

EXHIBIT 111

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
OAKLAND DIVISION

FREECYCLESUNNYVALE, a
California unincorporated
association,

Plaintiff,

vs.

No. C 06-00324 CS

THE FREECYCLE NETWORK, INC., an
Arizona corporation,

Defendant.

And Related Counterclaims.

DEPOSITION OF LISANNE ABRAHAM

Menlo Park, California

Friday, August 10, 2007

Reported by:
Stacey M. Garibaldi, CSR
CSR No. 11925

Job No. 3-70858

1 FreecycleSunnyvale?

2 A There is a current group called FreecycleSunnyvale.

3 Q Strike that question.

4 Did you start a group called
5 FreecycleSunnyvale?

6 A Yes.

7 Q When did you start that group?

8 A In 2003.

9 Q Why did you start that group?

10 MR. CORGILL: Pardon me. At the end of your
11 answer, you mouthed some words.

12 THE WITNESS: "I think."

13 MR. CORGILL: I just want to make sure that
14 you say them loudly enough for the court reporter to get
15 them down.

16 THE WITNESS: Okay.

17 Q BY MR. GLYNN: Why did you start this Yahoo group
18 called FreecycleSunnyvale in 2003?

19 A Because I thought the idea of freecycling was a
20 good idea.

21 Q How did you find out about freecycling?

22 A From an email, from a friend.

23 Q Do you remember that friend's name?

24 A Albert Kaufman.

25 Q What is your relationship with Albert Kaufman?

1 A He's a friend, but not a close friend.

2 Q Can you explain what the email from Albert Kaufman
3 said?

4 A Albert had set up a group in Portland, and he
5 emailed a bunch of people he knew and said, There's this
6 new thing, this new movement, and you can start it in
7 your own community. And you go to Yahoo and set up the
8 group, and people can give stuff away.

9 Q Did Albert Kaufman say where he heard about this
10 idea?

11 MR. CORGILL: Counsel, the actual email, I
12 believe, is attached to the declaration, which is
13 currently on file in the Northern District of
14 California. If you have a copy of it and would like to
15 show it to the witness, I'm sure that would be the best
16 evidence.

17 THE WITNESS: What was the question?

18 Q BY MR. GLYNN: Did Albert Kaufman ever tell you
19 where he came up with the idea for freecycle, or who he
20 heard it from?

21 A I can't remember.

22 Q Did you have any conversations with Albert Kaufman
23 about Deron Beal?

24 A Conversations, no.

25 Q Email?

1 A Email, there may have been one or two emails.

2 Q Do you remember what the substance of those emails
3 was, what was said in those emails?

4 MR. CORGILL: Objection again. I believe that
5 these emails are attached to the declaration, and those
6 emails would be the best evidence.

7 Q BY MR. GLYNN: Please answer.

8 A I wanted to know how I could get a logo for my
9 site. And I think Albert -- Albert referred me to
10 somebody, and it might have been Deron. I can't
11 remember.

12 Q Do you know who Deron Beal is?

13 A I know who he is.

14 Q What is your understanding of who Deron Beal is?

15 A He is the founder of The Freecycle Network.

16 Q How long was FreecycleSunnyvale, the group that you
17 started in 2003, in operation?

18 A I don't remember exactly, but I would say about two
19 or three years.

20 Q So through sometime in 2005, 2006, somewhere in
21 that time frame?

22 A Yeah, until sunnyvalefree was started.

23 Q Do you know how much time passed between the time
24 that Yahoo shut down FreecycleSunnyvale, the group that
25 you started, to the time when Tim Oey started the group

1 known as sunnyvalefree?

2 MR. CORGILL: Objection; assumes a fact not
3 into evidence yet that Yahoo shut them down.

4 Q BY MR. GLYNN: Go ahead and answer the question.

5 A I don't remember, but I think it was probably about
6 a week.

7 Q Why did the group that you started, known as
8 FreecycleSunnyvale, why did that group stop operations?

9 A As far as I know, Yahoo shut down the group.

10 Q Do you have any idea why Yahoo shut down the group?

11 A It was at the request of Deron or someone in The
12 Freecycle Network.

13 Q Do you know if that request had anything to do with
14 The Freecycle Network claim to a trademark in the word
15 "freecycle"?

16 A Yeah, I think that's what it had to do with.

17 Q Are you a member of the California unincorporated
18 association called FreecycleSunnyvale?

19 A Yes.

20 Q Do you have some sort of a leadership within the
21 California unincorporated association called
22 FreecycleSunnyvale?

23 A I don't think so.

24 Q Are you aware of any other people who are members
25 of this unincorporated association?

1 started known as FreecycleSunnyvale and The Freecycle
2 Network end?

