

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

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

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

16 Attorneys for Plaintiffs

17 UNITED STATES DISTRICT COURT
18 CENTRAL DISTRICT OF CALIFORNIA
19 WESTERN DIVISION

20 UNIVERSAL CITY STUDIOS
21 PRODUCTIONS LLLP, UNIVERSAL
CITY STUDIOS LLLP, PARAMOUNT
22 PICTURES CORPORATION,
TWENTIETH CENTURY FOX FILM
23 CORPORATION, SONY PICTURES
TELEVISION INC., COLUMBIA
24 PICTURES INDUSTRIES, INC., SONY
PICTURES ENTERTAINMENT INC.,
25 DISNEY ENTERPRISES, INC., WALT
DISNEY PICTURES and WARNER
26 BROS. ENTERTAINMENT INC.,

27 Plaintiffs,

CASE NO.
**COMPLAINT FOR VIOLATION OF
DIGITAL MILLENNIUM
COPYRIGHT ACT, 17 U.S.C.
§§ 1201, ET SEQ. AND FOR
BREACH OF CONTRACT**

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vs.
REALNETWORKS, INC. and
REALNETWORKS HOME
ENTERTAINMENT, INC.,
Defendants.

1 This Court has original subject matter jurisdiction over the first cause of
2 action pleaded herein pursuant to 28 U.S.C. §§ 1331 and 1338(a), and the Digital
3 Millennium Copyright Act, 17 U.S.C. §§ 1201, *et seq.* (the “DMCA”); and
4 supplemental jurisdiction over the second cause of action pleaded herein pursuant
5 to 28 U.S.C. § 1367. Plaintiffs Universal City Studios Productions LLLP,
6 Universal City Studios LLLP, Paramount Pictures Corporation, Twentieth Century
7 Fox Film Corporation, Sony Pictures Television Inc., Columbia Pictures Industries,
8 Inc., Sony Pictures Entertainment Inc., Disney Enterprises, Inc., Walt Disney
9 Pictures and Warner Bros. Entertainment Inc. (collectively, “Plaintiffs”), by their
10 attorneys, for their complaint against RealNetworks, Inc. (“RealNetworks”) and
11 RealNetworks Home Entertainment, Inc. (“RealNetworks Home Entertainment”)
12 (jointly, “Real” or “Defendants”), allege, on personal knowledge as to themselves
13 and information and belief as to others, as follows:

14 NATURE OF THE ACTION

15 1. Real has announced its intention to commence trafficking in a software
16 product called “RealDVD” that by design bypasses technological measures that
17 protect against access to and copying of movies from digital versatile discs
18 (“DVDs”). As anyone who has ever watched a popular movie on a DVD knows
19 from the opening message, copying the content on the DVD is strictly prohibited.
20 RealDVD circumvents the technological measures that help to enforce this
21 prohibition.

22 2. Real admits that what RealDVD is doing “has been done illegally for
23 awhile” with other software products, a long line of which have been shut down by
24 the federal courts. Real, however, claims that RealDVD differs from its
25 predecessors, and that when RealDVD circumvents the DVD protection measures,
26 it is “legal” and “100% legit.” There is nothing legal or legitimate about it. Real
27 unlawfully makes and sells a product that circumvents the DVD protection
28

1 measures and makes playable copies of protected content onto computer hard
2 drives.

3 3. Plaintiffs own and/or control copyrights in many of the most
4 successful and critically acclaimed movies and recorded television programs
5 released in the United States and throughout the world, and they and their affiliates
6 and licensees are among the leading producers and distributors of such motion
7 pictures content in the DVD format. Plaintiffs have invested billions of dollars
8 creating their content and distributing it to consumers. Each Plaintiff studio was
9 unwilling to release its content on DVD until technological measures were adopted
10 to safeguard that content from access and copying. RealDVD places Plaintiffs and
11 their businesses at risk of immediate and widespread harm. For the low price of
12 \$29.99, RealDVD can be used to build a hard-drive library of complete copies of
13 motion picture content on DVDs, including from DVDs borrowed from friends or
14 rented (at a fraction of the purchase price) from NetFlix, Blockbuster or other rental
15 services. The misuse of Plaintiffs' content is of no concern to Real, which pockets
16 \$29.99 for every base product it sells – and an extra \$19.99 for each additional copy
17 of the software that will allow copied DVD content to be played on additional hard
18 drives. It is small wonder, then, that Real's CEO, Rob Glaser, anticipates his
19 product's illicit use with a shrug and a knowing wink: "If you want to steal, we
20 remind you what the rules are and we discourage you from doing it, but we're not
21 your nanny."

