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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)
PLAINTIFFS' RESPONSE TO
DEFENDANT FUSION GARAGE'S
FURTHER CHALLENGES TO
PLAINTIFFS' DESIGNATIONS OF
PORTIONS OF THE TRANSCRIPT OF
MICHAEL ARRINGTON'S DEPOSITION
 Judge: Hon. Patricia V. Trumbull

1 On May 6, 2010, Plaintiffs provided Defendant with narrowly tailored confidentiality
2 designations for the April 20, 2010 deposition transcript of Michael Arrington. This Court's April
3 30, 2010 order (Dkt. 88) invited Defendant to "advise whether it has further challenges" to any of
4 Plaintiffs' confidentiality designations by May 14, 2010. The order gave Plaintiffs until May 21,
5 2010 to file a response. Defendant filed further challenges with the Court on May 12, 2010 and
6 Plaintiffs now respond.

7 Defendant argues that the pages 261:18 to 276:6, 373:10 to 375:5, and 388:18 to 390:12 as
8 well as Exhibits 9-10 of the Michael Arrington deposition transcript should have no confidentiality
9 designation under the parties' stipulated protective order.

10 Plaintiffs designated these materials as "CONFIDENTIAL" because they concern a
11 personnel matter between Plaintiffs and an independent contractor. Plaintiffs only seek to protect
12 the independent contractor's privacy. This is a valid basis not only for designating materials as
13 confidential, but even for asking the Court to seal them. *E.g.*, *Wesley v. Gates*, No. 08-2719, 2009
14 WL 2380097, at *6-7 (N.D. Cal. July 31, 2009) (Illston, J.); *Ruffin v. Director Nevada Dept. of*
15 *Corrections*, No. 07-00721, 2009 WL 1294423, at *4 (D. Nev. May 4, 2009); *Arigbon v. Multnomah*
16 *County*, 09-311, 2009 WL 3335064, at *3 (D.Or. Oct. 15, 2009); *Tumbling v. Merced Irr. Dist.*, 262
17 F.R.D. 509, 513 (E.D. Cal. 2009). The case Defendant cites, *Fraihat v. Cohen*, No. 06-1452, 2007
18 WL 3333117, *4 (S.D. Cal. Nov. 6, 2007), concerns only withholding or producing documents, not
19 designation under a protective order. *Id.* (noting that "confidentiality objections are insufficient to
20 justify the *withholding* of relevant evidence" and that plaintiff sought no confidentiality protections
21 under Rule 26) (emphasis added).

22 Contrary to Defendant's assertion, Plaintiffs do not seek a confidentiality designation based
23 on embarrassment. Plaintiffs, if they could put the independent contractor's privacy aside, would
24 prefer all information about the matter to be public. The matter confirms Defendant's wrongdoing
25 and Plaintiffs' commitment to the parties' joint venture. Plaintiffs oppose de-designation, especially
26 where, as here, Defendant makes the de-designation request in the abstract and without tethering the
27
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