3 A Can you define "affiliation"?

4 MR. GLYNN: Strike that question.

5 Q BY MR. GLYNN: You previously stated there was an
6 affiliation between the group that you started called
7 FreecycleSunnyvale and The Freecycle Network.

8 A Yes.

9 Q Can you describe the nature of that affiliation?

10 A They had a link to our website on their website.

11 Q Was that the total extent of the relationship?

12 A They created another Yahoo group for the moderators
13 that I joined.

14 Q Does that group have a name?

15 A I think it was called the Mod Squad.

16 Q That was a separate Yahoo group, known as the
17 Mod Squad?

18 A Yes.

19 Q And you are a member of the Mod Squad?

20 A Yes.

21 Q Were other members of the group that you started
22 called FreecycleSunnyvale members of the Mod Squad?

23 A Tim was.

24 Q Do you remember the Mod Squad from, what date to
25 what date?

1 A From the time it started, which I don't remember
2 when that was, until the time that the original group
3 ended.

4 Q You stated previously that was sometime in 2005 or
5 2006?

6 A Yes.

7 Q Are you aware of the link to FreecycleSunnyvale on
8 The Freecycle Network being removed during this time?

9 A During which time?

10 Q During 2005 or 2006?

11 A Yes.

12 Q So sometime during 2005 to 2006, you stopped your
13 membership with the Yahoo group called the Mod Squad,
14 and the link that The Freecycle Network had to your
15 group called FreecycleSunnyvale was also a link?

16 A Can you rephrase the question.

17 Q Sure. What I'm trying to ask is -- trying to
18 figure out is what the extent of the relationship
19 between the group that you started FreecycleSunnyvale
20 and The Freecycle Network. I think the testimony we
21 have from you is that there was an Internet link on The
22 Freecycle Network's website that linked to
23 FreecycleSunnyvale. And you were a member of a Yahoo
24 group that was run by The Freecycle Network called the
25 Mod Squad?

1 A Yes.

2 Q I'm just trying to ask you, what were the dates
3 when you stopped being a member of the Mod Squad and
4 that was 2005, 2006?

5 MR. CORGILL: Counsel, again, some of these
6 dates and the associated emails, which are the best
7 evidence, are attached to her declaration, which is
8 currently on file in the Northern District of
9 California. I'm not sure if you're testing her memory
10 right now. Whatever, you're free to ask whatever
11 questions. Some of these dates are available.

12 MR. GLYNN: I'm not aware of a document
13 produced that states when Ms. Abraham stopped being a
14 member of the Mod Squad.

15 MR. CORGILL: I didn't say all of the dates.
16 Some of the dates are reflected in the documents, which
17 have been attached to her declaration.

18 MR. GLYNN: Okay. Well, I'll strike that
19 question.

20 Q BY MR. GLYNN: Do you know if The Freecycle Network
21 removed its link to the group that you started called
22 FreecycleSunnyvale?

23 A Yes.

24 Q Do you have any idea when that link was removed?

25 A It was sometime -- I can't remember if it was

1 simultaneous or right before or right after, but it was
2 very near the time that the other group was shut down.

3 Q Do you know why The Freecycle Network removed that
4 link?

5 A I'm not sure why.

6 Q Did you have any volunteer positions with The
7 Freecycle Network?

8 A With The Freecycle Network? Well, I was a
9 moderator of my group. That was volunteer.

10 Q I know that The Freecycle Network has a variety of
11 positions. I think there are people known as new group
12 approvers, group outreach and assistance, coordinators,
13 and other various job titles.

14 Did you ever have one of those positions
15 within The Freecycle Network?

16 A No.

17 MR. GLYNN: I'm going to hand you Exhibit A,
18 which is a copy of the Amended Complaint of
19 Non-infringement with Business Relations. This was
20 filed in Federal District Court in California by
21 FreecycleSunnyvale against The Freecycle Network.

22 (Defendants' Exhibit 1 was marked for
23 identification.)

24 MR. GLYNN: This document that I just handed
25 is Exhibit 1 to The Freecycle Network, not Exhibit A.

1 Q BY MR. GLYNN: Have you seen this amended complaint
2 before?

3 A I'm not sure. This was produced by --

4 Q This complaint was filed by FreecycleSunnyvale, was
5 prepared by Mayer Brown Rowe & Maw. Dennis Corgill is
6 one of the people that prepared this.

