

1 SQUIRE, SANDERS & DEMPSEY L.L.P.
2 Michael T. Purleski (State Bar No. 216307)
3 555 South Flower St., 31st Floor
4 Los Angeles, California 90071
5 Telephone: (213)624-2500
6 Facsimile: (213)623-4581

7 T. WADE WELCH & ASSOCIATES
8 Chad M. Hagan (*pro hac vice*)
9 2401 Fountainview, Suite 700
10 Houston, Texas 77057
11 Telephone: (713) 952-4334
12 Facsimile: (713) 952-4994

13 Attorneys for Plaintiffs
14 ECHOSTAR SATELLITE CORP. et al.

FILED-SOUTHERN DIVISION
CLERK, U.S. DISTRICT COURT
NOV 30 2006
CENTRAL DISTRICT OF CALIFORNIA
BY [Signature] DEPUTY

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U.S. DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
SAN FRANCISCO

15 UNITED STATES DISTRICT COURT
16 CENTRAL DISTRICT OF CALIFORNIA
17 SOUTHERN DIVISION

18 ECHOSTAR SATELLITE CORP.,
19 et al.,

20 Plaintiffs /
21 Counterclaim
22 Defendants

23 v.

24 NDS GROUP PLC, NDS
25 AMERICAS, INC., et. al.,

26 Defendants /
27 Counterclaim
28 Plaintiffs.

Case No. SA CV 03-0950 DOC (JTLx)

STIPULATION BETWEEN
PLAINTIFFS AND THIRD PARTIES
DIRECTV AND ICG TO RESOLVE
OUTSTANDING DISCOVERY
DISPUTES

FAKED

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STIPULATION BETWEEN PLAINTIFFS
AND THIRD PARTIES DIRECTV AND ICG
Case No. SA CV 03-0950 DOC (JTLx)

1 This stipulation is intended to resolve all outstanding disputes
2 regarding the subpoenas that plaintiffs EchoStar Satellite L.L.C. (f/k/a EchoStar
3 Satellite Corporation), EchoStar Communications Corporation, EchoStar
4 Technologies Corporation and NagraStar L.L.C. (collectively "EchoStar") have
5 served on third parties DIRECTV, Inc. ("DIRECTV") and Internet Crimes Group,
6 Inc. ("ICG") (collectively the "Parties"). The subpoena to DIRECTV was served in
7 December 2005 (the "DIRECTV Subpoena") and the subpoena to ICG was served
8 in July 2006 (the "ICG Subpoena") (collectively the "Subpoenas").

9 EchoStar has filed a motion to compel against DIRECTV, DIRECTV
10 and ICG have filed motions to quash, and DIRECTV has filed a motion to
11 intervene to protect its interests in connection with the ICG subpoena (ICG is a
12 DIRECTV litigation consultant). At the Court's direction at the November 20,
13 2006 hearing on these motions, the parties have met and conferred in order to
14 resolve their differences. This stipulation reflects the agreements reached between
15 the parties as a result of those discussions, and certain orders entered by the Court
16 respecting these matters. This stipulation and the Court's order thereon is intended
17 to resolve all of the Parties outstanding disputes with respect to the Subpoenas, and
18 DIRECTV's and ICG'S performance of the terms of the stipulation is intended to
19 fully satisfy any and all of their remaining obligations pursuant to the Subpoenas
20 such that the Subpoenas are deemed fully discharged.

21 THEREFORE, IT IS HEREBY STIPULATED BY AND BETWEEN
22 THE PARTIES HERETO, SUBJECT TO COURT APPROVAL, AS FOLLOWS:

23 **I. SCOPE OF SEARCH AND RESPONSES**

24 1. Consistent with the Court's instructions during the November 20-21,
25 2006 hearings, DIRECTV and ICG shall search for and produce documents in the
26 categories listed below to the extent they relate to piracy of any conditional access
27 system or any part thereof ("CAS"), including EchoStar's CAS, DIRECTV's CAS,
28 and any other CAS for which DIRECTV or ICG have responsive materials.

