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16 Attorneys for Defendant and Counterclaimant,
 Blockbuster Inc.

17 UNITED STATES DISTRICT COURT
 18 NORTHERN DISTRICT OF CALIFORNIA
 19

20 NETFLIX, INC., a Delaware corporation,

21 Plaintiff,

22 vs.

23 BLOCKBUSTER INC., a Delaware
 corporation, DOES 1-50,

24 Defendants.
 25

26 AND RELATED COUNTER ACTION.
 27

CASE NO. C 06 2361 WHA

**STIPULATION AND
 [PROPOSED] ORDER
 GRANTING LEAVE TO FILE
 FIRST AMENDED
 COMPLAINT**

Complaint Filed: April 4, 2006

1 The parties, Plaintiff and Counterdefendant, Netflix, Inc., and
2 Defendant and Counterclaimant, Blockbuster Inc., hereby stipulate as follows:

3 1. The First Amended Complaint for Patent Infringement and
4 Demand for Jury Trial (“First Amended Complaint”), which Netflix filed with this
5 Court on July 26, 2006, as Document 28, shall be deemed filed as of the date on
6 which this Court enters its decision on Netflix’s pending Motion to Dismiss or,
7 Alternatively, to Bifurcate and Stay Defendant Blockbuster’s Antitrust
8 Counterclaims and to Strike Affirmative Defenses of Unenforceability and Patent
9 Misuse (Document 21, filed July 6, 2006), which is presently set for hearing on
10 August 17, 2006 (“Motion to Dismiss”).

11 2. Blockbuster shall have until twenty days after the Court enters
12 its decision on the Motion to Dismiss to file a response to the First Amended
13 Complaint.

14 3. This stipulation and any order hereon shall not affect the
15 proceedings on, or schedule for, the Motion to Dismiss.

16 4. Blockbuster stipulates to Netflix’s receiving leave to file the
17 First Amended Complaint on the foregoing terms and conditions and to Netflix’s
18 being relieved, on the foregoing terms and conditions, from its omission to request
19 leave by July 28, 2006, to file the First Amended Complaint.

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5. Based on this Stipulation, Netflix's Motion for Relief Under Civil Local Rule 7-11 (Document 33, filed August 2, 2006), shall be deemed moot.

DATED: August 4, 2006 KEKER & VAN NEST, LLP

By _____ /s/
Leo L. Lam
Attorneys for Plaintiff and Counterdefendant,
Netflix, Inc.

DATED: August 4, 2006 ALSCHULER GROSSMAN STEIN & KAHAN LLP

By _____ /s/
William J. O'Brien
Attorneys for Defendant and Counterclaimant,
Blockbuster Inc.

[PROPOSED] ORDER

PURSUANT TO STIPULATION, IT IS SO ORDERED.

DATED: _____, 2006

Honorable William H. Alsup
United States District Judge