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October 22, 2008

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BY E-FILING AND HAND DELIVERY

The Honorable Marilyn Hall Patel
United States District Court, Northern District of California
450 Golden Gate Avenue
San Francisco, California 94102

Re: *Universal City Studios Productions LLLP et al. v. RealNetworks, Inc. et al.*, Case No. C-08-4719-MHP
RealNetworks, Inc. et al. v. DVD Copy Control Association et al., Case No. C-08-4548-MHP

Dear Judge Patel:

I am lead counsel for the Motion Picture Studio Plaintiffs (and counterclaim defendants) in these related cases. Mr. Bowser relayed to counsel yesterday that the Court would schedule the preliminary injunction hearing to commence on Tuesday, January 26, 2009. I write to respectfully request that the Court commence the hearing on any of the earlier dates in January that Mr. Bowser said the Court had open (afternoons on January 15, 16, 21, 22 or 23).

I make this request because, on October 15, 2008, the Court in a criminal matter in which I am lead defense counsel, *People v. Bruce Malkenhorst*, Case No. BA-312388 (L.A. Superior Court, Kathleen Kennedy-Powell, J.), scheduled a two-week jury trial to commence on January 26, 2009, the same date as has now been set for the preliminary injunction hearing.

Yesterday afternoon, after Mr. Bowser told us of the Court's decision to start the hearing on January 26, my partner, Glenn Pomerantz, with counsel for RealNetworks on the line, called

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MUNGER, TOLLES & OLSON LLP

The Honorable Marilyn Hall Patel

October 22, 2008

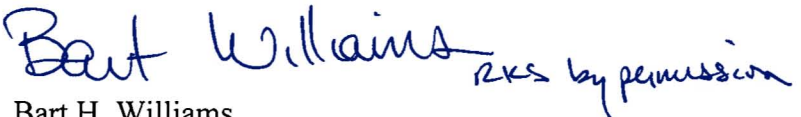
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Mr. Bowser. Mr. Bowser told both counsel about the above dates in January, as well as dates the Court had available later in February. After that call with Mr. Bowser, Mr. Pomerantz told RealNetworks' counsel that we intended to ask for one of the dates that Mr. Bowser provided because of my trial conflict. We had previously agreed with RealNetworks that we would not conduct the preliminary injunction hearing on the dates this Court had available in November (November 18-21), because RealNetworks' lead counsel, James DiBoise, was not available on those dates. This morning, RealNetworks' counsel informed us that RealNetworks will not agree to our request for a hearing date on the earlier dates in January, or starting in February.

There is no prejudice to RealNetworks from this request. RealNetworks has not told us that any of the dates starting January 15 would create a conflict for Mr. DiBoise. RealNetworks' counsel instead has claimed prejudice because hearings before the Court over the course of several afternoon sessions do not allow for a "cohesive" hearing. If the matters currently scheduled before the Court on the mornings in mid-January are resolved or continued, then the parties to this case easily could do full-day hearings on consecutive days starting in mid-January. If those other matters do not go off calendar, there is no real prejudice to anyone – and certainly none that compares to one party not being able to use the counsel of its choice – from proceeding during afternoon sessions. RealNetworks' counsel also suggested, without elaboration, that it will not have sufficient time to prepare for the hearing if it commences on January 15 (or one of the other January dates) rather than January 26. With all due respect to RealNetworks' counsel, it is now October, and a difference of less than two weeks for the start time in January will not prejudice either side in preparing for the hearing.

Finally, RealNetworks' counsel asked us to convey their objection that this request is an impermissible motion for reconsideration. Again, with respect to counsel, the single-page letters that counsel submitted yesterday were not motions, and we did not have the opportunity to apprise the Court of all of the issues implicated by the hearing date. I am disappointed that RealNetworks would not work out the scheduling with us as a simple matter of professional courtesy, and I sincerely apologize for having to burden the Court with this request.

Respectfully submitted,

 *Bart H. Williams* *rxs by permission*

Bart H. Williams

cc: All counsel (by email)