22 4. Real was able to design RealDVD to circumvent the DVD protection
23 technology by misusing a limited license it obtained to make authorized DVD
24 products. Specifically, in August 2007, RealNetworks obtained a license from the
25 organization that licenses the DVD protection technology, the DVD Copy Control
26 Association ("DVD-CCA") (the "DVD-CCA License Agreement"). The DVD-
27 CCA License Agreement authorized Real to make DVD *player* products. Real,
28 however, used the technology it obtained under the DVD-CCA License Agreement

1 to develop RealDVD, a DVD *copying* product that performs the completely
2 unauthorized function of circumventing CSS's access- and copy-controls to make
3 digital-to-digital playable copies from DVDs to computer hard drives. Real's
4 misuse of the DVD protection technology was not only unauthorized but was
5 prohibited by the DVD-CCA license agreement.

6 5. Plaintiffs are entitled to immediate relief from Real's flagrant violation
7 of their rights. RealDVD's assault on the market for DVDs is obvious: the ability
8 to use RealDVD to "rent (or borrow), rip, and return" motion picture content
9 released on DVD fundamentally changes the economic equation of buying DVDs.
10 For example, why pay \$18.50 for a DVD if the same content can be copied
11 permanently and perfectly for the two dollars (or less) it costs to rent the movie?
12 For that matter, why pay \$3.25 to "rent and rip" a movie if it can be borrowed from
13 a friend or acquaintance for free, copied with RealDVD and then returned?

14 6. The harm that RealDVD threatens to inflict is hardly limited to the sale
15 and rental of DVDs. RealDVD also poses an immediate threat to significant
16 alternative means whereby Plaintiffs distribute content in digital format to
17 consumers. Plaintiffs currently offer their content through video-on-demand
18 channels, Internet download services (*e.g.*, Amazon and iTunes), "Digital
19 Download" DVDs (premium DVD packages that include a digital copy suitable for
20 download to a personal computer or portable device) and other channels. Plaintiffs
21 are actively pursuing and developing – and taking the associated risks of investing
22 money, time and technology in – these and other digital distribution channels.
23 RealDVD, which has incurred none of the risks and made none of the investments
24 in these businesses, threatens to undermine all of these present and potential
25 channels, at significant cost to Plaintiffs and their business partners.

26 7. The fact that Real is the entity trafficking in RealDVD greatly
27 increases the threat to Plaintiffs' business. Real is no minor player in the
28 information technology sector. Real itself estimates that its products (*e.g.*, the

1 RealPlayer) reside on millions of personal computers in the United States and Real
2 enjoys extensive brand recognition. Real plainly has the capability, through these
3 other Internet-connected products, to “blast” electronic messages to its millions of
4 users in an attempt to market its new RealDVD product. Moreover, Real styles
5 itself as a maker and distributor of lawful products, not as a renegade “hacker.” By
6 promoting RealDVD as completely legal and legitimate, Real conveys the false
7 impression that conduct that consumers have long understood to be wrong is now
8 legal. This misleading promotion threatens to drive up early and immediate
9 adoption of RealDVD by millions of end-users, each of whom will have
10 downloaded a copy of RealDVD that can be used to evade DVD protection
11 measures and allow for unlawful copying on an enormous scale.

12 8. Real’s conduct will cause grave and irreparable harm to Plaintiffs
13 should it be allowed to continue unabated. Plaintiffs bring this action to stop that
14 harm and protect their rights.

15 **THE PARTIES**

16 9. Plaintiff Universal City Studios Productions LLLP (“Universal City
17 Studios Productions”) is a limited liability limited partnership duly organized under
18 the laws of the State of Delaware with its principal place of business located in
19 Universal City, California.

20 10. Plaintiff Universal City Studios LLLP (“Universal City Studios”) is a
21 limited liability limited partnership duly organized under the laws of the State of
22 Delaware with its principal place of business located in Universal City, California.

23 11. Plaintiff Paramount Pictures Corporation (“Paramount”) is a
24 corporation duly incorporated under the laws of the State of Delaware with its
25 principal place of business located in Los Angeles, California.

26 12. Plaintiff Twentieth Century Fox Film Corporation (“Fox”) is a
27 corporation duly incorporated under the laws of the State of Delaware with its
28 principal place of business located in Los Angeles, California.

