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 INTERSERVE, INC., dba TECHCRUNCH and  
 8 CRUNCHPAD, INC.

9 **UNITED STATES DISTRICT COURT**  
 10 **NORTHERN DISTRICT OF CALIFORNIA**

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 San Francisco, CA 94111-5802

12 **INTERSERVE, INC., dba TECHCRUNCH, )**  
**a Delaware corporation, and CRUNCHPAD, )**  
 13 **INC., a Delaware corporation, )**  
 14 Plaintiffs, )  
 15 vs. )  
 16 **FUSION GARAGE PTE. LTD., a Singapore )**  
**company, )**  
 17 Defendant. )  
 18 )  
 19 )

**Case No. CV-09-5812 RS (PVT)**  
**SCHERB DECLARATION IN**  
**OPPOSITION TO FUSION GARAGE'S**  
**RENEWED MOTION FOR PROTECTIVE**  
**ORDER**  
 Date: June 8, 2010  
 Time: 10:00 a.m.  
 Judge: Hon. Patricia V. Trumbull



# **EXHIBIT A**

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**From:** 'Chandrasekar Rathakrishnan' <chandra@fusiongarage.com>  
**To:** Hedirman Supian <hedirman@mediacorp.com.sg>  
**Sent:** 4/13/2009 9:57:32 PM  
**Subject:** Re: Articles and Update

Kinda of :) in the midst of finalising some stuff...still confidential but will keep u posted.

cheers

On Tue, Apr 14, 2009 at 12:12 PM, Hedirman Supian <hedirman@mediacorp.com.sg> wrote:

Thanks Chandra, I saw these updates as well. So now you guys are handling the product design as well?

Hedirman

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**From:** Chandrasekar Rathakrishnan [mailto:[chandra@fusiongarage.com](mailto:chandra@fusiongarage.com)]  
**Sent:** 14 April 2009 11:57  
**To:** Hedirman Supian

**Subject:** Fwd: Articles and Update

Hi Hedirman ,

Hope this mail finds you well. Just a quick update on things....we had articles written on us a couple of days back...

fyi and reference.... pls let me know if you have any questions.....

**The article from mike ..**

<http://www.techcrunch.com/2009/04/10/about-those-new-crunchpad-pictures/>

**the first few articles documenting the leak! & some others .....**

<http://www.crunchgear.com/2009/04/09/crunchtablet-hits-the-net-a-little-early/>

<http://www.businessinsider.com/crunchpad-2009-4>

<http://www.engadget.com/2009/04/09/leaked-pics-of-the-crunchpad-make-it-look-dangerously-close-to-a/>

<http://www.kojakfull.com/techcrunch-tablet-is-totally-awesome.html>

<http://spamflet.posterous.com/crunchpad-the-next-big-must-have-gadget>

<http://www.seanpercival.com/blog/2009/04/10/crunchpad-tilf/>

<http://blog.dustincurtis.com/could-arrington-have-pulled-off-the-crunchpad>

<http://blog.wired.com/gadgets/2009/04/leaked-photos-w.html>

<http://blogs.courierpostonline.com/gogogadget/2009/04/10/if-apple-wont-build-a-touchscreen-tablet-techcrunch-will/>

<http://presata.com/wp/software/crunchpad-photos-of-techcrunchs-delicious-burgaswebcom-tablet-techcrunch-8/>

<http://mobilitysite.com/2009/04/the-crunchpad-leaks-engadget-breaks-the-story/>

<http://smartech.blogetery.com/2009/04/12/first-crunchpad-tablet-pc-images-go-live/>

<http://arabcrunch.com/2009/04/crunchpad-shipping-soon.html>

<http://www.ehomeupgrade.com/2009/04/09/near-finalized-crunchpad-photos-inadvertently-hit-the-net/>  
<http://www.gottabemobile.com/2009/04/09/techcrunchs-crunchpad-makes-a-showing-pretty-sexy/>  
<http://www.lorenheiny.com/2009/04/09/12-crunchpad-to-support-capacitive-touch/>

**Summaries** (after a day of news...good read)

<http://www.engadget.com/2009/04/10/michael-arrington-drops-science-on-crunchpad-still-wont-sell-u/>  
<http://www.lockergnome.com/forian/2009/04/12/crunchpad-leak-roundup/>  
<http://i.gizmodo.com/5207334/all-about-the-crunchpad-web-tablet#viewcomments>

**"With immediate effect, we have changed our email domain to mediacorp.com.sg"**

**IMPORTANT:** This message is intended for the recipient named above. It may contain confidential or privileged information. If you are not the intended recipient, please notify the sender immediately by replying to this message and then delete it from your system. Any form of unauthorized use or dissemination is prohibited. Risks are inherent in all internet communication. Each recipient is responsible for protecting its system from viruses and/or other harmful code and/or device. The sender is not responsible, and hereby disclaims all liabilities arising from or in relation to any viruses and/or other harmful code and/or device.

