EXHIBIT A

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UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

INTERSERVE, INC., dba TECHCRUNCH, a Delaware corporation, and CRUNCHPAD, INC., a Delaware corporation, Plaintiffs, vs. FUSION GARAGE PTE. LTD., a Singapore company, Defendant.	Case No. CV-09-5812 RS (PVT) **STATEMENT OF MISAPPROPRIATED BUSINESS IDEAS** [Pursuant to Court Order of April 9, 2010, Dkt. No. 62] **CONFIDENTIAL**

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1   The Court's April 9, 2010, Order [Dkt. No. 62] requires Interserve, Inc., and CrunchPad, Inc.

2   (collectively "TechCrunch"), for case management purposes, to provide a statement of

3   misappropriated business ideas along the lines set forth in California Code of Civil Procedure §

4   2019.210. TechCrunch alleges that it provided the following "business ideas" to the collaborative

5   effort to develop the CrunchPad (now "JooJoo") tablet computer product during the course of

6   TechCrunch's collaboration with Fusion Garage from September 2008 to November 17, 2009.

7   TechCrunch does not claim that any of these ideas are its trade secrets. The development of the

8   CrunchPad was a truly collaborative and iterative process involving a large volume of daily

9   communications across a variety of media. TechCrunch provided detailed answers to questions,

10   feedback, and suggestions through interactions with Fusion Garage.

11   **I.   Conceptual direction**

12   1.   TechCrunch supplied the concept of a fully browser-based operating system, where

13   the device would boot directly and rapidly to a Web browser. This implied the absence of a

14   traditional Windows or Mac style "desktop." Instead, the product would go from power-up to a

15   web-browser in a matter of seconds; users would essentially instantaneously be able to surf the

16   Internet. The user environment would use a soft keyboard and an icon-based feature set for

17   navigating the Internet. The product would be magazine-sized, touch-screen-based, portable, and

18   ideally priced at $200 or less. TechCrunch designed the CrunchPad's form factor and dimensions

19   before beginning its collaboration with Fusion Garage. Every technological and design choice on

20   the CrunchPad project was made at the direction of TechCrunch; no changes were made without

21   TechCrunch's express approval.

22   2.   TechCrunch created the hardware, software, and user interface for CrunchPad

23   Prototype A (announced on techcrunch.com August 30, 2008) entirely in-house or with TechCrunch-

24   affiliated contractors other than Fusion Garage. TechCrunch created the hardware and user interface

25   for CrunchPad Prototype B (announced on techcrunch.com January 19, 2009) entirely in-house or

26   with TechCrunch-affiliated contractors other than Fusion Garage, and collaborated with Fusion

27   Garage on Prototype B's software based on Prototype A's software. TechCrunch sent to Fusion

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SF:279376.5

1 Garage a detailed "product draft" of software components as a starting point for Fusion Garage's

2 software development for Prototype B. TechCrunch hereby incorporates the "product draft"

3 document by reference and attaches it to this document as an addendum. The development of

4 CrunchPad Prototype C (announced on techcrunch.com on April 9, 2009) and the Launch Prototype

5 (announced on techcrunch.com on June 3, 2009) was an iterative process; Fusion Garage's work on

6 CrunchPad Prototype C and the Launch Prototype was not a reboot from scratch but instead

7 explicitly based on TechCrunch's CrunchPad Prototypes A and B.

8 **II.   Hardware**

9   3.   TechCrunch created the CrunchPad Prototype A and its hardware configuration.

10   4.   TechCrunch created the CrunchPad Prototype B and its hardware configuration,

11 which was designed and built by TechCrunch, David Gallatin from Semiphoresis, and David Yarnell

12 and Greg Lalier from Dynacept, working at TechCrunch's direction.

13   5.   TechCrunch insisted that the product be capacitive (rather than resistive) touch-screen

14 based, with no integrated "hard" keyboard. TechCrunch concluded that a capacitive touch-screen

15 would be more attractive to consumers. Brian Kindle and Erikka Arone communicated with a

16 variety of vendors in 2008 and 2009 regarding the particular design and production of the capacitive

17 touch-screens to be used in the CrunchPad.

