4%	3%

### **Sales and Marketing**

Sales and marketing expenses consist primarily of advertising costs and marketing programs (both online and offline), employee compensation, contractor costs, facilities costs and depreciation on equipment. Online marketing expenses represent traffic acquisition costs in various channels such as paid search, affiliates marketing and display advertising. Offline advertising includes brand campaigns, buyer/seller communications and general public relations expenses.

Sales and marketing expense increased by \$527 million , or 17% , in 2014 compared to 2013 . The increase in sales and marketing expense was due primarily to an increase in marketing program costs (both online and offline programs), eBay's and PayPal's brand campaigns and higher employee-related expenses (including consultant costs). Sales and marketing expense as a percentage of net revenues were 20% and 19% in 2014 and 2013 , respectively.

Sales and marketing expense increased by \$147 million, or 5%, in 2013 compared to 2012. The increase in sales and marketing expense was due primarily to higher employee-related expenses (including consultant costs, facility costs and equipment-related costs), partially offset by a decrease in professional services fees and marketing program efficiencies. The decrease in marketing program costs was due primarily to a shift in focus from customer acquisition to customer retention (for which certain associated expenses are recorded as a reduction in revenue instead of sales and marketing expense). Sales and marketing expense as a percentage of net revenues were 19% and 21% in 2013 and 2012, respectively.

### **Product Development**

Product development expenses consist primarily of employee compensation, contractor costs, facilities costs and depreciation on equipment. Product development expenses are net of required capitalization of major site and other product development efforts, including the development of our next generation platform architecture, migration of certain platforms, seller tools and Payments services projects. Our top technology priorities include mobile, user experience, search, platform and products.

Capitalized internal use and website development costs were \$395 million and \$375 million in 2014 and 2013 , respectively, and are primarily reflected as a cost of net revenues when amortized in future periods.

Product development expenses increased by \$232 million , or 13% , in 2014 compared to 2013 . The increase was due primarily to higher employee-related costs (including consultant costs) driven by increased investment in platform and mobile. Product development expenses as a net percentage of revenues were 11% in both 2014 and 2013 .

Product development expenses increased by \$195 million, or 12%, in 2013 compared to 2012. The increase was due primarily to higher employee-related costs (including consultant costs, facility costs and equipment-related costs) driven by increased investment in platform, search, mobile and offline, as well as an increase in professional service fees. Product development expenses as a net percentage of revenues were 11% in both 2013 and 2012.

**eBay Inc.**  
**CONSOLIDATED STATEMENT OF INCOME**

	Year Ended December 31,		
	2014	2013	2012
	(In millions, except per share amounts)		
Net revenues	\$ 17,902	\$ 16,047	\$ 14,072
Cost of net revenues	5,732	5,036	4,216
Gross profit	12,170	11,011	9,856
Operating expenses:			
Sales and marketing	3,587	3,060	2,913
Product development	2,000	1,768	1,573
General and administrative	1,843	1,703	1,567
Provision for transaction and loan losses	958	791	580
Amortization of acquired intangible assets	268	318	335
Total operating expenses	8,656	7,640	6,968
Income from operations	3,514	3,371	2,888
Interest and other, net	17	95	196
Income before income taxes	3,531	3,466	3,084
Provision for income taxes	(3,485)	(610)	(475)
Net income	\$ 46	\$ 2,856	\$ 2,609
Net income per share:			
Basic	\$ 0.04	\$ 2.20	\$ 2.02
Diluted	\$ 0.04	\$ 2.18	\$ 1.99
Weighted average shares:			
Basic	1,251	1,295	1,292
Diluted	1,262	1,313	1,313

The accompanying notes are an integral part of these consolidated financial statements.

### ***Advertising expense***

We expense the costs of producing advertisements at the time production occurs and expense the cost of communicating advertisements in the period during which the advertising space or airtime is used, in each case as sales and marketing expense. Internet advertising expenses are recognized based on the terms of the individual agreements, which are generally over the greater of the ratio of the number of impressions delivered over the total number of contracted impressions, on a pay-per-click basis, or on a straight-line basis over the term of the contract. Advertising expense totaled \$1.3 billion, \$1.0 billion and \$1.1 billion for the years ended December 31, 2014, 2013 and 2012, respectively.

### ***Stock-based compensation***

We have equity incentive plans under which we grant equity awards, including stock options, restricted stock units, performance-based restricted stock units, and performance share units, to our directors, officers and employees. We primarily issue restricted stock units. We determine compensation expense associated with restricted stock units based on the fair value of our common stock on the date of grant. We determine compensation expense associated with stock options based on the estimated grant date fair value method using the Black-Scholes valuation model. We generally recognize compensation expense using a straight-line amortization method over the respective vesting period for awards that are ultimately expected to vest. Accordingly, stock-based compensation expense for 2014, 2013 and 2012 has been reduced for estimated forfeitures. When estimating forfeitures, we consider voluntary termination behaviors as well as trends of actual option forfeitures. We recognize a benefit from stock-based compensation in equity to the extent that an incremental tax benefit is realized by following the ordering provisions of the tax law. In addition, we account for the indirect effects of stock-based compensation on the research tax credit and the foreign tax credit through our consolidated statement of income.

### ***Provision for transaction losses***

We are exposed to losses due to payment card and other payment misuse, as well as non-performance of and credit losses from sellers. Provisions for these items represent our estimate of actual losses based on our historical experience and actuarial techniques, as well as economic conditions. Provision for transaction losses includes PayPal's transaction loss expense as well as losses resulting from our customer protection programs on and off our platforms.

### ***Income taxes***

We account for income taxes using an asset and liability approach, which requires the recognition of taxes payable or refundable for the current year and deferred tax liabilities and assets for the future tax consequences of events that have been recognized in our financial statements or tax returns. The measurement of current and deferred tax assets and liabilities is based on provisions of enacted tax laws; the effects of future changes in tax laws or rates are not anticipated. If necessary, the measurement of deferred tax assets is reduced by the amount of any tax benefits that are not expected to be realized based on available evidence.

We report a liability for unrecognized tax benefits resulting from uncertain tax positions taken or expected to be taken in a tax return. We recognize interest and penalties, if any, related to unrecognized tax benefits in income tax expense.

### ***Cash and cash equivalents***

Cash and cash equivalents are short-term, highly liquid investments with original maturities of three months or less when purchased and are mainly comprised of bank deposits, certificates of deposit, money market funds and commercial paper.

### ***Allowance for doubtful accounts and authorized credits***

We record our allowance for doubtful accounts based upon our assessment of various factors. We consider historical experience, the age of the accounts receivable balances, credit quality of our customers, current economic conditions and other factors that may affect our customers' ability to pay. The allowance for doubtful accounts and authorized credits was \$102 million and \$106 million at December 31, 2014 and 2013, respectively.



**UNITED STATES  
SECURITIES AND EXCHANGE COMMISSION**

Washington, D.C. 20549

**Form 10-K**

**ANNUAL REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934**  
For the fiscal year ended December 31, 2015 .

OR

**TRANSITION REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934**  
For the Transition Period from        to        .

Commission file number 000-24821

**eBay Inc.**

(Exact name of registrant as specified in its charter)

**Delaware**  
(State or other jurisdiction of  
incorporation or organization)

**77-0430924**  
(I.R.S. Employer  
Identification Number)

**2065 Hamilton Avenue**  
**San Jose, California**  
(Address of principal  
executive offices)

**95125**  
(Zip Code)

Registrant's telephone number, including area code:  
**(408) 376-7400**

**Securities registered pursuant to Section 12(b) of the Securities Exchange Act of 1934:**

Title of each class

**Common stock**

Name of exchange on which registered

**The Nasdaq Global Select Market**

**Securities registered pursuant to Section 12(g) of the Securities Exchange Act of 1934:**

**None**

Indicate by check mark if the registrant is a well-known seasoned issuer, as defined in Rule 405 of the Securities Act. Yes  No

Indicate by check mark if the registrant is not required to file reports pursuant to Section 13 or Section 15(d) of the Exchange Act. Yes  No

Indicate by check mark whether the registrant (1) has filed all reports required to be filed by Section 13 or 15(d) of the Exchange Act during the preceding 12 months (or for such shorter period that the registrant was required to file such reports), and (2) has been subject to such filing requirements for the past 90 days. Yes  No

Indicate by check mark whether the registrant has submitted electronically and posted on its corporate Web site, if any, every Interactive Data File required to be submitted and posted pursuant to Rule 405 of Regulation S-T (§ 232.405 of this chapter) during the preceding 12 months (or for such shorter period that the registrant was required to submit and post such files). Yes  No

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## Summary of Operating Expenses, Interest and Other, net, and Provision for Income Taxes

The following table summarizes changes in operating expenses, interest and other, net and provision for income taxes for the periods presented:

	Year Ended December 31,			Change from 2014 to 2015		Change from 2013 to 2014	
	2015	2014	2013	in Dollars	in %	in Dollars	in %
	(In millions, except percentage changes)						
<b>Sales and marketing</b>	\$ 2,267	\$ 2,442	\$ 2,144	\$ (175)	(7)%	\$ 298	14 %
Product development	923	983	915	(60)	(6)%	68	7 %
General and administrative	1,122	889	880	233	26 %	9	1 %
Provision for transaction losses	271	262	236	9	3 %	26	11 %
Amortization of acquired intangible assets	41	75	136	(34)	(45)%	(61)	(45)%
Interest and other, net	209	39	117	170	436 %	(78)	(67)%

The following table summarizes operating expenses, interest and other, net and provision for income taxes as a percentage of net revenues for the periods presented:

	Year Ended December 31,		
	2015	2014	2013
Sales and marketing	26%	28%	26%
Product development	11%	11%	11%
General and administrative	13%	10%	11%
Provision for transaction losses	3%	3%	3%
Amortization of acquired intangible assets	—%	1%	2%
Interest and other, net	2%	—%	1%

### Sales and Marketing

Sales and marketing expenses consist primarily of advertising costs and marketing programs (both online and offline), employee compensation, contractor costs, facilities costs and depreciation on equipment. Online marketing expenses represent traffic acquisition costs in various channels such as paid search, affiliates marketing and display advertising. Offline advertising includes primarily brand campaigns and buyer/seller communications.

Sales and marketing expense decreased by \$175 million, or 7%, in 2015 compared to 2014. The decrease in sales and marketing expense was due primarily to the positive impact from foreign currency movements relative to the U.S. dollar, a decrease in marketing program costs due in part to a shift in certain buyer and seller incentives (for which associated expenses are recorded as a reduction in revenue instead of sales and marketing expense) and employee-related savings from our global workforce reduction. Sales and marketing expense as a percentage of net revenues were 26% and 28% in 2015 and 2014, respectively.

Sales and marketing expense increased by \$298 million, or 14%, in 2014 compared to 2013. The increase in sales and marketing expense was due primarily to an increase in marketing program costs (both online and offline programs), our brand campaign and higher employee-related expenses (including consultant costs). Sales and marketing expense as a percentage of net revenues were 28% and 26% in 2014 and 2013, respectively.

### Product Development

Product development expenses consist primarily of employee compensation, contractor costs, facilities costs and depreciation on equipment. Product development expenses are net of required capitalization of major platforms and other product development efforts, including the development of our platform architecture, migration of certain platforms, and seller tools. Our top technology priorities include structured data, multi-screen capabilities, improved seller tools and buyer experiences.

Capitalized internal use and platform development costs were \$136 million and \$144 million in 2015 and 2014, respectively, and are primarily reflected as a cost of net revenues when amortized in future periods.

**eBay Inc.**  
**CONSOLIDATED STATEMENT OF INCOME**

	Year Ended December 31,		
	2015	2014	2013
	(In millions, except per share amounts)		
Net revenues	\$ 8,592	\$ 8,790	\$ 8,257
Cost of net revenues	1,771	1,663	1,492
Gross profit	6,821	7,127	6,765
Operating expenses:			
Sales and marketing	2,267	2,442	2,144
Product development	923	983	915
General and administrative	1,122	889	880
Provision for transaction losses	271	262	236
Amortization of acquired intangible assets	41	75	136
Total operating expenses	4,624	4,651	4,311
Income from operations	2,197	2,476	2,454
Interest and other, net	209	39	117
Income from continuing operations before income taxes	2,406	2,515	2,571
Provision for income taxes	(459)	(3,380)	(504)
Income (loss) from continuing operations	\$ 1,947	\$ (865)	\$ 2,067
Income (loss) from discontinued operations, net of income taxes	(222)	911	789
Net income	\$ 1,725	\$ 46	\$ 2,856
Income (loss) per share - basic:			
Continuing operations	\$ 1.61	\$ (0.69)	\$ 1.60
Discontinued operations	(0.18)	0.73	0.60
Net income per share - basic	\$ 1.43	\$ 0.04	\$ 2.20
Income (loss) per share - diluted:			
Continuing operations	\$ 1.60	\$ (0.69)	\$ 1.58
Discontinued operations	(0.18)	0.73	0.60
Net income per share - diluted	\$ 1.42	\$ 0.04	\$ 2.18
Weighted average shares:			
Basic	1,208	1,251	1,295
Diluted	1,220	1,251	1,313

The accompanying notes are an integral part of these consolidated financial statements.

**eBay Inc.**  
**NOTES TO CONSOLIDATED FINANCIAL STATEMENTS—(Continued)**

***Revenue recognition***

We generate net transaction revenues primarily from final value fees and listing fees paid by sellers. Final value fee revenues are recognized at the time that the transaction is successfully closed, while listing fee revenues are recognized ratably over the estimated period of the listing. An auction transaction is considered successfully closed when at least one buyer has bid above the seller's specified minimum price or reserve price, whichever is higher, at the end of the transaction term.

Our marketing services revenues are derived principally from the sale of advertisements, revenue sharing arrangements, classifieds fees, marketing service fees and lead referral fees. Our advertising revenues are derived principally from the sale of online advertisements. The duration of our advertising contracts has ranged from one week to five years, but is generally one week to one year. Advertising revenues on contracts are recognized as “impressions” (i.e., the number of times that an advertisement appears in pages viewed by users of our platforms) are delivered, or as “clicks” (which are generated each time users on our platforms click through our advertisements to an advertiser's designated website) are provided to advertisers. For contracts with minimum monthly or quarterly advertising commitments where the fee and commitments are fixed throughout the term, we recognize revenue ratably over the term of the agreement. We also may enter into arrangements to purchase services from certain customers and if the service is not considered an identifiable benefit that is separable from the customer's purchase of our services or for which we cannot reasonably estimate fair value, the fees paid to the customer is recorded as a reduction in revenue. Some of our advertising contracts consist of multiple elements which generally include a blend of various impressions and clicks as well as other marketing deliverables. Where neither vendor-specific objective evidence nor third-party evidence of selling price exists, we use management's best estimate of selling price (BESP) to allocate arrangement consideration on a relative basis to each element. BESP is generally based on the selling prices of the various elements when they are sold to customers of a similar nature and geography on a stand-alone basis or estimated stand-alone pricing when the element has not previously been sold on a stand-alone basis. These estimates are generally based on pricing strategies, market factors and strategic objectives. Revenues related to revenue sharing arrangements are recognized based on revenue reports received from our partners, provided that collectability is reasonably assured. Revenues related to fees for listing items on our Classifieds platforms are recognized over the estimated period of the classified listing. Lead referral fee revenue is generated from lead referral fees based on the number of times users click through to a merchant's website from our platforms. Lead referral fees are recognized in the period in which a user clicks through to the merchant's website.

Our other revenues are derived principally from contractual arrangements with third parties that provide services to our users. Revenues from contractual arrangements with third parties are recognized as the contracted services are delivered to end users.

To drive traffic to our platforms, we provide incentives to our users in the form of coupons and buyer and seller rewards. These incentives are generally treated as reductions in revenue.

***Internal use software and platform development costs***

Direct costs incurred to develop software for internal use and platform development costs are capitalized and amortized over an estimated useful life of one to five years. During the years ended December 31, 2015 and 2014, we capitalized costs, primarily related to labor and stock-based compensation, of \$136 million and \$144 million, respectively. Amortization of previously capitalized amounts was \$110 million, \$115 million and \$103 million for 2015, 2014 and 2013, respectively. Costs related to the design or maintenance of internal use software and platform development are expensed as incurred.

***Advertising expense***

We expense the costs of producing advertisements at the time production occurs and expense the cost of communicating advertisements in the period during which the advertising space or airtime is used, in each case as sales and marketing expense. Internet advertising expenses are recognized based on the terms of the individual agreements, which are generally over the greater of the ratio of the number of impressions delivered over the total number of contracted impressions, on a pay-per-click basis, or on a straight-line basis over the term of the contract. Advertising expense totaled \$1.0 billion, \$1.0 billion and \$844 million for the years ended December 31, 2015, 2014 and 2013, respectively.

The following table presents cash flows of PayPal and Enterprise:

	Year Ended December 31,		
	2015 <sup>(1)</sup>	2014	2013
PayPal net cash provided by discontinued operating activities	\$ 1,252	\$ 2,280	\$ 1,913
Enterprise net cash provided by (used in) discontinued operating activities	(96)	169	150
Net cash provided by discontinued operating activities	<u>\$ 1,156</u>	<u>\$ 2,449</u>	<u>\$ 2,063</u>
PayPal net cash used in discontinued investing activities	\$ (3,725)	\$ (1,218)	\$ (2,221)
Enterprise net cash provided by (used in) discontinued investing activities	787	(130)	(171)
Net cash used in discontinued investing activities	<u>\$ (2,938)</u>	<u>\$ (1,348)</u>	<u>\$ (2,392)</u>
PayPal net cash provided by (used in) discontinued financing activities <sup>(2)</sup>	\$ (1,594)	\$ 40	\$ 76
Enterprise net cash used in discontinued financing activities	—	(15)	1
Net cash provided by (used in) discontinued financing activities	<u>\$ (1,594)</u>	<u>\$ 25</u>	<u>\$ 77</u>

(1) Includes PayPal financial results from January 1, 2015 to July 17, 2015 and Enterprise financial results from January 1, 2015 to November 2, 2015.

(2) Includes \$1.6 billion of PayPal cash and cash equivalents as of July 17, 2015.

### **PayPal**

The financial results of PayPal through the Distribution are presented as income (loss) from discontinued operations, net of income taxes on our consolidated statement of income. The following table presents financial results of PayPal:

	Year Ended December 31,		
	2015 <sup>(1)</sup>	2014	2013
Net revenues	\$ 4,793	\$ 7,895	\$ 6,640
Cost of net revenues	1,918	3,140	2,696
Gross profit	<u>2,875</u>	<u>4,755</u>	<u>3,944</u>
Operating expenses:			
Sales and marketing	534	1,027	794
Product development	527	879	712
General and administrative	741	892	724
Provision for transaction and loan losses	418	688	551
Amortization of acquired intangible assets	30	53	41
Total operating expenses	<u>2,250</u>	<u>3,539</u>	<u>2,822</u>
Income from operations of discontinued operations	625	1,216	1,122
Interest and other, net	1	(7)	(7)
Income from discontinued operations before income taxes	626	1,209	1,115
Provision for income taxes	(110)	(185)	(189)
Income from discontinued operations, net of income taxes	<u>\$ 516</u>	<u>\$ 1,024</u>	<u>\$ 926</u>

(1) Includes PayPal financial results from January 1, 2015 to July 17, 2015.

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**UNITED STATES  
SECURITIES AND EXCHANGE COMMISSION**  
Washington, D.C. 20549

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**Form 10-K**

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**ANNUAL REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934**  
For the fiscal year ended December 31, 2016 .

OR

**TRANSITION REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934**  
For the Transition Period from            to            .  
Commission file number 000-24821



**eBay Inc.**  
(Exact name of registrant as specified in its charter)

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**Delaware**

(State or other jurisdiction of  
incorporation or organization)

**77-0430924**

(I.R.S. Employer  
Identification Number)

**2025 Hamilton Avenue  
San Jose, California**

(Address of principal  
executive offices)

**95125**

(Zip Code)

Registrant's telephone number, including area code:  
**(408) 376-7400**

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**Securities registered pursuant to Section 12(b) of the Securities Exchange Act of 1934:**

Title of each class

**Common stock**

Name of exchange on which registered

**The Nasdaq Global Select Market**

**Securities registered pursuant to Section 12(g) of the Securities Exchange Act of 1934:**

**None**

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Indicate by check mark if the registrant is a well-known seasoned issuer, as defined in Rule 405 of the Securities Act. Yes  No

Indicate by check mark if the registrant is not required to file reports pursuant to Section 13 or Section 15(d) of the Exchange Act. Yes  No

Indicate by check mark whether the registrant (1) has filed all reports required to be filed by Section 13 or 15(d) of the Exchange Act during the preceding 12 months (or for such shorter period that the registrant was required to file such reports), and (2) has been subject to such filing requirements for the past 90 days. Yes  No

Indicate by check mark whether the registrant has submitted electronically and posted on its corporate Web site, if any, every Interactive Data File required to be submitted and posted pursuant to Rule 405 of Regulation S-T (§ 232.405 of this chapter) during the preceding 12 months (or for such shorter period that the registrant was required to submit and

post such files). Yes  No

Indicate by check mark if disclosure of delinquent filers pursuant to Item 405 of Regulation S-K is not contained herein, and will not be contained, to the best of the registrant's knowledge, in definitive proxy or information statements incorporated by reference in Part III of this Form 10-K or any amendment to this Form 10-K. Yes  No

Indicate by check mark whether the registrant is a large accelerated filer, an accelerated filer, a non-accelerated filer or a smaller reporting company. See the definitions of "large accelerated filer," "accelerated filer," and "smaller reporting company" in Rule 12b-2 of the Exchange Act.

Large accelerated filer	<input checked="" type="checkbox"/>	Accelerated filer	<input type="checkbox"/>
Non-accelerated filer	<input type="checkbox"/> (Do not check if a smaller reporting company)	Smaller reporting company	<input type="checkbox"/>

Indicate by check mark whether the registrant is a shell company (as defined in Rule 12b-2 of the Exchange Act). Yes  No

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## Operating Expenses

The following table presents operating expenses (in millions, except percentages):

	Year Ended December 31,				
	2016	% Change	2015	% Change	2014
<b>Sales and marketing</b>	\$ 2,368	4 %	\$ 2,267	(7)%	\$ 2,442
<i>Percentage of net revenues</i>	26%		26%		28%
Product development	1,114	21 %	923	(6)%	983
<i>Percentage of net revenues</i>	12%		11%		11%
General and administrative	900	(20)%	1,122	26 %	889
<i>Percentage of net revenues</i>	10%		13%		10%
Provision for transaction losses	231	(15)%	271	3 %	262
<i>Percentage of net revenues</i>	3%		3%		3%
Amortization of acquired intangible assets	34	(17)%	41	(45)%	75

Operating expenses, net of \$3 million from hedging activities, were favorably impacted by \$66 million due to foreign currency movements relative to the U.S. dollar in 2016 compared to 2015. Operating expenses, net of \$47 million from hedging activities, were favorably impacted by \$194 million due to foreign currency movements relative to the U.S. dollar in 2015 compared to 2014.

### Sales and Marketing

Sales and marketing expenses primarily consist of advertising costs and marketing programs (both online and offline), employee compensation, contractor costs, facilities costs and depreciation on equipment. Online marketing expenses represent traffic acquisition costs in various channels such as paid search, affiliates marketing and display advertising. Offline advertising includes primarily brand campaigns and buyer/seller communications.

The increase in sales and marketing expense in 2016 compared to 2015 was primarily due to an increase in marketing program costs (both online and offline programs) partially offset by a favorable impact from foreign currency movements relative to the U.S. dollar. The decrease in sales and marketing expense in 2015 compared to 2014 was primarily due to a favorable impact from foreign currency movements relative to the U.S. dollar, a decrease in marketing program costs due in part to a shift in certain buyer and seller incentives (for which associated expenses are recorded as a reduction in revenue instead of sales and marketing expense) and employee-related savings from our global workforce reduction.

### Product Development

Product development expenses primarily consist of employee compensation, contractor costs, facilities costs and depreciation on equipment. Product development expenses are net of required capitalization of major platform and other product development efforts, including the development of our platform architecture, migration of certain platforms, and seller tools. Our top technology priorities include structured data, multi-screen capabilities, improved seller tools and buyer experiences.

Capitalized internal use and platform development costs were \$137 million and \$136 million in 2016 and 2015, respectively, and are primarily reflected as a cost of net revenues when amortized in future periods.

The increase in product development expenses in 2016 compared to 2015 was primarily due to higher employee-related costs driven by increased headcount; and increased depreciation on equipment driven by capital expenditures as we continue to invest in our platform. The decrease in product development expenses in 2015 compared to 2014 was primarily due to a favorable impact from foreign currency movements and hedging relative to the U.S. dollar.

**eBay Inc.**  
**CONSOLIDATED STATEMENT OF INCOME**

	Year Ended December 31,		
	2016	2015	2014
	(In millions, except per share amounts)		
Net revenues	\$ 8,979	\$ 8,592	\$ 8,790
Cost of net revenues	2,007	1,771	1,663
Gross profit	<u>6,972</u>	<u>6,821</u>	<u>7,127</u>
Operating expenses:			
Sales and marketing	2,368	2,267	2,442
Product development	1,114	923	983
General and administrative	900	1,122	889
Provision for transaction losses	231	271	262
Amortization of acquired intangible assets	34	41	75
Total operating expenses	<u>4,647</u>	<u>4,624</u>	<u>4,651</u>
Income from operations	2,325	2,197	2,476
Interest and other, net	1,326	209	39
Income from continuing operations before income taxes	3,651	2,406	2,515
Income tax benefit (provision)	3,634	(459)	(3,380)
Income (loss) from continuing operations	\$ 7,285	\$ 1,947	\$ (865)
Income (loss) from discontinued operations, net of income taxes	(19)	(222)	911
Net income	<u>\$ 7,266</u>	<u>\$ 1,725</u>	<u>\$ 46</u>
Income (loss) per share - basic:			
Continuing operations	\$ 6.43	\$ 1.61	\$ (0.69)
Discontinued operations	(0.02)	(0.18)	0.73
Net income per share - basic	<u>\$ 6.41</u>	<u>\$ 1.43</u>	<u>\$ 0.04</u>
Income (loss) per share - diluted:			
Continuing operations	\$ 6.37	\$ 1.60	\$ (0.69)
Discontinued operations	(0.02)	(0.18)	0.73
Net income per share - diluted	<u>\$ 6.35</u>	<u>\$ 1.42</u>	<u>\$ 0.04</u>
Weighted average shares:			
Basic	<u>1,133</u>	<u>1,208</u>	<u>1,251</u>
Diluted	<u>1,144</u>	<u>1,220</u>	<u>1,251</u>

The accompanying notes are an integral part of these consolidated financial statements.

### ***Revenue recognition***

We generate net transaction revenues primarily from final value fees and listing fees paid by sellers. Final value fee revenues are recognized at the time that the transaction is successfully closed, while listing fee revenues are recognized ratably over the estimated period of the listing. An auction transaction is considered successfully closed when at least one buyer has bid above the seller's specified minimum price or reserve price, whichever is higher, at the end of the transaction term.

Our marketing services revenues are derived principally from the sale of advertisements, revenue sharing arrangements, classifieds fees, marketing service fees and lead referral fees. Our advertising revenues are derived principally from the sale of online advertisements. The duration of our advertising contracts has ranged from one week to five years, but is generally one week to one year. Advertising revenues on contracts are recognized as "impressions" (i.e., the number of times that an advertisement appears in pages viewed by users of our platforms) are delivered, or as "clicks" (which are generated each time users on our platforms click through our advertisements to an advertiser's designated website) are provided to advertisers. For contracts with minimum monthly or quarterly advertising commitments where the fee and commitments are fixed throughout the term, we recognize revenue ratably over the term of the agreement. We also may enter into arrangements to purchase services from certain customers and if the service is not considered an identifiable benefit that is separable from the customer's purchase of our services or for which we cannot reasonably estimate fair value, the fees paid to the customer are recorded as a reduction in revenue. Some of our advertising contracts consist of multiple elements which generally include a blend of various impressions and clicks as well as other marketing deliverables. Where neither vendor-specific objective evidence nor third-party evidence of selling price exists, we use management's best estimate of selling price ("BESP") to allocate arrangement consideration on a relative basis to each element. BESP is generally based on the selling prices of the various elements when they are sold to customers of a similar nature and geography on a stand-alone basis or estimated stand-alone pricing when the element has not previously been sold on a stand-alone basis. These estimates are generally based on pricing strategies, market factors and strategic objectives. Revenues related to revenue sharing arrangements are recognized based on revenue reports received from our partners, provided that collectability is reasonably assured. Revenues related to fees for listing items on our Classifieds platforms are recognized over the estimated period of the classified listing. Lead referral fee revenue is generated from lead referral fees based on the number of times users click through to a merchant's website from our platforms. Lead referral fees are recognized in the period in which a user clicks through to the merchant's website.

Our other revenues are derived principally from contractual arrangements with third parties that provide services to our users. Revenues from contractual arrangements with third parties are recognized as the contracted services are delivered to end users.

To drive traffic to our platforms, we provide incentives to our users in the form of coupons and buyer and seller rewards. These incentives are generally treated as reductions in revenue.

### ***Internal use software and platform development costs***

Direct costs incurred to develop software for internal use and platform development costs are capitalized and amortized over an estimated useful life of one to five years. During the years ended December 31, 2016 and 2015, we capitalized costs, primarily related to labor and stock-based compensation, of \$137 million and \$136 million, respectively. Amortization of previously capitalized amounts was \$149 million, \$110 million and \$115 million for 2016, 2015 and 2014, respectively. Costs related to the design or maintenance of internal use software and platform development are expensed as incurred.

### ***Advertising expense***

We expense the costs of producing advertisements at the time production occurs and expense the cost of communicating advertisements in the period during which the advertising space or airtime is used, in each case as sales and marketing expense. Internet advertising expenses are recognized based on the terms of the individual agreements, which are generally over the greater of the ratio of the number of impressions delivered over the total number of contracted impressions, on a pay-per-click basis, or on a straight-line basis over the term of the contract. Advertising expense totaled \$1.2 billion, \$1.0 billion and \$1.0 billion for the years ended December 31, 2016, 2015 and 2014, respectively.

**UNITED STATES  
SECURITIES AND EXCHANGE COMMISSION**  
Washington, D.C. 20549

**Form 10-K**

**ANNUAL REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934**  
For the fiscal year ended December 31, 2017 .

OR

**TRANSITION REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934**  
For the Transition Period from            to            .

Commission file number 000-24821



**eBay Inc.**

(Exact name of registrant as specified in its charter)

**Delaware**

(State or other jurisdiction of  
incorporation or organization)

**2025 Hamilton Avenue  
San Jose, California**

(Address of principal  
executive offices)

**77-0430924**

(I.R.S. Employer  
Identification Number)

**95125**

(Zip Code)

Registrant's telephone number, including area code:  
**(408) 376-7008**

**Securities registered pursuant to Section 12(b) of the Securities Exchange Act of 1934:**

<u>Title of each class</u>	<u>Name of exchange on which registered</u>
Common stock	The Nasdaq Global Select Market
6.00% Notes due 2056	The NASDAQ Stock Market LLC

**Securities registered pursuant to Section 12(g) of the Securities Exchange Act of 1934:**

**None**

Indicate by check mark if the registrant is a well-known seasoned issuer, as defined in Rule 405 of the Securities Act. Yes  No

Indicate by check mark if the registrant is not required to file reports pursuant to Section 13 or Section 15(d) of the Exchange Act. Yes  No

Indicate by check mark whether the registrant (1) has filed all reports required to be filed by Section 13 or 15(d) of the Exchange Act during the preceding 12 months (or for such shorter period that the registrant was required to file such reports), and (2) has been subject to such filing requirements for the past 90 days. Yes  No

Indicate by check mark whether the registrant has submitted electronically and posted on its corporate Web site, if any, every Interactive Data File required to be submitted and posted pursuant to Rule 405 of Regulation S-T (§ 232.405 of this chapter) during the preceding 12 months (or for such shorter period that the registrant was required to submit and post such files). Yes  No

Indicate by check mark if disclosure of delinquent filers pursuant to Item 405 of Regulation S-K is not contained herein, and will not be contained, to the best of the registrant's knowledge, in definitive proxy or information statements incorporated by reference in Part III of this Form 10-K or any amendment to this Form 10-K.  
Yes  No

Indicate by check mark whether the registrant is a large accelerated filer, an accelerated filer, a non-accelerated filer, smaller reporting company or an emerging growth company. See the definitions of "large accelerated filer," "accelerated filer," "smaller reporting company" and "emerging growth company" in Rule 12b-2 of the Exchange Act.

