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12 Attorneys for Defendant and Counterclaimant
 DVD COPY CONTROL ASSOCIATION, INC.

14 UNITED STATES DISTRICT COURT
 15 NORTHERN DISTRICT OF CALIFORNIA

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

18 Plaintiffs,

19 v.

20 DVD COPY CONTROL ASSOCIATION, INC., a
 21 Delaware nonprofit corporation, et al.

22 Defendants.

Case No. C08 04548 MHP
 Case No. C08 04719 MHP (related case)

**DECLARATION OF REGINALD D.
 STEER IN SUPPORT OF OPPOSITION
 OF DVD COPY CONTROL
 ASSOCIATION, INC. TO MOTION OF
 REALNETWORKS, INC. AND
 REALNETWORKS HOME
 ENTERTAINMENT, INC. TO STRIKE
 MOTION FOR PRELIMINARY
 INJUNCTION**

24 And Related Cases

EXHIBIT A

1 JAMES A. DiBOISE (SBN 83296)
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3 MICHAEL A. BERTA (SBN 194650)
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4 TRACY TOSH LANE (SBN 184666)
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ROSATI PC**
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San Francisco, CA 94105
7 Tel: (415) 947-2000
Fax: (415) 947-2099

8 Attorneys for Plaintiffs
9 **REALNETWORKS, INC. and**
10 **REALNETWORKS HOME**
ENTERTAINMENT

11
12 UNITED STATES DISTRICT COURT
13 NORTHERN DISTRICT OF CALIFORNIA

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

17 Plaintiffs,

18 v.

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

25 Defendants.

Case Nos. C08 04548 MHP;
C08 04719 MHP

**PLAINTIFFS' FIRST SET OF
INTERROGATORIES TO DVD COPY
CONTROL ASSOCIATION, INC.**

26
27 AND RELATED CASES
28

1 Pursuant to Federal Rule of Civil Procedure 33, RealNetworks, Inc. and RealNetworks
2 Home Entertainment, Inc. (collectively "Plaintiffs") hereby propound the following
3 interrogatories to Defendant DVD Copy Control Association, Inc. Plaintiffs request that each
4 interrogatory be answered separately and fully in writing and under oath in the manner
5 prescribed by the Federal Rules of Civil Procedure.

6 **DEFINITIONS**

7 A. "RealNetworks" means RealNetworks, Inc.

8 B. "RealNetworks Home Entertainment" means RealNetworks Home Entertainment,
9 Inc.

10 C. "DVD CCA," "You" and "Your" mean DVD Copy Control Association, Inc. and
11 its subsidiaries, divisions, parents, and affiliates, and all other officers, agents, directors,
12 employees, representatives, consultants, experts, in-house and outside counsel, or other persons
13 acting on its behalf or under its control.

14 D. "Procedural Specifications" shall mean the Procedural Specifications as referenced
15 in the CSS License Agreement.

16 E. "Communication(s)" is used in its broadest sense and means every manner or
17 method of disclosure or transfer or exchange of information, whether oral or by document, and
18 whether face-to-face, by telephone, mail, personal delivery, email or otherwise.

19 F. "Relating to" or "relate to" means concerning, referring to, summarizing, reflecting,
20 constituting, containing, embodying, pertaining to, involved with, mentioning, discussing,
21 consisting of, comprising, showing, commenting upon, evidencing, describing, or otherwise
22 relating to the subject matter.

23 G. The words "and" and "or" shall be construed in the conjunctive or disjunctive,
24 whichever makes the request more inclusive.

25 H. The use of the singular form of any word includes the plural, and vice versa, as
26 necessary to bring within the scope of the following requests all information which might
27 otherwise be construed to be outside its scope.

28 I. "Any" shall mean one or more; "each" shall mean "each and every."

1 J. "Content" means any audio, visual, or audio-visual work or any other work that
2 You claim is copyrighted.

3 **INSTRUCTIONS**

4 1. Whenever in these interrogatories there is a request to identify a natural person,
5 state his or her:

- 6 a. Full name;
- 7 b. Title or position at the time identified in the interrogatory;
- 8 c. Current title or position;
- 9 d. Who or what entity, the individual represented at the time identified in the
10 interrogatory; and
- 11 e. Present or last known business or home address.

