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

11 UNITED STATES DISTRICT COURT
 12 NORTHERN DISTRICT OF CALIFORNIA

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

15 Plaintiffs,

16 v.

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

23 Defendants.
 24

25
 26 AND RELATED CASES
 27
 28

Case Nos. C08 04548 MHP;
 C08 04719 MHP

**DECLARATION OF DAVE WATSON
 IN SUPPORT OF PLAINTIFFS
 REALNETWORKS, INC. AND
 REALNETWORKS HOME
 ENTERTAINMENT, INC.'S
 OPPOSITION TO MOTION FOR
 SANCTIONS AND SPOLIATION**

Date: March 16, 2009
 Time: 2:00 p.m.
 Courtroom: 15

1 I, Dave Watson, declare:

2 1. I am a Software Development Engineer for plaintiff and counterclaim defendant
3 RealNetworks, Inc. ("Real"). I am currently a member of the engineering team responsible for
4 developing Real's yet-to-be released integrated hardware product known by the code name
5 Facet. I have personal knowledge of the facts set forth herein, and if called to testify, could and
6 would testify competently thereto.

7 2. I have been employed by Real since July 2005. During my tenure, I have interacted
8 with other members of the Facet development team, including Phil Barrett, Jeff Albertson,
9 Martin Schwarz, Jason Cohen, Steve Hastings, Christine McKee, and Nicole Hamilton. I report
10 directly to Brent Wood.

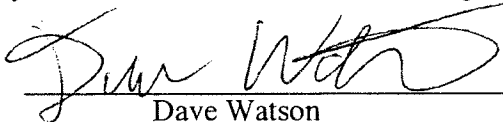
11 3. On or about October 6, 2008 I received an email from Real's legal department
12 regarding the preservation of documents for this litigation. Although I received these litigation
13 hold instructions, this did not require me to alter my regular practices. My ordinary practices are
14 not to delete work-related messages from my email inbox or sent mail. My normal practice is
15 also to save any non-email documents related to Facet on my hard drive. In fact, I believe I have
16 retained all of my work-related email and documents since I joined Real in 2005. Because I do
17 not delete emails or otherwise destroy documents that are related to my work on Facet, I believe
18 I have preserved the documents that I have sent or received that are related to this litigation.
19 Further, the contents of my hard drive were copied in connection with this litigation in January
20 2009.

21 4. I have never been told by anyone to delete any email, whether with respect to this
22 litigation or with respect to anything else on the Facet project. Although members of the Facet
23 development team discussed minimizing the use of words like "ripping" in our correspondence
24 because the term could be misconstrued to suggest that we were doing some improper (which
25 would not be true or accurate), I was never told to delete emails that contained the words "rip,"
26 "ripper," or "ripping." Similarly, although some members of the Facet development team
27 discussed not describing ARccOS as "Digital Rights Management" or "DRM" because we
28 believed those terms are inaccurate descriptions of use of these programs, I was never told to

1 delete emails containing those phrases. Phil Barrett has never instructed or otherwise requested
2 that I delete any emails, and I am not aware that Mr. Barrett ever instructed anyone else to delete
3 emails. I have also never heard any other Real employee instruct anyone working on the Facet
4 or Vegas (Real's Windows-based software product) projects to delete emails or destroy
5 documents.

6 5. In the course of my employment, I interacted with Nicole Hamilton on a regular basis
7 while she was a member of the Facet development team. At no point did I hear Ms. Hamilton
8 express any concerns regarding the legality of Facet, or imply or suggest that our work on Facet
9 was illegal or unethical.

10 I declare under penalty of perjury under the laws of the State of Washington and the
11 United States of America that the foregoing is true and correct of my own personal knowledge,
12 and that this declaration is executed this 10th day of March, 2009 at Seattle, Washington.

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14 _____
Dave Watson

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