Large accelerated filer	<input checked="" type="checkbox"/>	Accelerated filer	<input type="checkbox"/>
Non-accelerated filer	<input type="checkbox"/> (Do not check if a smaller reporting company)	Smaller reporting company	<input type="checkbox"/>
		Emerging growth company	<input type="checkbox"/>

If an emerging growth company, indicate by check mark if the registrant has elected not to use the extended transition period for complying with any new or revised financial accounting standards provided pursuant to Section 13(a) of the Exchange Act.

Indicate by check mark whether the registrant is a shell company (as defined in Rule 12b-2 of the Exchange Act). Yes  No

As of June 30, 2017, the aggregate market value of the registrant's common stock held by non-affiliates of the registrant was \$34,908,774,337 based on the closing sale price as reported on The Nasdaq Global Select Market.

1,012,079,673 shares of common stock issued and outstanding as of January 29, 2018.

**DOCUMENTS INCORPORATED BY REFERENCE**

Part III incorporates information by reference from the definitive proxy statement for the registrant's Annual Meeting of Stockholders expected to be held on May 30, 2018.

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and increased investments in site operations. The increase in cost of net revenues in 2016 compared to 2015 was primarily due to our continued investment in site operations and data centers and an increase in transaction fees for payment services.

Cost of net revenues, net of \$3 million from hedging activities, was unfavorably impacted by \$19 million attributable to foreign currency movements relative to the U.S. dollar in 2017 compared to 2016. Cost of net revenues, net of \$4 million from hedging activities, was favorably impacted by \$16 million due to foreign currency movements relative to the U.S. dollar in 2016 compared to 2015.

### Operating Expenses

The following table presents operating expenses (in millions, except percentages):

	Year Ended December 31,				
	2017	% Change	2016	% Change	2015
<b>Sales and marketing</b>	\$ 2,515	6%	\$ 2,368	4 %	\$ 2,267
<i>Percentage of net revenues</i>	26%		26%		26%
Product development	1,224	10%	1,114	21 %	923
<i>Percentage of net revenues</i>	13%		12%		11%
General and administrative	1,031	15%	900	(20)%	1,122
<i>Percentage of net revenues</i>	11%		10%		13%
Provision for transaction losses	272	18%	231	(15)%	271
<i>Percentage of net revenues</i>	3%		3%		3%
Amortization of acquired intangible assets	38	12%	34	(17)%	41
Total operating expenses	<u>\$ 5,080</u>	9%	<u>\$ 4,647</u>	— %	<u>\$ 4,624</u>

Operating expenses, net of \$8 million from hedging activities, were unfavorably impacted by \$14 million due to foreign currency movements relative to the U.S. dollar in 2017 compared to 2016. Operating expenses, net of \$3 million from hedging activities, were favorably impacted by \$66 million due to foreign currency movements relative to the U.S. dollar in 2016 compared to 2015.

#### Sales and Marketing

Sales and marketing expenses primarily consist of advertising and marketing program costs (both online and offline), employee compensation, contractor costs, facilities costs and depreciation on equipment. Online marketing expenses represent traffic acquisition costs in various channels such as paid search, affiliates marketing and display advertising. Offline advertising primarily includes brand campaigns and buyer/seller communications.

The increase in sales and marketing expense in 2017 compared to 2016 was primarily due to an increase in brand spend and employee-related costs. The increase in sales and marketing expense in 2016 compared to 2015 was primarily due to an increase in marketing program costs (both online and offline programs) partially offset by a favorable impact from foreign currency movements relative to the U.S. dollar.

#### Product Development

Product development expenses primarily consist of employee compensation, contractor costs, facilities costs and depreciation on equipment. Product development expenses are net of required capitalization of major platform and other product development efforts, including the development of our platform architecture, migration of certain platforms, and seller tools. Our top technology priorities include artificial intelligence, voice and image technology, virtual and augmented reality and distributed commerce.

Capitalized internal use and platform development costs were \$140 million and \$137 million in 2017 and 2016, respectively, and are primarily reflected as a cost of net revenues when amortized in future periods.

The increase in product development expenses in 2017 compared to 2016 was primarily due to an increase in employee-related costs. The increase in product development expenses in 2016 compared to 2015 was primarily due

**eBay Inc.**  
**CONSOLIDATED STATEMENT OF INCOME**

	Year Ended December 31,		
	2017	2016	2015
	(In millions, except per share amounts)		
Net revenues	\$ 9,567	\$ 8,979	\$ 8,592
Cost of net revenues	2,222	2,007	1,771
Gross profit	7,345	6,972	6,821
Operating expenses:			
Sales and marketing	2,515	2,368	2,267
Product development	1,224	1,114	923
General and administrative	1,031	900	1,122
Provision for transaction losses	272	231	271
Amortization of acquired intangible assets	38	34	41
Total operating expenses	5,080	4,647	4,624
Income from operations	2,265	2,325	2,197
Interest and other, net	11	1,326	209
Income from continuing operations before income taxes	2,276	3,651	2,406
Income tax benefit (provision)	(3,288)	3,634	(459)
Income (loss) from continuing operations	\$ (1,012)	\$ 7,285	\$ 1,947
Income (loss) from discontinued operations, net of income taxes	(4)	(19)	(222)
Net income (loss)	\$ (1,016)	\$ 7,266	\$ 1,725
Income (loss) per share - basic:			
Continuing operations	\$ (0.95)	\$ 6.43	\$ 1.61
Discontinued operations	—	(0.02)	(0.18)
Net income (loss) per share - basic	\$ (0.95)	\$ 6.41	\$ 1.43
Income (loss) per share - diluted:			
Continuing operations	\$ (0.95)	\$ 6.37	\$ 1.60
Discontinued operations	—	(0.02)	(0.18)
Net income (loss) per share - diluted	\$ (0.95)	\$ 6.35	\$ 1.42
Weighted average shares:			
Basic	1,064	1,133	1,208
Diluted	1,064	1,144	1,220

The accompanying notes are an integral part of these consolidated financial statements.

***Revenue recognition***

We generate net transaction revenues primarily from final value fees and listing fees paid by sellers. Final value fee revenues are recognized at the time that the transaction is successfully closed, while listing fee revenues are recognized ratably over the estimated period of the listing. An auction transaction is considered successfully closed when at least one buyer has bid above the seller's specified minimum price or reserve price, whichever is higher, at the end of the transaction term.

Our marketing services revenues are derived principally from the sale of advertisements, revenue sharing arrangements, classifieds fees, marketing service fees and lead referral fees. Our advertising revenues are derived principally from the sale of online advertisements. The duration of our advertising contracts has ranged from one week to five years, but is generally one week to one year. Advertising revenues on contracts are recognized as "impressions" (i.e., the number of times that an advertisement appears in pages viewed by users of our platforms) are delivered, or as "clicks" (which are generated each time users on our platforms click through our advertisements to an advertiser's designated website) are provided to advertisers. For contracts with minimum monthly or quarterly advertising commitments where the fee and commitments are fixed throughout the term, we recognize revenue ratably over the term of the agreement. We also may enter into arrangements to purchase services from certain customers and if the service is not considered an identifiable benefit that is separable from the customer's purchase of our services or for which we cannot reasonably estimate fair value, the fees paid to the customer are recorded as a reduction in revenue. Some of our advertising contracts consist of multiple elements which generally include a blend of various impressions and clicks as well as other marketing deliverables. Where neither vendor-specific objective evidence nor third-party evidence of selling price exists, we use management's best estimate of selling price ("BESP") to allocate arrangement consideration on a relative basis to each element. BESP is generally based on the selling prices of the various elements when they are sold to customers of a similar nature and geography on a stand-alone basis or estimated stand-alone pricing when the element has not previously been sold on a stand-alone basis. These estimates are generally based on pricing strategies, market factors and strategic objectives. Revenues related to revenue sharing arrangements are recognized based on revenue reports received from our partners, provided that collectability is reasonably assured. Revenues related to fees for listing items on our Classifieds platforms are recognized over the estimated period of the classified listing. Lead referral fee revenue is generated from lead referral fees based on the number of times users click through to a merchant's website from our platforms. Lead referral fees are recognized in the period in which a user clicks through to the merchant's website.

Our other revenues are derived principally from contractual arrangements with third parties that provide services to our users. Revenues from contractual arrangements with third parties are recognized as the contracted services are delivered to end users.

To drive traffic to our platforms, we provide incentives to our users in the form of coupons and buyer and seller rewards. These incentives are generally treated as reductions in revenue.

***Internal use software and platform development costs***

Direct costs incurred to develop software for internal use and platform development costs are capitalized and amortized over an estimated useful life of one to five years. During the years ended December 31, 2017 and 2016, we capitalized costs, primarily related to labor and stock-based compensation, of \$140 million and \$137 million, respectively. Amortization of previously capitalized amounts was \$156 million, \$149 million and \$110 million for 2017, 2016 and 2015, respectively. Costs related to the design or maintenance of internal use software and platform development are expensed as incurred.

***Advertising expense***

We expense the costs of producing advertisements at the time production occurs and expense the cost of communicating advertisements in the period during which the advertising space or airtime is used, in each case as sales and marketing expense. Internet advertising expenses are recognized based on the terms of the individual agreements, which are generally over the greater of the ratio of the number of impressions delivered over the total number of contracted impressions, on a pay-per-click basis, or on a straight-line basis over the term of the contract. Advertising expense totaled \$1.3 billion, \$1.2 billion and \$1.0 billion for the years ended December 31, 2017, 2016 and 2015, respectively.

# Declaration of Amber Leavitt

## Exhibit J



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# Typed Drawing

<b>Word Mark</b>	EBAY
<b>Goods and Services</b>	IC 035. US 100 101 102. G & S: on-line trading services in which seller posts items to be auctioned and bidding is done electronically, and providing evaluative feedback and ratings of sellers' goods and services, the value and prices of sellers' goods, buyers' and sellers' performance, delivery, and overall trading experience in connection therewith. FIRST USE: 19950904. FIRST USE IN COMMERCE: 19950904
<b>Mark Drawing Code</b>	(1) TYPED DRAWING
<b>Serial Number</b>	75391661
<b>Filing Date</b>	November 17, 1997
<b>Current Basis</b>	1A
<b>Original Filing Basis</b>	1A
<b>Published for Opposition</b>	October 27, 1998
<b>Registration Number</b>	<b>2218732</b>
<b>Registration Date</b>	January 19, 1999
<b>Owner</b>	(REGISTRANT) eBay Inc. CORPORATION CALIFORNIA 2005 Hamilton Avenue, Suite 350 San Jose CALIFORNIA 95125  (LAST LISTED OWNER) EBAY INC. CORPORATION DELAWARE 2145 HAMILTON AVENUE SAN JOSE CALIFORNIA 95125
<b>Assignment Recorded</b>	ASSIGNMENT RECORDED
<b>Attorney of Record</b>	Ester Martin Maillaro
<b>Type of Mark</b>	SERVICE MARK
<b>Register</b>	PRINCIPAL
<b>Affidavit Text</b>	SECT 15. SECT 8 (6-YR). SECTION 8(10-YR) 20080902.

**Renewal** 1ST RENEWAL 20080902  
**Live/Dead Indicator** LIVE

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**Int. Cl.: 35**

**Prior U.S. Cls.: 100, 101 and 102**

**Reg. No. 2,218,732**

**United States Patent and Trademark Office**

**Registered Jan. 19, 1999**

**SERVICE MARK  
PRINCIPAL REGISTER**

**EBAY**

**EBAY INC. (CALIFORNIA CORPORATION)  
2005 HAMILTON AVENUE, SUITE 350  
SAN JOSE, CA 95125**

**FOR: ON-LINE TRADING SERVICES IN WHICH SELLER POSTS ITEMS TO BE AUCTIONED AND BIDDING IS DONE ELECTRONICALLY, AND PROVIDING EVALUATIVE FEEDBACK AND RATINGS OF SELLERS' GOODS AND SERVICES, THE VALUE AND PRICES OF SELLERS' GOODS, BUYERS' AND**

**SELLERS' PERFORMANCE, DELIVERY, AND OVERALL TRADING EXPERIENCE IN CONNECTION THEREWITH, IN CLASS 35 (U.S. CLS. 100, 101 AND 102).**

**FIRST USE 9-4-1995; IN COMMERCE 9-4-1995.**

**SER. NO. 75-391,661, FILED 11-17-1997.**

**LORI STOCKTON, EXAMINING ATTORNEY**



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# EBAY

<b>Word Mark</b>	EBAY
<b>Goods and Services</b>	IC 028. US 022 023 038 050. G & S: Christmas tree ornaments and soft sculpture toys. FIRST USE: 19981215. FIRST USE IN COMMERCE: 19981215
<b>Mark Drawing Code</b>	(1) TYPED DRAWING
<b>Serial Number</b>	75621219
<b>Filing Date</b>	January 13, 1999
<b>Current Basis</b>	1A
<b>Original Filing Basis</b>	1A
<b>Published for Opposition</b>	April 25, 2000
<b>Registration Number</b>	<b>2367932</b>
<b>Registration Date</b>	July 18, 2000
<b>Owner</b>	(REGISTRANT) eBay Inc. CORPORATION DELAWARE 2145 Hamilton Avenue San Jose CALIFORNIA 95125
<b>Attorney of Record</b>	Ester Martin Maillaro
<b>Prior Registrations</b>	2218732
<b>Type of Mark</b>	TRADEMARK
<b>Register</b>	PRINCIPAL
<b>Affidavit Text</b>	SECT 15. SECT 8 (6-YR). SECTION 8(10-YR) 20100703.
<b>Renewal</b>	1ST RENEWAL 20100703
<b>Live/Dead Indicator</b>	LIVE

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**Int. Cl.: 28**

**Prior U.S. Cls.: 22, 23, 38 and 50**

**Reg. No. 2,367,932**

**United States Patent and Trademark Office**

**Registered July 18, 2000**

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**TRADEMARK  
PRINCIPAL REGISTER**

**EBAY**

EBAY INC. (DELAWARE CORPORATION)  
2125 E. HAMILTON AVENUE  
SAN JOSE, CA 95125

FIRST USE 12-15-1998; IN COMMERCE  
12-15-1998.  
OWNER OF U.S. REG. NO. 2,218,732.

FOR: CHRISTMAS TREE ORNAMENTS AND  
SOFT SCULPTURE TOYS, IN CLASS 28 (U.S. CLS.  
22, 23, 38 AND 50).

SER. NO. 75-621,219, FILED 1-13-1999.

ANTHONY MERCALDI, EXAMINING ATTORNEY



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# Typed Drawing

<b>Word Mark</b>	EBAY
<b>Goods and Services</b>	IC 014. US 002 027 028 050. G & S: clocks and watches. FIRST USE: 19980513. FIRST USE IN COMMERCE: 19980513
<b>Mark Drawing Code</b>	(1) TYPED DRAWING
<b>Serial Number</b>	75981055
<b>Filing Date</b>	January 13, 1999
<b>Current Basis</b>	1A
<b>Original Filing Basis</b>	1B
<b>Published for Opposition</b>	November 23, 1999
<b>Registration Number</b>	<b>2501043</b>
<b>Registration Date</b>	October 23, 2001
<b>Owner</b>	(REGISTRANT) eBay Inc. CORPORATION DELAWARE 2145 Hamilton Avenue San Jose CALIFORNIA 95125
<b>Attorney of Record</b>	Ester Martin Maillaro
<b>Prior Registrations</b>	2218732
<b>Type of Mark</b>	TRADEMARK
<b>Register</b>	PRINCIPAL
<b>Affidavit Text</b>	SECT 8 (6-YR). SECTION 8(10-YR) 20111215.
<b>Renewal</b>	1ST RENEWAL 20111215
<b>Live/Dead Indicator</b>	LIVE

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**Int. Cl.: 14**

**Prior U.S. Cls.: 2, 27, 28, and 50**

**Reg. No. 2,501,043**

**United States Patent and Trademark Office**

**Registered Oct. 23, 2001**

**TRADEMARK  
PRINCIPAL REGISTER**

**EBAY**

EBAY INC. (DELAWARE CORPORATION)  
2145 HAMILTON AVENUE  
SAN JOSE, CA 95125

OWNER OF U.S. REG. NO. 2,218,732.

FOR: CLOCKS AND WATCHES, IN CLASS 14 (U.S.  
CLS. 2, 27, 28 AND 50).

SN 75-981,055, FILED 1-13-1999.

FIRST USE 5-13-1998; IN COMMERCE 5-13-1998.

LAURA KOVAISKY, EXAMINING ATTORNEY



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# Typed Drawing

**Word Mark** EBAY

**Goods and Services** IC 025. US 022 039. G & S: Clothing, namely, t-shirts, caps and sweatshirts. FIRST USE: 19980513. FIRST USE IN COMMERCE: 19981200

**Mark Drawing Code** (1) TYPED DRAWING

**Serial Number** 75981021

**Filing Date** January 20, 1999

**Current Basis** 1A

**Original Filing Basis** 1B

**Published for Opposition** April 11, 2000

**Registration Number** 2518652

**Registration Date** December 11, 2001

**Owner** (REGISTRANT) eBay Inc. CORPORATION CALIFORNIA 2145 Hamilton Avenue San Jose CALIFORNIA 95125

**Attorney of Record** Ester Martin Maillaro

**Prior Registrations** 2218732

**Type of Mark** TRADEMARK

**Register** PRINCIPAL

**Affidavit Text** SECT 15. SECT 8 (6-YR). SECTION 8(10-YR) 20111214.

**Renewal** 1ST RENEWAL 20111214

**Live/Dead Indicator** LIVE

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**Int. Cl.: 25**

**Prior U.S. Cls.: 22 and 39**

**United States Patent and Trademark Office**

**Reg. No. 2,518,652**

**Registered Dec. 11, 2001**

**TRADEMARK  
PRINCIPAL REGISTER**

**EBAY**

**EBAY INC. (CALIFORNIA CORPORATION)  
2145 HAMILTON AVENUE  
SAN JOSE, CA 95125**

**FIRST USE 5-13-1998; IN COMMERCE 12-0-1998.**

**OWNER OF U.S. REG. NO. 2,218,732.**

**FOR: CLOTHING, NAMELY, T-SHIRTS, CAPS  
AND SWEATSHIRTS, IN CLASS 25 (U.S. CLS. 22  
AND 39).**

**SN 75-981,021, FILED 1-20-1999.**

**LAURA KOVAISKY, EXAMINING ATTORNEY**



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# EBAY

<b>Word Mark</b>	EBAY
<b>Goods and Services</b>	IC 020. US 002 013 022 025 032 050. G & S: plastic key chain tags and plastic novelty license plate frames. FIRST USE: 20000700. FIRST USE IN COMMERCE: 20000700
<b>Mark Drawing Code</b>	(1) TYPED DRAWING
<b>Serial Number</b>	76267752
<b>Filing Date</b>	June 6, 2001
<b>Current Basis</b>	1A
<b>Original Filing Basis</b>	1A
<b>Published for Opposition</b>	October 2, 2001
<b>Registration Number</b>	<b>2522630</b>
<b>Registration Date</b>	December 25, 2001
<b>Owner</b>	(REGISTRANT) eBay Inc. CORPORATION DELAWARE 2145 Hamilton Avenue San Jose CALIFORNIA 95125
<b>Attorney of Record</b>	Ester Martin Maillaro
<b>Type of Mark</b>	TRADEMARK
<b>Register</b>	PRINCIPAL
<b>Affidavit Text</b>	SECT 15. SECT 8 (6-YR). SECTION 8(10-YR) 20111216.
<b>Renewal</b>	1ST RENEWAL 20111216
<b>Live/Dead</b>	LIVE

## Indicator

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**Int. Cl.: 20**

**Prior U.S. Cls.: 2, 13, 22, 25, 32 and 50**

**United States Patent and Trademark Office**

**Reg. No. 2,522,630**

**Registered Dec. 25, 2001**

**TRADEMARK  
PRINCIPAL REGISTER**

**EBAY**

EBAY INC. (DELAWARE CORPORATION)  
2145 HAMILTON AVENUE  
SAN JOSE, CA 95125

FIRST USE 7-0-2000; IN COMMERCE 7-0-2000.

SER. NO. 76-267,752, FILED 6-6-2001.

FOR: PLASTIC KEY CHAIN TAGS AND PLASTIC  
NOVELTY LICENSE PLATE FRAMES, IN CLASS 20  
(U.S. CLS. 2, 13, 22, 25, 32 AND 50).

ALICE BENMAMAN, EXAMINING ATTORNEY



## Trademarks > Trademark Electronic Search System (TESS)

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# EBAY

<b>Word Mark</b>	EBAY
<b>Goods and Services</b>	IC 018. US 001 002 003 022 041. G & S: [ duffel bags,] tote bags, backpacks [ and briefcases ]. FIRST USE: 19990400. FIRST USE IN COMMERCE: 19990400
<b>Mark Drawing Code</b>	(1) TYPED DRAWING
<b>Serial Number</b>	76271424
<b>Filing Date</b>	June 12, 2001
<b>Current Basis</b>	1A
<b>Original Filing Basis</b>	1A
<b>Published for Opposition</b>	March 19, 2002
<b>Registration Number</b>	<b>2578260</b>
<b>Registration Date</b>	June 11, 2002
<b>Owner</b>	(REGISTRANT) eBay Inc. CORPORATION DELAWARE 2145 Hamilton Avenue San Jose CALIFORNIA 95125
<b>Attorney of Record</b>	Ester Martin Maillaro
<b>Type of Mark</b>	TRADEMARK
<b>Register</b>	PRINCIPAL
<b>Affidavit Text</b>	SECT 15. SECT 8 (6-YR). SECTION 8(10-YR) 20120614.
<b>Renewal</b>	1ST RENEWAL 20120614
<b>Live/Dead Indicator</b>	LIVE

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**Int. Cl.: 18**

**Prior U.S. Cls.: 1, 2, 3, 22 and 41**

**United States Patent and Trademark Office**

**Reg. No. 2,578,260**

**Registered June 11, 2002**

**TRADEMARK  
PRINCIPAL REGISTER**

**EBAY**

EBAY INC. (DELAWARE CORPORATION)  
2145 HAMILTON AVENUE  
SAN JOSE, CA 95125

FIRST USE 4-0-1999; IN COMMERCE 4-0-1999.

SER. NO. 76-271,424, FILED 6-12-2001.

FOR: DUFFEL BAGS, TOTE BAGS, BACKPACKS  
AND BRIEFCASES, IN CLASS 18 (U.S. CLS. 1, 2, 3, 22  
AND 41).

ALICE BENMAMAN, EXAMINING ATTORNEY



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# EBAY

<b>Word Mark</b>	EBAY
<b>Goods and Services</b>	IC 038. US 100 101 104. G & S: Telecommunications services, namely, the electronic transmission of data and information; paging services. FIRST USE: 19990515. FIRST USE IN COMMERCE: 19990515
<b>Mark Drawing Code</b>	(1) TYPED DRAWING
<b>Serial Number</b>	76022871
<b>Filing Date</b>	April 10, 2000
<b>Current Basis</b>	1A
<b>Original Filing Basis</b>	1B
<b>Published for Opposition</b>	December 5, 2000
<b>Registration Number</b>	<b>2592515</b>
<b>Registration Date</b>	July 9, 2002
<b>Owner</b>	(REGISTRANT) eBay Inc. CORPORATION DELAWARE 2125 Hamilton Avenue San Jose CALIFORNIA 95125
<b>Attorney of Record</b>	Ester Martin Maillaro
<b>Type of Mark</b>	SERVICE MARK
<b>Register</b>	PRINCIPAL
<b>Affidavit Text</b>	SECT 15. SECT 8 (6-YR). SECTION 8(10-YR) 20120706.
<b>Renewal</b>	1ST RENEWAL 20120706

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**Int. Cl.: 38**

**Prior U.S. Cls.: 100, 101, and 104**

**United States Patent and Trademark Office**

**Reg. No. 2,592,515**

**Registered July 9, 2002**

**SERVICE MARK  
PRINCIPAL REGISTER**

**EBAY**

EBAY INC. (DELAWARE CORPORATION)  
2125 HAMILTON AVENUE  
SAN JOSE, CA 95125

FIRST USE 5-15-1999; IN COMMERCE 5-15-1999.

FOR: TELECOMMUNICATIONS SERVICES,  
NAMELY, THE ELECTRONIC TRANSMISSION OF  
DATA AND INFORMATION; PAGING SERVICES,  
IN CLASS 38 (U.S. CLS. 100, 101 AND 104).

SN 76-022,871, FILED 4-10-2000.

LAURA KOVAISKY, EXAMINING ATTORNEY



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# EBAY

<b>Word Mark</b>	EBAY
<b>Goods and Services</b>	IC 021. US 002 013 023 029 030 033 040 050. G & S: mugs, tumblers, and water bottles sold empty; containers for food or beverages, namely, lunch containers made of vinyl or nylon. FIRST USE: 19990400. FIRST USE IN COMMERCE: 19990400
<b>Mark Drawing Code</b>	(1) TYPED DRAWING
<b>Serial Number</b>	76271411
<b>Filing Date</b>	June 12, 2001
<b>Current Basis</b>	1A
<b>Original Filing Basis</b>	1A
<b>Published for Opposition</b>	May 14, 2002
<b>Registration Number</b>	<b>2604374</b>
<b>Registration Date</b>	August 6, 2002
<b>Owner</b>	(REGISTRANT) eBay Inc. CORPORATION DELAWARE 2145 Hamilton Avenue San Jose CALIFORNIA 95125
<b>Attorney of Record</b>	Ester Martin Maillaro
<b>Type of Mark</b>	TRADEMARK
<b>Register</b>	PRINCIPAL
<b>Affidavit Text</b>	SECT 15. SECT 8 (6-YR). SECTION 8(10-YR) 20120806.
<b>Renewal</b>	1ST RENEWAL 20120806

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**Int. Cl.: 21**

**Prior U.S. Cls.: 2, 13, 23, 29, 30, 33, 40 and 50**

**United States Patent and Trademark Office**

**Reg. No. 2,604,374**

**Registered Aug. 6, 2002**

**TRADEMARK  
PRINCIPAL REGISTER**

**EBAY**

EBAY INC. (DELAWARE CORPORATION)  
2145 HAMILTON AVENUE  
SAN JOSE, CA 95125

FIRST USE 4-0-1999; IN COMMERCE 4-0-1999.

FOR: MUGS, TUMBLERS, AND WATER BOT-  
TLES SOLD EMPTY; CONTAINERS FOR FOOD OR  
BEVERAGES, NAMELY, LUNCH CONTAINERS  
MADE OF VINYL OR NYLON, IN CLASS 21 (U.S.  
CLS. 2, 13, 23, 29, 30, 33, 40 AND 50).

SER. NO. 76-271,411, FILED 6-12-2001.

CHRISTOPHER ADKINS, EXAMINING ATTOR-  
NEY



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# Typed Drawing

<b>Word Mark</b>	EBAY
<b>Goods and Services</b>	IC 025. US 022 039. G & S: Clothing, namely, jackets. FIRST USE: 20001128. FIRST USE IN COMMERCE: 20001128
<b>Mark Drawing Code</b>	(1) TYPED DRAWING
<b>Serial Number</b>	75625390
<b>Filing Date</b>	January 20, 1999
<b>Current Basis</b>	1A
<b>Original Filing Basis</b>	1B
<b>Published for Opposition</b>	April 11, 2000
<b>Registration Number</b>	<b>2666767</b>
<b>Registration Date</b>	December 24, 2002
<b>Owner</b>	(REGISTRANT) eBay Inc. CORPORATION DELAWARE 2145 Hamilton Avenue San Jose CALIFORNIA 95125
<b>Attorney of Record</b>	Ester Martin Maillaro
<b>Prior Registrations</b>	2218732
<b>Type of Mark</b>	TRADEMARK
<b>Register</b>	PRINCIPAL
<b>Affidavit Text</b>	SECT 15. SECT 8 (6-YR). SECTION 8(10-YR) 20121116.
<b>Renewal</b>	1ST RENEWAL 20121116
<b>Live/Dead Indicator</b>	LIVE

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**Int. Cl.: 25**

**Prior U.S. Cls.: 22 and 39**

**United States Patent and Trademark Office**

**Reg. No. 2,666,767**  
**Registered Dec. 24, 2002**

**TRADEMARK  
PRINCIPAL REGISTER**

**EBAY**

EBAY INC. (DELAWARE CORPORATION)  
2145 HAMILTON AVENUE  
SAN JOSE, CA 95125

OWNER OF U.S. REG. NO. 2,218,732.

FOR: CLOTHING, NAMELY, JACKETS, IN CLASS  
25 (U.S. CLS. 22 AND 39).

SN 75-625,390, FILED 1-20-1999.

FIRST USE 11-28-2000; IN COMMERCE 11-28-2000.

LAURA KOVAISKY, EXAMINING ATTORNEY



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# Typed Drawing

<b>Word Mark</b>	EBAY
<b>Goods and Services</b>	IC 009. US 021 023 026 036 038. G & S: Computer e-commerce software to allow users to perform electronic business transactions conducted in the form of an auction via a global computer network and computer database software featuring information in the field of hobbies, collectibles and a wide variety of products. FIRST USE: 20010301. FIRST USE IN COMMERCE: 20010301
<b>Mark Drawing Code</b>	(1) TYPED DRAWING
<b>Serial Number</b>	75620479
<b>Filing Date</b>	January 13, 1999
<b>Current Basis</b>	1A
<b>Original Filing Basis</b>	1B
<b>Published for Opposition</b>	January 9, 2001
<b>Registration Number</b>	<b>2700675</b>
<b>Registration Date</b>	March 25, 2003
<b>Owner</b>	(REGISTRANT) eBay Inc. CORPORATION DELAWARE 2145 Hamilton Avenue San Jose CALIFORNIA 95125
<b>Attorney of Record</b>	Ester Martin Maillaro
<b>Prior Registrations</b>	2218732
<b>Type of Mark</b>	TRADEMARK
<b>Register</b>	PRINCIPAL
<b>Affidavit Text</b>	SECT 15. SECT 8 (6-YR). SECTION 8(10-YR) 20130312.
<b>Renewal</b>	1ST RENEWAL 20130312
<b>Live/Dead Indicator</b>	LIVE

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**Int. Cl.: 9**

**Prior U.S. Cls.: 21, 23, 26, 36, and 38**

**United States Patent and Trademark Office**

**Reg. No. 2,700,675**

**Registered Mar. 25, 2003**

**TRADEMARK  
PRINCIPAL REGISTER**

**EBAY**

EBAY INC. (DELAWARE CORPORATION)  
2145 HAMILTON AVENUE  
SAN JOSE, CA 95125

VARIETY OF PRODUCTS, IN CLASS 9 (U.S. CLS. 21,  
23, 26, 36 AND 38).

FOR: COMPUTER E-COMMERCE SOFTWARE  
TO ALLOW USERS TO PERFORM ELECTRONIC  
BUSINESS TRANSACTIONS CONDUCTED IN THE  
FORM OF AN AUCTION VIA A GLOBAL COMPU-  
TER NETWORK AND COMPUTER DATABASE  
SOFTWARE FEATURING INFORMATION IN THE  
FIELD OF HOBBIES, COLLECTIBLES AND A WIDE

FIRST USE 3-1-2001; IN COMMERCE 3-1-2001.

OWNER OF U.S. REG. NO. 2,218,732.

SN 75-620,479, FILED 1-13-1999.

