

UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH DAKOTA
CENTRAL DIVISION

STATE OF SOUTH DAKOTA,)	3:16-CV-03019-RAL
)	
Plaintiff,)	
)	
v.)	
)	DEFENDANTS’ STATEMENT OF
WAYFAIR INC.)	MATERIAL FACTS
OVERSTOCK.COM, INC.)	
NEWEGG INC.)	
)	
Defendants.)	
)	

Pursuant to Federal Rule of Civil Procedure 56(c) and Local Rule 56.1(A), Defendants Wayfair Inc., Overstock.com, Inc. and Newegg Inc. submit this statement of material facts as to which there is no genuine issue to be tried:

1. Defendant Wayfair Inc. (“Wayfair”) has its principal place of business in the Commonwealth of Massachusetts and lacks a physical presence in South Dakota. Complaint ¶¶ 18, 19; Joint Answer ¶¶ 18, 19.
2. Defendant Overstock.com, Inc. (“Overstock.com”) has its principal place of business in the State of Utah lacks a physical presence in South Dakota. Complaint ¶¶ 16, 19; Joint Answer ¶¶ 16, 19.
3. Defendant Newegg Inc. (“Newegg”) has its principal place of business in the State of California and lacks a physical presence in South Dakota. Complaint ¶¶ 15, 19; Joint Answer ¶¶ 15, 19.

4. In the previous calendar year (2015), Defendant Wayfair had gross revenue from the sale of tangible personal property delivered into South Dakota in excess of \$100,000, and/or sold tangible personal property for delivery into South Dakota in two hundred or more separate transactions. Complaint ¶ 41; Joint Answer ¶ 41.
5. In the previous calendar year (2015), Defendant Overstock.com had gross revenue from the sale of tangible personal property delivered into South Dakota in excess of \$100,000, and/or sold tangible personal property for delivery into South Dakota in two hundred or more separate transactions. Complaint ¶ 41; Joint Answer ¶ 41.
6. In the previous calendar year (2015), Defendant Newegg had gross revenue from the sale of tangible personal property delivered into South Dakota in excess of \$100,000, and/or sold tangible personal property for delivery into South Dakota in two hundred or more separate transactions. Complaint ¶ 41; Joint Answer ¶ 41.
7. Defendant Wayfair is not registered to collect South Dakota sales tax. Complaint ¶ 40; Joint Answer ¶ 40.
8. Defendant Overstock.com is not registered to collect South Dakota sales tax. Complaint ¶ 40; Joint Answer ¶ 40.
9. Defendant Newegg is not registered to collect South Dakota sales tax. Complaint ¶ 40; Joint Answer ¶ 40.

Dated this 22nd day of July, 2016.

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CERTIFICATE OF SERVICE

The undersigned, one of the attorneys for Defendants, hereby certifies that on July 22, 2016, the foregoing Defendants' Statement of Material Facts was electronically filed with the Clerk of Court using the ECF system which will send notification of such filing to the following:

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