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

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

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Winston & Strawn LLP
 101 California Street
 San Francisco, CA 94111-5802

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

Case No. CV-09-5812 RS (PVT)

DOCUMENT SUBMITTED UNDER SEAL

**SUPPLEMENTAL DECLARATION OF
 ANDREW P. BRIDGES IN FURTHER
 SUPPORT OF PLAINTIFFS' MOTION
 FOR PRELIMINARY INJUNCTION**

Date: May 13, 2010
 Time: 1:30 P.M.
 Place: Courtroom 3, 17th Floor

1 I, Andrew P. Bridges, declare pursuant to 28 U.S.C. § 1746:

2 1. I am counsel of record for Plaintiffs and a partner with the law firm of Winston &
3 Strawn LLP.

4 2. Plaintiffs filed their reply brief supporting their preliminary injunction motion on
5 May 3, 2010. On May 3, 2010 and again on May 5, 2010, Defendant and third-party McGrath
6 Power produced additional documents. In these productions, Defendant produced approximately
7 another 9,200 pages and McGrath Power produced approximately 27,000 pages. Plaintiffs did not
8 have the opportunity to incorporate these documents into their reply brief. Plaintiffs nonetheless
9 believe that the Court should have the opportunity to review a small number of these documents
10 before the hearing on Plaintiffs' preliminary injunction motion. I attach them to this declaration.

11 3. Exhibit 1 to this declaration is a true and correct copy of the document that third party
12 McGrath Power produced in this litigation starting with Bates number MP025816. (UNDER SEAL)
13 The document is a September 18, 2009 email from Jonathan Bloom to his colleagues at McGrath.
14 Mr. Bloom discusses Fusion Garage as a prospective client. McGrath would help Fusion Garage
15 divorce from Plaintiffs and "tamp down . . . blow-back from Arrington." In this pre-divorce email,
16 Mr. Bloom states he already had seen a "beautiful" "near-production ready prototype" that could
17 "survive the divorce."

18 4. Exhibit 2 to this declaration is a true and correct copy of the document that third party
19 McGrath Power produced in this litigation starting with Bates number MP025175. (UNDER SEAL)
20 This is a November 12, 2009 email from McGrath setting forth concerns about the script Mr.
21 Rathakrishnan was set to use to introduce the JooJoo to the public. It responds to Mr.
22 Rathakrishnan's edits to the script the day before. McGrath worries that Mr. Rathakrishnan's
23 description "reads as if we built [the JooJoo] the way [Mr. Arrington] wanted it and are now taking
24 the product away from him and simply changing the name."

25 5. Exhibit 3 to this declaration is a true and correct copy of the documents that
26 Defendant produced in this litigation starting with Bates numbers FG00034534 and FG00034536.
27 (UNDER SEAL) The first document is an email chain from March 23-24, 2010 between Nvidia and
28 Fusion Garage. Fusion Garage is sharing a presentation about the JooJoo entitled "JooJoo: the

1 internet is everything.” The presentation copies significant elements of a presentation from April
2 2009 that originated with Plaintiffs titled “CrunchPad: the internet is everything.”

3 6. Exhibit 4 to this declaration is a true and correct copy of the document that Plaintiffs
4 produced in this litigation starting with Bates numbers TC63. This email shows Heather Harde’s
5 conception of the slogan “the internet is everything” for marketing the CrunchPad.

6 7. In addition to this declaration, Plaintiffs also submit the declaration of Keith Teare. It
7 attaches the “CrunchPad: the internet is everything” presentation and describes its creation. Mr.
8 Teare could not view Exhibit 3 to this declaration, the JooJoo presentation, and compare it to the
9 CrunchPad presentation because Fusion Garage has designated the JooJoo presentation as
10 confidential. Nevertheless, the Court can note the many obvious similarities between the two
11 presentations and note Mr. Teare’s statements that he and others affiliated with Plaintiffs originated
12 much of the April 2009 CrunchPad presentation that later became the March 2010 JooJoo
13 presentation (Exhibit 3).

14 I declare under penalty of perjury that the foregoing is true and correct.

15 Executed May 11, 2010.

16
17 _____
Andrew P. Bridges

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19 SF:281651.2
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EXHIBIT 1

From: Jonathan Bloom
Sent: Friday, September 18, 2009 4:18 PM
To: [REDACTED]
Cc: Kathryn Walker <KathrynWalker@mcgrathpower.com>
Subject: Interesting Opportunity; Could We Talk Monday?

[REDACTED],
Hope things are going well since you got home.

The following information should be considered confidential as it is highly sensitive. I don't mind you talking about it with Marina and, if you have to, Robert to get his take but please keep it to a very small circle of people.

I had an interesting new business meeting today that could provide the "new" MMC-M/P team with another opportunity to collaborate. I will say upfront that this would not be the easiest things we have ever done but we would be looking at a potential budget of up to [REDACTED] for a six week project.

The prospect is a former client – one that you guys helped us out on some brainstorming with a couple of years ago surrounding Tila Tequila. The founder of that company (which went out of business via lack of new funding) took his core software and began working with Michael Arrington of Tech Crunch to produce what should be an entirely new consumer electronics touch tablet. You can read the buzz about it on Tech Crunch. If you check out that site, search for "Crunch Pad." You can also read a very recent NYT article on the same topic (within the last three weeks or so). My friend's company is called Fusion Garage. The product is at the intersection of two interesting trends: browser-based operating systems (a la Google's Chrome) and touch-tablet computing (a la Apple's forthcoming new offering). I saw the near-production ready prototype today and it is beautiful.

The issue is that my friend (named Chandra) is strongly considering "divorcing" himself from Arrington and going his own way. The product is strong enough to survive the divorce but there would have to be a major launch architected by us within the next six weeks to get ahead of Apple, achieve first-mover status and tamp down what I would expect to be a blow-back from Arrington.

I am wondering if you and I could talk as early as possible on Monday morning. Chandra is scheduled to have an important discussion with Arrington either Monday afternoon or Tuesday morning and I would like to reality-check the launch issue with you. if you prefer, I could talk over the weekend, although Monday would be more sane for me. I can do a call as early as you like Monday morning beginning at 6:15 Pacific time.

Please let me know when you can talk.

Best,

Jon

+++++
Jonathan Bloom
CEO

mcgrath|power
public relations & communications

333 W. San Carlos Street #900

EXHIBIT 2

From: Jonathan Bloom
Sent: Thursday, November 12, 2009 8:24 AM
To: Chandrasekar Rathakrishnan <chandra@fusiongarage.com>
Cc: Kathryn Walker <KathrynWalker@mcgrathpower.com>; Ursula Herrick <UrsulaHerrick@mcgrathpower.com>
Subject: RE: Script with comments

Hi Chandra,

Kate, Ursula and I have tried to take the concept of your edits and bring them forward into a new draft of the script.

Unfortunately, the three of us are seeing/hearing things differently regarding some critical aspects of the script/your edits and what we had originally intended for the video to accomplish – at least from my perspective. I am very pleased with how the script is written and how it flows – Ursula and Kate did a nice job on this – but I personally have concerns that need to be addressed ASAP for us to remain on schedule for our Saturday shoot.

The key areas I/we are struggling with are as follows:

1. Overall purpose of the video – I believe you/us are not on the same page with the intent of the video and that is coming through in the script. I believe the video needs to simply establish the fact that the device has changed since its original vision, was fully developed by FG, that FG is now on its own and separate from Arrington and the that product is real, working and available in early December. The associated goal of the video is to get you out there as the face of FG and the new category – along with establishing you as the real driver behind the product's birth. Right now, it feels like we are mixing those objectives with some "product introduction" elements. This could very well be confusion internally at M/P but it needs to get sorted ASAP for us to finish the script.
 - a. This is a strategy issue primarily but involves messaging as well.
2. How much we want to disclose now versus in our media interviews the week of 12/1 regarding the end of your relationship with Arrington. We have to give out at least one specific statement on the end of the relationship as it is germane to establishing FG as a sole entity and establishing FG as a viable supplier of the product. Too much info, however, dilutes the impact of our interviews during the week of 12/1. Additionally, too much info gives Arrington fodder to comment on during a period in which we are not commenting. That is not what we want to open ourselves up to.
 - a. This is a strategy and messaging issue
3. The opening of the video – the two "questions" that pop up on the screen – are just not doing it for me. I don't feel they capture the essence of what the product is really intended to do for people. They are not true consumer-facing messages and I am concerned that they don't set the right tone.
 - a. This is a major messaging issue.
4. Arrington's original product concept/specs and what FG did to go beyond that – we don't seem to be crisp on this and I believe it is important to differentiate. The question is how much of it do we want to disclose in the video and how much do we want to save for later? Right now, the script reads as if we built it the way he wanted it and are now taking the product away from him and simply changing the name. This is not where I would like us to be. I am also not fully sure that M/P really understands the differences in how the product has evolved and where FG deserves credit versus Arrington.
 - a. This, too, is a major messaging issue.
5. Pricing – I am uncomfortable disclosing pricing now for two reasons – the first is I am not convinced we have a final-final price and, more importantly, I believe the higher than originally quoted price is not going to be received well and that will negatively flavor coverage during a period in which we are not commenting. In

essence, we will be turning our story against us before we are even out telling our story in person.

a. This also is a major messaging issue.