LAURA KOVAISKY, EXAMINING ATTORNEY



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# Typed Drawing

<b>Word Mark</b>	EBAY
<b>Goods and Services</b>	IC 016. US 002 005 022 023 029 037 038 050. G & S: PUBLICATIONS, NAMELY, A SERIES OF NONFICTION BOOKS, CONCERNING HOBBIES, COLLECTIBLES, AUCTIONS, AND A WIDE VARIETY OF PRODUCTS RELATING TO ANTIQUES, ART LITERATURE, CULTURE, TECHNOLOGY, TRAVEL, SPORTS, ENTERTAINMENT, HOME FURNISHINGS, GARDEN ITEMS, MUSICAL INSTRUMENTS, MOTOR VEHICLES, TOYS AND GAMES, FASHION, JEWELRY, ELECTRONICS, PHOTOGRAPHY, HOLIDAY RELATED ITEMS, FILM AND VIDEO; PAPER AND STATIONERY ITEMS, NAMELY, MEMO PADS, [ PAPER POSTCARDS, BUMPER STICKERS, CALENDARS, DECORATIVE STICKERS AND DECALS ]. FIRST USE: 19991100. FIRST USE IN COMMERCE: 19991100
<b>Mark Drawing Code</b>	(1) TYPED DRAWING
<b>Serial Number</b>	75983141
<b>Filing Date</b>	January 13, 1999
<b>Current Basis</b>	1A
<b>Original Filing Basis</b>	1B
<b>Published for Opposition</b>	August 15, 2000
<b>Registration Number</b>	<b>2700836</b>
<b>Registration Date</b>	March 25, 2003
<b>Owner</b>	(REGISTRANT) eBay Inc. CORPORATION DELAWARE 2145 Hamilton Avenue San Jose CALIFORNIA 95125
<b>Attorney of Record</b>	Ester Martin Maillaro
<b>Prior Registrations</b>	2218732
<b>Type of Mark</b>	TRADEMARK
<b>Register</b>	PRINCIPAL

**Affidavit Text** SECT 15. SECT 8 (6-YR). SECTION 8(10-YR) 20130312.  
**Renewal** 1ST RENEWAL 20130312  
**Live/Dead Indicator** LIVE

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**Int. Cl.: 16**

**Prior U.S. Cls.: 2, 5, 22, 23, 29, 37, 38, and 50**

**United States Patent and Trademark Office**

**Reg. No. 2,700,836**

**Registered Mar. 25, 2003**

**TRADEMARK  
PRINCIPAL REGISTER**

**EBAY**

EBAY INC. (DELAWARE CORPORATION)  
2125 HAMILTON AVENUE  
SAN JOSE, CA 95125

FOR: PUBLICATIONS, NAMELY, A SERIES OF NONFICTION BOOKS, CONCERNING HOBBIES, COLLECTIBLES, AUCTIONS, AND A WIDE VARIETY OF PRODUCTS RELATING TO ANTIQUES, ART LITERATURE, CULTURE, TECHNOLOGY, TRAVEL, SPORTS, ENTERTAINMENT, HOME FURNISHINGS, GARDEN ITEMS, MUSICAL INSTRUMENTS, MOTOR VEHICLES, TOYS AND GAMES, FASHION, JEWELRY, ELECTRONICS, PHOTOGRAPHY, HOLIDAY RELATED ITEMS,

FILM AND VIDEO; PAPER AND STATIONERY ITEMS, NAMELY, MEMO PADS, PAPER POSTCARDS, BUMPER STICKERS, CALENDARS, DECORATIVE STICKERS AND DECALS, IN CLASS 16 (U.S. CLS. 2, 5, 22, 23, 29, 37, 38 AND 50).

FIRST USE 11-0-1999; IN COMMERCE 11-0-1999.

OWNER OF U.S. REG. NO. 2,218,732.

SN 75-983,141, FILED 1-13-1999.

Laura Kovaisky, Examining Attorney



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# EBAY

<b>Word Mark</b>	EBAY
<b>Goods and Services</b>	IC 038. US 100 101 104. G & S: Providing an online, interactive bulletin board for the transmission of messages among computer users concerning hobbies, collectibles, trading, and the sale of items via a global computer network. FIRST USE: 19960500. FIRST USE IN COMMERCE: 19960500
<b>Mark Drawing Code</b>	(1) TYPED DRAWING
<b>Serial Number</b>	76975318
<b>Filing Date</b>	April 10, 2000
<b>Current Basis</b>	1A
<b>Original Filing Basis</b>	1B
<b>Published for Opposition</b>	May 15, 2001
<b>Registration Number</b>	<b>2744717</b>
<b>Registration Date</b>	July 29, 2003
<b>Owner</b>	(REGISTRANT) eBay Inc. CORPORATION DELAWARE 2145 Hamilton Avenue San Jose CALIFORNIA 95125
<b>Attorney of Record</b>	Ester Martin Maillaro
<b>Prior Registrations</b>	2218732;2367895;2367932
<b>Type of Mark</b>	SERVICE MARK

**Register** PRINCIPAL  
**Affidavit Text** SECT 15. SECT 8 (6-YR). SECTION 8(10-YR) 20130621.  
**Renewal** 1ST RENEWAL 20130621  
**Live/Dead Indicator** LIVE

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**Int. Cl.: 38**

**Prior U.S. Cls.: 100, 101, and 104**

**Reg. No. 2,744,717**

**United States Patent and Trademark Office**

**Registered July 29, 2003**

**SERVICE MARK  
PRINCIPAL REGISTER**

**EBAY**

EBAY INC. (DELAWARE CORPORATION)  
2145 HAMILTON AVENUE  
SAN JOSE, CA 95125

FIRST USE 5-0-1996; IN COMMERCE 5-0-1996.

FOR: PROVIDING AN ONLINE, INTERACTIVE  
BULLETIN BOARD FOR THE TRANSMISSION OF  
MESSAGES AMONG COMPUTER USERS CON-  
CERNING HOBBIES, COLLECTIBLES, TRADING,  
AND THE SALE OF ITEMS VIA A GLOBAL COM-  
PUTER NETWORK, IN CLASS 38 (U.S. CLS. 100, 101  
AND 104).

OWNER OF U.S. REG. NOS. 2,218,732, 2,367,895,  
AND 2,367,932.

SN 76-975,318, FILED 4-10-2000.

LAURA KOVAISKY, EXAMINING ATTORNEY



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# Typed Drawing

<b>Word Mark</b>	EBAY
<b>Goods and Services</b>	IC 016. US 002 005 022 023 029 037 038 050. G & S: PUBLICATIONS, namely, A SERIES OF NONFICTION BOOKS CONCERNING HOBBIES, COLLECTIBLES, AUCTIONS, AND A WIDE VARIETY OF PRODUCTS RELATING TO ANTIQUES, ART, LITERATURE, CULTURE, TECHNOLOGY, TRAVEL, SPORTS, ENTERTAINMENT, HOME FURNISHINGS, GARDEN ITEMS, MUSICAL INSTRUMENTS, MOTOR VEHICLES, TOYS AND GAMES, FASHION, JEWELRY, ELECTRONICS, PHOTOGRAPHY, HOLIDAY RELATED ITEMS, FILM AND VIDEO; PAPER AND STATIONERY ITEMS, NAMELY, [ GREETING CARDS, ] MEMORANDUM BOARDS, MEMO PADS, PAPER [ POSTCARDS ], STATIONERY, PENS, [ BUMPER STICKERS, ] CALENDARS AND DECORATIVE STICKERS [ AND DECALS ]. FIRST USE: 20021210. FIRST USE IN COMMERCE: 20021210
<b>Mark Drawing Code</b>	(1) TYPED DRAWING
<b>Serial Number</b>	75620500
<b>Filing Date</b>	January 13, 1999
<b>Current Basis</b>	1A
<b>Original Filing Basis</b>	1B
<b>Published for Opposition</b>	August 15, 2000
<b>Registration Number</b>	<b>2810863</b>
<b>Registration Date</b>	February 3, 2004
<b>Owner</b>	(REGISTRANT) eBay Inc. CORPORATION DELAWARE 2145 Hamilton Avenue San Jose CALIFORNIA 95125
<b>Attorney of Record</b>	Ester Martin Maillaro
<b>Prior Registrations</b>	2218732
<b>Type of Mark</b>	TRADEMARK
<b>Register</b>	PRINCIPAL

**Affidavit Text** SECT 15. SECT 8 (6-YR). SECTION 8(10-YR) 20140612.  
**Renewal** 1ST RENEWAL 20140612  
**Live/Dead Indicator** LIVE

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**Int. Cl.: 16**

**Prior U.S. Cls.: 2, 5, 22, 23, 29, 37, 38, and 50**

**Reg. No. 2,810,863**

**United States Patent and Trademark Office**

**Registered Feb. 3, 2004**

**TRADEMARK  
PRINCIPAL REGISTER**

**EBAY**

EBAY INC. (DELAWARE CORPORATION)  
2145 HAMILTON AVENUE  
SAN JOSE, CA 95125

FOR: PUBLICATIONS, NAMELY A SERIES OF NONFICTION BOOKS CONCERNING HOBBIES, COLLECTIBLES, AUCTIONS, AND A WIDE VARIETY OF PRODUCTS RELATING TO ANTIQUES, ART, LITERATURE, CULTURE, TECHNOLOGY, TRAVEL, SPORTS, ENTERTAINMENT, HOME FURNISHINGS, GARDEN ITEMS, MUSICAL INSTRUMENTS, MOTOR VEHICLES, TOYS AND GAMES, FASHION, JEWELRY, ELECTRONICS, PHOTOGRAPHY, HOLIDAY RELATED ITEMS, FILM AND VIDEO; PAPER AND STATIONERY

ITEMS, NAMELY, GREETING CARDS, MEMORANDUM BOARDS, MEMO PADS, PAPER POSTCARDS, STATIONERY, PENS, BUMPER STICKERS, CALENDARS AND DECORATIVE STICKERS AND DECALS, IN CLASS 16 (U.S. CLS. 2, 5, 22, 23, 29, 37, 38 AND 50).

FIRST USE 12-10-2002; IN COMMERCE 12-10-2002.

OWNER OF U.S. REG. NO. 2,218,732.

SN 75-620,500, FILED 1-13-1999.

LAURA KOVAISKY, EXAMINING ATTORNEY



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EBAY

**Word Mark** EBAY

**Goods and Services** IC 041. US 100 101 107. G & S: Providing sweepstakes, games of chance and contests via the internet. FIRST USE: 19990100. FIRST USE IN COMMERCE: 19990100

**Standard Characters Claimed**

**Mark Drawing Code** (4) STANDARD CHARACTER MARK

**Serial Number** 78384624

**Filing Date** March 15, 2004

**Current Basis** 1A

**Original Filing Basis** 1A

**Published for Opposition** September 28, 2004

**Registration Number** **2913401**

**Registration Date** December 21, 2004

**Owner** (REGISTRANT) eBay Inc. CORPORATION DELAWARE 2145 Hamilton Avenue San Jose CALIFORNIA 95125

**Attorney of Record** Ester Martin Maillaro

**Type of Mark** SERVICE MARK

**Register** PRINCIPAL

**Affidavit Text** SECT 15. SECT 8 (6-YR). SECTION 8(10-YR) 20141212.

**Renewal** 1ST RENEWAL 20141212

**Live/Dead Indicator** LIVE

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**Int. Cl.: 41**

**Prior U.S. Cls.: 100, 101 and 107**

**Reg. No. 2,913,401**

**United States Patent and Trademark Office**

Registered Dec. 21, 2004

**SERVICE MARK  
PRINCIPAL REGISTER**

**EBAY**

EBAY INC. (DELAWARE CORPORATION)  
2145 HAMILTON AVENUE  
SAN JOSE, CA 95125

THE MARK CONSISTS OF STANDARD CHAR-  
ACTERS WITHOUT CLAIM TO ANY PARTICULAR  
FONT, STYLE, SIZE, OR COLOR.

FOR: PROVIDING SWEEPSTAKES, GAMES OF  
CHANCE AND CONTESTS VIA THE INTERNET, IN  
CLASS 41 (U.S. CLS. 100, 101 AND 107).

SER. NO. 78-384,624, FILED 3-15-2004.

FIRST USE 1-0-1999; IN COMMERCE 1-0-1999.

CAROLYN GRAY, EXAMINING ATTORNEY



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# EBAY

<b>Word Mark</b>	EBAY
<b>Goods and Services</b>	IC 041. US 100 101 107. G & S: Entertainment services, namely, providing a radio program in the fields of hobbies, collectibles, trading and auctions. FIRST USE: 20030626. FIRST USE IN COMMERCE: 20030626
<b>Mark Drawing Code</b>	(1) TYPED DRAWING
<b>Serial Number</b>	76022893
<b>Filing Date</b>	April 10, 2000
<b>Current Basis</b>	1A
<b>Original Filing Basis</b>	1B
<b>Published for Opposition</b>	April 24, 2001
<b>Registration Number</b>	<b>2926481</b>
<b>Registration Date</b>	February 15, 2005
<b>Owner</b>	(REGISTRANT) eBay Inc. CORPORATION DELAWARE 2145 Hamilton Avenue San Jose CALIFORNIA 95125
<b>Attorney of Record</b>	Ester Martin Maillaro
<b>Prior Registrations</b>	2218732;2367895;2367932
<b>Type of Mark</b>	SERVICE MARK
<b>Register</b>	PRINCIPAL
<b>Affidavit Text</b>	SECT 15. SECT 8 (6-YR). SECTION 8(10-YR) 20141218.

**Renewal**  
**Live/Dead**  
**Indicator**

1ST RENEWAL 20141218

LIVE

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**Int. Cl.: 41**

**Prior U.S. Cls.: 100, 101, and 107**

**Reg. No. 2,926,481**

**United States Patent and Trademark Office**

**Registered Feb. 15, 2005**

**SERVICE MARK  
PRINCIPAL REGISTER**

**EBAY**

EBAY INC. (DELAWARE CORPORATION)  
2145 HAMILTON AVENUE  
SAN JOSE, CA 95125

FOR: ENTERTAINMENT SERVICES, NAMELY  
PROVIDING A RADIO PROGRAM IN THE FIELDS  
OF HOBBIES, COLLECTIBLES, TRADING AND  
AUCTIONS, IN CLASS 41 (U.S. CLS. 100, 101 AND  
107).

FIRST USE 6-26-2003; IN COMMERCE 6-26-2003.

OWNER OF U.S. REG. NOS. 2,218,732, 2,367,895,  
AND 2,367,932.

SN 76-022,893, FILED 4-10-2000.

LAURA KOVAISKY, EXAMINING ATTORNEY



## Trademarks > Trademark Electronic Search System (TESS)

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**Word Mark** EBAY

**Goods and Services** IC 035. US 100 101 102. G & S: Online trading services, namely, operating online marketplaces for sellers and buyers of goods and services; online trading services in which sellers post products or services to be offered for sale, and purchasing or bidding is done via the Internet in order to facilitate the sale of goods and services by others via a computer network; providing evaluative feedback and ratings of sellers' goods and services, the value and prices of sellers' goods and services, buyers' and sellers' performance, delivery, and overall trading experience in connection therewith; providing a searchable online advertising guide featuring the goods and services of online vendors; providing a searchable online evaluation database for buyers and sellers; advertising and advertisement services; business services in the nature of intellectual property claims management, namely, processing and administration of claims of intellectual property owners against third party sellers; identification verification services, namely, confirming authenticity of environmentally friendly products, producers and sellers for the purposes of helping consumers make informed purchasing decisions. FIRST USE: 20121010. FIRST USE IN COMMERCE: 20121010

IC 036. US 100 101 102. G & S: Real estate listing services; classified real estate listings of apartment rentals, housing rentals and vacation rentals; providing purchase protection services in the field of online trading of goods and services by others via a global computer network; charitable fundraising services. FIRST USE: 20121010. FIRST USE IN COMMERCE: 20121010

IC 038. US 100 101 104. G & S: Telecommunications services, namely, the electronic transmission of data and information; electronic messaging; providing an online, interactive bulletin board for the transmission of messages among computer users concerning hobbies, collectibles, trading, and the sale of goods and services via a global computer network. FIRST USE: 20121010. FIRST USE IN COMMERCE: 20121010

**Mark Drawing Code** (5) WORDS, LETTERS, AND/OR NUMBERS IN STYLIZED FORM

**Serial Number** 85727676  
**Filing Date** September 12, 2012  
**Current Basis** 1A  
**Original Filing Basis** 1B  
**Published for Opposition** March 12, 2013  
**Registration Number** 4408423  
**Registration Date** September 24, 2013  
**Owner** (REGISTRANT) eBay Inc. CORPORATION DELAWARE 2145 Hamilton Avenue San Jose CALIFORNIA 95125  
**Attorney of Record** Ester Martin Maillaro  
**Prior Registrations** 2218732;2410023;2744717;AND OTHERS  
**Description of Mark** The color(s) red, blue, yellow and green is/are claimed as a feature of the mark. The mark consists of the letters "ebay" all in lower case, each in the color red, blue, yellow and green respectively.  
**Type of Mark** SERVICE MARK  
**Register** PRINCIPAL  
**Live/Dead Indicator** LIVE

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United States of America  
United States Patent and Trademark Office

ebay

Reg. No. 4,408,423

EBAY INC. (DELAWARE CORPORATION)

Registered Sep. 24, 2013

2145 HAMILTON AVENUE  
SAN JOSE, CA 95125

Int. Cls.: 35, 36, and 38

SERVICE MARK

PRINCIPAL REGISTER

FOR: ONLINE TRADING SERVICES, NAMELY, OPERATING ONLINE MARKETPLACES FOR SELLERS AND BUYERS OF GOODS AND SERVICES; ONLINE TRADING SERVICES IN WHICH SELLERS POST PRODUCTS OR SERVICES TO BE OFFERED FOR SALE, AND PURCHASING OR BIDDING IS DONE VIA THE INTERNET IN ORDER TO FACILITATE THE SALE OF GOODS AND SERVICES BY OTHERS VIA A COMPUTER NETWORK; PROVIDING EVALUATIVE FEEDBACK AND RATINGS OF SELLERS' GOODS AND SERVICES, THE VALUE AND PRICES OF SELLERS' GOODS AND SERVICES, BUYERS' AND SELLERS' PERFORMANCE, DELIVERY, AND OVERALL TRADING EXPERIENCE IN CONNECTION THEREWITH; PROVIDING A SEARCHABLE ONLINE ADVERTISING GUIDE FEATURING THE GOODS AND SERVICES OF ONLINE VENDORS; PROVIDING A SEARCHABLE ONLINE EVALUATION DATABASE FOR BUYERS AND SELLERS; ADVERTISING AND ADVERTISEMENT SERVICES; BUSINESS SERVICES IN THE NATURE OF INTELLECTUAL PROPERTY CLAIMS MANAGEMENT, NAMELY, PROCESSING AND ADMINISTRATION OF CLAIMS OF INTELLECTUAL PROPERTY OWNERS AGAINST THIRD PARTY SELLERS; IDENTIFICATION VERIFICATION SERVICES, NAMELY, CONFIRMING AUTHENTICITY OF ENVIRONMENTALLY FRIENDLY PRODUCTS, PRODUCERS AND SELLERS FOR THE PURPOSES OF HELPING CONSUMERS MAKE INFORMED PURCHASING DECISIONS, IN CLASS 35 (U.S. CLS. 100, 101 AND 102).

FIRST USE 10-10-2012; IN COMMERCE 10-10-2012.



FOR: REAL ESTATE LISTING SERVICES; CLASSIFIED REAL ESTATE LISTINGS OF APARTMENT RENTALS, HOUSING RENTALS AND VACATION RENTALS; PROVIDING PURCHASE PROTECTION SERVICES IN THE FIELD OF ONLINE TRADING OF GOODS AND SERVICES BY OTHERS VIA A GLOBAL COMPUTER NETWORK; CHARITABLE FUNDRAISING SERVICES, IN CLASS 36 (U.S. CLS. 100, 101 AND 102).

FIRST USE 10-10-2012; IN COMMERCE 10-10-2012.

*Lisa Street*

Deputy Director of the United States Patent and Trademark Office

FOR: TELECOMMUNICATIONS SERVICES, NAMELY, THE ELECTRONIC TRANSMISSION OF DATA AND INFORMATION; ELECTRONIC MESSAGING; PROVIDING AN ONLINE, INTERACTIVE BULLETIN BOARD FOR THE TRANSMISSION OF MESSAGES AMONG COMPUTER USERS CONCERNING HOBBIES, COLLECTIBLES, TRADING, AND THE SALE

**Reg. No. 4,408,423** OF GOODS AND SERVICES VIA A GLOBAL COMPUTER NETWORK, IN CLASS 38 (U.S. CLS. 100, 101 AND 104).

FIRST USE 10-10-2012; IN COMMERCE 10-10-2012.

OWNER OF U.S. REG. NOS. 2,218,732, 2,744,717, AND OTHERS.

THE COLOR(S) RED, BLUE, YELLOW AND GREEN IS/ARE CLAIMED AS A FEATURE OF THE MARK.

THE MARK CONSISTS OF THE LETTERS "EBAY" ALL IN LOWER CASE, EACH IN THE COLOR RED, BLUE, YELLOW AND GREEN RESPECTIVELY.

SN 85-727,676, FILED 9-12-2012.

WILLIAM JACKSON, EXAMINING ATTORNEY

**REQUIREMENTS TO MAINTAIN YOUR FEDERAL  
TRADEMARK REGISTRATION**

**WARNING: YOUR REGISTRATION WILL BE CANCELLED IF YOU DO NOT FILE THE  
DOCUMENTS BELOW DURING THE SPECIFIED TIME PERIODS.**

**Requirements in the First Ten Years\***

**What and When to File:**

***First Filing Deadline:*** You must file a Declaration of Use (or Excusable Nonuse) between the 5th and 6th years after the registration date. See 15 U.S.C. §§1058, 1141k. If the declaration is accepted, the registration will continue in force for the remainder of the ten-year period, calculated from the registration date, unless cancelled by an order of the Commissioner for Trademarks or a federal court.

***Second Filing Deadline:*** You must file a Declaration of Use (or Excusable Nonuse) **and** an Application for Renewal between the 9th and 10th years after the registration date.\*  
See 15 U.S.C. §1059.

**Requirements in Successive Ten-Year Periods\***

**What and When to File:**

You must file a Declaration of Use (or Excusable Nonuse) **and** an Application for Renewal between every 9th and 10th-year period, calculated from the registration date.\*

**Grace Period Filings\***

The above documents will be accepted as timely if filed within six months after the deadlines listed above with the payment of an additional fee.

**The United States Patent and Trademark Office (USPTO) will NOT send you any future notice or  
reminder of these filing requirements.**

**\*ATTENTION MADRID PROTOCOL REGISTRANTS:** The holder of an international registration with an extension of protection to the United States under the Madrid Protocol must timely file the Declarations of Use (or Excusable Nonuse) referenced above directly with the USPTO. The time periods for filing are based on the U.S. registration date (not the international registration date). The deadlines and grace periods for the Declarations of Use (or Excusable Nonuse) are identical to those for nationally issued registrations. See 15 U.S.C. §§1058, 1141k. However, owners of international registrations do not file renewal applications at the USPTO. Instead, the holder must file a renewal of the underlying international registration at the International Bureau of the World Intellectual Property Organization, under Article 7 of the Madrid Protocol, before the expiration of each ten-year term of protection, calculated from the date of the international registration. See 15 U.S.C. §1141j. For more information and renewal forms for the international registration, see <http://www.wipo.int/madrid/en/>.

**NOTE: Fees and requirements for maintaining registrations are subject to change. Please check the USPTO website for further information. With the exception of renewal applications for registered extensions of protection, you can file the registration maintenance documents referenced above online at <http://www.uspto.gov>.**



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# WHEN IT'S ON YOUR MIND, IT'S ON EBAY

**Word Mark** WHEN IT'S ON YOUR MIND, IT'S ON EBAY

**Goods and Services** IC 035. US 100 101 102. G & S: On-line trading services, namely, operating on-line marketplaces for sellers of goods and/or services; online trading services in which seller posts products to be offered for sale and bidding is done via the Internet in order to facilitate the sale of goods and services by others via a computer network and providing evaluative feedback and ratings of sellers' goods and services, the value and prices of sellers' goods and services, buyers' and sellers' performance, delivery, and overall trading experience in connection therewith; advertising and advertisement services; classified advertising services; on-line advertising on computer communications networks. FIRST USE: 20110914. FIRST USE IN COMMERCE: 20110914

**Standard Characters Claimed**

**Mark Drawing Code** (4) STANDARD CHARACTER MARK

**Serial Number** 85376647

**Filing Date** July 20, 2011

**Current Basis** 1A

**Original Filing Basis** 1B

**Published for Opposition** December 13, 2011

**Registration Number** 4105599

**Registration Date** February 28, 2012

**Owner** (REGISTRANT) eBay Inc. CORPORATION DELAWARE 2145 Hamilton Avenue San Jose

CALIFORNIA 95125

**Attorney of Record**

Ester Martin Maillaro

**Prior Registrations**

2218732;2420512;3299409;AND OTHERS

**Type of Mark**

SERVICE MARK

**Register**

PRINCIPAL

**Live/Dead Indicator**

LIVE

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# United States of America

United States Patent and Trademark Office

## WHEN IT'S ON YOUR MIND, IT'S ON EBAY

**Reg. No. 4,105,599**

EBAY INC. (DELAWARE CORPORATION)

**Registered Feb. 28, 2012**

2145 HAMILTON AVENUE  
SAN JOSE, CA 95125

**Int. Cl.: 35**

FOR: ON-LINE TRADING SERVICES, NAMELY, OPERATING ON-LINE MARKETPLACES FOR SELLERS OF GOODS AND/OR SERVICES; ONLINE TRADING SERVICES IN WHICH SELLER POSTS PRODUCTS TO BE OFFERED FOR SALE AND BIDDING IS DONE VIA THE INTERNET IN ORDER TO FACILITATE THE SALE OF GOODS AND SERVICES BY OTHERS VIA A COMPUTER NETWORK AND PROVIDING EVALUATIVE FEEDBACK AND RATINGS OF SELLERS' GOODS AND SERVICES, THE VALUE AND PRICES OF SELLERS' GOODS AND SERVICES, BUYERS' AND SELLERS' PERFORMANCE, DELIVERY, AND OVERALL TRADING EXPERIENCE IN CONNECTION THEREWITH; ADVERTISING AND ADVERTISEMENT SERVICES; CLASSIFIED ADVERTISING SERVICES; ON-LINE ADVERTISING ON COMPUTER COMMUNICATIONS NETWORKS, IN CLASS 35 (U.S. CLS. 100, 101 AND 102).

**SERVICE MARK**

**PRINCIPAL REGISTER**

FIRST USE 9-14-2011; IN COMMERCE 9-14-2011.

THE MARK CONSISTS OF STANDARD CHARACTERS WITHOUT CLAIM TO ANY PARTICULAR FONT, STYLE, SIZE, OR COLOR.

OWNER OF U.S. REG. NOS. 2,218,732, 3,299,409 AND OTHERS.

SER. NO. 85-376,647, FILED 7-20-2011.

KAREN BRACEY, EXAMINING ATTORNEY



*David J. Kyffers*

Director of the United States Patent and Trademark Office

**REQUIREMENTS TO MAINTAIN YOUR FEDERAL  
TRADEMARK REGISTRATION**

**WARNING: YOUR REGISTRATION WILL BE CANCELLED IF YOU DO NOT FILE THE  
DOCUMENTS BELOW DURING THE SPECIFIED TIME PERIODS.**

**Requirements in the First Ten Years\***

**What and When to File:**

***First Filing Deadline:*** You must file a Declaration of Use (or Excusable Nonuse) between the 5th and 6th years after the registration date. See 15 U.S.C. §§1058, 1141k. If the declaration is accepted, the registration will continue in force for the remainder of the ten-year period, calculated from the registration date, unless cancelled by an order of the Commissioner for Trademarks or a federal court.

***Second Filing Deadline:*** You must file a Declaration of Use (or Excusable Nonuse) **and** an Application for Renewal between the 9th and 10th years after the registration date.\*  
See 15 U.S.C. §1059.

**Requirements in Successive Ten-Year Periods\***

**What and When to File:**

You must file a Declaration of Use (or Excusable Nonuse) **and** an Application for Renewal between every 9th and 10th-year period, calculated from the registration date.\*

**Grace Period Filings\***

The above documents will be accepted as timely if filed within six months after the deadlines listed above with the payment of an additional fee.

**The United States Patent and Trademark Office (USPTO) will NOT send you any future notice or  
reminder of these filing requirements.**

**\*ATTENTION MADRID PROTOCOL REGISTRANTS:** The holder of an international registration with an extension of protection to the United States under the Madrid Protocol must timely file the Declarations of Use (or Excusable Nonuse) referenced above directly with the USPTO. The time periods for filing are based on the U.S. registration date (not the international registration date). The deadlines and grace periods for the Declarations of Use (or Excusable Nonuse) are identical to those for nationally issued registrations. See 15 U.S.C. §§1058, 1141k. However, owners of international registrations do not file renewal applications at the USPTO. Instead, the holder must file a renewal of the underlying international registration at the International Bureau of the World Intellectual Property Organization, under Article 7 of the Madrid Protocol, before the expiration of each ten-year term of protection, calculated from the date of the international registration. See 15 U.S.C. §1141j. For more information and renewal forms for the international registration, see <http://www.wipo.int/madrid/en/>.

**NOTE: Fees and requirements for maintaining registrations are subject to change. Please check the USPTO website for further information. With the exception of renewal applications for registered extensions of protection, you can file the registration maintenance documents referenced above online at <http://www.uspto.gov>.**



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**Word Mark** EBAY CLASSIFIEDS GROUP

**Goods and Services** IC 035. US 100 101 102. G & S: On line advertising on computer communication networks; classified advertising services. FIRST USE: 20121110. FIRST USE IN COMMERCE: 20121110

**Mark Drawing Code** (3) DESIGN PLUS WORDS, LETTERS, AND/OR NUMBERS

**Design Search Code** 26.15.01 - Polygons as carriers or as single or multiple line borders

**Serial Number** 85778230

**Filing Date** November 13, 2012

**Current Basis** 1A

**Original Filing Basis** 1A

**Published for Opposition** March 5, 2013

**Registration Number** 4338835

**Registration Date** May 21, 2013

**Owner** (REGISTRANT) eBay Inc. CORPORATION DELAWARE 2145 Hamilton Avenue San Jose CALIFORNIA 95125

**Attorney of Record** Ester Martin Maillaro

**Disclaimer** NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "CLASSIFIEDS GROUP" APART FROM THE MARK AS SHOWN

**Description of** The color(s) red, blue, yellow, green, white and gray is/are claimed as a feature of the mark. The

**Mark** mark consists of the stylized color mark "EBAY" comprised of a red "E", a blue "B", a yellow "A", and a green "Y", and the words "CLASSIFIEDS GROUP" appearing in gray and partially surrounded by a gray border. All of the foregoing appears on a white background.

**Type of Mark** SERVICE MARK

**Register** PRINCIPAL

**Live/Dead Indicator** LIVE

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# United States of America

United States Patent and Trademark Office



**Reg. No. 4,338,835**

EBAY INC. (DELAWARE CORPORATION)  
2145 HAMILTON AVENUE  
SAN JOSE, CA 95125

**Registered May 21, 2013**

**Int. Cl.: 35**

FOR: ON LINE ADVERTISING ON COMPUTER COMMUNICATION NETWORKS; CLASSIFIED ADVERTISING SERVICES, IN CLASS 35 (U.S. CLS. 100, 101 AND 102).

**SERVICE MARK**

FIRST USE 11-10-2012; IN COMMERCE 11-10-2012.

**PRINCIPAL REGISTER**

NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "CLASSIFIEDS GROUP", APART FROM THE MARK AS SHOWN.

THE COLOR(S) RED, BLUE, YELLOW, GREEN, WHITE AND GRAY IS/ARE CLAIMED AS A FEATURE OF THE MARK.

THE MARK CONSISTS OF THE STYLIZED COLOR MARK "EBAY" COMPRISED OF A RED "E", A BLUE "B", A YELLOW "A", AND A GREEN "Y", AND THE WORDS "CLASSIFIEDS GROUP" APPEARING IN GRAY AND PARTIALLY SURROUNDED BY A GRAY BORDER. ALL OF THE FOREGOING APPEARS ON A WHITE BACKGROUND.

SER. NO. 85-778,230, FILED 11-13-2012.

