

EXHIBIT C

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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

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

Plaintiffs,

vs.

No. CV-09-5812 RS (PVT)

FUSION GARAGE PTE, LTD., a
Singapore company,

Defendant.

Confidential videotaped deposition of Brian
Kindle, taken on behalf of Defendant Fusion Garage
PTE, LTD, at 555 Twin Dolphin Drive, 5th Floor,
Redwood Shores, California, beginning at 9:12 a.m.
and ending at 5:55 p.m., on Thursday, August 19,
2010, before SUZANNE F. BOSCHETTI, Certified
Shorthand Reporter No. 5111.

10:29:38 1 interviewed to come in and run, be the head of -- act
10:29:44 2 as the head of the department for hardware
10:29:46 3 engineering and manufacturing operations for
10:29:48 4 CrunchPad --

10:29:49 5 BY MR. STERN:

10:29:49 6 Q. Did --

10:29:50 7 A. -- the CrunchPad tablet specifically.

10:29:52 8 Q. And let me be actually clear. Prior to July
10:29:55 9 8th, 2009, did you contribute any ideas of any kind
10:30:00 10 toward the CrunchPad device?

10:30:04 11 MR. BRIDGES: Objection. Vague.

10:30:06 12 THE WITNESS: No, I don't believe so.

10:30:06 13 BY MR. STERN:

10:30:08 14 Q. I want to be absolutely certain about this.
10:30:11 15 Prior to July 8th, 2009, did you participate in the
10:30:14 16 development of CrunchPad in any way, shape or form?

10:30:17 17 MR. BRIDGES: Objection. Vague and
10:30:20 18 ambiguous.

10:30:20 19 THE WITNESS: In the interview there were
10:30:23 20 some questions asked about the CrunchPad, but I don't
10:30:31 21 believe there were any development type questions
10:30:33 22 that were asked.

10:30:35 23 BY MR. STERN:

10:30:35 24 Q. Okay. And do you understand that Mr.
10:30:42 25 Rathakrishnan was the head of Fusion Garage?

11:35:05 1

total number.

11:35:05 2

BY MR. STERN:

11:35:06 3

Q. Can you tell me that the total number of

11:35:08 4

prototypes between the orange prototype and the time

11:35:10 5

that you left was closer to three prototypes than 15

11:35:16 6

prototypes?

11:35:17 7

MR. BRIDGES: Same objection.

11:35:19 8

THE WITNESS: I'm -- I'm not sure.

11:35:20 9

BY MR. STERN:

11:35:20 10

Q. Well, since you can't remember the number of

11:35:22 11

prototypes, I take it you are incapable of -- well,

11:35:26 12

let me ask you, can you in your own mind identify the

11:35:30 13

differences between any of the prototypes that

11:35:33 14

existed after the orange prototype and the time that

11:35:35 15

you left?

11:35:37 16

MR. BRIDGES: Same objection.

11:35:44 17

THE WITNESS: If I'm -- I'm truly not under-

11:35:47 18

-- I -- I don't understand the question.

11:35:49 19

BY MR. STERN:

11:35:49 20

Q. The question is: Can you tell me the

11:35:51 21

differences between the various prototypes that you

11:35:53 22

saw at CrunchPad between July 2009 and the time you

11:35:57 23

left in December 2009?

11:36:01 24

MR. BRIDGES: Same objection.

11:36:06 25

THE WITNESS: No.

11:46:03 1

prototype, is it plastic?

11:46:05 2

MR. BRIDGES: Same objection.

11:46:07 3

THE WITNESS: Which prototype?

11:46:08 4

BY MR. STERN:

11:46:09 5

Q. Any of them.

11:46:13 6

A. Yes, I believe the orange case was -- was

11:46:16 7

plastic.

11:46:17 8

Q. Were any of the cases of any of the

11:46:19 9

prototypes a substance other than plastic?

11:46:23 10

MR. BRIDGES: Objection. Vague and

11:46:33 11

ambiguous.

11:46:33 12

THE WITNESS: I -- I don't recall.

11:46:34 13

BY MR. STERN:

11:46:34 14

Q. Well, was the prototype that was to reflect

11:46:37 15

the final form factor, was that plastic or metal?