# **EXHIBIT B**

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**From:** 'Chandrasekar Rathakrishnan' <chandra@fusiongarage.com>  
**To:** giles saunders <giles@fusiongarage.com>; arulprasad <arulprasad@fusiongarage.com>  
**Sent:** 5/14/2009 8:13:19 PM  
**Subject:** Fwd: first set to get u going,,next one coming after this

next set of slides....

arul shld tell story of how we got to tc50....

tc50 story..... (maybe can use this pic as cover for tat,, here we come SF.... dsc0391

dsc0023

then dsc 0088, dsc 0123,, dsc 0248 , dsc0242

effects from not sleeping for days..... dsc0171

mobilize (arul shld talk abt the mobilize story)

slides will be with following photos....

dsc0766, dsc 0801, dsc 0821

then arul shld focus on collaboration with techcrunch.... ( slide shld say.....the meeting with the man itself.. n here arul can talk abt how we met mike and how the collaboration came abt) , dsc 1398

then taiwn idf...(shld talk abt how we got there etc...) photo wld be dsc 1944

then shld have a slide that tlks thru the evolution of the collaboration with techcrunch....prototype b then prototype c.... (show photos of crunchpad here )

----- Forwarded message -----

**From:** **Chandrasekar Rathakrishnan** <chandra@fusiongarage.com>  
**Date:** Fri, May 15, 2009 at 10:56 AM  
**Subject:** first set to get u going,,next one coming after this  
**To:** giles saunders <giles@fusiongarage.com>, arulprasad <arulprasad@fusiongarage.com>

Presentation

1st part...

the first 3 slides on fg getting techcrunched...

4th slide should say "Journey of Fusion Garage" bottom tagline shld say how a singapore startup went global....

5th slide onwards.... shld be the "the beginning days"

photos used wld be as follows :

BK Thinktank : P1190153.JPG, p1190163.

outside storytelling: p1190141.jpg

first days: p1190219

shopping at ikea p1190221

setting up: p91190222

new office :p1190702, p1190700

product discussions: p1190463

after a hard day's work..... p1190838.jpg

( arul will say this after the above... as u can see .., we have worked very hard..... how hard ?s... its time to bring on my co-speaker, bok, looking at him, this is how hard we have worked...bok then n now... with bok on stage...bok will remain on stage.... while arul continues his presentation.... )

# **EXHIBIT C**



1 Fusion Garage or anybody associated with Fusion  
2 Garage appropriated or took from TechCrunch or  
3 CrunchPad?

4 MR. BRIDGES: Objection, vague and  
5 ambiguous, calls for a legal conclusion, foundation  
6 competence.

7 THE WITNESS: I'm not comfortable making  
8 legal conclusions.

9 BY MR. STERN:

10 Q. Can you tell me any feature of the  
11 JooJoo that was contributed to in whole or in part  
12 by either TechCrunch or CrunchPad?

13 MR. BRIDGES: Objection, foundation,  
14 competence in part, and vague and ambiguous.

15 But you may answer.

16 THE WITNESS: We -- obviously the  
17 project, CrunchPad project began before Fusion  
18 Garage entered the picture. It began with our  
19 initial post in July with progress from there  
20 through the various prototypes.

21 Once Fusion Garage did enter the picture  
22 and started working with us, we worked  
23 collaboratively as a team. There was no difference  
24 between what we were doing and what they were doing.  
25 They were in our office working with us directly,

1 mixing and mingling with my employees.

2           It was a purely -- an awesome  
3 collaborative project where we were working together  
4 constantly. Decisions were made at high levels,  
5 passed through me; low-level suggestions were made,  
6 passed right back up, and it was kind of how the  
7 product was developed.

8 BY MR. STERN:

9           Q. Can you tell me the high-level  
10 suggestions that were made by anybody at TechCrunch  
11 or CrunchPad to anybody at Fusion Garage? No, let  
12 me change that question.

13           Can you please list for me all the  
14 high-level suggestions that were made by anybody at  
15 TechCrunch or CrunchPad to anybody at Fusion Garage  
16 where those high-level suggestions were proprietary  
17 rights of TechCrunch or CrunchPad?

18           MR. BRIDGES: Objection, calls for a  
19 legal conclusion.

20           THE WITNESS: Yes, I'm uncomfortable  
21 forming legal conclusions.

22 BY MR. STERN:

23           Q. Can you tell me the high-level  
24 suggestions that were made by anybody at TechCrunch  
25 or CrunchPad to anybody at Fusion Garage?

1           A.    All of them.  I mean, every aspect of  
2           the product was something we discussed constantly.

3           Q.    Okay.  Tell me.

4           A.    Examples, what the case was made out of,  
5           what color it would be, where buttons would be, what  
6           kind of touch technology we could afford, what kind  
7           of touch technology was possible.

8           Q.    Could you just slow down for the court  
9           reporter.

10          A.    Sure, but I'm going to list every  
11          feature that was there because it was a  
12          collaborative project that we worked on constantly  
13          all day long every day.

14          Q.    I want to make this very clear.  I did  
15          not ask for what was all of the features of the  
16          project.  I have asked, and I want to make this  
17          clear for the judge, I asked, can you tell me the  
18          high-level suggestions that were made by anybody at  
19          TechCrunch or CrunchPad to anybody at Fusion Garage?  
20          I'm asking about high level.  We'll get to low  
21          level, but I'm asking about the high-level  
22          suggestions that were made by anybody at TechCrunch  
23          or CrunchPad to anybody at Fusion Garage.  I'm not  
24          asking about collaboration; I'm asking about -- I'm  
25          looking for a list of specific suggestions.

