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DVD Copy Control Association, Inc.

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11 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
12 **COUNTY OF SANTA CLARA**

13 DVD COPY CONTROL ASSOCIATION, INC.,
a not-for-profit trade association,

14 Plaintiff,

15 v.

16 ANDREW THOMAS MCLAUGHLIN, an
17 individual; ANDREW BUNNER, an individual;
JOHN V. KEW, an individual; SCOTT
18 KARLINS, an individual; GLENN
ROSENBLATT, an individual; DALE
19 EMMONS, an individual, EMMANUEL
GOLDSTEIN, an individual; DOUGLAS R.
20 WINSLOW, an individual; JONATHAN
BLANK, an individual; ROGER KUMAR, an
21 individual; ROBERT JONES, an individual; EN
HONG, an individual; MATTHEW ROBERT
22 PAVOLICH, an individual; IAN A.
GULLIVER, an individual; JON HANSON, an
23 individual; DAVID M. CHAN, an individual;
CAMERON SIMPSON, an individual; TOM
24 VOGT, an individual; CYRIL AMSELLEM, an
individual; THORSTEN FENK, an individual;
25 ADRIAN BAUGH, an individual and DOES 1-
500, inclusive.

26 Defendants.
27

Case No.

**COMPLAINT FOR
INJUNCTIVE RELIEF FOR
MISAPPROPRIATION OF
TRADE SECRETS**

28 * Pro hac vice applications being submitted to the Court.

1
2 Plaintiff, the DVD Copy Control Association, Inc. (“DVD CCA”), by its
3 attorneys, Weil, Gotshal & Manges LLP, for its Complaint, alleges as follows:
4

5 INTRODUCTION

6 1. Plaintiff, DVD CCA, a trade association and the sole licensing entity for
7 Digital Video Disc (“DVD”) technology, brings this action to enjoin defendant web site owners
8 (“Defendants”) from their continued misappropriation of trade secrets licensed by DVD CCA.
9 DVD CCA is informed and believes, and based thereon alleges that Defendants have disclosed,
10 and continue knowingly and willfully to disclose, proprietary information on their Internet web
11 sites as part of a scheme to defeat DVD encryption software which thus enables users to illegally
12 pirate copies of DVD videos.
13

14 2. The named defendants, and certain Doe defendants, continue their
15 unauthorized posting of proprietary information -- which they either obtained by improper means
16 or knew or should have known was obtained by others by improper means -- despite the fact that
17 cease and desist letters were sent to their web sites demanding that such proprietary information
18 be taken down from their sites. After receiving such notice, many such web sites voluntarily
19 removed the proprietary information at issue from their sites. Certain defendants have not
20 received any notice to date because their existence has only recently come to the attention of
21 DVD CCA.
22

23
24 3. Defendants’ posting of the proprietary information licensed by DVD CCA
25 on their web sites has caused the illegal pirating of the motion picture industry’s copyrighted
26 content contained on DVDs. Defendants’ actions threaten the financial stability of this new
27 digital video format for viewing movies and other images -- which has thus far been well received
28

1 by the consuming public. Additionally, Defendants' actions threaten the very existence of DVD
2 CCA and the hundreds of companies involved in the DVD industry, including 73 companies in
3 California of which there are 42 in this county and an additional 17 in other Bay area locations.
4 Moreover, if Defendants are not restrained and enjoined, their unchecked illegal activities will
5 chill future technological innovation in the motion picture, consumer electronics and computer
6 industries and discourage other industries from making their content available to the public (as
7 the motion picture industry has done here) in new formats.
8

9 **PARTIES**

10 **The Plaintiff**

11 4. Plaintiff, DVD CCA, is a not-for-profit trade association organized under
12 the laws of the State of Delaware and has its principal place of business at 225 B Cochrane Circle,
13 Morgan Hill, California. DVD CCA is the sole licensor of a proprietary system for the
14 encryption and decryption of data contained on DVDs known as the Content Scramble System (or
15 "CSS").
16

17 **The Defendants**

18 5. DVD CCA is informed and believes, and based thereon alleges, that
19 defendant Andrew Thomas McLaughlin ("McLaughlin") is a citizen of the State of California,
20 and operates an Internet web site addressed as mclaughlin.orange.ca.us/~andrew.
21