18   6.   Louis Monier, on behalf of TechCrunch, indicated that the original "soft" keyboard's

19 delay time was too long and that keys needed to change color when pressed. Mr. Monier

20 specifically suggested 10 mm spacing with no dead space between keys, and also keeping the keys

21 above the bottom edge by 50 pixels.

22   7.   TechCrunch directed that the CrunchPad product would lack a hard drive other than

23 for a software footprint (that is, Flash storage for the OS and browser software); storage would take

24 place primarily "in the cloud" rather than on the tablet computer's Flash-based memory.

25   8.   TechCrunch insisted that the product include an integrated camera, understanding the

26 critical importance of photo-sharing and image capture for the tablet computer market.

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1   9.   TechCrunch also insisted that the product include peripheral USB, USB 2.0, and

2   FireWire ports for plugging in other devices.

3   10.   TechCrunch had significant input into the question of the product's proper viewing

4   angle. In order to support the product in an upright position (so it did not need constantly to be held

5   by the user), TechCrunch suggested a leg, like a picture frame base, that pops out from the back to

6   support the tablet. Mr. Monier's explicit instructions to Fusion Garage were: the tablet "is NOT

7   usable when flat on a table. Not one bit. ... It needs a stand. ... must have a stand to hold it at a 60-

8   degree angle."

9   11.   TechCrunch dictated the core CPU and what platform the CrunchPad would operate

10   on. It contacted various chip vendors to identify the optimal chipset configuration. There was

11   significant disagreement as to whether to use ARM or X86 chips in the CrunchPad. ARM chips use

12   less power (meaning less heat and longer battery life), but do not work well with Flash. Without the

13   ability to use Flash technology for games, video, and music streaming, the product would have been

14   far less appealing to consumers. Based on TechCrunch's research, TechCrunch concluded that the

15   CrunchPad device should use a particular X86 Intel Atom processor. Fusion Garage continues to

16   use the X86 Atom Processor in the "JooJoo" device.

17   12.   Mr. Monier instructed Fusion Garage to use a single physical button for all features: a

18   single button "can be overloaded to do everything: power on, wake up, bring up the chrome. It just

19   needs to be placed so that it's really convenient to use over and over."

20   **III.   Software and Features**

21   13.   CrunchPad Prototype A's source code, designed primarily by Mr. Cubrilovic.

22   14.   CrunchPad Prototype B's source code, a collaborative effort between Fusion Garage

23   and Mr. Monier, based on work initially performed by Mr. Cubrilovic and the "product draft" from

24   Louis Monier.

25   15.   TechCrunch focused from the start on the need for robust video playback capability.

26   Considering the CrunchPad's small memory size, this was potentially problematic. So TechCrunch

27   suggested the expedient of proxying video directly to the device so that video could be played

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without the use of a flash player. This enabled the CrunchPad to run videos from YouTube but not Hulu. TechCrunch later supplied a new flash codec to enable the CrunchPad to run Hulu videos, as well.

16.   TechCrunch also supplied the idea and know how for empowering the device to play video output to a resolution of 1080p--full high definition. TechCrunch insisted on using 1080p even though the CrunchPad's screen is only 754p so that the product could provide output to 1080p for external HD television monitors.

17.   TechCrunch designed the CrunchPad's application programming interface, or API, with a browser for custom applications. TechCrunch also conceived the idea of using a custom applications API on top of the browser that would eventually use HTML 5.

18.   Boot time was a critical issue for TechCrunch, though Fusion Garage initially was indifferent to it. TechCrunch insisted on shorter boot times and, indeed, boot time was the primary metric used by TechCrunch to evaluate the development of the CrunchPad's operating system. TechCrunch set a boot time goal of 10 seconds or less. The "JooJoo" device allegedly boots in 9 seconds.

19.   Mr. Monier instructed Fusion Garage to fix the touch-click interface, noting "When I use my finger clicks fail too often. I suspect it's because the centroid of my fingertip moves ever so slightly between click and lift, and these clicks are interpreted as a tiny scroll." He instructed that "the amount of pressure required by this type of touchscreen is too much."

20.   Mr. Monier instructed Fusion Garage to fix the password protection features because the collaborators needed "to make the tablet simple enough for Mike [Arrington] to use," noting that "the Wi-Fi manager asks for passwords and doesn't remember the keys (keyring issues)."