1 13. Plaintiff Sony Pictures Television Inc. (“Columbia TriStar”) is a
2 corporation duly incorporated under the laws of the State of Delaware with its
3 principal place of business located in Culver City, California.

4 14. Plaintiff Columbia Pictures Industries, Inc. (“Columbia Pictures”) is a
5 corporation duly incorporated under the laws of the State of Delaware with its
6 principal place of business located in Culver City, California.

7 15. Plaintiff Sony Pictures Entertainment Inc. (“Sony Pictures”) is a
8 corporation duly incorporated under the laws of the State of Delaware with its
9 principal place of business located in Culver City, California.

10 16. Plaintiff Disney Enterprises, Inc. (“DEI”) is a corporation duly
11 incorporated under the laws of the State of Delaware with its principal place of
12 business located in Burbank, California.

13 17. Plaintiff Walt Disney Pictures (“WDP”) is a corporation duly
14 incorporated under the laws of the State of California with its principal place of
15 business located in Burbank, California.

16 18. Plaintiff Warner Bros. Entertainment Inc. (“Warner Bros.”) is a
17 corporation duly incorporated under the laws of the State of Delaware with its
18 principal place of business located in Burbank, California.

19 19. On information and belief, Defendant RealNetworks, Inc. is
20 incorporated under the laws of the State of Washington and has its principal place
21 of business at 2601 Elliott Avenue, Suite 1000, Seattle, Washington 98121.

22 20. On information and belief, Defendant RealNetworks Home
23 Entertainment, Inc. is incorporated under the laws of the State of Delaware and has
24 its principal place of business at 2601 Elliott Avenue, Suite 1000, Seattle,
25 Washington 98121.

26 **JURISDICTION AND VENUE**

27 21. The Court has subject matter jurisdiction over the federal law cause of
28 action pleaded herein pursuant to 28 U.S.C. §§ 1331 (federal question), and 1338(a)

1 (any act of Congress relating to copyright), and pursuant to the DMCA, 17 U.S.C.
2 §§ 1201, *et seq.* Pursuant to 28 U.S.C. § 1367, this Court has supplemental
3 jurisdiction over the state law cause of action pleaded herein because it is so related
4 to Plaintiffs' claims under the DMCA as to be part of the same case or controversy.

5 22. This Court has personal jurisdiction over Real, and venue is proper in
6 this Judicial District pursuant to 28 U.S.C. § 1391(b) because, *inter alia*, (a) Real
7 and/or its agents are doing business in this District; and (b) a substantial part of the
8 events or omissions giving rise to this lawsuit, as well as substantial injury to
9 Plaintiffs, have occurred or will occur in interstate commerce, in the State of
10 California, and in the Central District of California as a result of Real's violations
11 of the DMCA, as alleged in detail below. Venue also is proper in this District
12 pursuant to 28 U.S.C. § 1400(a) in that Real may be found in this District in light of
13 its extensive commercial activities here. Real also has expressly consented, in
14 Section 9.5 of the DVD-CCA License Agreement, to jurisdiction and venue in this
15 Judicial District over the second cause of action herein.

16 **BACKGROUND FACTS**

17 **Plaintiffs' Copyrighted Motion Pictures and Television Programs**

18 23. Plaintiffs, directly or through their affiliates, are engaged in the
19 business of developing, producing, and distributing, and licensing to others the right
20 to distribute and exhibit, copyrighted motion pictures and/or television programs in
21 the United States and throughout the world.

22 24. Plaintiffs, either directly or through their affiliates and/or licensees,
23 distribute their copyrighted works in various forms, including, without limitation,
24 for exhibition in theaters, through television broadcasts, through cable and direct-
25 to-home satellite services (including basic, premium, "pay-per-view" and "video on
26 demand" television services), and through digital download platforms such as the
27 MovieLink, CinemaNow, Playstation Network, iTunes, Xbox Live Marketplace,
28 and Amazon Video on Demand services. In addition, Plaintiffs distribute their

1 motion pictures and/or television programs on DVD by selling them directly or
2 indirectly to the home viewing market. Further, consumers have the option to
3 purchase certain of Plaintiffs' copyrighted works in configurations that include –
4 often for an additional fee – DVDs with added features that include a so-called
5 “Digital Download” file, *i.e.*, a file containing a digital copy of the motion picture
6 that can be uploaded to a computer hard drive.

