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11 Attorneys for Defendant Fusion Garage PTE Ltd.  
 12

13 UNITED STATES DISTRICT COURT  
 14 NORTHERN DISTRICT OF CALIFORNIA  
 15 SAN FRANCISCO DIVISION

16 TECHCRUNCH, INC., a Delaware  
 corporation, and CRUNCHPAD, INC., a  
 17 Delaware corporation,

18 Plaintiffs,

19 vs.

20 FUSION GARAGE PTE LTD., a Singapore  
 company,

21 Defendant.  
 22

CASE NO. C 09-cv-5812 RS (PSG)

**DECLARATION OF SAM STAKE IN  
 SUPPORT OF FUSION GARAGE'S  
 MOTION TO COMPEL**

Date: October 18, 2011  
 Time: 10:00 a.m.  
 Judge: Hon. Paul Singh Grewal  
 Location: San Jose, Courtroom 5, 4th Floor

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1 **DECLARATION OF SAM STAKE**

2 I, Sam Stake, hereby declare as follows:

3 1. I am an attorney in the law firm of Quinn Emanuel Urquhart & Sullivan, LLP,  
4 counsel for Fusion Garage PTE Ltd. I have personal knowledge of the facts set forth in this  
5 declaration and, if called upon as a witness, I could and would testify to such facts under oath.

6 2. On July 29, 2011, I sent a letter to Caleb Donaldson, counsel for Plaintiffs and  
7 AOL, and requested a meet and confer regarding production of (a) the AOL-TechCrunch merger  
8 agreement(s) and (b) communications between TechCrunch's and AOL representatives before the  
9 merger that AOL had withheld on attorney-client privilege and work product grounds. A true and  
10 correct copy of that letter is attached hereto as Exhibit W.

11 3. On August 3, 2011, I met and conferred with Mr. Donaldson regarding production  
12 of these documents. Thomas Watson of Quinn Emanuel also participated in the call. Mr. Watson  
13 and I explained Fusion Garage's position that these documents are relevant and not privileged, and  
14 we requested their production. Mr. Donaldson informed us on the call that Plaintiffs and AOL  
15 maintained their refusal to produce the requested documents because they were irrelevant and/or  
16 privileged. Mr. Donaldson further stated that the privilege objection for the communications  
17 exchanged between TechCrunch and AOL was proper because, from a policy perspective, an  
18 acquirer must be able to evaluate the "risk and reward" of the potential acquisition. There was no  
19 indication from Mr. Donaldson that these documents reflected communications for the purpose of  
20 formulating a joint legal strategy for the purpose of prosecuting this litigation.

21 4. Attached hereto as Exhibit A is a true and correct copy of excerpts of a transcript of  
22 the deposition of Michael Arrington, dated April 20, 2010.

23 5. Attached hereto as Exhibit B is a true and correct copy of email correspondence  
24 from Heather Harde, dated December 18, 2008 and bearing document control numbers  
25 FG00001044-49.

26 6. Attached hereto as Exhibit C is a true and correct copy of email correspondence  
27 from Chandrasekar Rathakrishnan, dated November 13, 2008 and bearing document control  
28 number FG0021636.

1           7.       Attached hereto as Exhibit D is a true and correct copy of excerpts of a transcript of  
2 the deposition of Chandrasekar Rathakrishnan, dated April 22, 2010.

3           8.       Attached hereto as Exhibit E is a true and correct copy of a TechCrunch blog post,  
4 dated April 10, 2009 and available at [http://techcrunch.com/2009/04/10/about-those-new-](http://techcrunch.com/2009/04/10/about-those-new-crunchpad-pictures/)  
5 [crunchpad-pictures/](http://techcrunch.com/2009/04/10/about-those-new-crunchpad-pictures/) (last checked on September 8, 2011).

6           9.       Attached hereto as Exhibit F is a true and correct copy of email correspondence  
7 from Michael Arrington, dated August 14, 2009 and bearing document control number  
8 TC00006550.

9           10.      Attached hereto as Exhibit G is a true and correct copy of email correspondence  
10 from Chandrasekar Rathakrishnan, dated August 3, 2009 and bearing document control number  
11 TC00002431.

