

EXHIBIT B

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1 in particular Judge Seeborg, will be interested in
2 seeing what's going on.

3 MR. BRIDGES: And we will respond
4 appropriately.

5 MR. STERN: I hope you do. I hope you
6 do.

7 MR. BRIDGES: Now, are you doing this to
8 try to set up avoidance of making your witness
9 available on Thursday? Is that what's going on?

10 MR. STERN: This has nothing to do with
11 that. I think we've sufficiently met and conferred
12 about this. The record reflects numerous attempts
13 to try to avoid -- the witness evading questions by
14 providing long answers that are unresponsive to very
15 specific yes or no questions. I think we've gone
16 through this.

17 BY MR. STERN:

18 Q. Isn't it the case, Mr. Arrington, that
19 you spoke with your colleagues about poaching Fusion
20 Garage employees?

21 MR. BRIDGES: Objection, vague and
22 ambiguous.

23 BY MR. STERN:

24 Q. Do you understand the question?

25 A. Could you be more specific?

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1 Q. No. The question stands. Did you speak
2 with your colleagues at CrunchPad and TechCrunch
3 about poaching Fusion Garage employees? And I'm
4 using the word "poaching" in the way that it would
5 have been used with you.

6 MR. BRIDGES: Objection, vague and
7 ambiguous.

8 You may answer.

9 THE WITNESS: There were -- there was
10 one person on the team, Mr. Cubrilovic, who made
11 suggestions that we needed to move away from Fusion
12 Garage, and he suggested some extremely
13 inappropriate things.

14 BY MR. STERN:

15 Q. Did you ever send Mr. Cubrilovic --

16 A. Cubrilovic.

17 Q. -- Cubrilovic an email that rejected his
18 suggestions about poaching?

19 A. I don't know.

20 Q. Didn't you in fact tell Mr. Cubrilovic
21 in response to his suggestion about poaching Fusion
22 Garage employees, at a time that you contend there
23 was a fiduciary or partnership relationship between
24 the parties, that you want to discuss this option?

25 A. Can you show me what you're referring

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1 to?

2 Q. No. I'm asking you a question. You can
3 tell me that you don't remember. It's entirely up
4 to you. The question stands.

5 A. I have no recollection of that.

6 Q. Didn't you in fact tell Mr. --

7 A. In fact, I was disappointed that he
8 would even suggest that. I brought -- the next time
9 Chandra was in our office, I brought both Nik and
10 Chandra into our office -- those two clearly had an
11 issue with each other -- and the three of us talked
12 about this issue. And I was very specific about the
13 issues. I said, "You guys need to work together."
14 I was very open about this.

15 Q. In fact, on August 17th, 2009, Mr.
16 Cubrilovic suggested to you that you poach Fusion
17 Garage employees, you asked to speak to him about
18 the subject, and then on August 18th, a day later,
19 he repeated his suggestion to you; isn't that right?

20 A. I need to see what you're referring to.

21 Q. I'm just asking you, do you recall it?

22 A. Absolutely not.

23 MR. STERN: Next in order.

24 (Deposition Exhibit 9
25 marked for identification.)

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1 BY MR. STERN:

2 Q. This is a document that was produced to
3 us by TechCrunch. It's an email that's been
4 authored in part by you and by Mr. Cubrilovic.

5 MR. BRIDGES: Move to strike the
6 characterization of the document.

7 MR. STERN: Well --

8 BY MR. STERN:

9 Q. Looking at the bottom of the page, the
10 lower 40 percent of the front page, do you see where
11 it says August 17th, 2009 at 9:02 a.m.?

12 A. Yes.

13 Q. "Nik Cubrilovic wrote." Do you see
14 that?

15 A. Yes.

16 Q. Now, you see that he's writing that to
17 you; is that right?

18 A. Yes.

19 Q. Okay. And in it, he says:

20 "Have you spoken to Chandra in the past
21 few days? Just want you to know what he does
22 doesn't know so far."

23 Do you see that? Do you see what I'm
24 reading?

25 A. Yes.

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1 THE WITNESS: What I read in the press.

