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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 DALE DEWHITT
 IN SUPPORT OF PLAINTIFFS
 REALNETWORKS, INC. AND
 REALNETWORKS HOME
 ENTERTAINMENT, INC.'S
 OPPOSITION TO MOTION FOR
 SANCTIONS AND SPOILIATION**

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

[PUBLIC REDACTED VERSION]

1 I, Dale DeWhitt, declare:

2 1. I am the Director of Human Resources for plaintiff and counterclaim defendant
3 RealNetworks, Inc. ("Real"). I have personal knowledge of the facts set forth herein, and if
4 called to testify, could and would testify competently thereto.

5 2. I have been employed by Real since March, 10 2008. In my capacity as Director of
6 Human Resources for Real, I am involved in inter-departmental transfers and, when necessary,
7 terminating Real employees.

8 3. [REDACTED]
9 [REDACTED]
10 [REDACTED]
11 [REDACTED]
12 [REDACTED]
13 [REDACTED]
14 [REDACTED]
15 [REDACTED]
16 [REDACTED]
17 [REDACTED]
18 [REDACTED]
19 [REDACTED]
20 [REDACTED]
21 [REDACTED]
22 [REDACTED]

23 4. The evening before Ms. Hamilton was transferred to the Helix team, on Tuesday,
24 June 17, 2008, I sent an email to Ms. Hamilton's soon-to-be former supervisors (Messrs. Barrett
25 and Wood) and new supervisors (Messrs. Mathew and Klingert) confirming her transfer, and
26 asking all concerned to ensure that Ms. Hamilton handed off all of her work product to her
27 former supervisor, Mr. Wood.

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5. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

6. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

7. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

1 [REDACTED]
 2 [REDACTED]
 3 [REDACTED]
 4 [REDACTED]
 5 [REDACTED]
 6 [REDACTED]
 7 [REDACTED]
 8 [REDACTED]
 9 [REDACTED]

10 [REDACTED] During my
 11 inspection of her office, I did not see any other notebooks. To my knowledge, nobody entered
 12 Ms. Hamilton's locked office for approximately three months.

13 8. [REDACTED]
 14 [REDACTED]
 15 [REDACTED]
 16 [REDACTED]
 17 [REDACTED]

18 [REDACTED] I subsequently mailed her at least two packages, and
 19 the issue was ultimately resolved.

20 9. [REDACTED] in late December, Mr. Mathew
 21 contacted me and said that Real's Facilities department was seeking to assign Ms. Hamilton's
 22 former office to a new hire. At about the same time, members from Real's Facilities department
 23 inquired whether the office could be re-assigned to someone else, and I approved the request. [REDACTED]

24 [REDACTED]
 25 [REDACTED] I was not aware that

26 Ms. Hamilton was involved in the RealDVD litigation and did not become aware of this fact
 27 until February 2009. In regards to any work product from her previous department, I believed
 28 that my prior instructions that Ms. Hamilton turn over any Facet work product and documents to

1 Mr. Wood had been followed. I likewise believed that the single notebook that Ms. Hamilton
2 had provided to us on the day of her termination was not relevant to her work on the Facet
3 project because she had been re-assigned from the Facet team three months before her
4 termination. I assumed that whatever information this notebook contained was relevant to her
5 work for Mr. Mathew and Mr. Klingert in the Helix group.

6 10. I do not know what happened to the notebook that Mr. Mathew placed on the desk
7 in the office, but I never instructed anyone to destroy that notebook.

8 11. At no point has Ms. Hamilton told me that she had been instructed to destroy
9 documents relevant to the litigation or otherwise. Had she done so, I would have considered
10 such allegations to be very serious and would have had my department conduct a thorough
11 investigation. Moreover, at no point did I receive any reports indicating that Ms. Hamilton
12 believed the work she was performing on Facet was illegal or unethical. In fact, if Ms. Hamilton
13 believed the Facet program to be illegal, or if she believed she had observed any unethical or
14 illegal actions of her colleagues, she would have had an obligation under Real's code of ethics,
15 with which all employees are required to abide, to report her concerns either to me or another
16 supervisor or to Real's anonymous online third-party ethics violation reporting service,
17 "EthicsPoint". To my knowledge, Ms. Hamilton never raised or expressed any such concerns to
18 anyone at Real during the term of her employment.

19 12. I have never instructed anyone to destroy any materials that I believed might have
20 been relevant to this litigation.

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

24
25 
26 Dale DeWhitt

EXHIBIT A

1 JAMES A. DiBOISE, State Bar No. 83296
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NOTICE OF MANUAL FILING
EXHIBIT A TO THE DECLARATION
OF DALE DEWHITT IN SUPPORT OF
PLAINTIFFS REALNETWORKS, INC.
AND REALNETWORKS HOME
ENTERTAINMENT INC.'S
OPPOSITION TO MOTION FOR
SANCTIONS AND SPOLIATION

**[CONFIDENTIAL-FILED UNDER
 SEAL]**

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NOTICE OF MANUAL FILING

Regarding:

CONFIDENTIAL VERSION: EXHIBIT A TO THE DECLARATION OF DALE DEWHITT IN SUPPORT OF PLAINTIFFS REALNETWORKS, INC. AND REALNETWORKS HOME ENTERTAINMENT INC.’S OPPOSITION TO MOTION FOR SANCTIONS AND SPOLIATION

The foregoing document is being filed under seal in paper form only and is being maintained in the case file in the Clerk’s office. If you are a party in one or more of the above-captioned actions, these materials will be served on you shortly. For information on retrieving this filing directly from the Court, please see the Court’s main web site at <http://www.cand.uscourts.gov> under Frequently Asked Questions (FAQ).

The manual filing is necessary because the document is filed under seal.

Dated: March 11, 2009

WILSON SONSINI GOODRICH & ROSATI
Professional Corporation

By: /s/ Tracy Tosh Lane
Tracy Tosh Lane

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