7 25. A DVD is a digital storage medium that is capable of storing the
8 digital video and audio information that comprises a full-length motion picture (or
9 other audiovisual work). Since the introduction of DVDs into the marketplace,
10 DVD has become the dominant medium for the distribution of movies or other
11 audiovisual works for home viewing.

12 26. Plaintiffs have invested (and continue to invest) substantial sums of
13 money and effort each year to develop, produce and distribute motion pictures
14 and/or television programs protected under copyright and other laws. Real's illegal
15 actions, as described below, deprive Plaintiffs of their exclusive rights and the
16 economic value of those rights.

17 **The DVD Technology and the Content Scramble System (“CSS”)**

18 27. DVDs are five-inch wide optical discs that contain recorded material
19 in digital form, in this case Plaintiffs' copyrighted motion pictures and/or television
20 programs. Commercial entertainment DVDs also typically contain ancillary or
21 “bonus” material, *e.g.*, interviews or deleted scenes, which is also subject to
22 copyright protection. DVD technology has significantly improved the clarity and
23 overall quality of home viewing of pre-recorded content, *e.g.*, viewing audiovisual
24 material on a television or computer screen.

25 28. Because DVDs contain material in digital form, they present a
26 heightened risk of illegal reproduction and distribution of copyrighted material.
27 Without appropriate safeguards, the material can be digitally copied and transmitted
28 repeatedly without degradation of the clarity and overall quality. The distribution

1 of works in digital form on DVDs also presents an increased risk that illegal digital
2 copies of Plaintiffs' copyrighted works will be transmitted over the Internet, stored
3 in computer memory, or duplicated for unlawful sale, transfer or exchange. Once
4 these copies are "in the clear" and in the hands of others, repeated reproduction and
5 distribution are possible, and the unlawful processes can be replicated endlessly.

6 29. To substantially lower the risks of such illegal copying, each Plaintiff
7 insisted upon the development of an access control and copy prevention system to
8 safeguard against access to and reproduction of their copyrighted works released in
9 digital form on DVD format. Plaintiffs currently use the Content Scramble System,
10 or "CSS," for this purpose.

11 30. CSS is an encryption-based security and authentication system that
12 requires the use of appropriately licensed and configured hardware, such as a DVD
13 player or computer DVD drive, to decrypt, unscramble and play back the material
14 contained on encrypted DVDs. CSS includes elements of encryption and other
15 security and authentication measures that require DVD playback products to
16 operate with certain keys in order to descramble and play back copies of the
17 material contained on the DVDs. CSS also safeguards against reproduction and
18 distribution of such keys and of the copyrighted audiovisual content released on
19 DVD format.

20 31. The CSS technology is licensed by the DVD-CCA. The DVD-CCA
21 licenses the CSS technology enabling the manufacture of CSS-compliant products.
22 CSS has been licensed to hundreds of DVD player and drive manufacturers (both
23 hardware and software) and DVD content distributors in the United States and
24 around the world. All sectors of the DVD industry, including the software and
25 hardware manufacturers of DVD players, drives and replicators and of
26 descrambling modules that must be employed in DVD products, as well as disc
27 replicators and content providers (including Plaintiffs and other motion picture and
28

1 television studios), have adopted CSS as direct licensees of DVD-CCA or by
2 contracting through CSS licensees.

3 32. DVD-CCA licenses CSS subject to strict requirements that prevent
4 misuse of the DVD content by licensed players. These controls are intended to
5 ensure, among other things, that DVD player technology is used only to enable
6 viewing – and not copying – of DVDs. Nothing in the DVD-CCA License
7 Agreement authorizes a licensee to create a product to make playable copies of
8 DVD content.

9 33. Plaintiffs have relied upon the security provided by CSS in
10 manufacturing, producing and distributing to the public their copyrighted works in
11 standard definition DVD format.

12 **Real Obtains A DVD-CCA License And Uses The Licensed Technology To**
13 **Develop A Circumvention Product, RealDVD**

14 34. On or about August 13, 2007, Defendant RealNetworks executed a
15 DVD-CCA License Agreement in order to become a licensee of CSS technology.