WILLIAM JACKSON, EXAMINING ATTORNEY



*Lisa Street*

Acting Director of the United States Patent and Trademark Office

**REQUIREMENTS TO MAINTAIN YOUR FEDERAL  
TRADEMARK REGISTRATION**

**WARNING: YOUR REGISTRATION WILL BE CANCELLED IF YOU DO NOT FILE THE  
DOCUMENTS BELOW DURING THE SPECIFIED TIME PERIODS.**

**Requirements in the First Ten Years\***

**What and When to File:**

***First Filing Deadline:*** You must file a Declaration of Use (or Excusable Nonuse) between the 5th and 6th years after the registration date. See 15 U.S.C. §§1058, 1141k. If the declaration is accepted, the registration will continue in force for the remainder of the ten-year period, calculated from the registration date, unless cancelled by an order of the Commissioner for Trademarks or a federal court.

***Second Filing Deadline:*** You must file a Declaration of Use (or Excusable Nonuse) **and** an Application for Renewal between the 9th and 10th years after the registration date.\*  
See 15 U.S.C. §1059.

**Requirements in Successive Ten-Year Periods\***

**What and When to File:**

You must file a Declaration of Use (or Excusable Nonuse) **and** an Application for Renewal between every 9th and 10th-year period, calculated from the registration date.\*

**Grace Period Filings\***

The above documents will be accepted as timely if filed within six months after the deadlines listed above with the payment of an additional fee.

**The United States Patent and Trademark Office (USPTO) will NOT send you any future notice or  
reminder of these filing requirements.**

**\*ATTENTION MADRID PROTOCOL REGISTRANTS:** The holder of an international registration with an extension of protection to the United States under the Madrid Protocol must timely file the Declarations of Use (or Excusable Nonuse) referenced above directly with the USPTO. The time periods for filing are based on the U.S. registration date (not the international registration date). The deadlines and grace periods for the Declarations of Use (or Excusable Nonuse) are identical to those for nationally issued registrations. See 15 U.S.C. §§1058, 1141k. However, owners of international registrations do not file renewal applications at the USPTO. Instead, the holder must file a renewal of the underlying international registration at the International Bureau of the World Intellectual Property Organization, under Article 7 of the Madrid Protocol, before the expiration of each ten-year term of protection, calculated from the date of the international registration. See 15 U.S.C. §1141j. For more information and renewal forms for the international registration, see <http://www.wipo.int/madrid/en/>.

**NOTE: Fees and requirements for maintaining registrations are subject to change. Please check the USPTO website for further information. With the exception of renewal applications for registered extensions of protection, you can file the registration maintenance documents referenced above online at <http://www.uspto.gov>.**



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**Word Mark**  
**Goods and Services**

EBAY

IC 009. US 021 023 026 036 038. G & S: Mouse pads; computer e-commerce software to allow users to conduct electronic business transactions in online marketplaces via a global computer network; computer database software featuring information in the field of hobbies, collectibles and a wide variety of products; computer software and software development tools for use in developing further software and software applications in the field of e-commerce. FIRST USE: 20121010. FIRST USE IN COMMERCE: 20121010

IC 016. US 002 005 022 023 029 037 038 050. G & S: Publications, namely, a series of nonfiction books concerning hobbies, collectibles, auctions, online marketplaces, and a wide variety of products relating to antiques, art, literature, culture, technology, travel, sports, entertainment, home furnishings, garden items, musical instruments, motor vehicles, toys and games, fashion, jewelry, electronics, photography, holiday related items, film and video; paper and stationery items, namely, memo pads, paper postcards, stationery, pens and pencils. FIRST USE: 20121101. FIRST USE IN COMMERCE: 20121101

IC 018. US 001 002 003 022 041. G & S: Duffel bags, tote bags, backpacks and briefcases. FIRST USE: 20121101. FIRST USE IN COMMERCE: 20121101

IC 020. US 002 013 022 025 032 050. G & S: Plastic key chain tags. FIRST USE: 20121101. FIRST USE IN COMMERCE: 20121101

IC 021. US 002 013 023 029 030 033 040 050. G & S: Mugs; tumblers; water bottles sold empty. FIRST USE: 20121101. FIRST USE IN COMMERCE: 20121101

IC 025. US 022 039. G & S: Clothing, namely, t-shirts, sweatshirts, caps, jackets, and visors. FIRST USE: 20121101. FIRST USE IN COMMERCE: 20121101

IC 028. US 022 023 038 050. G & S: bean bag toys. FIRST USE: 20141127. FIRST USE IN COMMERCE: 20141127

IC 041. US 100 101 107. G & S: Providing sweepstakes, games of chance and contests via the internet; entertainment services, namely, providing an ongoing radio program in the fields of hobbies, collectibles, trading, buying, selling, and online auctions and marketplaces; educational services, namely, conducting classes in the field of information security and providing corporate education courses in the field of information security; educational services, namely, providing courses, classes and seminars in the fields of buying and selling via online marketplaces, as well as establishing and operating online marketplace businesses. FIRST USE: 20121010. FIRST USE IN COMMERCE: 20121010

IC 042. US 100 101. G & S: Design and development of computer software, software applications, and application programming interfaces; providing temporary use of on-line, non-downloadable computer software and software development tools for use in developing further software and software applications in the field of e-commerce; providing temporary use of online, non-downloadable e-commerce software to allow users to conduct electronic business transactions in online marketplaces via a global computer network; maintenance and updating of computer software for others; providing a website that gives users the ability to create customized web pages featuring user-defined information in the field of intellectual property rights and intellectual property enforcement policies, in order to assist program participants with inquiries and requests regarding use of intellectual property by others in an online marketplace. FIRST USE: 20121010. FIRST USE IN COMMERCE: 20121010

IC 045. US 100 101. G & S: Online social networking services; providing information regarding intellectual property owners and their enforcement policies, all in order to assist program participants with inquiries and requests regarding use of intellectual property by others in an online marketplace. FIRST USE: 20121010. FIRST USE IN COMMERCE: 20121010

**Mark Drawing Code** (5) WORDS, LETTERS, AND/OR NUMBERS IN STYLIZED FORM

**Serial Number** 85727672

**Filing Date** September 12, 2012

**Current Basis** 1A

**Original Filing Basis** 1B

**Published for Opposition** March 12, 2013

**Registration Number** 5008322

**Registration Date** July 26, 2016

**Owner** (REGISTRANT) eBay Inc. CORPORATION DELAWARE 2145 Hamilton Avenue San Jose CALIFORNIA 95125

**Attorney of Record** Ester Martin Maillaro

**Prior Registrations** 2367932;2518652;2700836;AND OTHERS

**Description of Mark** The color(s) color red, blue, yellow and green is/are claimed as a feature of the mark. The mark consists of the letters "ebay" all in lower case, each in the color red, blue, yellow and green respectively.

**Type of Mark** TRADEMARK. SERVICE MARK

**Register** PRINCIPAL

**Live/Dead Indicator** LIVE

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[TESS HOME](#)

[NEW USER](#)

[STRUCTURED](#)

[FREE FORM](#)

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# United States of America

United States Patent and Trademark Office



**Reg. No. 5,008,322**

**Registered Jul. 26, 2016**

**Int. Cl.: 9, 16, 18, 20, 21,  
25, 28, 41, 42, 45**

**Service Mark**

**Trademark**

**Principal Register**

eBay Inc. (DELAWARE CORPORATION)  
2145 Hamilton Avenue  
San Jose, CA 95125

CLASS 9: Mouse pads; computer e-commerce software to allow users to conduct electronic business transactions in online marketplaces via a global computer network; computer database software featuring information in the field of hobbies, collectibles and a wide variety of products; computer software and software development tools for use in developing further software and software applications in the field of e-commerce

FIRST USE 10-10-2012; IN COMMERCE 10-10-2012

CLASS 16: Publications, namely, a series of nonfiction books concerning hobbies, collectibles, auctions, online marketplaces, and a wide variety of products relating to antiques, art, literature, culture, technology, travel, sports, entertainment, home furnishings, garden items, musical instruments, motor vehicles, toys and games, fashion, jewelry, electronics, photography, holiday related items, film and video; paper and stationery items, namely, memo pads, paper postcards, stationery, pens and pencils

FIRST USE 11-1-2012; IN COMMERCE 11-1-2012

CLASS 18: Duffel bags, tote bags, backpacks and briefcases

FIRST USE 11-1-2012; IN COMMERCE 11-1-2012

CLASS 20: Plastic key chain tags

FIRST USE 11-1-2012; IN COMMERCE 11-1-2012

CLASS 21: Mugs; tumblers; water bottles sold empty

FIRST USE 11-1-2012; IN COMMERCE 11-1-2012

CLASS 25: Clothing, namely, t-shirts, sweatshirts, caps, jackets, and visors

FIRST USE 11-1-2012; IN COMMERCE 11-1-2012

CLASS 28: bean bag toys

FIRST USE 11-27-2014; IN COMMERCE 11-27-2014

CLASS 41: Providing sweepstakes, games of chance and contests via the internet; entertainment services, namely, providing an ongoing radio program in the fields of hobbies, collectibles, trading, buying, selling, and online auctions and marketplaces; educational



*Michelle K. Lee*

Director of the United States  
Patent and Trademark Office

services, namely, conducting classes in the field of information security and providing corporate education courses in the field of information security; educational services, namely, providing courses, classes and seminars in the fields of buying and selling via online marketplaces, as well as establishing and operating online marketplace businesses

FIRST USE 10-10-2012; IN COMMERCE 10-10-2012

CLASS 42: Design and development of computer software, software applications, and application programming interfaces; providing temporary use of on-line, non-downloadable computer software and software development tools for use in developing further software and software applications in the field of e-commerce; providing temporary use of online, non-downloadable e-commerce software to allow users to conduct electronic business transactions in online marketplaces via a global computer network; maintenance and updating of computer software for others; providing a website that gives users the ability to create customized web pages featuring user-defined information in the field of intellectual property rights and intellectual property enforcement policies, in order to assist program participants with inquiries and requests regarding use of intellectual property by others in an online marketplace

FIRST USE 10-10-2012; IN COMMERCE 10-10-2012

CLASS 45: Online social networking services; providing information regarding intellectual property owners and their enforcement policies, all in order to assist program participants with inquiries and requests regarding use of intellectual property by others in an online marketplace

FIRST USE 10-10-2012; IN COMMERCE 10-10-2012

The color(s) color red, blue, yellow and green is/are claimed as a feature of the mark.

The mark consists of the letters "ebay" all in lower case, each in the color red, blue, yellow and green respectively.

OWNER OF U.S. REG. NO. 2700836, 2518652, 2367932

SER. NO. 85-727,672, FILED 09-12-2012

WILLIAM D JACKSON, EXAMINING ATTORNEY

**REQUIREMENTS TO MAINTAIN YOUR FEDERAL TRADEMARK REGISTRATION**

**WARNING: YOUR REGISTRATION WILL BE CANCELLED IF YOU DO NOT FILE THE DOCUMENTS BELOW DURING THE SPECIFIED TIME PERIODS.**

**Requirements in the First Ten Years\***

**What and When to File:**

- **First Filing Deadline:** You must file a Declaration of Use (or Excusable Nonuse) between the 5th and 6th years after the registration date. See 15 U.S.C. §§1058, 1141k. If the declaration is accepted, the registration will continue in force for the remainder of the ten-year period, calculated from the registration date, unless cancelled by an order of the Commissioner for Trademarks or a federal court.
- **Second Filing Deadline:** You must file a Declaration of Use (or Excusable Nonuse) and an Application for Renewal between the 9th and 10th years after the registration date.\* See 15 U.S.C. §1059.

**Requirements in Successive Ten-Year Periods\***

**What and When to File:**

- You must file a Declaration of Use (or Excusable Nonuse) and an Application for Renewal between every 9th and 10th-year period, calculated from the registration date.\*

**Grace Period Filings\***

The above documents will be accepted as timely if filed within six months after the deadlines listed above with the payment of an additional fee.

**\*ATTENTION MADRID PROTOCOL REGISTRANTS:** The holder of an international registration with an extension of protection to the United States under the Madrid Protocol must timely file the Declarations of Use (or Excusable Nonuse) referenced above directly with the United States Patent and Trademark Office (USPTO). The time periods for filing are based on the U.S. registration date (not the international registration date). The deadlines and grace periods for the Declarations of Use (or Excusable Nonuse) are identical to those for nationally issued registrations. See 15 U.S.C. §§1058, 1141k. However, owners of international registrations do not file renewal applications at the USPTO. Instead, the holder must file a renewal of the underlying international registration at the International Bureau of the World Intellectual Property Organization, under Article 7 of the Madrid Protocol, before the expiration of each ten-year term of protection, calculated from the date of the international registration. See 15 U.S.C. §1141j. For more information and renewal forms for the international registration, see <http://www.wipo.int/madrid/en/>.

**NOTE: Fees and requirements for maintaining registrations are subject to change. Please check the USPTO website for further information. With the exception of renewal applications for registered extensions of protection, you can file the registration maintenance documents referenced above online at <http://www.uspto.gov>.**

**NOTE: A courtesy e-mail reminder of USPTO maintenance filing deadlines will be sent to trademark owners/holders who authorize e-mail communication and maintain a current e-mail address with the USPTO. To ensure that e-mail is authorized and your address is current, please use the Trademark Electronic Application System (TEAS) Correspondence Address and Change of Owner Address Forms available at <http://www.uspto.gov>.**

# Exhibit 2

## Declaration of Hope Hamilton

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

EBAY, INC.,  Opposer, v.  NICHOLAS G. BOUCHER DBA MYGEEKBAY.COM,  Applicant.	<b>Opposition No.:</b> 91233999  <b>Mark:</b> MYGEEKBAY.COM  <b>Serial. No.:</b> 87/061,043
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**DECLARATION OF HOPE HAMILTON IN SUPPORT OF OPPOSER’S  
MOTION FOR SUMMARY JUDGMENT**

I, Hope Hamilton, declare as follows:

1. I am a partner at Holland & Hart LLP located at 1800 Broadway, Suite 300, Boulder, CO 80302, and am counsel for eBay, Inc. (“Opposer”) in the above-captioned matter.
2. In my role as partner, I gathered information and facts related to Opposer’s Motion for Summary Judgment, including the exhibits attached to this declaration.
3. If called as a witness, I could and would competently testify to the facts set forth below, as I know each to be true based on my own personal knowledge or am informed and believe them to be true based on my review of the files and records maintained or created by Holland & Hart in the regular course of its representation of Opposer in this matter.
4. I submit this declaration in support of Opposer’s Motion for Summary Judgment.
5. Attached as **Exhibit A** is a true and correct copy of the complete file-wrapper associated with Applicant’s use-based application under Trademark Act Section 1(a), 15 U.S.C. § 1051(a), to register the standard character mark MYGEEKBAY.COM for “on-line auction services.”

6. Attached as **Exhibit B** is a true and correct copy of Opposer's First Requests for Admission, which were served October 30, 2017.

7. Attached as **Exhibit C** is a true and correct copy of the October 30, 2017 email, to which Opposer's First Requests for Admission were attached, which I personally sent to Applicant.

8. Attached as **Exhibit D** is a true and correct of the email delivery receipt I received on October 30, 2017, noting that delivery to the Applicant's email was complete.

9. Applicant never responded to Opposer's First Requests for Admission.

10. On June 8, 2017, I participated in a telephonic discovery conference with the Applicant and Interlocutory Attorney, M. Catherine Faint. During that conference, Ms. Faint provided an extensive explanation of the discovery process, including the process of making and responding to requests for production, interrogatories, and requests for admissions.

11. Attached as **Exhibit E** is a true and correct copy of the Board's June 15, 2017 order following our June 8, 2017 telephonic discovery conference.

I declare under penalty of perjury that the above is true and correct to the best of my knowledge.

March 16, 2018

/Hope Hamilton/  
Hope Hamilton  
Boulder, Colorado

# Declaration of Hope Hamilton

## Exhibit A

Generated on: This page was generated by TSDR on 2018-03-12 18:40:15 EDT

Mark: MYGEEKBAY.COM

MYGEEKBAY.COM

US Serial Number: 87061043

Application Filing Date: Jun. 06, 2016

Filed as TEAS RF: Yes

Currently TEAS RF: Yes

Register: Principal

Mark Type: Service Mark

Status: An opposition after publication is pending at the Trademark Trial and Appeal Board. For further information, see TTABVue on the Trademark Trial and Appeal Board web page.

Status Date: Apr. 17, 2017

Publication Date: Mar. 28, 2017

## Mark Information

Mark Literal Elements: MYGEEKBAY.COM

Standard Character Claim: Yes. The mark consists of standard characters without claim to any particular font style, size, or color.

Mark Drawing Type: 4 - STANDARD CHARACTER MARK

## Goods and Services

Note: The following symbols indicate that the registrant/owner has amended the goods/services:

- Brackets [...] indicate deleted goods/services;
- Double parenthesis (..) identify any goods/services not claimed in a Section 15 affidavit of incontestability; and
- Asterisks \*..\* identify additional (new) wording in the goods/services.

For: On-line auction services

International Class(es): 035 - Primary Class

U.S Class(es): 100, 101, 102

Class Status: ACTIVE

Basis: 1(a)

First Use: Jul. 05, 2013

Use in Commerce: Aug. 01, 2013

## Basis Information (Case Level)

Filed Use: Yes

Currently Use: Yes

Amended Use: No

Filed ITU: No

Currently ITU: No

Amended ITU: No

Filed 44D: No

Currently 44D: No

Amended 44D: No

Filed 44E: No

Currently 44E: No

Amended 44E: No

Filed 66A: No

Currently 66A: No

Filed No Basis: No

Currently No Basis: No

## Current Owner(s) Information

Owner Name: Boucher, Nicholas G

DBA, AKA, Formerly: DBA MyGeekBay.com

Owner Address: 604 Galleon Dr. NW  
Albuquerque, NEW MEXICO 87121  
UNITED STATES

Legal Entity Type: INDIVIDUAL

Citizenship: UNITED STATES

## Attorney/Correspondence Information

### Attorney of Record - None

#### Correspondent

**Correspondent Name/Address:** NICHOLAS G BOUCHER  
604 GALLEON DR NW  
ALBUQUERQUE, NEW MEXICO 87121  
UNITED STATES

**Phone:** 5053857436

**Fax:** 5053529124

**Correspondent e-mail:** [nboucher2392@gmail.com](mailto:nboucher2392@gmail.com) [admin@mygeekbay.n](mailto:admin@mygeekbay.n)  
[et](mailto:et)

**Correspondent e-mail Authorized:** Yes

### Domestic Representative - Not Found

## Prosecution History

Date	Description	Proceeding Number
Apr. 20, 2017	OPPOSITION TERMINATED NO. 999999	234018
Apr. 19, 2017	OPPOSITION DISMISSED NO. 999999	234018
Apr. 17, 2017	OPPOSITION INSTITUTED NO. 999999	234018
Apr. 13, 2017	OPPOSITION INSTITUTED NO. 999999	233999
Apr. 13, 2017	OPPOSITION PAPERS RECEIVED AT TTAB	
Mar. 28, 2017	OFFICIAL GAZETTE PUBLICATION CONFIRMATION E-MAILED	
Mar. 28, 2017	PUBLISHED FOR OPPOSITION	
Mar. 08, 2017	NOTIFICATION OF NOTICE OF PUBLICATION E-MAILED	
Feb. 22, 2017	LAW OFFICE PUBLICATION REVIEW COMPLETED	70633
Feb. 22, 2017	APPROVED FOR PUB - PRINCIPAL REGISTER	
Feb. 02, 2017	TEAS/EMAIL CORRESPONDENCE ENTERED	70633
Feb. 02, 2017	CORRESPONDENCE RECEIVED IN LAW OFFICE	70633
Jan. 25, 2017	ASSIGNED TO LIE	70633
Jan. 05, 2017	TEAS RESPONSE TO OFFICE ACTION RECEIVED	
Sep. 18, 2016	NOTIFICATION OF NON-FINAL ACTION E-MAILED	6325
Sep. 18, 2016	NON-FINAL ACTION E-MAILED	6325
Sep. 18, 2016	NON-FINAL ACTION WRITTEN	88573
Sep. 17, 2016	ASSIGNED TO EXAMINER	88573
Jun. 14, 2016	NOTICE OF PSEUDO MARK E-MAILED	
Jun. 13, 2016	NEW APPLICATION OFFICE SUPPLIED DATA ENTERED IN TRAM	
Jun. 09, 2016	NEW APPLICATION ENTERED IN TRAM	

## TM Staff and Location Information

### TM Staff Information

**TM Attorney:** PARKS, KIMBERLY L

**Law Office Assigned:** LAW OFFICE 112

### File Location

**Current Location:** PUBLICATION AND ISSUE SECTION

**Date in Location:** Feb. 22, 2017

## Proceedings

### Summary

**Number of Proceedings:** 2

### Type of Proceeding: Opposition

**Proceeding Number:** [91233999](#)

**Filing Date:** Apr 13, 2017

**Status:** Pending

**Status Date:** Apr 13, 2017

**Interlocutory:** MARY CATHERINE FAINT

**Attorney:****Defendant****Name:** Nicholas G Boucher DBA MyGeekBay.com**Correspondent Address:** NICHOLAS G BOUCHER  
604 GALLEON DR NW  
ALBUQUERQUE NM , 87121  
UNITED STATES**Correspondent e-mail:** [nboucher2392@gmail.com](mailto:nboucher2392@gmail.com) , [admin@mygeekbay.com](mailto:admin@mygeekbay.com)**Associated marks**

Mark	Application Status	Serial Number	Registration Number
MYGEEKBAY.COM	Opposition Pending	<a href="#">87061043</a>	

**Plaintiff(s)****Name:** eBay Inc.**Correspondent Address:** HOPE HAMILTON  
HOLLAND & HART LLP  
PO BOX 8749\_\_ATTN TRADEMARK DOCKETING  
DENVER CO , 80201  
UNITED STATES**Correspondent e-mail:** [docket@hollandhart.com](mailto:docket@hollandhart.com) , [hihamilton@hollandhart.com](mailto:hihamilton@hollandhart.com) , [tdshimada@hollandhart.com](mailto:tdshimada@hollandhart.com) , [mamoore@hollandhart.com](mailto:mamoore@hollandhart.com)**Associated marks**

Mark	Application Status	Serial Number	Registration Number
EBAY	Renewed	<a href="#">75391661</a>	<a href="#">2218732</a>
EBAY	Renewed	<a href="#">75621219</a>	<a href="#">2367932</a>
EBAY	Renewed	<a href="#">75981055</a>	<a href="#">2501043</a>
EBAY	Renewed	<a href="#">75981021</a>	<a href="#">2518652</a>
EBAY	Renewed	<a href="#">76267752</a>	<a href="#">2522630</a>
EBAY	Renewed	<a href="#">76271424</a>	<a href="#">2578260</a>
EBAY	Renewed	<a href="#">76022871</a>	<a href="#">2592515</a>
EBAY	Renewed	<a href="#">76271411</a>	<a href="#">2604374</a>
EBAY	Renewed	<a href="#">75625390</a>	<a href="#">2666767</a>
EBAY	Renewed	<a href="#">75620479</a>	<a href="#">2700675</a>
EBAY	Renewed	<a href="#">75983141</a>	<a href="#">2700836</a>
EBAY	Renewed	<a href="#">76975318</a>	<a href="#">2744717</a>
EBAY	Renewed	<a href="#">75620500</a>	<a href="#">2810863</a>
EBAY	Renewed	<a href="#">78384624</a>	<a href="#">2913401</a>
EBAY	Renewed	<a href="#">76022893</a>	<a href="#">2926481</a>
EBAY	Registered	<a href="#">85727676</a>	<a href="#">4408423</a>
WHEN IT'S ON YOUR MIND, IT'S ON EBAY	Registered	<a href="#">85376647</a>	<a href="#">4105599</a>
EBAY CLASSIFIEDS GROUP	Registered	<a href="#">85778230</a>	<a href="#">4338835</a>
EBAY	Registered	<a href="#">85727672</a>	<a href="#">5008322</a>

**Prosecution History**

Entry Number	History Text	Date	Due Date
1	FILED AND FEE	Apr 13, 2017	
2	NOTICE AND TRIAL DATES SENT; ANSWER DUE:	Apr 13, 2017	May 23, 2017
3	PENDING, INSTITUTED	Apr 13, 2017	
4	ANSWER	May 25, 2017	
5	TRIAL DATES REMAIN AS SET	Jun 01, 2017	
6	CHANGE OF CORRESP ADDRESS	Jun 02, 2017	
7	P REQ FOR DISCOVERY CONFERENCE-PHONE	Jun 01, 2017	
8	TRIAL DATES RESET	Jun 15, 2017	
9	ANSWER	Jun 15, 2017	
10	STIPULATED PROTECTIVE ORDER	Jul 06, 2017	

**Type of Proceeding: Opposition****Proceeding Number:** [91234018](#)**Filing Date:** Apr 13, 2017**Status:** Terminated**Status Date:** Apr 20, 2017**Interlocutory Attorney:** KATIE W MCKNIGHT**Defendant****Name:** Nicholas G Boucher, DBA MyGeekBay.com**Correspondent Address:** NICHOLAS G BOUCHER  
604 GALLEON DR NW  
ALBUQUERQUE NM , 87121  
UNITED STATES**Correspondent e-mail:** [nboucher2392@gmail.com](mailto:nboucher2392@gmail.com) , [admin@mygeekbay.net](mailto:admin@mygeekbay.net)**Associated marks**

Mark	Application Status	Serial Number	Registration Number
MYGEEKBAY.COM	Opposition Pending	<a href="#">87061043</a>	

**Plaintiff(s)****Name:** eBay Inc.**Correspondent Address:** HOPE HAMILTON  
HOLLAND & HART LLP  
PO BOX 8749 ATTN TRADEMARK DOCKETING  
DENVER CO , 80201  
UNITED STATES**Correspondent e-mail:** [docket@hollandhart.com](mailto:docket@hollandhart.com) , [hihamilton@hollandhart.com](mailto:hihamilton@hollandhart.com) , [tdshimada@hollandhart.com](mailto:tdshimada@hollandhart.com) , [ebay@hollandhart.com](mailto:ebay@hollandhart.com)**Associated marks**

Mark	Application Status	Serial Number	Registration Number
EBAY	Renewed	<a href="#">75391661</a>	<a href="#">2218732</a>
EBAY	Renewed	<a href="#">75621219</a>	<a href="#">2367932</a>
EBAY	Renewed	<a href="#">75981055</a>	<a href="#">2501043</a>
EBAY	Renewed	<a href="#">75981021</a>	<a href="#">2518652</a>
EBAY	Renewed	<a href="#">76267752</a>	<a href="#">2522630</a>
EBAY	Renewed	<a href="#">76271424</a>	<a href="#">2578260</a>
EBAY	Renewed	<a href="#">76022871</a>	<a href="#">2592515</a>
EBAY	Renewed	<a href="#">76271411</a>	<a href="#">2604374</a>
EBAY	Renewed	<a href="#">75625390</a>	<a href="#">2666767</a>
EBAY	Renewed	<a href="#">75620479</a>	<a href="#">2700675</a>
EBAY	Renewed	<a href="#">75983141</a>	<a href="#">2700836</a>
EBAY	Renewed	<a href="#">76975318</a>	<a href="#">2744717</a>
EBAY	Renewed	<a href="#">75620500</a>	<a href="#">2810863</a>
EBAY	Renewed	<a href="#">78384624</a>	<a href="#">2913401</a>
EBAY	Renewed	<a href="#">76022893</a>	<a href="#">2926481</a>
EBAY	Registered	<a href="#">85727676</a>	<a href="#">4408423</a>
WHEN IT'S ON YOUR MIND, IT'S ON EBAY	Registered	<a href="#">85376647</a>	<a href="#">4105599</a>
EBAY CLASSIFIEDS GROUP	Registered	<a href="#">85778230</a>	<a href="#">4338835</a>
EBAY	Registered	<a href="#">85727672</a>	<a href="#">5008322</a>

**Prosecution History**

Entry Number	History Text	Date	Due Date
1	FILED AND FEE	Apr 13, 2017	
2	NOTICE AND TRIAL DATES SENT; ANSWER DUE:	Apr 17, 2017	May 27, 2017
3	PENDING, INSTITUTED	Apr 17, 2017	
4	BD DECISION: DISMISSED	Apr 19, 2017	
5	TERMINATED	Apr 20, 2017	

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**From:** TMOfficialNotices@USPTO.GOV  
**Sent:** Tuesday, March 28, 2017 00:45 AM  
**To:** nboucher2392@gmail.com  
**Cc:** admin@mygeekbay.net  
**Subject:** Official USPTO Notice of Publication Confirmation: U.S. Trademark SN 87061043: MYGEEKBAY.COM

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### **TRADEMARK OFFICIAL GAZETTE PUBLICATION CONFIRMATION**

**U.S. Serial Number:** 87061043  
**Mark:** MYGEEKBAY.COM  
**International Class(es):** 035  
**Owner:** Boucher, Nicholas G  
**Docket/Reference Number:**

The mark identified above has been published in the Trademark Official Gazette (TMOG) on Mar 28, 2017.

#### **To Review the Mark in the TMOG:**

Click on the following link or paste the URL into an internet browser: <https://tmog.uspto.gov/#issueDate=2017-03-28&serialNumber=87061043>

On the publication date or shortly thereafter, the applicant should carefully review the information that appears in the TMOG for accuracy. If any information is incorrect due to USPTO error, the applicant should immediately email the requested correction to [TMPPostPubQuery@uspto.gov](mailto:TMPPostPubQuery@uspto.gov). For applicant corrections or amendments after publication, please file a post publication amendment using the form available at <http://teasroa.uspto.gov/ppa/>. For general information about this notice, please contact the Trademark Assistance Center at 1-800-786-9199.

#### **Significance of Publication for Opposition:**

- \* Any party who believes it will be damaged by the registration of the mark may file a notice of opposition (or extension of time therefor) with the Trademark Trial and Appeal Board. If no party files an opposition or extension request within thirty (30) days after the publication date, then eleven (11) weeks after the publication date a certificate of registration should issue.

To check the status of the application, go to [http://tsdr.uspto.gov/#caseNumber=87061043&caseType=SERIAL\\_NO&searchType=statusSearch](http://tsdr.uspto.gov/#caseNumber=87061043&caseType=SERIAL_NO&searchType=statusSearch) or contact the Trademark Assistance Center at 1-800-786-9199. Please check the status of the application at least every three (3) months after the application filing date.

To view this notice and other documents for this application on-line, go to [http://tsdr.uspto.gov/#caseNumber=87061043&caseType=SERIAL\\_NO&searchType=documentSearch](http://tsdr.uspto.gov/#caseNumber=87061043&caseType=SERIAL_NO&searchType=documentSearch). NOTE: This notice will only become available on-line the next business day after receipt of this e-mail.



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Trademarks  
P.O. Box 1451  
Alexandria, VA 22313-1451  
www.uspto.gov

Mar 8, 2017

## NOTICE OF PUBLICATION

1. Serial No.:  
87-061,043
2. Mark:  
MYGEEKBAY.COM  
(STANDARD CHARACTER MARK)
3. International Class(es):  
35
4. Publication Date:  
Mar 28, 2017
5. Applicant:  
Boucher, Nicholas G

The mark of the application identified appears to be entitled to registration. The mark will, in accordance with Section 12(a) of the Trademark Act of 1946, as amended, be published in the *Official Gazette* on the date indicated above for the purpose of opposition by any person who believes he will be damaged by the registration of the mark. If no opposition is filed within the time specified by Section 13(a) of the Statute or by rules 2.101 or 2.102 of the Trademark Rules, the Commissioner of Patents and Trademarks may issue a certificate of registration.

Copies of the trademark portion of the *Official Gazette* containing the publication of the mark may be obtained from:

The Superintendent of Documents  
U.S. Government Printing Office  
PO Box 371954  
Pittsburgh, PA 15250-7954  
Phone: 202-512-1800

By direction of the Commissioner.

---

### Email Address(es):

nboucher2392@gmail.com  
admin@mygeekbay.net

---

**From:** TMOfficialNotices@USPTO.GOV  
**Sent:** Wednesday, March 8, 2017 04:08 AM  
**To:** nboucher2392@gmail.com  
**Cc:** admin@mygeekbay.net  
**Subject:** Official USPTO Notification of Notice of Publication: U.S. Trademark SN 87061043: MYGEEKBAY.COM

---

NOTIFICATION OF "NOTICE OF PUBLICATION"

Your trademark application (Serial No. 87061043) is scheduled to publish in the *Official Gazette* on Mar 28, 2017. To preview the Notice of Publication, go to <http://tdr.uspto.gov/search.action?sn=87061043>. If you have difficulty accessing the Notice of Publication, contact [TDR@uspto.gov](mailto:TDR@uspto.gov).