21.   Mr. Monier identified specific hang-up problems with the Linux source code and instructed Fusion Garage to troubleshoot and repair them.

22.   Mr. Monier instructed Fusion Garage to fix a "long title bug" that was preventing all icons from appearing on the screen at the same time. He insisted that all icons be visible on the opening screen. He stated: "Truncating the title length that you display would fix the issue."

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IV. Interface

23. CrunchPad Prototype A's user interface, designed primarily by Mr. Cubrilovic.

24. CrunchPad Prototype B's user interface, designed primarily by Mr. Cubrilovic and Mr. Monier in collaboration with Fusion Garage.

25. TechCrunch provided the idea of arranging icons on the homescreen and using larger icons (suitable for finger-tapping) as opposed to smaller ones (suitable instead for mouse-clicks). TechCrunch's idea was that the use of large "favorite" icons would allow users to quickly navigate to their favorite web pages.

26. Fusion Garage initially proposed using a black background for the user interface. TechCrunch insisted that a black background would be harder to see and therefore harder to use. It pushed strongly--and ultimately successfully--for the use of a white background, instead.

27. TechCrunch insisted that users be able to use any combination of a pen or stylus, a "soft" keyboard, and finger or hand gestures, to navigate the Internet or use the CrunchPad's other features. Mr. Monier suggested that the interface be multi-touch rather than 2-point touch, and instructed Fusion Garage to avoid pinching and other gestures that might be proprietary to Apple.

28. TechCrunch suggested a "browser chrome" feature that can be toggled on and off to give a good user feel to the device's browser software and allow for a full-screen Internet experience. (The browser's "chrome" is the border of a web browser's window.) TechCrunch instructed that Fusion Garage needed to strip the browser to just the chrome in order to get the OS to work. Mr. Monier required: "The chrome will be up by default, with a button to make it disappear, and then either a gesture (touch top-left corner, say) or a tiny permanent element to click onto bring it back. The soft keyboard will appear only when text entry is needed, independent of the chrome."

29. Mr. Monier instructed Fusion Garage to reverse the direction of the "scrolling" feature, stating that "[i]mplementing the iPhone scroll is the best first step," but eventually suggesting a system where "If I lift my finger, motion stops. If I stay in one place after moving, it's interpreted as 'keep doing what you were doing last,' so it keeps scrolling like it does today, using the vector defined by the motion in the last half-second or so." They key was to develop an intuitive

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scrolling system. The scroll needs to start immediately, rather than requiring an initial tap or click

prior to scrolling. Fusion Garage originally had configured the scrolling to work in exactly the

opposite direction of what Mr. Monier instructed, but changed it at his direction.

30. Mr. Monier instructed Fusion Garage: "The browser should have minimal

functionality: a 'close' button ..., navigation, back/reload/stop, home, basic plug-ins (Flash a must),

scroll. The chrome should appear/disappear somehow, maybe some tiny fixed element for now, or a

corner, gesture later."

V. Marketing

31. TechCrunch was responsible for making confidential introductions to a variety of

Silicon Valley investment luminaries. TechCrunch's Keith Teare introduced Mr. Rathakrishnan to

multiple potential investors in the CrunchPad project: Intel, Dell, HP, NVidia, The New York Times,

LG, Merus Capital, Atlas Ventures, Ron Conway, and First Round Capital. Through TechCrunch,

Fusion Garage was introduced to Pegatron as the ODM for the CrunchPad.

32. TechCrunch, as a major technology blog, had significant insights into how best to

market the CrunchPad, and shared those ideas with Fusion Garage. TechCrunch specifically

identified November 2009 as an optimal launch window, a window Fusion Garage subsequently

exploited; it mapped out a plan to promote the CrunchPad via the techcrunch.com blog and

implemented that plan in late 2008 and throughout 2009 by selective disclosures of the

collaboration's progress and by leveraging Mr. Arrington's technology-industry contacts in support

of the enterprise; and it used the name CrunchPad (which is still regularly mentioned in connection

with the "JooJoo") as a way to benefit from TechCrunch's overwhelming name recognition in the
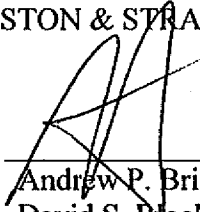
technology and new media markets.