11:46:46 16

A. I believe there were versions of each.

11:46:51 17

Q. So just that --

11:46:52 18

A. I think --

11:46:53 19

Q. -- we're clear, the prototype that was to

11:46:55 20

reflect the final form factor had two versions, one

11:47:00 21

that was plastic and one that was metal; is that your

11:47:03 22

testimony?

11:47:03 23

MR. BRIDGES: Objection. Misstates

11:47:04 24

testimony. Vague and ambiguous. Lacks foundation.

11:47:10 25

THE WITNESS: There were different cases.

11:47:13 1 There were some quick turn cases that were routed,
11:47:18 2 and then I believe the final form factor was to be
11:47:21 3 tooled, hard tooled.

11:47:24 4 BY MR. STERN:

11:47:24 5 Q. What's the difference between routed and
11:47:26 6 hard tooled?

11:47:28 7 A. So in the case of a routed case, they would
11:47:33 8 load the design into a router device that would use
11:47:37 9 different bits and a CAM program to physically route
11:47:42 10 out the final form factor out of a solid piece of
11:47:46 11 material.

11:47:46 12 Q. Was the material metal or plastic?

11:47:54 13 MR. BRIDGES: Objection.

11:47:54 14 THE WITNESS: I don't know.

11:47:56 15 MR. BRIDGES: Lacks foundation. Vague and
11:47:58 16 ambiguous.

11:47:58 17 THE WITNESS: I can't remember if the routed
11:48:00 18 one was plastic or -- or metal. I think it was
11:48:03 19 metal, but I -- I -- I really don't recall.

11:48:03 20 BY MR. STERN:

11:48:05 21 Q. What about the hand tooled product, was that
11:48:07 22 plastic or metal?

11:48:09 23 MR. BRIDGES: Same objections.

11:48:10 24 THE WITNESS: I don't recall.

11:48:11 25 BY MR. STERN:

11:48:11 1 Q. So you can't recall whether the final form
11:48:13 2 factor was plastic or metal, is that right?

11:48:17 3 MR. BRIDGES: Objection. Misstates
11:48:18 4 testimony. Vague and ambiguous. Lacks foundation.

11:48:22 5 THE WITNESS: I don't recall.

11:48:23 6 BY MR. STERN:

11:48:23 7 Q. And did Mr. Arrington -- well, let's talk
11:48:26 8 about the plastic. Describe the plastic to me. What
11:48:29 9 was the description of the plastic that was used?

11:48:34 10 MR. BRIDGES: Objection.

11:48:35 11 MR. STERN: Withdraw.

11:48:35 12 BY MR. STERN:

11:48:36 13 Q. Do you have the specifications of the
11:48:37 14 plastic?

11:48:37 15 MR. BRIDGES: Objection. Vague and
11:48:41 16 ambiguous.

11:48:41 17 THE WITNESS: I don't recall the
11:48:42 18 specifications of the plastic.

11:48:43 19 BY MR. STERN:

11:48:44 20 Q. Do you recall the specifications of the
11:48:45 21 metal?

11:48:46 22 MR. BRIDGES: Same objection.

11:48:49 23 THE WITNESS: No, I don't recall the
11:48:50 24 specifications of the metal.

11:48:52 25 BY MR. STERN:

11:48:52 1 Q. Do you recall the specifications of the
11:48:54 2 glass?

11:48:55 3 MR. BRIDGES: Same objection.

11:48:58 4 THE WITNESS: No, I don't recall the
11:48:59 5 specifications.

11:49:00 6 Q. Just so we're clear, do you recall the
11:49:03 7 specifications of any of the shell plastic for any of
11:49:06 8 the prototypes that followed the orange prototype?

11:49:09 9 MR. BRIDGES: Same objection. Vague and
11:49:11 10 ambiguous.

11:49:11 11 THE WITNESS: No.

11:49:13 12 BY MR. STERN:

11:49:13 13 Q. Do you recall the specifications of any of
11:49:16 14 the shells that were metal for any of the prototypes
11:49:19 15 that followed the orange prototype?

11:49:21 16 MR. BRIDGES: Same objection.

11:49:24 17 THE WITNESS: No.

11:49:24 18 BY MR. STERN:

11:49:24 19 Q. Do you know who was the person or persons
11:49:27 20 who specified what sort of plastic or metal should be
11:49:31 21 used for the shell for any prototype?

11:49:35 22 MR. BRIDGES: Vague and ambiguous.

