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 12 SONY COMPUTER ENTERTAINMENT AMERICA INC.

13 UNITED STATES DISTRICT COURT
 14 NORTHERN DISTRICT OF CALIFORNIA
 15 SAN FRANCISCO DIVISION

16 SONY COMPUTER ENTERTAINMENT
 AMERICA INC., a Delaware Corporation,

17 Plaintiff,

18 v.

19 GABRIEL GARCIA a/k/a GABRIEL GARCIA
 20 PALACIOS, an individual, d/b/a GABE'S
 REPAIR/HOME NETWORKING AND
 21 VIDEO GAME MOD SERVICE; TIMOTHY
 JOEY ZOUCHA, JR., an individual; DOES 1-
 22 20 inclusive,

23 Defendants.

Case No. C08-03954 SI

**STIPULATED PRELIMINARY
 INJUNCTION AND [PROPOSED]
 ORDER**

Hon. Susan Illston

1 **INTRODUCTION**

2 On August 19, 2008, Plaintiff Sony Computer Entertainment America Inc. (“Plaintiff” or
3 “SCEA”)¹ filed with the United States District Court for the Northern District of California (the
4 “Court”) a Complaint for Damages and Injunctive Relief against Defendant Gabriel Garcia
5 (“Defendant” or “Mr. Garcia”) and others. The Complaint alleges that Mr. Garcia, and others, have
6 advertised, including on Craigslist.org, have offered for sale, and have sold services and devices for
7 the modification of PSP® devices to enable the downloading and playing of copied or counterfeit
8 video game software. The Complaint further alleges that Mr. Garcia and others have advertised,
9 offered for sale, copied, distributed, and sold copied or counterfeit video game software for use with
10 PSP® devices. On August 20, 2008, SCEA served Mr. Garcia with the Complaint. Subsequently, on
11 August 25, 2008, Mr. Garcia agreed to immediately cease the conduct complained of in the Complaint
12 and to turn over to SCEA the devices in his possession used to modify PSP® devices. Accordingly,
13 SCEA and Mr. Garcia hereby stipulate to entry of a preliminary injunction.

14
15 **STIPULATED ORDER**

16 **ACCORDINGLY, IT IS HEREBY ORDERED THAT** Mr. Garcia, whether as an
17 individual or as a principal, officer, director or employee of any business entity, and his agents,
18 servants, employees, and any and all persons in active concert or participation with him who receive
19 notice of this Order, shall be and hereby are preliminarily enjoined and restrained during the pendency
20 of this action from advertising, offering, selling, and distributing:

- 21 A. Services for the modification, “modding,” or “unbricking” of PSP® devices, or any
22 other computer entertainment systems distributed by SCEA.
23 B. Software and hardware, including batteries or other devices, used for the modification,
24 “modding,” or “unbricking” of PSP® devices, or of any other computer entertainment

25
26 ¹ SCEA is engaged in the business of marketing and distributing computer video game console
27 hardware, including the PSP® (PlayStation® Portable) handheld computer entertainment system, and
28 of developing, marketing, and distributing video game software, including software that operates with
the PSP® device. SCEA owns various trademarks, copyrights, and other intellectual property as
described in the Complaint.

1 systems distributed by SCEA.

2 C. Modified or “unbricked” PSP® devices, or any other modified computer entertainment
3 systems distributed by SCEA.

4 D. Copied, downloaded, or counterfeit videogame software playable on PSP® devices or
5 any other computer entertainment systems distributed by SCEA, including without
6 limitation, the video game titles identified at paragraphs 41 and 47 of the Complaint.

7
8 **IT IS FURTHER ORDERED** that Mr. Garcia, whether as an individual or as a principal,
9 officer, director or employee of any business entity, and his agents, servants, employees, and any and
10 all persons in active concert or participation with him who receive notice of this Order, shall be and
11 hereby are preliminarily enjoined and restrained during the pendency of this action from in any way
12 assisting others, or participating with them, in actions which, if performed by Mr. Garcia, would be
13 prohibited by paragraphs A through D above.