1 **II. MATERIALS PROVIDED TO THE UNITED STATES ATTORNEY'S**
2 **OFFICE**

3 1. DIRECTV shall produce or otherwise make available to EchoStar, on
4 or before December 11, 2006, the following:

5 a. All documents, recordings and other materials previously
6 produced or otherwise provided to the United States Attorney's
7 Office ("AUSA") in connection with the grand jury proceedings
8 (or any other government agency relating to any other
9 investigation efforts) relating to Christopher Tarnovsky, Allen
10 Menard and/or NDS Americas, Inc.; and

11 b. Written confirmation that all such materials have been produced.

12 2. DIRECTV's production of the foregoing documents is not itself a
13 waiver of, or evidence of waiver of, any rights or privileges DIRECTV may have
14 with respect to these documents or any other materials or testimony, including but
15 not limited to, the attorney-work product protection or the attorney-client privilege.
16 EchoStar stipulates that it will not argue in any proceeding, or otherwise, that
17 DIRECTV's production of these materials, pursuant to this stipulation, is itself a
18 waiver, or evidence of a waiver of, any DIRECTV rights or privileges with respect
19 to these or any other materials or testimony.

20 3. DIRECTV will produce the foregoing documents subject to the
21 Protective Order entered in the matter of *EchoStar Satellite Corporation, et al. v.*
22 *NDS Group PLC, et al.*, No. SA CV 03-950 C 02-1178 DOC (JTLx) (C.D. Cal. S.
23 Div.) (the "Protective Order"), and will designate the documents as HIGHLY
24 CONFIDENTIAL pursuant to that Order. EchoStar reserves all rights with respect
25 to challenging this designation once it has an opportunity to review the foregoing
26 documents, and DIRECTV reserves all rights to defend the designation.

27 4. EchoStar shall bear the costs of copying the foregoing documents for
28 production.

1 **III. DIRECTV DISCOVERY RESPONSES AND PRODUCTION IN THE**
2 **DIRECTV/NDS LITIGATION**

3 1. DIRECTV shall produce to EchoStar, on or before December 11,
4 2006, the following documents from the matter of *DIRECTV Operations, Inc., et al.*
5 *v. NDS Limited, et al.*, No. CV 02-07010 ABC (CTx) (C.D. Cal. W. Div.)
6 (“DIRECTV/NDS Litigation”):

- 7 a. All DIRECTV written discovery responses that relate to satellite
8 piracy; and
9 b. All documents produced by DIRECTV that relate to satellite
10 piracy.

11 2. DIRECTV will produce the foregoing documents subject to the
12 Protective Order, and shall designate the documents with the same level of
13 confidentiality under the Protective Order that it assigned to the documents under
14 the protective order in the NDS/DIRECTV Litigation. EchoStar reserves all rights
15 with respect to challenging this designation once it has an opportunity to review the
16 foregoing documents, and DIRECTV reserves all rights to defend the designation.

17 3. DIRECTV will produce copies of the foregoing documents or make
18 them available for EchoStar’s inspection at a location of DIRECTV’s choosing in
19 Los Angeles. In either case, EchoStar shall bear the costs of copying any
20 documents for production.

21 **IV. DEAN LOVE CD**

22 1. DIRECTV shall make available for copying/forensic imaging by
23 EchoStar, on or before December 11, 2006, the CD-Rom of “emails between Von
24 and Love” referenced in Larry Rissler’s April 18, 2003 memorandum to James
25 Spertus at page DIRECTV 00165 (the “Dean Love CD”). DIRECTV will make the
26 Dean Love CD available at a location of DIRECTV’s choosing in Los Angeles.
27 EchoStar shall bear the costs associated with EchoStar obtaining a complete
28 forensic image of the Dean Love CD.