1                   MR. BRIDGES: He was giving you a list  
2 of specific suggestions when you interrupted him,  
3 Mr. Stern.

4                   THE WITNESS: If you look at my original  
5 post from July of 2008 -- do we have that? Am I  
6 allowed to pull up documents? Probably not, right?

7                   MR. BRIDGES: No.

8                   THE WITNESS: Virtually every feature  
9 that I stated and I reserve to look to was original  
10 at the time, and almost every one of them is part of  
11 the CrunchPad project. So those are some examples,  
12 such as boots directly into a browser, browser only,  
13 large screen, touchscreen, etcetera.

14                   As the project went on, there were,  
15 again, additional levels of input which were  
16 virtually every product decision you could make:  
17 Whether the device had a fan or not, how much heat  
18 we could handle without a fan, whether we could deal  
19 with the extra height of the device and lowering of  
20 battery capacity with the fan, is one example. ARM  
21 versus Intel's Adam processor platform was a  
22 constant debate. Going with ARM, significantly  
23 lower cost -- we're talking about a \$35 to \$45 cost  
24 low end on the X86 ARM platform -- I'm sorry, Adam  
25 platform to maybe \$10, \$15 for an ARM11 chip using a

1 fraction of the power.

2 The biggest problem was that Flash didn't  
3 work properly on the ARM, so constant debates over  
4 that. And the ability to run Flash was a key factor  
5 that we debated constantly, and it was a key issue  
6 for me that we could run Flash and run Flash  
7 effectively on this device so that people could  
8 watch movies.

9 We debated issues like whether or not  
10 there should be a, quote-unquote, app store for the  
11 device where people could create their own  
12 applications and upload the software to the device.  
13 That was something that we agreed wouldn't happen in  
14 the early days -- it's a lot of work -- but we might  
15 look at later.

16 The form factor, literally the aspect  
17 ratio of the screen, limited a lot by what was  
18 available in a cost-effective way, but I wanted to  
19 have a large screen. Twelve inches for me really  
20 was a minimum. I actually would have liked a 13-  
21 inch screen. But one of the key issues was not just  
22 the size of the screen but also the aspect ratio.

23 And a square screen would have been a  
24 much more attractive option. It was something we  
25 debated endlessly. The problem is finding vendors

1 at the appropriate price for that screen.

2 We worked with guys in Asia. Brian  
3 Kindle specifically worked with the Fusion Garage  
4 team to try to find somebody to find a better screen  
5 for us. Those discussions were ongoing all the  
6 time.

7 The operating system, the debate we had  
8 after the announcement of Google's Chrome project.  
9 In the summer of 2009, Google announced that they  
10 would be creating a Linux-based operating system  
11 that was browser-only effectively, very similar to  
12 the original idea for the CrunchPad. There was a  
13 discussion with the team, Chandra and I, over a long  
14 period of time as to whether we would eventually  
15 need to port to that operating system because it was  
16 very similar to what we were doing, and it -- and  
17 the problem was that there were, you know,  
18 theoretically hundreds of thousands of developers  
19 working to improve that -- I think I'm done.  
20 There's probably a few more things I'll remember;  
21 then I can bring them up.

22 The important thing to note is that  
23 literally all day every day, particularly when  
24 Chandra was in town and available, we would be  
25 debating, you know, the device, what we could do,

1           what parameters we had and what we could create  
2           together.

3           BY MR. STERN:

4                   Q.    Did you ever ask Mr. Rahthakrishnan to  
5           maintain any of the information which you've just  
6           identified in your answer in confidence?

7                   A.    Yes.

8                   Q.    And can you tell me when you did that?

9                   A.    A few times.  And by the way, when you  
10          talk about in confidence, there is -- of course  
11          there's discussion between Chandra and his employees  
12          and Chandra and the outside world.  There were some  
13          things Chandra kept from his employees.  Like when  
14          we ditched the entire operating system to go with  
15          Chrome, it was up to him to talk to them about it  
16          because it might be a morale hit for them to think  
17          about working on software that would eventually be  
18          thrown away and replaced with something else.

19                          But with regard to -- I'm sorry?

20                   Q.    I'm going to move to strike all of this.  
21          I'm asking for dates.  I'm looking for dates.  Can  
22          you tell me --

23                          MR. BRIDGES:  Whoa.

24           BY MR. STERN:

25                   Q.    -- the question was -- hey, chill.



# **EXHIBIT D**

IN THE UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

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**CERTIFIED  
COPY**

INTERSERVE, INC., dba )  
TECHCRUNCH, a Delaware )  
corporation, and CRUNCHPAD, )  
INC., a Delaware )  
corporation, )

Plaintiffs, )

vs. )

FUSION GARAGE PTE. LTD., a )  
Singapore company, )

Defendants. )

**HIGHLY CONFIDENTIAL**

**ATTORNEY'S EYES ONLY**

No. C 09-cv-5812 RS  
(PVT)

VIDEOTAPED DEPOSITION OF  
CHANDRASEKAR RATHAKRISHNAN

Thursday, April 22, 2010

CONFIDENTIAL portions bound separately: Pages 44-49, 94-105,  
110-158, and 281-334.