16 35. With the benefit of the CSS technology it obtained with authorization
17 to build a product to *play* DVDs, Real developed RealDVD, a product that makes
18 playable, permanent *copies* of DVDs. RealDVD bypasses the CSS protection
19 measures by making a complete, bit-for-bit copy of the entire contents of a CSS-
20 protected DVD onto either a local computer hard drive or a connected external USB
21 hard drive. These copies are fully playable from the hard drive. A user of
22 RealDVD can register up to four additional computer hard drives to their RealDVD
23 account, for an additional charge of \$19.99 each. Once registered, each of these
24 additional hard drives will play at least those copies saved to an external USB hard
25 drive connected to the first computer registered to the user's account.

26 36. The purpose and use of RealDVD is to circumvent, unlawfully and
27 without any authorization, the CSS access control and copy control systems that
28 protect Plaintiffs' content on DVDs. Plaintiffs have not granted any license,

1 permission, or authorization to Real or its end-users to circumvent CSS as
2 described herein.

3 37. RealDVD, by design and operation, causes immediate and irreparable
4 harm to Plaintiffs and their exclusive rights protected under federal law. Users of
5 RealDVD can load their entire DVD collection – or a series of DVDs they rent
6 from services like Blockbuster or Netflix – to computer hard drives to create
7 electronic “jukeboxes.” RealDVD also can be used to load entire DVD collections
8 of friends and neighbors, thus creating a significantly expanded library. Although
9 RealDVD’s graphic user interface warns users not to do so, RealDVD does not stop
10 an end-user from loading rented or borrowed DVDs onto a computer, illegally
11 copying the entire content, and thereby obtaining a permanent, playable copy of the
12 content for the minimal price of a rental fee or for free (in the case of borrowed
13 DVDs).

14 38. Real’s dissemination of RealDVD causes substantial harm to Plaintiffs
15 and to their intellectual property and threatens to interfere with the continued
16 growth and development of numerous existing and developing distribution
17 channels.

18 **FIRST CAUSE OF ACTION**

19 **(VIOLATION OF THE DIGITAL MILLENNIUM COPYRIGHT ACT,**
20 **17 U.S.C. §§ 1201, ET SEQ.)**

21 **[By Universal City Studios Productions, Paramount, Fox, Columbia TriStar,**
22 **Columbia Pictures, DEI and Warner Bros. Against Both Defendants]**

23 39. Plaintiffs Universal City Studios Productions, Paramount, Fox,
24 Columbia TriStar, Columbia Pictures, DEI and Warner Bros. (the “DMCA
25 Plaintiffs”) incorporate by reference each and every allegation set forth in
26 Paragraphs 1 through 38, inclusive, as though fully set forth herein.

27 40. Section 1201(a)(2) of the DMCA, 17 U.S.C. § 1201(a)(2), provides, in
28 pertinent part, that no person shall manufacture, import, offer to the public, provide,

1 or otherwise traffic in any technology, product, service, device, component, or part
2 thereof, that (A) is primarily designed for the purpose of circumventing a
3 technological measure that effectively controls access to a work protected under
4 this title; (B) has only limited commercially significant purpose or use other than to
5 circumvent a technological measure that effectively controls access to a work
6 protected under this title; or (C) is marketed by that person or another acting in
7 concert with that person with that person's knowledge for use in circumventing a
8 technological measure that effectively controls access to a work protected under
9 this title.

10 41. Section 1201(b) of the DMCA, 17 U.S.C. § 1201(b) provides, in
11 pertinent part, that no person shall manufacture, import, offer to the public, provide,
12 or otherwise traffic in any technology, product, service, device, component, or part
13 thereof, that (A) is primarily designed for the purpose of circumventing protection
14 afforded by a technological measure that effectively protects a right of a copyright
15 owner under this title in a work or a portion thereof; (B) has only limited
16 commercially significant purpose or use other than to circumvent protection
17 afforded by a technological measure that effectively protects a right of a copyright
18 owner under this title in a work or a portion thereof; or (C) is marketed by that
19 person or another acting in concert with that person with that person's knowledge
20 for use in circumventing protection afforded by a technological measure that
21 effectively protects a right of a copyright owner under this title in a work or a
22 portion thereof.

23 42. CSS is a judicially recognized technological measure employed by the
24 DMCA Plaintiffs that (a) effectively controls access to works protected by the
25 Copyright Act and (b) effectively protects the DMCA Plaintiffs' copyrights by
26 controlling whether an end user can reproduce, manufacture, adapt, publicly
27 perform and/or distribute copies of their copyrighted works or portions thereof.
28

1 43. Real offers to the public, provides, and/or otherwise traffics in a
2 software product – RealDVD – that (a) is primarily designed or produced for the
3 purpose of circumventing CSS or the protection afforded by CSS; (b) has only
4 limited commercially significant purpose or use other than to circumvent CSS or
5 the protection offered by CSS; and/or (c) is marketed by Real and/or others acting
6 in concert with it with the knowledge that RealDVD is used to circumvent CSS or
7 the protection afforded by CSS.