33. Access to, and expertise of, Michael Arrington, Heather Harde, Louis Monier, Brian

Kindle, and Nik Cubrilovic, and other TechCrunch personnel.

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Dated: April 23, 2010

WINSTON & STRAWN LLP

By: _____

Andrew P. Bridges
David S. Bloch
Matthew A. Scherb

Attorneys for Plaintiffs
INTERSERVE, INC. dba TECHCRUNCH
and CRUNCHPAD, INC.

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Chandra, I had promised you some sort of product draft, it's actually more like one big list to consolidate all of my notes. Mostly I am going through all the components I can think of on the software side (mostly user-visible) and I have just started thinking about how to group and display them. So no new idea yet, and very much stream of consciousness.

Please keep it to yourself, it will evolve quite a bit, but I would appreciate your feedback.

Cheers,

CrunchPad

Vision: we want to build an Internet-only device, the physical manifestation of a browser. It's a small (10-12" screen) device, connected to the Internet (WiFi), with no keyboard (soft keyboard on touchscreen). It boots directly into a full-page browser, all controls appear when needed. It has no hard drive and all personal data can be backed up in the cloud.

Selling points: simplicity of use (browser metaphor, no OS, no virus, no local data to manage), low price (~$300), software will be upgraded regularly for free, elegant design (just one physical button, sexy case).

High-level goals

- Intended use: consuming media through the Web, not a replacement for a laptop or a phone. But it might fulfill all the needs of users who have made the switch to using exclusively Web service and storage, and don't need to run specific desktop apps.
  - The tablet must be small enough to carry around the house, in the car, or throw in a bag or purse. Not small enough for a pocket. Sturdy enough for everyday use.
  - It must have a long battery life. With normal usage, no need to charge it more than once a day. We don't want the problems of the iPhone 3G.
  - The browser is full-screen, the controls have to be invoked explicitly by pressing the physical button. Shortcuts are available (touching the edge of the screen) to bring up parts of the chrome (navigation, tabs...).
    - No particular demographic in mind. Should appeal to:
      - early adopters who want one more gadget.
      - teens who are only on the Internet and will convince parents to buy something at 1/3rd the cost of a laptop.
      - people who will leave one near the couch to check email while watching tv, one in the kitchen to look up recipes and check email, one in the bathroom...
    - seniors and not-so-tech-savvy people who will enjoy the simplicity (nothing to break!).
    - The tablet functions in portrait and landscape views, set by the accelerometer.
- The tablet should boot in ~10 seconds, and give feedback that it's booting very quickly (2 seconds or less). It should wake up from sleep instantly.

=== SYSTEM ===

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BIOS

- Do we need to contract for this, or is this something Chandra's team can do?

Kernel

- DSL (Damn Small Linux), managed by Chandra's team.

Drivers

- Via offered to provide many drivers for Linux, depending on devices, of course.

Reinstalling the software from scratch

- Issue: dead machine, SSD got corrupted, nothing can be trusted (BIOS ok?)
- Fix: connect through USB to a computer, go to our site, download something, click heels three times, wait.
    - Hardware must accept this hard reset no matter what. We don't want users to have to return bricked tablets.

Authentication

- Interesting problem since a tablet sits between a completely personal device (phone) and a home computer shared by family members.
- We assume that people might get confused (bookmarking while logged in as someone else), but not malicious.
- For times of paranoia (trip, house guest) save to cloud and nuke data.

New user: for the first time the machine is turned on, or when requesting a "new account".

- Ask for a user name.
    - O   A first name should be ok, it'll be used to greet the user and confirm who is logged in if multiple users have access to the tablet.
    - O Ask to take a snapshot.
- Ask for an email address if the user intends to save their data to the cloud.
    - O Data saved will be account info, bookmarks, cookies, history, preferences...
        - Option to put a password. And yes, ask to repeat the password.
            - O   This password can be used every time the machine
                - [ ] boots up
        - [ ] wakes up from sleep
        - [ ] saves data to the cloud.
            - this can be done on demand, and as a preference when putting machine to sleep or logging out.
            - when saving explicitly, option to nuke all personal data (with enough "are you sure?").
    - let's make sure to use enough encryption: https, data is encrypted with user password when stored in the cloud.
        - O   User must choose among the options, but explain clearly the implications.
    - O Guidelines on a good password; don't reuse the one matching your email address.
        - O   If no password, can't save to the cloud.
- Other preferences?
- O Choose network printers (TBD).