6. Product detail/use cases – I am not sure we want to go into too much detail on this in the video as, in my opinion, this goes against initial strategy.

a. This is a relatively minor strategy issue

As you can see, having established messaging is at the root of the majority of our concerns. All of us need to be on the same page with key messages and the accompanying storyline. Right now, we are not there.

We need finalized messaging. Are you planning on delivering your messaging to us as you had promised or is it now time, perhaps, for you to step out of the drafting process and simply let us handle it.

As you and Kate are together in NY, perhaps the three of us should do a conference call today? Ursula needs to get the script to the videographer ASAP to stay on schedule for Saturday.

Thoughts?

Jon

From: Chandrasekar Rathakrishnan [mailto:chandra@fusiongarage.com]

Sent: Wednesday, November 11, 2009 3:30 AM

To: Jonathan Bloom; Kathryn Walker

Subject: Script with comments

Jon/Kate,

Here is the script with my comments. Will be awake by 11 am , should you want to discuss this.

As mentioned previously, this not re-edit but just comments.

Thanks,
Chandra

EXHIBIT 3

From: Ray Weng <rweng@nvidia.com>
To: 'Chandrasekar Rathakrishnan' <chandra@fusiongarage.com>; Roy Taylor <RTaylor@nvidia.com>
Date: 3/24/2010 12:40:36 AM
Attachments: joojoosingtelpreso.pptx
Subject: FW: Joojoo ION Tablet

Chandra,

I wanted to connect you with Roy Taylor who is our WW VP of Telco Relationships

He is very excited about your product and looking forward to not only meeting with you in April in US but also starting to promote Joojoo now with his WW team.

Thanks and best regards,

-Ray

From: Stuart Tan [mailto:stuart@fusiongarage.com]
Sent: Tuesday, March 23, 2010 8:56 AM
To: Ray Weng
Subject: presentation

Dear Ray,

This presentation will give you a clearer picture on Fusion Garage and JooJoo intention. Cheers.

Regards

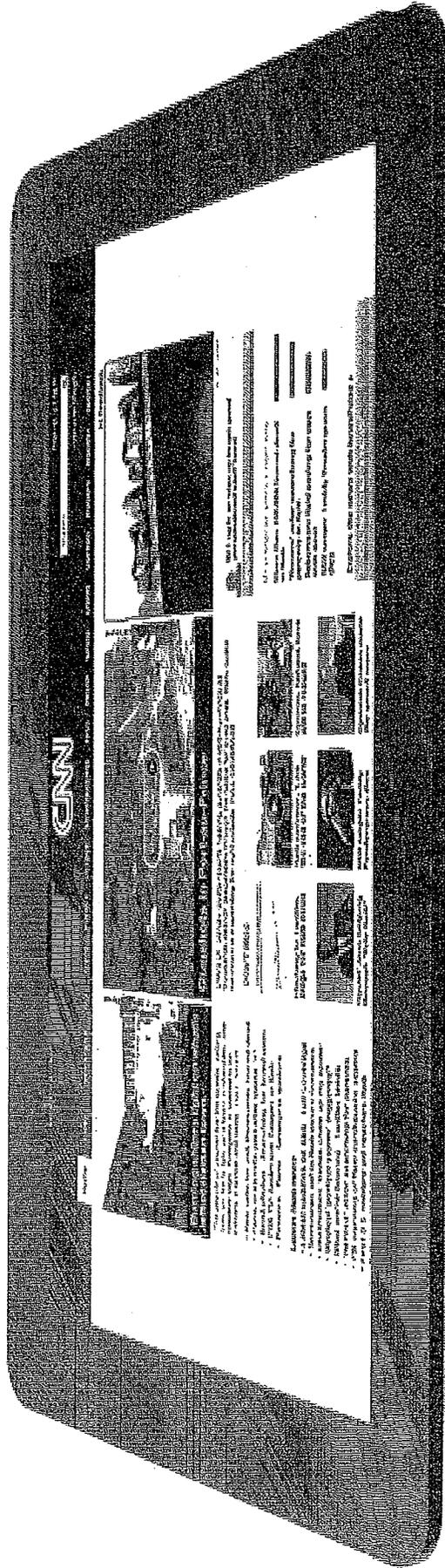
Stuart Tan

This email message is for the sole use of the intended recipient(s) and may contain confidential information. Any unauthorized review, use, disclosure or distribution is prohibited. If you are not the intended recipient, please contact the sender by reply email and destroy all copies of the original message.

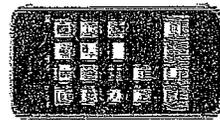
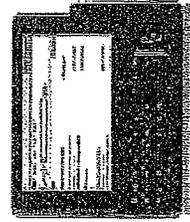
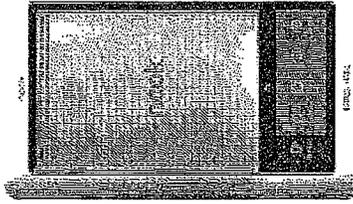
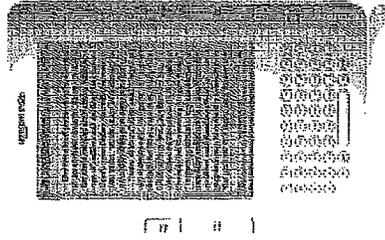
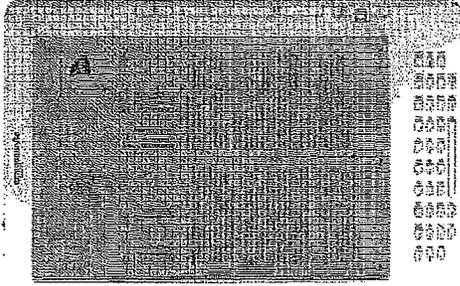
ioioioio

the internet is everything

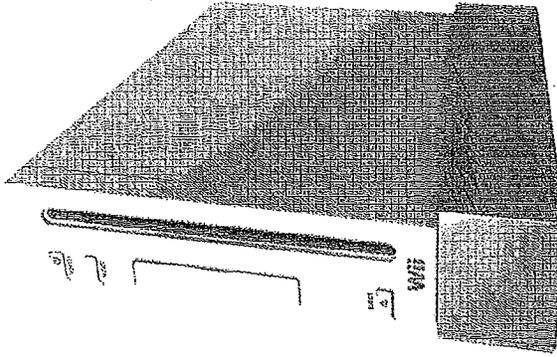
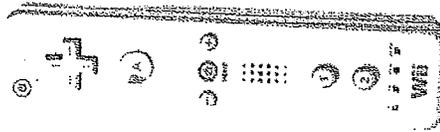
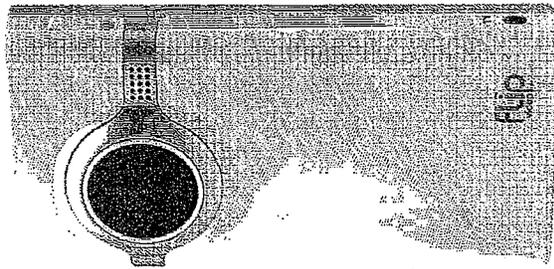
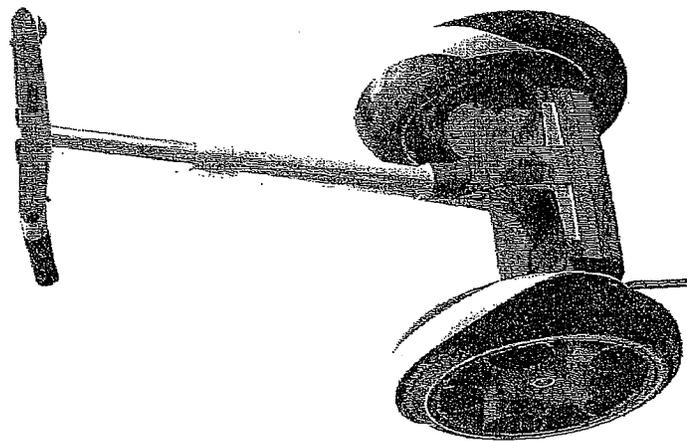
a new class of consumer internet device



