

EXHIBIT D

Michael Arrington
Highly Confidential - Attorneys' Eyes Only

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA, SAN JOSE DIVISION

INTERSERVE, INC., dba)

TECHCRUNCH, a Delaware)

corporation, and CRUNCHPAD,)

INC., a Delaware)

corporation,)

Plaintiffs,)

vs.) No. 09-CV-5812 RS

FUSION GARAGE PTE. LTD, a)

Singapore company,)

Defendant.)

VIDEOTAPED DEPOSITION OF

INTERSERVE, INC. dba TECHCRUNCH

MICHAEL ARRINGTON

Redwood Shores, California

Tuesday, April 20, 2010

HIGHLY CONFIDENTIAL -- ATTORNEYS' EYES ONLY

REPORTED BY:

JAY W. HARBIDGE, CSR NO. 4090

Michael Arrington
Highly Confidential - Attorneys' Eyes Only

1 BY MR. STERN:

2 Q. Does the JooJoo solve the core CPU issue
3 that you identified?

4 MR. BRIDGES: Objection, lacks
5 foundation and competence and vague and ambiguous.

6 THE WITNESS: I haven't held a JooJoo.
7 I don't know.

8 BY MR. STERN:

9 Q. Does the JooJoo solve the capacitance
10 touch issue which you mentioned?

11 MR. BRIDGES: Same objections.

12 THE WITNESS: I'm not aware because I
13 haven't had the product. If you have one and want
14 to give me some time with it, I would be happy to
15 answer those questions.

16 BY MR. STERN:

17 Q. Does the JooJoo satisfy or solve the
18 Flash issue that you mentioned?

19 MR. BRIDGES: Same objections.

20 THE WITNESS: I have not held the
21 product. I don't know.

22 BY MR. STERN:

23 Q. Can you tell me who is the supplier, who
24 is the manufacturer of the JooJoo?

25 MR. BRIDGES: Objection, lacks

Michael Arrington
Highly Confidential - Attorneys' Eyes Only

1 Q. In general, no. So let me just make
2 sure we're clear about this. Can you tell me -- I
3 keep asking, but can you identify -- well, let me
4 change the question.

5 Please identify every contribution that
6 someone from TechCrunch or CrunchPad but not Fusion
7 Garage made to the hardware/software design or other
8 aspects of the CrunchPad.

9 MR. BRIDGES: Objection, it's asked and
10 answered earlier today, compound, vague and
11 ambiguous.

12 BY MR. STERN:

13 Q. You testified about some things this
14 morning. The high-level things.

15 A. It's virtually impossible to answer the
16 question because it was a collaborative process. We
17 were all working together.

18 Q. And that's the best you can give me; is
19 that fair?

20 MR. BRIDGES: Objection, the question
21 earlier was asked and answered. It's now -- we're
22 now six hours into the deposition. He's answering
23 questions you've asked him before. I'm going to
24 object on the grounds of argumentative, vague and
25 ambiguous.

Michael Arrington
Highly Confidential - Attorneys' Eyes Only

1 BY MR. STERN:

2 Q. You can answer the question. Is that
3 the best you can give me, that it's virtually
4 impossible to answer it?

5 A. That's my answer, yes.

6 Q. Okay. Can you tell me what
7 contributions anyone from TechCrunch or CrunchPad
8 but not Fusion Garage made to the source code that
9 existed at any point in time for either the
10 CrunchPad or the JooJoo?

11 MR. BRIDGES: Objection, compound, lacks
12 foundation with respect to the JooJoo, vague and
13 ambiguous, and also to a certain extent asked and
14 answered.

15 But go ahead.

16 THE WITNESS: One part of that I can
17 answer directly easily is the first prototype of the
18 CrunchPad was designed entirely by Nik on the
19 software side -- hardware with a little bit of help.
20 But, you know, that was the -- I believe a mostly
21 commercial installation of Linux with some
22 customizing. That was entirely, though, Nik.

23 I believe with prototype B where Louis
24 was involved as well, that's when we moved to mostly
25 Fusion Garage software. At that point they were

Michael Arrington
Highly Confidential - Attorneys' Eyes Only

1 taking over. The actual coding was done by Fusion
2 Garage employees.

3 BY MR. STERN:

4 Q. Can you tell me any architectural
5 feature of the JooJoo software product that was
6 contributed by anybody associated with TechCrunch or
7 CrunchPad but not Fusion Garage?

8 MR. BRIDGES: Objection, vague and
9 ambiguous, lacks foundation.

10 THE WITNESS: I'm not sure what you mean
11 by "architectural." Do you mean design? Do you
12 mean --

13 BY MR. STERN:

14 Q. Yes, yes.

15 A. Again, I point back to my original post
16 which talked about booting immediately to the
17 browser. But things like single buttons; camera
18 facing the front. When you turn the device, it
19 flips the aspect, so you can turn it this way, turn
20 it that way and see differently. The fact that when
21 you're outside of typing a URL or something else,
22 you don't see the chrome of the browser was
23 something earlier on that we had together agreed was
24 a really good idea.

25 There are examples like that, again, we

Michael Arrington
Highly Confidential - Attorneys' Eyes Only

1 MR. BRIDGES: Objection. That's
2 entirely hypothetical, speculative, assumes facts
3 not in evidence, calls for a legal conclusion.

4 THE WITNESS: Yes, I don't know the
5 answer to that because I don't know much about the
6 JooJoo. But I wish that were the case.

7 BY MR. STERN:

8 Q. You wish that it was the case that you
9 would be responsible for a patent infringement claim
10 that was received by my client; is that right?

11 A. I wish it was the case that we were a
12 single team working on the project trying to change
13 the world as we originally talked about and worked
14 on for almost a year, yes, and that means sharing
15 the good times and the bad.

16 Q. So just so that we're clear, it's your
17 understanding that under the partnership arrangement
18 you had with my client, you would also be liable for
19 patent infringement; is that correct?

20 MR. BRIDGES: Objection, calls for
21 speculation, it's hypothetical, speculative, assumes
22 facts not in evidence, vague and ambiguous,
23 argumentative.

24 THE WITNESS: That's a big stretch. Our
25 assumption would be that we merged the entities by