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NORTHERN DISTRICT OF CALIFORNIA

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9 REALNETWORKS HOME
ENTERTAINMENT, INC.

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11 UNITED STATES DISTRICT COURT
12 NORTHERN DISTRICT OF CALIFORNIA

HRL

C 08 CASE NO. 4548

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.,
20 a Delaware nonprofit corporation, DISNEY
ENTERPRISES, INC., a
21 Delaware corporation; PARAMOUNT
PICTURES CORP., a Delaware corporation;
22 SONY PICTURES ENTERTAINMENT, INC., a
Delaware corporation; TWENTIETH CENTURY
23 FOX FILM CORP., a Delaware corporation;
NBC UNIVERSAL, INC., a Delaware
24 corporation; WARNER BROS.
ENTERTAINMENT, INC., a Delaware
25 corporation; and VIACOM, Inc., a Delaware
26 Corporation.

27 Defendants.

COMPLAINT FOR
DECLARATORY RELIEF

[DEMAND FOR JURY TRIAL]

INTRADISTRICT ASSIGNMENT

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2 9. Pursuant to Civil Local Rule 3-2(c), this action may be assigned on a district-wide
3 basis.

THE PARTIES

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5 10. RealNetworks is a Washington corporation with its principal place of business in
6 Seattle, Washington. It is engaged in the business of, among other things, developing,
7 manufacturing, and selling platforms for the delivery of digital media.
8

9 11. RealNetworks Home Entertainment, Inc. is a Delaware corporation with its
10 principle place of business in Seattle, Washington. It is a subsidiary of RealNetworks and it is the
11 entity that distributes the RealDVD product.

12 12. The DVD CCA is a Delaware nonprofit corporation, having offices located in
13 Morgan Hill, California. It granted a license in the CSS technology to RealNetworks in the form
14 of a written CSS License Agreement.
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16 13. Disney Enterprises, Inc. is a Delaware corporation with its principal place of
17 business in Los Angeles, California. It is engaged in the business of, among other things, making
18 motion pictures. It is a member of the DVD CCA.

19 14. Paramount Pictures Corp. is a Delaware corporation with its principal place of
20 business in Los Angeles, California. It is engaged in the business of, among other things, making
21 motion pictures. It is a member of the DVD CCA.
22

23 15. Sony Pictures Entertainment, Inc. is a Delaware corporation with its principal place
24 of business in Culver City, California. It is engaged in the business of, among other things,
25 making motion pictures. It is a member of the DVD CCA.

26 16. Twentieth Century Fox Film Corp. is a Delaware corporation with its principal
27 place of business in Los Angeles, California. It is engaged in the business of, among other things,
28 making motion pictures. It is a member of the DVD CCA.

1 Studio Defendants assert that the CSS License Agreement grants them the right to enforce certain
2 of its provisions, including Section 4.2. See CSS License Agreement § 9.5.

3 23. On or about August 13, 2007, RealNetworks signed the CSS License Agreement.
4 It is thereby entitled to use the CSS technology under the terms of that Agreement.

5 **B. Development Of The RealDVD System.**

6 24. RealDVD provides DVD users with, among other things, the ability to save a
7 personal copy of a DVD they own on a secure hard drive for their own personal use. The copy
8 preserves the CSS encryption. The RealDVD system thus protects the user from, among other
9 things, damage or loss of a DVD, while ensuring that the encryption protection in the original
10 DVD is maintained. Further, RealDVD enhances the original protection by incorporating an
11 additional layer of protection at a level beyond that required by the CSS License Agreement. The
12 RealDVD system also provides a number of other desirable features, such as parental controls that
13 ensure children access only entertainment that is appropriate for their age, central storage that
14 permits users to keep all the motion pictures they own in one easily accessible location, and the
15 capability for users to watch their movies on a variety of devices they own for greater ease of use
16 and convenience.

17 25. Approximately two weeks ago, Plaintiffs made known to the Defendants that the
18 RealDVD system would be released on September 30, 2008.

19 **C. The Legal Dispute With The Studio Defendants**

20 26. Subsequently, the Studio Defendants, on their own behalf and on behalf of the
21 DVD CCA of which they are members, advised Plaintiffs that they believed that the RealDVD
22 product violated the CSS License in that the RealDVD product allegedly did not conform to the
23 CSS Specifications. The Defendants further claim that the RealDVD product violates the anti-
24 circumvention provisions of the DMCA.
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1 27. Plaintiffs do not believe that the RealDVD product violates the CSS License
2 Agreement or the DMCA or any rights of the Defendants, and have so advised the Studio
3 Defendants.

4 28. Efforts to resolve this dispute have failed.