it makes everything else look old



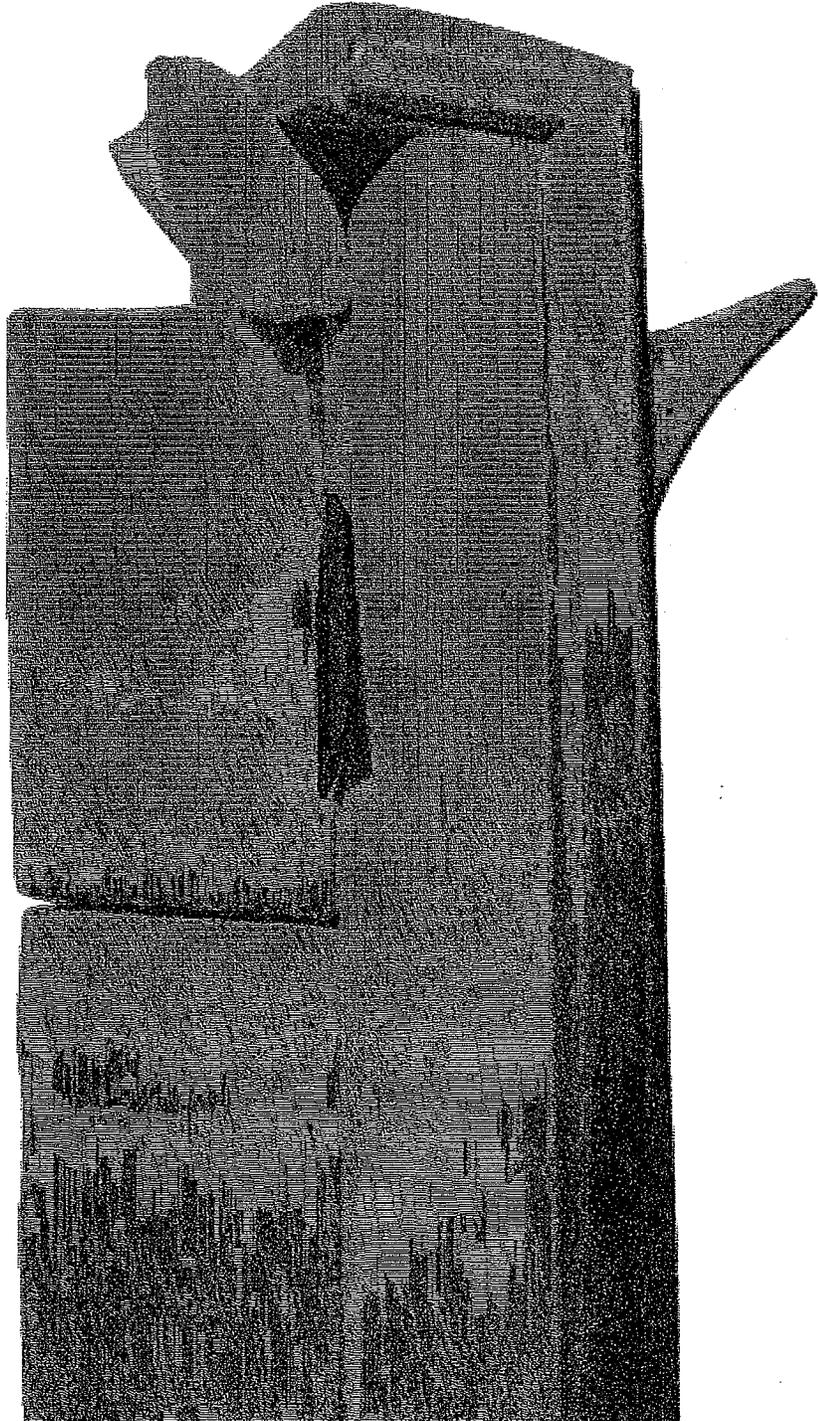
consumers want simplicity



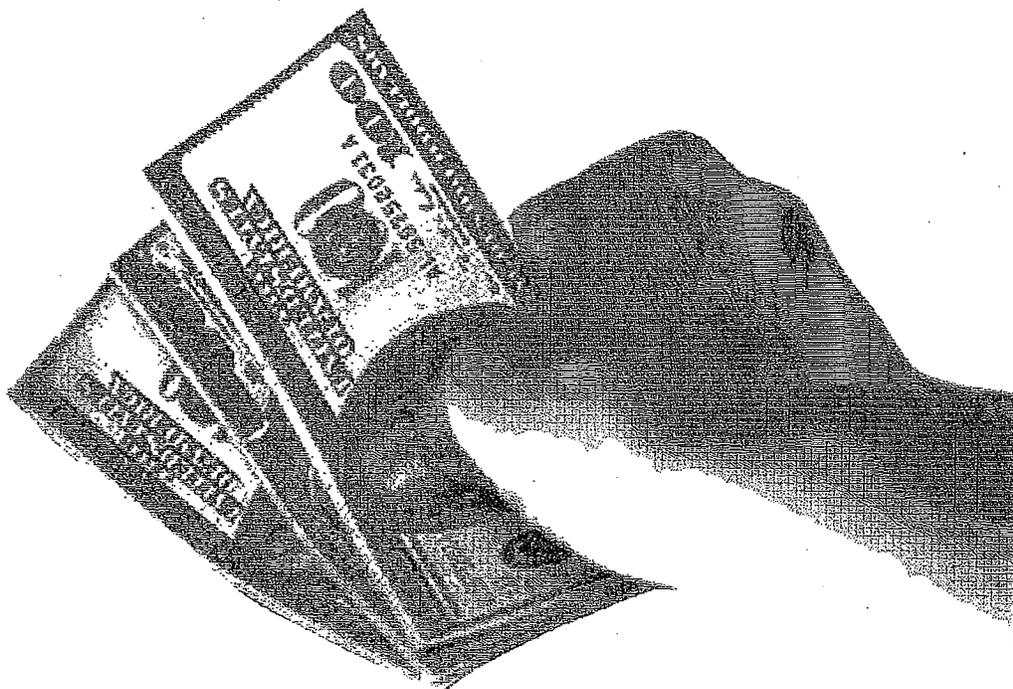
consumers want touch



consumers want couch friendly