12          11.      Attached hereto as Exhibit H is a true and correct copy of email correspondence  
13 from Michael Arrington, dated October 22, 2008 and bearing document control number  
14 TC00004107-37.

15          12.      Attached hereto as Exhibit I is a true and correct copy of email correspondence  
16 from Michael Arrington, dated December 9, 2008 and bearing document control number  
17 LM00001115.

18          13.      Attached hereto as Exhibit J is a true and correct copy of email correspondence  
19 from Nik Cubrilovic, dated August 18, 2009 and bearing document control number TC00000476-  
20 77.

21          14.      Attached hereto as Exhibit K is a true and correct copy of Plaintiffs' Supplemental  
22 Response to Fusion Garage's Interrogatories, Set Two, dated July 23, 2010.

23          15.      Attached hereto as Exhibit L is a true and correct copy of excerpts of a transcript of  
24 the deposition of Brian Kindle, dated August 19, 2010.

25          16.      Attached hereto as Exhibit M is a true and correct copy of excerpts of a transcript  
26 of the deposition of Heather Harde, dated August 11, 2010.

27          17.      Attached hereto as Exhibit N is a true and correct copy of Plaintiffs' Statement of  
28 Misappropriated Business Ideas, dated April 23, 2010.

1           18.     Attached hereto as Exhibit O is a true and correct copy of Plaintiff's Second  
2 Supplemental Response to Fusion Garage's Interrogatories, Set One, dated July 19, 2010.

3           19.     Attached hereto as Exhibit P is a true and correct copy of a blog post, dated  
4 November 11, 2010 and available at [http://e27.sg/2010/11/11/the-joojoo-is-dead-but-fusion-](http://e27.sg/2010/11/11/the-joojoo-is-dead-but-fusion-garage-plans-new-products/)  
5 [garage-plans-new-products/](http://e27.sg/2010/11/11/the-joojoo-is-dead-but-fusion-garage-plans-new-products/) (last checked on September 8, 2011).

6           20.     Attached hereto as Exhibit Q is a true and correct copy of a blog post, dated  
7 November 15, 2010 and available at [http://calacanis.com/2010/11/15/why-im-suing-mike-](http://calacanis.com/2010/11/15/why-im-suing-mike-arrington/)  
8 [arrington/](http://calacanis.com/2010/11/15/why-im-suing-mike-arrington/) (last checked on September 8, 2011).

9           21.     Attached hereto as Exhibit R is a true and correct copy of a TechCrunch blog post,  
10 dated November 3, 2010 and available at [http://techcrunch.com/2010/11/03/at-my-wits-end-jason-](http://techcrunch.com/2010/11/03/at-my-wits-end-jason-calacanis-threatens-to-sue-us/)  
11 [calacanis-threatens-to-sue-us/](http://techcrunch.com/2010/11/03/at-my-wits-end-jason-calacanis-threatens-to-sue-us/) (last checked on September 8, 2011).

12           22.     Attached hereto as Exhibit S is a true and correct copy of Plaintiffs' Response to  
13 Fusion Garage's Request for Production of Documents (Set Three), dated November 22, 2010.

14           23.     Attached hereto as Exhibit T is a true and correct copy of a TechCrunch blog post,  
15 dated September 28, 2010 and available at [http://techcrunch.com/2010/09/28/the-aol-techcrunch-](http://techcrunch.com/2010/09/28/the-aol-techcrunch-disrupt-tcdisrup-videos-tctv/)  
16 [disrupt-tcdisrup-videos-tctv/](http://techcrunch.com/2010/09/28/the-aol-techcrunch-disrupt-tcdisrup-videos-tctv/) (last checked on September 8, 2011).

17           24.     Attached hereto as Exhibit U is a true and correct copy of AOL's Revised Initial  
18 Privilege Log, dated August 9, 2011.

19           25.     Attached hereto as Exhibit V is a true and correct copy of AOL's Revised  
20 Supplemental Privilege Log, dated August 9, 2011.

21  
22           I declare under penalty of perjury under the laws of the United States of America that the  
23 foregoing is true and correct.

24  
25                     Executed on September 9, 2011, at San Francisco, California.

26  
27   /s/ Sam Stake  
28   \_\_\_\_\_  
   Sam Stake