

Supplemental Declaration of Robert W. Schumann

I declare, under penalty of perjury, as follows:

1. I am the President and Chief Executive Officer of Cinea, LLC, a digital content security firm. This Declaration supplements my January 19, 2000 Declaration before the Court and is submitted in support of plaintiffs' motion to modify the preliminary injunction issued in this case on January 20, 2000 and for leave to amend the complaint. In this Declaration, I focus particularly on the issue of "linking" on the Internet, including:

- a. The technical aspects of "hyperlinks" on the Internet, generally; and
- b. The particular hyperlinks present on the web site of 2600.com.

I make this Declaration based upon my own personal knowledge, including my review of the 2600.com web site, the sites to which it is now linking containing DeCSS, certain standard works on software and Internet-related technologies, as well as other documents and things referred to in this Supplemental Declaration. I could and would competently testify to the matters set forth below should I be called as a witness before this Court.

2. A hyperlink, in the context of the Internet, generally refers to software instructions which, when executed, cause a signal to be sent to another location where data or material can be retrieved for viewing, copying or further transmission. Historically, many of the concepts used in the Internet today, especially linking, came from many years of research and development into fields known as HyperText and HyperMedia. These fields describe the building of formal and informal networks of linked information through which a user can navigate (browse) to find and retrieve information, media and other elements. Vannevar Bush first referenced the concept in 1945 and the first crude implementations were created in the late 1960's and 70's. A significant precursor to the modern HyperMedia systems came from Apple Computer with the introduction

of its HyperCard help system in 1987. HTML, which stands for Hyper-Text Markup Language, itself was first introduced in 1990. HTML is an interpreted computer language which describes the contents, layout, and actions associated with a “page” of information. The software programs used to execute the HTML, display the results, and implement the user interaction are commonly known as “browsers.” Hyperlinks are a key element of HTML and are the instructions which cause the browser to locate and retrieve the “linked-to” item. Thus, “linking” is shorthand for the hyperlink, and describes the process of tying together Web pages, or other elements, such that a user can easily locate and retrieve specific information from a second location described or contained within the first location (or page). I have attached as Exhibits U and V respectively true and correct copies of relevant pages of the works Elizabeth Castro, HTML FOR THE WORLD WIDE WEB, at 117, and Kiersten Conner-Sax & Ed Krol, THE WHOLE INTERNET: THE NEXT GENERATION, at 302, both of which provide more in-depth descriptions of linking as used in today’s modern Internet and the world wide web in particular.

3. As use of the Internet has expanded, the use of hyperlinks has grown considerably. They enable a user to quickly locate and retrieve data from another file or web site location without having to search and/or manually input a particular file or site location. Thus, for example, a lengthy text document may include links to material located elsewhere within the same document, in a related file, or in another Internet web site. By making that material readily available through the use of a hyperlink, much time and effort is saved by the user. All the user need do is “click” on the word, text, icon or other “signifier” and the user’s browser software will execute the embedded instructions to locate and retrieve the “linked to” material without further input or keystrokes by the user. Using hyperlinks is also advantageous because, unlike having to rely on a “search engine” to seek out and locate relevant material on the Internet using key words,

the hyperlink is essentially a “hard-wired” path with specific instructions directly to the desired material. This saves considerable user and computational time.

4. Many hyperlinks to other sites are often targeted to the specific place within the “linked to” site where the desired content appears. As discussed below, based upon my analysis of the hyperlinks contained on 2600.com, a considerable number of them go directly to the location on the “linked to” site where DeCSS appears.

5. Given the utility of hyperlinks to quickly retrieve information or material at other locations, it is now common for commercially available software, such as Microsoft Word and Microsoft Frontpage to automatically create hyperlinks in certain instances. For example, using the Frontpage software, if one types in a particular web site address in the customary URL format (*e.g.*, www.2600.com), the software will automatically convert that “plaintext” reference into a hyperlink. While it is true that anyone wishing to refer to the places on the Internet where DeCSS appears may, by typing in the URL information described above, inadvertently create a hyperlink to that Internet location, that is not what is occurring at the 2600.com web site, for the reasons described below.

6. I have reviewed the 2600.com web site and, in particular, its contents insofar as DeCSS is concerned. At the time of my earlier Declaration in this case, the list of hyperlinks on the 2600.com site to DeCSS were contained within the interior of that site in connection with an article dated November 12, 1999 and required the user to take multiple steps before arriving at the list of 2600 hyperlinks. At that time, one selected “News Archive” from the 2600.com home page (www.2600.com), then clicked on “November” under the 1999 archive section and clicked “select.” This brought up an entry list of articles. After clicking on “11.12.19 DVD Encryption Cracked,” a page was displayed containing an article. At the end of the article was a list of

hyperlinks to web sites containing DeCSS. In addition, 2600 was, at that time, also posting DeCSS to its own web site by means of an “interior” hyperlink between two locations on its own site. At that time, in order to access and download DeCSS from the 2600.com site, one navigated first to the article referenced above on the web site and then clicked on the highlighted DeCSS hyperlink. (See Declaration of Bruce E. Boyden, Esq., in Support of Plaintiffs’ Application for a Preliminary Injunction, dated January 13, 2000 (“Boyden Moving Decl.”) Ex. 7.)