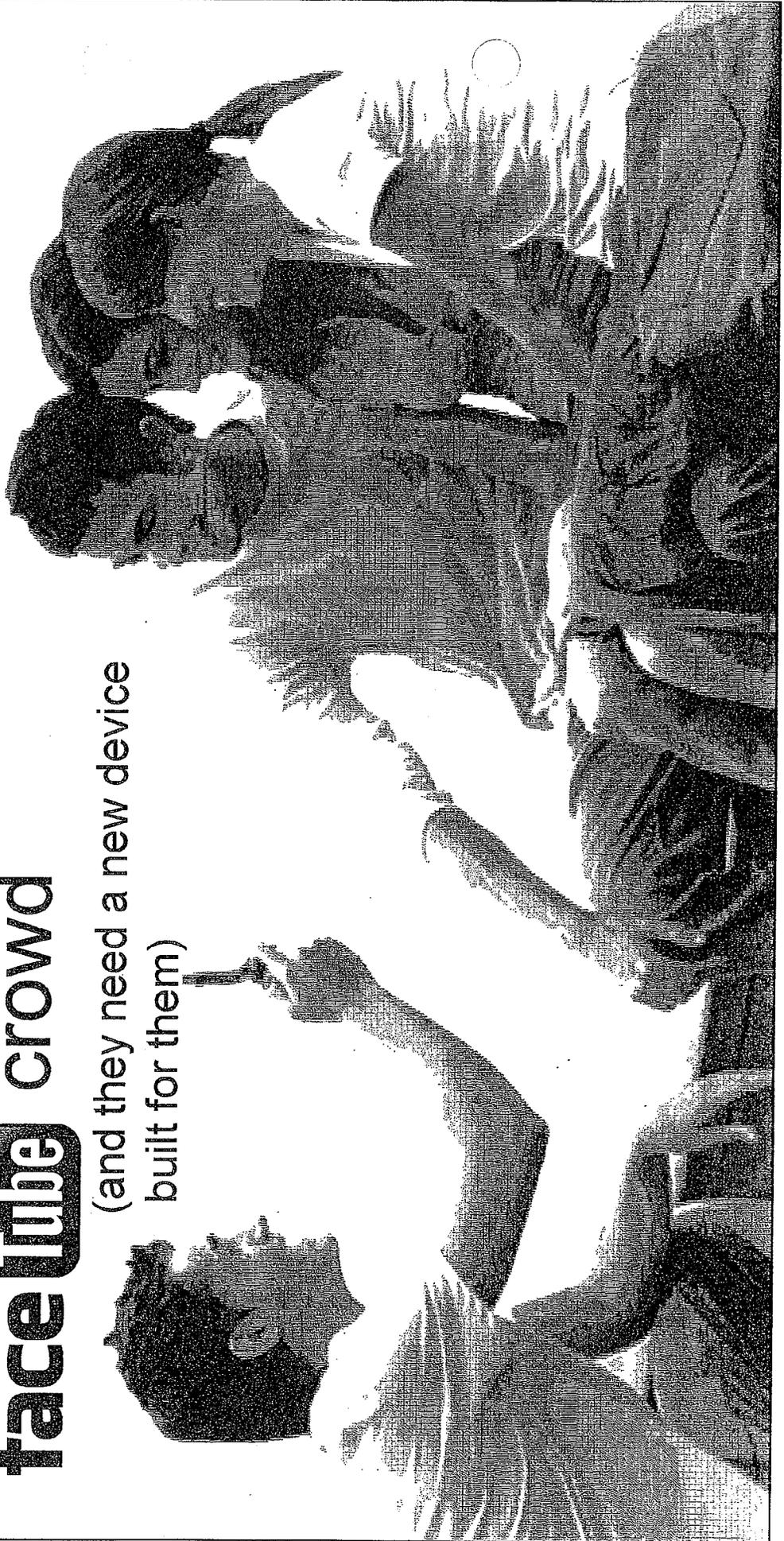


consumers want affordability

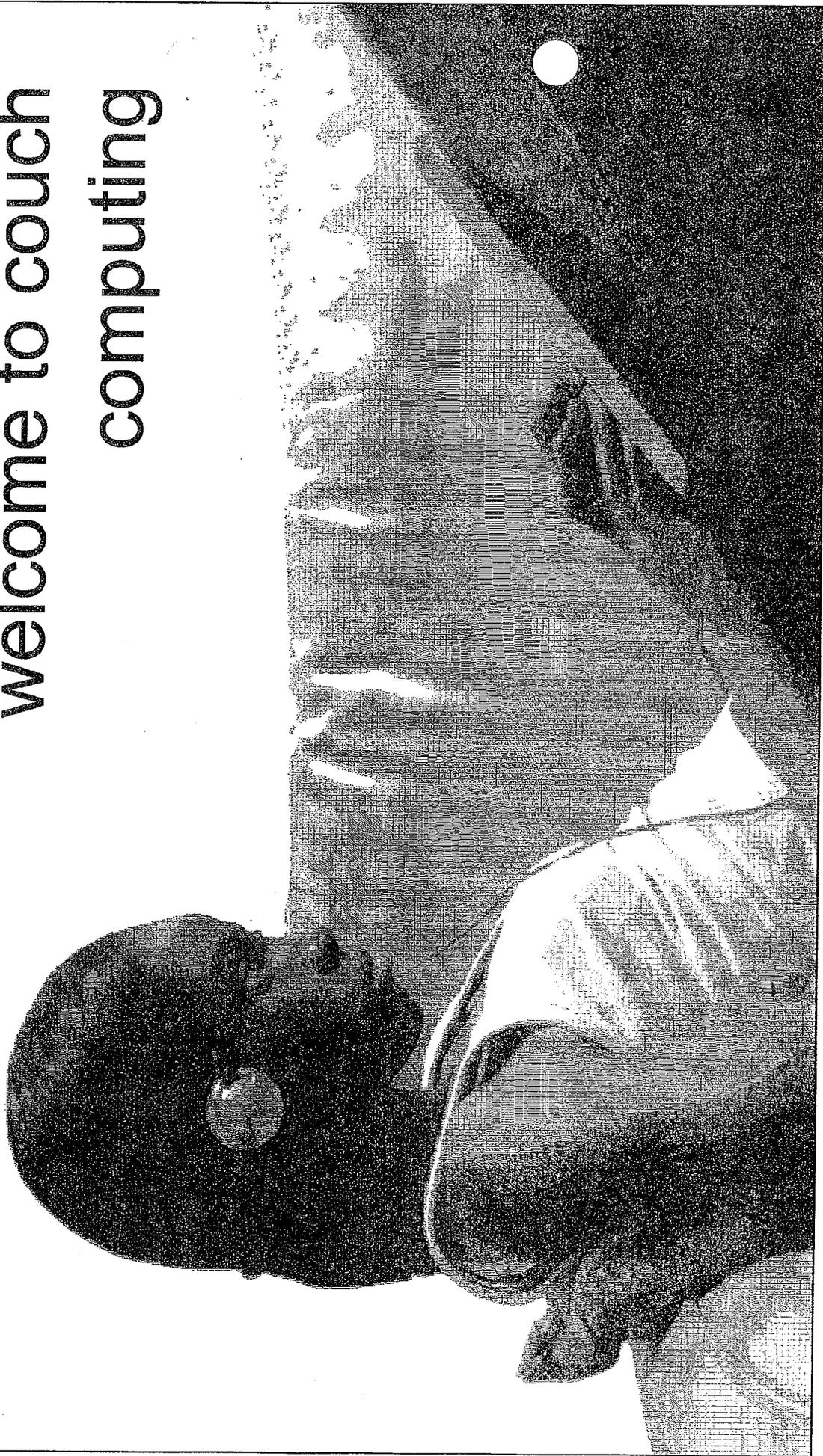


consumers are the
faceTube crowd

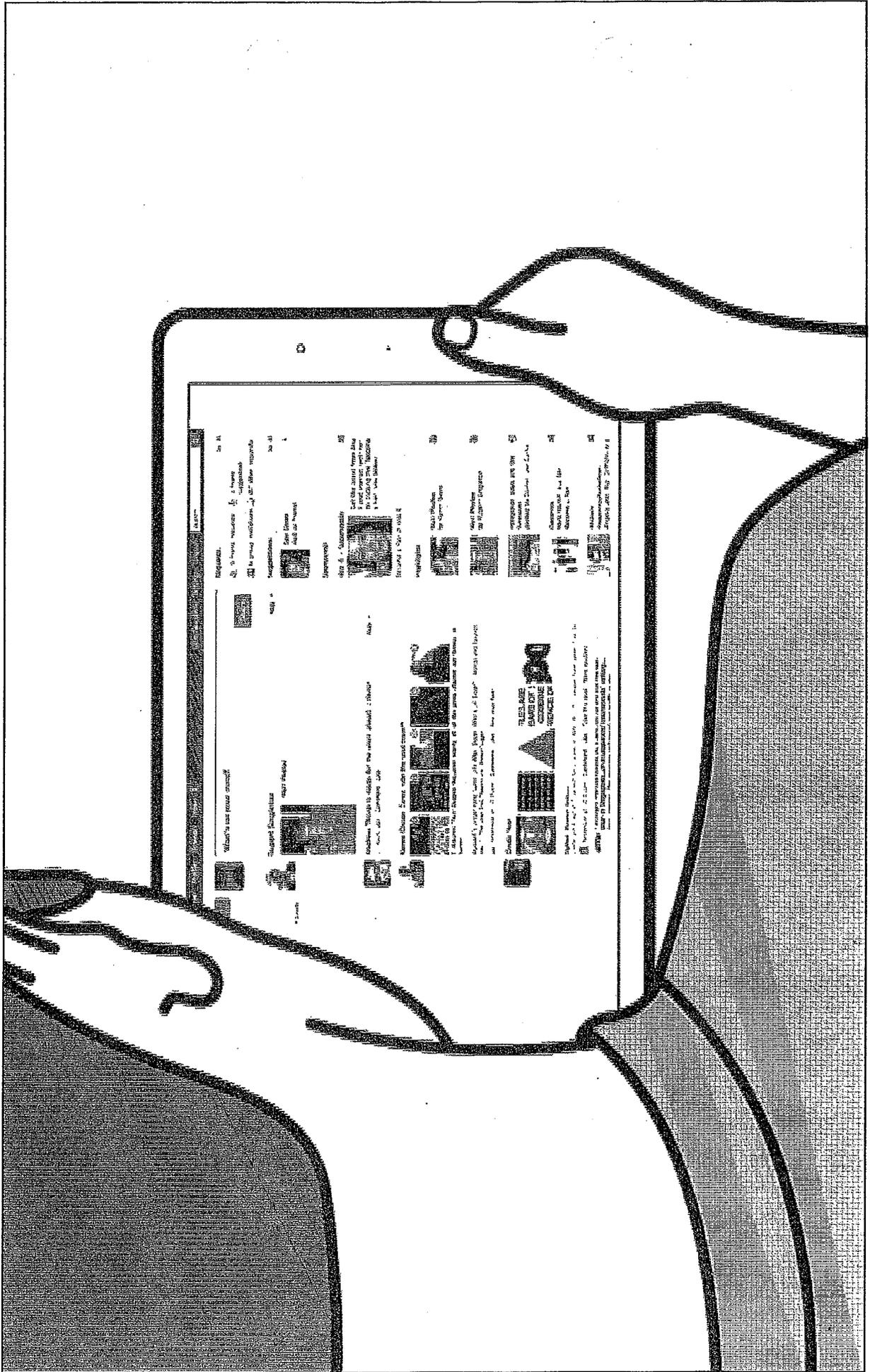
(and they need a new device
built for them)