14
15 **IT IS FURTHER ORDERED** that Mr. Garcia, whether as an individual or as a principal,
16 officer, director or employee of any business entity, and his agents, servants, employees, and any and
17 all persons in active concert or participation with him who receive notice of this Order, shall be and
18 hereby are preliminarily enjoined and restrained during the pendency of this action from engaging in
19 any activity that infringes SCEA’s trademarks or copyrights or constitutes unfair competition or
20 deceptive practices against SCEA.

21
22 **IT IS FURTHER ORDERED** that Mr. Garcia, whether as an individual or as a principal,
23 officer, director or employee of any business entity, and his agents, servants, employees, and any and
24 all persons in active concert or participation with him who receive notice of this Order, shall be and
25 hereby are preliminarily enjoined and restrained during the pendency of this action from moving,
26 discarding, destroying, transferring, or otherwise disposing of any documents, including electronic
27 files and computer files, related to the activities complained of in the Complaint and from moving,
28 discarding, destroying, transferring, or otherwise disposing of any evidence related to the activities

1 complained of in the Complaint, including any copied software, batteries, PSP® devices, and other
2 devices (except for providing such documents, evidence, and devices to SCEA's counsel).

3
4 **IT IS SO STIPULATED.**

5
6 DATED: ~~September~~ ^{October} 1, 2008

Respectfully submitted,
TOWNSEND AND TOWNSEND AND CREW LLP

8
9 By: Holly Gaudreau
10 TIMOTHY R. CAHN
HOLLY GAUDREAU

11 Attorneys for Plaintiff
12 SONY COMPUTER ENTERTAINMENT AMERICA INC.

13
14
15 DATED: September ³⁰ 30, 2008

THE FARROW LAW FIRM
16 By: Carver C. Farrow, II
17 CARVER CLARK FARROW, II

18 Attorneys for Defendant
19 GABRIEL GARCIA

20
21 **PURSUANT TO STIPULATION, IT IS SO ORDERED.**

Susan Illston

22
23 DATED: _____

HON. SUSAN ILLSTON

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25
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PROOF OF SERVICE

[C.C.P. §§ 1011 and 1013, C.R.C. § 2008, F.R.C.P. Rule 5, F.R.A.P. 25]

I declare that I am employed in the City and County of San Francisco, California; I am over the age of 18 years and not a party to the within action; my business address is Two Embarcadero Center, Eighth Floor, San Francisco, California 94111. On the date set forth below, I served a true and accurate copy of the document(s) entitled: **STIPULATED PRELIMINARY INJUNCTION AND [PROPOSED] ORDER** on the party(ies) in this action by placing said copy(ies) in a sealed envelope each addressed as follows:

Carver Clark Farrow, II The Farrow Law Firm, PC 3031 Tisch Way, Suite 500 San Jose, CA 95128 <i>Attorney for Gabriel Garcia a/k/a Gabriel Garcia Palacios</i>	Timothy Joey Zoucha, Jr. 815 Deland Avenue, #3 San Jose, CA 95128
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[By First Class Mail] I am readily familiar with my employer's practice for collecting and processing documents for mailing with the United States Postal Service. On the date listed herein, following ordinary business practice, I served the within document(s) at my place of business, by placing a true copy thereof, enclosed in a sealed envelope, with postage thereon fully prepaid, for collection and mailing with the United States Postal Service where it would be deposited with the United States Postal Service that same day in the ordinary course of business.

[By Overnight Courier] I caused each envelope to be delivered by a commercial carrier service for overnight delivery to the offices of the addressee(s).

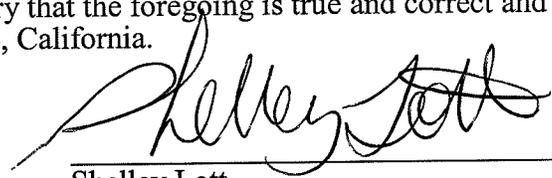
[By Hand] I directed each envelope to the party(ies) so designated on the service list to be delivered by courier this date.

[By Facsimile Transmission] I caused said document to be sent by facsimile transmission to the fax number indicated for the party(ies) listed above.

[By Electronic Transmission] I caused said document to be sent by electronic transmission to the e-mail address(es) indicated for the party(ies) listed above.

I declare under penalty of perjury that the foregoing is true and correct and that this declaration was executed this date at San Francisco, California.

Dated: October 1, 2008



Shelley Lott

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