HIGHLY CONFIDENTIAL - ATTORNEYS' EYES ONLY portions bound  
separately: Pages 50-56, 65-66, 106-109, and 159-258

REPORTED BY: DEBRA ALLUSTIARTI CSR 10929 JOB 427851

**M E R R I L L C O R P O R A T I O N**

10:30:10 1 Q. Is she still a shareholder of Fusion  
10:30:13 2 Garage?  
10:30:13 3 A. She isn't a shareholder of Fusion  
10:30:16 4 Garage.  
10:30:16 5 MR. DOOLITTLE: Did you say "is" or  
10:30:17 6 "isn't"?  
10:30:17 7 THE WITNESS: She isn't -- she still  
10:30:19 8 isn't a shareholder of Fusion Garage.  
10:30:19 9 MR. BRIDGES: Q. But she was at the  
10:30:21 10 creation?  
10:30:24 11 A. She was at the creation.  
10:30:25 12 Q. How did she dispose of her shares?  
10:30:26 13 MR. DOOLITTLE: Objection, calls for  
10:30:27 14 speculation.  
10:30:30 15 THE WITNESS: It was transferred to me.  
10:30:30 16 MR. BRIDGES: Q. Did she transfer all  
10:30:33 17 her shares to you?  
10:30:34 18 A. She transferred all her shares to me.  
10:30:37 19 Q. When did that occur?  
10:30:41 20 A. Sometime in -- I don't quite recollect  
10:30:41 21 this, but I believe it's sometime in  
10:30:42 22 September 2010.  
10:30:47 23 Q. September?  
24 A. Sorry. September 2009.  
25 Q. What other shareholders have there ever

10:30:56 1 been in Fusion Garage at any time?

10:31:00 2 A. That's confidential.

10:31:02 3 Q. This case is governed by a protective  
10:31:05 4 order, so you may answer.

10:31:05 5 MR. DOOLITTLE: Well, to the extent that  
10:31:07 6 that requires you to divulge investor information  
10:31:10 7 that hasn't already been divulged to the public or  
10:31:11 8 to TechCrunch, I'll instruct you not to answer  
10:31:11 9 based on the motion for protective order that was  
10:31:15 10 granted.

10:31:15 11 THE WITNESS: So to clarify, what's  
10:31:18 12 already public knowledge; is that correct?

10:31:18 13 MR. BRIDGES: Q. What is public  
10:31:21 14 knowledge?

10:31:26 15 A. The shareholders includes -- that are  
10:31:27 16 public knowledge -- Raffles Technology.

10:31:28 17 Q. What others?

10:31:32 18 A. Stamford.

10:31:34 19 Q. S-t-a-m-f-o-r-d?

10:31:37 20 A. Yeah. Technology.

10:31:40 21 Q. Yes.

10:31:41 22 A. Dr. Bruce Lee.

10:31:43 23 Q. Yes.

24 A. Myself.

25 Q. Yes.

10:31:55 1 A. CSL.

10:31:57 2 Q. That's a Malaysian company?

10:31:58 3 A. Yes.

10:32:01 4 Q. What others?

10:32:02 5 A. That's what's public knowledge.

10:32:04 6 Q. How many shareholders are there who are

10:32:05 7 not known to the public?

10:32:07 8 MR. DOOLITTLE: You can answer that.

10:32:09 9 THE WITNESS: There were two of them.

10:32:10 10 MR. BRIDGES: Q. Where are they

10:32:19 11 located?

10:32:24 12 A. In Singapore and Hong Kong.

10:32:30 13 MR. BRIDGES: Mr. Doolittle, I don't

10:32:33 14 think that your client's entitled to withhold that

10:32:34 15 information based on the order, but we can circle

10:32:35 16 back to that at the end of the day.

10:32:38 17 MR. DOOLITTLE: Okay. We disagree.

10:32:45 18 MR. BRIDGES: I understand.

10:32:46 19 Q. Who have been all of the officers --

10:32:52 20 sorry. Strike that.

10:32:53 21 When you founded Fusion Garage, did it

10:32:54 22 have a board of directors?

10:32:56 23 A. Yes.

24 Q. Who was on the board of directors?

25 A. It was my mother.

11:07:38

11:07:42

11:07:50

11:07:56

11:07:57

11:07:58

11:08:00

11:08:03

8 Q. Approximately how many orders?

11:08:06

9 MR. DOOLITTLE: Object. Instruct him

11:08:09

10 not to answer based on the protective order that

11:08:10

11 was granted. That information falls within that.

11:08:14

12 MR. BRIDGES: I don't think so. The

11:08:14

13 protective order is limited to source code and

11:08:15

14 highly proprietary information.

11:08:15

15 MR. DOOLITTLE: I think we disagree

11:08:16

16 about that.