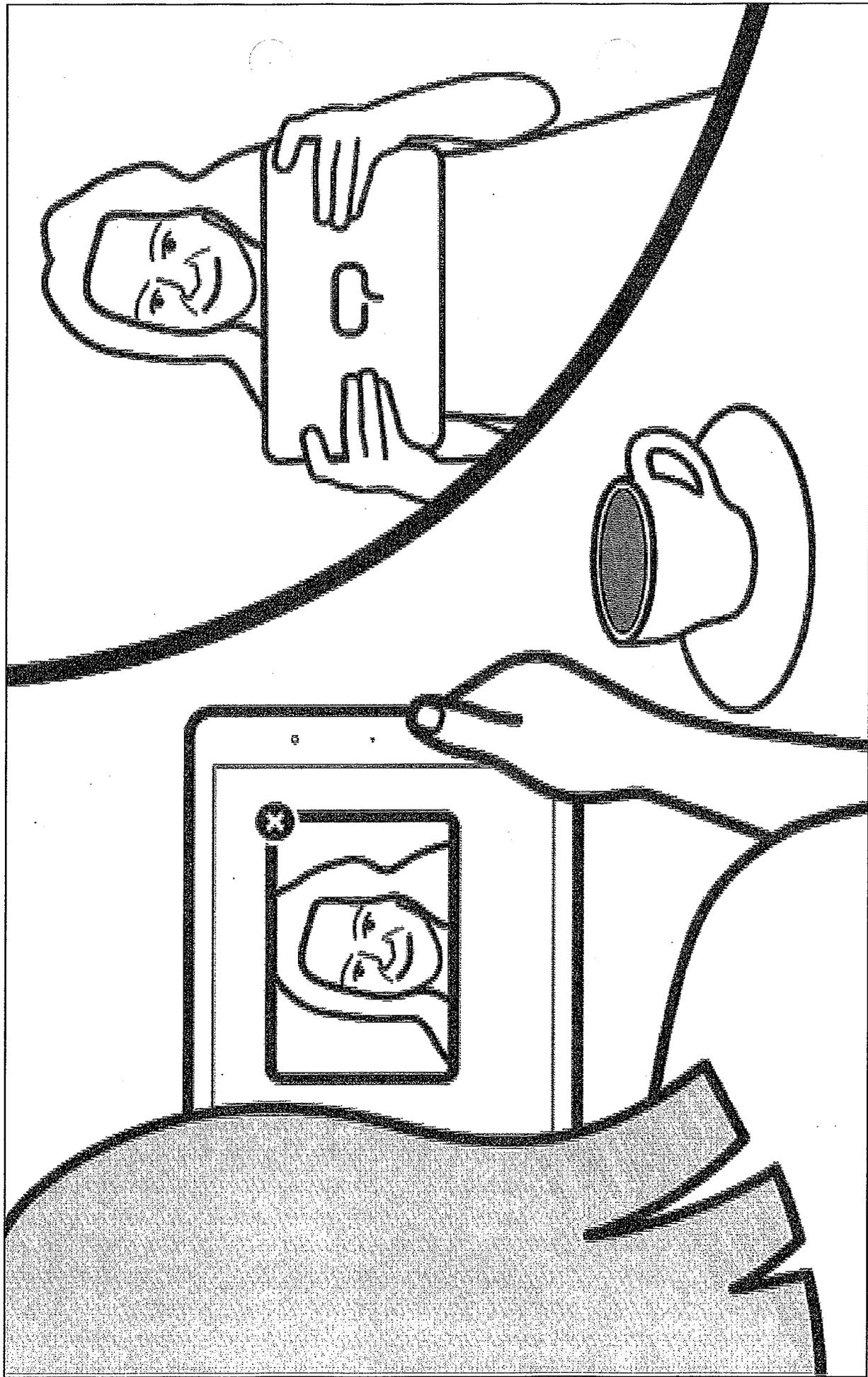


welcome to couch
computing

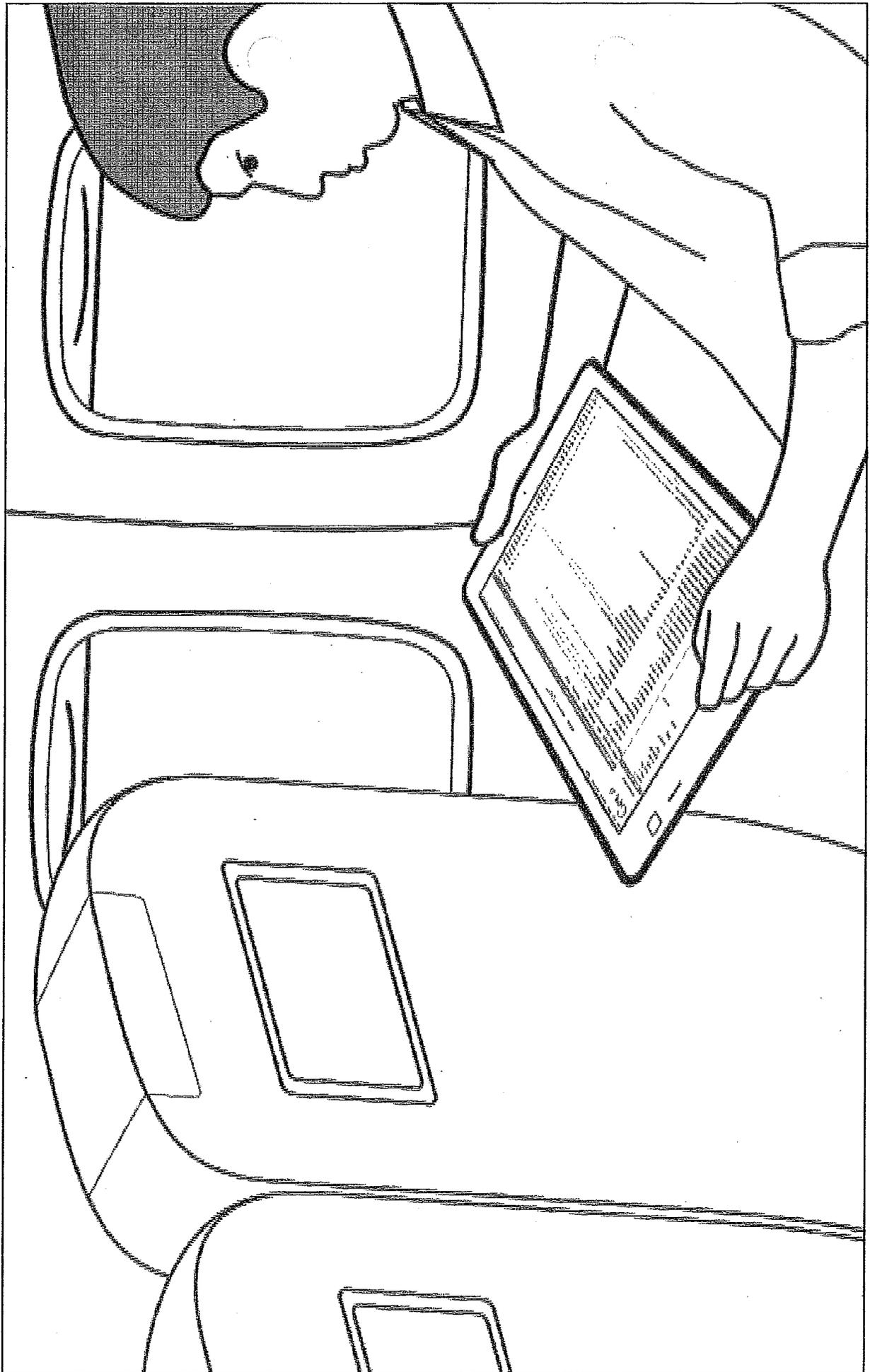


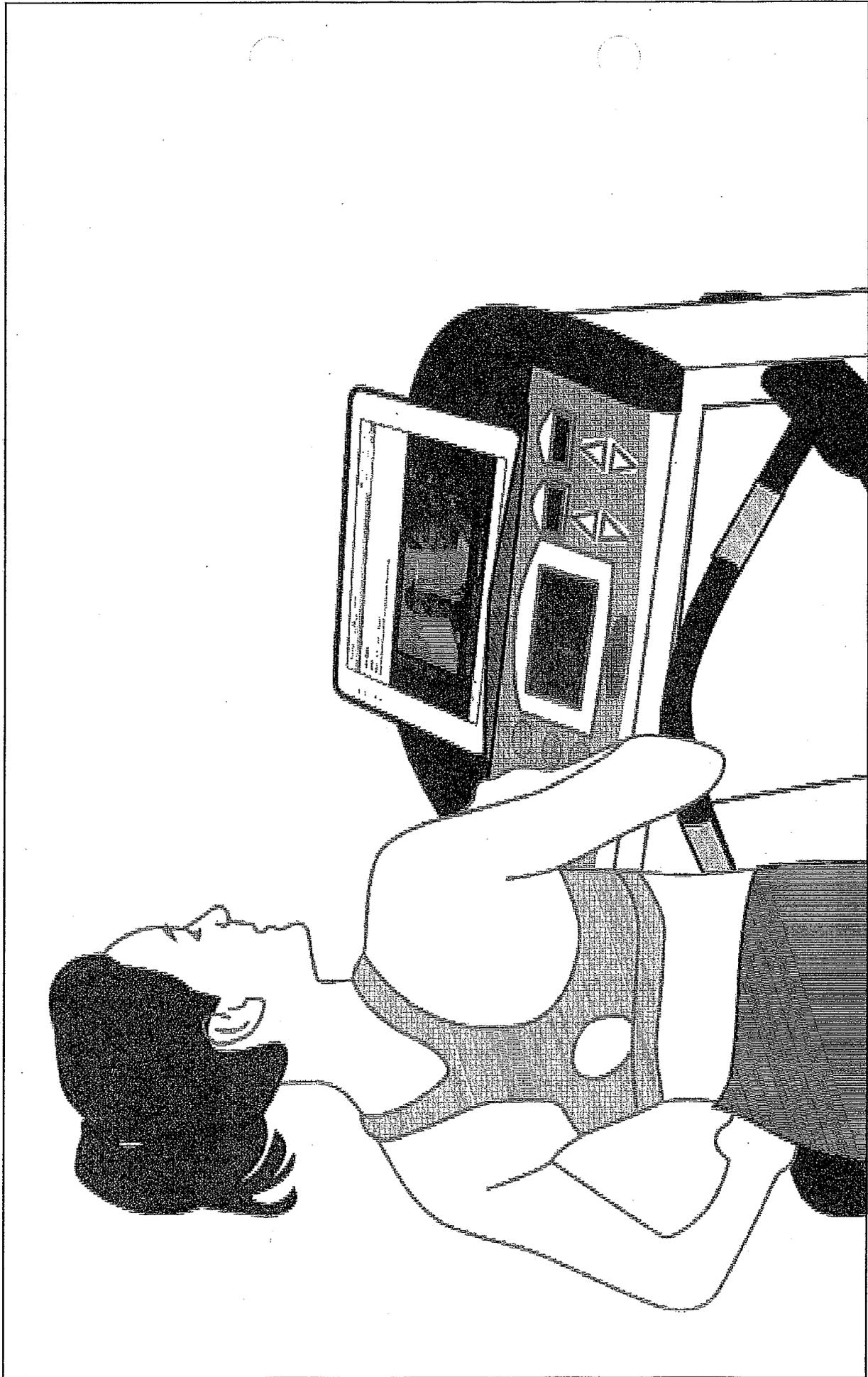
the internet is everything

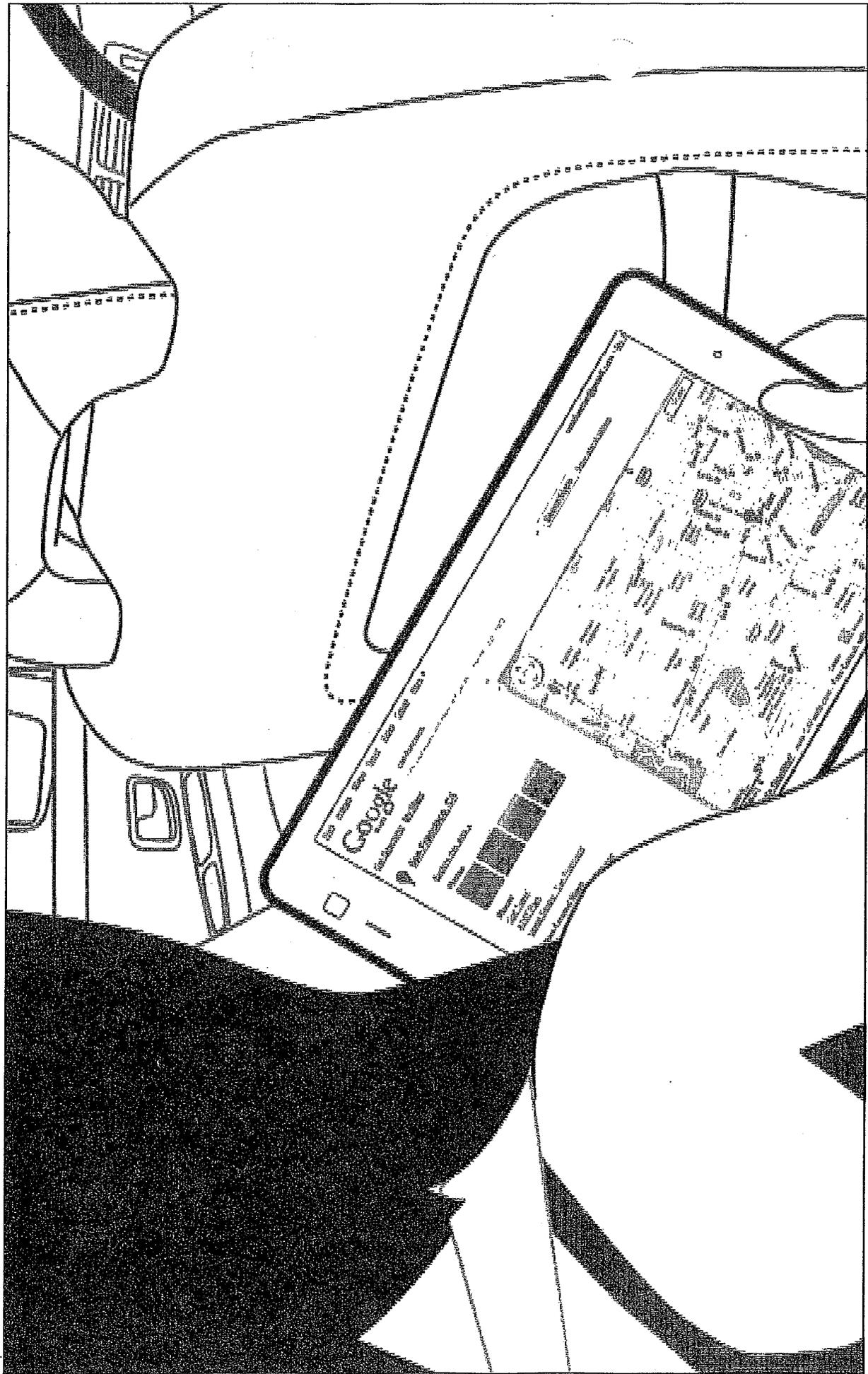




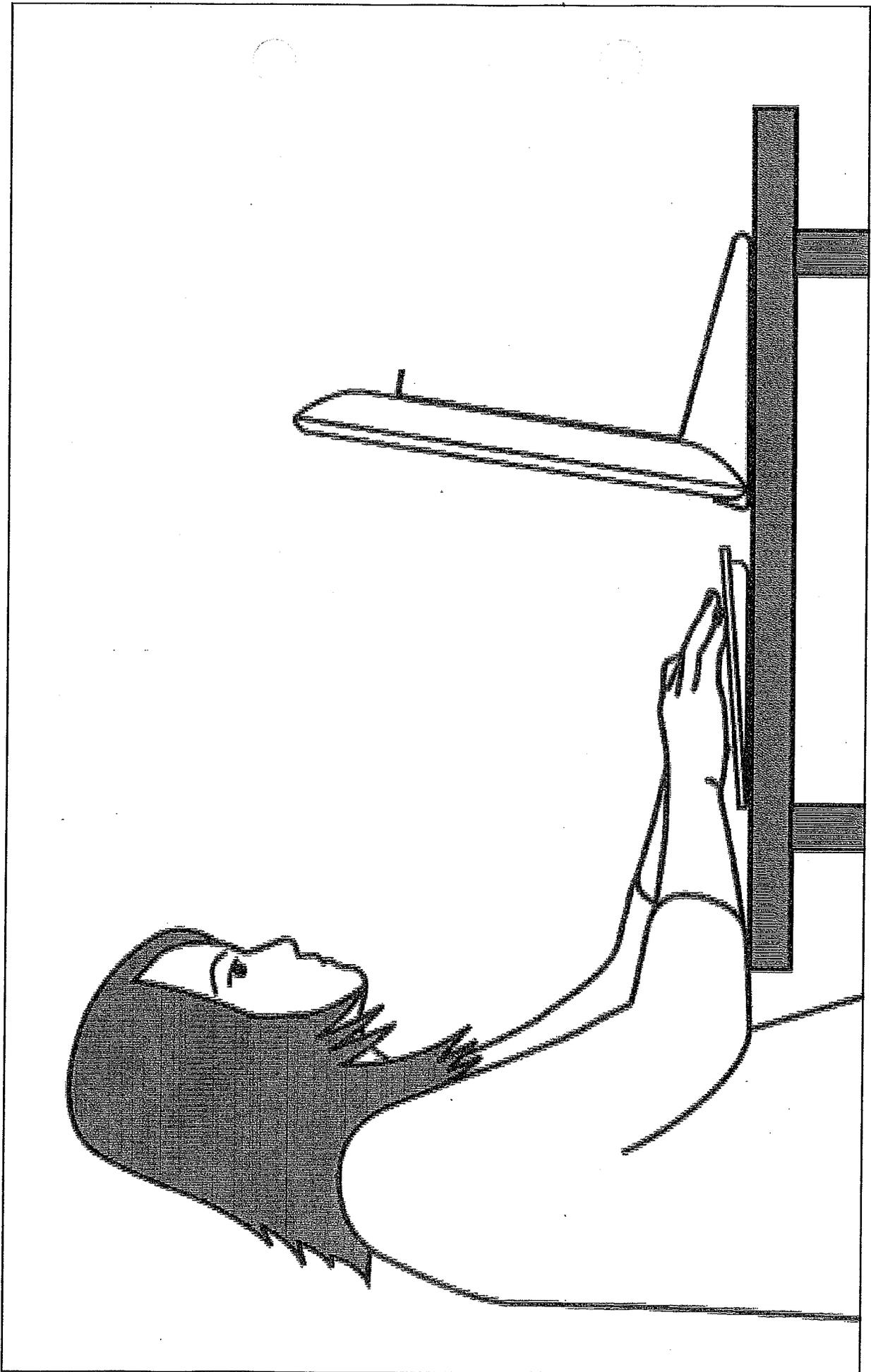




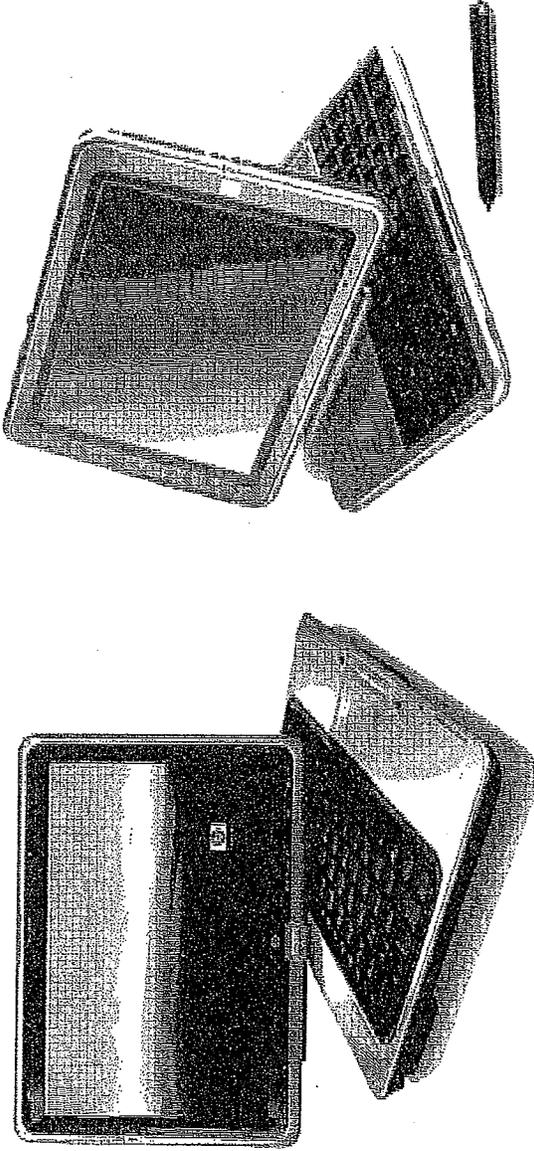




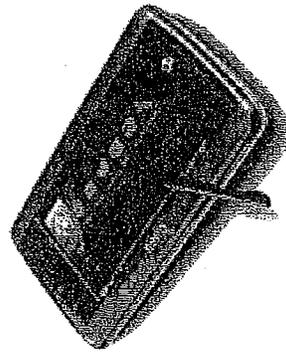
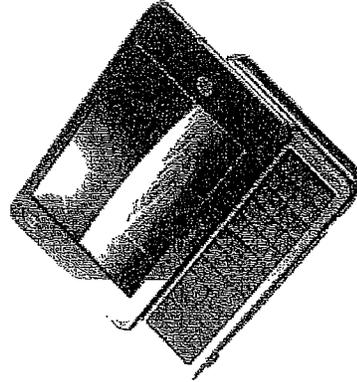
