

EXHIBIT B

FILED
2011 MAY -6 P 3:35
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CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
MEJ
DSI

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Attorneys for Plaintiff

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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

HENRY GARCIA, On Behalf of Himself,
All Others Similarly Situated and the
General Public,

Plaintiff,

v.

SONY COMPUTER ENTERTAINMENT
AMERICA, LLC,

Defendant.

Case No.:
CV 11 2246
CLASS ACTION

MEJ

CLASS ACTION COMPLAINT FOR:

1. VIOLATIONS OF THE UNFAIR
COMPETITION LAW, BUSINESS
AND PROFESSIONS CODE
§17200 *et seq.*
2. VIOLATIONS OF CONSUMERS
LEGAL REMEDIES ACT, CIVIL
CODE §1750 *et seq.*

DEMAND FOR JURY TRIAL

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28

1 Plaintiff Henry Garcia brings this action on behalf of himself and all others similarly
2 situated against defendant Sony Computer Entertainment America LLC ("SONY"), and states:

3 **NATURE OF ACTION**

4 1. SONY manufactures, advertises, and sells the Playstation®3 ("PS3") gaming
5 system that includes a videogame console, Blu-Ray disc player, online gaming capabilities,
6 and hard drive storage. SONY has reportedly sold over 80 million PS3 systems worldwide,
7 including more than 12 million in the United States. SONY also licenses companies to create
8 videogames that are playable only on the PS3.

9 2. The PS3 consoles are defective from the time of purchase because they
10 overheat during normal and intended use of the SONY-authorized videogames, including Call
11 of Duty: Modern Warfare 2 and Call of Duty: Black Ops (collectively "Call of Duty"). The
12 overheating triggers a phenomenon known as the "Yellow Light of Death" or "YLOD." This
13 defect renders the PS3 completely and permanently inoperable. Once the PS3 experiences
14 YLOD, the consumer is unable to use videogames, watch Blu-ray discs, access the PS3's hard
15 drive or otherwise use their PS3.

16 3. Despite knowledge of the inherent defect, SONY has not taken responsibility
17 for and continues to deny the existence of a defect. Rather than confront the defect, which it
18 fixed in later models of the PS3, SONY has covered up and profited from the defect, including
19 by telling consumers that they should send the defective PS3 to Sony for a costly "repair." In
20 reality, SONY sends consumers refurbished PS3's in the place of the PS3 that experienced the
21 YLOD. The "refurbished" consoles contain the same inherent defect, which can fail in the
22 same way again.

23 4. As a result of SONY's actions, Plaintiff has suffered injury in fact and lost
24 money or property. Plaintiff brings this action on behalf of himself and other similarly
25 situated consumers who purchased a PS3 console in order to halt the sale of these defective
26 products, correct Sony's false and deceptive statements, and to obtain redress. Based upon its
27 unfair conduct, Plaintiff alleges violations of the Consumers Legal Remedies Act and the
28 Unfair Competition Law.

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JURISDICTION AND VENUE

5. This Court has original jurisdiction pursuant to 28 U.S.C. §1332(d)(2). The matter in controversy, exclusive of interest and costs, exceeds the sum or value of \$5,000,000 and is a class action in which some of the members of the class of plaintiffs are citizens of states different from SONY. Further, greater than two-thirds of the class members reside in states other than the state in which SONY is a citizen.

6. Venue is proper in this Court pursuant to 28 U.S.C. §1391 in that many of the acts and transactions giving rise to this action occurred in this district and because defendant:

- (a) has its headquarters located in this district;
- (b) is authorized to conduct business in this district and has intentionally availed itself of the laws and markets within this district through the promotion, marketing, distribution and sale of its products in this district;
- (c) does substantial business in this district; and
- (d) is subject to personal jurisdiction in this district.

7. Intradistrict Assignment: Pursuant to Civil Local Rules 3-2(c)-(d), and 3-5(b), defendant is headquartered in San Mateo County, this action otherwise arises in San Mateo County, and it is therefore appropriate to assign this action to the San Francisco Division.