2 That's about it.

3 BY MR. STERN:

4 Q. What do you read in the press?

5 A. They said they raised, I think, a \$2
6 million round. And then I think they said we have
7 another big round coming. But, again, I don't know.
8 That's about all I know about it.

9 Q. Did you ever raise a \$2 million round
10 for the acquisition of Fusion Garage?

11 MR. BRIDGES: Objection, vague and
12 ambiguous.

13 THE WITNESS: We never closed on the
14 round that was offered.

15 BY MR. STERN:

16 Q. Who offered the money?

17 A. In the term sheet it was First Round
18 Capital, SoftTech VC. Ron Conway I think had signed
19 up, maybe not formally, and they were going to put
20 together the rest of the round as needed.

21 Q. Do you remember what the total round was
22 going to be?

23 A. We were targeting a couple of million
24 dollars, \$2.

25 Q. But that round never closed; is that

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1 ambiguous.

2 BY MR. STERN:

3 Q. Well, you mentioned TechBase.

4 A. We have events we sell tickets to and
5 sell sponsorships to; we have an advertising-
6 supported -- a number of advertising-supported
7 websites; another website, CrunchBase, which is
8 advertising and subscription supported.

9 Q. Do you sell a web tablet?

10 A. We do not.

11 Q. Right now are you in the process of
12 developing a web tablet?

13 MR. BRIDGES: Objection, vague and
14 ambiguous.

15 THE WITNESS: We continue to have hopes
16 of doing something in that regard and occasionally
17 have discussions with people around opportunities.

18 BY MR. STERN:

19 Q. When was the last time that you put
20 together a proposal to any company about developing
21 a web tablet?

22 MR. BRIDGES: Objection, vague and
23 ambiguous.

24 THE WITNESS: Would you repeat the
25 question, please?

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[REDACTED]

Q. As we sit here right now, if Fusion Garage sells a JooJoo to somebody, does that sale take any money out of the pocket of TechCrunch?

MR. BRIDGES: Objection, vague and ambiguous, argumentative.

BY MR. STERN:

Q. Do you understand the question? Do you want me to repeat it?

A. No. I do understand the question and I don't want you to repeat it. Yes, I believe it does

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1 at 6:28 p.m.

2 (Brief recess.)

3 THE VIDEOGRAPHER: We're back on the
4 record at 6:31 p.m.

5 MR. BRIDGES: Sure. If the court
6 reporter could ask the question again or reread the
7 question, I would appreciate it.

8 (Record read.)

9 MR. BRIDGES: I just want to stress that
10 we're designating the transcript as "Highly
11 Confidential," but we'll sort the details out later,
12 but this will be kept highly confidential.

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Q. Well, you swore to Judge Seeborg or
Judge Weir the following, paragraph 36 of Exhibit 3:

"Denial of the preliminary injunction
would come at a heavy penalty to TechCrunch
which has invested approximately \$400,000 in
this project."

Now, when you got that number, did you
just ask Ms. Harde to give you a number?

A. Which paragraph?

Q. Last paragraph, 36.

A. Yes.

Q. So you have no idea of what that number
is made of; is that fair?

MR. BRIDGES: Objection, argumentative.

THE WITNESS: You asked me not to

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1 the time that we had introduced the product to the
2 public and it would be us being served with this
3 theoretical patent infringement claim -- "us" being
4 all of the founders in the company.

5 BY MR. STERN:

6 Q. As of November of 2009, was Mr. Conway
7 committed to providing capital into CrunchPad?

8 A. "Committed" is a word I'm not willing to
9 sign up to, but he seemed to remain interested until
10 the end.

11 Q. And the same question for First Round
12 Capital. Had First Round Capital given you an
13 unqualified commitment to put \$100,000 into
14 CrunchPad?

15 A. They had not.

16 Q. Did SoftTech Ventures provide you an
17 unqualified commitment to put \$100,000 into SoftTech
18 Ventures (sic)?

19 A. They had not.

20 Q. As of November 2009, do you know of any
21 Singaporean investor who had committed to putting
22 1.2 million into CrunchPad?

