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

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

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

Plaintiffs,

v.

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

Defendants.

Case Nos. C08 04548 MHP;
C08 04719 MHP

**REALNETWORKS, INC. AND
REALNETWORKS HOME
ENTERTAINMENT, INC.'S
WITNESS DISCLOSURE FOR
PRELIMINARY INJUNCTION
PROCEEDING**

Date: April 24, 2009
Time: 9:00 a.m.
Dept: 15

AND RELATED CASES

On March 23, 2009, the Court ordered the parties to disclose a list of witnesses that they intend to call at the hearing of Defendants' preliminary injunction motions, along with a brief synopsis of the testimony that each witness would offer. Defendants' witness disclosures (as the moving parties) were due March 26, 2009, and Real's witness disclosure is due March 31, 2009. Although the Studio Defendants stated unequivocally on March 23 that they intended to call "a number of witnesses who we think will appear only in the form of their deposition testimony" (See Transcript 19:12-14), the only witnesses disclosed by the Defendants on March 26 were witnesses that they "may call" to "testify in person."¹ Defendants' refusal to identify all of their witnesses has impaired Real's ability to prepare its witness list. Thus, although Real hereby identifies the witnesses that it intends to call live or by deposition testimony, as well as witnesses that it may call live, Real reserves all rights with respect to witnesses not identified by the Defendants in their disclosures—including the right to move to strike or preclude the testimony of unidentified witnesses.

I. WITNESSES REAL INTENDS CALL BY LIVE TESTIMONY

Rob Glaser – Mr. Glaser is the Founder, Chairman and Chief Executive of Real. Mr. Glaser will testify about the conception and development of the RealDVD products, including the efforts that were undertaken to ensure that the products complied with Real's CSS License. Mr. Glaser will also testify about the features and security offered by the RealDVD products, and the intended uses and expected end-users of those products. Mr. Glaser will also testify about the harm to Real that would result from a preliminary injunction against the RealDVD products. Finally, Mr. Glaser will testify about Real's efforts to address Studio concerns regarding RealDVD prior to release of the product.

Elizabeth Coppinger – Ms. Coppinger is the Vice President of Video Services at Real. Ms. Coppinger will testify about the features of the RealDVD products, the marketing efforts related to those products, and the intended uses and expected end-users of those products. Ms.

¹ Defendants have indicated that they "may" call the witnesses identified on their witness lists. If Defendants ultimately determine not to call the witnesses identified on their witness lists, Real reserves the right to call such witnesses at the preliminary injunction hearing.

1 Coppinger will also testify about the market for digital video content. Ms. Coppinger will also
 2 testify about the harm to Real that would result from a preliminary injunction against the
 3 RealDVD products. Finally, Ms. Coppinger will testify about Real's efforts to address Studio
 4 concerns regarding RealDVD prior to release of the product.

5 **Matthew Bishop** – Mr. Bishop is a professor of computer science in the Department of
 6 Computer Science at the University of California at Davis. He has been retained as an expert by
 7 Real. Mr. Bishop will testify about the technical operation of the RealDVD products, and their
 8 compliance with the CSS License and related technical documentation. Mr. Bishop will also
 9 testify about ARccOS and RipGuard, and the claims in this case relating to those technologies.

10 **Douglas Dixon** - Mr. Dixon is an independent technology consultant, writer, and speaker
 11 specializing in digital media. He has been retained as an expert by Real. Mr. Dixon will testify
 12 about the technical operation of the RealDVD products, and their compliance with the CSS
 13 License and related technical documentation. Mr. Dixon will also testify about ARccOS and
 14 RipGuard, and the claims in this case relating to those technologies.

15 **II. WITNESSES REAL MAY CALL BY LIVE TESTIMONY**

16 **Jeffrey Chasen** – Mr. Chasen is a Vice President for Video Product Development for Real and
 17 the current manager of the engineering team responsible for developing the RealDVD/Vegas
 18 product. If called, Mr. Chasen will testify about the development of the RealDVD/Vegas
 19 product, the features of that product, its compliance with the CSS License Agreement and related
 20 technical documentation, and how it functions in response to errors, in light of the Studios'
 21 claims regarding ARccOS and RipGuard.