7 A Okay. I have probably seen this.

8 Q Are you familiar with the lawsuit going on between
9 FreecycleSunnyvale and The Freecycle Network in
10 California?

11 A I'm familiar with it.

12 Q I'm going to ask you a few questions about certain
13 paragraphs that are contained in this document.

14 Please turn to Page 7. There is a paragraph
15 that is numbered Paragraph 32.

16 A Okay. At the top of the page it says Page 8, and
17 at the bottom it says 7.

18 Q Page 7 at the bottom. I'm going to read
19 Paragraph 32 into the record.

20 "On or about November 1, 2005 The Freecycle
21 Network sent an email message to FreecycleSunnyvale.
22 The email message informed FreecycleSunnyvale that it
23 must 'stop using the trademark protected freecycle name
24 and logo, as well as any and all copyrighted texts,
25 graphics, rules, guidelines, title or its URL (Yahoo

1 Q Who would typically read those email messages?

2 A Tim, sometimes me. Maybe Jason. I don't know.

3 Q But yourself, Tim Oey, and Jason Wong, all have
4 access to that email account?

5 A Yes.

6 Q Were the three of you the owners of the group that
7 you started called FreecycleSunnyvale?

8 A We were owners. I'm not sure actually if we were
9 the only owners.

10 Q And the three of you were all moderators in that
11 group; is that correct?

12 A Yes.

13 Q If you could please take a look at Paragraph 35,
14 towards the bottom of the page. I'm going to read this
15 paragraph into the record.

16 "On or before November 21, 2005, The Freecycle
17 Network sent a communication or communications to Yahoo,
18 falsely claiming that FreecycleSunnyvale had infringed
19 The Freecycle Network's trademark rights in the term
20 freecycle and/or in its graphic logo and requesting that
21 Yahoo terminate the FreecycleSunnyvale group."

22 In 2003 through 2005, did the group that you
23 started called FreecycleSunnyvale have a graphic logo?

24 A Yeah. We had a graphic that I guess you could call
25 it a logo.

1 Q Can you describe that graphic?

2 A It said "FreecycleSunnyvale," and it had some
3 little drawings in it.

4 Q To the best of your knowledge, did this graphic
5 appear on the FreecycleSunnyvale Yahoo group in November
6 of 2005?

7 A I can't remember if it was still there.

8 Q Can you turn the page to Page 8. Please take a
9 look at Paragraph 38, and I'll read this paragraph to
10 into the record.

11 "The Freecycle Network's false claim that
12 FreecycleSunnyvale had infringed The Freecycle Network's
13 trademark rights has damaged FreecycleSunnyvale's
14 reputation and ongoing business relation with Yahoo.
15 The terms of service for Yahoo accounts provides that,
16 in response to a claim of intellectual property
17 infringement, Yahoo may barr a user from further
18 service. The Freecycle Network's false claim places
19 FreecycleSunnyvale at a continuing risk of losing its
20 ability to contract with Yahoo for an online group
21 service account."

22 When you set up the Yahoo group called
23 FreecycleSunnyvale in 2003, did you sign a contract with
24 Yahoo?

25 A No.

1 Are you aware of any communication between The
2 Freecycle Network that was sent to the Yahoo group that
3 you started called FreecycleSunnyvale that requested
4 that the Yahoo group called FreecycleSunnyvale stop
5 using the word "freecycle" as part of its name and
6 requested that it stop using the graphic logo that
7 included the word "freecycle"?

8 MR. CORGILL: Objection, best evidence.

9 Answer, if you can.

10 THE WITNESS: I know The Freecycle Network
11 sent an email -- like I said before, to either Tim or me
12 individually or to the owner, the group owners, asking
13 us to stop using the word "freecycle."

14 Q BY MR. GLYNN: After that --

15 A Hang on. It was -- I can't remember exactly what
16 it said. It was like we had to put a credit line that
17 freecycle was a registered trademark of The Freecycle
18 Network or something like that.

19 Q After that email that was received, either by
20 yourself or Tim personally or the group owner address of
21 FreecycleSunnyvale, did the Yahoo group called
22 FreecycleSunnyvale continue to use the word "freecycle"
23 as part of its name?

24 A Yes.

25 Q And did the Yahoo group called FreecycleSunnyvale

1 continue to use a graphic logo that included the word
2 "freecycle"?

3 A It was a graphic. I wouldn't call it a logo.

4 Q But it was a graphic that was on the home page for
5 the Yahoo group?

6 A Yes.

7 Q If you could, please, read Paragraph 72. And I
8 will read that into the record.

9 "Counterdefendant has induced others to
10 improperly use The Freecycle Network's Marks without
11 permission."

12 Are you aware of any member of the California
13 unincorporated association encouraging third parties to
14 use the word "freecycle" as a generic term?