22 6. DVD CCA is informed and believes, and based thereon alleges, that
23 defendant Andrew Bunner ("Bunner") is a citizen of the State of California, and operates an
24 Internet web site addressed as www.sharedlib.org/decss.zip.
25
26
27
28

1 7. DVD CCA is informed and believes, and based thereon alleges, that
2 defendant John V. Kew (“Kew”) is a citizen of the State of California, and operates an Internet
3 web site addressed as www.logorrhea.com/deCSS.html.
4

5 8. DVD CCA is informed and believes, and based thereon alleges, that
6 defendant Scott Karlins (“Karlins”) is a citizen of the State of Georgia, and operates an Internet
7 web site addressed as www.theresistance.net/files.html.
8

9 9. DVD CCA is informed and believes, and based thereon alleges, that
10 defendant Glenn Rosenblatt (“Rosenblatt”) is a citizen of the State of New York, and operates an
11 Internet web site addressed as www.pzcommunications.com/decss/main.html.
12

13 10. DVD CCA is informed and believes, and based thereon alleges, that
14 defendant Dale Emmons (“Emmons”) is a citizen of the State of Wisconsin, and operates an
15 Internet web site addressed as www.frozenlinux.com/civ/decss.
16

17 11. DVD CCA is informed and believes, and based thereon alleges, that
18 defendant Emmanuel Goldstein (“Goldstein”) is a citizen of the State of New York, and operates
19 an Internet web site addressed as www.2600.com/news/1999/1112.html.
20

21 12. DVD CCA is informed and believes, and based thereon alleges, that
22 defendant Douglas R. Winslow (“Winslow”) is a citizen of the State of Maryland, and operates
23 Internet web sites addressed as douglas.min.net/~drw/css-auth and Chatzone.org/~drw/css-auth.
24

25 13. DVD CCA is informed and believes, and based thereon alleges, that
26 defendant Jonathan Blank (“Blank”) is a citizen of the State of Oklahoma, and operates an
27 Internet web site addressed as caspian.twu.net/dvd.
28

1 14. DVD CCA is informed and believes, and based thereon alleges, that
2 defendant Roger Kumar (“Kumar”) is a citizen of the State of Pennsylvania, and operates an
3 Internet web site addressed as www.bigteam.org.
4

5 15. DVD CCA is informed and believes, and based thereon alleges, that
6 defendant Robert Jones (“Jones”) is a citizen of the State of South Carolina, and operates an
7 Internet web site addressed as www.dev.zero.org/freecss.html.
8

9 16. DVD CCA is informed and believes, and based thereon alleges, that
10 defendant En Hong (“Hong”) is a citizen of the State of Georgia, and operates an Internet web
11 site addressed as www.dvd-digest.com.
12

13 17. DVD CCA is informed and believes, and based thereon alleges, that
14 defendant Matthew Robert Pavolich (“Pavolich”) is a citizen of the State of Indiana, and operates
15 an Internet web site addressed as www.livid.on.openprojects.net.
16

17 18. DVD CCA is informed and believes, and based thereon alleges, that
18 defendant Ian A. Gulliver (“Gulliver”) is a citizen of the State of New York, and operates an
19 Internet web site addressed as www.gullii.stu.rpi.edu/dvd.
20

21 19. DVD CCA is informed and believes, and based thereon alleges, that
22 defendant Jon Hanson (“Hanson”) is a citizen of the State of Kansas, and operates an Internet web
23 site addressed as www.jonhanson.com/dvd.
24

25 20. DVD CCA is informed and believes, and based thereon alleges, that
26 defendant David M. Chan (“Chan”) is a citizen of the State of Minnesota, and operates an Internet
27 web site addressed as www.dumn.edu/~dchan/css.
28

1 21. DVD CCA is informed and believes, and based thereon alleges, that
2 defendant Cameron Simpson (“Simpson”) resides in Dundas Valley, Australia, and operates an
3 Internet web site addressed as www.zip.com.au/~cs.

4
5 22. DVD CCA is informed and believes, and based thereon alleges, that
6 defendant Tom Vogt (“Vogt”) resides in Wedel, Denmark, and operates an Internet web site
7 addressed as www.lemuria.org/DeCSS.

8
9 23. DVD CCA is informed and believes, and based thereon alleges, that
10 defendant Cyril Amsellem (“Amsellem”) resides in Val de Marne, France, and operates an
11 Internet web site addressed as www.dvd-area.com.