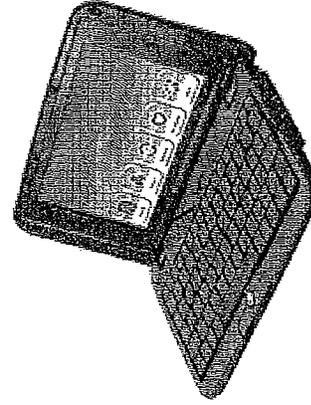




**tablets of yesteryear :
expensive , bloated & useless**



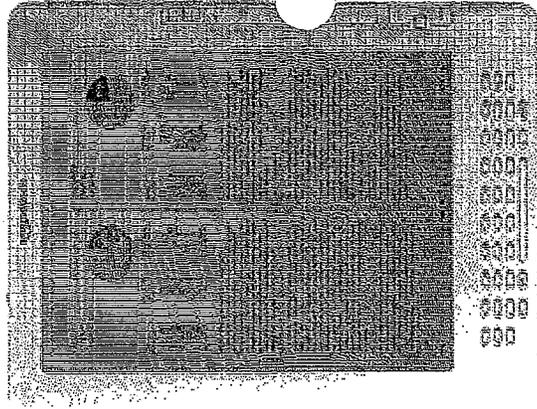
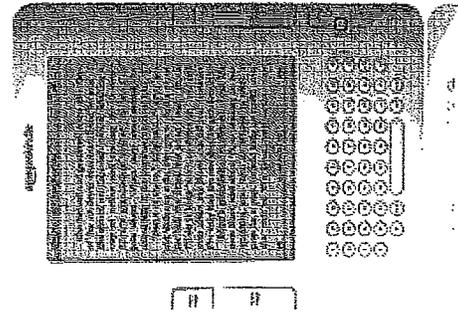
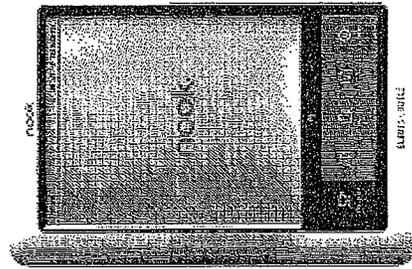
MIDs : “lost in translation !”



e-book readers

going mainstream but limited functionality

= vcd --- dvd



opportunity & market

Blue Ocean

Virgin Market . Only other comparable - Ipad

