

EXHIBIT G

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1 DISCLAIMER

2 The material contained in this ASCII
3 file, the deposition of Chandrasekar Rathakrishnan,
4 taken April 22, 2010, at the offices of Winston &
5 Strawn, has not been reviewed or proofread by the
6 court reporter. Any reference to page and line
7 number will not be accurate. This ASCII is not
8 certified by the reporter. It is for review only.

9 --oOo--

10 THE VIDEOGRAPHER: Here begins Volume 1,
11 Videotape No. 1, in the deposition of Chandra
12 Rathakrishnan, in the matter of Interserve, Inc.,
13 versus Fusion Garage, in the United States District
14 Court, Northern District of California, Case
15 No. C 09-cv-5812 RS (PVT). Today's date is
16 April 22nd, 2010. The time on the video monitor is
17 10:14. Your video operator today is Jennifer
18 McKay, a notary public contracted by Merrill Legal
19 Solutions, San Francisco, California. This video
20 deposition is taking place at Winston & Strawn in
21 San Francisco, California.

22 Counsel, please identify yourselves and
23 state whom you represent.

24 MR. DOOLITTLE: Patrick Doolittle for
25 Fusion Garage.

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1 MR. SOHN: Joshua Sohn for Fusion

2 Garage.

3 MR. BRIDGES: Andrew Bridges with
4 Matthew Scherb and David Bloch for the plaintiffs,
5 and also attending is Michael Arrington, a client
6 representative.

7 THE VIDEOGRAPHER: The court reporter
8 today is Debbie Allustiarti of Merrill Legal
9 Solutions.

10 would the reporter please swear in the
11 witness.

12 THE VIDEOGRAPHER: Please, begin.

13 MR. BRIDGES: Q. Good morning,
14 Mr. Rathakrishnan.

15 A. Good morning.

16 Q. Please state your full name for the
17 record.

18 A. My full name is Chandrasekar
19 Rathakrishnan.

20 Q. Can you please spell both those names.

21 A. C-h-a-n-d-r-a-s-e-k-a-r; Rathakrishnan
22 is R-a-t-h-a-k-r-i-s-h-n-a-n.

23 Q. Where do you live?

24 A. I live in Singapore.

25 Q. What's your home address?

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1 A. My home address is 501 --

2 THE REPORTER: I'm sorry. I didn't hear
3 the street name.

4 THE WITNESS: It's Pasir Panjang, which

20 MR. DOOLITTLE: Objection, vague and
21 ambiguous.

22 THE WITNESS: We were in acquisition
23 discussions and that's how the name came up.

24 MR. BRIDGES: Q. You named -- you used
25 a code name for a product -- sole product you were

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1 developing because of acquisition discussions; is
2 that your testimony?

3 MR. DOOLITTLE: Objection,
4 argumentative.

5 THE WITNESS: No. My testimony is that
6 we were working on a product, and we were looking
7 to be acquired. And because we were looking to be
8 acquired by CrunchPad, Inc., we were referring to
9 the product we were working on as "CrunchPad."

10 MR. BRIDGES: Q. And in September 2009,
11 was your -- was your presentation to investors
12 about the opportunity to be acquired by TechCrunch
13 or CrunchPad?

14 A. We did reference that we were in
15 acquisition discussions with CrunchPad.

16 Q. Were you representing -- during your
17 presentations to potential new shareholders, did
18 you state that the goal of the company was to be
19 acquired by TechCrunch or CrunchPad?

20 MR. DOOLITTLE: Objection, vague and
21 ambiguous.

22 THE WITNESS: No, we did not state that

23 as a goal.

24 MR. BRIDGES: Q. Was it a goal of the
25 company to be acquired by CrunchPad or TechCrunch

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1 in September 2009?

2 A. We were interested in being acquired.

3 It wasn't a goal.

4 Q. Were you interested in walking away from
5 an acquisition by TechCrunch or CrunchPad in
6 September 2009?

7 THE WITNESS: If the terms of the
8 acquisition deal did not make sense, we were
9 prepared to walk.

10 MR. BRIDGES: Q. And what were the
11 latest terms of an acquisition deal that existed in
12 September 2009?

13 MR. DOOLITTLE: Objection. Assumes
14 facts not in evidence, lacks foundation.

15 THE WITNESS: There wasn't an official
16 term in place because we did not receive an
17 official term sheet in September 2009.