PARTIES

8. During the class period, Plaintiff Henry Garcia resided and continues to reside in Oceanside, California. During the class period, Plaintiff purchased a PS3 that is defective and suffered injury in fact and lost money as a result of SONY's unfair and deceptive practices described herein. While operating the Call of Duty: Black Ops videogame on or about January 2011, Plaintiff's PS3 experienced the YLOD, rendering the PS3 inoperable and useless. Because of the defect the PS3 would also not eject the Call of Duty: Black Ops videogame. If Plaintiff had known the truth about the defective nature of the PS3 he would not have purchased the PS3.

9. Defendant Sony Computer Entertainment America LLC ("SONY" or "SCEA") maintains its headquarters and principal place of business in Foster City, California.

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1 According to its website, "SCEA serves as headquarters for all North American operations"
 2 and "is a wholly owned subsidiary of Sony Computer Entertainment Inc."¹ From its Foster
 3 City headquarters, SONY develops, manufactures, markets, and sells Playstation® systems
 4 throughout the United States, including the PS3 consoles at issue in this litigation. As of
 5 December 31, 2010, SONY sold over 83.6 million PS3 systems worldwide. SCEA also
 6 purports to service the PS3 consoles sent to it for repair.

7 FACTUAL ALLEGATIONS

8 10. Sony Computer Entertainment America, LLC was founded in 1994 as the North
 9 American division of Sony Computer Entertainment Inc. and according to its website, is
 10 responsible for the "continued growth of the PlayStation® market in the United States and
 11 Canada."²

12 11. On November 17, 2006, SONY began selling PS3 consoles in the United
 13 States. PS3 consoles have videogame, Blu-ray disc, and online capabilities and contain a pre-
 14 installed hard disk drive that ranges from 20GB to 320GB of storage capacity.³

15 12. SONY has released several versions of PS3 consoles between November 2006
 16 and the present that retail between \$249 and \$599 each, including: the 20GB PS3 (Model
 17 #CECHB01), released in November 2006; 40GB PS3 (Model # CECHG01), released in
 18 November 2007; 40GB console (Model # CECHH01), released in March 2008; a 60GB
 19 console (Model # CECHA01), released in November 2006; an 80GB PS3 released in August
 20 2007 (Model # CECHE01) and again in August 2008 (Model # CECHK01) and October 2008
 21 (Model # CECHL01).⁴ A 160GB model (Model #CECHP01) was released in November 2008.
 22 All of these PS3 models experience YLOD and are defective.

23 13. In September 2009, SONY began selling a new model of PS3 consoles referred
 24 to as "Slim" models. The "Slim" PS3 consoles do not suffer from the same YLOD defects as
 25 the earlier models.

26
 27 ¹ <http://www.sony.com/SCA/outline/computer.shtml>

² <http://us.playstation.com/corporate/about/>

³ <http://us.playstation.com/corporate/about/theplaystationstory/>

⁴ http://us.playstation.com/support/answer/index.htm?a_id=232

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1 14. Contrary to SONY's representations, all of the defective PS3 consoles at issue
2 contain the same defective graphics processor unit ("GPU") that overheats during normal and
3 intended, including while operating videogames such as Call of Duty. For example, when
4 Call of Duty is played on the PS3 consoles, the GPU overheats, which causes the solder (the
5 part that connects the GPU to the motherboard) to melt. Once the solder melts, the PS3 shuts
6 down and a yellow light on the front of the PS3 will appear, indicating an internal system
7 failure. This is commonly known as the "Yellow Light of Death" or "YLOD."

8 15. Once YLOD occurs, consumers are unable to turn the PS3 on, remove the
9 videogame that is in the console, retrieve any information saved on the hard drive, and are
10 otherwise unable to use the PS3.

11 16. SONY has not taken any responsibility for this defect nor does it even
12 acknowledge that a defect exists. Instead, SONY continues to cover up the defect by
13 instructing consumers to send the PS3 to SONY if the YLOD occurs. SONY never provides
14 consumers with an explanation as to why the YOLD has occurred. In fact, SONY provides no
15 troubleshooting steps that consumers can utilize to fix the issue on their own.⁵

16 17. On SONY's customer support website, under "What do the colors of the power
17 and disc lights on the PlayStation®3 computer entertainment system mean?" SONY states:
18 "When the power status light goes from green, to yellow, then to a flashing red, this means
19 that there may be an issue with an internal part within the PS3 system. This may be caused by
20 a variety of reasons and would need to be diagnosed at our service center." SONY further
21 states, "When the power light flashes in this order, you must send your PS3 system in for
22 service."⁶

23 18. Despite the fact that it was SONY that sold them a defective PS3 console,
24 SONY charges consumers a uniform amount of either \$99 or \$150 plus applicable tax for the
25 YLOD "repairs" that can take up to six weeks. But SONY does not fix the defect. Instead,
26 SONY sends consumers a refurbished PS3 console that still contains the defective GPU.

