

1 GLENN D. POMERANTZ (SBN 112503)
Glenn.Pomerantz@mto.com
2 BART H. WILLIAMS (SBN 134009)
Bart.Williams@mto.com
3 KELLY M. KLAUS (SBN 161091)
Kelly.Klaus@mto.com
4 MUNGER, TOLLES & OLSON LLP
355 South Grand Avenue
5 Thirty-Fifth Floor
Los Angeles, CA 90071-1560
6 Telephone: (213) 683-9100
Facsimile: (213) 687-3702
7

8 ROBERT H. ROTSTEIN (SBN 72452)
rxr@msk.com
9 ERIC J. GERMAN (SBN 224557)
ejg@msk.com
10 BETSY A. ZEDEK (SBN 241653)
baz@msk.com
11 MITCHELL SILBERBERG & KNUPP LLP
11377 West Olympic Boulevard
Los Angeles, California 90064-1683
12 Tel: (310) 312-2000; Fax: (310) 312-3100

13 GREGORY P. GOECKNER (SBN 103693)
gregory_goeckner@mpaa.org
14 DANIEL E. ROBBINS (SBN 156934)
dan_robbins@mpaa.org
15 15301 Ventura Boulevard, Building E
Sherman Oaks, California 91403-3102
16 Tel: (818) 995-6600; Fax: (818) 285-4403

17 Attorneys for Defendants
18 DISNEY ENTERPRISES, INC., PARAMOUNT
19 PICTURES CORP., SONY PICTURES
ENTERTAINMENT, INC., TWENTIETH CENTURY FOX
20 FILM CORP., NBC UNIVERSAL, INC., WARNER BROS.
ENTERTAINMENT, INC., AND VIACOM, INC.

21 UNITED STATES DISTRICT COURT
22 NORTHERN DISTRICT OF CALIFORNIA
23

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

26 Plaintiffs,

27 vs.
28

CASE NO. C 08-4548-MHP

**ADMINISTRATIVE MOTION TO
CONSIDER WHETHER CASES SHOULD
BE RELATED**

**[STIPULATION AND PROPOSED ORDER
FILED CONCURRENTLY HEREWITH]**

**ADMINISTRATIVE MOTION TO
CONSIDER WHETHER CASES SHOULD
BE RELATED**

1 DVD COPY CONTROL ASSOCIATION,
2 INC., a Delaware nonprofit corporation,
3 DISNEY ENTERPRISES, INC., a
4 Delaware corporation; PARAMOUNT
5 PICTURES CORP., a Delaware
6 corporation; SONY PICTURES
7 ENTERTAINMENT, INC., a Delaware
8 corporation; TWENTIETH CENTURY
9 FOX FILM CORP., a Delaware
10 corporation; NBC UNIVERSAL, INC., a
11 Delaware corporation; WARNER BROS.
12 ENTERTAINMENT, INC., a Delaware
13 corporation; and VIACOM, INC., a
14 Delaware Corporation,

Defendants.

Judge: Hon. Marilyn H. Patel

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ADMINISTRATIVE MOTION TO CONSIDER WHETHER
CASES SHOULD BE RELATED

Pursuant to Local Rules 3-12 and 7-11, Defendants Disney Enterprises, Inc., Paramount Pictures Corp., Sony Pictures Entertainment, Inc., Twentieth Century Fox Film corp., NBC Universals, Inc., Warner Bros. Entertainment, Inc., and Viacom, Inc. (collectively, “the Studios”) hereby move the Court to consider whether the above captioned case (hereinafter, “Declaratory Relief Suit”) should be related to the case captioned *Universal City Studios Productions LLLP, Universal City Studios LLLP, Paramount Pictures Corporation, Twentieth Century Fox Film Corporation, Sony Pictures Television Inc., Columbia Pictures Industries, Inc., Sony Pictures Entertainment Inc., Disney Enterprises, Inc., Walt Disney Pictures and Warner Bros. Entertainment Inc., vs. Real Networks, Inc. and Real Networks Home Entertainment, Inc.*, C 08-04719 CRB (hereinafter, “Affirmative Suit”). All parties have stipulated that these cases should be related. See Stipulation Regarding Administrative Motion to Consider Whether Cases Should Be Related (filed concurrently herewith).

The Declaratory Relief Suit that is currently pending before this Court involves substantially the same parties and claims as those in the Affirmative Suit. Specifically, on September 30, 2008, Real Networks, Inc. and Real Networks Home Entertainment, Inc. (collectively, “Real”) filed the instant Declaratory Relief Suit against the Studios, seeking a declaratory judgment that, in marketing and selling its RealDVD product, Real did not breach the CSS License Agreement between it and the DVD CCA and did not violate the anti-circumvention provisions of the Digital Millennium Copyright Act, 17 U.S.C. § 1201 (“DMCA”). That same morning, the Studios (along with Universal City Studios Productions LLLP, Universal City Studios LLLP, Walt Disney Pictures, Sony Pictures Television Inc., and Columbia Pictures Industries, Inc.) filed the Affirmative Suit in the Central District of California, alleging that RealDVD did in fact breach the CSS License Agreement and violate the anti-circumvention measures of the DMCA. On October 14, 2008, the Affirmative Suit was formally transferred to the Northern District of California and assigned case number C 08-04719 CRB.

1 Because substantially the same parties and claims are involved in both cases, it is
2 highly likely that it will be unduly burdensome to duplicate the proceedings before two different
3 judges. There is also an extremely high risk of conflicting results if two judges reach independent
4 conclusions on essentially the same claims regarding the same product. As such, these cases
5 should be related pursuant to Local Rule 3-12.

6 The Studios thus respectfully request that the Court consider whether these cases
7 should be related and, as stipulated by the relevant parties, ultimately order that the case be
8 related and consolidated before this Court.

9 DATED: October 20, 2008

MUNGER, TOLLES & OLSON LLP

MITCHELL SILBERBERG & KNUPP LLP

GREGORY P. GOECKNER
DANIEL E. ROBBINS

14 By: /s/ Rebecca Gose Lynch
15 REBECCA GOSE LYNCH

16 Attorneys for Defendants DISNEY
17 ENTERPRISES, INC., PARAMOUNT
18 PICTURES CORP., SONY PICTURES
19 ENTERTAINMENT, INC., TWENTIETH
20 CENTURY FOX FILM CORP., NBC
21 UNIVERSAL, INC., WARNER BROS.
22 ENTERTAINMENT, INC., AND VIACOM,
23 INC.