18 MR. BRIDGES: Q. Had you ever received
19 a term sheet?

20 A. We only received a letter of intent that
21 was never signed in December 2008.

22 Q. Had you had any discussions or
23 correspondence with anybody at TechCrunch or
24 CrunchPad about terms of an acquisition?

25 MR. DOOLITTLE: Objection, vague and

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1 ambiguous.

2 THE WITNESS: I recollect having e-mails
3 being sent in relation to proposed -- possible
4 terms.

5 MR. BRIDGES: Q. Do you recall
6 indicating that any particular terms were
7 acceptable to Fusion Garage?

8 A. No, not in September 2009.

9 THE REPORTER: I'm sorry. What?

10 THE WITNESS: No, not in September 2009.

11 THE REPORTER: Thank you.

12 MR. BRIDGES: Q. At any time?

13 A. No.

14 Q. What financial accounts does Fusion
15 Garage have?

16 MR. DOOLITTLE: Objection, confidential,
17 and I guess I'll designate this part of the
18 transcript attorneys' eyes only.

19 MR. BRIDGES: Well, we know that some
20 materials are public, so I'd like -- let's get the
21 public --

22 MR. DOOLITTLE: Is there anything
23 public?

24 THE WITNESS: Not that I know of.

25 MR. BRIDGES: Q. Is it not a public

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22 MR. DOOLITTLE: Objection, vague and
23 ambiguous.

24 THE WITNESS: We had been in discussion
25 about Plan B probably sometime since

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1 September 2009, and, again, that's to my best
2 recollection.

3 MR. BRIDGES: Q. What do you mean by
4 "Plan B" in that context?

5 A. As I said, we were in discussions to be
6 acquired, but as an entity, we had to make sure
7 that we could continue to grow the business even if
8 an acquisition does not happen. So that's what we
9 meant as what constituted Plan B.

10 Q. So you were discussing, as early as
11 September 2009, the launch of a web tablet under
12 Fusion Garage's own brand?

13 MR. DOOLITTLE: Objection. Misstates
14 testimony, lacks foundation.

15 You can answer.

16 THE WITNESS: So the point about when we
17 started discussing our own brand tablet, we started
18 discussions on that since the inception of the
19 company in February 2008.

20 MR. BRIDGES: Q. You discussed
21 producing a tablet under Fusion Garage's own brand
22 as early as what time?

23 A. February 2008.

24 MR. DOOLITTLE: Objection, misstates his
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1 that?

2 A. Because I'm involved in almost any of
3 those discussions.

4 Q. Did you ever have discussions with Louis
5 Monier?

6 A. Yes.

7 Q. What kind of conversations did you have
8 with Louis Monier?

9 MR. DOOLITTLE: I'll just object. It's
10 overbroad.

11 But you may answer.

12 THE WITNESS: Louis wanted our software
13 for use on Prototype B, that he was working on for
14 CrunchPad, and we had discussions pertaining to
15 that; and he was tasked with doing due diligence
16 for CrunchPad's intended acquisition of Fusion
17 Garage.

18 MR. BRIDGES: Q. Did he make
19 suggestions regarding the design or development of
20 a web tablet?

21 MR. DOOLITTLE: Objection, vague and
22 ambiguous as to the term "a web tablet."

23 MR. BRIDGES: Q. Did he make
24 suggestions to Fusion Garage regarding the design
25 or development of the web tablet that Fusion Garage

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1 was working on?

2 MR. DOOLITTLE: Objection --

3 THE WITNESS: No.

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4 MR. DOOLITTLE: -- vague and ambiguous.

5 MR. BRIDGES: Q. He made no

6 suggestions?

7 A. He did not make any suggestions to the

8 web tablet that Fusion Garage was working on.