1 2. DIRECTV will produce the foregoing documents subject to the
2 Protective Order, and will designate the documents as CONFIDENTIAL pursuant
3 to that Order. EchoStar reserves all rights with respect to challenging this
4 designation once it has an opportunity to review the foregoing documents, and
5 DIRECTV reserves all rights to defend the designation.

6 **V. DARYL GRAY AND PIRATEDEN.COM MATERIALS**

7 1. DIRECTV shall make available for copying/forensic imaging by
8 EchoStar, on or before December 11, 2006, any Daryl Gray or www.pirateden.com
9 documents, computer hard drives or computer servers in DIRECTV's or ICG's
10 possession that were obtained from Daryl Gray or as a result of DIRECTV's
11 litigation efforts against Daryl Gray and his website www.pirateden.com.
12 DIRECTV will make any such materials available at a location of DIRECTV's
13 choosing either in Los Angeles or where the materials are currently located.
14 EchoStar shall bear the costs associated with EchoStar obtaining complete
15 copies/forensic images of these materials.

16 2. DIRECTV will produce the foregoing materials subject to the
17 Protective Order, and will designate the documents as CONFIDENTIAL pursuant
18 to that Order. EchoStar reserves all rights with respect to challenging this
19 designation once it has an opportunity to review the foregoing documents, and
20 DIRECTV reserves all rights to defend the designation.

21 **VI. REGINALD SCULLION MATERIALS**

22 1. Subject to resolution of the Canadian court issues described below in
23 paragraph VI(3), or further order of this Court respecting such issues, DIRECTV
24 shall make available for copying/forensic imaging by EchoStar, on or before
25 December 11, 2006, any Reginald Scullion documents, computer hard drives or
26 computer servers in DIRECTV's or ICG's possession obtained from Reginald
27 Scullion or Canadian Authorities. DIRECTV will make any such materials
28 available at a location of DIRECTV's choosing either in Los Angeles or where the

1 materials are currently located. EchoStar shall bear the costs associated with
2 EchoStar obtaining complete copies/forensic images of these materials.

3 2. DIRECTV will produce the foregoing documents subject to the
4 Protective Order, and will designate the documents as CONFIDENTIAL pursuant
5 to that Order. EchoStar reserves all rights with respect to challenging this
6 designation once it has an opportunity to review the foregoing documents, and
7 DIRECTV reserves all rights to defend the designation.

8 3. In addition to the parties' stipulation respecting resolution of discovery
9 disputes, the Court ordered as follows on November 21, 2006: if DIRECTV
10 determines that any of the foregoing Reginald Scullion materials are subject to an
11 order from a Canadian court limiting their production, DIRECTV shall lodge
12 copies/forensic images of any such materials with the Court, in camera, by
13 December 11, 2006 rather than making them available to EchoStar. DIRECTV
14 and/or ICG shall then promptly notify the applicable Canadian court that the
15 materials have been lodged with the Court for potential production to EchoStar, and
16 seek a modification of the Canadian court order to that effect. DIRECTV shall
17 have until January 31, 2007 to obtain such an order, after which time, this Court
18 shall determine whether to produce the forensic images to EchoStar.

19 **VII. OSI and RISSLER FILES**

20 1. DIRECTV shall search its master index of hard copy files maintained
21 by its Office of Signal Integrity ("OSI") for any files associated with NDS,
22 Tarnovsky, Menard, Kommerling, or piracy of EchoStar or DISH Network's CAS.¹

23 ¹ DIRECTV represents that OSI's Centralized Database referenced in
24 DIRECTV's March 17, 2006 letter to EchoStar's counsel at paragraph no. 4 is the
25 same thing as DIRECTV's copy of the Pirate.Base™ Database which DIRECTV
26 and ICG are searching and producing documents from as set forth in section VIII
27 below. In the event further discovery (including the taking of individual or Rule
28 30(b)(6) depositions of DIRECTV) demonstrates that DIRECTV has additional
electronic or hard copy files that are reasonably likely to contain responsive
materials, EchoStar reserves all rights to request (or move to compel) DIRECTV to
search all such files. DIRECTV reserves all rights to object to those requests, or to
any further discovery, including deposition discovery from DIRECTV or its
employees.