12 2. Whenever in these interrogatories there is a request to identify a business entity or
13 firm (e.g., a company, competitor, manufacturer, producer, or seller), state:

- 14 a. The full name of such business entity or firm; and
- 15 b. The address of its principal place of business.

16 3. Whenever in these interrogatories there is a request to identify a document, state:

- 17 a. The date of the document;
- 18 b. The author and signatories of the document;
- 19 c. The title, subject matter, and substance of the document; and
- 20 d. The location and identity of the document, including a reference by Bates

21 Number if applicable.

22 4. Whenever in these interrogatories there is a request to identify a meeting, state the
23 date, location and attendees of such meeting.

24 5. In the event any information is withheld on a claim of any privilege or immunity,
25 provide a log as required by the Federal Rules of Civil Procedure.

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1 **INTERROGATORIES**

2 **INTERROGATORY NO. 1**

3 Identify every document that You contend comprises the CSS License Agreement
4 entered into by RealNetworks.

5 **INTERROGATORY NO. 2**

6 If You contend that RealDVD violates or fails to comply with any provision of the CSS
7 License Agreement, identify each such provision.

8 **INTERROGATORY NO. 3**

9 For each provision identified in Your response to Interrogatory No. 2, describe in detail
10 how RealDVD violates or fails to comply with such provision.

11 **INTERROGATORY NO. 4**

12 Identify each provision of what You contend to be the CSS License Agreement that You
13 contend requires a physical DVD disc to be in the disc drive at the time of playback of DVD
14 Content.

15 **INTERROGATORY NO. 5**

16 Identify each provision of what You contend to be the CSS License Agreement that You
17 contend contains a restriction or prohibition on copying DVD Content.

18 **INTERROGATORY NO. 6**

19 Identify the individuals and entities who were involved in negotiating the CSS License
20 Agreement, and the roles of each such individual or entity.

21 **INTERROGATORY NO. 7**

22 Identify the individuals and entities who were involved in drafting the CSS License
23 Agreement, and the roles of each such individual or entity.

24 **INTERROGATORY NO. 8**

25 Describe the process by which amendments to the CSS License Agreement are effected,
26 including any Document(s) governing or related to the amendment process.

1 **INTERROGATORY NO. 9**

2 Identify the individuals and entities who were involved in proposing or considering each
3 amendment or proposed amendment to the CSS License Agreement, which was proposed or
4 considered on or after January 1, 2006, and the roles of each such individual or entity.

5 **INTERROGATORY NO. 10**

6 Describe each amendment or proposed amendment to the CSS License Agreement, which
7 was proposed or considered on or after January 1, 2006, including the purpose of the amendment
8 or proposed amendment, whether such amendment was passed, and where if at all such
9 amendment is reflected in the CSS License Agreement.

10 **INTERROGATORY NO. 11**

11 What do You contend the term “unauthorized copy” means as it is used in the CSS
12 License Agreement?

13 **INTERROGATORY NO. 12**

14 If You contend that the term “unauthorized copy” has more than one meaning as it is
15 used in the CSS License Agreement, state Your contentions regarding each such meaning and
16 identify the corresponding contractual provision.

17 **INTERROGATORY NO. 13**

18 Do You contend that a system for marking content as described in Section 6.2.13.2 of the
19 Procedural Specifications has been adopted?

20 **INTERROGATORY NO. 14**

21 If You contend that a system for marking content as described in Section 6.2.13.2 of the
22 Procedural Specifications has been adopted, identify all provisions of what You contend to be
23 the CSS License Agreement relating to such content marking system.

24 **INTERROGATORY NO. 15**

25 If You contend that a system for marking content as described in Section 6.2.13.2 of the
26 Procedural Specifications has been adopted, identify all requirements or restrictions that You
27 contend such a system imposes upon Plaintiffs.

28

1 **INTERROGATORY NO. 16**

2 If You contend that a system for marking content as described in Section 6.2.13.2 of the
3 Procedural Specifications has been adopted, identify all documents that support your contentions
4 that (i) such a system has been adopted, and (ii) the system imposes the requirements and
5 restrictions identified by You in response to Interrogatory No. 15.

6 **INTERROGATORY NO. 17**

7 If You contend that the CSS technology which is the subject of the CSS License
8 Agreement constitutes a “technological measure that effectively controls access” to DVD
9 content, explain in detail how such CSS technology effectively controls access to DVD content.