8 44. By circumventing CSS and by offering to the public and providing the
9 services hereinabove alleged, Real has violated 17 U.S.C. §§ 1201(a)(2), and
10 1201(b).

11 45. The DMCA Plaintiffs will sustain actual damage in that, among other
12 things, the value of their copyrighted works will be reduced and their goodwill will
13 be harmed as a result of Real’s violation of 17 U.S.C. §§ 1201(a)(2), and 1201(b).
14 The DMCA Plaintiffs also are entitled to Real’s profits from its violations of 17
15 U.S.C. §§ 1201(a)(2), and 1201(b). Alternatively, at the DMCA Plaintiffs’
16 election, Plaintiffs are entitled to an award of the maximum statutory damages as
17 permitted by the DMCA, 17 U.S.C. § 1203(c).

18 46. Real’s conduct, unless enjoined and restrained by the Court, will cause
19 grave and irreparable injury to the DMCA Plaintiffs, who have no adequate remedy
20 at law. Pursuant to 17 U.S.C. § 1203, the DMCA Plaintiffs are entitled to a
21 permanent injunction prohibiting further violations of § 1201.

22 47. The DMCA Plaintiffs further are entitled to their attorneys’ fees and
23 full costs pursuant to 17 U.S.C. § 1203.

1 **SECOND CAUSE OF ACTION**
2 **(BREACH OF CONTRACT)**

3 **[By Universal City Studios, Paramount, Fox, Sony Pictures, WDP and Warner**
4 **Bros. Against Defendant RealNetworks]**

5 48. Plaintiffs Universal City Studios, Paramount, Fox, Sony Pictures,
6 WDP and Warner Bros. (collectively, the "Beneficiary Claim Plaintiffs")
7 incorporate by reference each and every allegation set forth in Paragraphs 1 through
8 38, inclusive, as though fully set forth herein.

9 49. As part of the consideration for the DVD-CCA License Agreement,
10 RealNetworks expressly agreed to confer third-party beneficiary rights on any
11 "Eligible Content Provider," defined in Section 9.5 as an entity that has
12 commercially released one or more prerecorded motion pictures on DVD utilizing
13 CSS. The Beneficiary Claim Plaintiffs and/or their affiliated companies are CSS
14 Licensees that have commercially released one or more prerecorded motion
15 pictures on DVD utilizing CSS. As such, the Beneficiary Claim Plaintiffs are
16 Eligible Content Providers under the DVD-CCA License Agreement and are
17 express third-party beneficiaries with standing to initiate or institute a Beneficiary
18 Claim (under Section 9.5(a)) to require RealNetworks to comply with its
19 obligations under the DVD-CCA License Agreement. The Beneficiary Claim
20 Plaintiffs bring their state law breach of contract action against RealNetworks as a
21 Beneficiary Claim under Section 9.5 of the DVD-CCA License Agreement. The
22 Beneficiary Claim Plaintiffs have satisfied each and every condition precedent
23 under the DVD-CCA License Agreement to commence a Beneficiary Claim against
24 RealNetworks.

25 50. The DVD-CCA License Agreement imposes a number of specific
26 restrictions on RealNetworks. Among other requirements, Section 4.2 of the DVD-
27 CCA License Agreement requires that RealNetworks only manufacture DVD
28 products in compliance with certain technical and procedural specifications (the

1 “CSS Specifications”). The CSS Specifications require, among other things that
2 DVD products implement certain content features intended to protect against access
3 to, duplication of, and/or redistribution of CSS-protected content. One such
4 measure is that, in order for a user of a DVD to watch a motion picture, a physical
5 DVD must be present in the player or computer DVD disk drive, a provision that
6 the RealDVD software clearly violates.

7 51. RealDVD fails to comply with the DVD-CCA License Agreement,
8 including the CSS Specifications, by, among other things, allowing Plaintiffs’
9 copyrighted content to be viewed without having a physical DVD in the disk drive
10 of the computer. This is in material breach of Section 4.2 of the DVD-CCA
11 License Agreement.