Login

- Power up
  - If multiple users, must select an account, then single user.
    - If single user: if needs password, ask for it, otherwise go right in.
  - Cute animation for wrong password.
    - Wake up from sleep
    - Assume same account, request password if required.
  - Briefly display the user name and photo, just to confirm.

- Put to sleep
- Preference to save data to cloud.
  - Power off
    - Explicit save to cloud, in addition to preference.
- Switching user: brings you to the "power up" state, plus a "new user" option.
    - Local credentials are checked locally.
- When saving to the cloud, credentials are checked online, on our site.

    - Do we have a separate incognito mode?
        - No new cookies, no trace in history or cache... Like what Google is doing with Chrome.
    - Separate user? Tab option? Mode (everything I do from now on...)?
  - Need some visual feedback.

Network access - all on one page.

- List available networks. For each display name, signal strength, locked or not.
    - Use can select a network, enter credential.
- . Is there any use for "remember new network", "delete old network"?
- We can simply remember all networks that have been used, with their password.

Software update

- Check automatically once a day, silent download, install at next boot with permission.
- Any user can grant permission, we don't want to get into multiple levels, administrator account...
    - Enough authentication (sign the package) that some bozo can't get in the middle and push a bogus update.
- Display version number for the software in a menu somewhere. (TBD)

=== BROWSER ===

The full chrome: can be brought up from hardware button. Partially transparent? (we'll see with the designer)

- Thought: some of the "control pages" (WiFi, passwords...) could be treated as pages, fixed tabs with an icon.

- Status bar.
    - Navigation bar (includes back/forward/home, unibox, bookmark this page).
- Find in page, opens a text box, next/prev/kill.
- Tabs bar.
    - Save page as... (where?)

- Print.
- Customize
  - History: search, nuke.
  - About.
  - Help.
  - Options.
  - Import bookmarks from a list on the Web. Think.

- Cut/copy/paste? Better in contextual menu.
- Encoding.
- Technical matters
  - View source.
  - Debug JS.
  - JS console.
  - Task manager.
- Bookmarks
  - Bookmarks can be grouped, we can propose a few categories to start, plus the bar.
    - Access to bookmarks using thumbnails?
- Preferences.
- Set up a new account for this tablet. Can also import a user info from the cloud, existing on this tablet or new.
  - Save personal data to the cloud.

Status bar

- User name and picture.
- Date and time (sync'ed over the Web).
- WiFi status and access to WiFi management page.
- Battery status.
- Volume level / control.
- Text size as A A A.
- Sleep (now or in 30 mins, 60 mins... to watch movie then fall asleep), Power off (now), Switch user.
  - Options to save data to cloud, option to nuke all data.

Navigation bar

- Shortcut: touch neat top edge and go off edge of screen.
- Nav will appear for a couple of seconds, stay if clicked on.
- Back/forward/home buttons.
  - Displays unibox with go/kill/reload.
    - Similar to Google, possibly better with query suggestions and popular sites.
  - See if we can leverage some of Google APIs.
- Multiple providers? Easier if we pick Google and get money.
  - Bookmark this page, and menu to put bookmark in the right folder or bookmark bar.
  - Optional bookmark bar.
  -

Tabs

- Shortcut: touch near bottom edge and go off edge of screen.
- Tabs will appear for a couple of seconds, stay if clicked on.

- Unclear how tabs should appear, just text tabs? Thumbnails?
- New tab. Name is title of page

Preferences: also available at the point of use.

- Change information for this account: password, email, when to require password, save to cloud...

- Power management: turn off screen after X minutes; anything else?
- -- needs work --

- Enable Java/JS (?), font size, language (where?), default encoding.
- History duration.
- Accept cookies, only accept from, keep until, nuke now.
- Size of cache (meh!).
    - Encryption, certificates.