10 **INTERROGATORY NO. 18**

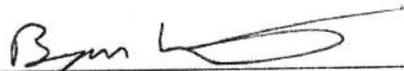
11 If You contend that the CSS technology which is the subject of the CSS License
12 Agreement constitutes a “technological measure that effectively protects” any of Your rights in
13 or to DVD content under the Copyright Act, identify each such right and explain in detail how
14 such CSS technology effectively protects such right.

15 **INTERROGATORY NO. 19**

16 If You contend that RealDVD circumvents the CSS technology which is the subject of
17 the CSS License Agreement under Section 1201 of the Digital Millennium Copyright Act,
18 explain in detail each and every way in which You contend RealDVD circumvents the CSS
19 technology.

20
21
22 Dated: November 7, 2008

WILSON SONSINI GOODRICH & ROSATI
Professional Corporation

23
24 By: 
25 Bryan J. Ketrosier
bketrosier@wsgr.com

26 Attorneys for Plaintiffs
27 REALNETWORKS, INC. AND
28 REALNETWORKS HOME
ENTERTAINMENT, INC.

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PROOF OF SERVICE

I, Adrienne Baranski, declare:

I am employed in the City and County of San Francisco, State of California. I am over the age of 18 years and not a party to the within action. My business address is Wilson Sonsini Goodrich & Rosati, One Market, Spear Tower, Suite 3300, San Francisco, California 94105.

On this date, I served:

PLAINTIFFS' FIRST SET OF INTERROGATORIES TO DVD COPY CONTROL ASSOCIATION, INC.

- By placing the document(s) in a sealed envelope for collection and mailing with the United States Postal Service on this date to the person(s) listed below.
- By consigning the document(s) to an express mail service for guaranteed next day delivery to the person(s) listed below.
- By consigning the document(s) by hand delivery on this date to the person(s) listed below.
- By consigning the document(s) to a facsimile operator for transmittal on this date to the person(s) listed below.

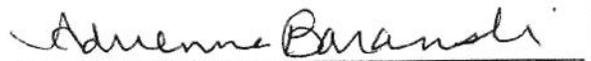
SEE ATTACHED SERVICE LIST

- By forwarding the document(s) by electronic transmission on this date, in compliance with Civil L.R. 23-2, to the Designated Internet Site(s) listed below.

SEE ATTACHED SERVICE LIST

I am readily familiar with Wilson Sonsini Goodrich & Rosati's practice for collection and processing of documents for delivery according to instructions indicated above. In the ordinary course of business, documents would be handled accordingly.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed at San Francisco, California on November 7, 2008.



Adrienne Baranski

SERVICE LIST

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21 Attorneys for Defendant
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Attorneys for Defendants
**PARAMOUNT PICTURES CORP., SONY
PICTURES ENTERTAINMENT, INC.,
TWENTIETH CENTURY FOX FILM
CORP., NBC UNIVERSAL, INC., WARNER
BROS. ENTERTAINMENT, INC., and
VIACOM, INC.**

EXHIBIT B

Wang, Teresa

Subject: RE: RealNetworks Litigation

From: Bal, Colleen [mailto:cbal@wsgr.com]
Sent: Tuesday, November 25, 2008 4:20 PM
To: 'Steer, Reginald'; Berta, Michael
Cc: DiBoise, Jamie; Lambert, Mark F.; Weinstein, Mark R.; Lazarus, Edward; Mick, Stephen R.; Ellinikos, Maria
Subject: RE: RealNetworks Litigation

Reg,

Thank you for your email. You did not receive a designation of witnesses from us because we have no agreement with the DVD CCA to provide you with any such designation concerning the hearing on the Studios' preliminary injunction motion set for Jan 27-29. In fact, we were puzzled to receive a designation of witnesses from your colleague Eddie Lazarus, since the DVD CCA is not entitled to put on witnesses at that hearing, which involves solely the Studios' motion for preliminary injunction and RealNetworks' opposition.

As you know, we have moved to strike the DVD CCA's notice of motion and motion for PI, which purported to set a hearing date of Jan 27, 2009, for failure to meet the requirements of the federal and local rules. You have acknowledged that your notice is defective and you have told us that the DVD CCA intends to "remedy" the defects by filing a brief in support of a PI sometime next month. Thus, by your own admission, the DVD CCA currently has no valid pending notice of motion or motion of its own. Even if it did, to our knowledge, the Court has not authorized the DVD CCA to participate in any capacity at the Jan 27-29 hearing on the Studios' motion. Without such an order, the DVD CCA has no basis to participate.

