

EXHIBIT B

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

1 Andrew P. Bridges (SBN: 122761)
Abridges@winston.com
2 David S. Bloch (SBN: 184530)
DBloch@winston.com
3 Matthew A. Scherb (SBN: 237461)
MScherb@winston.com
4 WINSTON & STRAWN LLP
101 California Street
5 San Francisco, CA 94111-5802
Telephone: (415) 591-1000
6 Facsimile: (415) 591-1400

7 Attorneys for Plaintiffs

8

9

UNITED STATES DISTRICT COURT

10

NORTHERN DISTRICT OF CALIFORNIA

11

SAN FRANCISCO DIVISION

12

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

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

14

Plaintiffs,)

INTERSERVE DBA TECHCRUNCH'S
SECOND SUPPLEMENTAL RESPONSE
TO FUSION GARAGE PTE. LTD.'S
INTERROGATORIES, SET ONE

15

vs.)

16

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

[Supplementing Responses to Interrogatory
Nos. 1, 3, 4, and 9]

17

Defendant.)

18

19

20 Interserve, Inc. dba TechCrunch ("TechCrunch") hereby responds to Fusion Garage Pte.

21 Ltd.'s Interrogatories, Set One, to TechCrunch as follows:

22

GENERAL OBJECTIONS

23

24

TechCrunch makes the following general objections, whether or not separately set forth in
response to each and every instruction, definition and interrogatory:

25

26

27

28

1. TechCrunch objects to each interrogatory to the extent that it seeks information that is
protected by the attorney-client privilege, the work product privilege and/or any other applicable
privilege. Such information will not be disclosed. Any inadvertent disclosure of such information
shall not be deemed a waiver of the attorney-client privilege, the attorney work product doctrine, or

1 any other applicable privilege or immunity recognized by statute or case law.

2 2. TechCrunch objects to each interrogatory to the extent that it seeks information protected by
3 a constitutional right of privacy or applicable privacy law.

4 3. TechCrunch objects to each interrogatory to the extent that it seeks information not
5 reasonably related to the claims or defenses in this matter.

6 4. TechCrunch objects to each interrogatory, and the instructions contained therein, to the
7 extent they purport to impose any requirement or discovery obligation on TechCrunch other than
8 those set forth in the Federal Rules of Civil Procedure and the applicable rules of this Court.

9 5. TechCrunch responds to the interrogatories with information of which it is now aware and
10 reserves the right to modify or amend its responses if and when it becomes aware of information not
11 reflected in its responses.

12 **RESPONSE TO SPECIAL INTERROGATORIES**

13 **SPECIAL INTERROGATORY NO. 1**

14 Describe with particularity each and every “business idea” that YOU contend DEFENDANT
15 misappropriated.

16 **RESPONSE TO SPECIAL INTERROGATORY NO. 1**

17 TechCrunch objects that this interrogatory is overbroad and unduly burdensome and seeks
18 information outside the scope of permissible discovery because it seeks information that is not
19 relevant to the subject matter of this action and because it is not reasonably calculated to lead to the
20 discovery of admissible evidence. TechCrunch further objects to this interrogatory as vague and
21 ambiguous. TechCrunch also objects to the extent this interrogatory seeks information protected by
22 the attorney-client privilege or the work product doctrine.

23 Without waiving and subject to TechCrunch’s general and specific objections, TechCrunch
24 respond as follows:

25 Fusion Garage has appropriated for its own benefit the joint collaborative effort between
26 CrunchPad Inc. and Fusion Garage to develop the so-called “CrunchPad.” The CrunchPad was
27 conceived by CrunchPad Inc.’s principal, Mr. Arrington, no later than July 2008, before CrunchPad
28

1 Inc. came into existence. On July 21, 2008, Mr. Arrington described his business idea as “a dead
2 simple web tablet for \$200.” He elaborated:

3 Here’s The Plan

4 We’ll organize a small team of people to spec this out. First is the marketing document that
5 just outlines what the machine will do – we have a first draft of that already and will post it
6 soon. Then we’ll spec out the hardware and get people to help write the customized Linux
7 and Firefox code. Once we’ve completed the design we’ll start to work with the supply chain
8 company to get an idea on the cost of the machine (the goal is \$200), and hopefully build a
9 few prototypes. Anyone who contributes significantly to the project would get one of those
10 first prototypes. If everything works well, we’d then open source the design and software and
11 let anyone build one that wants to.

