

2

1 Schiff Hardin LLP
 2 Rocky N. Unruh, Bar No. 84049
 3 runruh@schiffhardin.com
 4 One Market, Spear Street Tower
 5 Thirty-Second Floor
 6 San Francisco, CA 94105
 7 Telephone: (415) 901-8700
 8 Facsimile: (415) 901-8701

6 Arent Fox LLP
 7 Michael B. Hazzard (*pro hac vice* application
 8 to be filed)
 9 hazzard.michael@arentfox.com
 10 1050 Connecticut Avenue, NW
 11 Washington, DC 20036-5339
 12 Telephone: (202) 857-6000
 13 Facsimile: (202) 857-6395

11 Attorneys for Defendant
 12 CORE COMMUNICATIONS, INC.

13 UNITED STATES DISTRICT COURT
 14 NORTHERN DISTRICT OF CALIFORNIA
 15 SAN FRANCISCO DIVISION

17 DAN VALENTINE, et al.
 18 Plaintiffs,
 19 v.
 20 NEBUAD, INC., et al.,
 21 Defendants.

Case No. CV08-05113 TEH
**ADMINISTRATIVE MOTION
 TO CONSIDER WHETHER
 CASES SHOULD BE RELATED**

23 SUSAN SIMON, et al.,
 24 Plaintiffs,
 25 v.
 26 ADZILLA, INC. (NEW MEDIA), et al,
 27 Defendants.

Case No. CV09-00879 MMC

1 Pursuant to Civil L. R. 3-12, defendant Core Communications, Inc., a named
2 defendant in *Simon, et al. v. Adzilla, Inc. et al.*, Case No. C09-00879 MMC, moves to
3 have that case deemed related to an earlier-filed case in this district, *Valentine, et al. v.*
4 *NebuAd, Inc., et al.*, Case No. CV-08-05113 TEH ("*Valentine*"). These cases should be
5 deemed related for the following reasons:

6 1. Although the cases involve different parties, they are both class
7 actions brought by the same attorneys, alleging the same seven causes of
8 action, arising out of "substantially the same event," namely, the alleged
9 interception of plaintiffs' Internet transmissions using technologies that
10 permit "Deep Packet Inspection." Compare Complaint in *Valentine*, p. 2
11 at ¶ 1 with Complaint in *Simon*, p. 3 at ¶ 3. Indeed, apart from the
12 differences in the names of the parties, the complaints in both cases are
13 nearly identical.

14 2. These two cases raise novel legal claims challenging the alleged
15 use of innovative technology to collect information from Internet
16 transmissions, and for these reasons, it appears likely there would be an
17 unduly burdensome duplication of labor and expense, and a risk of
18 conflicting results, if they were heard by different judges.

19 For these reasons, the *Simon* case should be deemed related to the earlier-filed
20 *Valentine* action, and reassigned to the Honorable Thelton E. Henderson.

21 Respectfully submitted,

22 Dated: April 21, 2009

23 SCHIFF HARDIN LLP

24 ARENT FOX LLP

25
26 By: 
27 Rocky N. Unruh
28 Attorneys for Defendant CORE
COMMUNICATIONS, INC.

SF9337929.2