

Attorneys for Plaintiffs
GROUPE CANAL+ S.A.,
CANAL+ TECHNOLOGIES, S.A. and
CANAL+ TECHNOLOGIES, INC.

GROUPE CANAL+ S.A., CANAL+
 TECHNOLOGIES, S.A., CANAL+
 TECHNOLOGIES, INC.,

V.

**DECLARATION OF STEWART
RICHARDSON IN SUPPORT OF
OPPOSITION TO MOTION TO
DISMISS OR TRANSFER FOR
IMPROPER VENUE**

Date: Thursday, May 30, 2002
Time: 2:00 p.m.
Courtroom 6

1. I am an attorney with the law firm Wilson Sonsini Goodrich & Rosati (“WSGR”), 650 Page Mill Road, Palo Alto, CA 94304, counsel for plaintiffs in this lawsuit. I make each of the following statements based on my personal knowledge, and if called as a witness I would testify to the truth of each of the following statements:

1 2. On May 6, 2002, I reviewed the webpage www.nds.com/pdfs/Full_Annual_Report.pdf,
2 which I reached via links from NDS's homepage, www.nds.com/homepage.html. This webpage
3 provides the document "NDS Group PLC Annual Report & Accounts 2001."

4 3. Attached as Exhibit A are true and correct copies of the first page and other relevant
5 pages of that document as printed on May 6, 2002, listing NDS's regional revenues and showing
6 that the United States revenues exceeded those of NDS's four other regions in the year ended
7 June 30, 2001.

8 4. On May, 2002, I reviewed the webpage www.nds.com/pdfs/Form_20-F.pdf, which I
9 reached via links from NDS's homepage. This webpage provides a document that purports to be
10 NDS Group plc's 20-F filing to the Securities and Exchange Commission for the fiscal year
11 ended June 30, 2001.

12 5. Attached as Exhibit B are true and correct copies of the first page and other relevant
13 pages of that document as printed on May 8, 2002. Among other things, the document states that
14 "The NDS Group has an operational presence in the US, whose activities are carried out through
15 NDS Americas Inc."

16 6. Attached as Exhibit C is a true and correct copy of the docket sheet obtained by the
17 WSGR library of the Middle District of Florida case *Directv, Inc., et al v. Mega Electronics Inc,*
18 *et al*, No. 00-CV-650, which shows NDS Americas, Inc.'s status as a plaintiff in that action.

19 7. Attached as Exhibit D is a true and correct copy of the docket sheet obtained by the
20 WSGR library for the Central District of California matter *Directv, Inc., et al v. Mega*
21 *Electronics Inc, et al*, No. 99-CV-11602, which shows at entry #55 that the parties stipulated to
22 transfer the action to the Middle District of Florida.

23 8. Attached as Exhibit E is a true and correct copy of the Permanent Injunction (Re:
24 Defendant Norman Dick) obtained by the WSGR library issued by the Western District of
25 Washington at Seattle on April 19, 2001 in *Directv, Inc. v. Dick*, No. C96-993M, which shows
26 NDS Americas, Inc.'s status as a plaintiff in that action.

27 9. Attached as Exhibit F is a true and correct copy of the Complaint obtained by the
28 WSGR library filed in the District of Montana, Butte Division on February 3, 2000 in *Directv,*

1 *Inc. v. Huddleston*, No. CV-00-10-BU-RFC, which shows NDS Americas, Inc.’s status as a
2 plaintiff in that action.

3 10. Attached as Exhibits G-R are true and correct copies of webpages evidencing the
4 Northern District headquarters of twelve entities identified by NDS as its “partners” in the NDS
5 brochure entitled “World leader, world vision,” which is attached as Exhibit A to the Declaration
6 of Michael B. Levin. As of May 8, 2002, each page could be reached via links from the relevant
7 company’s homepage: Cisco Systems (www.cisco.com) (Exhibit G); SCM Microsystems
8 (www.scommicro.com) (Exhibit H); Harmonic Inc. (www.harmonicinc.com) (Exhibit I); Oracle
9 Corporation (www.oracle.com) (Exhibit J); Skystream Networks (www.skystream.com) (Exhibit
10 K); Broadlogic (www.broadlogic.com) (Exhibit L); PowerTV, Inc. (www.powertv.com) (Exhibit
11 M); Portal Software (www.portal.com) (Exhibit N); SGI (Silicon Graphics, Inc.) (www.sgi.com)
12 (Exhibit O); Sun Microsystems (www.sun.com) (Exhibit P); OpenTV (www.opentv.com)
13 (Exhibit Q); and liberate (www.liberate.com) (Exhibit R).

