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11 Attorneys for Defendant and Counterclaimant,
 12 BLOCKBUSTER INC.

13 UNITED STATES DISTRICT COURT
 14 NORTHERN DISTRICT OF CALIFORNIA

16 NETFLIX, INC, a Delaware corporation

17 Plaintiff,

18 v.

19 BLOCKBUSTER INC., a Delaware corporation,
 20 DOES 1-50,

21 Defendant.

Case No. C 06 2361 WHA (JCS)

**BLOCKBUSTER'S ADMINISTRATIVE
 REQUEST TO FILE UNDER SEAL**

Hearing Date: August 2, 2007
 Time: 8:00 a.m.
 Courtroom: 9, 19th Floor
 Judge: Hon. William H. Alsup

Complaint Filed: April 4, 2006
 Trial Date: September 17, 2007

24 AND RELATED COUNTERCLAIMS

1 I. INTRODUCTION

2 Defendant and Counterclaimant Blockbuster Inc. ("Blockbuster"), respectfully requests
3 an Order sealing portions of Blockbuster's Motion for Summary Judgment of Invalidity and
4 Non-Infringement ("Motion"), supporting declarations and exhibits, pursuant to Civil Local
5 Rules 7-11, 79-5 and the Protective Order signed by Magistrate Judge Joseph C. Spero on
6 October 23, 2006. Blockbuster's request is narrowly tailored, as required by Local Rule 79-5(a),
7 and seeks to protect only those documents that contain confidential commercial information.
8 Therefore, good cause supports this request and the documents referenced herein may
9 appropriately be filed under seal.

10 II. MATERIALS TO BE SEALED

11 Blockbuster requests the following documents, or portions thereof, be filed under seal:

- 12 1) Portions of Exhibit E to the Declaration of William J. O'Brien In Support
13 Of Blockbuster's Motion For Summary Judgment of Invalidity and Non-Infringement ("O'Brien
14 Decl."), containing excerpts from the deposition transcript of Neil Hunt taken on March 23,
15 2007.
- 16 2) Exhibit K to the O'Brien Decl., containing excerpts from the deposition
17 transcript of Tom Adams taken on June 1, 2007.
- 18 3) Exhibit S to the O'Brien Decl., containing excerpts from the deposition
19 transcript of Shane Evangelist taken on April 17, 2007.
- 20 4) The Declaration of J.W. Craft In Support Of Blockbuster's Motion For
21 Summary Judgment of Invalidity and Non-Infringement.
- 22 5) Portions of the Motion, at pages 1, 5, 9, 11-21, 23-29, as Blockbuster
23 describes the contents of the above listed documents in each of these pages.

24 III. ARGUMENT

25 A. **Documents Designated "Confidential-Attorneys' Eyes Only"**
26 **By Blockbuster Pursuant to Paragraph 10 of the Protective**
Order.

27 Pursuant to Civil Local Rule 79-5 and as set forth in the accompanying declaration of
28 Adrienne L. Taclas in Support of Blockbuster's Administrative Request, good cause exists for

1 filing the above referenced documents under seal. Each of the documents Blockbuster seeks to
2 file under seal are of a particularly sensitive business or technical nature that would provide
3 significant advantage to competitors should they be disclosed. Blockbuster's request is
4 "narrowly tailored to seal only the particular information that is genuinely privileged or protected
5 as a trade secret or otherwise has a compelling need for confidentiality." Civil L.R. 79-5.
6 Accordingly, the documents referenced herein and designated "Confidential-Attorneys' Eyes
7 Only" by Blockbuster may appropriately be filed under seal.

8 **B. Documents Designated "Confidential-Attorneys' Eyes Only"**
9 **By Netflix Pursuant to Paragraph 10 of the Protective Order.**

10 Exhibits E and K to the O'Brien Declaration were designated "Confidential-
11 Attorneys' Eyes Only" by Netflix. Under Paragraph 10 of the Protective Order, Blockbuster is
12 obligated to lodge these documents with the Court with a request to file it under seal pursuant to
13 Civil Local Rule 79-5. Accordingly, Blockbuster hereby requests that Exhibits E and K to the
14 O'Brien Declaration be filed under seal.

15 **IV. CONCLUSION**

16 For the foregoing reasons, Blockbuster respectfully requests that each of the above
17 referenced documents are filed under seal. Blockbuster will electronically file redacted versions
18 of the Motion, the supporting declaration and exhibits for filing in the public record. A Proposed
19 Order is submitted with this motion.

20 DATED: June 14, 2007

21 BINGHAM MCCUTCHEN LLP

22
23 By: 

24 Adrienne L. Taclas
25 Attorneys for Defendant
26 Blockbuster, Inc.
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