9 Q. Did he make any suggestions to Fusion
10 Garage at all about anything?

11 MR. DOOLITTLE: Objection. Vague and
12 ambiguous, overbroad.

13 THE WITNESS: Yes, he did.

14 MR. BRIDGES: Q. what?

15 A. That the project did not have any legs
16 to continue.

17 THE REPORTER: I'm sorry?

18 THE WITNESS: That the project did not
19 have any legs to continue.

20 THE REPORTER: Any legs?

21 MR. BRIDGES: I'm going to move that --
22 I'm going to move to strike that as nonresponsive.

23 Q. I'm asking whether --

24 MR. DOOLITTLE: I think it was
25 responsive.

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1 MR. BRIDGES: Q. -- whether Louis
2 Monier made any suggestions at all regarding the
3 design and the development of the web tablet that
4 Fusion Garage was working on?

5 A. No.

6 Q. Did Brian Kindle ever make any

7 suggestions to Fusion Garage regarding the design
8 or development of the web tablet that Fusion Garage
9 was working on?

10 A. No.

11 Q. Did Nik Cubrilovich make any suggestions
12 to Fusion Garage regarding the design or
13 development of the web tablet that Fusion Garage
14 was working on?

15 A. No.

16 Q. Did Michael Arrington make any
17 suggestions to Fusion Garage regarding the design
18 or development of the web tablet that Fusion Garage
19 was working on?

20 A. No.

21 Q. Did anybody from TechCrunch or CrunchPad
22 influence the design or development of the web
23 tablet that Fusion Garage was working on?

24 MR. DOOLITTLE: Object as vague and
25 ambiguous as to the term "influence."

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1 THE WITNESS: I was just going to ask
2 that. What do you -- what's the definition of
3 "influence" in this context?

4 MR. BRIDGES: Q. I think -- I think you
5 can try to answer it as phrased.

6 MR. DOOLITTLE: well, he's asking you
7 for clarification. You've invited him to ask you
8 for clarification.

9 MR. BRIDGES: I know, and I will do that
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7 A. Again, I'm really confused right now.

8 MR. DOOLITTLE: I'm sort of confused,
9 too.

10 MR. BRIDGES: Actually, I think the
11 record's going to show what I mean. I think it's
12 going to.

13 Q. There are only two investors in the
14 company that you have failed to identify today in
15 this deposition; is that correct?

16 A. Yes.

17 Q. And those only two investors, whom we
18 are calling Investor A and Investor B, first
19 invested in January 2010, right?

20 A. Yes.

21 Q. Okay. Can you please tell me when the
22 due diligence process for a potential acquisition
23 of Fusion Garage by CrunchPad began.

24 A. I would say October 2008.

25 MR. DOOLITTLE: Are you asking this

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1 about CrunchPad or also about TechCrunch?

2 MR. BRIDGES: Q. Well, the acquisition
3 was to be by CrunchPad, Inc., correct?

4 A. Yes.

5 Q. And you understood that TechCrunch and
6 Michael Arrington established CrunchPad, Inc., as a
7 company that has as its goal the commercialization
8 of the CrunchPad web tablet, correct?

9 MR. DOOLITTLE: Calls for speculation.

10 THE WITNESS: Yeah, I'm not sure what
11 his reasons were.

12 MR. BRIDGES: Q. I'm asking what you
13 understood.

14 MR. DOOLITTLE: Calls for speculation.

15 THE WITNESS: Yeah, that he wanted to
16 create -- yes, he wanted to create a company to
17 launch a web tablet.

18 MR. BRIDGES: Q. And that company was
19 CrunchPad, Inc. --

20 A. Yes.

21 Q. -- to your knowledge?

22 So from October 2008 until
23 November 2009, what did you understand to be all of
24 the due diligence activities that you can recall,
25 in connection with a potential acquisition of

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1 Fusion Garage by CrunchPad?

2 MR. DOOLITTLE: I'll just object.

3 Overbroad, vague as to time, vague and ambiguous.

4 But you may answer.

5 THE WITNESS: The question was, what can
6 I identify as the due diligence process from the
7 period of October 2008 to November 2009?