22 **Jeffrey Buzzard** - Mr. Buzzard is a Software Engineer at Real who participated in the
 23 development of the RealDVD/Vegas product. If called, Mr. Buzzard will testify about the
 24 development of the RealDVD/Vegas product, the features of that product, its compliance with
 25 the CSS License Agreement and related technical documentation, and how it functions in
 26 response to errors, in light of the Studios' claims regarding ARccOS and RipGuard.

27 **James Bielman** - Mr. Bielman is a Software Engineer at Real who participated in the
 28 development of the RealDVD/Facet product. Mr. Bielman will testify about the development of

1 the RealDVD/Facet product, the features of that product, its compliance with the CSS License
 2 Agreement and related technical documentation, and how it functions in response to errors, in
 3 light of the Studios' claims regarding ARccOS and RipGuard.

4 **James Brennan** - Mr. Brennan is a Software Engineer at Real and a development manager for
 5 the RealDVD/Facet product. Mr. Brennan will testify about the development of the
 6 RealDVD/Facet product, the features of that product, its compliance with the CSS License
 7 Agreement and related documentation, and how it functions in response to errors, in light of the
 8 Studios' claims regarding ARccOS and RipGuard.

9 **III. WITNESSES REAL INTENDS TO CALL BY DEPOSITION**

10 **Michael Dunn** - Real understands that Mr. Dunn is the President of Twentieth Century Fox
 11 Home Entertainment LLC. Real will offer deposition testimony by Mr. Dunn regarding Fox's
 12 theories of harm in this case and Fox's position regarding a consumer's fair use right to make a
 13 back-up copy of a DVD.

14 **Jacob Pak** - Real understands that Mr. Pak is the President of the DVD CCA. Real will offer
 15 deposition testimony by Mr. Pak regarding the nature of the CSS License Agreement, the DVD
 16 CCA's licensing practices, and the DVD CCA's theories of harm in this case. Real will also
 17 offer deposition testimony by Mr. Pak regarding the effectiveness of CSS technology.

18 **Thomas Gewecke** - Real understands that Mr. Gewecke is the President of Digital Distribution
 19 at Warner Brothers. Real will offer deposition testimony by Mr. Gewecke regarding Warner
 20 Brothers' theories of harm in this case.

21 **Mitchell Singer** - Real understands that Mr. Singer is the Executive Vice President of New
 22 Media and Technology, and Chief Technology Officer of Sony Pictures Entertainment, Inc. Real
 23 will offer deposition testimony by Mr. Singer regarding technology that would allow rental
 24 DVDs to be differentiated from DVDs purchased by consumers, the nature of the CSS License
 25 Agreement and Sony's knowledge and involvement with efforts to amend the CSS License
 26 agreement, and Sony's theories of harm.

1 **Jeffrey Miller** – Real understands that Mr. Miller is President of Worldwide Post Production
2 and Operations at Walt Disney Studios. Real will offer deposition testimony by Mr. Miller
3 regarding the effectiveness of CSS technology and Disney’s use of RipGuard.

4 **Aodan Coburn** – Real understands that Mr. Coburn is an Executive Vice President of
5 Worldwide Operations at Sony Pictures Entertainment, Inc. Real will offer deposition testimony
6 by Mr. Coburn on the following topics: the prevalence and use of ARccOS on Sony's DVD’s,
7 known compatibility problems created by ARccOS and RipGuard on DVDs, and Sony’s
8 differentiation of rental versus purchased DVDs.

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10 Dated: March 31, 2009

WILSON SONSINI GOODRICH & ROSATI
Professional Corporation

11
12 By: /s/
13 Michael A. Berta

14 Attorneys for Plaintiffs
15 REALNETWORKS, INC. and REALNETWORKS
16 HOME ENTERTAINMENT, INC.
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