1 DIRECTV shall produce to EchoStar, on or before December 11, 2006, any
2 materials (except for attorney-client privileged materials) from such files relating to
3 any alleged involvement by NDS, Tarnovsky, Menard or Kommerling in satellite
4 piracy using the scope identified in Section (I) *supra*. This expressly includes the
5 “three-ring binder associated with the Tarnovsky hard copy file” which is
6 referenced in DIRECTV’s March 17, 2006 correspondence to EchoStar’s counsel at
7 paragraph no. 1. Any such materials that DIRECTV claims are protected by the
8 attorney-client privilege will not be produced but will be listed on an appropriate
9 privilege log that will be provided to EchoStar.

10 2. DIRECTV shall also search the “conversation” and “briefcase” files
11 maintained by former DIRECTV Vice President and Special Counsel Larry Rissler.
12 DIRECTV shall produce to EchoStar, on or before December 11, 2006, any
13 materials (except attorney-client privileged materials) from such files relating to
14 any alleged involvement by NDS, Tarnovsky, Menard or Kommerling in satellite
15 piracy. Any such materials that DIRECTV claims are protected by the attorney-
16 client privilege will not be produced but will be listed on an appropriate privilege
17 log that will be provided to EchoStar.

18 3. Prior to the production of the foregoing materials, DIRECTV shall be
19 entitled to redact the names of any confidential informants appearing therein.
20 EchoStar does not, by agreeing to this condition at this stage in the discovery
21 process, waive the right to seek discovery of the redacted names, including during
22 the taking of individual and Rule 30(b)(6) deposition testimony, once EchoStar has
23 an opportunity to review these materials, and DIRECTV reserves its rights to object
24 to disclosure of the names of confidential informants.

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28 ///

1 4. DIRECTV will produce the foregoing documents subject to the
2 Protective Order, and will designate the documents as CONFIDENTIAL pursuant
3 to that Order. EchoStar reserves all rights with respect to challenging this
4 designation once it has an opportunity to review the foregoing documents, and
5 DIRECTV reserves all rights to defend the designation.

6 5. EchoStar shall bear the costs of copying any documents for
7 production.

8 **VIII. PIRATE.BASE™ DATABASES**

9 1. DIRECTV and ICG shall perform a search of their respective copies of
10 the Pirate.base™ database created for DIRECTV for documents containing the
11 following terms²:

- 12 a. Tarnovsky and the following aliases identified by EchoStar:
- 13 Von, Vonnie, Vonrola, nipper, NiPpEr2000, nIpPeR cLaUz 00,
- 14 Mike, Mike George, Mikey, nephew, shrimp, da shrimp, Ripper,
- 15 da Ripper Code, Arthur von Neuman, Arti, von, von rat, Mr.
- 16 Bean, Big Gun, biggun, BG, Scatman, Tarnovsc, Swiss Cheese,
- 17 Swiss Cheese Group, Swiss Cheese Productions, SCP, Chris
- 18 Berny, Chris Geo, Geo, Geo11, Coleman, Art Pimpn, Noguns,
- 19 Vonster, Traun and associated email addresses geo@tfb.com,
- 20 Chris.Tarnovsky@freeworld.nacamar.de, von@metro200.net,
- 21 von@m20.net, berny@8ung.at, ChrisVon@s4.interpass.com,
- 22 bg@wbm.ca, ChrisVon@metro2000.net,
- 23 cipher06@hushmail.com, nipper@jesus-christ.co.uk,
- 24 nipper@helloqueen.co.uk, von@p19tsl-mht.metro200.net,

25 ² In the event further discovery (including the taking of individual or Rule
26 30(b)(6) depositions of ICG or DIRECTV) identifies additional ICG materials that
27 are reasonably likely to contain responsive materials not also contained in the
28 Pirate.Base™ Database, EchoStar reserves all rights to request (or move to compel)
DIRECTV or ICG to search those materials. DIRECTV and ICG reserve their
rights to object to that request, or to any further further discovery, including
deposition discovery of DIRECTV, ICG or their respective employees.