8 MR. BRIDGES: Q. What are all the
9 activities that you recall associated with the due
10 diligence process during that time; from
11 October 2008 to November 2009?

12 A. This is going to be a long story, but

13 there are breaks in between.

14 Q. That's okay.

15 A. October 2008, when CrunchPad first
16 engaged with us, they wanted us -- well, they saw a
17 demonstration of our product, and they wanted us to
18 provide the software for what they would call
19 Prototype B; our browser software for what they
20 would call Prototype B.

21 Q. Okay. And you say they saw a demo of
22 your product?

23 A. Yes.

24 Q. What was your product that they saw the
25 demonstration of?

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1 A. They saw our browser operating system
2 running on a netbook during a meeting that I had
3 with them.

4 Q. And your product at that time was a
5 software program in the nature of a browser
6 operating system, correct?

7 A. Yes.

8 Q. And so you said that TechCrunch --
9 strike that.

10 So you said that CrunchPad wanted Fusion
11 Garage to provide software for Prototype B,
12 correct?

13 A. Let's take a step backwards. They saw
14 the demonstration --

15 Q. Right.

16 A. -- and suggested that they wanted to
17 acquire the company.

18 Q. Right.

19 A. Where the acquisition would involve a
20 due diligence process.

21 Q. Yes. And I'm just trying to find out
22 all the steps in that due diligence process.

23 A. Sure. So the first part to that, they
24 wanted us to provide software -- the browser
25 software for their Prototype B, which we did in

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1 December -- between December 2008 and
2 February 2009.

3 Q. What was the next step in the due
4 diligence process?

5 A. They gave us a letter of intent based on
6 that in December 2008, where they provided for --
7 where they laid out a certain set of terms, and we
8 had replied via an e-mail suggesting that those
9 terms were not acceptable, and we counter-proposed
10 a certain set of terms against what they provided
11 for.

12 Q. Okay. What was the next step of the due
13 diligence process?

14 A. They said they needed to raise money for
15 CrunchPad, and we were trying to use Prototype B to
16 raise money for CrunchPad.

17 MR. BRIDGES: I'm sorry. What was the
18 end -- can you just read the last clause, please,

19 of the answer.

20 (Record read.)

21 MR. DOOLITTLE: Madam Court Reporter,
22 this doesn't need to be marked "Confidential -
23 Attorneys' Eyes Only."

24 THE REPORTER: It doesn't?

25 MR. DOOLITTLE: Does not.

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1 (Nonconfidential testimony resumed.)

2 MR. BRIDGES: Q. What was the next step
3 of the due diligence process?

4 A. So this led up to end February 2009, and
5 during which time, I'd got no response back for the
6 counteroffer that we had for the letter of intent
7 that they provided; except for suggesting that they
8 were reviewing it, and they would revert soon.

9 MR. DOOLITTLE: They would what soon?

10 THE WITNESS: They would revert soon;
11 something to that effect.

12 MR. BRIDGES: Q. What was the next step
13 of the due diligence process?

14 A. There wasn't a next step because Louis
15 Monier suggested that raising money for this would
16 be difficult and the project had no legs to
17 continue.

18 Q. You say there was no next step in the
19 due diligence process?

20 A. At that point in time. Because they
21 came back and said that they were not -- that they

22 were not able to raise the money required for the
23 project, and in his opinion, the project had no
24 legs to continue. He specifically said this after
25 a meeting with Google Ventures.

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1 MR. DOOLITTLE: Can I just ask you to
2 clarify? Do you mean there was no more due
3 diligence in this early 2009 time frame?

4 THE WITNESS: There was a date ended in
5 February.

6 MR. BRIDGES: Actually, I -- I
7 understand, but I think I need to let you ask
8 questions when I'm through.

9 Q. So when did Louis Monier make this
10 suggestion you just referred to?

11 A. Somewhere late February 2009.

12 Q. In what context did he say that?

13 A. Don't understand.

14 Q. Did he say it to you directly?

15 A. Yes.

16 Q. where?

17 A. Via an e-mail first and then through a
18 phone call.

19 Q. was anybody else included in the e-mail?

20 A. Not that I remember.

21 Q. Was anybody else on the phone call?

22 A. No.

23 Q. What was your reaction to his statement?

24 A. I thought the prototype that was created

25 by them did not quite live up to expectation.