11:49:36 23 THE WITNESS: No.

11:49:37 24 BY MR. STERN:

11:49:37 25 Q. Did you?

11:49:40 1 MR. BRIDGES: Same objection.

11:49:43 2 THE WITNESS: I don't believe I did, no.

11:49:43 3 BY MR. STERN:

11:49:49 4 Q. Do you know if anybody at Fusion Garage

11:49:51 5 specified the type of plastic or metal that would be

11:49:54 6 used for the shell of any of the prototypes?

11:49:57 7 MR. BRIDGES: Same objection.

11:49:58 8 THE WITNESS: No.

11:50:00 9 BY MR. STERN:

11:50:00 10 Q. You're saying you don't know?

11:50:02 11 MR. BRIDGES: Same objection.

11:50:05 12 THE WITNESS: You asked me if I knew if

11:50:07 13 anyone at Fusion Garage --

11:50:08 14 BY MR. STERN:

11:50:08 15 Q. Right.

11:50:08 16 A. -- had speci- -- had specified the materials

11:50:10 17 for the plastics or the metal. I said no, I didn't

11:50:14 18 know.

11:50:14 19 Q. Okay. Was there somebody that you were

11:50:20 20 working with at CrunchPad that wasn't associated with

11:50:23 21 Fusion Garage that was supposed to be working with

11:50:25 22 you on the hardware design and manufacturing of the

11:50:33 23 CrunchPad?

11:50:34 24 MR. BRIDGES: Objection. Vague and

11:50:42 25 ambiguous.

02:28:33 1 Q. What is your understanding -- withdraw that.
02:28:36 2 What events, if any, prompted your receipt
02:28:39 3 of this email, if you know?

02:28:45 4 A. I don't know for certain. It may be a
02:28:48 5 collection of the emails and conversations that
02:28:50 6 happened up to that point, but I'm really not sure.

02:28:52 7 Q. Well, I can put together a story. Let me
02:28:55 8 ask you the story. Did Mr. Arrington express to you
02:28:59 9 frustration that he thought that Mr. Rathakrishnan
02:29:01 10 was not providing detailed information about the
02:29:03 11 development of the CrunchPad project, and so he
02:29:05 12 wanted you and Mr. Cubrilovic to go to Singapore to
02:29:09 13 see what was going on?

02:29:13 14 A. So I seem to recall -- again, I don't recall
02:29:16 15 the details, but I seem to recall having a
02:29:19 16 conversation with Mr. Arrington to fly over there to
02:29:25 17 get the detailed information so that we could have
02:29:29 18 more meaningful conversations with Best Buy and be
02:29:31 19 able to talk more intelligently about the project, I
02:29:37 20 guess.

02:29:37 21 Q. Just so that we're clear, you and
02:29:40 22 Mr. Cubrilovic were flying over to Singapore and
02:29:45 23 Taiwan so that you could have more meaningful
02:29:48 24 conversations with Best Buy and to be able to talk
02:29:50 25 more intelligently about the project?

02:29:56 1 A. I'm not sure -- I don't recall why
02:29:59 2 Mr. Cubrilovic was flying over there. I was under
02:30:01 3 the impression that I was going over there to
02:30:04 4 understand the details of the hardware development,
02:30:07 5 and I believed he was going over there to understand
02:30:10 6 the details about the software development.

02:30:12 7 Q. What was -- you mentioned Best Buy. What
02:30:15 8 did Best Buy have to do with this?

02:30:17 9 A. So I believe some of this -- some of it was
02:30:20 10 related to Best Buy wanting to see a -- a
02:30:27 11 functional -- a functional unit and wanting to know
02:30:30 12 that the product was real based on that prior exhibit
02:30:32 13 that we were talking about. But I can't state that
02:30:37 14 those were the -- the only reasons.

02:30:39 15 Q. Did anybody tell Mr. Rathakrishnan that Best
02:30:45 16 Buy was willing to do a deal with CrunchPad of some
02:30:49 17 sort, but that it first required that Fusion Garage
02:30:55 18 show that they had a working prototype?

02:30:59 19 MR. BRIDGES: Objection. Lacks foundation.
02:31:04 20 I think misstates the document and testimony.
02:31:11 21 Argumentative and vague and ambiguous.

