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17 Attorneys for Defendants and Counterclaim-Plaintiffs

18 UNITED STATES DISTRICT COURT
19 NORTHERN DISTRICT OF CALIFORNIA
20

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

23 Plaintiffs and Counter-
24 Defendants,

25 vs.

26 DVD COPY CONTROL ASSOCIATION,
INC., a Delaware nonprofit corporation,
27 DISNEY ENTERPRISES, INC., a Delaware
corporation; PARAMOUNT PICTURES
28 CORP., a Delaware corporation; SONY

CASE NO. C 08-4548-MHP

**SUPPLEMENTAL DECLARATION OF
DR. JOHN P. J. KELLY IN SUPPORT OF
EX PARTE APPLICATION OF
PLAINTIFFS FOR TEMPORARY
RESTRAINING ORDER AND ORDER TO
SHOW CAUSE RE: PRELIMINARY
INJUNCTION THEREOF**

Date: October 7, 2008
Time: 2:00 p.m.
Courtroom: 15 (Hon. Marilyn Hall Patel)

**SUPPLEMENTAL DECLARATION OF
DR. JOHN P. J. KELLY**

1 PICTURES ENTERTAINMENT, INC., a
Delaware corporation; TWENTIETH
2 CENTURY FOX FILM CORP., a Delaware
corporation; NBC UNIVERSAL, INC., a
3 Delaware corporation; WARNER BROS.
ENTERTAINMENT, INC., a Delaware
4 corporation; and VIACOM, Inc., a Delaware
Corporation,

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6 Defendants and Counter-
Complainants.

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SUPPLEMENTAL DECLARATION OF DR. JOHN P. J. KELLY

I, Dr. John P. J. Kelly, declare as follows:

1. I have previously filed a Declaration in support of Plaintiffs’ application for a temporary restraining order and to show cause, and I file this Supplemental Declaration in support of Plaintiffs’ application for a temporary restraining order and order to show cause. I have personal knowledge of the following facts and, if called and sworn as a witness, could and would competently testify thereto.

REALDVD PERMITS MAKING MULTIPLE COPIES OF A SINGLE DVD

2. On or about September 30, 2008, my staff and I downloaded a licensed version of RealDVD from www.RealDVD.com. We paid \$29.99 for this copy. We registered this copy to a newly-created “user account.” On or about October 1, 2008, we downloaded an additional copy of RealDVD for \$19.99 onto a different computer; we registered this copy to the same “user account” and used the same “license key” we used for the first copy. On or about October 3, we downloaded a third copy of RealDVD for \$19.99 onto a third computer, and also registered this copy to the same “user account” and used the same “license key.” All three copies of the software had version numbers of 1.0 and build numbers of 1.0.0.510.

3. Using these copies of RealDVD, we verified that a user can copy a DVD to a portable hard drive and, moving the portable hard-drive between computers using the same “license key” tied to a “user account,” play the copy on all of the computers. We thus copied the movie “City of God” onto a portable hard drive using one computer, and were able to play that copy from the portable hard drive on all three of the computers.

4. Additionally, we were able to verify that a user can use RealDVD to copy the same DVD to each of the computers using a shared “license key” tied to the same “user account.” Thus, we used RealDVD to make a copy of “City of God” onto the first computer’s internal hard drive. After the copy process had completed on the first computer, we moved the DVD to the second computer and, again, used RealDVD to copy “City of God” onto that computer’s internal hard drive. Finally, after that copy process had completed, we moved the DVD to the third computer and, again, used RealDVD to copy “City of God” onto that computer’s internal hard

1 drive. We tested all three resulting copies of “City of God” and found that each of them played
2 normally using their respective copies of RealDVD. Thus, it appears that RealDVD permits
3 multiple copies of the same DVD to be made on different computers using a shared “license key”
4 tied to a “user account.”

5 I declare under penalty of perjury under the laws of the United States that the foregoing is
6 true and correct and that this declaration was executed this 6th day of October 2008 at Santa
7 Barbara, California.

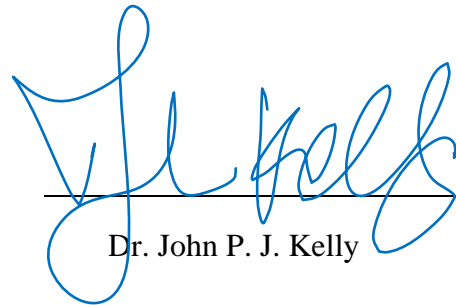
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10 See attached page

11 Dr. John P. J. Kelly
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1 computer and, again, used RealDVD to copy “City of God” onto that computer’s internal hard
2 drive. We tested all three resulting copies of “City of God” and found that each of them played
3 normally using their respective copies of RealDVD. Thus, it appears that RealDVD permits
4 multiple copies of the same DVD to be made on different computers using a shared “license key”
5 tied to a “user account.”

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8 Barbara, California.

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Dr. John P. J. Kelly