

# EXHIBIT B

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**UNITED STATES DISTRICT COURT**  
**NORTHERN DISTRICT OF CALIFORNIA, SAN FRANCISCO DIVISION**

In Re Sony PS 3 "Other OS" Litigation

CASE NO. C 10-1811 RS  
**PLAINTIFFS' FIRST SET OF REQUESTS  
FOR PRODUCTION OF DOCUMENTS  
TO DEFENDANT SONY COMPUTER  
ENTERTAINMENT AMERICA, LLC**

19 PROPOUNDING PARTY: PLAINTIFFS ANTHONY VENTURA, JONATHAN HUBER,  
20 ANTAL HERZ, JASON BAKER, AND ELTON STOVELL  
21 RESPONDING PARTY: DEFENDANT SONY COMPUTER ENTERTAINMENT  
22 AMERICA, LLC  
23 SET NO.: ONE

24 Pursuant to Rules 26 and 34 of the Federal Rules of Civil Procedure, Plaintiffs Anthony  
25 Ventura, Jonathan Huber, Antal Herz, Jason Baker, and Elton Stovell hereby request that  
26 Defendant SONY COMPUTER ENTERTAINMENT AMERICA, LLC responds separately to the  
27 following Request for Production of Documents and Things ("Requests") and produce the  
28 documents and things described herein, at the location agreed upon by counsel, within thirty (30)

1 days of service.

2 **DEFINITIONS**

3 The following definitions apply to these Requests:

4 1. "DOCUMENT" has the same full meaning as construed by Fed. R. Civ. P. 34 and  
5 includes without limitation the original (or identical duplicate when the original is not available)  
6 and all non-identical copies (whether non-identical because of notes made on copies or attached  
7 comments, annotations, marks, transmission notation, or highlighting of any kind) and drafts of all  
8 writing, whether handwritten, typed, printed or otherwise produced, and includes, without  
9 limitation, letters, correspondence, memoranda, legal pleadings, notes, reports, agreements,  
10 calendars, diaries, travel or expense records, summaries, records, messages or logs of telephone  
11 calls, conversations or interviews, telegrams, mailgrams, facsimile transmissions (including cover  
12 sheets and confirmations), electronically stored information ("ESI") (see definition number two  
13 below), minutes or records of meeting, compilations, notebooks, laboratory notebooks, work  
14 papers, books, pamphlets, brochures, circulars, manuals, instructions, sales, advertising or  
15 promotional literature or materials, ledgers, graphs, charts, blue prints, drawings, sketches,  
16 photographs, film and sound reproductions, tape recordings, or any other tangible materials on  
17 which there is any recording or writing of any sort. The term also includes the file, folder tabs,  
18 and/or containers and labels appended to, or associated with, any physical storage device  
19 associated with each original and/or copy of all documents requested herein.

20 2. "ELECTRONICALLY STORED INFORMATION" ("ESI") has the same full  
21 meaning as construed by Fed. R. Civ. P. 26 and 34 and includes, without limitation, the following:

- 22 a. activity listings of electronic mail receipts and/or transmittals;
- 23 b. output resulting from the use of any software program, including without  
24 limitation word processing documents, spreadsheets, database files, charts, graphs and outlines,  
25 electronic mail, instant messaging programs; bulletin board programs, operating systems, source  
26 code, PRF files, PRC files, batch files, ASCII files, and all miscellaneous media on which they  
27 reside and regardless of whether such electronic data exist in an active file, deleted file, or file  
28 fragment;

1 c. any and all items stored on computer memories, hard disks, floppy disks,  
2 CD-ROM, magnetic tape, microfiche, or on any other vehicle for digital data storage and/or  
3 transmittal, including without limitation a personal digital assistant, e.g., Palm Pilot, Blackberry,  
4 Treo or other device.

5 3. "PS3" shall mean the Sony Playstation 3 video game console originally sold with  
6 the OTHER OS feature.

7 4. "OS" means operating system.

8 5. "OTHER OS" shall mean the Other OS feature(s) on the PS3 which enable the PS3  
9 users to install any operating system other than that pre-installed by SCEA (such as Linux) and  
10 enabled the PS3 to operate in a manner similar to a personal computer.

11 6. "TO," "REGARDING," or "WITH RESPECT TO" mean without limitation  
12 discussing, describing, reflecting, dealing with, pertaining to, analyzing, evaluating, estimating,  
13 constituting, concerning, containing, mentioning, studying, surveying, projecting, assessing,  
14 recording, summarizing, criticizing, reporting, commenting or otherwise involving, in whole or in  
15 part.

