

**Before the  
COPYRIGHT ROYALTY BOARD  
LIBRARY OF CONGRESS  
Washington, D.C.**

**In the Matter of:**

**Digital Performance Right in Sound  
Recordings and Ephemeral Recordings**

**Docket No. 2009-1  
CRB Webcasting III**

**REALNETWORKS, INC.'S REQUEST FOR PRODUCTION OF DOCUMENTS  
REFERENCED DURING THE DEPOSITION OF DR. MICHAEL PELCOVITS**

Pursuant to 17 U.S.C. § 803(b)(6)(C), 37 C.F.R. §§ 351.5(b) and paragraph 4(d) of Discovery Schedule issued by the Copyright Royalty Judges on November 10, 2009, RealNetworks, Inc. ("RealNetworks") requests that SoundExchange, Inc. ("SoundExchange") produce the documents described herein no later than December 31, 2009.

RealNetworks herein incorporates the Definitions and Instructions contained in RealNetworks, Inc.'s and Live365, Inc.'s First Set of Requests for Production of Documents from SoundExchange, Inc., of December 1, 2009.

During his deposition, Dr. Pelcovits stated that "I didn't try to run [my proposed interactive adjusted rate] through a business model for a particular type of webcaster. I did look at it compared to the model that the NAB members are planning for the future." Tr. 12/14/09 221:17 – 222:6 (Pelcovits Deposition) (Initial Transcript).

Based on Dr. Pelcovits's statements, RealNetworks requests:

The "model that the NAB members are planning for the future" and all documents containing or concerning calculations conducted by Dr. Pelcovits and all results derived from working with this model, including (a) all data sufficient to replicate fully and completely all such calculations, analyses, results and/or adjustments; (b) any

intermediate datasets created in the processing of data; and (c) any output files resulting from data manipulation or calculations. To the extent responsive documents are Excel spreadsheets or other files containing embedded analyses or calculations, please provide copies in native format, identifying the applicable program (e.g., Excel) and maintaining all embedded formulas and settings.

The discussion during the deposition leading up to Dr. Pelcovits's statement and the statement itself indicate that these documents were used by Dr. Pelcovits to assess the proposed interactive adjusted rate presented in his initial report and so should have been included with the initial disclosure documents. Therefore, pursuant to paragraph 4(d) of the Discovery Order, this document request does not count towards RealNetworks's total number of document requests.

Dated: December 17, 2009



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## CERTIFICATE OF SERVICE

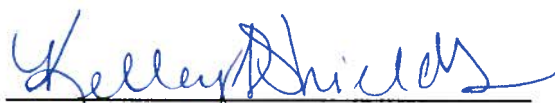
I, Kelley Shields, do hereby certify that copies of the foregoing  
“RealNetworks, Inc.’s Request for Production of Documents Referenced  
during the Deposition of Dr. Michael Pelcovits” were sent via email and first  
class mail this 17th day of December, 2009, to the following:

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