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15 Attorneys for Defendant and Counterclaimant,
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 18 UNITED STATES DISTRICT COURT
 19 NORTHERN DISTRICT OF CALIFORNIA

20 NETFLIX, INC., a Delaware corporation,

21 Plaintiff,

22 v.

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

25 Defendant.

Case No. C 06 2361 WHA

**STIPULATION AND [PROPOSED]
 ORDER REGARDING TIME TO FILE
 RESPONSE TO COUNTERCLAIMS**

26 AND RELATED COUNTER ACTION.
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1 WHEREAS, Netflix, Inc. (“Netflix”) and Blockbuster, Inc. (“Blockbuster”) (collectively,
2 “the Parties”) have previously stipulated that Blockbuster shall have until twenty (20) days after
3 the Court entered its Order on Netflix’s Motion to Dismiss or, Alternatively, to Bifurcate and
4 Stay Defendant Blockbuster’s Antitrust Counterclaims and to Strike Affirmative Defenses of
5 Unenforceability and Patent Misuse (the “Motion to Dismiss”) to file its Answer and
6 Counterclaims to Netflix’s First Amended Complaint;

7 WHEREAS, under Federal Rule of Civil Procedure 12(a)(4)(A), Netflix’s reply to
8 Blockbuster’s counterclaims filed on June 13, 2006 would be due ten (10) days after Netflix
9 received notice of the Court’s entry its Order denying the Motion to Dismiss; and

10 WHEREAS, the Parties agree that it is unnecessary for Netflix to file a reply to
11 Blockbuster’s current counterclaims, as Blockbuster intends to file another Answer and
12 Counterclaims in response to Netflix’s First Amended Complaint, as set forth above,

13 THEREFORE, the Parties stipulate that Netflix shall not be required to file any reply to
14 Blockbuster’s Answer and Counterclaims that were filed on June 13, 2006. Instead, Netflix shall
15 file its response to Blockbuster’s Answer and Counterclaims in response to Netflix’s First
16 Amended Complaint within the time provided for by Federal Rule of Civil Procedure 12(a)(2).

17 DATED: September 6, 2006

KEKER & VAN NEST, LLP

18 BY: _____/s/_____

19 Eugene M. Paige
20 Attorneys for Plaintiff and Counterclaim Defendant
Netflix, Inc.

21 DATED: September 6, 2006

ALSCHULER GROSSMAN STEIN & KAHAN LLP

22 BY: _____/s/_____

23 William J. O’Brien
24 Attorneys for Defendant and Counterclaim Plaintiff
Blockbuster, Inc.

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1 I hereby attest, pursuant to section X of General Order 45, that concurrence in the filing
2 of this document has been obtained from William J. O'Brien, Esq., Attorney for the Defendant
3 and Counterclaim-Plaintiff.

4 Dated: September 6, 2006

By: /s/ Eugene M. Paige _____

6 **[PROPOSED] ORDER**

7 **PURSUANT TO STIPULATION, IT IS SO ORDERED:**

8 Dated:

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12 _____
13 HON. WILLIAM ALSUP
14 UNITED STATES DISTRICT JUDGE
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