

EXHIBIT A

3 will go to it time and time again because they know it
4 to be a single source that they can rely upon for a
5 service."

6 Finally, they, in a footnote, incorporated
7 all of the arguments for a motion to, I believe it was
8 stay or transfer, and it was something that we had
9 no -- we had an 11-page limitation and they don't seem
10 to argue --

11 THE COURT: I'm glad you honored it, too.

12 MS. KOBIALKA: I'm sorry?

13 THE COURT: I'm glad you honored that 11-page
14 limitation.

15 MS. KOBIALKA: So to the extent they're going
16 to incorporate an entire motion that they filed, and
17 has yet to be noticed, incidentally, we don't have any
18 dates for that --

19 THE COURT: Their motion you're talking about
20 is the motion to transfer the case to Sacramento?

21 MS. KOBIALKA: Yes, that's correct.

22 THE COURT: What do you think about that?

23 MS. KOBIALKA: Well, this goes exactly to the
24 issue we talked about before, which is they're saying
25 because Mr. Oey is affiliated with the Freecycle

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03:13:38p 1 Sunnyvale group we really should not have sued him at
2 all here in Tucson, but what we have here is an
3 individual who was involved with strategic business
4 decisions, including the trademark policy, someone who
5 was a moderator for one of the local groups that falls
6 under The Freecycle Network itself and its name. He
7 did, you know, a number of things, and this is a

8 classic case where you have a Tucson-based company, an
9 individual who is availing himself of Tucson, and
10 these particular claims have nothing to do with the
11 allegations that The Freecycle Network -- or the
12 Freecycle Sunnyvale network has alleged with respect
13 to The Freecycle Network. They're two separate
14 issues.

15 THE COURT: I agree that they're two separate
16 issues, but looking at the thing from a practical
17 standpoint, isn't the result of that case sort of
18 going to control this case, too?

19 MS. KOBIALKA: It won't. Because regardless
20 of --

21 THE COURT: Well, if you win over there, you
22 don't need to win over here, do you?

23 MS. KOBIALKA: We do, absolutely.

24 THE COURT: If you win over there, you won.

25 MS. KOBIALKA: No. There's personal

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03:14:42p 1 liability that's attached to Mr. Oey as a result of
2 his specific actions.

3 THE COURT: That's true, that's possible.

4 MS. KOBIALKA: That is a completely separate
5 cause of action. You know, the issues of contributory
6 infringement, issues of injurious falsehood,
7 defamation, disparagement are not at issue at all in
8 the Northern District case. So, you know, if there
9 ever was a case, why shouldn't a Tucson-based company,
10 who has had an individual involved in their strategic
11 business decisions -- he purposely availed himself by
12 providing advice, providing specific recommendations

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