12 52. RealNetworks’ breaches of Section 4.2 of the DVD-CCA License
13 Agreement will injure The Beneficiary Claim Plaintiffs by exposing their valuable
14 copyrighted content to infringement of their exclusive rights, including without
15 limitation the exclusive right of reproduction. Such injury is irreparable in that
16 money damages alone cannot compensate the Beneficiary Claim Plaintiffs for such
17 injury. Accordingly, as set forth below, the Beneficiary Claim Plaintiffs seek
18 injunctive relief as authorized by the DVD-CCA License Agreement. Such
19 measures are necessary and appropriate to protect the Beneficiary Claim Plaintiffs’
20 copyrighted works.

21 53. As a direct and proximate result of RealNetworks’ breaches of the
22 DVD-CCA License Agreement, the Beneficiary Claim Plaintiffs will incur
23 mitigation costs to remedy the effects of those breaches, and have and will incur
24 attorneys fees enforcing their rights.

25 54. The Beneficiary Claim Plaintiffs further allege, on information and
26 belief, that RealNetworks’ conduct was willful and/or malicious.

27 55. Pursuant to Section 9.5 of the DVD-CCA License Agreement, the
28 Beneficiary Claim Plaintiffs are entitled to an award of reasonable attorneys’ fees,

1 expenses and costs of up to \$2 million, as well as recovery of the Beneficiary Claim
2 Plaintiffs' mitigation costs of up to \$100,000, all as set forth in Section 9.5 of the
3 DVD-CCA License Agreement.

4 **PRAYER FOR RELIEF**

5 **WHEREFORE**, Plaintiffs pray for judgment against Real and against all of
6 its affiliates, agents, servants, employees, partners and all persons in active concert
7 or participation with it, for the following relief:

- 8 (a) On the first cause of action, a temporary restraining order and
9 preliminary and permanent injunctive relief enjoining Real and
10 all of its employees, officers, directors, agents, servants,
11 affiliates, attorneys, successors and assigns, and all those acting
12 directly or indirectly in concert or participation with any of
13 them, from violating Plaintiffs' rights under the DMCA by
14 selling, offering, marketing or otherwise trafficking in
15 RealDVD, or any product with substantially similar
16 functionality;
- 17 (b) On the first cause of action, an award to the DMCA Plaintiffs of
18 damages they have sustained or will sustain by reason of Real's
19 violation of 17 U.S.C. §§ 1201(a)(2) and/or 1201(b), all profits
20 derived by Real from such conduct, or in lieu thereof, should the
21 DMCA Plaintiffs so elect, such statutory damages as the Court
22 shall deem proper as provided in 17 U.S.C. § 1203(c), including
23 damages for each act of circumvention, device, product,
24 component, offer or performance of service in violation of 17
25 U.S.C. §§ 1201(a)(2) and/or 1201(b);
- 26 (c) On the second cause of action, preliminary and permanent
27 injunctive relief enjoining RealNetworks and anyone acting in
28 concert with it from violation of the DVD-CCA License

1 Agreement, including but not limited to the obligations set forth
2 in Section 4.2 of the DVD-CCA License Agreement;

- 3 (d) On both causes of action, an order directing that Real file with
4 the Court and serve upon counsel for Plaintiffs within thirty (30)
5 days after the entry of such order or judgment, a report in
6 writing and under oath setting forth in detail the manner and
7 form in which Real has complied with the injunction;
- 8 (e) Plaintiffs' costs and reasonable attorneys' fees in accordance
9 with 17 U.S.C. §§ 505 and/or 1203 and/or as set forth in Section
10 9.5 of the DVD-CCA License Agreement;
- 11 (f) For recovery of the Beneficiary Claim Plaintiffs' mitigation
12 costs of up to \$100,000, as set forth in Section 9.5 of the DVD-
13 CCA License Agreement;
- 14 (g) Prejudgment and post-judgment interest; and
- 15 (h) All such further and additional relief, in law or in equity, to
16 which Plaintiffs may be entitled or which the Court deems just
17 and proper.

18 DATED: September 30, 2008

MUNGER, TOLLES & OLSON LLP

19 MITCHELL SILBERBERG & KNUPP
20 LLP

21 GREGORY P. GOECKNER
22 DANIEL E. ROBBINS

23 By: 
24 _____
25 GLENN D. POMERANTZ

26 Attorneys for Plaintiffs
27
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