

# **EXHIBIT E**

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7  
8 **UNITED STATES DISTRICT COURT**  
9 **NORTHERN DISTRICT OF CALIFORNIA**  
10 **SAN JOSE DIVISION**

11 **INTERSERVE, INC., dba TECHCRUNCH, )**  
**a Delaware corporation, and CRUNCHPAD, )**  
12 **INC., a Delaware corporation, )**  
13 **Plaintiffs,**  
14 **vs.**  
15 **FUSION GARAGE PTE. LTD., a Singapore )**  
**company, )**  
16 **Defendant.**

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

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

18  
19 Interserve, Inc. dba TechCrunch ("TechCrunch") hereby responds to Fusion Garage Pte.  
20 Ltd.'s Interrogatories, Set One, to TechCrunch as follows:

21 **GENERAL OBJECTIONS**

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

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

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

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

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

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

11 **RESPONSE TO SPECIAL INTERROGATORIES**

12 **SPECIAL INTERROGATORY NO. 1**

13 Describe with particularity each and every "business idea" that YOU contend DEFENDANT  
14 misappropriated.

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

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

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

24 Fusion Garage has appropriated for its own benefit the joint collaborative effort between  
25 CrunchPad Inc. and Fusion Garage to develop the so-called "CrunchPad." The CrunchPad was  
26 conceived by CrunchPad Inc.'s principal, Mr. Arrington, no later than July 2008, before CrunchPad  
27 Inc. came into existence. On July 21, 2008, Mr. Arrington described his business idea as "a dead  
28 simple web tablet for \$200." He elaborated:

1           Here's The Plan

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

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

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

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

22           In September 2008 TechCrunch and CrunchPad recruited Louis Monier to lead the project to  
23           build the CrunchPad. Mr. Monier was the founder and former CTO of AltaVista and had held  
24           positions at eBay, Google, and other high-performance Web- or technology-focused companies. As  
25           Fusion Garage publicly acknowledged, it “worked closely with Louis Monier in getting the software  
26           in shape for the hardware prototype B. We continue to work with [CrunchPad and TechCrunch] in  
27           getting the software in shape to make crunchpad a easy to use device.” All of the contributions of  
28           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  
          Louis Monier on the feature set and the user experience. We are thrilled with this progress and  
          would like to take the opportunity to thank Michael and Louis for giving us the opportunity to work

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

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

21 In Fall 2009, Fusion Garage flew most of its personnel to California to integrate the teams  
22 and to work with TechCrunch personnel on the CrunchPad at the TechCrunch facility in Palo Alto,  
23 California for an extended period. Specifically, the TechCrunch and Fusion Garage employees  
24 worked together on almost every component of the project. Particular objects of attention included  
25 screen visibility issues, touch screen performance issues, user interface issues, issues relating to  
26 “gestures” used for commands, and keyboard page design issues. All of these contributions  
27 constitute business ideas that Fusion Garage misappropriated for its private benefit. The overall  
28 conception, blueprint, guidance, and senior level support for the project emanated substantially from

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

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

24 **SPECIAL INTERROGATORY NO. 2**

25 For each business idea that YOU identified in response to Interrogatory. No. 1, state all facts  
26 that support YOUR contention that such alleged "business idea" is protectable as intellectual  
27 property or otherwise.  
28

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

2 TechCrunch objects that this interrogatory is overbroad and unduly burdensome and seeks  
3 information outside the scope of permissible discovery because it seeks information that is not  
4 relevant to the subject matter of this action and because it is not reasonably calculated to lead to the  
5 discovery of admissible evidence. TechCrunch further objects to this interrogatory as vague and  
6 ambiguous. TechCrunch also objects to the extent this interrogatory seeks information protected by  
7 the attorney-client privilege or the work product doctrine, especially to the extent it calls for  
8 counsel's contentions and legal conclusions as to what business ideas are "protectable as intellectual  
9 property." A business idea need not be protectable as intellectual property to be protected against  
10 misappropriation.

