

EXHIBIT A

Joshua Sohn

From: Patrick Doolittle
Sent: Friday, April 09, 2010 10:29 AM
To: Joshua Sohn
Subject: FW: TC - today's conference; deposition topic issues

From: Scherb, Matthew A. [mailto:MScherb@winston.com]
Sent: Thursday, March 18, 2010 6:17 PM
To: Patrick Doolittle
Cc: Bridges, Andrew P.; Bloch, David S.
Subject: TC - today's conference; deposition topic issues

Hi Patrick,

Thank you for conferring with me this afternoon about FG's responses to Plaintiffs' first and second sets of RFPs and first set of interrogatories. I briefly summarize the conversation. I also address the TC 30(b)(6) deposition topics that we agreed to discuss tomorrow. Perhaps, based on the proposals below, we will not need to discuss the topics further.

First, based on our conversation about the discovery requests and responses, I understand that:

- FG will supplement responses to these requests: RFPs 2-3, 7-8, 26-27 (to confirm that FG will not withhold information that is FG proprietary now that the protective order is in effect), 34, 39, and 41.
- FG will get back to TC on the following requests: RFPs 28, 30, 36, 48-49; Interrogatories 6, 10-12.
- TC will get back to you on the following requests, for which we thought TC could provide some additional clarity to help FG respond: RFPs 29 (re limiting "creditors"), 31 (to address concerns over customer information), 40, 42, and 47 (regarding dates); Interrogatory 5.
- After Magistrate Judge Trumbull's ruling on FG's protective order motion, we will discuss the following requests, which we tabled for the time being: RFPs 4-5, 12-20 (though for 19-20, re user documentation, we understand there may be no responsive documents), RFP 21-22 (though FG will produce any public marketing materials without need for a further discussion), 23-24, 25 (though FG will produce non trade-secret documents constituting or concerning communications with Pegatron without need for further discussions), 32-33, 35, 37-38, 43-46; Interrogatories 1-2.
- TC will not further pursue a response to RFP 6, but may serve a new RFP to seek the documents sought by the original request.

We are set to meet again at 4pm on Monday to further discuss these requests.

In addition to discussing written discovery, we discussed that FG is working to get a date for Chandra's deposition and we are working on one for Ron Conway. We also discussed that FG would review TC's request for de-designation and have a response ready for the Monday call. Further, we agreed to discuss TC's objections to FG's 30(b)(6) notices tomorrow at 2pm. We understand that you wish to discuss topics 1-3 and 12-15. In the hopes of avoiding the need for tomorrow's meeting, we make a few proposals. Please let us know if these are acceptable, or if you still wish to confer:

Topics 1-2:

1. YOUR contention that FUSION GARAGE may dissipate its assets absent a preliminary injunction.
2. YOUR contention that FUSION GARAGE is a financially insecure start-up company funded mostly by loans at confiscatory rates.

TC objected that these topics sought information outside of TC's personal knowledge and sought privileged information. TC can nevertheless provide a witness who can testify about TC's knowledge of FG and FG's financial status, based mainly on information it obtained from during the parties' working relationship.

3. YOUR contention that a partnership or joint venture existed between YOU and FUSION GARAGE.
14. Any allegedly fraudulent statements YOU contend FUSION GARAGE made about YOU
15. All instances of false advertising that YOU contend FUSION GARAGE committed.

TC's primary objection to these topic is that they seek legal conclusions, and sometimes privileged information, from a fact witness. In response to Topic 3, TC can provide a witness to testify about the relationship between TC and FG, but not to place labels on that relationship or explain why TC lawyers assign certain labels to the relationship. Similarly, in response to Topics 14-15, TC can provide a witness to talk about FG statements (including their veracity and any reliance upon them by TC), but cannot provide a witness to draw legal conclusions or report the legal conclusions of TC's attorneys.

12. Any alleged ownership right YOU claim to have in any intellectual property relating to the CRUNCHPAD.

13. Any alleged ownership right YOU have in any intellectual property relating to the JOOJOO.

As you are aware from recent briefing and Tuesday's oral argument before Magistrate Judge Trumbull, TC does not assert intellectual property rights in the CrunchPad or JooJoo. TC can provide a witness to testify about the CrunchPad trademark, though TC does not assert an infringement claim in this case.

Regards,
Matt

Matthew A. Scherb

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