7. Since the January 20, 2000 injunction, the 2600.com web site has been reformatted. Now, there is text on the opening page of the 2600.com site which reads “Help us fight the MPAA by leafletting and mirroring DeCSS.” (Ex. F.) By clicking on the highlighted word “mirroring,” one is linked immediately to another part of the site where the list of hyperlinks to other DeCSS locations appears. (Ex. B.) By clicking on any of the hyperlinks in this list, the user is then given direct access to DeCSS in one or another of the following ways:

- a. Some of these hyperlinks are set up so that, as soon as the user clicks on the 2600 link, the file containing DeCSS is immediately presented to the user’s computer, which usually presents a “save-as” screen requesting the user to confirm the location to which to download the DeCSS file. Examples of this type of hyperlink can be found on the 2600.com site as follows:

<http://chimera.ae.krakow.pl/~grajewsp/DeCSS.zip>, <http://logical-solutions.com.au/DeCSS.zip>, and <http://www.darkkingz.com/DeCSS.zip>. See, e.g., Ex. G.

- b. In a considerable number of other cases, by clicking on the DeCSS hyperlink appearing on the 2600.com site, the user is presented with the specific page or

directory listing from another web site where a DeCSS hyperlink appears. When the user clicks on that hyperlink, DeCSS is immediately presented to the user's computer for downloading, as described in Paragraph 7(a) above. Examples of this are: <http://altern.org/tekrebel>, <http://artun.ee/~rommi/css>, and http://www.geocities.com/cold_dvd. *See, e.g.*, Exs. H, P.

- c. There are also hyperlinks on the 2600 site where DeCSS may appear on the first page of that web site or may require the user to locate the presence of DeCSS beyond the first presented page. Examples of this are:

<http://personalweb.smcvt.edu/wtaylor/decss.html>,
<http://users.1st.net/roundhere/decss>, and <http://home.cyberarmy.com/enac/dvdencrypt.html>. *See, e.g.*, Exs. I, N, O, Q.

- d. Finally, some of the hyperlinks on the 2600 site, when clicked on, present the user with another web site location which itself contains hyperlinks that, when clicked on, transport the user to yet another site or page that presents the user with the downloadable DeCSS utility. This "cascading link" approach is exemplified by <http://briefcase.yahoo.com/clcktwr>, <http://dvdcopy.cjb.net>, <http://the.wiretapped.net/wt/dvd>, and <http://isupport2600.8m.com>. *See, e.g.*, Exs. J-M. In almost all cases, the link on the 2600 site retrieves that portion of the web page at the "linked to" sites where the further DeCSS link appears.

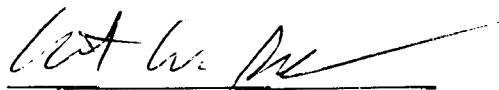
8. Although, as stated above, certain computer software makes it possible to create hyperlinks inadvertently, my analysis of the 2600.com site reveals that this is not what is being done here. First, it is obvious, based upon a review of the statements and other text on the 2600.com site, that the appearance of these hyperlinks is no inadvertent act but, instead, part of a

deliberate effort to proliferate DeCSS as widely as possible. By clicking on the highlighted word "mirroring" at the 2600.com home page, the user is presented with a page within the 2600.com site which encourages people to "mirror" or copy the DeCSS files and put them up on the Internet through other web sites. That page also requests that 2600 "followers" copy and post DeCSS to the Internet as part of an effort to continue proliferating DeCSS; it also requests that they provide 2600 with the web site locations of these DeCSS postings to enable the 2600 site to "get new links constantly" and "continue to update the links as long as we're able to." 2600 even goes so far as to provide a custom set of data entry fields specifically for providing the "URL" addresses of these mirrored sites. *See Ex. B.*

9. Because a considerable number of the 2600 hyperlinks take the user directly to DeCSS, *see ¶ 7* above, it is also apparent that the overwhelming majority of these hyperlinks are designed to furnish the DeCSS utility with minimal user effort (other than to confirm an instruction to download DeCSS). It is thus plain that the hyperlinks created by 2600 and the URL information furnished by the "linked to" site are part and parcel of a deliberate effort to deliver DeCSS.

