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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 JOHN MOORE 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

[PUBLIC REDACTED VERSION]

1 I, John Moore, declare:

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

7 2. I have been employed by Real since 2005. I have been a member of the Facet team
8 since [October] 2007 and have interacted with other members of the Facet development team,
9 including Phil Barrett, Jeff Albertson, Martin Schwarz, Jason Cohen, Steve Hastings, Christine
10 McKee, and Nicole Hamilton. I report directly to Jim Brennan, who is the Software Lead for
11 Facet.

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, I recall Phil Barrett
14 instructing the members of the Facet development team to preserve all documents and emails
15 relating to the project.

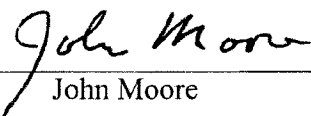
16 4. Although I received these litigation hold instructions, they did not require me to alter
17 my regular practices. My ordinary practices are not to regularly delete work-related messages
18 from my email inbox or sent mail. In fact, I generally save everything that is work related. With
19 respect to other electronic files, I generally save documents to local files on my hard drive. I do
20 not delete files from these local files. I do not generally maintain any hard copy documents.
21 Because I do not delete emails or otherwise destroy documents in the ordinary course of
22 business, I believe I have preserved the documents that I have sent or received that may be
23 related to this litigation.

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. Phil Barrett has never instructed or otherwise requested that I delete any emails. I have
4 never heard any other Real employee instruct anyone working on the Facet or Vegas (Real's
5 Windows-based software product) projects to delete emails or destroy documents.

6 6. [REDACTED]
7 [REDACTED]
8 [REDACTED]
9 [REDACTED]
10 [REDACTED]
11 [REDACTED]

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

16 
17 _____
18 John Moore

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