11:08:16

17 MR. BRIDGES: Would you like to see the

11:08:17

18 protective order?

11:08:22

19 MR. DOOLITTLE: I have a copy.

11:08:28

20 MR. BRIDGES: Okay. Well ...

11:08:30

21 THE WITNESS: Excuse me.

11:08:34

22 MR. BRIDGES: It says under

11:08:36

23 "Conclusion," For the foregoing reasons, Defendant

24 FG's motion is granted. The protective order shall

25 apply to Defendant FG's source code and other

11:08:41 1 highly proprietary information --

11:08:48 2 MR. DOOLITTLE: I believe that Fusion  
11:08:48 3 Garage believes that its number of preorders is  
11:08:50 4 highly proprietary information.

11:08:52 5 MR. BRIDGES: I'm not asking for  
11:08:56 6 preorders. I'm asking for a number -- for orders  
11:08:57 7 that Fusion Garage has not yet fulfilled and are no  
11:08:59 8 longer in the preorder stage.

11:09:02 9 THE WITNESS: The number of orders are  
11:09:04 10 also proprietary information.

11:09:05 11 MR. BRIDGES: I think I'm entitled to  
11:09:06 12 that answer.

11:09:08 13 MR. DOOLITTLE: We disagree.

11:09:12 14 MR. BRIDGES: Can you please mark that  
11:09:16 15 in the transcript.

11:09:21

11:09:25

11:09:26

11:09:41

11:09:46

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14:46:01

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14:46:23

20 MR. BRIDGES: Q. Approximately how many  
21 orders are you getting each day now?

14:46:26

14:46:26

22 A. That's confidential and proprietary  
23 information.

14:46:28

24

Q. I'd like to know.

25

MR. DOOLITTLE: Well, that's private

14:46:34 1 financial information, so I'll instruct him not to  
14:46:35 2 answer for now.

14:46:41 3 MR. BRIDGES: No, I don't think that's  
14:46:43 4 going to be covered by the protective order now. I  
14:46:43 5 think it's extremely relevant to our motion for  
14:46:43 6 preliminary injunction, so I don't think --

14:46:43 7 MR. DOOLITTLE: No --

14:46:45 8 MR. BRIDGES: -- there's a problem to  
14:46:45 9 our accessing that information.

14:46:49 10 MR. DOOLITTLE: -- I do. I mean, it's  
14:46:50 11 proprietary information. The order granting the  
14:46:50 12 motion for protective order says it covers  
14:46:54 13 proprietary information.

14:46:57 14 MR. BRIDGES: It says it covers source  
14:47:00 15 code and highly proprietary information.

14:47:00 16 THE WITNESS: We consider this highly  
14:47:03 17 proprietary information.

14:47:05 18 MR. BRIDGES: Q. Why? Is it because it  
14:47:05 19 would embarrass Fusion Garage?

14:47:09 20 A. No.

14:47:09 21 Q. Why, then, is it highly proprietary  
14:47:12 22 information?

14:47:17 23 A. We do not want this to be misused.

24 Q. It will not be misused if it's protected  
25 by this court's protective order.

14:47:26 1 A. Which is why we're saying it's highly  
14:47:29 2 proprietary information, and I'm not revealing it.

14:47:33 3 Q. What kind of misuse do you fear of the  
14:47:37 4 information? It can be designated "attorneys' eyes  
14:47:38 5 only," so that only the attorneys for the parties  
14:47:41 6 can know it.

14:47:48 7 How would that harm Fusion Garage for  
14:47:48 8 TechCrunch's or CrunchPad's attorneys to know that  
14:47:50 9 answer?

14:47:52 10 MR. DOOLITTLE: I've given him the  
14:47:53 11 instruction. He doesn't want to answer the  
14:47:55 12 question. Let's move on.

14:47:59 13 MR. BRIDGES: No, he can answer that  
14:48:01 14 question; the question I just asked.

14:48:05 15 THE WITNESS: Again, we view as this  
14:48:07 16 being -- being a private company, we view this as  
14:48:10 17 private and proprietary information, and for that  
14:48:12 18 reason, I do not feel comfortable in revealing that  
14:48:16 19 information.

14:48:19 20 MR. BRIDGES: I wasn't asking about your  
14:48:19 21 comfort. I'm was asking about the harm to the  
14:48:21 22 company.

14:48:23 23 I'll ask the court reporter to repeat my  
24 last question.

25 (Record read as follows: Q. What kind

14:47:35 1 of misuse do you fear? If the information could be  
14:47:39 2 designated "attorneys' eyes only," so that only the  
14:47:45 3 attorneys for the parties can know it, how would  
14:48:48 4 that harm Fusion Garage for TechCrunch's or  
14:48:51 5 CrunchPad's attorneys to know that answer?)

14:48:54 6 MR. DOOLITTLE: I'll object, also. It's  
14:48:59 7 vague and ambiguous, incomprehensible. He's  
14:49:02 8 already answered the question.

14:49:05 9 THE WITNESS: Again, I'll say the same  
14:49:06 10 answer; which is, I view this as proprietary  
14:49:06 11 information, and I do not want to reveal this at  
14:49:07 12 this point.

