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RICHARD W. HARRINGTON  
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NORTHERN DISTRICT OF CALIFORNIA  
HRL

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9 REALNETWORKS, INC. and  
10 REALNETWORKS HOME  
ENTERTAINMENT, INC.

11 UNITED STATES DISTRICT COURT  
12 NORTHERN DISTRICT OF CALIFORNIA

**C 08 4548**

**HRL**

14 REALNETWORKS, INC., a Washington  
15 Corporation; and REALNETWORKS HOME  
16 ENTERTAINMENT, INC., a Delaware  
corporation,

17 Plaintiffs,

18 v.

19 DVD COPY CONTROL ASSOCIATION, INC.,  
20 a Delaware nonprofit corporation, DISNEY  
21 ENTERPRISES, INC., a  
22 Delaware corporation; PARAMOUNT  
23 PICTURES CORP., a Delaware corporation;  
24 SONY PICTURES ENTERTAINMENT, INC., a  
25 Delaware corporation; TWENTIETH CENTURY  
26 FOX FILM CORP., a Delaware corporation;  
NBC UNIVERSAL, INC., a Delaware  
corporation; WARNER BROS.  
ENTERTAINMENT, INC., a Delaware  
corporation; and VIACOM, Inc., a Delaware  
Corporation.

27 Defendants.

CASE NO.:  
**COMPLAINT FOR  
DECLARATORY RELIEF**  
**[DEMAND FOR JURY TRIAL]**





**INTRADISTRICT ASSIGNMENT**

1  
2 9. Pursuant to Civil Local Rule 3-2(c), this action may be assigned on a district-wide  
3 basis.

**THE PARTIES**

4  
5 10. RealNetworks is a Washington corporation with its principal place of business in  
6 Seattle, Washington. It is engaged in the business of, among other things, developing,  
7 manufacturing, and selling platforms for the delivery of digital media.  
8

9 11. RealNetworks Home Entertainment, Inc. is a Delaware corporation with its  
10 principle place of business in Seattle, Washington. It is a subsidiary of RealNetworks and it is the  
11 entity that distributes the RealDVD product.

12 12. The DVD CCA is a Delaware nonprofit corporation, having offices located in  
13 Morgan Hill, California. It granted a license in the CSS technology to RealNetworks in the form  
14 of a written CSS License Agreement.  
15

16 13. Disney Enterprises, Inc. is a Delaware corporation with its principal place of  
17 business in Los Angeles, California. It is engaged in the business of, among other things, making  
18 motion pictures. It is a member of the DVD CCA.

19 14. Paramount Pictures Corp. is a Delaware corporation with its principal place of  
20 business in Los Angeles, California. It is engaged in the business of, among other things, making  
21 motion pictures. It is a member of the DVD CCA.  
22

23 15. Sony Pictures Entertainment, Inc. is a Delaware corporation with its principal place  
24 of business in Culver City, California. It is engaged in the business of, among other things,  
25 making motion pictures. It is a member of the DVD CCA.

26 16. Twentieth Century Fox Film Corp. is a Delaware corporation with its principal  
27 place of business in Los Angeles, California. It is engaged in the business of, among other things,  
28 making motion pictures. It is a member of the DVD CCA.

1 17. NBC Universal, Inc., is a Delaware corporation with its principal place of business  
2 in Universal City, California. It is engaged in the business of, among other things, making motion  
3 pictures. It is a member of the DVD CCA.

4 18. Warner Bros. Entertainment, Inc. is a Delaware corporation, with its principal place  
5 of business in Los Angeles, California. It is engaged in the business of, among other things,  
6 making motion pictures. It is a member of the DVD CCA.

7 19. Viacom, Inc. is a Delaware corporation, with its principal place of business in New  
8 York, New York. It is engaged in the business of, among other things, making motion pictures. It  
9 is a member of the DVD CCA.  
10

11 **FACTS**

12 **A. The CSS License Agreement And The DVD CCA.**

13 20. The Studio Defendants sell DVD discs that contain movies, and such discs use the  
14 CSS technology to encrypt the content on the DVDs. Consequently, the content must be  
15 decrypted before the movie can be displayed. Thus, the manufacturers of hardware and software  
16 that permit the movies to be viewed (the consumer electronics and computer industries) must  
17 likewise have access to the CSS technology.  
18

19 21. To facilitate their mutual interests in the use of the CSS technology, the motion  
20 picture, consumer electronics, and computer industry formed the DVD CCA. The DVD CCA  
21 licenses the CSS technology to, among others, manufacturers of devices and software used to  
22 decrypt images on DVDs pursuant to a standard form CSS License Agreement (a copy of which is  
23 attached hereto as Exhibit 1).  
24

25 22. The CSS License Agreement imposes certain restrictions on its licensees, including  
26 the requirement that the licensees “comply with the version of the CSS Specifications which is in  
27 effect at the time such DVD Product is manufactured . . . .” CSS License Agreement § 4.2. The  
28

1 Studio Defendants assert that the CSS License Agreement grants them the right to enforce certain  
2 of its provisions, including Section 4.2. *See* CSS License Agreement § 9.5.