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

13 **SPECIAL INTERROGATORY NO. 3**

14 IDENTIFY all DOCUMENTS that contain or memorialize every allegedly protectable  
15 business idea that YOU identified in response to Interrogatory No. 1.

16 **RESPONSE TO SPECIAL INTERROGATORY NO. 3**

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, especially to the extent it calls for  
23 counsel's contentions and legal conclusions as to what documents "contain or memorialize every  
24 allegedly protectable business idea" identified in Response Interrogatory No. 1.

25 **SPECIAL INTERROGATORY NO. 4**

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

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

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

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

10 **SPECIAL INTERROGATORY NO. 5**

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

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

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

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

23 **SPECIAL INTERROGATORY NO. 6**

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

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

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 responds as follows: Because there are no trade secrets identified in response to Interrogatory No. 5,  
7 this Interrogatory does not call for any further response.

8 **SPECIAL INTERROGATORY NO. 7**

9 Describe with particularity every alleged item of intellectual property, including, but not  
10 limited to trade secrets, copyrights, trademarks, patents, or any applications thereof, that YOU  
11 contend DEFENDANT misappropriated.

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

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

20 Without waiving and subject to TechCrunch's general and specific objections, TechCrunch  
21 responds as follows: TechCrunch does not assert causes of action for misappropriation of trade  
22 secrets, copyrights, trademarks, patents, or applications thereof in its Complaint. To the extent that  
23 Fusion Garage has or is continuing to inform the public that the JooJoo is a rebranded version of the  
24 CrunchPad, however, Fusion Garage's conduct may give rise to trademark infringement liability.

25 **SPECIAL INTERROGATORY NO. 8**

26 Describe with particularity all facts supporting YOUR contention that PLAINTIFF and  
27 DEFENDANT entered into a partnership or joint venture.  
28

1 **RESPONSE TO SPECIAL INTERROGATORY NO. 8**

2 TechCrunch objects that this interrogatory is overbroad and unduly burdensome and seeks  
3 information outside the scope of permissible discovery because it seeks information that is not  
4 relevant to the subject matter of this action and because it is not reasonably calculated to lead to the  
5 discovery of admissible evidence. TechCrunch further objects to this interrogatory as vague and  
6 ambiguous. TechCrunch also objects that this interrogatory seeks information protected by the  
7 attorney-client privilege or the work product doctrine, in that it calls for counsel's contentions  
8 concerning the "partnership or joint venture" entered into between Fusion Garage, TechCrunch, and  
9 CrunchPad.

10 **SPECIAL INTERROGATORY NO. 9**

11 IDENTIFY all DOCUMENTS supporting YOUR contention that PLAINTIFF and  
12 DEFENDANT entered into a partnership or joint venture.

13 **RESPONSE TO SPECIAL INTERROGATORY NO. 9**

14 TechCrunch objects that this interrogatory is overbroad and unduly burdensome and seeks  
15 information outside the scope of permissible discovery because it seeks information that is not  
16 relevant to the subject matter of this action and because it is not reasonably calculated to lead to the  
17 discovery of admissible evidence. TechCrunch further objects to this interrogatory as vague and  
18 ambiguous. TechCrunch also objects that this interrogatory seeks information protected by the  
19 attorney-client privilege or the work product doctrine, in that it calls for counsel's contentions  
20 concerning the "partnership or joint venture" entered into between Fusion Garage, TechCrunch, and  
21 CrunchPad.

22 **SPECIAL INTERROGATORY NO. 10**

23 IDENTIFY all persons affiliated with YOU who provided any allegedly protectable business  
24 ideas, trade secrets, or intellectual property to DEFENDANT.

25 **RESPONSE TO SPECIAL INTERROGATORY NO. 10**

26 TechCrunch objects that this interrogatory is overbroad and unduly burdensome and seeks  
27 information outside the scope of permissible discovery because it seeks information that is not  
28 relevant to the subject matter of this action and because it is not reasonably calculated to lead to the

1 discovery of admissible evidence. TechCrunch objects to this interrogatory as vague and ambiguous  
2 with respect to the phrase "allegedly protectable business ideas, trade secrets, or intellectual  
3 property." TechCrunch also objects to the extent this interrogatory seeks information protected by  
4 the attorney-client privilege or the work product doctrine, in that it calls for a legal conclusion and  
5 for counsel's contentions concerning the legal status of information provided by TechCrunch or  
6 persons associated or affiliated with TechCrunch to Fusion Garage.