16 7. "REFER OR RELATE TO" a given subject matter means any DOCUMENT that  
17 constitutes, contains, embodies, concerns, compromises, reflects, identifies, states, deals with,  
18 comments on, responds to, describes, analyses, or is in any way pertinent to that subject.

19 8. "SCEA," "YOU," "YOUR" or "DEFENDANT" mean Defendant SONY  
20 COMPUTER ENTERTAINMENT AMERICA, LLC, and each of its parent companies,  
21 subsidiaries, predecessors, affiliated entities, employees, agents, representatives, attorneys or any  
22 person(s) acting or purporting to act on behalf of the responding Defendant.

23 9. "UPDATE 3.21" means firmware update 3.21 issued by SCEA for the PS3 on or  
24 around April 1, 2010.

25 10. "PLAINTIFFS" means Plaintiffs Anthony Ventura, Jonathan Huber, Antal Herz,  
26 Jason Baker, and Elton Stovell.

27 11. "Including" is used to illustrate a Request for particular types of DOCUMENTS  
28 requested, and shall not be construed as limiting the Request in any way.



1 whether such DOCUMENTS or materials are possessed directly by YOU or YOUR directors,  
2 officers, agents, employees, representatives, subsidiaries, managing agents, affiliates,  
3 investigators, or by YOUR attorneys or their agents, employees, representatives or investigators.

4       2.       In producing DOCUMENTS and ESI, YOU are requested to produce the original  
5 of each DOCUMENT or item of ESI requested, together with all non-identical copies and drafts of  
6 such DOCUMENT. If the original of any DOCUMENT or item of ESI cannot be located, a copy  
7 shall be produced in lieu thereof, and shall be legible and, for a DOCUMENT, bound or stapled in  
8 the same manner as the original.

9       3.       DOCUMENTS or ESI not otherwise responsive to these Requests shall be  
10 produced if such DOCUMENTS or ESI mention, discuss, refer to, or explain the DOCUMENTS  
11 that are called for by these Requests, or if such DOCUMENTS are attached to DOCUMENTS  
12 called for by these Document Requests and constitute routing slips, transmittal memoranda,  
13 letters, cover sheets, comments, evaluations or similar materials.

14       4.       All DOCUMENTS and ESI shall be produced in the same order as they are kept or  
15 maintained by YOU in the ordinary course of YOUR business. If any DOCUMENTS or items of  
16 ESI have been removed from the files in which they were found for purposes of producing them in  
17 response to these Requests, indicate for each DOCUMENT the file(s) from which the  
18 DOCUMENT(S) was (were) originally located.

19       5.       All DOCUMENTS shall be produced in the file folder, envelope or other container  
20 in which the DOCUMENTS are kept or maintained by YOU. If for any reason the container  
21 cannot be produced, produce copies of all labels or other identifying marks.

22       6.       DOCUMENTS and ESI shall be produced in such fashion as to identify the  
23 department, branch or office in whose possession they were located and, where applicable, the  
24 natural person in whose possession they were found and the business address of each  
25 DOCUMENT'S custodian(s).

26       7.       DOCUMENTS attached to each other should not be separated, including, but not  
27 limited to, e-mail attachments.

28       8.       If a DOCUMENT or item of ESI once existed and has subsequently been lost,

1 destroyed, or is otherwise missing, please provide sufficient information to identify the  
2 DOCUMENT and state the details concerning its loss.

3 9. All DOCUMENTS produced in paper form should be numbered sequentially, with  
4 a unique number on each page, and with a prefix identifying the party producing the  
5 DOCUMENT.

6 10. If YOU claim the attorney-client privilege or any other privilege or work product  
7 protection for any DOCUMENT, provide a detailed privilege log that contains at least the  
8 following information for each DOCUMENT that YOU have withheld:

- 9 a. state the date of the DOCUMENT or item of ESI;
- 10 b. IDENTIFY each and every author of the DOCUMENT or item of ESI;
- 11 c. IDENTIFY each and every PERSON who prepared or participated in the  
12 preparation of the DOCUMENT or item of ESI;
- 13 d. IDENTIFY each and every PERSON who received the DOCUMENT or  
14 item of ESI;
- 15 e. IDENTIFY each and every PERSON from whom the DOCUMENT or item  
16 of ESI was received;
- 17 f. provide a general description of the subject matter;
- 18 g. state the present location of the DOCUMENT or item of ESI and all copies  
19 thereof;
- 20 h. IDENTIFY each and every PERSON having custody or control of the  
21 DOCUMENT or item of ESI and all copies thereof;
- 22 i. IDENTIFY the numbered request(s) to which the DOCUMENT or item of  
23 ESI is responsive; and
- 24 j. provide sufficient information concerning the DOCUMENT or item of ESI  
25 and the circumstances thereof to explain the claim of privilege or protection and to permit the  
26 adjudication of the propriety of the claim.