3 23. On or about August 13, 2007, RealNetworks signed the CSS License Agreement.  
4 It is thereby entitled to use the CSS technology under the terms of that Agreement.  
5

6 **B. Development Of The RealDVD System.**

7 24. RealDVD provides DVD users with, among other things, the ability to save a  
8 personal copy of a DVD they own on a secure hard drive for their own personal use. The copy  
9 preserves the CSS encryption. The RealDVD system thus protects the user from, among other  
10 things, damage or loss of a DVD, while ensuring that the encryption protection in the original  
11 DVD is maintained. Further, RealDVD enhances the original protection by incorporating an  
12 additional layer of protection at a level beyond that required by the CSS License Agreement. The  
13 RealDVD system also provides a number of other desirable features, such as parental controls that  
14 ensure children access only entertainment that is appropriate for their age, central storage that  
15 permits users to keep all the motion pictures they own in one easily accessible location, and the  
16 capability for users to watch their movies on a variety of devices they own for greater ease of use  
17 and convenience.  
18

19 25. Approximately two weeks ago, Plaintiffs made known to the Defendants that the  
20 RealDVD system would be released on September 30, 2008.  
21

22 **C. The Legal Dispute With The Studio Defendants**

23 26. Subsequently, the Studio Defendants, on their own behalf and on behalf of the  
24 DVD CCA of which they are members, advised Plaintiffs that they believed that the RealDVD  
25 product violated the CSS License in that the RealDVD product allegedly did not conform to the  
26 CSS Specifications. The Defendants further claim that the RealDVD product violates the anti-  
27 circumvention provisions of the DMCA.  
28

1 27. Plaintiffs do not believe that the RealDVD product violates the CSS License  
2 Agreement or the DMCA or any rights of the Defendants, and have so advised the Studio  
3 Defendants.

4 28. Efforts to resolve this dispute have failed.

5  
6 **FIRST CAUSE OF ACTION**

7 (Declaratory Relief under Contract Claim)

8 29. Plaintiffs reallege and incorporate by reference the allegations contained in  
9 Paragraphs 1 through 28 as if fully set forth herein.

10 30. There is an actual and justiciable controversy relating to the legal rights and duties  
11 of Plaintiffs and Defendants under the CSS License Agreement in that the Defendants have  
12 advised Plaintiffs that they believe the RealDVD Product violates the CSS License Agreement.  
13 This controversy is of sufficient immediacy and reality to warrant the issuance of a declaratory  
14 judgment.

15  
16 31. Thus, a declaration of Plaintiffs' rights under the CSS License Agreement is  
17 necessary to protect Plaintiffs from uncertainty and insecurity, which is causing Plaintiffs injury  
18 by, among other things, damaging its goodwill and disrupting its business. Without the requested  
19 declaration of its rights, the Defendants will continue to jeopardize Plaintiffs' interests.

20  
21 **SECOND CAUSE OF ACTION**

22 (Declaratory Relief under the Digital Millennium Copyright Act, 17 U.S.C. § 1201)

23 32. Plaintiffs reallege and incorporate by reference the allegations contained in  
24 Paragraphs 1 through 31 as if fully set forth herein.

25 33. RealNetworks is a licensee of CSS technology, and the RealDVD product was  
26 designed to conform to the CSS Specifications. As a result, the RealDVD product is authorized  
27 by the Defendants to utilize CSS technology to access the content of DVDs to which the Studio  
28 Defendants own the copyrights.



1           34.     The RealDVD product is not primarily designed or produced for the purpose of  
2 circumventing a technological measure that effectively controls access to a copyrighted work, or  
3 that protects the right of a copyright owner. Rather, the RealDVD product ensures that the  
4 encryption protection in the original DVD is maintained and enhanced by incorporating an  
5 additional layer of protection at a level beyond that required by the CSS License Agreement.  
6

7           35.     The RealDVD product has commercially significant purposes and uses other than  
8 to circumvent a technological measure that effectively controls access to a copyrighted work, or  
9 that protects the right of a copyright owner. By way of example only, the RealDVD product  
10 provides the owners of DVDs with the ability to save a personal copy of a DVD on a secure hard  
11 drive for private use, and protects the DVD owner against damage or loss of a DVD that he or she  
12 has obtained through legitimate means.  
13

14           36.     The RealDVD Product has not been marketed for use in circumventing a  
15 technological measure that effectively controls access to a copyrighted work, or that protects the  
16 right of a copyright owner. Rather, the RealDVD Product has been marketed as licensed software  
17 that "saves a secure copy of a DVD to the hard drive without removing or altering the CSS  
18 encryption."  
19

20           37.     Plaintiffs request a judicial determination and declaration as to whether the  
21 RealDVD product violates the provisions of 17 U.S.C. § 1201. Such a judicial determination and  
22 declaration is necessary to protect Plaintiffs from uncertainty and insecurity, which is causing  
23 Plaintiffs injury by, among other things, damaging its goodwill and disrupting its business.  
24 Without the requested declaration of its rights, the Defendants will continue to jeopardize  
25 Plaintiffs' interests.

26           WHEREFORE, based on the foregoing, Plaintiffs respectfully request that the Court grant  
27 the following relief:  
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- a. A judgment declaring that the CSS License Agreement permits the manufacture, distribution, and sale of the RealDVD product;
- b. A judgment declaring that the Plaintiffs do not violate the DMCA;
- c. Attorneys' fees and costs; and
- d. Such other relief as this Court deems just and equitable.

Dated: September 30, 2008

WILSON SONSINI GOODRICH & ROSATI  
Professional Corporation

By: 

Michael A. Berta

Attorneys for Plaintiffs REALNETWORKS,  
INC. and REALNETWORKS HOME  
ENTERTAINMENT, INC.

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**DEMAND FOR JURY TRIAL**

Plaintiffs hereby demand a jury trial as provided by Rule 38 of the Federal Rules of Civil Procedure.

Dated: September 30, 2008

WILSON SONSINI GOODRICH & ROSATI  
Professional Corporation

By:   
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Michael A. Berta

Attorneys for Plaintiffs REALNETWORKS,  
INC. and REALNETWORKS HOME  
ENTERTAINMENT, INC.