7 **SPECIAL INTERROGATORY NO. 11**

8 Describe with particularity all alleged promises DEFENDANT made to YOU that  
9 DEFENDANT did not fulfill.

10 **RESPONSE TO SPECIAL INTERROGATORY NO. 11**

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

17 Without waiving and subject to TechCrunch's general and specific objections, TechCrunch  
18 respond as follows: Fusion Garage promised to work with CrunchPad and TechCrunch to jointly  
19 develop and market the CrunchPad. It did not fulfill that promise. Fusion Garage promised  
20 CrunchPad and TechCrunch that it would collaborate with Tech Crunch in a joint effort to develop  
21 and bring the CrunchPad to market. It did not fulfill that promise.

22 When Fusion Garage met TechCrunch in September 2008, it claimed to have developed a  
23 browser-based operating system, just like the one TechCrunch was seeking for its CrunchPad  
24 project. In fact, it had developed no such thing, and the demo product it showed to TechCrunch was  
25 little more than an off-the-shelf browser and some HTML--something the plaintiffs did not realize  
26 until nearly a year later, by which time the project was well underway. Similarly, starting as early as  
27 January 2009, Fusion Garage represented to CrunchPad and TechCrunch that it was devoting  
28 substantially all of its resources to the CrunchPad project. This was false. Upon a visit to Singapore

1 in August 2009, TechCrunch learned that Defendant did not start significant development efforts  
2 until many months later.

3 TechCrunch and CrunchPad were approached by multiple software and hardware developers  
4 with offers to assist it in developing the CrunchPad. Based on Fusion Garage's misrepresentations,  
5 TechCrunch selected Fusion Garage over these other prospective partners, and thus relied upon  
6 Fusion Garage's misrepresentations to its detriment.

7 Fusion Garage promised to repay CrunchPad and TechCrunch for amounts they paid to  
8 vendors on Fusion Garage's behalf. It did not fulfill that promise.

9 On or before June 27, 2009, Fusion Garage agreed to the material terms of a merger in which  
10 CrunchPad would acquire Fusion Garage in exchange for 35% of the merged company's stock.  
11 Fusion Garage specifically promised that its investors and creditors had agreed to this arrangement.  
12 On or after November 17, 2009, Fusion Garage reneged on this agreement, in the process revealing  
13 that its investors had never approved it despite Fusion Garage's unequivocal statements to the  
14 contrary just a few months before.

15 Fusion Garage assured CrunchPad and TechCrunch that it could and would deal with  
16 problems that had emerged with Pegatron. It did not fulfill that promise. In August, when  
17 TechCrunch executives visited the Taiwan headquarters of Pegatron, the company preparing to  
18 manufacture the CrunchPad, TechCrunch learned that Defendant had been falsely representing to  
19 TechCrunch the costs of the product's components as \$20-\$30 per unit higher than the actual costs  
20 indicated by Pegatron. Fusion Garage's contract with Pegatron was terminated shortly thereafter,  
21 unbeknownst to CrunchPad and TechCrunch.

22 Fusion Garage promised CrunchPad and TechCrunch that they would jointly market the  
23 collaborative project under the name "CrunchPad." It did not fulfill that promise. Fusion Garage

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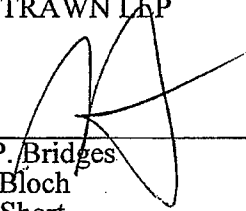
1 promised CrunchPad and TechCrunch that a launch prototype of the CrunchPad would be ready for  
2 a public debut on November 20, 2009. It did not fulfill that promise.

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Dated: February 8, 2010

WINSTON & STRAWN LLP

By:



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