14:49:07 13 MR. BRIDGES: Q. So you're refusing to  
14:49:09 14 reveal that --

14:49:12 15 MR. DOOLITTLE: I've instructed him not  
14:49:12 16 to answer based on the order granting the motion  
14:49:15 17 for protective order.

14:49:18 18 MR. BRIDGES: You're instructing him  
14:49:20 19 to -- not to answer my most recent question?

14:49:21 20 MR. DOOLITTLE: The underlying question.

14:49:22 21 MR. BRIDGES: No, I'm asking him for an  
14:49:23 22 answer to my most recent question.

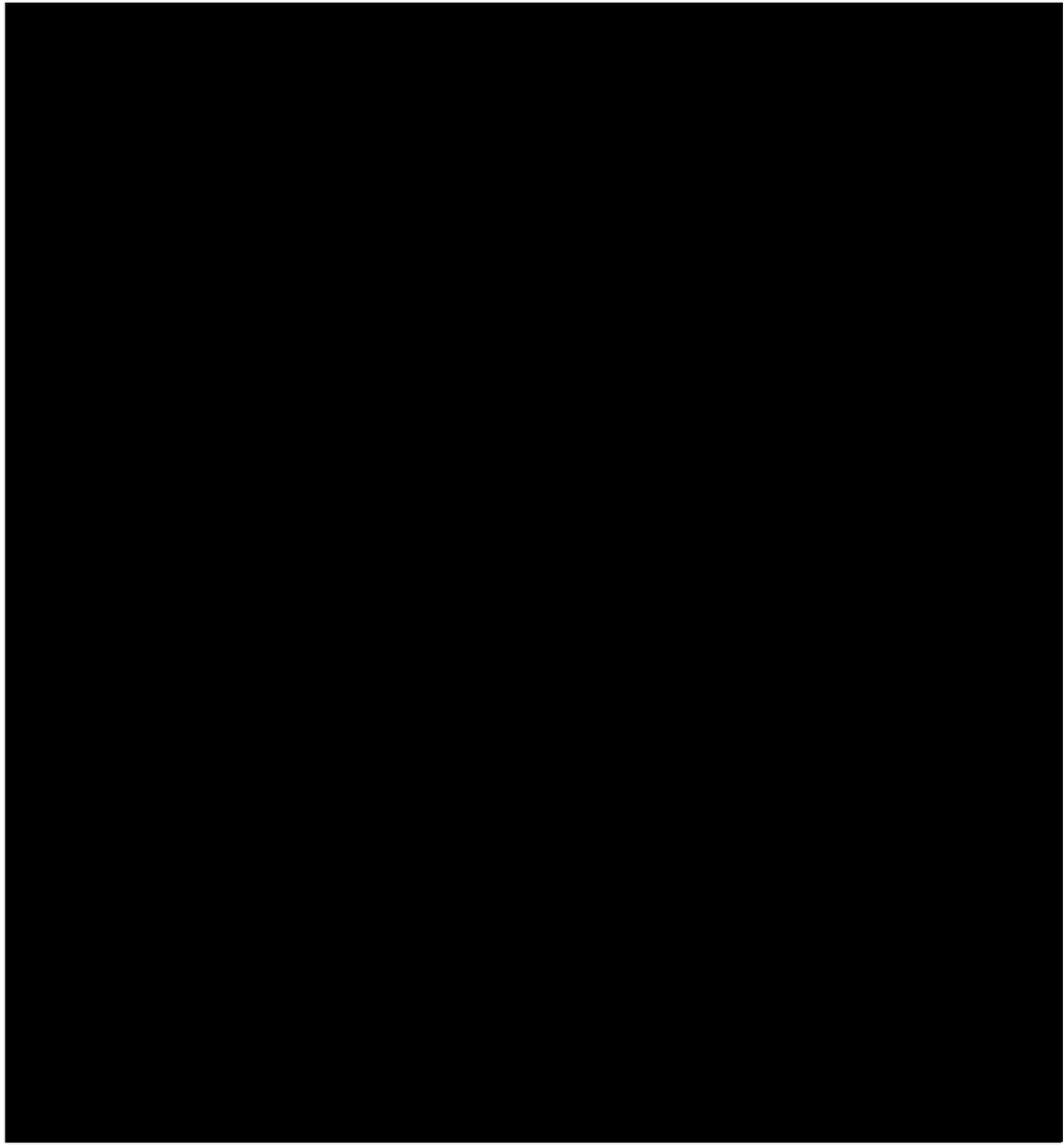
14:49:23 23 MR. DOOLITTLE: He already provided an  
24 answer to your most recent question.