Regards,
Colleen

From: Steer, Reginald [mailto:rsteer@AKINGUMP.com]
Sent: Tuesday, November 25, 2008 10:51 AM
To: Bal, Colleen; Berta, Michael
Cc: DiBoise, Jamie; Lambert, Mark F.; Weinstein, Mark R.; Lazarus, Edward; Mick, Stephen R.; Ellinikos, Maria
Subject: RealNetworks Litigation
Importance: High

Colleen and Mike,

Neither my colleagues at Akin Gump nor our co-counsel at White & Case have received your designation of witnesses. Would you please provide it to us as soon as possible? I understand that in my absence, Eddie Lazarus sent you the DVD CCA's designation.

Reg Steer

Reginald D. Steer
Akin Gump Strauss Hauer & Feld, LLP
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San Francisco, CA 94104-1036
Tel: (415) 765-9520 Fax: (415) 765-9501

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EXHIBIT C

Wang, Teresa

Subject: RE: RealNetworks Litigation

From: Bal, Colleen [mailto:cbal@wsgr.com]

Sent: Wednesday, November 26, 2008 3:00 PM

To: Steer, Reginald; Berta, Michael

Cc: Weinstein, Mark R.; Ellinikos, Maria; Mick, Stephen R.; Lazarus, Edward; Lambert, Mark F.; DiBoise, Jamie; Tosh Lane, Tracy

Subject: RE: RealNetworks Litigation

Reg, a

All the Court indicated at the TRO hearing regarding DVD CCA participation was that it would be subject to discovery. Judge Patel did not say that you could participate in any way at the PI hearing.

And while William Coates was present at the TRO proceedings, he chose to remain silent rather than seek permission for the DVD CCA to participate. The fact that you plan to file a PI brief in the future does nothing to change the fundamental point that you have no court authority to participate in the hearing on the Studios' motion or otherwise insert yourself into those proceedings. Thus, whatever you intend is of no moment unless you first obtain court approval.

Regards,
Colleen

From: Steer, Reginald [mailto:rsteer@AKINGUMP.com]

Sent: Wednesday, November 26, 2008 10:15 AM

To: Bal, Colleen; Berta, Michael

Cc: Weinstein, Mark R.; Ellinikos, Maria; Mick, Stephen R.; Lazarus, Edward; Lambert, Mark F.; DiBoise, Jamie

Subject: RE: RealNetworks Litigation

Colleen,

We have made clear repeatedly that DVD CCA intends to be heard at the preliminary injunction hearing and will file a memorandum of points and authorities in support of its preliminary injunction motion. Your assertion that I told you that we would "remedy" a "defect" in our motion is simply wrong. To set the record straight, this is what I wrote to Judge Patel on that issue:

Shortened Briefing Time for Real's Motion to Strike: Based on the call with Mr. Bowser, DVD CCA understood that the Court could not accommodate a shortened schedule and therefore does not join Real's request. Moreover, DVD CCA has informed Real that it intends to file a memorandum of points and authorities in support of its motion for preliminary injunction in accordance with the noticed hearing date. Counsel for the DVD CCA believes that this will moot Real's Motion to Strike.

Our position is consistent with and responsive to Judge Patel's expression of interest in hearing from the DVD CCA, made at the TRO hearing. And we intend to continue to

12/1/2008

participate fully in discovery leading up to the preliminary injunction hearing.

Reg Steer

Reginald D. Steer
Akin Gump Strauss Hauer & Feld, LLP
580 California Street, 15th Floor
San Francisco, CA 94104-1036
Tel: (415) 765-9520 Fax: (415) 765-9501

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Sent: Tuesday, November 25, 2008 4:20 PM
To: 'Steer, Reginald'; Berta, Michael
Cc: DiBoise, Jamie; Lambert, Mark F.; Weinstein, Mark R.; Lazarus, Edward; Mick, Stephen R.; Ellinikos, Maria
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Importance: High

Colleen and Mike,

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Reg Steer

Reginald D. Steer
Akin Gump Strauss Hauer & Feld, LLP

12/1/2008

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