Screen navigation

- Scrolling: drag with finger but show scroll bars when scrolling to give position of window in page (like iPhone).
    - Text
    ○ Click => cursor on location.
    ○ Double click =>select word.
    ○ Click (single or double) and drag: extend selection by char or word.
    ○ Select and hold brings up a menu: cut, copy, paste, search in page, search on the Web, search in Wikipedia,
    ...
- Link
    ○ Click => follow this link.
○ Click and hold brings up a menu: open in new tab, save link as (?)...
    - Image
○ Clock and hold brings up a menu: save as, copy URL, copy image...
    - Going to top/bottom of page?
    ○ Scroll up in top left corner, or down in a bottom right corner?
○ Just scroll, scroll, scroll?

Homepage

- Clock, date, location (use GPS, zooming view),
    ○ Sync up the clock from the Web, use the GPS for timezone.
- WiFi network and strength, battery status.
    - Use Google Gadgets as much as possible. Ours? Populate a few other ones, like weather, calculator...
    - Let people add stuff from the chrome: bookmarks, ...
    - Set of services selected from a big list. Paid inclusion as well. All customizable.
- Folder for cloud storage (think!).

Keyboard

- Comes up when selecting a text entry area.
- Stretchable by the user. If rotated, scales to fit.
- Not too large, not too small. Present in both landscape and portrait mode.

- Experiment with Swype.
- Spell checking?

Camera

- Take picture, upload to the cloud (our storage?) or one of the services (Flickr...).

- Used for video conferencing.
- Uploading video: seesmic, YouTube...

Voice

- Voice memo.
- Speech-to-text for text entry?
- Accessibility? See T.V. Raman (blind friend). Keyboard will be a major drag.
  - Use it to control browsing,... (say "back"...)? Look at Yap. Doubtful.

Web site

- Drive the updater.
- App to restore tablet.

- Save / restore user personal info (bookmarks, cookies...).
- Pseudo local storage, like iDrive?
  - Gathering traffic data (?)
- Server to check for spam/malware, unless we can rely on Google's API.
- Server to drive the unibox if we can't use Google? Look into BOSS.
  - Selling accessories, feedback...
- Community?

Big bag of open technical questions

- Import bookmarks from the Web?

- Block pop-ups, by default, then people can allow one, or from this site, or for this session.
  - How to kill a tab that went nuts? One process per tab makes it easier.
  - Gears: implications?
  - GreaseMonkey? Not for WebKit, FireFox only.
  - Can users install new plug-ins or update a pre-installed one? Yes.
  - Remote access to another machine? Already available through a browser?
- Store passwords for sites.
- Auto-fill for forms?
  - How to use cloud storage as if it was a local hard drive?
    - O   Downloading an attachment to, or uploading a picture from?
- RSS reader?
- Skype?
- Capture URL stream, anonymized, opt-in.
- Gestures?

- VLC plug-in? Who pays for the transcoding?
  - External drives: USB drive, local network drive, cloud storage (our service, Google...)
    - Can user save to an external drive?
    - Play media from an external drive?
- Upload from external drive to a site (Flickr, Google Docs...)?
    - Printing? Accessing a remote printer?
    - Phrasing: find new terms that are neither Mac nor Windows (e.g. options/preferences => customize).
- Videos on Web site to explain usage?
- Attachments in emails: docs, media, zip,...?
- Tips. Contextual.
- Allow for removable storage (SD slot)?

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--Louis

PROOF OF SERVICE

Case Name: *Interserve, Inc. dba TechCrunch and Crunchpad v. Fusion Garage Pte. Ltd.*
Court: **U.S. District Court, Northern District of California**
Case No.: **C 09-cv-5812 RS (PVT)**

I am a resident of the State of California, over the age of eighteen years, and not a party to the within action. My business address is Winston & Strawn LLP, 101 California Street, San Francisco, CA 94111-5894. On April 23, 2010, I served the within document:

STATEMENT OF MISAPPROPRIATED BUSINESS IDEAS

☐ By transmitting via facsimile the document(s) listed above to the fax number(s) set forth below on this date.

☐ By placing the document listed above in a sealed envelope with postage thereon fully prepaid, in the United States mail at San Francisco, addressed as set forth below.

☒ By causing hand-delivery of the document(s) listed above to the person(s) at the addresses set forth below.

☐ By electronically mailing a true and correct copy through Winston & Strawn LLP's electronic mail system at the e-mail address(es) set forth below.

Patrick C. Doolittle
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I declare that I am employed in the office of a member of the bar of this court whose direction the service was made.

Executed on April 23, 2010, at San Francisco, California.

_____