12
13 24. DVD CCA is informed and believes, and based thereon alleges, that
14 defendant Thorsten Fenk (“Fenk”) resides in the country of Germany, and operates an Internet
15 web site addressed as tasam.com/~fenkt/dvd.

16
17 25. DVD CCA is informed and believes, and based thereon alleges, that
18 defendant Adrian Baugh (“Baugh”) resides in Oxford, England, and operates an Internet web site
19 addressed as merlin.kebble.ox.ac.uk/~adrian/css/mirrors.html.

20
21 26. DVD CCA is unaware of the true names and/or capacities of the
22 defendants sued herein under the fictitious names Does 1-500, pursuant to Code of Civil
23 Procedure Section 474, who each were responsible in some way for the acts and omissions
24 complained of herein. DVD CCA will seek leave of court to amend the complaint to allege such
25 names and capacities at such time as they are ascertained.

26
27 27. DVD CCA is informed and believes, and based thereon alleges, that each
28 of the Doe defendants 1 through 26 operate Internet web sites, at the below addresses, which

1 disseminate confidential proprietary CSS information and also provide “links” to other web sites
 2 which disseminate such information:
 3

Doe Defendant	Web Site
1.	www.free-dvd.org.lu
2.	josefine.ben.tuwien.ac.at/~david/dvd
3.	rockme.virtualave.net/
4.	amor.rz.hu-berlin.de/~h0444t2v
5.	www.homestead.com/_ksi0701961562917005/avoid.../index.htm
6.	www.angelfire.com/jazz/avoiderman/
7.	www.intelcities.com/Main_Street/Avoiderman/
8.	www.members.theglobe.com/avoiderman/dvd.htm
9.	members.zoom.com/_XMCM/lkjhgfsa2/index.html
10.	www.vexed.net/CSS/
11.	www.unitycode.org/
12.	batman.jytol.fi/~vuori/dvd/
13.	www.zpok.demon.co.uk/
14.	www.dvdlinks.co.uk/css/
15.	www.twistedlogic.com/archive/dvd
16.	www.capital.net/~wooly/
17.	geocities.com/ResearchTriangle/Campus/8877/index.html
18.	www.angelfire.com/mt/popefelix/
19.	members.tripod.lycos.nl/jvz/
20.	tv.acmecity.com/parody/356/index.html
21.	cryptome.org/dvd-free.htm
22.	altern.org/bettina/0a0a.html
23.	www.crosswinds.net/~valo/DeCSS/
24.	info.astercity.net/~nicodem/
25.	134.100.185.221/decss/
26.	www.dvdripper.videopage.de/

19 28. DVD CCA is informed and believes, and based thereon alleges, that each
 20 of the Doe defendants 27 through 54 operate Internet web sites, at the below addresses, which
 21 disseminate confidential proprietary CSS information:
 22

Doe Defendant	Web Site
27.	Crypto.gq.nu
28.	www.humpin.org/decss
29.	209.132.25.138/~inkk/DVD/
30.	members.brabant.chello.nl/~j.vreeken/main.html
31.	dirtass.beyatch.net/
32.	therapy.endorphin.org/DVD/
33.	www.angelfire.com/in2/mirror/
34.	sent.freerserve.co.uk/DeCSS

Doe Defendant	Web Site
35.	members.tripod.co.uk/bap/css/css.html
36.	angelfire.com/myband/decss/top.html
37.	www.fortunecity.com/tinpan/tylerbridge/679/dvd.html
38.	munitions.vipul.net/software/algorithms/streamciphers/decss.tar.gz
39.	munitions.polkaroo.net/software/algorithms/streamciphers/decss.tar.gz
40.	munitions.dyn.org/software/algorithms/streamciphers/decss.tar.gz
41.	munitions.cifs.org/software/algorithms/streamciphers/decss.tar.gz
42.	uk1.munitions.net/software/algorithms/streamciphers/decss.tar.gz
43.	munitions.firenze.linux.it/algorithms/streamciphers/decss.tar.gz
44.	perso.libertysurf.fr/ortal98/dvd_rip/decss_12b.zip
45.	users.drak.net/bemann/software/css/
46.	www.geocities.com/SiliconValley/Port/3224/
47.	ftp://alma.dhs.org/pub/DVD/
48.	decss.tripod.com/index.html
49.	discordia.de/decss/DeCcss.zip
50.	www.dvd-copy.com/
51.	dvdtdbits.com/dvd.shtml
52.	www.neophile.net/
53.	perso.club-internet.fr/ches/dl/rippers/
54.	plato.nebulanet.net:88/css/