12 The goal is to keep the machine very simple and very cheap. I think this will be a lot of fun,
13 and it may just turn into an actual product that we can use to surf the web and talk to our
14 friends.

15 We’ll be coordinating the project over at TechCrunchIT. Leave a comment there if you want
16 to participate and we’ll be in touch soon.

17 By August 30, 2008, TechCrunch had constructed its first prototype web tablet. Fusion
18 Garage played no role in the development of that prototype. TechCrunch posted pictures and a
19 description on the TechCrunch blog, referring to it as Prototype A. As Michael Arrington noted in
20 the blog posting: TechCrunch was “still far from having beta units but there is now a team working
21 on the project, and an incredible group of people and companies have reached out to us to help.
22 We’ve learned a lot about building a hardware device over the last few weeks, and it’s clear that it is
23 quite possible to build a high performance web tablet in the price range we anticipated.”

24 In September 2008 TechCrunch and CrunchPad recruited Louis Monier to lead the project to
25 build the CrunchPad. Mr. Monier was the founder and former CTO of AltaVista and had held
26 positions at eBay, Google, and other high-performance Web- or technology-focused companies. As
27 Fusion Garage publicly acknowledged, it “worked closely with Louis Monier in getting the software
28 in shape for the hardware prototype B. We continue to work with [CrunchPad and TechCrunch] in
getting the software in shape to make crunchpad a easy to use device.” All of the contributions of
Mr. Monier and the other CrunchPad-affiliated individuals referenced in this Fusion Garage blog
post constitute business ideas. Fusion Garage further conceded that “We continue to work with

1 Louis Monier on the feature set and the user experience. We are thrilled with this progress and
2 would like to take the opportunity to thank Michael and Louis for giving us the opportunity to work
3 with them on the Techcrunch Tablet.” Mr. Monier made presentations to Google and others
4 concerning the project in an effort to encourage interest, raise investment capital, and assist in the
5 development effort. At the time, Fusion Garage acknowledged that it had never built hardware, but
6 instead wanted to build software that Fusion Garage would license to mobile device creators for a
7 fee. TechCrunch imparted its substantial knowledge of hardware design to Fusion Garage. All of
8 these contributions to the feature set and user experience were business ideas that Fusion Garage has
9 now sought to misappropriate for its private benefit. All of the contributions of Mr. Monier and the
10 other CrunchPad-affiliated individuals referenced in Fusion Garage’s January and February 2009
11 blog post were business ideas that have now been misappropriated by Fusion Garage and
12 incorporated into Fusion Garage’s ersatz “JooJoo” device.

13 In approximately April 2009 Mr. Rathakrishnan traveled to Palo Alto and remained in the
14 Bay Area through the summer. During this period Mr. Rathakrishnan was hosted by TechCrunch’s
15 Keith Teare and, through Mr. Teare, introduced to multiple potential investors in the CrunchPad
16 project. Potential investors contacted by TechCrunch during this period included Intel, Dell, HP,
17 NVidia, The New York Times, LG, Merus Capital, Atlas Ventures, Ron Conway, and First Round
18 Capital. During this same period, Mr. Rathakrishnan used TechCrunch’s and CrunchPad’s facilities
19 and met with their in-house personnel to discuss the specific atom processor that would be used in
20 the eventual CrunchPad device. Mr. Teare set up other funding and supplier meetings, including a
21 meeting in Asia with LG that Mr. Rathakrishnan failed or refused to attend. Through Mr. Teare,
22 Intel introduced Pegatron as the ODM for the CrunchPad project and made the initial introductions.

