

# EXHIBIT 5

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

FREECYCLESUNNYVALE, a  
California unincorporated  
association,

Plaintiff,

vs.

C06-00324 CW

THE FREECYCLE NETWORK, an  
Arizona Corporation,

Defendant.

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DEPOSITION OF TIMOTHY OEY

Menlo Park, California

Friday, August 17, 2007

Reported by:  
DARCY J. BROKAW  
RPR, CRR, CLR, CSR No. 12584

Job No. 3-71394

02:40 1 when they were participating, and then they dropped  
2 out.

3 BY MS. KOBIALKA:

4 Q Fair enough. I understand.

02:40 5 Today, within FreecycleSunnyvale, is there  
6 any kind of leadership positions?

7 A Yes.

8 Q What are those positions?

9 A Co-owner.

02:40 10 Q Any others?

11 A No, I don't believe so.

12 Q And are there people that have joined  
13 Sunnyvalefree as members?

14 A As members of Sunnyvalefree e-mail list,  
02:41 15 there are others who have joined that list.

16 Q Today, how many are there?

17 A As of today, I think it's a little more  
18 than 800, as best as I can recall.

19 Q At the time the lawsuit was filed, were  
02:41 20 there other individuals who were affiliated with  
21 FreecycleSunnyvale who were not co-owners?

22 A Yes.

23 Q What would you classify those individuals  
24 as, if anything?

02:42 25 A They were members of the e-mail list

02:42 1 Sunnyvalefree.

2 Q How many members of the e-mail list  
3 Sunnyvalefree were there at the time the lawsuit was  
4 filed?

02:42 5 A That is harder to remember. I don't  
6 recall exactly. There may be a document in evidence  
7 that reflects this.

8 Q Can you ballpark it roughly?

9 A Ballpark, a couple hundred probably, but  
02:42 10 give or take a hundred.

11 MS. KOBIALKA: We can go off the record  
12 briefly.

13 (Discussion off the record.)

14 BY MS. KOBIALKA:

02:43 15 Q I'd like to show you what we've marked as  
16 Exhibit 17. It's entitled: "Declaration of Tim  
17 Oey, in Support of FreecycleSunnyvale's Motion for  
18 Summary Adjudication," dated July 1st, 2007.

19 MR. CORGILL: Thank you.

02:44 20 BY MS. KOBIALKA:

21 Q Let me know when you've had a chance to  
22 look over this document.

23 MR. CORGILL: Can we go off the record.

24 (Discussion off the record.)

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I, TIMOTHY OEY, do hereby declare under penalty of perjury that I have read the foregoing transcript that I have made corrections as appear noted, in ink, initiated by me; that my testimony as contained herein, as corrected, is true and correct.

EXECUTED this \_\_\_\_\_ of  
\_\_\_\_\_ 2007, at  
\_\_\_\_\_, \_\_\_\_\_  
City State.

\_\_\_\_\_  
TIMOTHY OEY

1 I, the undersigned, a Certified Shorthand Reporter  
2 of the State of California, do hereby certify:

3 That the foregoing proceedings were taken before  
4 me at the time and place herein set forth; that any  
5 witnesses in the foregoing proceedings, prior to testifying,  
6 were duly sworn; that a record of the proceedings was made  
7 by me using machine shorthand, which was thereafter  
8 transcribed under my direction; further, that the foregoing  
9 is a true record of the testimony given.

10 Further, that if the foregoing pertains to the  
11 original transcript of a deposition in a Federal Case,  
12 before completion of the proceedings, review of the  
13 transcript [ X ] was [ ] was not requested.

14 I further certify I am neither financially  
15 interested in the action nor a relative or employee of any  
16 attorney or party to this action.

17 IN WITNESS WHEREOF, I have this date subscribed my  
18 name.

19 Dated: \_\_\_\_\_

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DARCY J. BROKAW  
CSR No. 12584

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