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17 UNITED STATES DISTRICT COURT

18 NORTHERN DISTRICT OF CALIFORNIA

19 REALNETWORKS, INC., et al.,
 20 Plaintiffs,
 21 vs.
 22 DVD COPY CONTROL ASSOCIATION,
 INC., et al.
 23 Defendants.
 24

CASE NO. C 08-4548-MHP
 Consolidated with Case No. C 08-04719-MHP

**ADMINISTRATIVE MOTION FOR
 ORDER SHORTENING TIME FOR
 HEARING OF STUDIOS' MOTION FOR
 SANCTIONS FOR SPOILIATION OF
 EVIDENCE**

25 AND CONSOLIDATED ACTIONS.
 26

1 TO THE COURT AND TO ALL INTERESTED PARTIES AND THEIR
2 COUNSEL OF RECORD: The Studio defendants hereby apply pursuant to Local Rule 6-3 for an
3 order shortening time for hearing of their Motion For Sanctions For Spoliation Of Evidence, filed
4 herewith on February 25, 2009. The Studios request the following schedule:

- 5 (1) Real file and serve its opposition by Friday, March 6;
- 6 (2) Defendants file and serve their reply papers by Wednesday, March 11; and
- 7 (3) The Court hear the Motion on Monday, March 16.

8 Good cause exists for this request because it is impossible to hear the Motion on a
9 full 35-day notice period in time for adequate preparation for the April 1, 2009 preliminary
10 injunction hearing in this matter. The Studios were unable to file this motion earlier because the
11 evidence relating to spoliation has only recently come to light and the Studios have been
12 attempting to meet and confer with RealNetworks over the past couple of weeks on these issues.
13 Moreover, the Motion seeks evidentiary and other sanctions to remedy Real's spoliation, which
14 will bear on the briefing and both sides' preparation for the preliminary injunction hearing.

15 On February 23, 2009, Studio counsel asked with counsel for Real to stipulate to
16 the proposed briefing and hearing schedule. Declaration of Rebecca Gose Lynch In Support Of
17 Application for Order Shortening Time On Motion For Sanctions For Spoliation Of Evidence
18 ("Lynch Decl."), ¶ 4. On February 24, Real's counsel declined to so stipulate, on the ground that
19 Real did not have time to prepare a response to the spoliation motion prior to the preliminary
20 injunction hearing. *Id.*

21 Real's counsel did not propose any schedule other than the full 35-day briefing
22 schedule. But even under that default schedule, Real would have only 14 days to prepare its
23 opposition papers. The schedule the Studios are proposing would give Real 9 days, which should
24 be more than adequate given that Real has had notice of these issues for weeks pursuant to the
25 Studios' extensive meet and confer efforts.

26 For the foregoing reasons, the Studios respectfully request that the Court grant
27 their Ex Parte Application To Shorten Time For Hearing Of Motion For Sanctions For Spoliation
28 Of Evidence.