29. DVD CCA is informed and believes, and based thereon alleges, that each of the Doe defendants 55 through 72 operate Internet web sites, at the below addresses, which provide “links” to other web sites which disseminate confidential proprietary CSS information:

Doe Defendant	Web Site
55.	quintessenzs.at/q/mirrors.html
56.	www.ceraton.com/decss/
57.	slashdot.org/articles/99/11/09/1342207.shtml
58.	cryptome.org/dvd-css.htm
59.	ftp://dvd:dvd@206.98.63.136/
60.	www.deja.com/getdoc.xp?AN=547600297
61.	www.brakton.freesevers.com/#downloads
62.	www.remco.xgov.net/dvd/
63.	www.dvdracked.tvheaven.com/index.html
64.	dvdsite.homepage.com/
65.	www.geocities.com/Hollywood/Derby/2659
66.	get.to/dvdsite
67.	home.worldonline.dk/~andersa/download/index.htm
68.	www.ooze.org/dvd.html
69.	start.at/dvdsoft
70.	mmadb.no/hwplus/DeCSS/decss.html
71.	home.sol.no/~espen-b/dvd/css/decss.html
72.	o2.uio.no/dvd

1 **ALLEGATIONS**

2 **DVD Format and Need For Copy Protection**

3 30. DVDs provide high quality images, such as motion pictures, digitally
4 formatted on a convenient 5-inch disc that is resistant to wear and damage and allows for many
5 attractive consumer features not presently available in other video formats. DVD video discs
6 containing data comprising motion pictures in encrypted form can be played either on special
7 purpose machines (“DVD Players”) or personal computers (“PCs”) equipped with DVD drives.
8 Encryption is necessary to prevent copying of the copyrighted material on the DVD. In order that
9 the copyrighted motion picture can be played, either form of player device requires
10 implementation of the CSS algorithm and “master keys” to carry out the decryption of the data
11 stored on the disc. The implementation that provides this decryption function is developed by the
12 licensees of DVD CCA using the detailed specifications which is provided by DVD CCA to such
13 licensees.
14

15
16 31. Before allowing their copyrighted motion pictures to be used on the DVD
17 format, the motion picture companies insisted on a viable copy protection system to prevent users
18 from making copies of the motion pictures. Such protection is necessary to prevent copying from
19 discs that are rented or borrowed and, more importantly, to prevent broader scale piracy through
20 widespread transmission of these motion pictures over the Internet and widespread distribution of
21 “pirated” discs in competition with the authorized prerecorded discs.
22

23
24 32. Without the motion picture companies’ copyrighted content for DVD
25 video, there would be no viable market for computer DVD drives and DVD players, as well as the
26 related computer chips and software necessary to run these devices and, thus, there would be no
27 DVD video industry.
28

1 33. CSS is proprietary technology that was developed to provide the protection
2 demanded by the motion picture companies against unauthorized copying of their copyrighted
3 material. This proprietary technology, including trade secrets, is currently being licensed by
4 DVD CCA, as the sole duly authorized licensing entity for the CSS technology. Any party
5 desiring lawfully to use the CSS technology -- either to encrypt content or decrypt content -- must
6 do so through a license from DVD CCA.
7

8
9 **The CSS Agreement as Mechanism to Protect DVD Encryption Software**

10 34. Beginning on or about October 31, 1996, DVD CCA's predecessor-in-
11 interest began licensing CSS technology pursuant to an agreement that later became the
12 AMENDED AND RESTATED CSS INTERIM LICENSE AGREEMENT, including the related
13 CSS PROCEDURAL AND AMENDED AND RESTATED TECHNICAL SPECIFICATIONS
14 (collectively, the "CSS Agreement"). Since that time hundreds of licensees have entered into the
15 CSS Agreement. The CSS Agreement sets forth the terms and conditions under which the CSS
16 licensing entity (currently DVD CCA) would grant licenses to, among others, manufacturers of
17 DVD players or DVD drives and related hardware and software. Licensees were granted the right
18 to use the security system on DVD products and agreed to safeguard the CSS technology from
19 public disclosure.
20

