

1 LEO P. CUNNINGHAM, State Bar No. 121605  
 Email: lcunningham@wsgr.com  
 2 COLLEEN BAL, State Bar No. 167637  
 Email: cbal@wsgr.com  
 3 MICHAEL A. BERTA, State Bar No. 194650  
 Email: mberta@wsgr.com  
 4 TRACY TOSH LANE, State Bar No. 184666  
 Email: ttosh@wsgr.com  
 5 WILSON SONSINI GOODRICH & ROSATI  
 Professional Corporation  
 6 One Market Street  
 Spear Tower, Suite 3300  
 7 San Francisco, CA 94105

8 Attorneys for Plaintiffs and  
 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 BRENT WOOD IN  
 SUPPORT OF REALNETWORKS AND  
 REALNETWORKS HOME  
 ENTERTAINMENT'S OPPOSITION TO  
 MOTION FOR SANCTIONS AND  
 SPOILIATION**

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

1 I, Brent Wood, declare:

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

7 2. I have been employed by Real since August 2007. During my tenure, I have  
8 interacted with other members of the Facet development team, including Jeff Albertson, James  
9 Bielman, Jim Brennan, Nicole Hamilton, David Watson and John Moore. I report directly to  
10 Phil Barrett, and I was Nichole Hamilton's immediate manager when Ms. Hamilton was  
11 employed at Real and working on the Facet project.

12 3. On or about October 6, 2008 I received an email from Real's legal department  
13 regarding the preservation of documents for this litigation. In addition, during an October 2008  
14 meeting, I recall Phil Barrett instructing the members of the Facet development team to preserve  
15 all documents and emails relating to the project.

16 4. Although I received these litigation hold instructions, they did not require me to alter  
17 my regular practices. My ordinary practices are not to regularly delete messages from my email  
18 inbox or sent mail. With respect to other electronic files, I generally save documents to local  
19 files on my hard drive. I do not delete files from these local files. I do not generally generate  
20 any hard copy documents. Because I do not delete emails or otherwise destroy documents in the  
21 ordinary course of business, I believe I have preserved all documents that may be related to this  
22 litigation. In addition, I make a periodic back-up of the contents of "My Documents" folder,  
23 which is being stored on a corporate network file system.

24 5. I have never been told by anyone to delete any email, whether with respect to this  
25 litigation or with respect to anything else on the Facet project. Although members of the Facet  
26 development team discussed minimizing the use of words like "ripping" in our correspondence  
27 because the term could be misconstrued, I was never told to delete emails that contained the  
28 words "rip," "ripper," or "ripping." Similarly, although some members of the Facet development

1 team discussed not describing ARccOS as “Digital Rights Management” or “DRM” because we  
2 believed that to be an inaccurate description, I was never told to delete emails containing those  
3 phrases. In the eighteen months that we have worked together, Phil Barrett has never instructed  
4 or otherwise requested that I delete any emails. I have never heard any Real employee instruct  
5 other Real employees to delete emails or destroy documents.

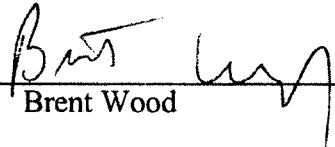
6 6. In the course of my employment, I interacted with Nicole Hamilton on a regular basis  
7 while she was a member of the Facet development team. At no point did I hear Ms. Hamilton  
8 imply or suggest that our work on Facet was illegal or unethical.

9 7. When Ms. Hamilton transferred off of the Facet project in June 2008, I asked her to  
10 keep her documents relating to Facet until we located a replacement for her position.  
11 Approximately one and a half months later, when the position still had not been filled, I requested  
12 that Ms. Hamilton return all of her Facet-related documents to me. In response to this request,  
13 Ms. Hamilton provided me with a Compact Disc containing emails, .pdf files, and  
14 correspondence to the DVD CCA, and one spiral-bound notebook containing a page and a half  
15 sign-out sheet for highly confidential DVD CCA materials. There was no other information in  
16 this notebook. I provided these materials to the Real Legal Department, and these materials have  
17 been preserved. After Ms. Hamilton turned over these materials to me, I believed that she had  
18 turned over all of her Facet-related materials to me. In fact, thereafter Ms. Hamilton never  
19 informed me that she maintained or possessed any other materials or notebooks relating to her  
20 work on the Facet project.

21 8. I am also informed that the Studios contend that any notebooks maintained by Ms.  
22 Hamilton are the only comprehensive record on the development of Facet. This contention is  
23 false. The most comprehensive record on the development of Facet is the source code. Real  
24 maintains a central repository of the source code that is backed up. This back-up contains  
25 records of the modifications at the source code level, along with comments made by the coders.  
26 In addition, other comprehensive records of the development of Facet include the RealDVD User  
27 Interface and Features, which is more informally known as “The Spec.” The Facet group also  
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1 maintains a Wiki repository of information related to the development, which provides yet  
2 another record of Facet's development.

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

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8 Brent Wood

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