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1 Q. In what respects?

2 A. There's no way the product could be
3 commercialized.

4 Q. Why not?

5 A. It was a product put together by
6 off-shelf parts, and one that did not reflect
7 consumer device, whether in design or in function.

8 MR. BRIDGES: I'm sorry. Can you repeat
9 his answer for me?

10 (Record read.)

11 MR. BRIDGES: Q. What were the
12 customer's desired requirements in design or
13 function that prototype -- that the prototype did
14 not reflect?

15 MR. DOOLITTLE: Calls for speculation.

16 THE WITNESS: And to clarify what I
17 meant was, it did not reflect a consumer product.

18 MR. BRIDGES: Q. And this was
19 Mr. Monier's opinion?

20 MR. DOOLITTLE: Objection, misstates
21 testimony.

22 THE WITNESS: This was my opinion.

23 MR. BRIDGES: Q. This was your opinion.
24 So please tell me how -- by the way, which
25 prototype were you referring to at that time?

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1 A. Prototype B, which was created by
2 TechCrunch, and for which we provided browser
3 software.

4 Q. So in what ways did that prototype not
5 reflect what consumers desired?

6 A. The form factor of the device, the
7 design of the device was just not commercial and
8 was not reflective of what a consumer wanted to
9 use. And that was reflected in Louis's statement
10 about not being able to get funding from VCs, and
11 those were similar reasons he suggested.

12 Q. Okay. We can talk about what your views
13 were, and we can talk about what Mr. Monier's views
14 were, as expressed by him to you. Let me focus
15 right now on your views.

16 You said the form factor and design were
17 not satisfactory?

18 A. Yeah.

19 Q. What else about Prototype B was not
20 satisfactory?

21 A. The software stacks was something that
22 they put together by using open-source solutions.

23 Q. Does that alone make it unsatisfactory
24 or does that simply --

25 A. It was just not functioning the way it

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1 was supposed to function.

2 THE REPORTER: It was just --

3 THE WITNESS: Not functioning the way it
4 was supposed to function.

5 MR. BRIDGES: Q. How was it supposed to
6 functioning -- strike that.

7 How was it supposed to function?

8 MR. DOOLITTLE: Vague and ambiguous,
9 overbroad.

10 THE WITNESS: It was supposed to have a
11 browser operating system. It wasn't having a
12 browser operating system.

13 MR. BRIDGES: Q. In what other ways did
14 it not function the way it was supposed to
15 function?

16 A. It was not complete. Touch wasn't --
17 the touch wasn't working the way it's supposed to
18 work.

19 Q. When you refer to "touch," what do you
20 mean by "touch"?

21 A. Touch-screen technology used was one
22 that was not reflective of the new industry
23 standard.

24 Q. What was the new industry standard?

25 A. They used a resistive touch screen,

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1 which was more attuned for pen-based input versus
2 what should have been a capacitive touch screen
3 that would have been more attuned for the use of
4 finger.

5 Q. whose idea was it that this product
6 should have a capacitive touch screen instead of a
7 resistive touch screen?

8 A. It was my idea.

9 Q. How did you communicate that idea?

10 A. I did not at that point in time.

11 Q. Why is that?

12 A. Because that was something that was
13 asked of me. I was just absorbing what Louis
14 Monier was telling me and forming my opinions out
15 of that.

16 Q. When's the last time you've communicated
17 with Louis Monier?

18 A. I would think sometime in April of
19 2000 -- between April and May of 2009.

20 Q. In what other ways did the Prototype B
21 fail to reflect customer's desires?

22 MR. DOOLITTLE: Objection, calls for
23 speculation.

24 THE WITNESS: The fact that they
25 couldn't raise the money to commercialize it was

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1 reflective of the fact that VCs felt the product
2 was not commercializable from a consumer
3 standpoint, and that was what Louis Monier told me.

4 MR. BRIDGES: I'm sorry. Could you
5 repeat that for me.

6 (Record read.)

