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 14 and CRUNCHPAD, INC.

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 16  
 17 **UNITED STATES DISTRICT COURT**  
 18  
 19 **NORTHERN DISTRICT OF CALIFORNIA**

Winston & Strawn LLP  
 101 California Street  
 San Francisco, CA 94111-5894

20 **INTERSERVE, INC., dba TECHCRUNCH, )**  
 21 **a Delaware corporation, and CRUNCHPAD, )**  
 22 **INC., a Delaware corporation, )**

23 Plaintiffs, )

24 vs. )

25 **FUSION GARAGE PTE. LTD., a Singapore )**  
 26 **company, )**

27 Defendant. )

28 **Case No. CV-09-5812 RS (PVT)**

**PLAINTIFFS' OPPOSITION TO  
 DEFENDANT'S REVISED MOTION TO  
 CHANGE TIME [DKT. 42]**

1 After Defendant Fusion Garage filed its first motion to move the hearing date for  
2 TechCrunch's preliminary injunction motion, the parties engaged in further discussion about timing.  
3 Counsel for TechCrunch offered to call the Court today, April 1, 2010, with Defendant's counsel to  
4 state that the parties had agreed on the one-week postponement, until May 6, 2010, that Defendant  
5 had sought in its first motion. Defendant responded with its revised motion, now seeking an  
6 *additional postponement of one month*, until May 27, 2010.

7 Another month's delay is inappropriate for a preliminary injunction motion.

8 TechCrunch filed its preliminary injunction motion on February 22, 2010 and had originally  
9 planned to notice a hearing on March 29, 2010, thirty-five days out, as required by Local Rule 7.  
10 But the Court's first available hearing date, at that time, was May 3, 2010 and Judge Ware denied a  
11 request to move the hearing to an earlier date. Moving the hearing date as Defendant now requests  
12 would be tantamount to a *two-month delay* on a motion calling for urgent relief.

13 Defendant asserts that it needs more time because TechCrunch has not yet produced every  
14 document responsive to Defendant's document requests. Defendant ignores Plaintiffs' production to  
15 date and fails to understand that a preliminary injunction motion is by definition "preliminary" and  
16 not a full-blown trial on the merits.

17 As part of Court-ordered expedited discovery and in fulfillment of its agreement to produce  
18 documents to Defendant in time for responding to the preliminary injunction motion, TechCrunch  
19 produced hundreds of pages of highly relevant documents that were most readily available to it.  
20 TechCrunch continues to collect and review documents for production and will be supplementing its  
21 production shortly. Meanwhile, given that this case concerns the failed joint venture between  
22 TechCrunch and Defendant and Defendant's creation of a tablet computer outside of the joint  
23 venture, Defendant likely already has all communications between it and TechCrunch and likely has  
24 sole possession of all communications with its vendors and developers, which are arguably the most  
25 important documents in the case.

26 On the other hand, TechCrunch, would prefer to have access to all of Defendant's documents  
27 to bolster its preliminary injunction papers, but Defendant has produced just 50 pages and has failed  
28 to offer any firm dates for the deposition of its principal, Chandra Rathakrishnan. Further,

1 Defendant continues to refuse to produce highly relevant documents because of false concerns over  
2 disclosure of its trade secrets, despite entry of a standard confidentiality protective order in this case.  
3 Defendant’s dilatory motion for a protective order on this matter remains pending before Judge  
4 Trumbull. Despite Defendant’s stonewalling and delay, TechCrunch still needs to move forward  
5 with its preliminary injunction motion as expeditiously as possible, with whatever evidence is  
6 available.

7 TechCrunch’s preliminary injunction motion is urgent, because news reports show that  
8 Fusion Garage has just recently begun shipping its “JooJoo” tablet that is the fruit of Defendant’s  
9 breach of fiduciary duty and because Fusion Garage, a Singapore-based entity, will undoubtedly  
10 transfer revenues outside the country to place them beyond the reach of this Court. In such  
11 situations, for the reasons discussed in TechCrunch’s preliminary injunction motion, the law affords  
12 relief. TechCrunch was willing to agree to a one-week extension to accommodate Fusion Garage,  
13 but cannot agree to postpone the hearing by another month.

14 The Court should deny Defendant’s revised motion to change time.

15 Plaintiffs request an expedited telephonic conference with the Court to address these and  
16 other logistical issue in this case.

17  
18 Dated: April 1, 2010

WINSTON & STRAWN LLP

19  
20 By: /s/  
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David S. Bloch  
Matthew A. Scherb

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22 Attorneys for Plaintiffs  
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