**PLEASE NOTE:**

1. The Notice of Publication may not be immediately available but will be viewable within 24 hours of this e-mail notification.
2. You will receive a second e-mail on the actual "Publication Date," which will include a link to the issue of the *Official Gazette* in which the mark has published.

Do NOT hit "Reply" to this e-mail notification. If you have any questions about the content of the Notice of Publication, contact [TMPostPubQuery@uspto.gov](mailto:TMPostPubQuery@uspto.gov).

**Trademark Snap Shot Publication Stylesheet**  
(Table presents the data on Publication Approval)

**OVERVIEW**

SERIAL NUMBER	87061043	FILING DATE	06/06/2016
REG NUMBER	0000000	REG DATE	N/A
REGISTER	PRINCIPAL	MARK TYPE	SERVICE MARK
INTL REG #	N/A	INTL REG DATE	N/A
TM ATTORNEY	PARKS, KIMBERLY L	L.O. ASSIGNED	112

**PUB INFORMATION**

RUN DATE	02/23/2017		
PUB DATE	03/28/2017		
STATUS	681-PUBLICATION/ISSUE REVIEW COMPLETE		
STATUS DATE	02/22/2017		
LITERAL MARK ELEMENT	MYGEEKBAY.COM		
DATE ABANDONED	N/A	DATE CANCELLED	N/A
SECTION 2F	NO	SECTION 2F IN PART	NO
SECTION 8	NO	SECTION 8 IN PART	NO
SECTION 15	NO	REPUB 12C	N/A
RENEWAL FILED	NO	RENEWAL DATE	N/A
DATE AMEND REG	N/A		

**FILING BASIS**

FILED BASIS		CURRENT BASIS		AMENDED BASIS	
1 (a)	YES	1 (a)	YES	1 (a)	NO
1 (b)	NO	1 (b)	NO	1 (b)	NO
44D	NO	44D	NO	44D	NO
44E	NO	44E	NO	44E	NO
66A	NO	66A	NO		
NO BASIS	NO	NO BASIS	NO		

**MARK DATA**

STANDARD CHARACTER MARK	YES
LITERAL MARK ELEMENT	MYGEEKBAY.COM
MARK DRAWING CODE	4-STANDARD CHARACTER MARK
COLOR DRAWING FLAG	NO

**CURRENT OWNER INFORMATION**

PARTY TYPE	10-ORIGINAL APPLICANT
NAME	Boucher, Nicholas G
ADDRESS	604 Galleon Dr. NW Albuquerque, NM 87121
ENTITY	01-INDIVIDUAL

CITIZENSHIP	United States of America
DBA/AKA	DBA MyGeekBay.com

### GOODS AND SERVICES

INTERNATIONAL CLASS	035
DESCRIPTION TEXT	On-line auction services

### GOODS AND SERVICES CLASSIFICATION

INTERNATIONAL CLASS	035	FIRST USE DATE	07/05/2013	FIRST USE IN COMMERCE DATE	08/01/2013	CLASS STATUS	6-ACTIVE
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### MISCELLANEOUS INFORMATION/STATEMENTS

CHANGE IN REGISTRATION	NO
PSEUDO MARK	MY GEEK BAY

### PROSECUTION HISTORY

DATE	ENT CD	ENT TYPE	DESCRIPTION	ENT NUM
02/22/2017	PREV	O	LAW OFFICE PUBLICATION REVIEW COMPLETED	013
02/22/2017	CNSA	O	APPROVED FOR PUB - PRINCIPAL REGISTER	012
02/02/2017	TEME	I	TEAS/EMAIL CORRESPONDENCE ENTERED	011
02/02/2017	CRFA	I	CORRESPONDENCE RECEIVED IN LAW OFFICE	010
01/25/2017	ALIE	A	ASSIGNED TO LIE	009
01/05/2017	TROA	I	TEAS RESPONSE TO OFFICE ACTION RECEIVED	008
09/18/2016	GNRN	O	NOTIFICATION OF NON-FINAL ACTION E-MAILED	007
09/18/2016	GNRT	F	NON-FINAL ACTION E-MAILED	006
09/18/2016	CNRT	R	NON-FINAL ACTION WRITTEN	005
09/17/2016	DOCK	D	ASSIGNED TO EXAMINER	004
06/14/2016	MPMK	E	NOTICE OF PSEUDO MARK E-MAILED	003
06/13/2016	NWOS	I	NEW APPLICATION OFFICE SUPPLIED DATA ENTERED IN TRAM	002
06/09/2016	NWAP	I	NEW APPLICATION ENTERED IN TRAM	001

### CURRENT CORRESPONDENCE INFORMATION

ATTORNEY	NONE
CORRESPONDENCE ADDRESS	BOUCHER, NICHOLAS G 604 GALLEON DR. NW ALBUQUERQUE, NM 87121
DOMESTIC REPRESENTATIVE	NONE

**MYGEEKBAY.COM**

**Trademark Snap Shot Publication & Issue Review Stylesheet**  
(Table presents the data on Publication & Issue Review Complete)

**OVERVIEW**

SERIAL NUMBER	87061043	FILING DATE	06/06/2016
REG NUMBER	0000000	REG DATE	N/A
REGISTER	PRINCIPAL	MARK TYPE	SERVICE MARK
INTL REG #	N/A	INTL REG DATE	N/A
TM ATTORNEY	PARKS, KIMBERLY L	L.O. ASSIGNED	112

**PUB INFORMATION**

RUN DATE	02/23/2017		
PUB DATE	03/28/2017		
STATUS	681-PUBLICATION/ISSUE REVIEW COMPLETE		
STATUS DATE	02/22/2017		
LITERAL MARK ELEMENT	MYGEEKBAY.COM		
DATE ABANDONED	N/A	DATE CANCELLED	N/A
SECTION 2F	NO	SECTION 2F IN PART	NO
SECTION 8	NO	SECTION 8 IN PART	NO
SECTION 15	NO	REPUB 12C	N/A
RENEWAL FILED	NO	RENEWAL DATE	N/A
DATE AMEND REG	N/A		

**FILING BASIS**

FILED BASIS		CURRENT BASIS		AMENDED BASIS	
1 (a)	YES	1 (a)	YES	1 (a)	NO
1 (b)	NO	1 (b)	NO	1 (b)	NO
44D	NO	44D	NO	44D	NO
44E	NO	44E	NO	44E	NO
66A	NO	66A	NO		
NO BASIS	NO	NO BASIS	NO		

**MARK DATA**

STANDARD CHARACTER MARK	YES
LITERAL MARK ELEMENT	MYGEEKBAY.COM
MARK DRAWING CODE	4-STANDARD CHARACTER MARK
COLOR DRAWING FLAG	NO

**CURRENT OWNER INFORMATION**

PARTY TYPE	10-ORIGINAL APPLICANT
NAME	Boucher, Nicholas G
ADDRESS	604 Galleon Dr. NW Albuquerque, NM 87121
ENTITY	01-INDIVIDUAL

CITIZENSHIP	United States of America
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### MISCELLANEOUS INFORMATION/STATEMENTS

CHANGE IN REGISTRATION	NO
PSEUDO MARK	MY GEEK BAY

### PROSECUTION HISTORY

DATE	ENT CD	ENT TYPE	DESCRIPTION	ENT NUM
02/22/2017	PREV	O	LAW OFFICE PUBLICATION REVIEW COMPLETED	013
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02/02/2017	CRFA	I	CORRESPONDENCE RECEIVED IN LAW OFFICE	010
01/25/2017	ALIE	A	ASSIGNED TO LIE	009
01/05/2017	TROA	I	TEAS RESPONSE TO OFFICE ACTION RECEIVED	008
09/18/2016	GNRN	O	NOTIFICATION OF NON-FINAL ACTION E-MAILED	007
09/18/2016	GNRT	F	NON-FINAL ACTION E-MAILED	006
09/18/2016	CNRT	R	NON-FINAL ACTION WRITTEN	005
09/17/2016	DOCK	D	ASSIGNED TO EXAMINER	004
06/14/2016	MPMK	E	NOTICE OF PSEUDO MARK E-MAILED	003
06/13/2016	NWOS	I	NEW APPLICATION OFFICE SUPPLIED DATA ENTERED IN TRAM	002
06/09/2016	NWAP	I	NEW APPLICATION ENTERED IN TRAM	001

### CURRENT CORRESPONDENCE INFORMATION

ATTORNEY	NONE
CORRESPONDENCE ADDRESS	BOUCHER, NICHOLAS G 604 GALLEON DR. NW ALBUQUERQUE, NM 87121
DOMESTIC REPRESENTATIVE	NONE

**MYGEEKBAY.COM**

**Trademark Snap Shot Amendment & Mail Processing Stylesheet**  
(Table presents the data on Amendment & Mail Processing Complete)

**OVERVIEW**

SERIAL NUMBER	87061043	FILING DATE	06/06/2016
REG NUMBER	0000000	REG DATE	N/A
REGISTER	PRINCIPAL	MARK TYPE	SERVICE MARK
INTL REG #	N/A	INTL REG DATE	N/A
TM ATTORNEY	PARKS, KIMBERLY L	L.O. ASSIGNED	112

**PUB INFORMATION**

RUN DATE	02/03/2017		
PUB DATE	N/A		
STATUS	661-RESPONSE AFTER NON-FINAL-ACTION-ENTERED		
STATUS DATE	02/02/2017		
LITERAL MARK ELEMENT	MYGEEKBAY.COM		
DATE ABANDONED	N/A	DATE CANCELLED	N/A
SECTION 2F	NO	SECTION 2F IN PART	NO
SECTION 8	NO	SECTION 8 IN PART	NO
SECTION 15	NO	REPub 12C	N/A
RENEWAL FILED	NO	RENEWAL DATE	N/A
DATE AMEND REG	N/A		

**FILING BASIS**

FILED BASIS		CURRENT BASIS		AMENDED BASIS	
1 (a)	YES	1 (a)	YES	1 (a)	NO
1 (b)	NO	1 (b)	NO	1 (b)	NO
44D	NO	44D	NO	44D	NO
44E	NO	44E	NO	44E	NO
66A	NO	66A	NO		
NO BASIS	NO	NO BASIS	NO		

**MARK DATA**

STANDARD CHARACTER MARK	YES
LITERAL MARK ELEMENT	MYGEEKBAY.COM
MARK DRAWING CODE	4-STANDARD CHARACTER MARK
COLOR DRAWING FLAG	NO

**CURRENT OWNER INFORMATION**

PARTY TYPE	10-ORIGINAL APPLICANT
NAME	Boucher, Nicholas G
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ENTITY	01-INDIVIDUAL

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09/18/2016	GNRT	F	NON-FINAL ACTION E-MAILED	006
09/18/2016	CNRT	R	NON-FINAL ACTION WRITTEN	005
09/17/2016	DOCK	D	ASSIGNED TO EXAMINER	004
06/14/2016	MPMK	E	NOTICE OF PSEUDO MARK E-MAILED	003
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ATTORNEY	NONE
CORRESPONDENCE ADDRESS	BOUCHER, NICHOLAS G 604 GALLEON DR. NW ALBUQUERQUE, NM 87121
DOMESTIC REPRESENTATIVE	NONE

**MYGEEKBAY.COM**

## Response to Office Action

**The table below presents the data as entered.**

Input Field	Entered
<b>SERIAL NUMBER</b>	87061043
<b>LAW OFFICE ASSIGNED</b>	LAW OFFICE 112
<b>MARK SECTION</b>	
<b>MARK</b>	https://tmng-al.uspto.gov/resting2/api/img/87061043/large
<b>LITERAL ELEMENT</b>	MYGEEKBAY.COM
<b>STANDARD CHARACTERS</b>	YES
<b>USPTO-GENERATED IMAGE</b>	YES
<b>MARK STATEMENT</b>	The mark consists of standard characters, without claim to any particular font style, size or color.
<b>GOODS AND/OR SERVICES SECTION (current)</b>	
<b>INTERNATIONAL CLASS</b>	035
<b>DESCRIPTION</b>	On-line auction services
<b>FILING BASIS</b>	Section 1(a)
<b>FIRST USE ANYWHERE DATE</b>	At least as early as 07/05/2013
<b>FIRST USE IN COMMERCE DATE</b>	At least as early as 08/01/2013
<b>GOODS AND/OR SERVICES SECTION (proposed)</b>	
<b>INTERNATIONAL CLASS</b>	035
<b>DESCRIPTION</b>	On-line auction services
<b>FILING BASIS</b>	Section 1(a)
<b>FIRST USE ANYWHERE DATE</b>	At least as early as 07/05/2013
<b>FIRST USE IN COMMERCE DATE</b>	At least as early as 08/01/2013
<b>STATEMENT TYPE</b>	<b>"The substitute (or new, or originally submitted, if appropriate) specimen(s) was/were in use in commerce at least as early as the filing date of the application"</b> [for an application based on Section 1(a), Use in Commerce] <b>OR</b> <b>"The substitute (or new, or originally submitted, if appropriate) specimen(s) was/were in use in commerce prior either to the filing of the Amendment to Allege Use or expiration of the filing deadline for filing a Statement of Use"</b> [for an application based on Section 1(b) Intent-to-Use]. <b>OR</b> <b>"The attached specimen is a true copy of the specimen that was originally submitted with the application, amendment to allege use, or statement of use"</b> [for an illegible specimen].
<b>SPECIMEN FILE NAME(S)</b>	<a href="#">\\TICRS\EXPORT17\IMAGEOUT 17\870\610\87061043\xml4\ ROA0002.JPG</a>
	<a href="#">\\TICRS\EXPORT17\IMAGEOUT 17\870\610\87061043\xml4\ ROA0003.JPG</a>
<b>SPECIMEN DESCRIPTION</b>	First specimen is of MyGeekBay.com used in company logo. Second specimen is use of MyGeekBay.com logo on website.

SIGNATURE SECTION	
DECLARATION SIGNATURE	/Nicholas G Boucher/
SIGNATORY'S NAME	Nicholas Grady Boucher
SIGNATORY'S POSITION	Owner
SIGNATORY'S PHONE NUMBER	5053857436
DATE SIGNED	01/05/2017
RESPONSE SIGNATURE	/Nicholas G Boucher/
SIGNATORY'S NAME	Nicholas Grady Boucher
SIGNATORY'S POSITION	Owner
SIGNATORY'S PHONE NUMBER	5053857436
DATE SIGNED	01/05/2017
AUTHORIZED SIGNATORY	YES
FILING INFORMATION SECTION	
SUBMIT DATE	Thu Jan 05 21:43:25 EST 2017
TEAS STAMP	USPTO/ROA-XX.XXX.XXX.XXX- 20170105214325202447-8706 1043-5703ab7fb6b6a8030501 54ed0dd7dc87476be7f47672d 8d2edfb1836585c3f6d-N/A-N /A-20170105213025694265

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 PTO Form 1957 (Rev 10/2011)  
 OMB No. 0651-0050 (Exp 07/31/2017)

### Response to Office Action

#### To the Commissioner for Trademarks:

Application serial no. **87061043** MYGEEKBAY.COM(Standard Characters, see <https://tmng-al.uspto.gov/resting2/api/img/87061043/large>) has been amended as follows:

#### CLASSIFICATION AND LISTING OF GOODS/SERVICES

**Applicant proposes to amend the following class of goods/services in the application:**

**Current:** Class 035 for On-line auction services

Original Filing Basis:

**Filing Basis: Section 1(a), Use in Commerce:** The applicant is using the mark in commerce, or the applicant's related company or licensee is using the mark in commerce, on or in connection with the identified goods and/or services. 15 U.S.C. Section 1051(a), as amended. The mark was first used at least as early as 07/05/2013 and first used in commerce at least as early as 08/01/2013 , and is now in use in such commerce.

**Proposed:** Class 035 for On-line auction services

**Filing Basis: Section 1(a), Use in Commerce:** The applicant is using the mark in commerce, or the applicant's related company or licensee is using the mark in commerce, on or in connection with the identified goods and/or services. 15 U.S.C. Section 1051(a), as amended. The mark was first used at least as early as 07/05/2013 and first used in commerce at least as early as 08/01/2013 , and is now in use in such commerce.

Applicant hereby submits one(or more) specimen(s) for Class 035 . The specimen(s) submitted consists of First specimen is of MyGeekBay.com used in company logo. Second specimen is use of MyGeekBay.com logo on website. .

**"The substitute (or new, or originally submitted, if appropriate) specimen(s) was/were in use in commerce at least as early as the filing date of the application" [for an application based on Section 1(a), Use in Commerce] OR "The substitute (or new, or originally submitted, if appropriate) specimen(s) was/were in use in commerce prior either to the filing of the Amendment to Allege Use or expiration of the filing deadline for filing a Statement of Use" [for an application based on Section 1(b) Intent-to-Use]. OR "The attached**

specimen is a true copy of the specimen that was originally submitted with the application, amendment to allege use, or statement of use" [for an illegible specimen]. [Specimen File1](#)  
[Specimen File2](#)

**SIGNATURE(S)**

**Declaration Signature**

**DECLARATION:** The signatory being warned that willful false statements and the like are punishable by fine or imprisonment, or both, under 18 U.S.C. § 1001, and that such willful false statements and the like may jeopardize the validity of the application or submission or any registration resulting therefrom, declares that, if the applicant submitted the application or allegation of use (AOU) unsigned, all statements in the application or AOU and this submission based on the signatory's own knowledge are true, and all statements in the application or AOU and this submission made on information and belief are believed to be true.

**STATEMENTS FOR UNSIGNED SECTION 1(a) APPLICATION/AOU:** If the applicant filed an unsigned application under 15 U.S.C. §1051(a) or AOU under 15 U.S.C. §1051(c), the signatory additionally believes that: the applicant is the owner of the mark sought to be registered; the mark is in use in commerce and was in use in commerce as of the filing date of the application or AOU on or in connection with the goods/services/collective membership organization in the application or AOU; the original specimen(s), if applicable, shows the mark in use in commerce as of the filing date of the application or AOU on or in connection with the goods/services/collective membership organization in the application or AOU; **for a collective trademark, collective service mark, collective membership mark application, or certification mark application**, the applicant is exercising legitimate control over the use of the mark in commerce and was exercising legitimate control over the use of the mark in commerce as of the filing date of the application or AOU; **for a certification mark application**, the applicant is not engaged in the production or marketing of the goods/services to which the mark is applied, except to advertise or promote recognition of the certification program or of the goods/services that meet the certification standards of the applicant. **To the best of the signatory's knowledge and belief, no other persons, except, if applicable, authorized users, members, and/or concurrent users, have the right to use the mark in commerce, either in the identical form or in such near resemblance as to be likely, when used on or in connection with the goods/services/collective membership organization of such other persons, to cause confusion or mistake, or to deceive.**

**STATEMENTS FOR UNSIGNED SECTION 1(b)/SECTION 44 APPLICATION AND FOR SECTION 66(a)**

**COLLECTIVE/CERTIFICATION MARK APPLICATION:** If the applicant filed an unsigned application under 15 U.S.C. §§ 1051(b), 1126(d), and/or 1126(e), or filed a collective/certification mark application under 15 U.S.C. §1141f(a), the signatory additionally believes that: **for a trademark or service mark application**, the applicant is entitled to use the mark in commerce on or in connection with the goods/services specified in the application; the applicant has a bona fide intention to use the mark in commerce and had a bona fide intention to use the mark in commerce as of the application filing date; **for a collective trademark, collective service mark, collective membership mark, or certification mark application**, the applicant has a bona fide intention, and is entitled, to exercise legitimate control over the use of the mark in commerce and had a bona fide intention, and was entitled, to exercise legitimate control over the use of the mark in commerce as of the application filing date; the signatory is properly authorized to execute the declaration on behalf of the applicant; **for a certification mark application**, the applicant will not engage in the production or marketing of the goods/services to which the mark is applied, except to advertise or promote recognition of the certification program or of the goods/services that meet the certification standards of the applicant. **To the best of the signatory's knowledge and belief, no other persons, except, if applicable, authorized users, members, and/or concurrent users, have the right to use the mark in commerce, either in the identical form or in such near resemblance as to be likely, when used on or in connection with the goods/services/collective membership organization of such other persons, to cause confusion or mistake, or to deceive.**

Signature: /Nicholas G Boucher/ Date: 01/05/2017

Signatory's Name: Nicholas Grady Boucher

Signatory's Position: Owner

Signatory's Phone Number: 5053857436

**Response Signature**

Signature: /Nicholas G Boucher/ Date: 01/05/2017

Signatory's Name: Nicholas Grady Boucher

Signatory's Position: Owner

Signatory's Phone Number: 5053857436

The signatory has confirmed that he/she is not represented by either an authorized attorney or Canadian attorney/agent, and that he/she is either: (1) the owner/holder ; or (2) a person(s) with legal authority to bind the owner/holder; and if an authorized U.S. attorney or Canadian attorney/agent previously represented him/her in this matter, either he/she has filed a signed revocation of power of attorney with the USPTO or

the USPTO has granted the request of his/her prior representative to withdraw.

Serial Number: 87061043

Internet Transmission Date: Thu Jan 05 21:43:25 EST 2017

TEAS Stamp: USPTO/ROA-XX.XXX.XXX.XXX-201701052143252

02447-87061043-5703ab7fb6b6a803050154ed0

dd7dc87476be7f47672d8d2edfb1836585c3f6d-

N/A-N/A-20170105213025694265



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## FEATURED LISTINGS



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Imperial Guard Commissar

**\$0.99**

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## FEATURED LISTINGS



Comic Book #1

**\$0.99**

155 days, 23h 52m



Design Your Own Custom ID Badge

**\$9.99**



The Dark Knight Returns - Superman

**\$0.99**

Closed



Imperial Guard Commissar

**\$0.99**

Closed

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[I Understand](#)

**To:** Boucher, Nicholas G ([nboucher2392@gmail.com](mailto:nboucher2392@gmail.com))  
**Subject:** U.S. TRADEMARK APPLICATION NO. 87061043 - MYGEEKBAY.COM - N/A  
**Sent:** 9/18/2016 9:25:51 PM  
**Sent As:** ECOM112@USPTO.GOV  
**Attachments:**

**UNITED STATES PATENT AND TRADEMARK OFFICE (USPTO)  
OFFICE ACTION (OFFICIAL LETTER) ABOUT APPLICANT'S TRADEMARK APPLICATION**

U.S. APPLICATION SERIAL NO. 87061043

**MARK:** MYGEEKBAY.COM

**\*87061043\***

**CORRESPONDENT ADDRESS:**  
BOUCHER, NICHOLAS G  
604 GALLEON DR. NW  
ALBUQUERQUE, NM 87121

**CLICK HERE TO RESPOND TO THIS LETTER:**

[http://www.uspto.gov/trademarks/teas/response\\_forms.jsp](http://www.uspto.gov/trademarks/teas/response_forms.jsp)

[VIEW YOUR APPLICATION FILE](#)

**APPLICANT:** Boucher, Nicholas G

**CORRESPONDENT'S REFERENCE/DOCKET NO :**

N/A

**CORRESPONDENT E-MAIL ADDRESS:**

[nboucher2392@gmail.com](mailto:nboucher2392@gmail.com)

**OFFICE ACTION**

**STRICT DEADLINE TO RESPOND TO THIS LETTER**

TO AVOID ABANDONMENT OF APPLICANT'S TRADEMARK APPLICATION, THE USPTO MUST RECEIVE APPLICANT'S COMPLETE RESPONSE TO THIS LETTER **WITHIN 6 MONTHS** OF THE ISSUE/MAILING DATE BELOW.

**ISSUE/MAILING DATE: 9/18/2016**

**TEAS PLUS OR TEAS REDUCED FEE (TEAS RF) APPLICANTS – TO MAINTAIN LOWER FEE, ADDITIONAL REQUIREMENTS MUST BE MET, INCLUDING SUBMITTING DOCUMENTS ONLINE:** Applicants who filed their application online using the lower-fee TEAS Plus or TEAS RF application form must (1) file certain documents online using TEAS, including responses to Office actions (see TMEP §§819.02(b), 820.02(b) for a complete list of these documents); (2) maintain a valid e-mail correspondence address; and (3) agree to receive correspondence from the USPTO by e-mail throughout the prosecution of the application. *See* 37 C.F.R. §§2.22(b), 2.23(b); TMEP §§819, 820. TEAS Plus or TEAS RF applicants who do not meet these requirements must submit an additional processing fee of \$50 per international class of goods and/or services. 37 C.F.R. §§2.6(a)(1)(v), 2.22(c), 2.23(c); TMEP §§819.04, 820.04. However, in certain situations, TEAS Plus or TEAS RF applicants may respond to an Office action by authorizing an examiner's amendment by telephone without incurring this additional fee.

The referenced application has been reviewed by the assigned trademark examining attorney. Applicant must respond timely and completely to the issues below. 15 U.S.C. §1062(b); 37 C.F.R. §§2.62(a), 2.65(a); TMEP §§711, 718.03.

## SEARCH OF OFFICE'S DATABASE OF MARKS

The trademark examining attorney has searched the Office's database of registered and pending marks and has found no conflicting marks that would bar registration under Trademark Act Section 2(d). TMEP §704.02; *see* 15 U.S.C. §1052(d).

However, applicant must respond to the requirements set forth below.

## SPECIMEN REQUIRED

Registration is refused because the specimen in International Class 35 is merely a picture or rendering of the applied-for mark, and thus fails to show the applied-for mark in use in commerce with the services for each international class. Trademark Act Sections 1 and 45, 15 U.S.C. §§1051, 1127; 37 C.F.R. §§2.34(a)(1)(iv), 2.56(a); *In re Chica*, 84 USPQ2d 1845, 1848 (TTAB 2007); TMEP §§904, 904.07(a), 1301.04(g)(i). An application based on Trademark Act Section 1(a) must include a specimen showing the applied-for mark in use in commerce for each international class of goods and/or services identified in the application or amendment to allege use. 15 U.S.C. §1051(a)(1); 37 C.F.R. §§2.34(a)(1)(iv), 2.56(a); TMEP §§904, 904.07(a).

Further, the specimen shows use of the federal registration symbol ® with the applied-for mark. However, the USPTO records do not show that the mark is registered. Applicant may not use the federal registration symbol until its mark is registered in the USPTO. TMEP §§906, 906.03. After registration, applicant may use this symbol in connection with the specific goods and/or services listed in the registration. *Id.*

Examples of specimens for services include advertising and marketing materials, brochures, photographs of business signage and billboards, and webpages that show the mark used in the actual sale, rendering, or advertising of the services. *See* TMEP §1301.04(a), (h)(iv)(C). Specimens comprising advertising and promotional materials must show a direct association between the mark and the services. TMEP §1301.04(f)(ii).

Applicant may respond to this refusal by satisfying one of the following for each applicable international class:

- (1) Submit a different specimen (a verified “[substitute](#)” [specimen](#)) that (a) was in actual use in commerce at least as early as the filing date of the application or prior to the filing of an amendment to allege use and (b) shows the mark in actual use in commerce for the goods and/or services identified in the application or amendment to allege use. A “verified substitute specimen” is a specimen that is accompanied by the following statement made in a signed affidavit or supported by a declaration under 37 C.F.R. §2.20: “The substitute (or new, or originally submitted, if appropriate) specimen(s) was/were in use in commerce at least as early as the filing date of the application or prior to the filing of the amendment to allege use.” The substitute specimen cannot be accepted without this statement.
- (2) Amend the filing basis to [intent to use under Section 1\(b\)](#), for which no specimen is required. This option will later necessitate additional fee(s) and filing requirements such as providing a specimen.

For an overview of *both* response options referenced above and instructions on how to satisfy either option online using the Trademark Electronic Application System (TEAS) form, please go to <http://www.uspto.gov/trademarks/law/specimen.jsp>.

## RESPONSE GUIDELINES

For this application to proceed further, applicant must explicitly address each refusal and/or requirement raised in this Office action. If the action includes a refusal, applicant may provide arguments and/or evidence as to why the refusal should be withdrawn and the mark should register. Applicant may also have other options specified in this Office action for responding to a refusal, and should consider those options carefully. To respond to requirements and certain refusal response options, applicant should set forth in writing the required changes or statements.

In addition, because applicant filed a TEAS Plus application, applicant must respond online using the [Trademark Electronic Application System \(TEAS\)](#) to avoid incurring an additional fee. *See* 37 C.F.R. §2.22(b)(1), (c). For more information and general tips on responding to USPTO Office actions, response options, and how to file a response online, see “[Responding to Office Actions](#)” on the USPTO’s website.

If applicant does not respond to this Office action within six months of the issue/ mailing date, or responds by expressly abandoning the application, the application process will end and the trademark will fail to register. *See* 15 U.S.C. §1062(b); 37 C.F.R. §§2.65(a), 2.68(a); TMEP §§718.01, 718.02. Additionally, the USPTO will not refund the application filing fee, which is a required processing fee. *See* 37 C.F.R. §§2.6(a)(1)(i)-(iv), 2.209(a); TMEP §405.04.

Where the application has been abandoned for failure to respond to an Office action, applicant’s only option would be to file a timely petition to revive the application, which, if granted, would allow the application to return to active status. *See* 37 C.F.R. §2.66; TMEP §1714. There is a \$100 fee for such petitions. *See* 37 C.F.R. §§2.6(15), 2.66(b)(1).

## ASSISTANCE

Because of the legal technicalities and strict deadlines involved in the USPTO application process, applicant may wish to hire a private attorney specializing in trademark matters to represent applicant in this process and provide legal advice. Although the undersigned trademark examining attorney is permitted to help an applicant understand the contents of an Office action as well as the application process in general, no USPTO attorney or staff is permitted to give an applicant legal advice or statements about an applicant’s legal rights. TMEP §§705.02, 709.06.

For attorney referral information, applicant may consult the [American Bar Association’s Consumers’ Guide to Legal Help](#), an attorney referral service of a state or local bar association, or a local telephone directory. The USPTO may not assist an applicant in the selection of a private attorney. 37 C.F.R. §2.11.

If applicant has questions regarding this Office action, please telephone or e-mail the assigned trademark examining attorney. All relevant e-mail communications will be placed in the official application record; however, an e-mail communication will not be accepted as a response to this Office action and will not extend the deadline for filing a proper response. *See* 37 C.F.R. §§2.62(c), 2.191; TMEP §§304.01-.02, 709.04-.05. Further, although the trademark examining attorney may provide additional explanation pertaining to the refusal(s) and/or requirement(s) in this Office action, the trademark examining attorney may not provide legal advice or statements about applicant’s rights. *See* TMEP §§705.02, 709.06.

/Kim L. Parks/  
Kimberly L. Parks  
Law Office 112  
571.272.6129  
kimberly.parks@uspto.gov

**TO RESPOND TO THIS LETTER:** Go to [http://www.uspto.gov/trademarks/teas/response\\_forms.jsp](http://www.uspto.gov/trademarks/teas/response_forms.jsp). Please wait 48-72 hours from the issue/ mailing date before using the Trademark Electronic Application System (TEAS), to allow for necessary system updates of the application. For *technical* assistance with online forms, e-mail [TEAS@uspto.gov](mailto:TEAS@uspto.gov). For questions about the Office action itself, please contact the assigned trademark examining attorney. **E-mail communications will not be accepted as responses to Office actions; therefore, do not respond to this Office action by e-mail.**

**All informal e-mail communications relevant to this application will be placed in the official application record.**

**WHO MUST SIGN THE RESPONSE:** It must be personally signed by an individual applicant or someone with legal authority to bind an applicant (i.e., a corporate officer, a general partner, all joint applicants). If an applicant is represented by an attorney, the attorney must sign the response.

**PERIODICALLY CHECK THE STATUS OF THE APPLICATION:** To ensure that applicant does not miss crucial deadlines or official

notices, check the status of the application every three to four months using the Trademark Status and Document Retrieval (TSDR) system at <http://tsdr.uspto.gov/>. Please keep a copy of the TSDR status screen. If the status shows no change for more than six months, contact the Trademark Assistance Center by e-mail at [TrademarkAssistanceCenter@uspto.gov](mailto:TrademarkAssistanceCenter@uspto.gov) or call 1-800-786-9199. For more information on checking status, see <http://www.uspto.gov/trademarks/process/status/>.

