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#### I. Introduction

In its opening brief in opposition to DVD CCA's motion for preliminary injunction,

RealNetworks recklessly and falsely asserted that

To rebut and contradict the false statement

DVD CCA submitted the declaration testimony of its President, Jacob Pak, who attested that,

RealNetworks now seeks to exclude this testimony, but its arguments are unavailing.

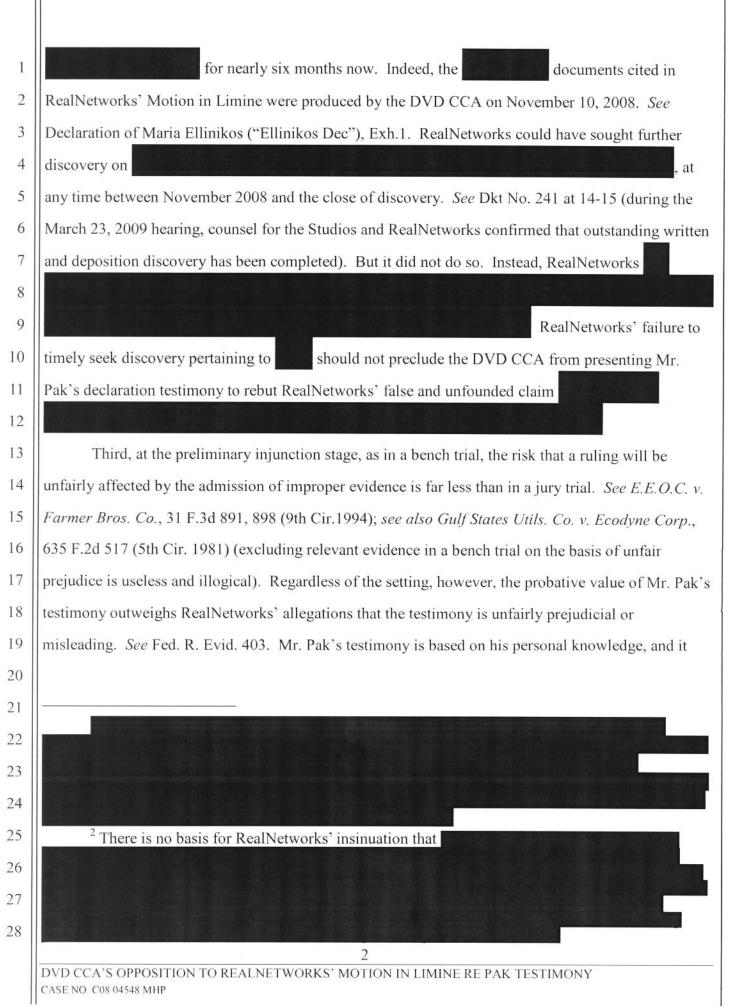
Mr. Pak's testimony is based on personal knowledge, not prejudicial, and in keeping with Federal Rule of Civil Procedure 30(e). Moreover, RealNetworks' motion in limine hinges

### II. Legal Argument

RealNetworks' argument that Mr. Pak's declaration is inadmissible is incorrect for the following reasons. First, Mr. Pak's April 10, 2009 declaration testimony is based upon personal knowledge. A jury or trier of fact would reasonably believe that Mr. Pak could speak competently for the DVD CCA on the facts attested to in his declaration. *See* Fed. R. Evid. 602; *see also U.S. v. Owens-El*, 889 F.2d 913, 914-15 (9th Cir. 1989) (personal knowledge requirement is satisfied when a jury or other trier of fact could reasonably believe that the witness perceived the event he testified about).

Second, RealNetworks' claim that the DVD CCA "has refused to produce" the records relating is false. Mot. at 3. RealNetworks has known about

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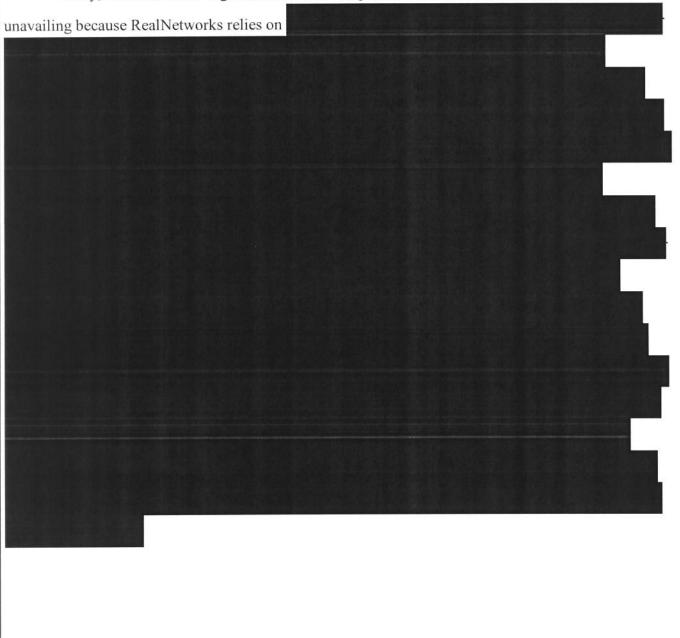
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1	rebuts RealNetworks' unsubstantiated claim in its response brief that	
2	See Fed. R. Evid. 403; see also Peake v. Chevron Shipping Co., Inc., 245 Fed. Appx	
3	680, 683 (9th Cir. 2007) ("Prejudice, however, is unfair only when it is based on something other than	
4	the persuasive weight of the evidence.").	
5	Moreover, as stated above, far from being misleading, Mr. Pak's testimony is corroborated by	
6	According to	
7	RealNetworks,	
8	了其他的原则是一种,我们就是一个一个一个一个一个一个一个一个一个一个一个一个一个一个一个一个一个一个一个	
9	This is precisely what Mr. Pak said in his April 10 declaration. Pak	
10	Response Dec. at ¶ 4.	
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15	Mr. Pak's testimony affirms that this is the	
16	case. Pak Response Dec. at ¶ 4.	
17	Fourth, contrary to RealNetworks' contention, Mr. Pak does not need to "change" his	
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22	He subsequently	
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24	As a non-expert witness, Mr. Pak had no obligation to supplement his deposition testimony	
25	See Fed. R. Civ. Proc. 26(e).	
26	100 - VALSES STILLE, 102 103 3 JA 11 11 3 MA. 3	
27	any obligation to "change" prior deposition testimony under Federal Rule of Civil Procedure 30(e)	
28	fails. Moreover, RealNetworks' suggestion that a deponent can never testify about knowledge	
	DVD CCA'S OPPOSITION TO BE ALNETWORKS' MOTION IN LIMINE BE DAY TESTIMONY	

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acquired after his deposition, or risk "contradicting" his prior testimony that he lacked knowledge about the subject, is absurd.

Finally, RealNetworks' arguments for excluding Mr. Pak's declaration testimony are



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1	III. Conclusion  For the foregoing reasons, RealNetworks' Motion in Limine to Exclude or Strike Jacob Pak's			
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3	April 10, 2009 Testimony Regarding AMX Corporation should be DENIED.			
4		D. C. II In witted		
5	Dated: April 23, 2009	Respectfully submitted,		
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8		By /s/		
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