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BY \_\_\_\_\_

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17  
18 UNITED STATES DISTRICT COURT  
19 CENTRAL DISTRICT OF CALIFORNIA  
20 WESTERN DIVISION

CV08-06412 S/O AJWIX

21 UNIVERSAL CITY STUDIOS  
22 PRODUCTIONS LLLP, UNIVERSAL  
CITY STUDIOS LLLP, PARAMOUNT  
23 PICTURES CORPORATION,  
TWENTIETH CENTURY FOX FILM  
24 CORPORATION, SONY PICTURES  
TELEVISION INC., COLUMBIA  
25 PICTURES INDUSTRIES, INC., SONY  
PICTURES ENTERTAINMENT INC.,  
26 DISNEY ENTERPRISES, INC., WALT  
DISNEY PICTURES and WARNER  
27 BROS. ENTERTAINMENT INC.,

28 Plaintiffs,

CASE NO.  
**PUBLIC REDACTED VERSION.**  
**DECLARATION OF GLENN D.  
POMERANTZ IN SUPPORT OF EX  
PARTE APPLICATION OF  
PLAINTIFFS FOR TEMPORARY  
RESTRAINING ORDER AND  
ORDER TO SHOW CAUSE RE:  
PRELIMINARY INJUNCTION  
THEREOF**

6018674.2

DECLARATION OF  
GLENN D. POMERANTZ

Exhibit A

Exhibit B

Exhibit C

Exhibit D

Exhibit E

Exhibit F

Dockets.Justia.com

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vs.  
REALNETWORKS, INC.; and  
REALNETWORKS HOME  
ENTERTAINMENT, INC.,  
Defendants.

1 I, Glenn D. Pomerantz, declare as follows:

2 1. I am an attorney in the law firm of Munger, Tolles & Olson LLP,  
3 counsel of record to Plaintiffs in this action. The contents of this declaration are  
4 within my personal knowledge. If called as a witness in this action, I could and  
5 would testify competently to the contents of this declaration.

6 2. By letters dated September 25 and 29, 2008, I provided notice to  
7 counsel for RealNetworks, Inc. ("Real") of the date, time, and substance of  
8 Plaintiffs' application for a temporary restraining order and an order to show cause  
9 regarding a preliminary injunction. Counsel for Real responded to this notice in  
10 letters dated September 26, 28, and 29, 2008, and indicated that Real intends to  
11 oppose Plaintiffs' application. True and correct copies of the correspondence dated  
12 September 25, 26, 28, and 29, 2008 are attached hereto as Exhibits A through E.

13 3. Attached hereto as Exhibit F is a true and correct copy of the "CSS  
14 License Agreement" between the DVD CCA and Real, signed by Real on August  
15 13, 2007.

16 4. Attached hereto as Exhibit G is a true and correct copy of a page from  
17 the "Technical Specifications" of the "CSS License Agreement" between the DVD  
18 CCA and Real.

19 5. Attached hereto as Exhibit H is a true and correct copy of the RealDVD  
20 Internet homepage, [www.RealDVD.com](http://www.RealDVD.com), as it appeared on Monday, September 29,  
21 2008.

22 6. Attached hereto as Exhibit I is a true and correct copy of the RealDVD  
23 "Features" information page, [www.RealDVD.com/features](http://www.RealDVD.com/features), as it appeared on  
24 Monday, September 29, 2008.

25 7. Attached hereto as Exhibit J is a true and correct copy of a news article,  
26 "RealNetworks releasing DVD copying software," written by AP Technology  
27 Writer Rachel Metz and published in the *Seattle Times* on September 8, 2008.  
28

1           8.     Attached hereto as Exhibit K is a true and correct copy of a Real  
2 official blog entry written by Real employee Lacy Kemp, dated September 7, 2008.  
3 The entry is available at [http://www.realnetworksblog.com/2008/09/07/announcing-](http://www.realnetworksblog.com/2008/09/07/announcing-realdvd.aspx)  
4 [realdvd.aspx](http://www.realnetworksblog.com/2008/09/07/announcing-realdvd.aspx).

5           9.     Attached hereto as Exhibit L is a true and correct copy of the transcript  
6 of the oral ruling of the California Superior Court, County of Santa Clara, in *DVD*  
7 *Copy Control Ass'n, Inc. v. Kaleidescape, Inc.*, No. 1-04 CV031829 (Mar. 29,  
8 2007).

9           10.    Attached hereto as Exhibit M is a true and correct copy of the  
10 Addendum to Statement of Decision the California Superior Court, County of Santa  
11 Clara, in *DVD Copy Control Ass'n, Inc. v. Kaleidescape, Inc.*, No. 1-04 CV031829  
12 (April 13, 2007).

13           11.    Attached hereto as Exhibit N is a true and correct copy of  
14 RealNetworks' Reply Brief in Support of Motion for Preliminary Injunction filed in  
15 *RealNetworks, Inc. v. Streambox, Inc.*, No. C-99-2070-P, W.D. Wash (Jan. 6, 2000).

16           12.    Attached hereto as Exhibit O is a true and correct copy of pages from  
17 the "The Real Network 2008 Media Kit," dated July 2008. The kit is available at:  
18 [http://www.realnetworksadvertising.com/real\\_media\\_kit\\_July2008.pdf](http://www.realnetworksadvertising.com/real_media_kit_July2008.pdf).

19           13.    On or about September 7, 8 or 9, 2008, at the "Demo" technology  
20 conference in San Diego, California, Real CEO Ron Glaser gave an interview with  
21 Larry Magit of CBS News. The recorded interview was posted online as a  
22 "podcast" at <http://audio.cbsnews.com/2008/09/08/audio4427159.mp3>. In the  
23 interview, at 0:22, Mr. Glaser expresses that "There's a particular legal precedent  
24 that laid out soft of the blueprint for this that came out about a year ago in a case  
25 with a very high-end specialized product called *Kaleidescape*. What that basically  
26 says is that if you preserve all the protections associated with the DVD including the  
27 encryption itself that sits on the copy that sits on the copy on the drive, you don't  
28 have to have the DVD with you while you're playing it back."

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I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct and that this declaration was executed this 30th day of September 2008 at Los Angeles, California.



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Glenn D. Pomerantz