7 MR. BRIDGES: I'm going to move to

8 strike that answer.

9 Q. I'm asking you about the prototype --
10 namely, Prototype B -- and how, in your view,
11 Prototype B failed to reflect customer's desires.

12 A. I've already answered that question.

13 Q. So you've given me every aspect in which
14 you believe that Prototype B failed to reflect
15 customer's desires?

16 A. Yeah, yes.

17 Q. What about the form factor was a
18 problem?

19 A. It was too bulky. It was made out of a
20 mechanical case that was not reflective of what a
21 production unit would be.

22 Q. Prototypes are not production units,
23 correct?

24 A. They're not, but there's a difference
25 between prototyping for engineering purposes versus

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1 prototyping for the sake of having -- versus
2 prototyping towards a production time line.

3 Q. Was this a prototype for engineering
4 purposes?

5 A. It wasn't, but that's how it was
6 created. It was reflective of that.

7 Q. What about the design was
8 unsatisfactory, in your view?

9 A. It was archaic. It looked like a tablet
10 from the 1980s.

11 Q. Name a tablet from the 1980s that it
12 looked like?

13 A. A big glass that has a plastic frame
14 around it.

15 Q. What are some of those tablets?

16 A. I just said that: A picture of a big
17 glass with plastic frames around it. Prototypes
18 that were shown by the likes of DEC, Compaq in the
19 '80s and '90s, for example.

20 Q. What made it look like that? What you
21 just said; big frame and glass?

22 A. Yes.

23 MR. DOOLITTLE: Objection. Asked and
24 answered, vague and ambiguous.

25 MR. BRIDGES: Q. What was it about the

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1 software stack that wasn't functioning the way it
2 was supposed to function?

3 A. It was supposed to be a browser
4 operating system, which means you boot directly to
5 the browser and nothing else, but that wasn't the
6 case with this Prototype B.

7 Q. Whose idea was it to boot directly to a
8 browser on the web tablet that Fusion Garage and
9 CrunchPad were working on?

10 MR. DOOLITTLE: Objection. Assumes
11 facts not in evidence, lacks foundation.

12 THE WITNESS: Fusion Garage started with
13 the implicit intention of a browser operating

14 system -- a device that boots directly into a
15 browser, and that was in February 2008. Michael
16 Arrington had also written a blog post in July 2008
17 suggesting that he saw a world where devices would
18 boot directly into a browser system. So we both
19 had similar visions.

20 The big difference, though, was in the
21 blog post, he referenced that creating a tablet
22 device that will run on Rumba, too; that will be
23 hack -- to load directly into Kiosk mode to have
24 Firefox launch directly, that wasn't -- that wasn't
25 our impression of a browser operating system. That

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1 was the idea that he circulated in his blog post in
2 June or July 2008, and that was exactly what
3 Prototype B was doing, with the exception of
4 running Firefox; it was running our browser
5 instead. Key word here: Running our browser and
6 not our browser operating system.

7 MR. BRIDGES: Q. who originated the
8 attention to boottime in the development of
9 prototypes at CrunchPad?

10 THE REPORTER: I'm sorry. I didn't hear
11 the --

12 MR. BRIDGES: The attention to boot time
13 in the development of prototypes for web tablet.

14 MR. DOOLITTLE: Objection, vague and
15 ambiguous.

16 MR. BRIDGES: Q. As between CrunchPad

17 or TechCrunch and Fusion Garage.

18 MR. DOOLITTLE: Objection. Vague and
19 ambiguous, lacks foundation. I don't understand
20 the question.

21 MR. BRIDGES: Q. Well, boot time was a
22 topic of conversation, correct, between
23 TechCrunch -- between Fusion Garage and TechCrunch
24 or CrunchPad?

25 A. Yes.

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1 Q. And who introduced the topic of boot
2 time into the communications?

3 MR. DOOLITTLE: Objection. Vague and
4 ambiguous, lacks foundation.

5 THE WITNESS: It was both ways. We had
6 intent -- we were building a system to boot within
7 10 seconds, and Michael Arrington had written in
8 his blog post that he would like to see a system
9 that boots very quickly; hopefully, within 10
10 seconds.

