

1 JAMES A. DiBOISE, State Bar No. 83296
 Email: jdiboise@wsgr.com
 2 LEO CUNNINGHAM, State Bar No. 121605
 Email: lcunningham@wsgr.com
 3 COLLEEN BAL, State Bar No. 167637
 Email: cbal@wsgr.com
 4 MICHAEL A. BERTA, State Bar No. 194650
 Email: mberta@wsgr.com
 5 TRACY TOSH LANE, State Bar No. 184666
 Email: ttosh@wsgr.com
 6 WILSON SONSINI GOODRICH & ROSATI
 Professional Corporation
 7 One Market St., Spear Tower, Suite 3300
 San Francisco, CA 94105
 8 Bus: (415) 947-2000
 Fax: (415) 947-2099
 9

Attorneys for Plaintiffs and Counterclaim Defendants
 10 REALNETWORKS, INC. and REALNETWORKS
 HOME ENTERTAINMENT, INC.
 11

12 UNITED STATES DISTRICT COURT
 13 NORTHERN DISTRICT OF CALIFORNIA
 14

15 REALNETWORKS, INC., a Washington
 Corporation; and REALNETWORKS HOME
 16 ENTERTAINMENT, INC., a Delaware corporation,

Case Nos. C08 04548 MHP;
 C08 04719 MHP

17 Plaintiffs,

**DECLARATION OF PHIL
 BARRETT IN SUPPORT OF
 REALNETWORKS, INC. AND
 REALNETWORKS HOME
 ENTERTAINMENT, INC.'S
 OPPOSITION TO MOTION FOR
 PRELIMINARY INJUNCTION**

18 v.

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

Date: April 1, 2009
 Time: 9:00 a.m.
 Dept: 15

25 Defendants.
 26

[PUBLIC VERSION]

27 AND RELATED CASES
 28

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

I, Phil Barrett, declare:


1. I am Senior Strategic Advisor for plaintiff and counterclaim defendant RealNetworks, Inc. ("Real"). I currently lead the team that is developing Real's Facet product, one of the two products that are the subject of litigation between Real and the DVD CCA and Studios. I have personal knowledge of the facts set forth herein, and if called to testify, could and would testify competently thereto.

2. I was one of Real's first employees and helped to found the company in 1994 with Rob Glaser, the current Chief Executive Officer. In 2003, I left RealNetworks to pursue other interests. In January 2007, I returned and after a short time I was placed in charge of developing the product that became Facet.

3. During its nearly 15 year history, Real has consistently been a pioneer in creating legitimate digital media products and services on the Internet.

4. Real has been a leading innovator in the industry and it is currently among the largest providers of digital entertainment technologies, products and services around the world.

5. Real pioneered the development of technology for the transmission of digital media over the Internet and currently provides a broad array of digital services including music, games, video, ringtones and mobile messaging. Real's RealPlayer software has been downloaded hundreds of millions of times over the years. Real's Rhapsody music service is the second largest online music business next to Apple and delivered more than 1 billion song plays in 2008. Real currently provides music and video services for many major mobile phone companies including Verizon, T-Mobile, AT&T, Vodafone and SK Telecom and it delivers nearly 1 billion mobile messages every day for its carrier customers. It is the largest provider of ringback tone services in the world. In short, Real is a digital media company at the center of creating legitimate digital entertainment services.

6. The product we set out to create we call RealDVD. There are two versions of RealDVD. 

1 [REDACTED]

2 [REDACTED]

3 7. As a professional in the industry and a watcher of digital media products, I am
4 familiar with hard-drive-based video offerings from various companies. For example, the TiVo,
5 introduced in 2000, introduced millions of consumers to the notion of saving video content to a
6 hard drive for later playback on a TV. In the digital media business we refer to this as "time
7 shifting." Microsoft's "Xbox Live" service was introduced around 2002, and Sony has
8 introduced a similar service to work with its PS2 console. Both services were designed to allow
9 a broad range of digital content, including movies and music, to be stored on and played back
10 from a hard drive connected to a TV. In 2006 Apple announced its "AppleTV" product, which
11 similarly contains a hard drive to store and play back digital video and audio.

12 8. [REDACTED]
13 [REDACTED]
14 [REDACTED]
15 [REDACTED]
16 [REDACTED]
17 [REDACTED]
18 [REDACTED]
19 [REDACTED]
20 [REDACTED]
21 [REDACTED]

22 9. [REDACTED]
23 [REDACTED]
24 [REDACTED]
25 [REDACTED]
26 [REDACTED]
27 [REDACTED]
28 [REDACTED]

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

[REDACTED]

10.

11.

12.

is

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

I declare under penalty of perjury under the laws of the State of Washington and the United States of America that the foregoing is true and correct of my own personal knowledge, and that this declaration is executed this 19th day of March, 2009 at Seattle, Washington.



Phil Barrett