Other comparables

To provide for potential size of market

Kindles, Netbooks, Iphone/Ipod Touch

Google Apps, Firefox Downloads

Netbooks

15 million – 2008

26 million – 2009

Kindle

500,000 – 2008

2 million – 2009

iPhone / Ipod Touch

30 million to date

Google Apps

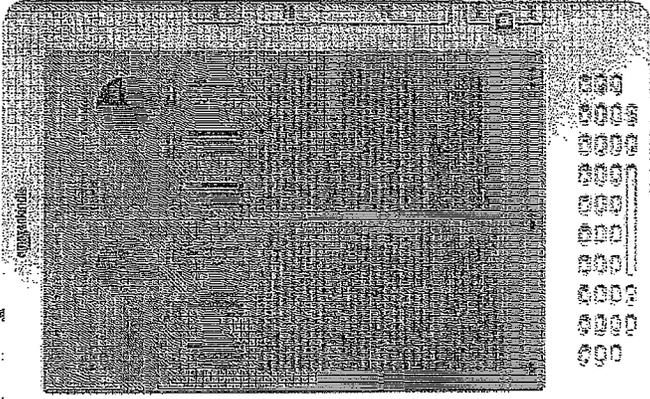
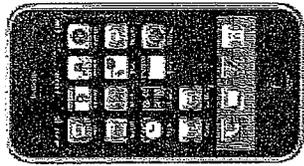
2.4 million business to-date