21
22 35. The CSS Agreement gives the licensees the right to use the technology, and
23 provides the necessary descrambling technology and "master keys" to do so. The proprietary
24 technology is not accessible to unlicensed third parties because it is either incorporated in
25 hardware devices -- chips -- or made tamper resistant if distributed in the form of actual software.
26 Both forms of distribution are such that the proprietary technology cannot be viewed by non-
27 licensees. Each licensee is assigned a set of "master keys" unique to each licensee. When the
28

1 DVD system was created, approximately 400 such “master keys” were predesignated, to be
2 assigned to licensees over time, and each DVD disc contains, in a part of the disc not normally
3 read by the player device, a file containing the 400 “master keys.” The system will not operate
4 unless the key contained in the licensee’s decryption module (a chip or software program)
5 matches one of the “master keys” stored on the DVD disc.
6

7 36. The CSS Agreement requires licensees to maintain the confidentiality of
8 certain defined pieces of information, such as the algorithms and “master keys” and, as such,
9 licensees are subject to a very stringent set of rules to ensure the maintenance of confidentiality
10 within the group of licensees.
11

12 37. Among the safeguards taken is the requirement that only those licensees
13 that absolutely need to know a particular algorithm and/or key are provided with such
14 information. For example, a manufacturer of semiconductor chips for descrambling CSS content
15 in stand-alone DVD players is provided with information necessary for manufacturing such chips
16 but not with information concerning the scrambling process itself or the authentication between
17 DVD drives and the descrambling module used for computer-based implementations. Companies
18 that merely assemble parts and components produced by others may be required to be licensees in
19 order to purchase such parts and components, but these companies are not provided with the
20 proprietary CSS information at issue.
21
22

23 38. The CSS Agreement mandates that licensees provide the proprietary CSS
24 technology at issue only to the strictest minimum number of licensee's employees who require
25 access to the information, beginning with only three employees and expanding beyond three only
26 upon notification to the licensor of the names of the additional employees. Licensees who violate
27
28

1 these requirements are subject to liquidated damages in the amount of \$1 million per violation
2 (with a cap based on profits made from the sale of licensed products).

3
4 39. Additionally, licensees implementing authentication and descrambling
5 functions in the software are required to do so only in a manner that obscures the proprietary CSS
6 technology at issue, so as effectively to frustrate anyone seeking to obtain such proprietary
7 information. Specific means of accomplishing this protection requirement are provided to
8 licensees to illustrate the types of measures to be taken and the level of technical skill that must
9 be employed to defeat any such measures. Failure to abide by these operating restrictions can
10 subject the licensee to injunctions prohibiting the sale of the product in which the failure occurs,
11 through actions brought either by the licensor or by third party beneficiary content owners.
12

13 **Creation of DVD CCA**

14
15 40. DVD CCA's predecessor-in-interest began the process of licensing
16 companies to use the technology pursuant to copy protection rules contained in the "procedural
17 specifications" associated with the CSS Agreement. The companies in the DVD video business
18 (motion picture, computer, and consumer electronics companies) recognized that the licensing of
19 CSS technology, which is and was critical to the adoption of the DVD video format, ought to be
20 controlled and administered by the companies in the three industries together and that the costs
21 associated with such critical intellectual property protection should be borne by the hundreds of
22 companies involved in the DVD video business.
23

24
25 41. The DVD industry agreed that the best solution would be the creation of a
26 licensing entity owned and controlled by the licensees of the technology, pursuant to governance
27 rules that balanced the interests of the three industries involved.
28

1 responsible for posting the link. The web site operator is named as Doe defendant 70 in this
2 Complaint.

3
4 46. On information and belief, the DeCSS program first appeared in the United
5 States, as early as October 25, 1999, on a web site operated by defendant Pavolich addressed as
6 www.livid.on.openprojects.net.

7
8 47. On information and belief, this proprietary information was obtained by
9 willfully “hacking” and/or improperly reverse engineering software created by CSS licensee Xing
10 Technology Corporation (“Xing”). Xing’s software is and was licensed to users under a license
11 agreement which specifically prohibits reverse engineering.