**TO UPDATE CORRESPONDENCE/E-MAIL ADDRESS:** Use the TEAS form at <http://www.uspto.gov/trademarks/teas/correspondence.jsp>.

**To:** Boucher, Nicholas G ([nboucher2392@gmail.com](mailto:nboucher2392@gmail.com))  
**Subject:** U.S. TRADEMARK APPLICATION NO. 87061043 - MYGEEKBAY.COM - N/A  
**Sent:** 9/18/2016 9:25:53 PM  
**Sent As:** ECOM112@USPTO.GOV  
**Attachments:**

**UNITED STATES PATENT AND TRADEMARK OFFICE (USPTO)**

**IMPORTANT NOTICE REGARDING YOUR**  
**U.S. TRADEMARK APPLICATION**

USPTO OFFICE ACTION (OFFICIAL LETTER) HAS ISSUED  
ON **9/18/2016** FOR U.S. APPLICATION SERIAL NO. 87061043

Your trademark application has been reviewed. The trademark examining attorney assigned by the USPTO to your application has written an official letter to which you must respond. Please follow these steps:

(1) **READ THE LETTER** by clicking on this [link](#) or going to <http://tsdr.uspto.gov/>, entering your U.S. application serial number, and clicking on "Documents."

The Office action may not be immediately viewable, to allow for necessary system updates of the application, but will be available within 24 hours of this e-mail notification.

(2) **RESPOND WITHIN 6 MONTHS** (*or sooner if specified in the Office action*), calculated from **9/18/2016**, using the Trademark Electronic Application System (TEAS) response form located at [http://www.uspto.gov/trademarks/teas/response\\_forms.jsp](http://www.uspto.gov/trademarks/teas/response_forms.jsp).

**Do NOT hit "Reply" to this e-mail notification, or otherwise e-mail your response** because the USPTO does NOT accept e-mails as responses to Office actions.

(3) **QUESTIONS** about the contents of the Office action itself should be directed to the trademark examining attorney who reviewed your application, identified below.

/Kim L. Parks/  
Kimberly L. Parks  
Law Office 112  
571.272.6129  
[kimberly.parks@uspto.gov](mailto:kimberly.parks@uspto.gov)

**WARNING**

**Failure to file the required response by the applicable response deadline will result in the ABANDONMENT of your application.** For more information regarding abandonment, see <http://www.uspto.gov/trademarks/basics/abandon.jsp>.

**PRIVATE COMPANY SOLICITATIONS REGARDING YOUR APPLICATION:** Private companies **not** associated with the USPTO are using information provided in trademark applications to mail or e-mail trademark-related solicitations. These companies often use names that closely resemble the USPTO and their solicitations may look like an official government document. Many solicitations require that you pay “fees.”

Please carefully review all correspondence you receive regarding this application to make sure that you are responding to an official document from the USPTO rather than a private company solicitation. All official USPTO correspondence will be mailed only from the “United States Patent and Trademark Office” in Alexandria, VA; or sent by e-mail from the domain “@uspto.gov.” For more information on how to handle private company solicitations, see [http://www.uspto.gov/trademarks/solicitation\\_warnings.jsp](http://www.uspto.gov/trademarks/solicitation_warnings.jsp).

# NOTE TO THE FILE

SERIAL NUMBER: 87061043

DATE: 09/18/2016

NAME: kparks

## NOTE:

### Searched:

Google  
 Lexis/Nexis  
 OneLook  
 Wikipedia  
 Acronym Finder  
 Other: applicant's website

### Discussed ID with:

Senior Atty  
 Managing Atty  
  
 Protest evidence reviewed

### Checked:

Geographic significance  
 Surname  
 Translation  
 ID with ID/CLASS mailbox

### Discussed Geo. Sig. with:

Senior Atty  
 Managing Atty

Checked list of approved Canadian attorneys and agents

### Discussed file with

#### Attorney/Applicant via:

phone  
 email

Left message with  
Attorney/Applicant

Requested Law Library search  
for:

Issued Examiner's Amendment  
and entered changes in TRADEUPS

**PRINT**  **DO NOT PRINT**

Description of the mark  
 Translation statement

Added design code in TRADEUPS

Negative translation statement  
 Consent of living individual

Re-imaged standard character  
drawing

Changed TRADEUPS to:

Contacted TM MADRID ID/CLASS  
about misclassified definite ID

OTHER:

\*\*\* User:kparks \*\*\*

#	Total Marks	Dead Marks	Live Viewed Docs	Live Viewed Images	Status/ Search Duration	Search
01	1	0	1	1	0:01	87061043[SN]
02	24782	N/A	0	0	0:01	*MY*[bi,ti]not dead[ld]
03	690	N/A	0	0	0:01	*ge{"ea"}{"ckqx"}*[bi,ti]not dead[ld]
04	13307	N/A	0	0	0:01	*b{"ae"}{"ye"}*[bi,ti]not dead[ld]
05	1	0	1	1	0:01	2 and 3 and 4
06	89	0	89	86	0:01	2 and (3 4)
07	14	0	14	12	0:01	3 and 4

Session started 9/18/2016 9:16:13 PM

Session finished 9/18/2016 9:20:48 PM

Total search duration 0 minutes 7 seconds

Session duration 4 minutes 35 seconds

Default NEAR limit=1ADJ limit=1

Sent to TICRS as Serial Number: 87061043

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**From:** TMDesignCodeComments  
**Sent:** Tuesday, June 14, 2016 00:23 AM  
**To:** nboucher2392@gmail.com  
**Cc:** admin@mygeekbay.net  
**Subject:** Official USPTO Notice of Pseudo Mark: U.S. Trademark SN: 87061043: MYGEEKBAY.COM

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**Docket/Reference Number:**

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The USPTO may assign pseudo marks, as appropriate, to new applications to assist in searching the USPTO database for conflicting marks. They have no legal significance and will not appear on the registration certificate.

A PSEUDO MARK may be assigned to marks that include words, numbers, compound words, symbols, or acronyms that can have alternative spellings or meanings. For example, if the mark comprises the words 'YOU ARE' surrounded by a design of a box, the pseudo mark field in the USPTO database would display the mark as 'YOU ARE SQUARE'. A mark filed as 'URGR8' would receive a pseudo mark of 'YOU ARE GREAT'.

Response to this notice is not required; however, to suggest additions or changes to the pseudo mark assigned to your mark, please e-mail [TMDesignCodeComments@USPTO.GOV](mailto:TMDesignCodeComments@USPTO.GOV). You **must** reference your application serial number within your request. The USPTO will review the proposal and update the record, if appropriate. For questions, please call 1-800-786-9199 to speak to a Customer Service representative.

The USPTO will not send any further response to your e-mail. Check TESS in approximately two weeks to see if the requested changes have been entered. Requests deemed unnecessary or inappropriate will not be entered.

To view this notice and other documents for this application on-line, go to <http://tdr.uspto.gov/search.action?sn=87061043>. NOTE: This notice will only be available on-line the next business day after receipt of this e-mail.

**Pseudo marks assigned to the referenced serial number are listed below.**

**PSEUDO MARK:**

MY GEEK BAY

**MYGEEKBAY.COM**



**MYGEEKBAY.COM**

The only auction site for all things GEEK!

®

## Trademark/Service Mark Application, Principal Register

Serial Number: 87061043

Filing Date: 06/06/2016

The table below presents the data as entered.

Input Field	Entered
SERIAL NUMBER	87061043
<b>MARK INFORMATION</b>	
*MARK	<a href="http://MYGEEKBAY.COM">MYGEEKBAY.COM</a>
STANDARD CHARACTERS	YES
USPTO-GENERATED IMAGE	YES
LITERAL ELEMENT	MYGEEKBAY.COM
MARK STATEMENT	The mark consists of standard characters, without claim to any particular font, style, size, or color.
REGISTER	Principal
<b>APPLICANT INFORMATION</b>	
*OWNER OF MARK	Boucher, Nicholas G
DBA/AKA/TA/Formerly	DBA MyGeekBay.com
*STREET	604 Galleon Dr. NW
*CITY	Albuquerque
*STATE (Required for U.S. applicants)	New Mexico
*COUNTRY	United States
*ZIP/POSTAL CODE (Required for U.S. applicants)	87121
PHONE	5053857436
FAX	5053529124
EMAIL ADDRESS	nboucher2392@gmail.com
AUTHORIZED TO COMMUNICATE VIA EMAIL	Yes
<b>LEGAL ENTITY INFORMATION</b>	
TYPE	individual
COUNTRY OF CITIZENSHIP	United States
<b>GOODS AND/OR SERVICES AND BASIS INFORMATION</b>	
INTERNATIONAL CLASS	035
*IDENTIFICATION	On-line auction services
FILING BASIS	SECTION 1(a)
FIRST USE ANYWHERE DATE	At least as early as 07/05/2013

<b>FIRST USE IN COMMERCE DATE</b>	At least as early as 08/01/2013
<b>SPECIMEN FILE NAME(S)</b>	<a href="#">\\TICRS\EXPORT16\IMAGEOUT16\870\610\87061043\xml1\RFA0003.JPG</a>
<b>SPECIMEN DESCRIPTION</b>	MYGEEKBAY.COM Logo and name.
<b>CORRESPONDENCE INFORMATION</b>	
<b>NAME</b>	Boucher, Nicholas G
<b>STREET</b>	604 Galleon Dr. NW
<b>CITY</b>	Albuquerque
<b>STATE</b>	New Mexico
<b>COUNTRY</b>	United States
<b>ZIP/POSTAL CODE</b>	87121
<b>PHONE</b>	5053857436
<b>FAX</b>	5053529124
<b>*EMAIL ADDRESS</b>	nboucher2392@gmail.com;admin@mygeekbay.net
<b>*AUTHORIZED TO COMMUNICATE VIA EMAIL</b>	Yes
<b>FEE INFORMATION</b>	
<b>APPLICATION FILING OPTION</b>	TEAS RF
<b>NUMBER OF CLASSES</b>	1
<b>FEE PER CLASS</b>	275
<b>*TOTAL FEE DUE</b>	275
<b>*TOTAL FEE PAID</b>	275
<b>SIGNATURE INFORMATION</b>	
<b>SIGNATURE</b>	/Nicholas G Boucher/
<b>SIGNATORY'S NAME</b>	Nicholas G Boucher
<b>SIGNATORY'S POSITION</b>	Owner
<b>SIGNATORY'S PHONE NUMBER</b>	5053857436
<b>DATE SIGNED</b>	06/06/2016

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## Trademark/Service Mark Application, Principal Register

**Serial Number: 87061043**

**Filing Date: 06/06/2016**

### To the Commissioner for Trademarks:

**MARK:** MYGEEKBAY.COM (Standard Characters, see [mark](#))

The literal element of the mark consists of MYGEEKBAY.COM.

The mark consists of standard characters, without claim to any particular font, style, size, or color.

The applicant, Nicholas G Boucher, DBA MyGeekBay.com, a citizen of United States, having an address of  
604 Galleon Dr. NW  
Albuquerque, New Mexico 87121  
United States  
5053857436(phone)  
5053529124(fax)  
nboucher2392@gmail.com

requests registration of the trademark/service mark identified above in the United States Patent and Trademark Office on the Principal Register established by the Act of July 5, 1946 (15 U.S.C. Section 1051 et seq.), as amended, for the following:

### For specific filing basis information for each item, you must view the display within the Input Table.

International Class 035: On-line auction services

In International Class 035, the mark was first used by the applicant or the applicant's related company or licensee or predecessor in interest at least as early as 07/05/2013, and first used in commerce at least as early as 08/01/2013, and is now in use in such commerce. The applicant is submitting one(or more) specimen(s) showing the mark as used in commerce on or in connection with any item in the class of listed goods/services, consisting of a(n) MYGEEKBAY.COM Logo and name..

[Specimen File1](#)

### The applicant's current Correspondence Information:

Boucher, Nicholas G  
604 Galleon Dr. NW  
Albuquerque, New Mexico 87121  
5053857436(phone)  
5053529124(fax)  
nboucher2392@gmail.com;admin@mygeekbay.net (authorized)

**E-mail Authorization:** I authorize the USPTO to send e-mail correspondence concerning the application to the applicant or applicant's attorney at the e-mail address provided above. I understand that a valid e-mail address must be maintained and that the applicant or the applicant's attorney must file the relevant subsequent application-related submissions via the Trademark Electronic Application System (TEAS). Failure to do so will result in an additional processing fee of \$50 per international class of goods/services.

A fee payment in the amount of \$275 has been submitted with the application, representing payment for 1 class(es).

### Declaration

The signatory believes that: if the applicant is filing the application under 15 U.S.C. § 1051(a), the applicant is the owner of the trademark/service mark sought to be registered; the applicant is using the mark in commerce on or in connection with the goods/services in the application; the specimen(s) shows the mark as used on or in connection with the goods/services in the application; and/or if the applicant filed an application under 15 U.S.C. § 1051(b), § 1126(d), and/or § 1126(e), the applicant is entitled to use the mark in commerce; the applicant has a bona fide intention, and is entitled, to use the mark in commerce on or in connection with the goods/services in the application. The signatory believes that to the best of the signatory's knowledge and belief, no other persons, except, if applicable, concurrent users, have the right to use the mark in commerce, either in the identical form or in such near resemblance as to be likely, when used on or in connection with the goods/services of such other persons, to cause confusion or mistake, or to deceive. The signatory being warned that willful false statements and the like are

punishable by fine or imprisonment, or both, under 18 U.S.C. § 1001, and that such willful false statements and the like may jeopardize the validity of the application or any registration resulting therefrom, declares that all statements made of his/her own knowledge are true and all statements made on information and belief are believed to be true.

**Declaration Signature**

Signature: /Nicholas G Boucher/ Date: 06/06/2016

Signatory's Name: Nicholas G Boucher

Signatory's Position: Owner

RAM Sale Number: 87061043

RAM Accounting Date: 06/06/2016

Serial Number: 87061043

Internet Transmission Date: Mon Jun 06 11:21:36 EDT 2016

TEAS Stamp: USPTO/BAS-XXX.X.XX.XX-201606061121360595

09-87061043-550cee166e224ec628798bf83eb8

0b4fc807f6ac15a7d775bac3bacf8475f-CC-101

35-20160606105636051277

**MYGEEKBAY.COM**



**MYGEEKBAY.COM**

The only auction site for all things GEEK!

®

# Declaration of Hope Hamilton

## Exhibit B

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

EBAY, INC.,  Opposer,  v.  NICHOLAS G. BOUCHER DBA MYGEEKBAY.COM,  Applicant.	Opposition No.: 91233999  Mark: MYGEEKBAY.COM  Serial No.: 87061043
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**OPPOSER EBAY, INC.’S FIRST SET OF REQUESTS FOR ADMISSION**

Pursuant to Rule 36 of the Federal Rules of Civil Procedure, Rule 407 of the Trademark Trial and Appeal Board Manual of Practice, and 37 C.F.R. § 2.120, eBay, Inc. (“Opposer”) hereby serves this First Set of Requests for Admissions on Nicholas G. Boucher DBA MYGEEKBAY.COM (“Applicant”), and requests that Applicant respond within thirty (30) days.

Opposer requests that each request be quoted in full immediately preceding the response.

**DEFINITIONS AND INSTRUCTIONS**

A. For purposes of this First Set of Interrogatories, the Definitions and Instructions contained in Opposer’s First Requests for the Production of Documents and Things shall apply.

B. If any answer is on information or belief, in whole or in part, so state and identify each person, document, or oral communication that has provided a factual basis for such information or belief. Where exact data cannot be furnished, estimated data must be supplied and be identified as such.

## INTERROGATORIES

### **Request for Admission No. 1:**

Admit that Opposer's Mark EBAY, Reg. No. 2218732, was registered by Opposer prior to the filing date of the Application to register Applicant's Mark MYGEEKBAY.COM.

### **Request for Admission No. 2:**

Admit that Opposer's Mark EBAY, Reg. No. 2367932, was registered by Opposer prior to the filing date of the Application to register Applicant's Mark MYGEEKBAY.COM.

### **Request for Admission No. 3:**

Admit that Opposer's Mark EBAY, Reg. No. 2501043, was registered by Opposer prior to the filing date of the Application to register Applicant's Mark MYGEEKBAY.COM.

### **Request for Admission No. 4:**

Admit that Opposer's Mark EBAY, Reg. No. 2518652, was registered by Opposer prior to the filing date of the Application to register Applicant's Mark MYGEEKBAY.COM.

### **Request for Admission No. 5:**

Admit that Opposer's Mark EBAY, Reg. No. 2522630, was registered by Opposer prior to the filing date of the Application to register Applicant's Mark MYGEEKBAY.COM.

### **Request for Admission No. 6:**

Admit that Opposer's Mark EBAY, Reg. No. 2578260, was registered by Opposer prior to the filing date of the Application to register Applicant's Mark MYGEEKBAY.COM.

### **Request for Admission No. 7:**

Admit that Opposer's Mark EBAY, Reg. No. 2592515, was registered by Opposer prior to the filing date of the Application to register Applicant's Mark MYGEEKBAY.COM.

**Request for Admission No. 8:**

Admit that Opposer's Mark EBAY, Reg. No. 2604374, was registered by Opposer prior to the filing date of the Application to register Applicant's Mark MYGEEKBAY.COM.

**Request for Admission No. 9:**

Admit that Opposer's Mark EBAY, Reg. No. 2666767, was registered by Opposer prior to the filing date of the Application to register Applicant's Mark MYGEEKBAY.COM.

**Request for Admission No. 10:**

Admit that Opposer's Mark EBAY, Reg. No. 2700675, was registered by Opposer prior to the filing date of the Application to register Applicant's Mark MYGEEKBAY.COM.

**Request for Admission No. 11:**

Admit that Opposer's Mark EBAY, Reg. No. 2700836, was registered by Opposer prior to the filing date of the Application to register Applicant's Mark MYGEEKBAY.COM.

**Request for Admission No. 12:**

Admit that Opposer's Mark EBAY, Reg. No. 2744717, was registered by Opposer prior to the filing date of the Application to register Applicant's Mark MYGEEKBAY.COM.

**Request for Admission No. 13:**

Admit that Opposer's Mark EBAY, Reg. No. 2810863, was registered by Opposer prior to the filing date of the Application to register Applicant's Mark MYGEEKBAY.COM.

**Request for Admission No. 14:**

Admit that Opposer's Mark EBAY, Reg. No. 2913401, was registered by Opposer prior to the filing date of the Application to register Applicant's Mark MYGEEKBAY.COM.

**Request for Admission No. 15:**

Admit that Opposer's Mark EBAY, Reg. No. 2926481, was registered by Opposer prior to the filing date of the Application to register Applicant's Mark MYGEEKBAY.COM.

**Request for Admission No. 16:**

Admit that Opposer's Mark EBAY (Stylized), Reg. No. 4408423, was registered by Opposer prior to the filing date of the Application to register Applicant's Mark MYGEEKBAY.COM.

**Request for Admission No. 17:**

Admit that Opposer's Mark WHEN IT'S ON YOUR MIND, IT'S ON EBAY, Reg. No. 4105599, was registered by Opposer prior to the filing date of the Application to register Applicant's Mark MYGEEKBAY.COM.

**Request for Admission No. 18:**

Admit that Opposer's Mark EBAY CLASSIFIEDS GROUP and Design, Reg. No. 4338835, was registered by Opposer prior to the filing date of the Application to register Applicant's Mark MYGEEKBAY.COM.

**Request for Admission No. 19:**

Admit that Opposer's Marks are used by Opposer in connection with online auction services.

**Request for Admission No. 20:**

Admit that Opposer's Marks were used by Opposer in connection with online auction services prior to Applicant's first use of Applicant's Mark.

**Request for Admission No. 21:**

Admit that Opposer was using EBAY in connection with online auction services prior to the filing date of the Application to register Applicant's Mark MYGEEKBAY.COM.

**Request for Admission No. 22:**

Admit that Opposer was using EBAY in connection with online auction services prior to the filing date of the application to register the mark "MyGeekBay.com and Logo" with the State of New Mexico.

**Request for Admission No. 23:**

Admit that MYGEEKBAY.COM is highly similar to EBAY.

**Request for Admission No. 24:**

Admit that MYGEEKBAY.COM is comprised of the descriptive or generic terms MY and GEEK, plus the term BAY.

**Request for Admission No. 25:**

Admit that MYGEEK in Applicant's Mark refers to the science fiction consumer community.

**Request for Admission No. 26:**

Admit that MYGEEK in Applicant's Mark refers to the comic book consumer community.

**Request for Admission No. 27:**

Admit that Applicant's Services are directed to consumers of science fiction memorabilia.

**Request for Admission No. 28:**

Admit that Applicant's Services are directed to consumers of comic book memorabilia.

**Request for Admission No. 29:**

Admit that the term GEEK in Applicant's Mark refers to the consumers who consume Applicant's Services.

**Request for Admission No. 30:**

Admit that MYGEEK is descriptive of consumers who shop on Applicant's online auction website.

**Request for Admission No. 31:**

Admit that MYGEEKBAY.COM has not acquired distinctiveness for use in connection with Applicant's Services.

**Request for Admission No. 32:**

Admit that MYGEEKBAY.COM has not been in use for five or more consecutive years.

**Request for Admission No. 33:**

Admit that EBAY is arbitrary for online auction services.

**Request for Admission No. 34:**

Admit that BAY is arbitrary for online auction services.

**Request for Admission No. 35:**

Admit that, besides EBAY, Applicant is not aware of any other online auction service that uses the term BAY as a mark (in whole or in part).

**Request for Admission No. 36:**

Admit that the 'BAY' suffix in Opposer's Marks is the dominant portion of EBAY.

**Request for Admission No. 37:**

Admit that the 'BAY' suffix in Opposer's Marks is distinctive for online auction services.

**Request for Admission No. 38:**

Admit that the MYGEEKBAY.COM mark incorporates the distinctive and dominant part of the Opposer's Marks, the 'BAY' suffix.

**Request for Admission No. 39:**

Admit that Applicant chose to combine MYGEEK with BAY because BAY connotes online auction services.

**Request for Admission No. 40:**

Admit that consumers are likely to associate Applicant's Mark with Opposer's Marks, including because of the term BAY used with an online auction website.

**Request for Admission No. 41:**

Admit that the BAY suffix in Applicant's Mark has no other meaning than to connote an online auction website.

**Request for Admission No. 42:**

Admit that consumers are likely to concluded that Applicant or Applicant's Mark are approved by Opposer.

**Request for Admission No. 43:**

Admit that consumers are likely to concluded that Applicant or Applicant's Mark are affiliated with Opposer and its an online auction website.

**Request for Admission No. 44:**

Admit that consumers are likely to confuse Applicant or Applicant's Mark with Opposer and Opposer's Marks.

**Request for Admission No. 45:**

Admit that Opposer's Marks and Applicant's Mark are used (or will be used) on identical services, namely, online auction services.

**Request for Admission No. 46:**

Admit that Opposer's Marks and Applicant's Mark are used (or will be used) to offer services to the same general class of consumers, namely, online consumers.

**Request for Admission No. 47:**

Admit that the services offered or to be offered under Opposer's Marks and Applicant's Mark are or will be offered to consumers of science fiction memorabilia.

**Request for Admission No. 48:**

Admit that the services offered or to be offered under Opposer's Marks and Applicant's Mark are or will be offered to consumers of comic book memorabilia.

**Request for Admission No. 49:**

Admit that Opposer has exclusive rights to Opposer's Marks for online auction services.

**Request for Admission No. 50:**

Admit that Applicant was aware that Opposer was using EBAY in connection with online auction services prior to filing the Application to register Applicant's Mark.

**Request for Admission No. 51:**

Admit that Applicant selected the MYGEEKBAY.COM mark with knowledge of Opposer's Marks.

**Request for Admission No. 52:**

Admit that Applicant selected the MYGEEKBAY.COM mark to create a purposeful association with Opposer's Marks.

**Request for Admission No. 53:**

Admit that the Applicant's use and registration of MYGEEKBAY.COM is likely to cause dilution of the famous EBAY Marks, including blurring, tarnishing, and/or weakening the connection in consumers' minds between the EBAY Marks and eBay's goods and services.

**Request for Admission No. 54:**

Admit that Applicant was aware that Opposer was using EBAY in connection with online auction services prior to filing the application to register the mark "MyGeekBay.com and Logo" with the State of New Mexico.

**Request for Admission No. 55:**

Admit that Opposer's Marks, or some of them, were identified in trademark searches conducted by or on behalf of Applicant in the search and clearance of Applicant's Mark.

**Request for Admission No. 56:**

Admit that Applicant was aware of Opposer's Marks, or some of them, prior to selection of Applicant's Mark.

**Request for Admission No. 57:**

Admit that Opposer has not endorsed, authorized, or approved of Applicant or Applicant's Mark.

**Request for Admission No. 58:**

Admit that all documents You produce in this proceeding are authentic.

October 30, 2017

*/Hope Hamilton/* \_\_\_\_\_

Hope Hamilton

Tiffany D.W. Shimada

HOLLAND & HART LLP

P.O. Box 8749

Denver, Colorado 80201

Phone: (303) 473-4822

[HHHamilton@hollandhart.com](mailto:HHHamilton@hollandhart.com)

[TDShimada@hollandhart.com](mailto:TDShimada@hollandhart.com)

[docket@hollandhart.com](mailto:docket@hollandhart.com)

[ebay@hollandhart.com](mailto:ebay@hollandhart.com)

**Attorneys for Opposer**

**eBay, Inc.**

**CERTIFICATE OF SERVICE**

I certify that on October 30, 2017, I served a copy of the above **OPPOSER EBAY, INC.'S FIRST SET OF REQUESTS FOR ADMISSION** to Applicant by e-mail at:

nboucher2392@gmail.com;  
admin@mygeekbay.com

*/Hope Hamilton/*  
Hope Hamilton

10011420\_2

# Declaration of Hope Hamilton

## Exhibit C

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**From:** Hope Hamilton <HIHamilton@hollandhart.com>  
**Sent:** Monday, October 30, 2017 5:13 PM  
**To:** nboucher2392@gmail.com; admin@mygeekbay.com  
**Cc:** Tiffany D.W. Shimada; Mark Moore; Holland & Hart - eBay  
**Subject:** MYGEEKBAY.COM / 87061043 / Nicholas Boucher dba mygeekbay.com / US / 78143.1317 / TDS  
**Attachments:** Opposer\_s 1st Set of Rogs[10335746v1].PDF; Opposer\_s 1st Set of RFPs[10335744v1].PDF; Opposer\_s 1st Set of RFAs[10335741v1].PDF

Dear Mr. Boucher,

Please find attached eBay's first sets of requests for documents, interrogatories, and requests for admission.

Regards,

**Hope Hamilton**

Holland & Hart LLP

One Boulder Plaza

1800 Broadway, Suite 300

Boulder, Colorado 80302

Phone (303) 473-4822

Fax (303) 416-8842

E-mail: [hihamilton@hollandhart.com](mailto:hihamilton@hollandhart.com)



**CONFIDENTIALITY NOTICE:** This message is confidential and may be privileged. If you believe that this email has been sent to you in error, please reply to the sender that you received the message in error; then please delete this e-mail. Thank you.

# Declaration of Hope Hamilton

## Exhibit D

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**From:** Microsoft Outlook  
**To:** admin@mygeekbay.com; nboucher2392@gmail.com  
**Sent:** Monday, October 30, 2017 5:13 PM  
**Subject:** Relayed: MYGEEKBAY.COM / 87061043 / Nicholas Boucher dba mygeekbay.com / US / 78143.1317 / TDS

**Delivery to these recipients or groups is complete, but no delivery notification was sent by the destination server:**

[admin@mygeekbay.com \(admin@mygeekbay.com\)](mailto:admin@mygeekbay.com)

[nboucher2392@gmail.com \(nboucher2392@gmail.com\)](mailto:nboucher2392@gmail.com)

Subject: MYGEEKBAY.COM / 87061043 / Nicholas Boucher dba mygeekbay.com / US / 78143.1317 / TDS

# Declaration of Hope Hamilton

## Exhibit E

UNITED STATES PATENT AND TRADEMARK OFFICE  
Trademark Trial and Appeal Board  
P.O. Box 1451  
Alexandria, VA 22313-1451  
General Contact Number: 571-272-8500

Mailed: June 15, 2017

Opposition No. 91233999

*eBay Inc.*

*v.*

*Nicholas G Boucher DBA MyGeekBay.com*

**M. Catherine Faint,  
Interlocutory Attorney:**

Pursuant to Fed. R. Civ. P. 26(f) and Trademark Rules 2.120(g)(1) and (2), the Board held a telephonic discovery conference on June 8, 2017, between Hope Hamilton, Atty. and Tiffany D.W. Shimada, Atty. counsel for eBay, Inc., and Nicholas G. Boucher, appearing pro se.

The parties confirmed that there are no currently pending related Board proceedings, federal district court actions, or third-party litigation involving both parties. The parties indicated they had discussed settlement prior to the discovery conference. The parties indicated that they were familiar with the Board's electronic resources for filing papers electronically.

***1. Legal Representation Strongly Recommended***

As discussed, while Patent and Trademark Rule 11.14 permits any person to represent himself, it is generally advisable for a person who is not acquainted with the technicalities of the procedural and substantive law involved in inter partes

**Opposition No. 91233999**

proceedings before the Board to secure the services of an attorney who is familiar with such matters. The Patent and Trademark Office cannot aid in the selection of an attorney. In addition, as the impartial decision maker, the Board may not provide legal advice, though it may provide information as to procedure.

Strict compliance with the Trademark Rules of Practice and, where applicable, the Federal Rules of Civil Procedure, is expected of all parties before the Board. *McDermott v. San Francisco Women's Motorcycle Contingent*, 81 USPQ2d 1212, 1212 (TTAB 2006). If Applicant decides to continue without counsel, he is urged to frequently consult the *Trademark Trial and Appeal Board Manual of Procedure* (TBMP) and the Trademark rules of practice, which are available from the USPTO website at [www.uspto.gov](http://www.uspto.gov).

**2. Requirement for Service of Papers**

The service requirements are set forth in Trademark Rule 2.119. Trademark Rules 2.119(a) and (b) and require that every paper filed in the Patent and Trademark Office in a proceeding before the Board must be served upon the attorney for the other party, or on the party if there is no attorney, and proof of such service must be made before the paper will be considered by the Board. Service of all papers must be made by email, unless otherwise stipulated. Trademark Rule 2.119.

All papers which either party may subsequently file in this proceeding must be accompanied by a signed statement indicating the date and manner in which such service was made. Strict compliance with Trademark Rule 2.119 is required in all further papers filed with the Board.

## **Opposition No. 91233999**

The Board will accept, as prima facie proof that a party filing a paper in a Board inter partes proceeding has served a copy of the paper upon every other party to the proceeding, a statement signed by the filing party, or by its attorney or other authorized representative, clearly stating the date and manner in which service was made. This written statement should take the form of a “certificate of service” which should read as follows:

The undersigned hereby certifies that a true and correct copy of the foregoing [insert title of document] was served upon [name of party served] by forwarding said copy, via email to: [insert name and email address].

The certificate of service must be signed and dated. *See also* TBMP § 113.

### ***3. Electronic Resources***

The Board has an electronic filing system that is different than the one used to file Trademark applications and updates to registrations. This system, named ESTTA, was discussed briefly during the teleconference, and may be accessed via the Board’s website: <http://estta.uspto.gov/>. To highlight some features of the system, when a filing is made, a pre-populated cover sheet is generated; filings then may be attached in a .PDF format; if the filing has successfully been completed, the filer will receive an ESTTA tracking number; if there are any problems, call the Board at 571-272-8500 and ask to be put through to one of the computer specialists.

## **Opposition No. 91233999**

Addresses can be changed easily through an electronic form. For instance, consented motions to extend or suspend can be filed and normally an automatic grant of the motion will be generated.<sup>1</sup>

Also available to the parties is the Board's TTABVue system which contains all of the Board's electronic files, including the one for this case. The parties may wish to conduct a status check of this case at least twice per month to be sure something is not missed. Most law firms already have a system for periodically checking status, and respondent may access TTABVue through the Board's website at: <http://ttabvue.uspto.gov/ttabvue/>.

