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

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

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

Plaintiffs,

v.

NDS GROUP PLC, NDS AMERICAS, INC.,

Defendants.

CASE NO.: C02-01178 VRW

**DECLARATION OF JAMES A.
DiBOISE IN SUPPORT OF
PLAINTIFFS' MOTION FOR
ORDER EXPEDITING
DISCOVERY AND ORDER TO
PRESERVE DOCUMENTS AND
THINGS AND STIPULATION TO
SHORTEN TIME**

Date:

Time:

Place: Courtroom 6, 17th Floor

(Hearing date and time to be determined
pursuant to stipulation to shorten time.)

I, James A. DiBoise, declare as follows:

1. I am a member of the law firm Wilson Sonsini Goodrich & Rosati, 650 Page Mill Road, Palo Alto, CA 94304, attorneys for the plaintiffs in this lawsuit. I make each of the following statements of my personal knowledge, and each of them is true and correct. If called as a witness herein I could and would testify to the truth of each of the following statements.

1 2. The plaintiffs in this action have filed (a) a motion for expedited discovery; and
2 (b) a stipulation to shorten the briefing and hearing schedule on the motion for expedited
3 discovery. Pursuant to Northern District Civil Local Rules 6-3(a)(2) and 37-1(a), I engaged in a
4 meet and confer discussion with counsel for defendants, Mr. Patrick Lynch of O'Melveny &
5 Myers, to see if the defendants would agree to expedited discovery and/or the shortened
6 schedule.

7 3. Mr. Lynch and I agreed that plaintiffs' may proceed with their motion on
8 shortened time for hearing and with an agreed briefing schedule, subject to this Court's approval
9 of the stipulated accelerated hearing date. Mr. Lynch and I were unable to agree that expedited
10 discovery is appropriate at this time. Because we were unable to so agree, plaintiffs are moving
11 forward with their motion for expedited discovery.

12 4. With regard to the stipulation to shorten the briefing and hearing schedule on its
13 motion for expedited discovery, Canal+ strongly believes that it must wait for the minimum 35
14 days under the Local Rules to have its motion for expedited discovery heard, its goals in seeking
15 that discovery may be undermined. In a soon-to-be-filed motion for preliminary injunction,
16 Canal+ will ask this Court to enjoin the defendants from any efforts to improperly discover or
17 reveal the new, latest-technology "smart card" that Canal+ will launch in April 2002. It is
18 imperative that the defendants' organized efforts to unfairly compete with and harm Canal+'s
19 business be put to a stop before they can once again destroy the value of the Canal+ smart card.

20 5. Canal+ needs immediate leave to take discovery targeted to the defendants'
21 hacking activities and their efforts to sabotage Canal+'s market strength. A five- or six-week
22 delay to have that motion heard will impede Canal+'s ability to gather the necessary evidence,
23 move quickly for a preliminary injunction, and stop the defendants from endeavoring to sabotage
24 Canal+'s new "smart card" when it hits the market next month. By contrast, a shortened briefing
25 and hearing schedule will speed up Canal+'s discovery, its motion, and its showing that the
26 defendants' activities must be put to a stop.


6. There have been no previous time modifications in this lawsuit. At this early stage of the case, Canal+ does not believe that its requested time modification will have any impact on the overall schedule for the case.

7. Attached as Exhibit A is a true and correct copy of the document request that Canal+ seeks to serve on defendant NDS Group PLC.

8. Attached as Exhibit B is a true and correct copy of the document request that Canal+ seeks to serve on defendant NDS Americas, Inc.

I declare under penalty of perjury that each of the above statements is true and correct.

Executed at Palo Alto, California on March 20, 2002.


James A. DiBoise