10. If the hyperlinks to DeCSS on the 2600.com site are disabled or removed, that will not, in and of itself, cause any of the postings of DeCSS on the "linked to" web sites to disappear. Instead, by removing or disabling the defendants' hyperlinks, the delivery of DeCSS will not be nearly as easy as it is now because these sites are effectively functioning as a distribution center for the ready availability and delivery of DeCSS with a few clicks of a button.

Dated: April 3, 2000


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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

UNIVERSAL CITY STUDIOS, INC.;)	00 Civ. 277 (LAK)(RLE)
PARAMOUNT PICTURES CORPORATION;)	
METRO-GOLDWYN-MAYER, INC.; TRISTAR)	
PICTURES, INC.; COLUMBIA PICTURES)	
INDUSTRIES, INC.; TIME WARNER)	
ENTERTAINMENT CO., L.P.; DISNEY)	
ENTERPRISES, INC.; AND TWENTIETH)	DECLARATION OF BRUCE E.
CENTURY FOX FILM CORPORATION,)	BOYDEN, ESQ., IN SUPPORT OF
)	PLAINTIFFS' MOTION TO
Plaintiffs,)	MODIFY THE JANUARY 20, 2000
)	ORDER OF PRELIMINARY
v.)	INJUNCTION AND FOR LEAVE
)	TO AMEND THE COMPLAINT
SHAWN C. REIMERDES; ERIC CORLEY A/K/A)	
"EMMANUEL GOLDSTEIN"; AND ROMAN)	
KAZAN,)	
)	
Defendants.)	
)	

BRUCE E. BOYDEN, being an attorney duly admitted to practice before this Court, hereby declares as follows under penalty of perjury:

1. I am an attorney associated with Proskauer Rose LLP, attorneys for plaintiffs Universal City Studios, Inc.; Paramount Pictures Corporation; Metro-Goldwyn-Mayer, Inc.; TriStar Pictures, Inc.; Columbia Pictures Industries, Inc.; Time Warner Entertainment Co., L.P.; Disney Enterprises, Inc.; and Twentieth Century Fox Film Corporation (collectively "Plaintiffs"), in the above-captioned matter. I submit this declaration in support of Plaintiffs' motion to modify the preliminary injunction and for leave to amend the complaint.

2. Since the filing of Plaintiffs' motion for a preliminary injunction on January 14, 2000, I have periodically revisited the web sites of defendants Eric Corley a/k/a "Emmanuel Goldstein" and 2600 Enterprises, Inc. (the "2600 defendants"), at <http://www.2600.com>. The analysis set forth below and the Exhibits attached to this Declaration are the result of that continuing investigation.

3. When Plaintiffs' motion for a preliminary injunction was filed, the 2600 defendants maintained a so-called "mirror list" — a list of hyperlinks to sites where users could go to obtain the illegal DeCSS utility at issue in this case. The list is contained on the page within the 2600 defendants' site at <http://www.2600.com/news/1999/1227-help.html>. At the time Plaintiffs' motion for a preliminary injunction was filed, the mirror list contained approximately 161 hyperlinks. See Declaration of Bruce E. Boyden, Esq., in Support of Plaintiffs' Application for a Preliminary Injunction, dated January 13, 2000 ("Boyden Moving Decl.") Ex. 7.

4. At the time that this Court issued its preliminary injunction Order, the number of hyperlinks on the list remained unchanged. Attached as Exhibit A is a true and correct copy of the mirror list as it existed on January 24, 2000. (The first page of Exhibit A is a true and correct

copy of the text message at the top of the mirror list on January 24.)

5. Shortly thereafter, the 2600 defendants began adding to the number of hyperlinks on the mirror list. A true and correct copy of the mirror list as it existed on March 23, 2000 is attached as Exhibit B. The 2600 defendants added 313 hyperlinks to the mirror list between January 24 and March 23, and removed 43 hyperlinks that were no longer active; there are now (as of March 23) a total of 431 hyperlinks on the list, 357 of which are active (as explained below). The site now (as of March 23) also contains input fields at the end of the list of hyperlinks, where users are instructed to “submit your mirror site containing these files,” presumably for inclusion in the list.

6. The 2600 defendants have also changed the “home page” of their web site (i.e., the page that users first view when typing “www.2600.com” into their browsers), since the preliminary injunction was entered. That page now (as of March 23) features a plea to “STOP THE MPAA”, explaining, “Help us fight the MPAA by leafletting and mirroring DeCSS.” When the word “mirroring” is clicked on, it takes the user directly to the mirror list on the site. Previously, on February 1, 2000, the 2600 defendants issued a “CALL TO ACTION” on their home page, requesting readers to “HELP MIRROR DECSS” and directing them to the mirror list. Attached as Exhibits C through F are true and correct copies of the “home page” as it existed on February 1, 2000, February 5, 2000, February 7, 2000, and March 23, 2000, respectively.