25 MR. BRIDGES: He said he wasn't

14:49:28 1 comfortable, and that did not answer my question.  
14:49:30 2 Now, are you instructing him not to answer that --  
14:49:32 3 MR. DOOLITTLE: No, I'm instructing him  
14:49:35 4 not to answer the underlying question.  
14:49:35 5 MR. BRIDGES: That's fine. I'm not  
14:49:38 6 asking the underlying question anymore. I'm going  
14:49:40 7 to ask the court reporter to read that last  
14:49:41 8 question I made one more time.  
14:49:43 9 Q. And then I'm going to ask you to answer  
14:49:43 10 that question, please.  
14:49:46 11 A. Okay.  
14:49:47 12 MR. DOOLITTLE: Can you read his answer  
14:49:48 13 too, please?  
14:49:51 14 MR. BRIDGES: No, that's not needed at  
14:47:26 15 the moment. There's a question pending.  
14:47:31 16 (Record read as follows: Q. What kind  
14:47:35 17 of misuse do you fear? If the information could be  
14:47:39 18 designated "attorneys' eyes only," so that only the  
14:50:29 19 attorneys for the parties can know, how would that  
14:50:34 20 harm Fusion Garage to know that answer?)  
14:50:35 21 MR. DOOLITTLE: That question's  
14:50:35 22 incomprehensible, vague and ambiguous. Objection  
14:50:37 23 on that basis.  
24 MR. BRIDGES: Your objection is noted.  
25 The witness may answer.

14:50:44 1 THE WITNESS: I'm not sure how this  
14:50:47 2 information can be misused, but I know it can be.  
14:50:50 3 But I understand that it can be open for misuse,  
14:50:52 4 and I'm not revealing it for that reason.  
14:51:13 5 MR. BRIDGES: Can you please mark the  
14:51:15 6 transcript here.

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15:07:10 13 Q. So other than CSL, who provided funding  
15:07:15 14 in this -- in the three million that you raised?

15:07:15 15 A. That's proprietary information. It's  
15:07:17 16 confidential.

15:07:21 17 MR. DOOLITTLE: Well, going back to your  
15:07:24 18 prior testimony, you can disclose who TechCrunch  
15:07:28 19 already knows about, what's already been published  
15:07:29 20 in the press. I know you want to keep two  
15:07:31 21 investors confidential, so --

15:07:31 22 THE WITNESS: And that's in reference to  
15:07:33 23 two investors.

24 MR. BRIDGES: You know, the concern here  
25 is that we're entitled to follow-up discovery.

15:07:44 1 We're entitled to -- who the investors are does not  
15:07:48 2 seem, in any respect, to be the type of highly  
15:07:52 3 proprietary information that Judge Trumbull's order  
15:07:53 4 envisions. I'm just trying to avoid having to  
15:07:54 5 bring him back for that purpose --

15:07:56 6 MR. DOOLITTLE: I understand, but, I  
15:08:00 7 mean, one of the things that you've disclosed as,  
15:08:02 8 you know, supposed contributions that TechCrunch  
15:08:06 9 provided was sources of funding. And if that's  
15:08:06 10 something you're going to call a trade secret or a  
15:08:08 11 business idea, then that's implicated by the order.

15:08:08 12 MR. BRIDGES: It's not called a trade  
15:08:10 13 secret by any means.

15:08:11 14 MR. DOOLITTLE: I think it's something  
15:08:12 15 that's listed in your discovery response as being  
15:08:14 16 some contribution or business idea --

15:08:20 17 MR. BRIDGES: I don't think that's what  
15:08:21 18 Judge Trumbull intended by "highly proprietary  
15:08:23 19 information and source code."

15:08:24 20 MR. DOOLITTLE: That's your  
15:08:25 21 interpretation. But as of right now, I think he  
15:08:26 22 has a basis not to disclose those other two  
15:08:27 23 investors. But the investors that have been  
24 disclosed have --

25 THE WITNESS: I've already made

15:08:31 1 reference to that already.

15:08:36 2 MR. BRIDGES: Q. Is there any reason  
15:08:37 3 why the identity of those two investors is  
15:08:39 4 particularly sensitive?

15:08:42 5 A. It's just confidential information at  
15:08:46 6 the moment, and we don't think it's the right time  
15:08:52 7 to reveal the investors at this stage.

15:08:52 8 Q. Have they asked their identities not to  
15:08:54 9 be divulged?

15:09:01 10 A. Not that I'm aware of.

15:09:02 11 Q. What harm would flow from divulging the  
15:09:04 12 names of those investors?

15:09:05 13 MR. DOOLITTLE: Objection, vague and  
15:09:08 14 ambiguous as to the term "harm."

15:09:15 15 THE WITNESS: I can't speculate on that.

15:09:20 16 MR. BRIDGES: My concern, Mr. Doolittle,  
15:09:24 17 is that it stymies our ability to get very  
15:09:29 18 important discovery in this case because we don't  
15:09:29 19 even know who would be appropriate subjects of  
15:09:31 20 subpoenas.

15:09:34 21 MR. DOOLITTLE: I understand, but he  
15:09:34 22 said he's willing to disclose the other investors,  
15:09:38 23 as well as the amount of the investments to date.  
24 He just doesn't want to disclose two of his  
25 investors.

15:09:41 1 MR. BRIDGES: I know, and I don't think  
15:09:42 2 there is a basis for those.

15:09:43 3 MR. DOOLITTLE: We do.