The Board directed the parties to TTAB Manual of Procedure, the TBMP, available in an electronic version on the Board's website at [http://www.uspto.gov/trademarks/process/appeal/tbmp\\_3rd\\_ed\\_rev\\_1.pdf](http://www.uspto.gov/trademarks/process/appeal/tbmp_3rd_ed_rev_1.pdf). The parties may want to pay particular attention to Chapters 400-800 which describe the conduct of Board proceedings. Chapter 400 describes written discovery tools and discovery depositions. The parties should also look to the Trademark Rules for specific guidance. TBMP § 414 provides an extensive, but not exhaustive, guideline of typical discovery topics in Board proceedings.

### ***4. Board's Standard Protective Order***

The Board then advised the parties of the automatic imposition of the Board's standard protective order in this case and further indicated that the parties would control which tier of confidentiality applies. Additionally, the Board stated that if the

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<sup>1</sup> Ordinarily a consented motion to extend or reopen or suspend will be granted by the Board. See TBMP § 509.02, and cases cited therein.

**Opposition No. 91233999**

parties wished to modify the Board’s standard protective order, they could do so by filing a motion for Board approval. The Board noted that inasmuch as Applicant is representing himself *pro se* in this case, he would be unable to view any documents produced by petitioner that have been designated “Highly Confidential – For Attorneys Eyes Only.”

The parties **agreed** to submit a signed copy of the protective order to the Board. Applicant will view the order online and provide a signed copy to Opposer. Opposer will also sign the protective order and file it with the Board within **30 days** of the teleconference.

***5. Initial Disclosures***

The Board provided the parties instruction as to what the required initial disclosures entail under Fed. R. Civ. P. 26(a). Initial disclosures are the witnesses, documents and things having or containing relevant information. Fed. R. Civ. P. 26(a)(1)(A)(i) & (ii):

- (i) the name and, if known, the address and telephone number of each individual likely to have discoverable information — along with the subjects of that information — that the disclosing party may use to support its claims or defenses, unless the use would be solely for impeachment;
- (ii) a copy — or a description by category and location — of all documents, electronically stored information, and tangible things that the disclosing party has in its possession, custody, or control and may use to support its claims or defenses, unless the use would be solely for impeachment.

Furthermore, the Board noted that the exchange of discovery requests could not occur until the parties made their initial disclosures as required by Fed. R. Civ.

**Opposition No. 91233999**

P. 26(f). The Board also noted that a motion for summary judgment may not be filed until initial disclosures were made by the parties. *See* Trademark Rules 2.120(a)(3) and 2.127(e)(1). Initial disclosures do not need to be filed with the Board, only served on the other party.

***6. Review of the Pleadings***

Upon review of the notice of opposition, the Board noted there are claims based on Trademark Act § 2(d) for likelihood of confusion and on Trademark Act § 43(c) for dilution. Opposer has claimed common law rights in its mark and ownership of numerous registrations. Opposer has the burden of proof in this proceeding.

A likelihood of confusion determination under § 2(d) is based on an analysis of the priority of use claim and of all of the facts in evidence that are relevant to the factors bearing on the likelihood of confusion issue (the *duPont* factors). *In re E.I. du Pont de Nemours & Co.*, 476 F.2d 1357, 177 USPQ 563 (CCPA 1973). There are 13 *duPont* factors, however, not all of the *duPont* factors are relevant or of similar weight in every case. *In re Dixie Rests., Inc.*, 41 USPQ2d 1531, 1533 (Fed. Cir. 1997). Opposer has claimed common law rights in the mark and adequately alleged standing and the ground of priority and likelihood of confusion. Proof of the matters is left to trial or final decision.

As to the dilution claims, to plead a dilution claim, a proper pleading of the claim also requires an allegation as to when the claimant's mark became famous, which Opposer has done. *See Trek Bicycle Corp. v. StyleTrek Ltd.*, 64 USPQ2d 1540, 1542 (TTAB 2001).

## Opposition No. 91233999

Turning to the answer, Applicant has not admitted or denied any of the 35 numbered paragraphs of the notice of opposition, but has instead submitted arguments about its own case. As such the answer does not comply with Federal Rule of Civil Procedure 8(b), made applicable to this proceeding by Trademark Rule 2.116(a). Federal Rule of Civil Procedure 8(b) provides:

- (1) *In General.* In responding to a pleading, a party must:
  - (A) state in short and plain terms its defenses to each claim asserted against it; and
  - (B) admit or deny the allegations asserted against it by an opposing party.
- (2) *Denials — Responding to the Substance.*

A denial must fairly respond to the substance of the allegation.
- (3) *General and Specific Denials.*

A party that intends in good faith to deny all the allegations of a pleading — including the jurisdictional grounds — may do so by a general denial. A party that does not intend to deny all the allegations must either specifically deny designated allegations or generally deny all except those specifically admitted.
- (4) *Denying Part of an Allegation.*

A party that intends in good faith to deny only part of an allegation must admit the part that is true and deny the rest.
- (5) *Lacking Knowledge or Information.*

A party that lacks knowledge or information sufficient to form a belief about the truth of an allegation must so state, and the statement has the effect of a denial.
- (6) *Effect of Failing to Deny.*

An allegation — other than one relating to the amount of damages — is admitted if a responsive pleading is required and the allegation is not denied. If a responsive pleading is not required, an allegation is considered denied or avoided.

It is incumbent on Applicant to answer the notice of opposition **by admitting or denying** the allegations contained in each paragraph. Ordinarily, a defendant will use the same paragraph numbering format found in the complaint. If Applicant is without

## **Opposition No. 91233999**

sufficient knowledge or information on which to form a belief as to the truth of any one of the allegations, it should so state and this will have the effect of a denial.

The Board exercises its inherent authority to control matters on its docket and provide for the orderly prosecution of cases, and may strike pleadings found upon review to be legally insufficient. Here Applicant did not respond as required under the Rules to all of the allegations in the notice of opposition.

Accordingly, the answer is **stricken**. However, the Board freely grants leave to file amended pleadings, and Applicant's time to file an amended pleading is set out below. Fed. R. Civ. P. 15(a). In view thereof, dates are reset as set out below.

### ***7. Discovery***

Requests for production and requests for admission, as well as interrogatories, are each limited to 75. Trademark Rule 2.120. The Board suggested to the parties that they could adopt various measures to limit the scope of discovery, including agreeing to further limit the number of depositions, interrogatories, document production requests, and admission requests than provided under the Rules. The parties did not agree to limit discovery at this time, although the Board expressed its expectation that discovery would be straightforward and conducted reasonably in this case.

The parties **stipulated** that discovery documents would be provided electronically in a .pdf format with Bates numbering on each page of a provided document. Where there is electronic meta data in a document it will be preserved.

There was some discussion of requiring a digital signature for any email sent by the parties to each other, but the parties were not able to agree to this requirement.

**8. Availability of ACR**

The Board encourages settlement of matters between the parties. While the Board does not conduct settlement conferences, there is an Accelerated Case Resolution (“ACR”) procedure available. The Board explained that the ACR procedure is an expedited procedure for obtaining a final decision from the Board. In order to pursue ACR, the parties must stipulate that the Board can make findings of fact. The parties may review more detailed information about ACR at the Board’s website: <http://www.uspto.gov/trademarks/process/appeal/index.jsp>. Should the parties agree to use the ACR procedure, the parties are reminded that they may stipulate to facts after the close of the initial disclosure period and to a shortening of the discovery period. *See* Trademark Rule 2.120(a)(2).

**9. Dates Reset**

Applicant is allowed until the date set out below to file an amended answer in conformance with the Rules. Dates are otherwise reset as set out below.

Time to Answer	July 8, 2017
Deadline for Discovery Conference	CLOSED
Discovery Opens	August 7, 2017
Initial Disclosures Due	September 6, 2017
Expert Disclosures Due	January 4, 2018
Discovery Closes	February 3, 2018
Plaintiff’s Pretrial Disclosures Due	March 20, 2018
Plaintiff’s 30-day Trial Period Ends	May 4, 2018
Defendant’s Pretrial Disclosures Due	May 19, 2018
Defendant’s 30-day Trial Period Ends	July 3, 2018
Plaintiff’s Rebuttal Disclosures Due	July 18, 2018
Plaintiff’s 15-day Rebuttal Period Ends	August 17, 2018
<b>BRIEFS SHALL BE DUE AS FOLLOWS:</b>	
Plaintiff’s Main Brief Due	October 16, 2018
Defendant’s Main Brief Due	November 15, 2018
Plaintiff’s Reply Brief Due	November 30, 2018

**Opposition No. 91233999**

Generally, the Federal Rules of Evidence apply to Board trials. Trial testimony is taken and introduced out of the presence of the Board during the assigned testimony periods. The parties may stipulate to a wide variety of matters, and many requirements relevant to the trial phase of Board proceedings are set forth in Trademark Rules 2.121 through 2.125. These include pretrial disclosures, the manner and timing of taking testimony, matters in evidence, and the procedures for submitting and serving testimony and other evidence, including affidavits, declarations, deposition transcripts and stipulated evidence. Trial briefs shall be submitted in accordance with Trademark Rules 2.128(a) and (b). Oral argument at final hearing will be scheduled only upon the timely submission of a separate notice as allowed by Trademark Rule 2.129(a).

\*\*\*

# Exhibit 3

 KeyCite Yellow Flag - Negative Treatment  
Distinguished by [Levi Strauss & Co. v. Abercrombie & Fitch Trading Co.](#), 9th Cir.(Cal.), February 8, 2011

506 F.3d 1165  
United States Court of Appeals,  
Ninth Circuit.

[PERFUMEBAY.COM INC.](#), a California Corporation,  
Plaintiff-counter-defendant-Appellant,  
v.  
EBAY INC., a Delaware corporation,  
Defendant-counter-claimant-Appellee.  
[Perfumebay.com Inc.](#), a California corporation,  
Plaintiff-counter-defendant-Appellee,  
v.  
Ebay Inc., a Delaware corporation,  
Defendant-counter-claimant-Appellant.

Nos. 05-56794, 05-56902.

|  
Argued and Submitted June 4, 2007.

|  
Filed Nov. 5, 2007.

**Synopsis**

**Background:** Plaintiff brought action seeking declaratory judgment that its various forms of mark “Perfumebay” did not infringe on defendant’s mark “eBay” or otherwise violate Lanham Act. The United States District Court for the Central District of California, [William Duffy Keller, J.](#), ruled that conjoined forms of “perfumebay” created likelihood of confusion, but denied defendant’s breach of contract claim. Parties filed cross-appeals.

**Holdings:** The Court of Appeals, [Rawlinson](#), Circuit Judge, held that:

[1] district court did not clearly err in finding that plaintiff’s use of conjoined forms of “Perfumebay” was likely to be confused with “eBay”;

[2] defendant could not be enjoined from using “Perfumebay” in its advertising; and

[3] district court did not clearly err in declining to enjoin uses of non-conjoined versions of “Perfume Bay.”

Affirmed in part and reversed in part.

West Headnotes (28)

[1] **Federal Courts**  
 Intellectual property

In trademark infringement action, Court of Appeals reviews district court’s determination of likelihood of confusion for clear error.

[3 Cases that cite this headnote](#)

[2] **Federal Courts**  
 State or local law in general

District court’s interpretation of state law is reviewed de novo.

[3 Cases that cite this headnote](#)

[3] **Federal Courts**  
 Injunction

District court’s injunctive relief is reviewed for abuse of discretion.

[4 Cases that cite this headnote](#)

[4] **Federal Courts**  
 Injunction

Grant of permanent injunction will be reversed on appeal only when district court based its decision on erroneous legal standard or on clearly erroneous findings of fact.

[3 Cases that cite this headnote](#)

<sup>[5]</sup> **Federal Courts**  
🔑 Costs and attorney fees

Court of Appeals reviews district court's denial of attorney fees under Lanham Act for abuse of discretion. Lanham Act, § 35, 15 U.S.C.A. § 1117.

[1 Cases that cite this headnote](#)

<sup>[6]</sup> **Trademarks**  
🔑 Internet cases

District court did not clearly err in trademark infringement action in finding that internet merchant's use of conjoined forms of "Perfumebay" was likely to be confused with "eBay," even though marks were pronounced differently and had different meanings, merchant utilized logo on its web site separating "Perfume" and "Bay" with starfish, and there was no evidence of actual confusion, where "eBay" mark was strong, parties sold similar products on internet, and both parties utilized internet as marketing and advertising facility.

[15 Cases that cite this headnote](#)

<sup>[7]</sup> **Trademarks**  
🔑 Factors considered in general

In assessing whether likelihood of confusion exists in trademark infringement action, court should consider: (1) mark's strength; (2) proximity or relatedness of goods; (3) similarity of marks; (4) evidence of actual confusion; (5) marketing channels used; (6) degree of care customers are likely to exercise in purchasing goods; (7) defendant's intent in selecting mark; and (8) likelihood of expansion into other markets.

[39 Cases that cite this headnote](#)

<sup>[8]</sup> **Trademarks**  
🔑 Similarity or dissimilarity in general  
**Trademarks**  
🔑 Examination and comparison; construction as entirety  
**Trademarks**  
🔑 Persons confused; circumstances of sale

In assessing trademark infringement claim, marks' similarity is but one factor to consider, albeit important one, and court does not consider marks' similarity in abstract, but rather in light of way that marks are encountered in marketplace and circumstances surrounding purchase.

[20 Cases that cite this headnote](#)

<sup>[9]</sup> **Trademarks**  
🔑 Actual confusion

Failure to prove instances of actual confusion is not dispositive against trademark plaintiff.

[4 Cases that cite this headnote](#)

<sup>[10]</sup> **Trademarks**  
🔑 Internet cases

District court did not clearly err in finding that internet merchant's use of conjoined forms of "Perfumebay" led to initial interest confusion with "eBay," in light of evidence that consumers might believe, from internet search results for "perfume" and "eBay" that provided links to Perfumebay, that Perfumebay was part of eBay's web site or one of eBay's internet stores.

[4 Cases that cite this headnote](#)

[11] **Trademarks**

🔑 Misuse of internet domain names; cybersquatting

District court did not abuse its discretion in permanently enjoining internet user from using “perfumebay.com” and “perfume-bay.com,” where court found that use of conjoined version of “perfumebay” created likelihood of confusion with “eBay,” and parties’ services were similar. Lanham Act, § 34(a), 15 U.S.C.A. § 1116(a).

[7 Cases that cite this headnote](#)

[12] **Equity**

🔑 He Who Comes Into Equity Must Come with Clean Hands

Unclean hands is defense to Lanham Act trademark infringement suit. Lanham Trade-Mark Act, § 1 et seq., 15 U.S.C.A. § 1051 et seq.

[4 Cases that cite this headnote](#)

[13] **Trademarks**

🔑 Conduct or misconduct of plaintiff in general

To show that trademark plaintiff’s conduct is inequitable, defendant must show that plaintiff used trademark to deceive consumers.

[6 Cases that cite this headnote](#)

[14] **Equity**

🔑 He Who Comes Into Equity Must Come with Clean Hands

Bad intent is essence of defense of unclean hands.

[6 Cases that cite this headnote](#)

[15] **Equity**

🔑 Nature of unconscionable conduct

Trademark owner did not act with bad intent necessary to establish unclean hands defense when its affiliates purchased alleged infringer’s mark for use in its internet advertising, and thus owner could not be enjoined from using mark in its advertising, where affiliates often purchased misspellings of mark, marks were similar, and there was no evidence of owner’s relationship with or control over affiliates.

[Cases that cite this headnote](#)

[16] **Trademarks**

🔑 Exceptional cases; intent or bad faith

Court may award reasonable attorney fees to prevailing party in trademark infringement action in exceptional circumstances, which includes cases in which act is fraudulent, deliberate, or willful. Lanham Act, § 35(a), 15 U.S.C.A. § 1117(a).

[5 Cases that cite this headnote](#)

[17] **Compromise and Settlement**

🔑 Nature and Requisites

Under California law, principles of contract formation are same in both settlement and nonsettlement context.

[3 Cases that cite this headnote](#)

[18] **Contracts**

🔑 Certainty as to Subject-Matter

Under California law, in order for acceptance of proposal to result in formation of contract, proposal must be sufficiently definite, or must

call for such definite terms in acceptance, that performance promised is reasonably certain.

[18 Cases that cite this headnote](#)

[3 Cases that cite this headnote](#)

[19] **Compromise and Settlement**  
🔑 Making and Form of Agreement

Under California law, parties involved in dispute over naming of internet site did not form enforceable contract as result of parties' initial agreement on goals of potential settlement, and thus one party's commencement of litigation did not breach any contract, where parties' communications reflect that only negotiations for potential settlement agreement occurred, and they never agreed to essential terms of final settlement.

[3 Cases that cite this headnote](#)

[20] **Trademarks**  
🔑 Marks protected; strength or fame

Dilution is cause of action invented and reserved for marks with such powerful consumer associations that even non-competing uses can impinge their value.

[2 Cases that cite this headnote](#)

[21] **Trademarks**  
🔑 Dilution

Injunctive relief is available under Federal Trademark Dilution Act if plaintiff can establish that: (1) its mark is famous; (2) defendant is making commercial use of mark in commerce; (3) defendant's use began after plaintiff's mark became famous; and (4) defendant's use presents likelihood of dilution of distinctive value of mark. Lanham Trade-Mark Act, § 43(c), 15 U.S.C.A. § 1125(c).

[22] **Trademarks**  
🔑 Nature and extent of harm; similarity, competition, and confusion

Mark used by alleged diluter must be identical, or nearly identical, to protected mark for trademark dilution claim to succeed. Lanham Trade-Mark Act, § 43(c), 15 U.S.C.A. § 1125(c).

[11 Cases that cite this headnote](#)

[23] **Trademarks**  
🔑 Internet use

In determining whether mark "eBay" was diluted by internet merchant's use of conjoined forms of "Perfumebay," district court was required to take into account fact that "eBay" was famous and widely known mark and had expended considerable resources in attaining this status. Lanham Trade-Mark Act, § 43(c), 15 U.S.C.A. § 1125(c).

[5 Cases that cite this headnote](#)

[24] **Trademarks**  
🔑 Misuse of internet domain names; cybersquatting

District court did not clearly err in trademark infringement action in declining to enjoin uses of non-conjoined versions of "Perfume Bay," even though it permanently enjoined use of conjoined forms of "Perfumebay," where conjoined forms encompassed all of "eBay" trademark, thus creating confusion when utilized in domain names, online advertising, and search engine results, but separated forms did not include entire "eBay" mark.

[Cases that cite this headnote](#)

- [25] [Trademarks](#)  
[🔑Alphabetical listing](#)

eBay.

[Cases that cite this headnote](#)

- [26] [Trademarks](#)  
[🔑Alphabetical listing](#)

perfume-bay.com.

[Cases that cite this headnote](#)

- [27] [Trademarks](#)  
[🔑Alphabetical listing](#)

perfumebay.com.

[Cases that cite this headnote](#)

- [28] [Trademarks](#)  
[🔑Alphabetical listing](#)

Perfumebay.

[Cases that cite this headnote](#)

#### Attorneys and Law Firms

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[John W. Crittenden](#) (argued), [Brian E. Mitchell](#), [Franklin B. Goldberg](#), [Alex C. Sears](#), [Lori R.E. Ploeger](#), and [Michael Traynor](#), Cooley Godward Kronish LLP, San Francisco, CA, for appellee/cross-appellant eBay Inc.

Appeal from the United States District Court for the Central District of California; [William D. Keller](#), District Judge, Presiding. D.C. No. CV–04–01358–WDK.

Before: [STEPHEN S. TROTT](#), [JANE R. ROTH](#),\* and [JOHNNIE B. RAWLINSON](#), Circuit Judges.

#### Opinion

[RAWLINSON](#), Circuit Judge:

In this trademark infringement case, we must decide whether various forms of the mark “Perfumebay” infringe upon the trademark “eBay.” Appellant Perfumebay.com, Inc. (Perfumebay) appeals from the district court’s decision that Perfumebay infringed eBay’s trademark. Perfumebay challenges the district court’s finding that the conjoined terms “perfumebay” and “PerfumeBay” created a likelihood of consumer confusion under the Lanham Act with respect to the mark “eBay.” Perfumebay contends that the district court erred in finding initial interest confusion; in granting injunctive relief despite eBay’s unclean hands; and in fashioning the permanent injunction to prohibit Perfumebay’s use of the names “perfumebay” and “perfume-bay.” Perfumebay also contests the district court’s denial of attorneys’ fees.

eBay cross-appeals the district court’s denial of its breach-of-contract claim based on the settlement negotiations of the parties. eBay also contends that the district court erred in rejecting its claim for likelihood of dilution, and for not permanently enjoining Perfumebay from using non-conjoined versions of its names that include a space between “Perfume” and “Bay,” such as “Perfume Bay.” We have jurisdiction pursuant to [28 U.S.C. § 1291](#) and we affirm in part and reverse in part.

#### \*1169 I. BACKGROUND

Between 1998 and 1999, Jacquelyn Tran (Tran), the president and owner of Perfumebay, decided to sell perfume on the internet. Tran developed several web sites, including perfumebay.com. For her business, Tran utilized both conjoined and non-conjoined forms of “perfumebay,” including PerfumeBay and Perfume Bay.

When Perfumebay applied for a trademark for its Perfume Bay mark, eBay filed an opposition with the United States

Patent and Trademark Office. Perfumebay and eBay then entered into negotiations concerning a potential name change by Perfumebay. eBay and Perfumebay stipulated to a suspension of the trademark opposition proceedings pending the result of the settlement negotiations.

When the parties failed to reach a settlement, Perfumebay filed a complaint in federal district court seeking a declaratory judgment that its various marks did not infringe on eBay's mark or otherwise violate the Lanham Act. A bench trial was held on the parties' various claims.

During the bench trial, Gary Briggs (Briggs), an employee of PayPal, an eBay subsidiary, testified on eBay's behalf. Briggs described eBay's operations as "a marketplace." eBay does not have warehouses or any inventory. Instead, it "bring[s] together sellers and buyers." According to Briggs, "buyers come to the web site to then bid and/or buy." There are two methods for "buying and selling on the eBay online marketplace," including an "auction, in which the price changes over a time period," and "fixed price" which eBay calls "Buy It Now." Approximately one-third of eBay's sales are made through the fixed price method.

Between January, 2002, and September 1, 2004, eBay's "total gross merchandise value of transactions in [its] fragrance section" was approximately \$6 million. According to Briggs, this indicates "that fragrance is an important category of items traded on the eBay web site."

Briggs estimated that "about half of the people who come to the eBay web site will type in [the domain name] 'eBay.com' or 'www.ebay.com.' And the other half will come in through pages on the internet." "The largest sites that they come from are Google and Yahoo in the United States."<sup>1</sup>

Briggs explained that "text, as opposed to logos, is more important for internet marketing than with regard to non-internet marketing," because consumers utilize text-based search engines like Google and Yahoo, as opposed to services driven by company logos. According to Briggs, eBay's dominant method of advertising "is in paid search advertising, which are sponsored links, sponsored lines of text that are on a Google or a Yahoo."

Briggs testified that eBay purchases keywords through two methods. eBay "contract[s] directly with companies like Yahoo and Google either through both short-term and long-term contracts. And then [it] also use[s] what's called 'affiliates,' which are third parties that make a living by—they buy keywords and market on [eBay's] behalf."<sup>2</sup>

\*1170 Briggs conducted a search of "perfume eBay" on the Google, Yahoo, and Ask Jeeves search engines. For the Google search, the natural search results produced links to eBay's store, as well as "sponsored links for every-day perfume specials ..." The sponsored link was to Perfumebay's web site, specifically its "fragrance museum," which is "an area for hard-to-find fragrances on PerfumeBay." According to Briggs, eBay also offered such "hard-to-find products." Briggs testified that such results are a concern to eBay because "the fact that you have a search result, a paid search result, that's 'perfume' and 'eBay,' and then you go to hard-to-find fragrances which indicate that you are not just buying the word 'perfume,' you're buying 'eBay' because eBay is known for hard-to-find products."

For the Ask Jeeves search, Briggs testified that the search for "perfume eBay" produced results for eBay.com and for PerfumeBay.

According to Briggs, the similarity in the names eBay and PerfumeBay concerns eBay because of potential consumer confusion. Briggs testified that he was "concerned that affiliates are showing results that capitalize the B in PerfumeBay." According to Briggs, "you have nine million unique users coming to eBay every day. And it doesn't take, you know, much confusion at all to have someone, you know, think that something is eBay when it isn't." Briggs maintained that the problem would not be solved by placing a space between "Perfume" and "Bay" because of "the importance of 'bay' in eBay," and the methods utilized by affiliates. According to Briggs, a space also would not be available, as the internet only utilizes "a connected string of text."

During cross-examination, Briggs was presented with a search for the terms "perfume" and "bay" as two words. The demonstration produced a paid advertisement for PerfumeBay with a link to eBay. Briggs explained that eBay "commonly would buy the word 'perfume.'" Briggs acknowledged that eBay does not sell PerfumeBay products on its web site. According to Briggs, a reasonable explanation for the advertisement was that affiliates would often purchase misspellings of a term. Briggs testified that its "affiliates are buying those links and not eBay." Briggs also explained that the affiliates follow Google's policy for the advertisements. Briggs acknowledged that eBay does permit "the use of someone else's brand name in an advertisement on Google when it has no relationship with that brand name."

Briggs also demonstrated searches that he conducted

involving the terms “sf bay, Los Angeles freeway, Hollywood sign, [and] Gold Line ...” The Google search for “Los Angeles freeway” resulted in an ad for “great deals on Los Angeles freeway. Shop eBay and save.” Because it is not possible to purchase the Los Angeles freeway on eBay, Briggs opined that the advertisement was purchased by an eBay affiliate. Briggs presented similar Google search results for the Hollywood sign; “sf bay”; and “Gold Line.”

Jay Monahan (Monahan), eBay’s Vice President of Litigation, Intellectual Property, testified that he was “concerned about any use of bay which is likely to lead consumers into thinking that that web site \*1171 is sponsored, affiliated, endorsed by us, or one where they’re basically frontally assaulting the brand by treating bay as a generic reference to online commerce.” He was also concerned that the use of a generic word plus “bay” would lessen the distinctiveness of eBay’s trademark.

According to Monahan, eBay became aware of the PerfumeBay web site in July, 2002. He was not aware of “any specific instances of confusion involving Perfumebay.”

Tran testified that she developed the idea in “late 1998 or early 1999 ... to sell perfume from [her] parents’ company on the internet ...” Tran first sold perfume on eBay’s web site. She used “five or six different user names in order to trade on eBay,” two of which, Beautiful Perfumes and Classy Perfumes, were web sites owned by Tran for the sale of perfume. She continued to sell perfume on eBay until October, 2004, when Tran decided that she no longer wanted to use eBay, because of eBay’s auction approach.

The “target customer for Perfumebay is anyone who has access to the internet and purchases fragrances and cosmetics ...” Tran chose the name for the web site while she was still selling perfume on eBay. According to Tran, she “did not have any intention of copying eBay or trying to confuse customers to come to Perfumebay’s web site because of eBay.”

Tran selected the first part of the name, “perfume,” as a description of her products. She added the term “bay” because she “envisioned a bay filled with ships importing perfumes from all parts of the world and this bay would be the place where perfume lovers could go to locate the selection of fragrances ...” However, “there was never an image of a bay filled with ships on [her] web site.” There were no ships on the web site, and Tran “never explained on [her] web site at any time that the name Perfumebay was intended to suggest a bay into which products are brought by ship from abroad ...” Her web site developers

“never created any kind of graphical design for the Perfumebay web site that incorporated a bay filled with ships ...”

Tran acknowledged that “the Perfumebay web site has, from time to time, displayed the Perfumebay name as one word with a capital B ...” Additionally, “Perfumebay sometimes refers to itself [as] Perfume[B]ay, capitalizing the letters P and B in one word ...” The sign-up documentation for affiliates “spells the Perfume[B]ay name in one word with the P and the B capitalized ...” In its trademark application, “the header Perfume[B]ay.com is displayed as one word with a capital B ...” According to Tran, the usage of “PerfumeBay” occurred because “it was a common thing [she] saw online where companies would capitalize the first letter of the first word if they had separate words.” However, during the litigation, Tran stopped using “the spelling of Perfume [B]ay, one word, capital P, capital B.”

PerfumeBay also used a logo that included the phrase “Where Perfume Lovers Go.” The logo contains a starfish between “Perfume” and “Bay.” Tran testified that the starfish was used “[t]o convey the image of the bay with perfumes.”

According to Tran, Perfumebay.com operates five other web sites “called Beautiful Perfumes.com; Scentguru.com; Classy Perfumes.com; Beauty Encounter.com and ... Pefume Shop.com.” “[A]ll of these sites offer the same products for sale as the Perfumebay.com web site ...” These web sites “have the same categories of products ... [a]nd they link to the same product descriptions ...” The majority of key-word advertising is spent for Perfumebay. Although the majority of key-word \*1172 advertising is spent for Perfumebay, Tran acknowledged that she could “put more money into keyword advertising for Beautiful Perfume—Beautiful Perfumes.com if [she] wanted to ...”

In 2004, Perfumebay.com’s sales totaled \$6.6 million. The sales for all of Tran’s web sites totaled approximately \$9 million.

Prior to the lawsuit, Tran learned through her customer service personnel that “people were calling Perfumebay asking if it was associated with eBay ...” She directed her customer service representatives to inform these callers that Perfumebay was not associated with eBay.

Philip Johnson (Johnson), chief executive officer of Leo Shapiro and Associates, a research and consulting firm, testified for eBay that he developed a consumer survey “to measure the extent to which the word ‘bay’ used in

conjunction with a common name causes or is likely to cause confusion, ... or dilution.” According to Johnson’s survey, “a substantial majority of consumers—the average would be 70 percent if one took California and the rest of the country and averaged the two together—believe that eBay is the company that comes to mind when they hear the word ‘bay’ used in connection with a web site or is part of the name of a web site, when they are on the internet engaged in shopping behavior.” Johnson concluded that initial interest confusion and actual confusion can result from usage of the term “bay.”

Another study designed by Johnson was conducted by telephone interviews. The survey reflected that fifty-two percent of the California sample and sixty-four percent of the nationwide sample responded that eBay came to mind when they saw the term “bay” utilized by a web site. Based on this survey, Johnson opined that “combining a generic term with the word ‘bay’ as part of an [sic] web site name or internet address ... causes a substantial degree of confusion, and that that will lead to at least dilution if not initial-interest confusion.”

Johnson acknowledged that his survey was not designed to measure actual confusion or actual dilution. Johnson also confirmed that he only tested “bay,” and not “PerfumeBay.”

Eli Seggev (Seggev) testified for Perfumebay and criticized Johnson’s methodology. Seggev opined that, because the California and nationwide samples could not be combined properly, the survey failed to “project to a population.” Seggev also pointed to Johnson’s failure to utilize a control group. In addition, according to Seggev, the survey neglected to properly validate the interviews. Finally, Seggev faulted the survey for using only telephone interviews, as “the entire process by which consumers are interacting with these companies is visual rather than oral.”

The district court found that conjoined forms of “perfumebay” created a likelihood of confusion. The district court permanently enjoined Perfumebay from depicting “Perfume Bay” as a single word. However, the district court held that non-conjoined forms of “Perfume Bay” did not create a likelihood of confusion. The district court also held that the Perfumebay marks did not engender a likelihood of dilution.

Additionally, the district court permanently enjoined eBay from displaying “Perfume Bay” in any advertising, except for “truthful, non-confusing comparative advertising,” based on an unclean hands defense raised by Perfumebay at the end of the bench trial. Perfumebay and eBay filed

timely notices of appeal.

## II. STANDARDS OF REVIEW

<sup>[1]</sup> We “review the district court’s determination of likelihood of confusion for \*1173 clear error.” *Reno Air Racing Ass’n, Inc. v. McCord*, 452 F.3d 1126, 1135 (9th Cir.2006) (citation omitted). “If the district court’s account of the evidence is plausible in light of the record viewed in its entirety, we may not reverse even though as the trier of fact, we would have weighed the evidence differently.” *Id.* (citation and alteration omitted).

<sup>[2]</sup> “A district court’s interpretation of state law is reviewed de novo.” *Jorgensen v. Cassidy*, 320 F.3d 906, 914 (9th Cir.2003) (citation omitted).