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ctarnovsky@smtp.ulvac.com,

atvs27@email.grafenwoehr.army.mil;

b. Menard and the following aliases identified by EchoStar: dr7, Dr-7, dr-7, dr 7, Dr. 7, Darth, Darth7, Darth-7, Darth 7, Al, bricklayer, brick layer, X-Factor, X Factor, NCRYPT and associated email addresses menard@compusmart.ab.ca, ceo@dr7.com, admin@dr7.com, sales@dr7.com, support@dr7.com;

c. Kommerling and the following aliases identified by EchoStar: Alex, Alexander, Oli, Oli K, Oliver Kiss, OK and associated email addresses ok@adsr.de; and

d. NDS.

2. Subject to resolution of the Canadian court issues described below in paragraph VIII(3), or further order of this Court respecting such issues, DIRECTV shall produce to EchoStar, on or before December 11, 2006, any documents (except for attorney-client privileged documents) containing "hits" for these search terms, and that certain October 18, 2002 ICG Report referenced in the October 2002 Memorandum to Greg Schetina, Esq. that EchoStar has attached to its opposition to DIRECTV's motion to quash. With the exception of that October 18, 2002 Report, any Pirate.base™ materials that DIRECTV or ICG claims are protected by the attorney-client privilege will not be produced but will be listed on an appropriate privilege log and provided to EchoStar along with the responsive documents that are produced.

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1 3. In addition to the parties' stipulation respecting resolution of discovery
2 disputes, the Court ordered as follows on November 21, 2006: if DIRECTV
3 determines that any of the documents containing "hits" for these search terms are
4 subject to an order from a Canadian court limiting their production, DIRECTV
5 shall lodge copies of these documents with the Court, in camera, by December 11,
6 2006 rather than making them available to EchoStar. DIRECTV and/or ICG shall
7 promptly notify the applicable Canadian court that the materials have been lodged
8 with the Court for potential production to EchoStar, and seek a modification of the
9 Canadian court order to that effect. DIRECTV shall have until January 31, 2007 to
10 obtain such an order, after which time, the Court shall determine whether to
11 produce the forensic images to EchoStar.

12 4. DIRECTV will produce the foregoing documents subject to the
13 Protective Order, and will designate the documents as CONFIDENTIAL pursuant
14 to that Order. EchoStar reserves all rights with respect to challenging this
15 designation once it has an opportunity to review the foregoing documents, and
16 DIRECTV reserves all rights to defend the designation.

17 5. EchoStar shall bear the costs of copying any documents for
18 production.

19 **IX. NO WAIVER**

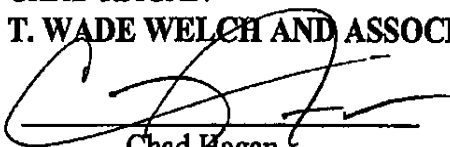
20 DIRECTV's production of the foregoing documents subject to this
21 stipulation and order is not itself a waiver of, or evidence of waiver of, any rights or
22 privileges DIRECTV may have with respect to these documents or any other
23 materials or testimony, including but not limited to, the attorney-work product
24 protection. EchoStar stipulates that it will not argue in any proceeding, or
25 otherwise, that DIRECTV's production of these materials, pursuant to this
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1 stipulation, is itself a waiver, or evidence of a waiver of, any DIRECTV rights or
2 privileges with respect to these or any other materials or testimony.