12
13 48. Since the October 25, 1999 appearance of DeCSS, proprietary CSS
14 information has been displayed on web sites (or by web sites “linking” to other web sites which
15 display the information) in at least 11 states and 11 countries throughout the world. Extensive
16 investigative efforts were immediately undertaken by DVD CCA and the Motion Picture
17 Association’s (“MPA”) anti-piracy task force, to locate web sites which were posting and/or
18 “linking” to other sites posting the proprietary information, and Internet service providers which
19 were hosting such sites. The MPA sent notices to 66 web sites and Internet service providers
20 demanding that this information be removed immediately. After receiving such notice,
21 approximately 25 of these web sites and Internet service providers voluntarily removed the
22 proprietary information or “links” to the information at issue. On information and belief, all
23 named defendants (with the exception of defendant Hanson) and Does 1, 8, 10 through 14, 16, 26,
24 28, 31, 32, 33, 35, 48 through 54, and 62 through 72 have received notice through the MPA and
25 refused to remove the information at issue. Defendant Hanson and the other Doe defendants have
26 not received any notice to date because their existence has only recently become known.
27
28

1 49. Defendants knew or should have known when they posted or provided
2 “links” to the DeCSS program on their web sites that it was being made available by virtue of the
3 unauthorized use of proprietary information and that they were misusing proprietary confidential
4 information gained through improper means. This is because the DeCSS program has the
5 capability to defeat DVD encryption software and, as a result, the DeCSS program allows users to
6 illegally pirate the copyrighted motion pictures contained on DVD videos - - activity which is
7 fatal to the DVD video format and the hundreds of computer and consumer electronics companies
8 whose businesses rely on the viability of this digital format.
9

10
11 50. Information posted on Defendants’ web sites establishes that they are fully
12 aware that, in posting or “linking” to the DeCSS program, they are wrongfully appropriating
13 proprietary trade secrets. For example:
14

15 (a) Defendant McLaughlin explains to visitors of his site: "Mark of the scofflaw!
16 Here's my local copy of the CSS decryption software, enjoy[;]"

17 (b) Defendant Baugh acknowledges that “I may very well be sued....”

18 (c) Doe defendant 14 challenges: “I have the money to go to court. Your call[;]”

19 (d) in response to the MPA and DVD CCA’s anti-piracy efforts, including cease
20 and desist letters, defendants Vogt, Blank, and Doe defendants 4, 9, 23 and 37
21 provide a “Note to the lawyers and other scum ... It was the DVD consortium that
22 f***up, ...[;]”

23 (e) similarly, defendant Jones explains “Listen, lawyers, and those you represent:
24 This is none of your concern. The horse has been let out[;]” mocking the “trained
25 weasels you call lawyers[;]”

26 (f) Doe defendant 35 states: “F[_ _ _] da feds! ... “[h]uh? Aren’t these files legal?
27 Oh, well, I didn’t know that!”
28

29 51. DVD encryption technology was (and is) critical to the adoption and
30 utilization of the DVD format. Without such copy protection, the motion picture companies
31 would not have allowed their copyrighted motion pictures to be available in this new digital video
32 format. Without motion picture content, there would be no viable market for computer DVD

1 drives and DVD players, as well as the related computer chips and software necessary to run
2 these devices. Accordingly, the Defendants' continued misappropriation of proprietary CSS
3 technology will have a devastating effect on DVD CCA and many other California businesses in
4 the motion picture, computer, and consumer electronics industries, who have invested substantial
5 amounts of money and resources in the development of the DVD video format.
6

7 52. The sole business purpose and reason for the existence of DVD CCA, a
8 trade association headquartered in Morgan Hill, California, is to be the tri-industry licensing
9 entity and administrator of the CSS technology. Defendants' continued misappropriation and
10 dissemination of proprietary CSS technology threatens the existence of the DVD format and,
11 thus, the very existence of DVD CCA. If the proprietary nature of the CSS technology is
12 compromised, it will likely mean the end of this California business.
13

14 53. The effect of the unlawful activities of the Defendants on the motion
15 picture industry, centered in California -- as well as on the numerous California computer and
16 consumer electronics businesses, including 73 companies in California of which there are 42 in
17 Santa Clara County and an additional 17 in other Bay area locations -- is immeasurable. Apart
18 from the substantial resources that these industries have invested in the adoption of the DVD
19 format, the wholesale copying and distribution of copyrighted motion pictures destroys the
20 motion picture industry's ability to protect its intellectual property and destroys the market for the
21 computer and consumer electronics industries' DVD-based products.
22
23

