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23 **UNITED STATES DISTRICT COURT**  
 24 **NORTHERN DISTRICT OF CALIFORNIA**

25 In Re Sony PS3 "Other OS" Litigation

26 Case No. CV-10-1811-RS

27 **DECLARATION OF ROSEMARY M. RIVAS**  
 28 **IN SUPPORT OF PLAINTIFFS'**  
**ADMINISTRATIVE MOTION FOR**  
**PERMISSION TO FILE REQUEST FOR**  
**JUDICIAL NOTICE IN FURTHER**  
**OPPOSITION TO DEFENDANT SONY**  
**COMPUTER ENTERTAINMENT AMERICA,**  
**LLC'S MOTION TO DISMISS**

Local Rule 7-11

1 I, Rosemary M. Rivas, declare as follows:

2 1. I am a partner in the law firm of Finkelstein Thompson LLP, co-lead counsel for  
3 Plaintiffs in this action. I am an attorney duly licensed by the State of California and am admitted to  
4 practice before this Court. The matters set forth herein are of my own personal knowledge, and if called  
5 and sworn as a witness I could completely testify regarding them.

6 2. Pursuant to Local Rule 7-11, I make this declaration in support of Plaintiffs'  
7 Administrative Motion for Permission to File Request for Judicial Notice in Further Opposition to  
8 Defendant Sony Computer Entertainment America LLC's Motion to Dismiss.

9 3. The Request for Judicial Notice in Further Opposition to Sony Computer Entertainment,  
10 LLC's Motion to Dismiss ("RJN") is attached hereto as Exhibit 1.

11 4. In the RJN, Plaintiffs request the Court to take judicial notice of filings in the recently  
12 filed action Sony Computer Entertainment America, LLC v. Hotz, et al., Civil Action No. 3:11-cv-  
13 00167-SI (N.D. Cal.) ("Hotz").

14 5. As explained in the accompanying memorandum and the RJN, in the filings in Hotz,  
15 Defendant Sony Computer Entertainment America, LLC ("SCEA") makes statements that directly  
16 contradict its argument in support of its motion to dismiss plaintiffs' breach of warranty claim in the  
17 present case, which was heard on November 4, 2010, and is currently under submission.

18 6. Plaintiffs submit that the documents attached to the RJN are properly subject to judicial  
19 notice under Rule of Evidence 201(b).

20 7. Plaintiffs sought a stipulation under Local Rule 7-11 to the relief requested by this  
21 administrative motion, but none could be obtained. Counsel for SCEA, Mr. Carter Ott, informed me on  
22 February 16, 2011 that SCEA would oppose Plaintiffs' administrative motion.

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

24 Executed this 17th day of February 2011 in San Francisco, California.

25  
26  
27 /s/ Rosemary M. Rivas

28 Rosemary M. Rivas