11 MR. BRIDGES: Q. And what had you done
12 to that effect before Michael Arrington's blog post
13 on that point?

14 A. We had an operating system that could
15 boot directly on a netbook.

16 Q. How long did it take to boot?

17 A. Something like 10 to 14 seconds.

18 Q. 10 to 14 seconds in September 2008?

19 A. Yeah.

20 MR. BRIDGES: I think we're out of tape,
21 so we should take a break.

22 THE VIDEOGRAPHER: This marks the end of
23 Tape No. 3, in the deposition of Chandra
24 Rathakrishnan. Going off the record, the time is
25 5:37.

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1 (Recess taken.)

2 (Mr. Kearney left the deposition at the
3 recess.)

4 THE VIDEOGRAPHER: This marks the
5 beginning of Tape No. 4, in the deposition of
6 Chandra Rathakrishnan. Back on the record, the
7 time is 5:49.

8 MR. BRIDGES: Q. Mr. Rathakrishnan, I
9 think you testified that, at the end of
10 February 2009, there was no next step in the due
11 diligence; did I understand that correctly?

12 A. Yes. I was told by Louis Monier that we
13 should go figure out what we're going to do, given
14 that the project had no legs to continue.

15 Q. So it's your understanding -- was there
16 any due diligence after that?

17 A. Yes.

18 Q. What due diligence?

19 A. So between February and April 2009,
20 there was hardly, if any, dialog with anyone
21 associated with the CrunchPad project. After
22 hearing what Louis had to say, I decided that

23 internally we will continue building the operating
24 system that we were building on, and we will build
25 the hardware required to get the operating system

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1 to market.

2 I had written an e-mail -- a Skype
3 message to Michael Arrington suggesting that, I
4 understand the project had met with some
5 difficulties, but I'm working on something that
6 could possibly excite everyone, and that I'll be
7 coming to the United States sometime in April to
8 show off what we would have done by then.

9 So during the period of February and
10 April 2009, we hired hardware consultants; we
11 continued work on the software; we designed the
12 form factor of the device and put together a
13 complete product that would demonstrate what a
14 tablet should do. We built four prototype units of
15 that and brought it up to the United States in the
16 beginning of April -- somewhere around April 7th or
17 8th -- of 2009, and showed off to TechCrunch what
18 we'd actually done.

19 This was then referred to as "CrunchPad
20 Prototype C." We had even designed the box and the
21 branding associated with Prototype C to show the
22 complete package of what a consumer product should
23 be and how -- and how this would be used by
24 consumers.

25 It was at this stage that Louis Monier

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1 mentioned to me that we brought project back from
2 the dead and what we'd done was exciting. Michael
3 then reiterated that he wanted to acquire the
4 company, and we should discuss acquisition. That
5 was when the next step of due diligence started.

6 Q. And what was -- what did that next step
7 of due diligence consist of?

8 A. Two things. One, is trying to ensure --
9 well, trying to understand from their point of view
10 how we were going to productize this or
11 commercialize this for the partners we were going
12 to use; how we're going to bring this to market.

13 The second element is, for them to
14 acquire us, there was a need to raise funding, and
15 CrunchPad believed they could raise funding. And
16 they wanted, as part of the process, for us to
17 engage with them in joint venture meetings. And
18 that continued throughout the period of -- from
19 April 2009.

20 Q. From April 2009 until when?

21 A. To November 2009, and there are breaks
22 in between. And we had Brian Kindle and Nik
23 Cubrilovich, who were two new additions by
24 CrunchPad on their end -- because Louis Monier left
25 the project -- they were centering upon the due

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1 diligence on where we were with the product, as far
2 as commercialization was concerned.

3 Q. When was that?

4 A. The two of them came down to conduct due
5 diligence sometime in August 2009. Both of them
6 joined the CrunchPad -- well, I'm not sure they
7 joined CrunchPad, but both of them were brought on
8 board by Michael Arrington sometime during July
9 2009 time period, and they came down for due
10 diligence in August 2009.