24 54. In addition to the immediate consequence that copyrighted motion pictures
25 have been pirated, the "hack" and disclosure of the CSS proprietary information has already had a
26 very serious adverse effect on consumers, in California and elsewhere, in that the introduction of
27 a related product -- DVD audio -- has been delayed. The major music companies have indicated
28

1 that they are not prepared to use a “compromised” system to protect their content and have
2 insisted on the creation of a new technology and system. The launch of DVD audio products,
3 planned for December 1999, has, thus, been postponed for at least six months while new copy
4 protection technology is developed, agreed upon, and implemented.
5

6
7 **FIRST CAUSE OF ACTION**
8 **(Misappropriation of Trade Secrets)**

9 55. DVD CCA repeats and realleges the allegations of paragraphs 1 through 54
10 of this Complaint and incorporates them herein by reference.

11 56. DVD CCA and its predecessors-in-interest have adopted reasonable
12 measures as described herein to maintain the secrecy of the CSS information at issue.

13
14 57. DVD CCA and its predecessors-in-interest, as well as companies in the
15 motion picture, computer, and consumer electronics industry have invested substantial amounts of
16 money and resources in the development of safeguards, such as the CSS licensing mechanism, to
17 protect copyrighted material contained on DVD discs. The CSS license and, in particular, how it
18 protects the DVD technology, is of great commercial importance to DVD CCA and the motion
19 picture, computer, and consumer electronics industries.
20

21 58. The proprietary algorithms and/or “master keys” of the CSS are valuable
22 proprietary property and trade secrets currently licensed by DVD CCA.
23

24 59. Defendants knew or should have known when they posted the DeCSS
25 program on their web sites or provided “links” to other sites posting this program, that such
26 program was created through the unauthorized use of proprietary CSS information, which was
27 illegally “hacked.”
28

1 60. Defendants knew or should have known when they posted or “linked” to
2 the DeCSS program that they were misusing confidential, proprietary information belonging to
3 DVD CCA or one of its predecessors-in-interest and/or that their activities were improper because
4 such program was designed specifically to enable users to defeat CSS encryption in order to
5 illegally pirate DVD videos and, thus, was specifically aimed at infringing motion picture
6 industry copyrights in the DVD contents.
7

8 61. Defendants’ posting or “linking” to the DeCSS program on their web sites,
9 with full knowledge of its unlawful purpose and despite notice of its infringing nature and
10 demands to remove the same, constitutes the willful misappropriation of the CSS trade secrets at
11 issue.
12

13 62. As a result of Defendants’ misappropriation of its trade secrets, DVD CCA
14 has suffered and continues to suffer irreparable injury, for which there is no adequate remedy at
15 law.
16

17 63. Defendants’ misappropriation of the CSS trade secrets was carried out in a
18 willful, wanton and reckless manner in disregard of the rights of DVD CCA.
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20 64. Unless enjoined by the Court, Defendants will continue their
21 misappropriation of the CSS trade secrets by continuing to post and “link” to the proprietary
22 information on their web sites and plaintiff will continue to suffer irreparable harm.
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PRAYER FOR RELIEF

WHEREFORE, DVD CCA prays for judgment:

1. that Defendants have willfully misappropriated the CSS technology trade secrets;

2. entering a temporary restraining order and preliminary and permanent injunctions, enjoining and restraining Defendants, their officers, directors, principals, agents, servants, employees, attorneys, successors and assigns, and all those acting in concert, combination or participation with any of them either directly or indirectly, singly or together, from making any further use or otherwise disclosing or distributing, on their web sites or elsewhere, or “linking” to other web sites which disclose, distribute, or “link” to any proprietary property or trade secrets relating to the CSS technology and specifically enjoining Defendants, its officers, directors, principals, agents, servants, employees, attorneys, successors and assigns, and all those acting in concert, combination or participation with any of them either directly or indirectly, singly or together, from copying, duplicating, licensing, selling, distributing, publishing, leasing, renting or otherwise marketing the DeCSS computer program and all other products containing, using, and/or substantially derived from CSS proprietary property or trade secrets;

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3. awarding to DVD CCA the costs of this action, reasonable attorneys fees,
and such further and other relief as is found just and proper.

Dated: December 28, 1999

WEIL, GOTSHAL & MANGES LLP

By: _____
JARED B. BOBROW
(State Bar. No.133712)

Attorneys for Plaintiff
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* Pro hac vice applications being submitted to the Court.