3 So Stipulated:

4
5 Dated: November 29, 2006

6 CHAD HAGAN
7 T. WADE WELCH AND ASSOCIATES

8 
9 Chad Hagan

10 Attorneys for Plaintiffs EHOSTAR
11 SATELLITE CORPORATION,
12 EHOSTAR COMMUNICATIONS
13 CORPORATION, EHOSTAR
14 TECHNOLOGIES CORPORATION,
15 AND NAGRASTAR L.L.C.

16 Dated: November 29, 2006


17 MICHAEL HARTLEY
18 WESTON BENSHOOF ROCHEFORT
19 RUBALCAVA MacCUISSH LLP

20 
21 Michael Hartley

22 Attorneys for Third Parties
23 DIRECTV and ICG

24 So Ordered:

25 Dated: November 29, 2006

26 
27 The Honorable David O. Carter
28 United States District Court Judge

PROOF OF SERVICE

I, YOLANDA S. RAMOS, declare:

I am employed in the County of Los Angeles, State of California. I am over the age of 18 and not a party to the within action. My business address is Weston, Benshoof, Rochefort, Rubalcava & MacCuish LLP, 333 South Hope Street, Sixteenth Floor, Los Angeles, CA 90071. I am over the age of eighteen years and not a party to the action in which this service is made.

On November 29, 2006, I served the document(s) described as STIPULATION BETWEEN PLAINTIFFS AND THIRD PARTIES DIRECTV AND ICG TO RESOLVE OUTSTANDING DISCOVERY DISPUTES on the interested parties in this action by enclosing the document(s) in a sealed envelope addressed as follows:

BY ELECTRONIC MAIL TRANSMISSION WITH ATTACHMENT. On this date, I transmitted the above-mentioned document by electronic mail transmission with attachment to the parties at the electronic mail transmission address set forth below pursuant to stipulation.

BY MAIL: I am "readily familiar" with this firm's practice for the collection and the processing of correspondence for mailing with the United States Postal Service. In the ordinary course of business, the correspondence would be deposited with the United States Postal Service at 333 South Hope Street, Los Angeles, California 90071 with postage thereon fully prepaid the same day on which the correspondence was placed for collection and mailing at the firm. Following ordinary business practices, I placed for collection and mailing with the United States Postal Service such envelope at Weston, Benshoof, Rochefort, Rubalcava & MacCuish LLP, 333 South Hope Street, Los Angeles, California 90071.

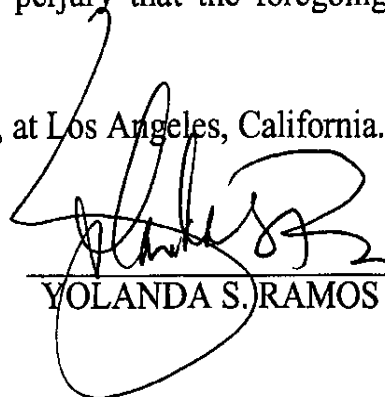
BY FEDERAL EXPRESS UPS NEXT DAY AIR OVERNIGHT DELIVERY: I deposited such envelope in a facility regularly maintained by FEDERAL EXPRESS UPS Overnight Delivery [specify name of service:] with delivery fees fully provided for or delivered the envelope to a courier or driver of FEDERAL EXPRESS UPS OVERNIGHT DELIVERY [specify name of service:] authorized to receive documents at Weston, Benshoof, Rochefort, Rubalcava & MacCuish LLP, 333 South Hope Street, Los Angeles, California 90071 with delivery fees fully provided for.

BY FACSIMILE: I telecopied a copy of said document(s) to the following addressee(s) at the following number(s) in accordance with the written confirmation of counsel in this action.

[State] I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

[Federal] I declare under penalty of perjury that the foregoing is true and correct.

Executed on November 29, 2006, at Los Angeles, California.