27 11. If YOU assert privilege with respect to part of a responsive DOCUMENT or item  
28 of ESI, redact the privileged portion and indicate clearly on the DOCUMENT where the material

1 was redacted. Produce the redacted DOCUMENT or item of ESI even if YOU believe that the  
2 non-redacted portion is not responsive. IDENTIFY the redacted portions on the privilege log in  
3 the same manner as withheld DOCUMENTS. Non-responsiveness of a portion of a DOCUMENT  
4 or item of ESI is not a sufficient basis for redaction.

5 **REQUESTS FOR PRODUCTION**

6 **REQUEST FOR PRODUCTION NO. 1:**

7 All advertisements, marketing materials, promotional materials and press releases YOU  
8 created, issued, or authorized to be released in the United States or its territories that REFER OR  
9 RELATE TO the OTHER OS feature.

10 **REQUEST FOR PRODUCTION NO. 2:**

11 All DOCUMENTS, including but not limited to, product packaging, user guides, and  
12 pamphlets, which were included with PS3s sold in the United States or its territories.

13 **REQUEST FOR PRODUCTION NO. 3:**

14 All DOCUMENTS that REFER OR RELATE TO instructions for using the OTHER OS  
15 feature.

16 **REQUEST FOR PRODUCTION NO. 4:**

17 All DOCUMENTS that REFER OR RELATE TO instructions for installing any other  
18 operating system on the PS3, other than that pre-installed by SCEA.

19 **REQUEST FOR PRODUCTION NO. 5:**

20 All DOCUMENTS, including but not limited to any studies, focus groups, statistics or  
21 polls, that REFER OR RELATE TO YOUR decision to include the OTHER OS feature on the  
22 PS3.

23 **REQUEST FOR PRODUCTION NO. 6:**

24 All DOCUMENTS, including but not limited to any studies, focus groups, statistics or  
25 polls, that REFER OR RELATE TO YOUR decision to disable or remove the OTHER OS feature  
26 on the PS3, or UPDATE 3.21.

27 **REQUEST FOR PRODUCTION NO. 7:**

28 All DOCUMENTS, including but not limited to any studies, focus groups, statistics or



1 polls, that REFER OR RELATE TO consumers' interest in purchasing a video game console with  
2 the OTHER OS feature.

3 **REQUEST FOR PRODUCTION NO. 8:**

4 All DOCUMENTS sufficient to determine the number of PS3s sold in the United States or  
5 its territories to consumers.

6 **REQUEST FOR PRODUCTION NO. 9:**

7 All DOCUMENTS sufficient to determine the amount of revenue generated from the sale  
8 of PS3s in the United States or its territories to consumers.

9 **REQUEST FOR PRODUCTION NO. 10:**

10 All DOCUMENTS sufficient to determine the number of PS3 purchasers in the United  
11 States or its territories that utilized the OTHER OS feature.

12 **REQUEST FOR PRODUCTION NO. 11:**

13 All DOCUMENTS, including but not limited to any studies, focus groups, statistics or  
14 polls, that REFER OR RELATE TO the utilization or popularity of the OTHER OS feature on the  
15 PS3.

16 **REQUEST FOR PRODUCTION NO. 12:**

17 All DOCUMENTS, including but not limited to any studies, focus groups, statistics or  
18 polls, that REFER OR RELATE TO the reasons for including the OTHER OS feature on the PS3.

19 **REQUEST FOR PRODUCTION NO. 13:**

20 All DOCUMENTS, including but not limited to any studies, focus groups, statistics or  
21 polls, that REFER OR RELATE TO the reasons for disabling the OTHER OS feature on the PS3.

22 **REQUEST FOR PRODUCTION NO. 14:**

23 All DOCUMENTS that REFER OR RELATE TO customer complaints REGARDING  
24 disabling the OTHER OS feature or UPDATE 3.21 on the PS3.

25 **REQUEST FOR PRODUCTION NO. 15:**

26 All contracts or agreements that REFER OR RELATE TO the OTHER OS feature on the  
27 PS3.

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1 **REQUEST FOR PRODUCTION NO. 16:**

2 DOCUMENTS, including but not limited to organization charts, sufficient to IDENTIFY  
3 YOUR business structure, managing agents, officers and directors insofar as such information  
4 relates to the design, promotion or sale of the PS3.