7. As part of my investigation, I visited every web site linked to by the 2600 defendants via their mirror list. I confirmed, for each “linked-to” site, whether the DeCSS file was available at the site. I found that, as of March 23, 74 sites are no longer active, leaving a total of 357 active linked-to sites on the Defendants’ list of hyperlinks. Of those sites, 233 have been added to the list since January 20.

8. Eleven of the hyperlinks on the 2600 defendants' mirror list cause the immediate downloading of the DeCSS file when clicked on. The user is merely presented with a screen confirming that downloading should begin. A true and correct copy of the screen of my computer upon clicking one such hyperlink, <http://www.darkkingz.com/DeCSS.zip>, is attached as Exhibit G.

9. 175 of the hyperlinks on the 2600 defendants' mirror list link to sites which contain little beyond a hyperlink to the DeCSS file. Attached as Exhibit H is a true and correct copy of such a "bare-bones" site. Thus, on these sites, the user effectively is taken directly to the DeCSS utility.

10. 63 of the hyperlinks on the 2600 defendants' mirror list link to sites which require the user to scroll down a screen or so after clicking on the 2600 defendants' hyperlink in order to find the DeCSS file. Attached as Exhibit I is a true and correct copy of an example of such a site.

11. Only 18 of the hyperlinks on the 2600 defendants' mirror list link to sites which require the user to click again at the new site to reach the page or site where the DeCSS file is offered. Such sites present the user with a "cascading link" to the DeCSS file, as defined in the Supplemental Declaration of Robert W. Schumann in Support of Plaintiffs' Motion to Modify the January 20, 2000 Order of Preliminary Injunction, dated April 3, 2000, ¶ 7(d). When the user clicks on the 2600 defendants' hyperlink, the user is taken to a site or page that does not itself offer the DeCSS file, but instead contains another hyperlink that, when clicked on, transports the user directly to the icon or highlighted script on another page within that site or to another site that, when clicked on, begins the download of the DeCSS file. Attached as Exhibits J through K are true and correct copies of an example of a "cascading link". The page linked to by the 2600 defendants is attached as Exhibit J; after clicking on the hyperlink marked "here" in the sentence "Files can be found here" in Exhibit J, the user is taken to another page on the same site, attached

as Exhibit K, which in turn contains a hyperlink to a DeCSS file. Attached as Exhibits L and M are true and correct copies of another example of a cascading link, in which the user is taken from 2600.com to the linked-to site, Exhibit L, and from there (by clicking on the highlighted text "The DVD crack") to a third site, Exhibit M, where the DeCSS file can be downloaded.

12. Many of the sites contain proclamations that their owners are posting DeCSS in aid of or in response to a request by the 2600 defendants. Attached as Exhibits N through Q are true and correct copies of four such sites. For example, in the page attached as Exhibit N, the site owner announces, "I have mirrored this for www.2600.com, please d[own]load it and read there [sic] story." Another site owner proclaims, "Help support 2600 by mirroring these files and registering your link as a Mirror." A copy of that site is attached as Exhibit O. Yet another site owner instructs visitors to "Go to www.2600.com and read why these files are here." A copy of that site is attached as Exhibit P. Another site calls upon readers to "Support 2600 in their fight against the industry. . . . [G]et the DeCSS sources here." A copy of this site is attached as Exhibit Q.

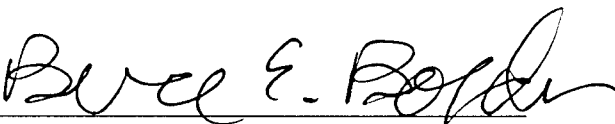
13. On some of the sites the 2600 defendants link to, the hypertext link to the DeCSS file is contained in an image rather than in underlined text. Exhibit R is a true and correct copy of an example of such a site. Clicking on the image marked "Decss.zip" at the top of the page begins the downloading of the DeCSS file.

14. All of the above-described hyperlinks on 2600.com (totaling 267) link to sites which currently offer a copy of the DeCSS file. Of the remaining 90 hyperlinks on 2600.com, 23 link to sites which contain the CSS authorization source code, and 67 either contain inactive links to the DeCSS file, or lack DeCSS or the CSS authorization source code altogether. Many of the sites in the latter category explicitly state that they have removed DeCSS in response to a request by the Motion Picture Association. Attached as Exhibit S is a true and correct copy of a

site from which DeCSS has apparently been removed by the site owner. The site owner requests that visitors proceed instead to one of the many other sites still hosting the file. Attached as Exhibit T is a true and correct copy of a site linked to by the 2600 defendants that offers the CSS authorization source code file, usually designated as "css-auth.tar.gz," and other code files, but does not offer DeCSS in the form of an immediately executable utility.

I declare under penalty of perjury that the foregoing is true and correct.

Executed: New York, New York
April 3, 2000


Bruce E. Boyden (BB-5278)