YOLANDA S. RAMOS

WESTON BENSHOOF ROCHEFORT RUBALCAVA MACCUISSH LLP
333 South Hope Street, Sixteenth Floor
Los Angeles, California 90071

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ECHOSTAR SATELLITE, et al. v. NDS GROUP, etc., et al.
USDC – Southern District Case No. SA CV 03-950 DOC (JTLx)

SERVICE LIST

1
2
3
4
5 T. Wade Welch, Esq.
6 Ross W. Wooten, Esq.
7 Chad M. Hagan, Esq.
8 T. Wade Welch & Associates
9 Attorneys at Law
10 2401 Fountainview, Suite 700
11 Houston, TX 77057

Attorneys for Plaintiffs
ECHOSTAR SATELLITE
CORPORATION, ECHOSTAR
COMMUNICATIONS CORPORATION,
ECHOSTAR TECHNOLOGIES
CORPORATION, AND NAGRASTAR,
L.L.C.

Telephone: (713) 952-4334
Facsimile: (713) 952-4994

**[VIA ELECTRONIC MAIL
TRANSMISSION & U.S. MAIL]**

12
13
14
15 Cynthia A. Ricketts, Esq. (*pro hac vice*)
16 Michael T. Purleski, Esq.
17 Squire, Sanders & Dempsey, LLP
18 555 South Flower Street, 31st Floor
19 Los Angeles, CA 90071

Attorneys for Plaintiffs
ECHOSTAR SATELLITE
CORPORATION, ECHOSTAR
COMMUNICATIONS CORPORATION,
ECHOSTAR TECHNOLOGIES
CORPORATION, AND NAGRASTAR,
L.L.C.

Telephone: (213) 624-2500
Facsimile: (213) 623-4581

**[VIA ELECTRONIC MAIL
TRANSMISSION & U.S. MAIL]**

20
21
22
23
24 Darin w. Snyder, Esq.
25 David R. Eberhart, Esq.
26 O'Melveny & Myers LLP
27 Embarcadero Center West
28 275 Battery Street, Suite 2600
San Francisco, CA 94111-3305

Attorneys for Defendants
NDS GROUP PLC, NDS AMERICAS,
INC.

Telephone: (415) 984-8700
Facsimile: (415) 984-8701

WESTON BENSHOOF ROCHEFORT RUBALCAVA MACCUSH LLP
333 South Hope Street, Sixteenth Floor
Los Angeles, California 90071

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28

Michael G. Yoder, Esq.
Nathaniel L. Dilger, Esq.
O'Melveny & Myers LLP
610 Newport Center Drive, 17th Floor
Newport Beach, CA 92660-6429

Attorneys for Defendants
NDS GROUP PLC, NDS AMERICAS,
INC.
Telephone: (949) 823-6927
Facsimile: (949) 823-6994

Scott T. Wilsdon, Esq.
Yarmuth Wilsdon & Calfo PLLC
925 Fourth Avenue, Suite 2500
Seattle, Washington 98104

Attorneys for Defendants
NDS GROUP PLC, NDS AMERICAS, INC.
Telephone: (206) 516-3888
Facsimile: (206) 516-3800

Robert L. Corbin, Esq.
Corbin & Fitzgerald LLP
601 West Fifth Street, Suite 1150
Los Angeles, CA 90071

Attorneys for Defendants
ALLEN MENARD, LINDA WILSON and
MERVYN MAIN
Telephone: (213) 612-0001
Facsimile: (213) 612-0061

Anthony B. Gordon, Esq.
5550 Topanga Canyon Boulevard
Suite 200
Woodland Hills, CA 91364

Attorneys for Defendant
STANLEY FROST
Telephone: (818) 887-5155
Facsimile: (818) 887-5154

WESTON BENSHOOF ROCHEFORT RUBALCAVA MACCUISH LLP
333 South Hope Street, Sixteenth Floor
Los Angeles, California 90071