5 **REQUEST FOR PRODUCTION NO. 17:**

6 DOCUMENTS, including but not limited to organization charts, sufficient to determine  
7 YOUR relationship with other Sony entities.

8 **REQUEST FOR PRODUCTION NO. 18:**

9 All DOCUMENTS that REFER OR RELATE TO UPDATE 3.21.

10 **REQUEST FOR PRODUCTION NO. 19:**

11 All DOCUMENTS that REFER OR RELATE TO any inquiry or investigation from any  
12 government agency (including any attorney general) or Better Business Bureau REGARDING the  
13 PS3 and the OTHER OS feature or UPDATE 3.21.

14 **REQUEST FOR PRODUCTION NO. 20:**

15 All contracts or agreements between YOU and retailers in the United States or its  
16 territories that REFER OR RELATE TO the PS3.

17 **REQUEST FOR PRODUCTION NO. 21:**

18 All DOCUMENTS YOU provided to retailers in the United States or its territories that  
19 REFER OR RELATE TO the PS3.

20 **REQUEST FOR PRODUCTION NO. 22:**

21 All DOCUMENTS that REFER OR RELATE TO any information YOU provided to  
22 retailers in the United States or its territories REGARDING the OTHER OS feature.

23 **REQUEST FOR PRODUCTION NO. 23:**

24 All DOCUMENTS that REFER OR RELATE TO any warranty or license agreement  
25 YOU offered or provided to PS3 purchasers in the United States or its territories.

26 **REQUEST FOR PRODUCTION NO. 24:**

27 All DOCUMENTS that YOU contend constitute a binding contract between YOU and any  
28 consumer who purchased a PS3 in the United States or its territories.

1 **REQUEST FOR PRODUCTION NO. 25:**

2 All DOCUMENTS that were provided to consumers in the United States or its territories at  
3 the time they downloaded UPDATE 3.21.

4 **REQUEST FOR PRODUCTION NO. 26:**

5 All DOCUMENTS that REFER OR RELATE TO COMMUNICATIONS between YOU  
6 and any of the PLAINTIFFS.

7 **REQUEST FOR PRODUCTION NO. 27:**

8 All DOCUMENTS that REFER OR RELATE TO any refund or compensation paid to any  
9 consumer in the United States, Europe, or anywhere else related to UPDATE 3.21.

10 **REQUEST FOR PRODUCTION NO. 28:**

11 All DOCUMENTS sufficient to determine the amount of money left in Playstation  
12 Network accounts that have not been accessed since UPDATE 3.21 was released to the public.

13 **REQUEST FOR PRODUCTION NO. 29:**

14 All DOCUMENTS that REFER OR RELATE TO COMMUNICATIONS with  
15 researchers, scientists, professors, or governmental entities REGARDING the PS3 and its OTHER  
16 OS feature for use in processing clusters.

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1 Dated: September 8, 2010

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24 Counsel and Counsel for Plaintiffs  
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**PROOF OF SERVICE**

IN RE SONY PS 3 "OTHER OS" LITIGATION

CASE NO. C 10-1811 RS

WASHINGTON, DC

I am employed in Washington, DC. My business address is 1700 K St., NW, Ste 650, Washington, DC 2006. I am over the age of eighteen years and am not a party to the within action;

On September 8, 2010, I served the following document(s) entitled **PLAINTIFFS' FIRST SET OF REQUESTS FOR PRODUCTION OF DOCUMENTS TO DEFENDANT SONY COMPUTER ENTERTAINMENT AMERICA, LLC** on DEFENDANT in this action by placing true copies thereof enclosed in sealed envelopes addressed as follows:

**Luanne Sacks  
Carter Ott  
DLA Piper LLP  
555 Mission Street, Suite 2400  
San Francisco, California 94105**

**BY OVERNIGHT MAIL:** By placing a true copy thereof in a sealed envelope addressed as above, and placing it for and mailing following ordinary business practices. I am readily familiar with the firm's practice of collection and processing correspondence, pleadings and other matters for overnight mailing with Federal Express. The correspondence, pleadings and other matters are deposited with Federal Express with postage thereon fully prepaid in Washington, DC, on the same day in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if the postal cancellation date or postage meter date is more than one day after date of deposit for mailing in affidavit.

I declare that I am employed in the office of a member of the bar of this Court, or one admitted pro hac vice, and at whose direction the service was made.

Executed on September 8, 2010, at Washington, DC.

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Anna M. Galloway