

EXHIBIT A

4 trademark registration.

5 THE COURT: Right.

6 MS. KOBIALKA: So it was based off of that,
7 that a request was put in, and I understand the
8 Sunnyvale group has not opposed that stay. So I don't
9 believe that that's actually going to be dispositive
10 of anything.

11 THE COURT: Well, if you get your trademark,
12 it makes life a whole lot easier, doesn't it?

13 MS. KOBIALKA: Except what you have is having
14 two proceedings, because the trademark opposition
15 proceeding is actually before the Trademark Trial and
16 Appeal Board. I'm not sure how familiar you are with
17 that.

18 THE COURT: I try to stay away from it.

19 MS. KOBIALKA: It is essentially litigation,
20 so you would do discovery, you'd have a trial. It's
21 actually the same thing. So rather than having two
22 concurrent proceedings going, we moved to stay one of
23 them so that the Northern District case will proceed
24 on the trademark, the Freecycle.

25 THE COURT: When do you expect to have the

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03:06:51p 1 Northern District case resolved?

2 MS. KOBIALKA: We have a cutoff in discovery
3 I believe it's in July or August and summary judgment
4 briefing at that time. So I don't know if we have a
5 trial date. I think she's not provided us with a
6 trial date, as I recall.

7 THE COURT: Go ahead. I'm sorry.

8 MS. KOBIALKA: Additionally we've provided

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2 A. Absolutely.

3 MR. FREEMAN: Speaks for itself. Whatever
4 his opinion of it is, Judge, it's irrelevant.

5 THE COURT: The objection is overruled. The
6 answer may stand.

7 BY MS. KOBIALKA:

8 Q. You can answer.

9 A. Yes.

10 Q. Do you see in that particular exhibit a
11 section that says, "How to protect the trademark"?

12 A. Yes, with several steps and bold points and
13 how best to use the term and protect the trademark.

14 Q. What is your understanding as to who drafted
15 that?

16 A. Oh, it's from Tim Oey.

17 Q. So it's your understanding Mr. Oey drafted
18 the section called "How to protect the trademark"?

19 A. Yeah, I'm sure. He led the way for The
20 Freecycle Network for the trademark guidelines and
21 protection.

22 Q. Rather than go through all the documents, do
23 you have any other recollections of instances where
24 Mr. Oey has informed you or The Freecycle Network that
25 it had a valid trademark?

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03:38:17p 1 A. He stated so on numerous occasions and was

2 actually a leader of -- a volunteer leader within The
3 Freecycle Network until he decided he wished to use
4 the term for self.

5 Q. What do you mean he was a volunteer leader?

6 A. He was the volunteer moderator for the local
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7 Freecycle group in Sunnyvale, California.

8 Q. Didn't Mr. Oey provide advice and guidance to
9 The Freecycle Network about how to protect its
10 intellectual property?

11 A. Yes. In fact, he's the one who got us
12 actually moving more quickly to defend the trademark
13 as best we could.

14 Q. At some point did you become aware of Mr. Oey
15 making statements that The Freecycle Network does not
16 have a valid, enforceable trademark in the mark
17 Freecycle?

18 A. Yes. Somewhere around last August or so he
19 started -- I think he felt at some point that he would
20 rather that the term be generic and changed his
21 statements.

22 Q. And are those statements exactly contrary to
23 what he had told The Freecycle Network?

24 A. Absolutely.

25 MS. KOBIALKA: Your Honor, I don't have any

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03:39:27p 1 further questions.

2 THE COURT: Anything else, Mr. Freeman?

3 MR. FREEMAN: No.

4 THE COURT: Thank you. You may step down.

5 Ms. Kirk, do you have anything you're going
6 to add this afternoon?

7 MS. KIRK: I'm just going to kind of focus
8 the discussion here.

9 I listened to a lot of the testimony and a
10 lot of the arguments presented, and it all seems to
11 revolve around this idea about whether or not