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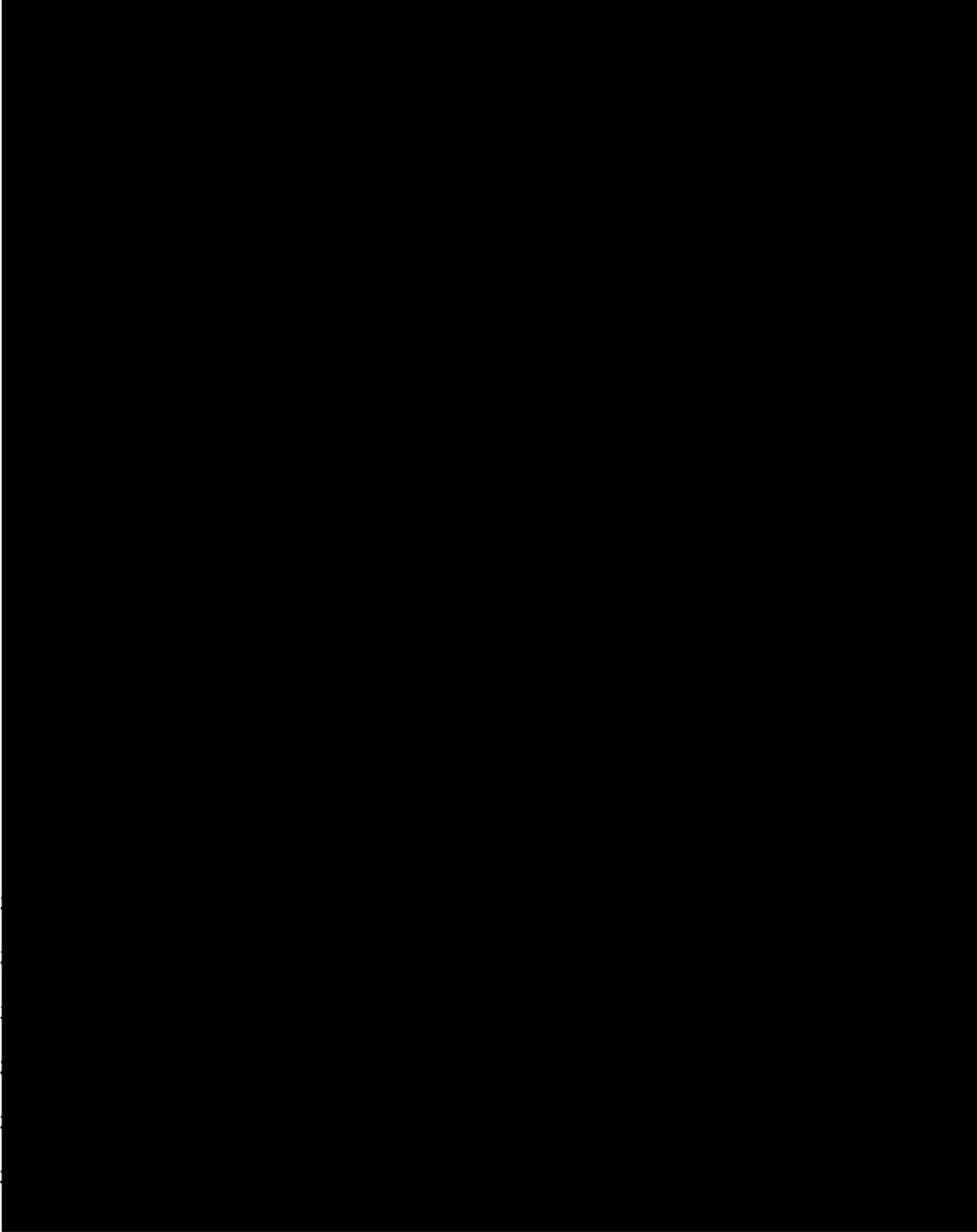
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7 Q. Please tell me the important aspects of  
8 the product road map for the 2010 business plan of  
9 Fusion Garage.

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10 MR. DOOLITTLE: Well, I think this would  
11 fall under the -- granting the motion for  
12 protective order. It's a trade secret of the  
13 company.

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14 MR. BRIDGES: I'm not sure that would be  
15 highly proprietary, but -- so you're instructing  
16 him not to answer?

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17 MR. DOOLITTLE: Yes.

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18 MR. BRIDGES: Can you please mark that  
19 transcription.

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CERTIFICATE OF REPORTER

I, DEBRA ALLUSTIARTI, a Certified Shorthand Reporter, hereby certify that the witness in the foregoing deposition was by me duly sworn to tell the truth, the whole truth and nothing but the truth in the within-entitled cause;

That said deposition was taken down in shorthand by me, a disinterested person, at the time and place therein stated, and that the testimony of the said witness was thereafter reduced to typewriting, by computer, under my direction and supervision.

That before completion of the deposition, review of the transcript was [ ] was not [X] requested. If requested, any changes made by the deponent (and provided to the reporter) during the period allowed are appended hereto.

I further certify that I am not of counsel or attorney for either or any of the parties to the said deposition nor in any way interested in the event of this cause and that I am not related to any of the parties thereto.

DATED: April 26, 2010

Debra Allustiarti

DEBRA ALLUSTIARTI CSR, No. 10929