02:31:15 22 THE WITNESS: I'm not certain if -- what if
02:31:17 23 any communications happened between anyone on the
02:31:21 24 CrunchPad project and -- including Chandra on this
02:31:25 25 topic.

02:34:23 1 Q. And where was Pegatron located?

02:34:27 2 A. Pegatron is located in Taiwan.

02:34:30 3 Q. And did you in fact go to Taiwan?

02:34:34 4 A. Yes.

02:34:34 5 Q. How long -- how many days were you in

02:34:40 6 Taiwan?

02:34:41 7 A. I believe it was one day.

02:34:42 8 Q. So is it accurate that your entire trip to

02:34:45 9 Singapore and Taiwan was for three days, two days in

02:34:49 10 Singapore, one day in Taiwan?

02:34:52 11 A. Yeah, there were some -- as I recall, there

02:34:54 12 were some delays with the travel. The total duration

02:34:57 13 of the trip might have been a bit longer, but the

02:35:00 14 usable time was two days in Singapore and one day in

02:35:04 15 Taiwan.

02:35:05 16 Q. Okay. When were you -- withdraw that.

02:35:13 17 Do you know when Mr. Cubrilovic stopped

02:35:16 18 working at TechCrunch or CrunchPad?

02:35:20 19 A. No.

02:35:20 20 Q. Do you know if Mr. Cubrilovic contributed to

02:35:23 21 the development of CrunchPad?

02:35:25 22 MR. BRIDGES: Objection. Vague and

02:35:31 23 ambiguous.

02:35:31 24 THE WITNESS: I don't know what his

02:35:32 25 contributions were in detail for the -- for the

05:13:05 1 a lot of very tough statements to them with the
05:13:08 2 explicit intent of attempting to get them to crack
05:13:13 3 and remove that NRE.

05:13:13 4 BY MR. STERN:

05:13:16 5 Q. Yeah, the -- the negative -- I'm sorry, I
05:13:20 6 didn't mean to interrupt.

05:13:21 7 A. So I don't believe we made -- we made a lot
05:13:24 8 of those statements with anything in mind other than
05:13:28 9 removing NRE. And I don't remember all of the
05:13:31 10 statements we made, but we did make some very
05:13:33 11 threatening type statements to try and get them to
05:13:36 12 remove that NRE and go back to the original
05:13:38 13 agreement.

05:13:38 14 Q. Well, we didn't, you did.

05:13:40 15 A. I did, yes.

05:13:40 16 Q. You referred to something called "negative
05:13:43 17 guns," didn't you?

05:13:45 18 A. I don't recall if I used that term.

05:13:48 19 Q. You've never used the term "negative guns"?

05:13:52 20 A. I don't recall if I used that term.

05:13:54 21 Q. You told Pegatron that if they didn't do a
05:13:57 22 deal with you, but instead went with Fusion Garage,
05:14:01 23 you were going to use the power of TechCrunch to
05:14:03 24 publicly humiliate and embarrass Pegatron by -- with
05:14:07 25 negative information, didn't you?

05:14:09 1 MR. BRIDGES: Objection. Lacks
05:14:10 2 foundation --
05:14:12 3 THE WITNESS: I --
05:14:13 4 MR. BRIDGES: -- and vague and ambiguous and
05:14:15 5 argumentative.
05:14:16 6 THE WITNESS: I don't recall all of the
05:14:18 7 language that I used with them.
05:14:18 8 BY MR. STERN:
05:14:19 9 Q. Well, do you recall telling them that if
05:14:21 10 they didn't do a deal with you, that it's not just
05:14:25 11 that the CrunchPad name was off the table, but that
05:14:28 12 Michael Arrington would publish the fact that the
05:14:31 13 CrunchPad name was off the table and that what
05:14:34 14 Pegatron was doing was not authorized or approved by
05:14:37 15 Michael Arrington?
05:14:40 16 MR. BRIDGES: Objection. Vague and
05:14:42 17 ambiguous. Argumentative.
05:14:45 18 THE WITNESS: I do believe I made several
05:14:47 19 very, very threatening comments to them in an attempt
05:14:51 20 to get them to remove that NRE. I don't remember
05:14:54 21 exactly what those comments were, but --
05:14:56 22 BY MR. STERN:
05:14:56 23 Q. Well, do you remember any of the comments?
05:14:58 24 A. Not in detail.
05:15:00 25 MR. STERN: Well, next in order.