23 In Fall 2009, Fusion Garage flew most of its personnel to California to integrate the teams
24 and to work with TechCrunch personnel on the CrunchPad at the TechCrunch facility in Palo Alto,
25 California for an extended period. Specifically, the TechCrunch and Fusion Garage employees
26 worked together on almost every component of the project. Particular objects of attention included
27 screen visibility issues, touch screen performance issues, user interface issues, issues relating to
28 “gestures” used for commands, and keyboard page design issues. All of these contributions

1 constitute business ideas that Fusion Garage misappropriated for its private benefit. The overall
2 conception, blueprint, guidance, and senior level support for the project emanated substantially from
3 TechCrunch. Specifically, the CrunchPad's design and specifications, performance characteristics
4 (including boot speed that Defendant prominently features in the advertising and promotion of its
5 JooJoo product), software architecture, hardware platform design and component sourcing, hardware
6 form factor and other designs, driver integration, application programming interface, user interface,
7 and documentation all constitute business ideas conceived and developed by CrunchPad Inc. and
8 misappropriated by Fusion Garage for its private benefit.

9 Plaintiffs, not Fusion Garage, came up with the original concept of the CrunchPad as a "dead
10 simple and dirt cheap touch screen web tablet to surf the web," which uses an iPhone-like touch
11 screen keyboard to input data and which loads directly to the web browser and uses a browser, in
12 effect, as an operating system. TechCrunch furnished to the joint project many of the
13 CrunchPad/JooJoo's design characteristics. The entire concept of the product derived from Michael
14 Arrington at Techcrunch, including the use of a large-screen touch-screen device; the function of
15 booting extremely rapidly and straight to a browser, the lack of a desktop, no hard drive other than
16 for the software footprint, and other aspects. Among the other detailed design ideas that
17 TechCrunch contributed to this joint project that were evident in the limited public display to date of
18 the JooJoo product are: (1) the use of a white instead of a black background to better display web
19 pages; (2) the use of large icons on the home screen so that users can quickly navigate to their
20 favorite web pages; (3) the use of video proxied directly to the device so that video can be played
21 without the use of a flash player; (4) the application programming interface, or API, with the
22 browser for custom applications; (5) the idea and know how for empowering the device to play
23 video output to a resolution of 1080p, also known as full high definition. TechCrunch also believes,
24 and therefore alleges, that Defendant's ersatz JooJoo product incorporates other, less visible, ideas
25 that TechCrunch furnished to Defendant in the course of their joint project as set forth above.

26 **SUPPLEMENTAL RESPONSE TO SPECIAL INTERROGATORY NO. 1**

27 TechCrunch objects that this interrogatory is overbroad and unduly burdensome and seeks
28 information outside the scope of permissible discovery because it seeks information that is not

1 relevant to the subject matter of this action and because it is not reasonably calculated to lead to the
2 discovery of admissible evidence. TechCrunch further objects to this interrogatory as vague and
3 ambiguous. TechCrunch also objects to the extent this interrogatory seeks information protected by
4 the attorney-client privilege or the work product doctrine.

5 Without waiving and subject to TechCrunch’s general and specific objections, TechCrunch
6 respond as follows:

7 TechCrunch incorporates the entirety of its previous response to this interrogatory and,
8 pursuant to Fed. R. Civ. P. 33(d), further incorporates its most recent Statement of Misappropriated
9 Business Ideas [Pursuant to Court Order of April 9, 2010, Dkt. No. 62].

10 In addition, during April 2009, Mr. Teare, Ms. Harde, and other TechCrunch personnel made
11 numerous contributions to presentations to promote the CrunchPad. TechCrunch originated the
12 marketing concept “the Internet is everything” and originated ideas embodied in text, graphics,
13 screenshots, and charts which Fusion Garage used to promote the JooJoo in March 2010.

14 **SPECIAL INTERROGATORY NO. 2**

15 For each business idea that YOU identified in response to Interrogatory. No. 1, state all facts
16 that support YOUR contention that such alleged “business idea” is protectable as intellectual
17 property or otherwise.

18 **RESPONSE TO SPECIAL INTERROGATORY NO. 2**

19 TechCrunch objects that this interrogatory is overbroad and unduly burdensome and seeks
20 information outside the scope of permissible discovery because it seeks information that is not
21 relevant to the subject matter of this action and because it is not reasonably calculated to lead to the
22 discovery of admissible evidence. TechCrunch further objects to this interrogatory as vague and
23 ambiguous. TechCrunch also objects to the extent this interrogatory seeks information protected by
24 the attorney-client privilege or the work product doctrine, especially to the extent it calls for
25 counsel’s contentions and legal conclusions as to what business ideas are “protectable as intellectual
26 property.” A business idea need not be protectable as intellectual property to be protected against
27 misappropriation.