Firefox Downloads

1 billion downloads since 2002

5 million downloads in a day in 2009

Pricing



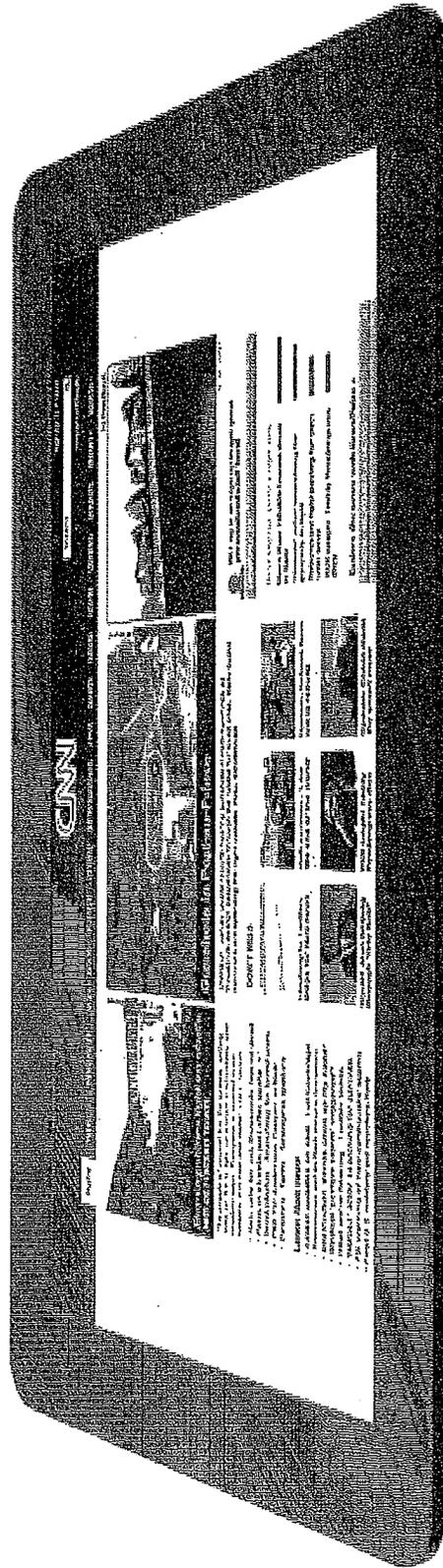
Iphone : USD 299 with 1200 contract

Kindle DX : USD 489

Ipad : USD 499 – USD 899

JooJoo wifi : USD 499

JooJoo 3G : USD 599



Global Media Frenzy

The New York Times

CNN

WALL STREET JOURNAL

GIZMODO

TIME

San Francisco Chronicle

Google

engadget

theguardian

USA TODAY

ABC NEWS

San Jose Mercury News

YAHOO!

ATD | All Things Digital.

TECHMEME
Next Week, Page A1

Excitement & Anticipation

- More than 9.5 million hits on Google
 - Global Press Coverage including ABC News, Wall Street Journal
 - Great anticipation of product
 - Positive Analogies against Iphone in favor of JooJoo
-

IP Summary

- FG has built the entire stack, integrating the kernel , the browser and the UI layer into a seamless system
 - Boots directly from kernel to browser
 - Browser act as an operating layer
 - Whole system flow including the UI and hardware integration is unique to FG.
 - Device Design (ID) is unique to FG.
-

where we are

Media Consortium

- Largest media consortium between Meredith, News Corp, Time, Hearst, Conde Nast
 - Unduplicated subscriber base of 143 million
 - Met with board members
 - Working with consortium
 - 500,000 devices and subscription model for subsidy
 - Building store front, tool and front end for consortium
-

Important Notes

- 2 models – Wifi & 3G
 - Online Direct Sales / Retail / Operator / Partners
 - Shipping : 25th March
 - Media Consortium – April / May
 - Operators – April
 - 2nd Version – Prototype June
-

Q & A

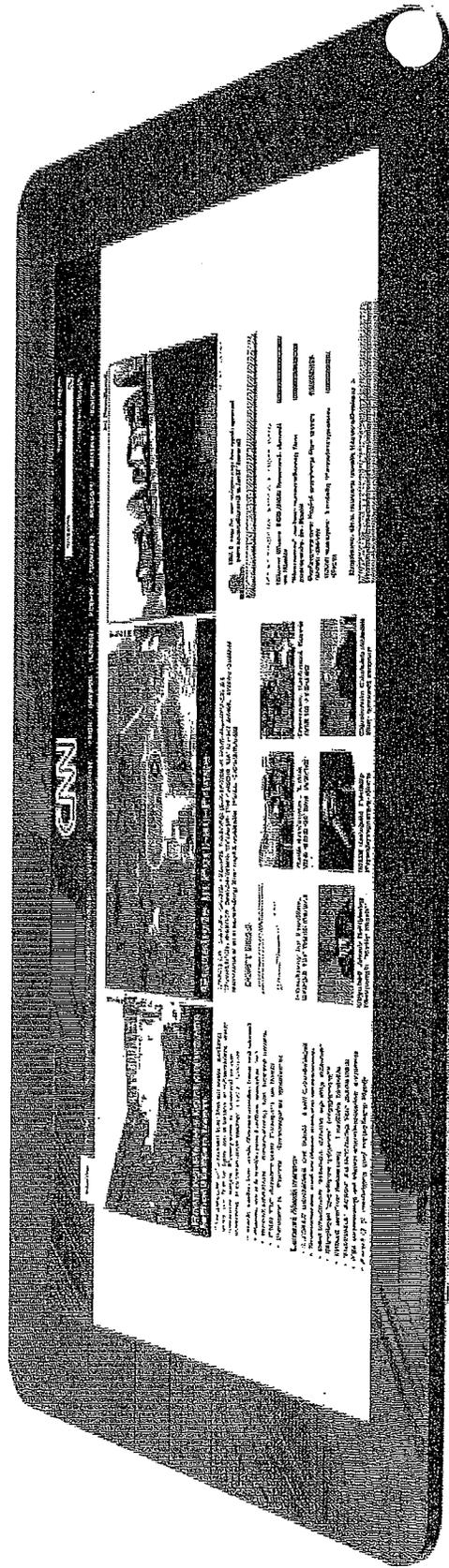


EXHIBIT 4

Redacted

From: Heather Harde
Sent: Tuesday, April 21, 2009 1:08 AM
To: Chandrasekar Rathakrishnan
Cc: 'Michael Arrington'
Subject: FW: CrunchPad

Following this logic... maybe worth revamping the target audience section back to activities (which I think Louis liked)...
Could be something to this effect..

The Internet is

My Friends (show Facebook)
My Family (show Tokbox video chat... kid and grandparent per Michael)
My Conversations (show instant messaging)
My Newspaper (show TC or NYT)
My Garage (eBay)
My Mailbox (show Gmail)
My Bookshelf (Kindle/Amazon)
My Photo Album (Flickr)
My Hollywood (MySpace)
My Television (Hulu)
My Radio (Pandora)
My Movie Theater (...)
My Store (Zappos)
My Money (Citibank or Mint)
My Vacation Planner (Expedia)
My Time Sink (show casual game)
My Roadmap (Google maps)
My Homework (show Wikipedia)
My Thoughts (Twitter)

The Internet is

On my couch
On my bedstand
In my bathroom
In my car
On the subway
On the plane
In my gym
At the cafe

The Internet is



My life / Me

The Internet Is Everything, Everywhere, Everyone.

From: Michael Arrington [mailto:editor@techcrunch.com]
Sent: Tuesday, April 21, 2009 12:19 AM
To: Heather Harde; louis monier; Keith Teare
Cc: Chandrasekar Rathakrishnan
Subject: Re: CrunchPad

love this.

On Apr 20, 2009, at 11:08 PM, Heather Harde wrote:

Chandra,
Can you have your team play with this?

"The Internet Is Everything"

It came to me at the gym. Could be our tagline for the CrunchPad... or minimally a slide to use after "the Iphone changes everything"

thanks

