

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, 35th Floor  
 5 Los Angeles, CA 90071-1560  
 Tel: (213) 683-9100; Fax: (213) 687-3702  
 6

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

7 GREGORY P. GOECKNER (SBN 103693)  
 gregory\_goeckner@mpaa.org  
 8 DANIEL E. ROBBINS (SBN 156934)  
 dan\_robbins@mpaa.org  
 9 15301 Ventura Boulevard, Building E  
 Sherman Oaks, California 91403-3102  
 10 Tel: (818) 995-6600; Fax: (818) 285-4403

11 Attorneys for Defendants/Counterclaim-Plaintiffs/Plaintiffs  
 COLUMBIA PICTURES INDUSTRIES, INC., DISNEY  
 12 ENTERPRISES, INC., PARAMOUNT PICTURES CORP.,  
 SONY PICTURES ENTERTAINMENT, INC., SONY  
 13 PICTURES TELEVISION INC., TWENTIETH CENTURY  
 FOX FILM CORP., NBC UNIVERSAL, INC., WALT  
 14 DISNEY PICTURES, WARNER BROS.  
 ENTERTAINMENT, INC., UNIVERSAL CITY STUDIOS  
 15 PRODUCTIONS LLLP, UNIVERSAL CITY STUDIOS  
 LLLP, AND VIACOM, INC.  
 16

17 UNITED STATES DISTRICT COURT  
 18 NORTHERN DISTRICT OF CALIFORNIA

19 REALNETWORKS, INC., et al.,  
 20 Plaintiffs,  
 21 vs.  
 22 DVD COPY CONTROL ASSOCIATION,  
 INC., et al.  
 23 Defendants.  
 24  
 25 AND CONSOLIDATED ACTIONS.  
 26

CASE NO. C 08-4548-MHP  
 Consolidated with Case No. C 08-04719-MHP  
**DECLARATION OF ROHIT K. SINGLA  
 REGARDING DEPOSITION OF NICOLE  
 HAMILTON**

1 I, Rohit K. Singla, declare:

2 1. I am an attorney duly licensed to practice in the State of California and in the  
3 United States District Court for the Northern District of California. I am a partner in the firm of  
4 Munger, Tolles & Olson LLP (“MTO”), counsel of record for the Studio Defendants in this  
5 litigation. The following facts are within my personal knowledge. I would be competent to  
6 testify to the facts stated herein if called to do so.

7 2. We have been unable to schedule the deposition of one of RealNetworks’s former  
8 employees, Ms. Nicole Hamilton, even though she confirmed to me in three separate phone  
9 conversations that she was willing to sit for a deposition in Seattle or San Francisco, on almost  
10 any day between December 9 and 19.

11 3. We decided to depose Ms. Hamilton based on the documents produced by  
12 RealNetworks. The documents indicate that she was the sole employee at RealNetworks  
13 responsible for registering with and obtaining a CSS License for RealNetworks from the DVD  
14 CCA. It appears also that she was charged with understanding the CSS License’s requirements  
15 and how to comply with those requirements. For example, she organized a meeting to discuss  
16 various provisions of the CSS License with the developers at RealNetworks. Over the past week,  
17 multiple RealNetworks’ employees have claimed in depositions not to remember anything about  
18 that meeting.

19 4. On December 3, in an effort to schedule Ms. Hamilton’s deposition, my colleague  
20 Rebecca Lynch and I called her. We introduced ourselves as lawyers for the Studio Defendants  
21 in this litigation. We first asked her whether she was represented by a lawyer, either her own or a  
22 RealNetworks lawyer. She said that she was not represented by any counsel and that she was, in  
23 fact, not on good terms with RealNetworks. She said that she had been fired by RealNetworks  
24 and told to clear out her office without any notice. She said she had no desire to speak to  
25 RealNetworks or its counsel.

26 5. Ms. Hamilton was very cooperative and willing to discuss RealNetworks’ efforts  
27 to develop RealDVD and the “new platform.” We told her, however, that we did not want to  
28 discuss anything of substance outside the presence of Real’s counsel. She said she understood.

1 When she later started discussing her time at RealNetworks, I cut her off and reminded her that  
2 we did not want to discuss anything substantive outside the presence of RealNetworks' counsel.  
3 She again said she understood. We never spoke to Ms. Hamilton about anything substantive.

4 6. Ms. Hamilton readily agreed to sit for a deposition in Seattle or San Francisco (if  
5 we paid her airfare) on any day between December 9 and 19. She asked if she could be paid for  
6 her time at the rate she charges consulting clients. I told her that I understood the inconvenience  
7 and burden of a deposition and that we were willing to pay her travel expenses, but that we could  
8 not pay her for her time. She said she understood and agreed to appear for a deposition even if  
9 she was not paid for her time.

10 7. That same day, December 3, we informed RealNetworks' counsel by phone and  
11 email that we wished to depose Ms. Hamilton.

12 8. Later that day, I called Ms. Hamilton back and spoke with her for two minutes. I  
13 proposed December 9 for a deposition, and she agreed. We left the location open, but I assured  
14 her that if the deposition was in San Francisco either the defendants or the parties together would  
15 pay for her travel expenses. Later that evening, Ms. Hamilton left me a voicemail message saying  
16 that she was wondering about retaining her own counsel.

17 9. On the morning of December 4, I returned Ms. Hamilton's call and spoke with her  
18 for about 10 minutes. I confirmed that she remained available on December 9, as well as  
19 December 10-19, if we needed to reschedule. She said she was generally available. She then  
20 asked if she needed her own counsel. She had someone in mind, with whom she already had a  
21 personal and professional relationship. I told her that she was free to retain counsel if she wished,  
22 but I could not advise her one way or another. She asked if we would pay for her counsel, and I  
23 said that would not be appropriate. She said that she understood. I mentioned that another  
24 alternative was an informal conversation outside of the deposition context — but in the presence  
25 of RealNetworks' counsel. She said she would consider that option.

26 10. Later that morning, I informed counsel for RealNetworks by email and voicemail  
27 that we had scheduled Ms. Hamilton's deposition for December 9. I asked if they would be  
28 willing to split her transportation costs if the deposition were in San Francisco.