23 A. No.

24 Q. As of November of 2009 -- withdraw that.
25 When I say "as of," I mean any time up to November

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1 going to have a couple questions.

2 THE VIDEOGRAPHER: We are off the record
3 at 6:46 p.m.

4 (Brief recess.)

5 THE VIDEOGRAPHER: We're back on the
6 record at 6:55 p.m.

7
8 EXAMINATION

9 BY MR. BRIDGES:

10 Q. Mr. Arrington, I'm going to ask you a
11 few questions briefly.

12 Mr. Stern asked several questions about a
13 communication from Mr. Cubrilovic to you that used
14 the word "poaching." Do you recall those questions?

15 A. Yes.

16 Q. And he asked you a series of questions
17 on whether you responded to his comment by email.

18 Do you recall those questions?

19 A. Yes.

20 Q. What communications, if any, did you
21 have with Mr. Cubrilovic about that comment other
22 than by email?

23 A. I communicated with Nik at least once by
24 telephone in Singapore when I was able to get ahold
25 of him and consistently in person when he returned

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1 to California and expressed outrage that he had gone
2 beyond the charter of the trip as I sent him out
3 there to do, which was to help with the software,
4 understand where we were with the software, and to
5 assist the team.

6 He had engaged in background checks.
7 Clearly Chandra had complained directly about that.
8 I responded to Chandra by email that that was not
9 part of what Nik it was supposed to do; that the
10 rest of what Nik was doing was inappropriate,
11 completely inappropriate, and undermined our
12 partnership.

13 When Chandra came to our office, one of
14 the first things I did was sat Chandra and Nik down
15 in person in my office together at the same time and
16 asked what the heck had gone on, why there was so
17 much friction between the two -- clearly there was
18 ill will between the two of them -- and demanded
19 that they clear it up then and there so that we
20 could continue to work together productive. And
21 they agreed to do that.

22 And I also told Nik both privately and in
23 front of Chandra that if I was forced to choose,
24 that I would choose Chandra, that Chandra was
25 crucial to the project. And Nik's involvement, if

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1 it became impossible for Nik and Chandra to work
2 together, it would be Chandra that was chosen. And
3 after that, from my perspective things had calmed
4 down.

5 Q. You were also asked whether TechCrunch
6 or CrunchPad had secured firm commitments -- I
7 believe that was the phrase -- for financing or
8 investment. Do you recall that line of questioning?

9 A. Yes.

10 Q. Sorry. The question was whether you had
11 received unqualified commitments regarding financing
12 of CrunchPad or investments in CrunchPad.

13 Do you remember that questioning?

14 A. Yes.

15 Q. What obstacles were there, if any, to
16 getting unqualified commitments to investing in
17 CrunchPad?

18 A. It was difficult to perform -- for firms
19 to perform background checks on Chandra. There were
20 some negative things, random negative things about
21 him out there in general. And being from Singapore
22 instead of the U.S., it was difficult, and there
23 were some issues around that. Chandra did not check
24 out well.

25 That being said, with our involvement, we

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1 And you know, as the product was delayed
2 and, you know, it wasn't necessarily urgent for me
3 on a day-to-day basis to get it done on a day-to-day
4 basis. I mean, it was always sort of just around
5 the corner, but always very hard to nail him down on
6 just who we were talking about and just how much and
7 what the relationships were between everyone.

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Q. So it's your sworn testimony -- I want to make this clear, that it's your sworn testimony that prior to July of 2008 you had received no information regarding Apple developing some sort of web tablet; is that fair?

10

11

MR. BRIDGES: Objection, vague and ambiguous.

12

13

THE WITNESS: Yes.

14

BY MR. STERN:

15

Q. Prior to July of 2008, had you heard of any other company that had developed or was developing a web tablet?

16

17

18

MR. BRIDGES: Objection, vague and ambiguous.

19

20

THE WITNESS: I get excited about the product. There were a number of products on the market.

21

22

23

BY MR. STERN:

24

Q. That was a yes no question. Prior to July 2008 --

25