14 11. Attached as Exhibits S-Y are true and correct copies of webpages evidencing NDS’s
15 relationships with entities NDS identifies as its “partners” which are located in the Northern
16 District. As of May 8, 2002, each such page can be reached via links from the relevant
17 company’s homepage (listed above).

18 ?? Exhibit S, a December 2, 1998 SCM Microsystems press release, announces a
19 licensing agreement between NDS and SCM Microsystems and includes the
20 comment of NDS Americas’ vice president and general manager, Dr. Dov Rubin,
21 that SCM Microsystems is a “natural partner.”

22 ?? Exhibit T, a November 29, 2000 SCM Microsystems press release, includes the
23 statement of Carmi Bogot, NDS’s vice president of business development, that
24 NDS and SCM Microsystems have an “ongoing relationship.”

25 ?? Exhibit U, the OpenTV website’s description of the company’s “Partner
26 Community,” states under “Technology Partners” that “Companies such as
27 Oracle, NDS and Predictive Networks are cooperating with OpenTV to
28

seamlessly integrate the building blocks that allow network operators to bring interactive television (iTV) to the home.”

?? Exhibit V, a January 25, 2001 OpenTV press release, announces a new product that “is the culmination of development work done by Sky and its technology partners” including NDS.

?? Exhibit W, a June 13, 2000 press release issued by Liberate and NDS Group, describes the companies’ plans to “co-market their joint developments” and includes the statement of Liberate CEO Mitchell Kertzman that the companies have a “partnership.”

?? Exhibit X, a January 22, 2001 Liberate press release, describes NDS as a “PopTV Partner.”

?? Exhibit Y, a September 14, 2001 Liberate press release, also lists NDS as a “PopTV Partner” and states that in conjunction with Liberate’s PopTV program, NDS will display Liberate demonstrations at its stand in an upcoming conference and exhibition.

12. Attached as Exhibits Z-BB are true and correct copies of news articles obtained by the WSGR library further addressing NDS’s Northern District contacts.

?? Exhibit Z, a September 10, 1998 Business Wire reporting an announcement made in Milpitas, California, states in part that “As an early access partner for C-Cube’s DVxpert product, NDS worked closely with C-Cube ...” C-Cube is a Northern District (Milpitas-based) company which leased office space to Canal+ USA in early 1999 (*see* Racine Decl. Ex. A).

?? Exhibit AA, a May 25, 2000 Business Wire article, states in part that NDS has “alliances” with Liberate Technologies, OpenTV, and Harmonic (Divicom). As detailed above, each of these partners is a Northern District resident.

?? Exhibit BB, a December 14, 1999 Business Wire article, states in part that at the “Western Show” in Los Angeles NDS will offer booth demos using OpenTV, Liberate, and Harmonic products.

1 13. Attached as exhibits CC-HH are true and correct copies of documents NDS produced
2 to Canal+ on May 8, 2002, Bates-numbered: NDS000008-000009, NDS000006-000007,
3 NDS000004-000005, NDS000003, NDS000002, and NDS000001.

4 14. Attached as exhibits II-NN are true and correct copies of documents NDS produced
5 to Canal+ on May 8, 2002, Bates numbered NDS000143-000147, NDS000067-000068,
6 NDS000083-000084, NDS000104-000108, NDS000126-000132, and NDS000148-000153.

7 15. Attached as Exhibits OO and PP are true and correct copies of webpages located by a
8 WSGR employee working at my direction, evidencing that two recipients of the August 16, 1999
9 email from Helith Sofer (Bates numbered NDS000006-000007, and attached hereto as Exhibit
10 DD), which instructed sales staff to emphasize the hack of Canal+ smartcards when competing
11 with Canal+, were employed by NDS Americas in sales and marketing positions.

12 ?? Exhibit OO contains the March 10, 1998 Meeting Minutes of a chapter of the
13 Society of Broadcast Engineers, stating in part that Jim Skupien – a recipient of
14 the August 16, 1999 email – is a sales manager for NDS Americas.

15 ?? Exhibit PP contains the Spring 2000 Class Notes section of Washington College
16 Magazine, and states in part (under the Class of 1998) that Peter Mendevil – also
17 a recipient of the August 19, 1999 email – works as a “marketing/contracts
18 administrator” for NDS Americas.

19 I declare under penalty of perjury that the foregoing is true and correct. Executed on
20 May 16, 2002 at Albuquerque, New Mexico.

21
22
23 /s/Stewart Richardson
24 Stewart Richardson