<sup>[3]</sup> <sup>[4]</sup> “The district court’s injunctive relief is reviewed for an abuse of discretion.” *Interstellar Starship Servs., Ltd. v. Epix, Inc.*, 304 F.3d 936, 941 (9th Cir.2002) (citation omitted). “The grant of a permanent injunction will be reversed only when the district court based its decision on an erroneous legal standard or on clearly erroneous findings of fact.” *Id.* (citation omitted).

<sup>[5]</sup> We “review the district court’s denial of attorney’s fees under 15 U.S.C. § 1117 for an abuse of discretion.” *Rolux Watch, U.S.A., Inc. v. Michel Co.*, 179 F.3d 704, 711 (9th Cir.1999) (citation omitted). “In making this assessment, we review de novo the district court’s legal analysis and interpretation of the Lanham Act.” *Id.* (citation omitted).

## III. DISCUSSION

### A. Perfumebay’s Appeal

<sup>[6]</sup> Perfumebay contends that the district court erred in its likelihood of confusion findings. Perfumebay believes that it should prevail because its marks are not similar to the eBay mark. However, the district court did not clearly err in finding a likelihood of confusion stemming from the conjoined forms of “Perfumebay.”

<sup>[7]</sup> “The core element of trademark infringement is whether customers are likely to be confused about the source or sponsorship of the products.” *McCord*, 452 F.3d at 1135 (citation omitted). “An eight-factor test—the so-called *Sleekcraft* factors—guides the assessment of whether a likelihood of confusion exists.” *Id.* (citation and internal quotation marks omitted). The *Sleekcraft* factors are:

- (1) the strength of the mark;
- (2)

proximity or relatedness of the goods; (3) the similarity of the marks; (4) evidence of actual confusion; (5) the marketing channels used; (6) the degree of care customers are likely to exercise in purchasing the goods; (7) the defendant's intent in selecting the mark; and (8) the likelihood of expansion into other markets.

*McCord*, 452 F.3d at 1136 n. 9 (citation omitted). “The test is a fluid one and the plaintiff need not satisfy every factor, provided that strong showings are made with respect to some of them.” *Survivor Media, Inc. v. Survivor Prods.*, 406 F.3d 625, 631 (9th Cir.2005) (citation omitted).

In the internet context, “the three most important *Sleekcraft* factors in evaluating a likelihood of confusion are (1) the similarity of the marks, (2) the relatedness of the goods and services, and (3) the parties' simultaneous use of the Web as a marketing channel.” *Interstellar Starship Servs.*, 304 F.3d at 942 (citation and internal quotation marks omitted). “When this controlling troika or internet trinity suggests confusion is likely, the other factors must weigh strongly against a likelihood of confusion to avoid the finding of infringement.” *Id.* (citations, alteration, and internal quotation marks omitted). “If the internet trinity does not clearly indicate a likelihood of consumer confusion, a district court can conclude the infringement analysis only by balancing all the *Sleekcraft* \*1174 factors within the unique context of each case.” *Id.*

### 1. The Similarity of the Marks

<sup>181</sup> “The similarity of the marks will always be an important factor. Where the two marks are entirely dissimilar, there is no likelihood of confusion.” *Brookfield Commc'n, Inc. v. West Coast Entm't Corp.*, 174 F.3d 1036, 1054 (9th Cir.1999). “Nevertheless, the more similar the marks in terms of appearance, sound, and meaning, the greater the likelihood of confusion.” *Id.* (citation omitted). “However, similarity of the marks is but one factor in the *Sleekcraft* test, albeit an important one, and a court does not consider the similarity of the marks in the abstract, but rather in light of the way the marks are encountered in the marketplace and the circumstances surrounding the purchase.” *McCord*, 452 F.3d at 1137 (citation and internal quotation marks omitted).

“Because the result of the consideration of one factor can

influence the consideration of another, if the trademark holder's mark were strong, the fact that a consumer would likely notice the difference between two marks might not suffice for a finding that the marks are dissimilar...[T]he fact that the similarity involves the use of a much stronger mark would make that similarity weigh more heavily in the analysis of this factor.” *Entrepreneur Media, Inc. v. Smith*, 279 F.3d 1135, 1145 n. 9 (9th Cir.2002).

The record in this case reflects the requisite similarity between the two marks. “Perfumebay” incorporates the eBay trademark in its entirety, especially when Perfumebay utilizes the spelling as “PerfumeBay.” For example, in its publisher application, Perfumebay ostensibly utilizes the separate terms “Perfume” and “Bay” at the top. However, the application refers to “perfumebay.com” and “PerfumeBay,” both of which completely incorporate eBay's strong mark. Although Perfumebay has utilized a logo on its web site separating “Perfume” and “Bay” with a starfish, the domain name itself is “perfumebay.com,” once again incorporating eBay's mark. Additionally, the similarity is demonstrated in the search engine results, resulting in “eBay” and “perfumebay” links. Although differences exist between the two marks, the fact that eBay's mark is a strong one weighs against Perfumebay. *See id.*

The remaining two factors of the internet trilogy weigh equally against Perfumebay. *See Interstellar Starship Servs.*, 304 F.3d at 942. Perfumebay and eBay sell similar products on the internet—perfume. Although they may differ slightly in that eBay offers the additional auction component of its website, “even services that are not identical are capable of confusing the public.” *GoTo.com, Inc. v. Walt Disney Co.*, 202 F.3d 1199, 1206 (9th Cir.2000). Thus, “[r]elated goods are generally more likely than unrelated goods to confuse the public as to the producers of the goods.” *Brookfield*, 174 F.3d at 1055 (citation omitted).

Perfumebay and eBay both utilize the internet “as a marketing and advertising facility, a factor that courts have consistently recognized as exacerbating the likelihood of confusion.” *Id.* at 1057 (citations omitted). “[T]he Web, as a marketing channel, is particularly susceptible to a likelihood of confusion since, as it did in this case, it allows for competing marks to be encountered at the same time, on the same screen.” *GoTo.com*, 202 F.3d at 1207.

Because the three primary factors for internet trademarks weigh against Perfumebay, the remaining *Sleekcraft* factors, actual confusion, marketing channels utilized, degree of consumer care, Perfumebay's \*1175 intent, and

likelihood of expansion into other markets, “must weigh strongly against a likelihood of confusion to avoid the finding of infringement.” *Interstellar Starship Servs.*, 304 F.3d at 942 (citation and internal quotation marks omitted). The record does not reflect such a showing by Perfumebay. See *McCord*, 452 F.3d at 1136 n. 9.

*M2 Software, Inc. v. Madacy Entm’t*, 421 F.3d 1073 (9th Cir.2005), is not to the contrary. In *M2 Software*, we considered whether the marks “M2 Entertainment” and “M2” were similar. *Id.* at 1076. We observed:

After considering (1) the addition of “Entertainment” by Madacy, (2) the use of the mark “interactive” in addition to M2 on M2’s Software CDs, (3) the use of other marks in addition to M2 Entertainment on Madacy’s CDs, and (4) the fanciful nature of M2 Software’s M2 mark, the district court ruled that the third *Sleekcraft* factor weighed only very slightly in M2’s favor. This ruling was not erroneous.

*Id.* at 1082.

In contrast, Perfumebay failed to demonstrate any additional distinguishing factors, particularly when its marks “perfumebay” and “perfumeBay” are utilized as domain names, in internet search engine results, and in online advertising. *M2 Software* also is distinguishable in its sight, sound, and meaning analysis as it did not involve internet usage. See *id.* at 1084. In sum, the pivotal factor in this case is that Perfumebay and eBay utilize the internet in selling and advertising similar products, a circumstance not present in *M2 Software*.

In *Entrepreneur Media*, we determined that “entrepreneur-pr.com” and “Entrepreneur” were not sufficiently similar. 279 F.3d at 1146–47. However, that case concerned only an internet user typing in the domain name. *Id.* We did not consider confusion resulting from internet search engine usage and online advertising. See *id.* Additionally, “Entrepreneur,” unlike “eBay,” was a weak mark, “which weighs heavily against finding infringement ...” *Id.* at 1153.

Perfumebay is correct that “Perfumebay” and “eBay” are pronounced differently and have different meanings. However, we must evaluate the marks as they are utilized in the marketplace. See *McCord*, 452 F.3d at 1137. This requires an analysis of the marks in their internet usage,

not simply as the terms are pronounced or viewed in the abstract. Internet users type “perfumebay” as a domain name and as an internet search term, and click onto “perfumebay” links as internet search results. Internet users do not utilize verbal communication as a basis for the services that they seek. The likelihood of confusion, therefore, does not arise in a vacuum, but rather from the manner in which “perfumebay” is used on the internet. The district court did not err when it considered the likelihood of confusion in the relevant context.

It is true that the term “Bay” may convey varying meanings. It may serve as a geographical reference to a body of water or describe a commercial storage compartment. However, that the term may convey different impressions to different individuals is irrelevant to a likelihood of confusion analysis, as the district court’s findings only need be plausible. See *id.* at 1135 (“If the district court’s account of the evidence is plausible in light of the record viewed in its entirety, we may not reverse even though as the trier of fact, we would have weighed the evidence differently.”) (citation and alteration omitted).

<sup>191</sup> Perfumebay also emphasizes that eBay never demonstrated actual confusion. \*1176 However, “the failure to *prove* instances of actual confusion is *not* dispositive against a trademark plaintiff, because actual confusion is hard to prove; difficulties in gathering evidence of actual confusion make its absence generally unnoteworthy.” *Au-Tomotive Gold, Inc. v. Volkswagen of America, Inc.*, 457 F.3d 1062, 1077 (9th Cir.2006) (citation and alteration omitted) (emphases in the original).

Finally, Perfumebay argues that the district court placed undue emphasis on one-word spellings in internet search engine results. However, the district court’s consideration of “perfumebay” in search engine results was consistent with the evidence presented. Briggs testified that a significant number of consumers reach the eBay web site through internet search engines. eBay’s dominant method of advertising is through sponsored links provided on Google and Yahoo. Thus, the district court did not clearly err in addressing the marks in the contexts which might produce the predominant level of consumer confusion.

The district court did not err in holding that the marks were similar enough to create a likelihood of confusion.

## 2. The District Court’s Finding Of Initial Interest Confusion

Because the district court ruled that any initial interest

confusion was not actionable, Perfumebay seeks to appeal a decision upon which it prevailed. However, “courts review judgments, not statements in opinions.” *Envtl. Prot. Info. Ctr. v. Pacific Lumber Co.*, 257 F.3d 1071, 1075 (9th Cir.2001) (citation and internal quotation marks omitted). “A party who receives all that he has sought generally is not aggrieved by the judgment affording the relief and cannot appeal from it.” *Id.* (citations omitted). Perfumebay failed to demonstrate that it has the requisite standing to appeal the district court’s favorable ruling. *See id.*

In any event, the district court did not clearly err in its initial interest confusion analysis. “[A]ctionable initial interest confusion on the Internet is determined, in large part, by the relatedness of the goods offered and the level of care exercised by the consumer.” *Interstellar Starship Servs.*, 304 F.3d at 945 (citation omitted). “Of course, the remainder of the *Sleekcraft* factors complete the case-by-case inquiry necessary to evaluate initial interest confusion on the Internet.” *Id.*

<sup>[10]</sup> The district court had a valid basis for finding initial interest confusion.<sup>3</sup> The in-court demonstration reflected that consumers might be confused by search results for “perfume” and “eBay” that provided links to Perfumebay. Based on the search results, a consumer might assume that Perfumebay is part of eBay’s web site or one of eBay’s internet stores. Additionally, initial interest confusion is analyzed pursuant to the *Sleekcraft* factors for likelihood of confusion. *See Interstellar Starship Servs.*, 304 F.3d at 945. As discussed, there is a likelihood of confusion given the marks’ similarities, the marketing channels utilized, and the similarity of the products.

### 3. The Permanent Injunction Against Using perfumebay.com and perfume-bay.com

<sup>[11]</sup> Perfumebay failed to establish that the district court abused its discretion. “15 U.S.C. § 1116(a) vests the district court with the power to grant injunctions according to principles of equity and \*1177 upon such terms as the court may deem reasonable, to prevent the violation of any right of the trademark owner ...” *McCord*, 452 F.3d at 1137 (citation and internal quotation marks omitted). “When the infringing use is for a similar service, a broad injunction is especially appropriate.” *GoTo.com*, 202 F.3d at 1211 (citation and internal quotation marks omitted). The district court did not clearly err in finding that the conjoined version of “perfumebay” created a likelihood of confusion. eBay and Perfumebay’s services are similar, as they both sell perfume on internet web sites and utilize search engines extensively for attracting customers. A broad injunction

addressing such similarities “is especially appropriate.” *See id.* eBay also presented evidence that the hyphenated term “perfume-bay” contributed to consumer confusion, as “e-bay” is associated with “ebay” by consumers.<sup>4</sup>

### 4. The District Court’s Asserted Failure To Balance The Harm To Perfumebay

Perfumebay failed to demonstrate an abuse of discretion, as it has viable options other than using the infringing domain names. Perfumebay operates five other web sites which offer the same products as perfumebay.com. The web sites share the same product categories and provide links to the same product descriptions. Perfumebay acknowledged that it could shift advertising resources to these other web sites. Although perfumebay.com is the most profitable of the web sites, that fact does not mandate a conclusion that the district court failed to balance the harm to Perfumebay. *See Idaho Watersheds Project v. Hahn*, 307 F.3d 815, 833–34 (9th Cir.2002) (approving the balance struck by the district court where the court “was mindful of the equities on all sides”).

### 5. The District Court’s Finding Regarding eBay’s Unclean Hands

<sup>[12]</sup> <sup>[13]</sup> <sup>[14]</sup> “Unclean hands is a defense to a Lanham Act infringement suit.” *Japan Telecom, Inc. v. Japan Telecom America Inc.*, 287 F.3d 866, 870 (9th Cir.2002) (citation omitted). “Trademark law’s unclean hands defense springs from the rationale that it is essential that the plaintiff should not in his trade mark, or in his advertisements and business, be himself guilty of any false or misleading representation.” *Id.* (citation and internal quotation marks omitted). “To show that a trademark plaintiff’s conduct is inequitable, defendant must show that plaintiff used the trademark to deceive consumers.” *Id.* (citation omitted). “Bad intent is the essence of the defense of unclean hands.” *Id.* (citations omitted).

At the conclusion of the bench trial, Perfumebay was allowed to amend its complaint to include the unclean hands defense. The primary testimony on the issue came from eBay’s witness, Briggs. Briggs testified that the advertisements for Perfumebay on eBay’s site may have resulted because affiliates would often purchase misspellings of a term. Briggs emphasized that “its affiliates were buying those links not eBay.” Briggs also demonstrated that affiliates had advertised the Los Angeles freeway, the Hollywood sign, sf bay, and Gold Line for sale on eBay. However, Briggs acknowledged that eBay does permit “the use of someone else’s brand

name in an advertisement on Google \*1178 when it has no relationship with that brand name[.]”

<sup>[15]</sup> The record does not affirmatively demonstrate that eBay used the advertisements to “deceive consumers.” See *id.* There also is limited evidence, if any, supporting the district court’s finding that “it is axiomatic that the principal is responsible for the acts of the agent acting within the scope of their authority, i.e. the affiliates.” Although eBay’s conduct may be questionable, the evidence does not adequately detail eBay’s relationship with or control over the affiliates. Thus, it is not clear from the record that eBay acted with the requisite “bad intent” for an unclean hands finding. See *id.* As a result, we conclude that there was an insufficient foundation for the injunction against the advertising conducted by eBay’s affiliates. See *Jarrow Formulas, Inc. v. Nutrition Now, Inc.*, 304 F.3d 829, 842 (9th Cir.2002).

#### 6. The District Court’s Denial of Attorneys’ Fees and Costs to Perfumebay

<sup>[16]</sup> “Under 15 U.S.C. § 1117(a), a court may award reasonable attorneys’ fees to the prevailing party in exceptional circumstances, which includes cases in which the act is fraudulent, deliberate, or willful.” *Horphag Research Ltd. v. Garcia*, 475 F.3d 1029, 1039 (9th Cir.2007) (citation omitted). “Under both sections 1117(a) and 1117(b), awards are never automatic and may be limited by equitable considerations.” *Rolex Watch*, 179 F.3d at 711 (citation and internal quotation marks omitted).

The district court did not abuse its discretion in denying attorneys’ fees to Perfumebay. Perfumebay was not a prevailing party, as it was permanently enjoined from using the conjoined form of its mark. Perfumebay also failed to demonstrate that this was an “exceptional case” involving fraudulent, deliberate, or willful conduct. See *Horphag Research*, 475 F.3d at 1039. Perfumebay is not entitled to attorney’s fees.

#### B. eBAY’s Cross–Appeal

In its cross-appeal, eBay asserts that the district court erred on several grounds. eBay contends that the district court erroneously denied its breach of contract claim based on Perfumebay’s promise to change its name to one that did not utilize a “Bay” suffix. eBay also challenges the district court’s findings that there was not a likelihood of dilution, and that non-conjoined forms of “Perfume Bay” did not create a likelihood of consumer confusion. We conclude that the district court erred only in its

finding that there was not a likelihood of dilution.

#### 1. The Alleged Contract Between eBay and PerfumeBay

<sup>[17]</sup> <sup>[18]</sup> “The principles of contract formation are the same in both the settlement and the nonsettlement context.” *Terry v. Conlan*, 131 Cal.App.4th 1445, 1458, 33 Cal.Rptr.3d 603 (2005) (citation omitted). “In order for acceptance of a proposal to result in the formation of a contract, the proposal must be sufficiently definite, or must call for such definite terms in the acceptance, that the performance promised is reasonably certain.” *Weddington Prod., Inc. v. Flick*, 60 Cal.App.4th 793, 811, 71 Cal.Rptr.2d 265 (1998) (citation omitted). “In particular, a provision that some matter shall be settled by future agreement, has often caused a promise to be too indefinite for enforcement.” *Id.* at 812, 71 Cal.Rptr.2d 265 (citation and alteration omitted). “If an essential element is reserved for the future agreement of both parties, as a general rule the promise can give rise to no legal obligation until such future agreement. Since either party in such a \*1179 case may, by the very terms of the promise, refuse to agree to anything to which the other party will agree, it is impossible for the law to affix any obligation to such a promise.” *Id.* (citation and alteration omitted).

The parties’ communications reflect that only negotiations for a potential settlement agreement occurred. Perfumebay and eBay conducted their negotiations through a series of e-mails between eBay’s counsel and Perfumebay’s counsel. During these negotiations, Perfumebay agreed that it would enter into settlement negotiations if eBay would suspend its opposition to Perfumebay’s application for a trademark before the Patent and Trademark Office (PTO). Perfumebay and eBay subsequently filed a Request For Suspension with the PTO providing that “[t]his request is being submitted in order to permit the parties to discuss possible settlement.” (emphasis added). The request for suspension was made “with the option of either party to resume proceedings at any time during the suspended period.”

The parties’ negotiations became increasingly problematic. They failed to agree to the time period during which Perfumebay would be permitted to use its mark; the acceptable name that Perfumebay would utilize; the duration of Perfumebay’s use of the terms “formerly known as PerfumeBay” and the use of “perfumebay” as a referring URL. At one point, eBay’s counsel observed that progress had been made on the “general contours of a mutually-agreeable settlement.” However, Perfumebay ultimately rejected eBay’s counter-proposals.

<sup>[19]</sup> The parties' conduct reflected that there were essential material terms to be negotiated, and that they had only preliminary discussions on the goals of settlement. "[M]any settlements are reached by an initial agreement on the goals of the settlement. However, agreement to the goals alone may not result in a judicially enforceable settlement agreement." *Terry*, 131 Cal.App.4th at 1458 n. 3, 33 Cal.Rptr.3d 603. "Here, the parties' assenting to the goals of the settlement, without agreeing to the means that were material to the settlement, demonstrates that the parties never formed an enforceable contract." *Id.* at 1459, 33 Cal.Rptr.3d 603.<sup>56</sup>

## 2. eBay's State Trademark Dilution Counterclaim

<sup>[20]</sup> <sup>[21]</sup> "Dilution is a cause of action invented and reserved for a select class of \*1180 marks—those marks with such powerful consumer associations that even non-competing uses can impinge their value." *Thane Int'l, Inc. v. Trek Bicycle Corp.*, 305 F.3d 894, 907 (9th Cir.2002) (citation omitted). "[I]njunctive relief is available under the Federal Trademark Dilution Act if a plaintiff can establish that (1) its mark is famous; (2) the defendant is making commercial use of the mark in commerce; (3) the defendant's use began after the plaintiff's mark became famous; and (4) the defendant's use presents a likelihood of dilution of the distinctive value of the mark." *Avery Dennison Corp. v. Sumpton*, 189 F.3d 868, 874 (9th Cir.1999) (citation omitted). "California's dilution cause of action is substantially similar, providing relief if the plaintiff can demonstrate a likelihood of injury to business reputation or of dilution of the distinctive quality of a mark notwithstanding the absence of competition between the parties or the absence of confusion as to the source of goods or services." *Id.* (citation, alterations, and internal quotation marks omitted).<sup>7</sup>

<sup>[22]</sup> "The mark used by the alleged diluter must be identical, or nearly identical, to the protected mark for a dilution claim to succeed." *Nissan Motor Co. v. Nissan Computer Corp.*, 378 F.3d 1002, 1011 (9th Cir.2004) (citation, alteration, and internal quotation marks omitted). "For marks to be nearly identical to one another, they must be similar enough that a significant segment of the target group of customers sees the two marks as essentially the same." *Thane*, 305 F.3d at 906 (citation and internal quotation marks omitted).<sup>8</sup>

eBay contends that the district court erred in applying *Eli Lilly & Co. v. Natural Answers, Inc.*, 233 F.3d 456 (7th Cir.2000), as opposed to the factors articulated in *Nabisco, Inc. v. PF Brands, Inc.*, 191 F.3d 208 (2d Cir.1999), *abrogated by Moseley v. V. Secret Catalogue*,

537 U.S. 418, 123 S.Ct. 1115, 155 L.Ed.2d 1 (2003). In *Nabisco*, the Second Circuit articulated several factors for demonstrating dilution, including distinctiveness; the marks' similarities; "proximity of the products and likelihood of bridging the gap"; "shared consumers and geographic limitations"; consumer sophistication; actual confusion; "harm to the junior user and delay by the senior user"; and the "effect of senior's [sic] prior laxity in protecting the mark." 191 F.3d at 217–222.

The district court rejected the *Nabisco* test in favor of the test established in *Eli Lilly*, where the Seventh Circuit limited the likelihood of dilution factors to the marks' similarity and the renown of the plaintiff's mark. 233 F.3d at 469.

In *Thane*, we acknowledged *Nabisco*'s incorporation of the standard that "the similarity requirement may be less stringent in circumstances in which the senior mark is highly distinctive and the junior mark is being used for a closely related product." 305 F.3d at 907, n. 7 (citing *Nabisco*). *Thane* focused on whether the marks were nearly identical and did not explicitly adopt the *Nabisco* factors. *Thane*, 305 F.3d at 906–07. Thus, under *Thane* we must consider whether the plaintiff's mark "is so highly distinctive that consumers are likely to view a junior mark that is a bit different as essentially \*1181 the same as the senior one." *Id.* at 907 n. 7.<sup>9</sup>

<sup>[23]</sup> The district court erred in not fully considering the strength of eBay's mark in making its dilution finding.<sup>10</sup> "The stronger a mark—meaning the more likely it is to be remembered and associated in the public mind with the mark's owner—the greater the protection that it is accorded by the trademark laws." *Brookfield*, 174 F.3d at 1058 (citations omitted).

Even under *Eli Lilly*'s limited dilution test, the district court erred in its application. In *Eli Lilly*, the Seventh Circuit considered whether there was a likelihood of dilution of the mark "PROZAC" by defendant's usage of "HEBROZAC." 233 F.3d at 459–61. The Seventh Circuit held that there was a likelihood of dilution given the marks' similarities and the renown of the PROZAC mark. *Id.* at 469.

A similar conclusion results when comparing the "eBay" and Perfumebay's marks. The evidence reflected the strength of eBay's mark, given the mark's distinctiveness and fame. The evidence also demonstrated the strong recognition and association of eBay's mark with its services. The Perfumebay marks contain either the entire eBay trademark or the dominant suffix "Bay." Perfumebay utilizes its marks on the internet to sell

products offered by eBay. With Perfumebay's marks, consumers may no longer associate the usage of the "Bay" suffix with eBay's unique services, specifically the sale of products on an internet-based marketplace. The uniqueness of eBay's mark is diluted in direct proportion to the extent consumers, particularly internet users, disassociate the eBay mark with eBay's services.

In sum, eBay possesses a famous and widely known mark, and has expended considerable resources in attaining this status. In applying *Eli Lilly*, it does not appear that the district court fully considered the highly distinctive qualities of eBay's famous mark. Thus, the district court erred, as "the senior mark is so highly distinctive that consumers are likely to view a junior mark that is a bit different as essentially the same as the senior one." *Thane*, 305 F.3d at 907 n. 7 (internal quotation marks omitted).

### 3. The District Court's Ruling That Non-Conjoined Variants of Perfumebay Did Not Infringe the eBay Mark

<sup>124]</sup> We conclude that the district court did not clearly err in declining to enjoin uses of the non-conjoined versions of Perfume Bay. "[E]ven if a district court finds infringement, it retains the discretion \*1182 to fashion any remedy which alleviates that confusion." *Interstellar Starship Servs.*, 304 F.3d at 948 (citation omitted). "Certainly, it is not required to enjoin the infringer from all uses of the contested mark." *Id.*

The district court's injunction maintained an equitable balance with respect to the disputed marks. The injunction reduces consumer confusion by eliminating the conjoined forms of "perfumebay." The conjoined forms encompass all of eBay's trademark, thus creating confusion when utilized in domain names, online advertising, and search engine results. Although eBay's argument is persuasive, given the common suffix "Bay," eBay failed to establish clear error. The separated forms of "perfume" and "bay" do not include eBay's entire mark. Unlike the conjoined

forms, the non-conjoined forms do not resemble one another in the same manner. The district court's more limited injunction, therefore, "balanced the conflicting interests both parties have in the unimpaired continuation of their trademark use." *Interstellar Starship Servs.*, 304 F.3d at 948 (citation omitted). This is particularly true in view of the fact that non-conjoined forms, such as "Perfume Bay," cannot be utilized as domain names.<sup>11</sup>

### IV. CONCLUSION

The district court did not clearly err in finding that conjoined forms of "perfumebay" created a likelihood of consumer confusion. The district court, therefore, properly enjoined Perfumebay from utilizing such infringing marks. The district court also did not clearly err in finding that the non-conjoined forms of Perfumebay's mark, such as Perfume Bay, did not create a likelihood of confusion.

However, the district court erred in holding that Perfumebay's marks did not produce a likelihood of dilution, as the marks are nearly identical to eBay's mark. The district court also erred in finding that eBay acted with unclean hands in its advertising, as the record did not affirmatively demonstrate the requisite intent to deceive.

The district court did not abuse its discretion by declining to award attorneys' fees to Perfumebay, and correctly rejected eBay's breach of contract claim.

**AFFIRMED** in part and **REVERSED** in part.

Each party shall bear its costs on appeal.

### All Citations

506 F.3d 1165, 84 U.S.P.Q.2d 1865, 07 Cal. Daily Op. Serv. 12,787, 2007 Daily Journal D.A.R. 16,632

### Footnotes

\* The Honorable [Jane R. Roth](#), Senior U.S. Circuit Judge for the Third Circuit, sitting by designation.

1 "A domain name is the simplest way of locating a web site. If a computer user does not know a domain name, she can use an Internet search engine. To do this, the user types in a key word search, and the search will locate all of the web sites containing the key word. Such key word searches can yield hundreds of web sites. To make it easier to find their web sites, individuals and companies prefer to have a recognizable domain name." *Panavision Int'l, L.P. v. Toeppen*, 141 F.3d 1316, 1319 (9th Cir.1998) (internal quotation marks omitted).

- 2 Briggs explained that for keyword advertising, eBay purchases the right to have its ad displayed “when a single word is searched or a set of multiple words.” For example, if “eBay wanted ... [its] ad to come up when someone searched ‘Mercedes Benz,’ [it] would purchase those two words in combination.” According to Briggs, “[a]n affiliate is another company, a third party that is in the business of generating new users or traffic for your web site. And they act on your behalf to drive customers to you.”
- 3 It is unclear why the district court relied on the Second Circuit’s approach in *Savin Corp. v. Savin Group*, 391 F.3d 439 (2d Cir.2004), given our opinions in the internet context for initial interest confusion. See, e.g., *Interstellar Starship Servs.*, 304 F.3d at 945–46.
- 4 Perfumebay contends that the district court erred in enjoining Perfumebay from utilizing the mark solely as a referring Uniform Resource Locator (URL). However, Perfumebay failed to demonstrate that the district court abused its discretion. Specifically, Perfumebay provided no legal support for its assertion.
- 5 eBay’s reliance on *Ersa Grae Corp. v. Fluor Corp.*, 1 Cal.App.4th 613, 2 Cal.Rptr.2d 288 (1991), is misplaced. In *Fluor*, the court of appeal observed that “the contract will be enforced if it is possible to reach a fair and just result even if, in the process, the court is required to fill in some gaps.” *Id.* at 623, 2 Cal.Rptr.2d 288 (citation omitted). However, the contract’s material terms were “sufficiently set forth.” *Id.* Cal. Civ.Code § 1657, providing that “[i]f no time is specified for the performance of an act required to be performed, a reasonable time is allowed,” also does not support eBay’s argument, as there were other disputed material terms.
- 6 eBay’s argument premised on *Allergan Inc. v. Mira Life Group, Inc.*, 72 U.S.P.Q.2d 1756 (C.D.Cal.2004), and *Kelley Blue Book v. Car-Smarts, Inc.*, 802 F.Supp. 278 (C.D.Cal.1992), that we should read a thirty-day time period into the alleged contract is also unavailing. Neither *Allergan* nor *Car-Smarts* involved contractual interpretation. In *Allergan*, the district court ordered a thirty-day reporting requirement based on a default judgment for trademark infringement. 72 U.S.P.Q.2d at 1761. In *Car-Smarts*, the district court ordered a similar reporting requirement after finding trademark infringement. 802 F.Supp. at 294. Additionally, in order to read a fixed time period into the alleged contract, we would have to ignore the parties’ negotiations.
- 7 The district court held that eBay’s mark was famous and that Perfumebay used its mark in commerce. The parties do not challenge these findings on appeal.
- 8 eBay’s dilution claim is made pursuant to Cal. Bus. & Prof.Code § 14330. eBay’s “state law dilution claim is subject to the same analysis as its federal claim.” *Panavision Int’l*, 141 F.3d at 1324.
- 9 Our emphasis on the extent to which the marks are nearly identical and the strength of the senior mark is bolstered by Congress’ passage of the Trademark Dilution Revision Act of 2006 (TDRA). The TDRA amended section 43 of the Trademark Act of 1946 to include a likelihood of dilution cause of action. Pub.L. No. 109–312, 120 Stat. 1730 (2006). The TDRA delineates the following factors in determining “whether a mark or trade name is likely to cause dilution ...”:
- (i) The degree of similarity between the mark or trade name and the famous mark. (ii) The degree of inherent or acquired distinctiveness of the famous mark. (iii) The extent to which the owner of the famous mark is engaging in substantially exclusive use of the mark. (iv) The degree of recognition of the famous mark. (v) Whether the user of the mark or trade name intended to create an association with the famous mark. (vi) Any actual association between the mark or trade name and the famous mark.
- Id.* at 1731.
- 10 The district court, without analysis, held that, pursuant to the *Eli Lilly* test, “the marks are not sufficiently similar to prove a likelihood of dilution.”
- 11 Although there was no clear error in the district court’s finding that the non-conjoined forms did not create a likelihood of confusion in this case, non-conjoined forms may nevertheless have a dilutive effect. “Dilution ... protects the distinctiveness of a particular mark whether or not the products compete or consumer confusion exists. Because dilution and likelihood of confusion tests are directed at different actions, it does not make sense to import the relatively subjective similarity of the marks test from the likelihood of confusion context into the dilution context.” *Thane*, 305 F.3d at 906 (citations omitted).

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