11 while Louis Monier left the project
12 sometime between April and May 2009. When I say
13 "left the project," means whatever engagement he
14 was having with TechCrunch or CrunchPad that ceased
15 to exist.

16 MR. DOOLITTLE: Would you wait for a
17 question, okay? You're just talking.

18 MR. BRIDGES: Q. What breaks were there
19 in the due diligence, as you described it, between
20 April 2009 and November 2009?

21 A. It wasn't an everyday process. They
22 didn't have definitive goals how they wanted to
23 conduct the due diligence. They wanted to
24 understand how to bring the product to market, but
25 they also needed to raise money, which they were

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1 trying to focus on.

2 Q. So after August 2009, what was the next
3 step in the due diligence, as you described it?

4 A. We had to get the production version
5 ready for launch. And I want to make it clear that
6 this was not explicit due-diligence steps they
7 established and communicated to us. The process
8 just dragged on with the promise of an acquisition
9 during this period of time, while we continued on
10 the path of trying to productize this device.

11 So from their point of view, the next
12 step was for us to bring the device to them for
13 launch at TechCrunch50 in September 2009.

14 Q. Were there any more steps in the due
15 diligence process, apart from the ones you've
16 described?

17 MR. DOOLITTLE: Objection. Vague,
18 ambiguous, overbroad.

19 THE WITNESS: Not that I'm aware of.

20 MR. BRIDGES: Q. During that period,
21 had there been discussions between you and anybody
22 at CrunchPad or TechCrunch about capitalization
23 tables for an acquisition?

24 MR. DOOLITTLE: Objection, vague as to
25 time.

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1 THE WITNESS: During which period again?

2 MR. BRIDGES: Q. During any of that
3 period, after December 2008 to November 2009, were
4 there any communications between CrunchPad or
5 TechCrunch, on the one hand, and Fusion Garage, on
6 the other, about capitalization tables?

7 A. Yes.

8 Q. What were the decisions or
9 communications?

10 A. There were several, so I'm not sure what
11 you're referring to.

12 Q. How many communications; do you know?

13 A. I wouldn't know the exact number, but it
14 was a discussion that was ongoing from
15 December 2008 to November 2009. So there's several
16 exchanges, both verbally and via e-mails.

17 Q. And do you recall whether the
18 capitalization structure of Fusion Garage had an
19 effect on the potential for an acquisition to
20 occur?

21 A. No.

22 Q. Do you have any understanding that
23 Fusion Garage's capitalization needed to be cleaned
24 up before an acquisition?

25 MR. DOOLITTLE: Objection, vague and

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1 ambiguous.

2 THE WITNESS: No. And I would also like
3 to clarify what you mean by "cleaned up."

4 MR. BRIDGES: Q. That needed to be
5 altered.

6 MR. DOOLITTLE: Objection, vague and
7 ambiguous.

8 THE WITNESS: Not that I know of. I
9 mean, from my understanding, an acquisition is, you

10 want to buy a company; you buy the company for what
11 it is under a certain set of terms.

12 MR. BRIDGES: Q. Was this discussion of
13 a cash acquisition?

14 MR. DOOLITTLE: Objection, vague and
15 ambiguous.

16 THE WITNESS: Not exactly.

17 MR. BRIDGES: Q. Not exactly. In fact,
18 it involved issuance of equity; it involved
19 assumption of loans; it involved conversions of
20 loans to equity; it involved creation of stock
21 options -- did it not? -- as discussed by Fusion
22 Garage and CrunchPad?

23 MR. DOOLITTLE: Objection, lacks
24 foundation.

25 THE WITNESS: Yes. And an assumption of

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1 loans could include repayment of loans as well and
2 that would equate to a cash component of the deal.

3 MR. BRIDGES: Q. Cash component of the
4 deal. It would not be a cash acquisition?

5 A. Yes, it was.

6 Q. This was a deal that was going to have a
7 number of different component parts, correct?

8 MR. DOOLITTLE: Objection. Vague and
9 ambiguous, assumes facts, lacks foundation.

10 THE WITNESS: From my understanding,
11 yes.

12 MR. BRIDGES: Q. Tell me all of the --