5 **FIRST CAUSE OF ACTION**

6 (Declaratory Relief under Contract Claim)

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8 29. Plaintiffs reallege and incorporate by reference the allegations contained in
9 Paragraphs 1 through 28 as if fully set forth herein.

10 30. There is an actual and justiciable controversy relating to the legal rights and duties
11 of Plaintiffs and Defendants under the CSS License Agreement in that the Defendants have
12 advised Plaintiffs that they believe the RealDVD Product violates the CSS License Agreement.
13 This controversy is of sufficient immediacy and reality to warrant the issuance of a declaratory
14 judgment.

15
16 31. Thus, a declaration of Plaintiffs' rights under the CSS License Agreement is
17 necessary to protect Plaintiffs from uncertainty and insecurity, which is causing Plaintiffs injury
18 by, among other things, damaging its goodwill and disrupting its business. Without the requested
19 declaration of its rights, the Defendants will continue to jeopardize Plaintiffs' interests.

20 **SECOND CAUSE OF ACTION**

21 (Declaratory Relief under the Digital Millennium Copyright Act, 17 U.S.C. § 1201)

22 32. Plaintiffs reallege and incorporate by reference the allegations contained in
23 Paragraphs 1 through 31 as if fully set forth herein.

24 33. RealNetworks is a licensee of CSS technology, and the RealDVD product was
25 designed to conform to the CSS Specifications. As a result, the RealDVD product is authorized
26 by the Defendants to utilize CSS technology to access the content of DVDs to which the Studio
27 Defendants own the copyrights.
28

1 34. The RealDVD product is not primarily designed or produced for the purpose of
2 circumventing a technological measure that effectively controls access to a copyrighted work, or
3 that protects the right of a copyright owner. Rather, the RealDVD product ensures that the
4 encryption protection in the original DVD is maintained and enhanced by incorporating an
5 additional layer of protection at a level beyond that required by the CSS License Agreement.

6 35. The RealDVD product has commercially significant purposes and uses other than
7 to circumvent a technological measure that effectively controls access to a copyrighted work, or
8 that protects the right of a copyright owner. By way of example only, the RealDVD product
9 provides the owners of DVDs with the ability to save a personal copy of a DVD on a secure hard
10 drive for private use, and protects the DVD owner against damage or loss of a DVD that he or she
11 has obtained through legitimate means.

12 36. The RealDVD Product has not been marketed for use in circumventing a
13 technological measure that effectively controls access to a copyrighted work, or that protects the
14 right of a copyright owner. Rather, the RealDVD Product has been marketed as licensed software
15 that “saves a secure copy of a DVD to the hard drive without removing or altering the CSS
16 encryption.”

17 37. Plaintiffs request a judicial determination and declaration as to whether the
18 RealDVD product violates the provisions of 17 U.S.C. § 1201. Such a judicial determination and
19 declaration is necessary to protect Plaintiffs from uncertainty and insecurity, which is causing
20 Plaintiffs injury by, among other things, damaging its goodwill and disrupting its business.
21 Without the requested declaration of its rights, the Defendants will continue to jeopardize
22 Plaintiffs’ interests.

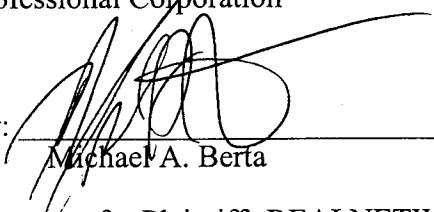
23 WHEREFORE, based on the foregoing, Plaintiffs respectfully request that the Court grant
24 the following relief:
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- a. A judgment declaring that the CSS License Agreement permits the manufacture, distribution, and sale of the RealDVD product;
- b. A judgment declaring that the Plaintiffs do not violate the DMCA;
- c. Attorneys' fees and costs; and
- d. Such other relief as this Court deems just and equitable.

Dated: September 30, 2008

WILSON SONSINI GOODRICH & ROSATI
Professional Corporation

By: 

Michael A. Berta
Attorneys for Plaintiffs REALNETWORKS,
INC. and REALNETWORKS HOME
ENTERTAINMENT, INC.

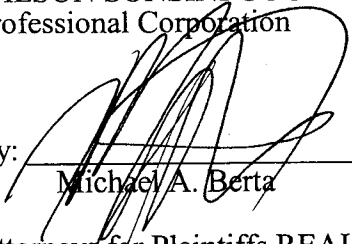
DEMAND FOR JURY TRIAL

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Plaintiffs hereby demand a jury trial as provided by Rule 38 of the Federal Rules of Civil Procedure.

Dated: September 30, 2008

WILSON SONSINI GOODRICH & ROSATI
Professional Corporation

By: 

Michael A. Berta
Attorneys for Plaintiffs REALNETWORKS,
INC. and REALNETWORKS HOME
ENTERTAINMENT, INC.