15 A Encouraging people, I don't think so. Encouraging
16 people that's -- if somebody says I think it should be
17 generic, does that constitute encouraging people?

18 Q No.

19 A Okay, then, no.

20 Q Would you please take a look at Paragraph 73. I'll
21 read it into the record.

22 "Counterdefendant has its own reusing,
23 recycling, and gifting services such that it is a
24 competitor of The Freecycle Network."

25 To the best of your knowledge is the

1 A Okay, no.

2 Q Have you ever discussed using the word "freecycle"
3 in a generic sense with other people?

4 A Yes.

5 Q Can you summarize those conversations?

6 A The summary would be freecycling a non-trademarked
7 concept.

8 Q Is it accurate to say you have expressed the
9 opinion that the word "freecycle" is generic?

10 A I'm not sure I've expressed that opinion
11 specifically, but I have certainly used the word in a
12 generic way.

13 Q But you cannot recall a time in which you
14 encouraged someone else to use the word "freecycle" in a
15 generic way?

16 MR. CORGILL: Objection. She asked for a
17 definition of "encourage" several times. If you can
18 rephrase so she can understand your question.

19 MR. GLYNN: Go ahead and answer it.

20 THE WITNESS: I use the term in a generic way.
21 If that constitutes encouraging, then, yes. But I don't
22 believe I have ever said, You should use it generically.

23 Q BY MR. GLYNN: You never told a third party, you
24 should use the word "freecycle" generically?

25 A No.

1 about the different people who had been moderators of
2 the online group known as FreecycleSunnyvale.

3 Do you remember that testimony?

4 A Yes.

5 Q Earlier I believe you also testified regarding the
6 people who had been moderators and currently are
7 moderators of the online group sunnyvalefree.

8 Do you recall that testimony?

9 A Yes.

10 Q Do the moderators of an online group have a
11 different relationship among each other as opposed to
12 the relationship that moderators of an online group have
13 with the members of the online group?

14 A Relationship?

15 Q Let me ask the question this way.

16 Do moderators of an online group interact with
17 each other differently than they interact with members?

18 A Yes.

19 Q How is that different?

20 A Here's an example. Recently a member posted
21 multiple offers in separate emails. I -- before I
22 approved the messages, I emailed Tim and said, "Tim, do
23 we want to make this guy put all of his offers in one
24 email, or can we approve them individually?"

25 Q So is it a fair characterization to say that the

1 moderators interact with each other on questions of
2 policies and procedures with respect to the online
3 group?

4 A Yes.

5 Q Has there always been, for the online group known
6 as free FreecycleSunnyvale, a group of moderators?

7 A No.

8 Q When was there not a group of moderators?

9 A When I first started it, I was the only moderator.

10 Q For how long was the group known as
11 FreecycleSunnyvale operating before there became another
12 moderator besides yourself, if you can remember?

13 A I think it was about four months or so after I
14 started the group that I made Tim a moderator.

15 Q So the best of your recollection, as you can recall
16 right now, four months after FreecycleSunnyvale started
17 operations, there was a group of moderators and -- that
18 there was a group of moderators?

19 A Say it again.

20 Q To the best of your recollection, as you presently
21 recall, approximately four months after the
22 FreecycleSunnyvale online group started, there became a
23 group of moderators?

24 A Yes.

25 Q Was there always a group of moderators until

Penalty of Perjury

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

I, LISANNE ABRAHAM, do hereby declare under penalty of perjury that I have read the foregoing transcript; that I have made any corrections as appear noted, in ink, initialed by me, or attached hereto; that my testimony as contained herein, as corrected, is true and correct.

EXECUTED this _____ day of _____, 20____,
at _____, _____.
(city) (state)

LISANNE ABRAHAM

1 I, STACEY M. GARIBALDI, C.S.R. #11925, a Certified
2 Shorthand Reporter in and for the State of California, do
3 hereby certify:

4 That prior to being examined, the witness named in
5 the foregoing deposition was by me duly sworn to testify
6 the truth, the whole truth, and nothing but the truth.

7 That said deposition was taken before me at the time
8 and place set forth and was taken down by me in shorthand
9 and thereafter reduced to computerized transcription
10 under my direction and supervision, and I hereby certify
11 the foregoing deposition is a full, true and correct
12 transcript of my shorthand notes so taken.

13 I further certify that I am neither counsel for nor
14 related to any party to said action nor in anywise
15 interested in the outcome thereof.

16 IN WITNESS WHEREOF, I have hereunto subscribed
17 my name this _____ day of _____, 2007.

18

19

Stacey M. Garibaldi
Certified Shorthand Reporter
No. 11925

20

21

22

23

24

25