28

1 Plaintiffs may specify additional documents as discovery progresses and as it prepares its
2 exhibits list for trial.

3 **SPECIAL INTERROGATORY NO. 4**

4 Describe with particularity every contribution that YOU allege YOU made to the alleged
5 collaboration with DEFENDANT relating to the development of the CrunchPad web tablet or any of
6 its prototypes.

7 **RESPONSE TO SPECIAL INTERROGATORY NO. 4**

8 TechCrunch objects that this interrogatory is overbroad and unduly burdensome and seeks
9 information outside the scope of permissible discovery because it seeks information that is not
10 relevant to the subject matter of this action and because it is not reasonably calculated to lead to the
11 discovery of admissible evidence. TechCrunch further objects to this interrogatory as vague and
12 ambiguous. TechCrunch also objects to the extent this interrogatory seeks information protected by
13 the attorney-client privilege or the work product doctrine.

14 Without waiving and subject to TechCrunch's general and specific objections, TechCrunch
15 incorporates by reference its response to Interrogatory No. 1.

16 **SUPPLEMENTAL RESPONSE TO SPECIAL INTERROGATORY NO. 4**

17 TechCrunch objects that this interrogatory is overbroad and unduly burdensome and seeks
18 information outside the scope of permissible discovery because it seeks information that is not
19 relevant to the subject matter of this action and because it is not reasonably calculated to lead to the
20 discovery of admissible evidence. TechCrunch further objects to this interrogatory as vague and
21 ambiguous. TechCrunch also objects to the extent this interrogatory seeks information protected by
22 the attorney-client privilege or the work product doctrine.

23 Without waiving and subject to TechCrunch's general and specific objections, TechCrunch
24 responds as follows:

25 TechCrunch contributed all those things included in its response to Interrogatory No. 1,
26 which sets forth TechCrunch's contributions of business ideas, and which TechCrunch incorporates
27 here by reference.
28

1 In addition, TechCrunch contributed time and expertise of its employees and other personnel.
2 TechCrunch contributed approximately \$400,000 USD in cash for payment of the venture's
3 expenses; use of office space; leadership; vision; and potential financing documents.

4 **SPECIAL INTERROGATORY NO. 5**

5 Describe with particularity the entire content of every alleged trade secret that YOU contend
6 DEFENDANT misappropriated.

7 **RESPONSE TO SPECIAL INTERROGATORY NO. 5**

8 TechCrunch objects that this interrogatory is overbroad and unduly burdensome and seeks
9 information outside the scope of permissible discovery because it seeks information that is not
10 relevant to the subject matter of this action and because it is not reasonably calculated to lead to the
11 discovery of admissible evidence. TechCrunch further objects to this interrogatory as vague and
12 ambiguous. TechCrunch also objects to the extent this interrogatory seeks information protected by
13 the attorney-client privilege or the work product doctrine.

14 Without waiving and subject to TechCrunch's general and specific objections, TechCrunch
15 responds as follows: TechCrunch does not assert a cause of action for misappropriation of trade
16 secrets in its Complaint.

17 **SPECIAL INTERROGATORY NO. 6**

18 IDENTIFY all DOCUMENTS that contain or memorialize every alleged trade secret that
19 YOU identified in response to Interrogatory No. 5.

20 **RESPONSE TO SPECIAL INTERROGATORY NO. 6**

21 TechCrunch objects that this interrogatory is overbroad and unduly burdensome and seeks
22 information outside the scope of permissible discovery because it seeks information that is not
23 relevant to the subject matter of this action and because it is not reasonably calculated to lead to the
24 discovery of admissible evidence. TechCrunch further objects to this interrogatory as vague and
25 ambiguous. TechCrunch also objects to the extent this interrogatory seeks information protected by
26 the attorney-client privilege or the work product doctrine.

27
28

VERIFICATION

I, Michael Arrington, founder of Interserve, Inc. and CrunchPad, Inc., am informed and believe that the foregoing interrogatory responses are true and correct and on that basis verify under penalty of perjury that they are true and correct.

Executed on July 19, 2010, at San Francisco, California.

/s/
Michael Arrington

SF:284538.6

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

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28