27

28 ⁵ <http://community.us.playstation.com/thread/720972>
⁶ http://us.playstation.com/support/answer/index.htm?a_id=1733

1 Consumers are not told that the refurbished PS3 console is still defective and will inevitably
2 experience the YLOD and become inoperable.

3 19. SONY is acutely aware of the defect and the damage caused to consumers
4 because they cannot use the PS3 as intended, and the PS3 is otherwise rendered completely
5 useless. Thousands of consumers have complained about YLOD on internet message boards
6 and blog posts and directly to Sony.

7 On Sony's own "PlayStation® Community" message board, several consumers
8 have complained about the defect, as well as Sony's efforts to cover it up and
9 charge additional fees. As one consumer described on the "PlayStation®
10 Community" message board:

11 **60GB PlayStation 3 Yellow Light of Death**

12 **(Please Help!)**

13 Yesterday, January 14th 2010, I think my \$600 investment died!

14 When I woke up, I turned my TV and PlayStation 3 on as usual, The
15 PlayStation 3 booted up . . . I walked out of my room for a good 5 minutes or so
16 to get something to eat, I returned to my room to go play Modern warfare 2 and
17 I noticed My Playstation 3's red light was blinking i thought this was rather odd
18 so i preceded to turn it back on.

19 When i pressed the power button the console beeped one time and the light
20 turns green and the fans can be heard,

21 Then quickly the fans shut down and i am presented with the Yellow Light Of
22 Death,

23 Then the light blinks red and the console beeps Three times and the light
24 continue to blink red.

25 Not only do I have the YLOD I also have Call of Duty:Modern Warfare 2 in the
26 disk drive and it will not eject!

27 I immediately contacted Sony and they told me, There was no troubleshooting
28 steps for this issue and it Had to be sent in for repairs. They said without a
warranty it would cost \$149.99 to Repair the console and another \$25 i believe
for shipping. Then they asked if i wanted to send it in and exchange it for a PS3
that's only worth \$300!

They also told me there was no way to get my game out unless i send it in and
get it repaired as they put it (unless of course you try different methods by
yourself which would void the warranty and therefore we cannot fix your
console).⁷

⁷ <http://community.us.playstation.com/thread/720972>

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1 20. SONY knows that its PS3 consoles are inherently defective and will experience
2 YLOD because they contain defective GPUs and cannot be fully used as intended. But SONY
3 never informs consumers of these facts. Specifically, SONY never informed Plaintiff and
4 members of the Class that if certain games were used, the GPU would overheat, resulting in
5 YLOD and loss of use of the PS3. Instead, SONY continues to sell the PS3 consoles,
6 implying that all of its PS3 consoles are fully operational and non-defective, while knowing
7 that the PS3 consoles are in fact defective.

8 21. SONY also knowingly misrepresents that the PS3 consoles can be used with all
9 PS3 compatible videogames. On the packaging of the PS3 consoles and on its website, SONY
10 represents that the "PS3 system is designed to play PlayStation®3 format software."⁸ SONY
11 however, fails to disclose that the PS3 cannot play all videogames that are "PlayStation®3
12 format software" because the GPU is defective and playing the videogames will result in
13 complete inoperability of the PS3.

14 22. Because of SONY's material omissions concerning the PS3 consoles,
15 consumers continue to purchase new but defective consoles, resulting in additional profits to
16 SONY.

17 **CLASS DEFINITION AND ALLEGATIONS**

18 23. Plaintiff brings this action on behalf of himself and members of a Class defined
19 as:

20 All persons who purchased all non-"Slim" models of SONY Playstation®3
21 consoles in the United States from the date they were first sold until the date
22 notice is provided to the Class. Excluded from the Class are SONY, its
officers, directors and employees and those who purchased SONY
Playstation®3 consoles for the purpose of resale.

23 24. *Numerosity.* The members of the Class are so numerous that their individual
24 joinder is impracticable. Plaintiff is informed and believes, and on that basis alleges, that the
25 proposed Class contains hundreds of thousands of members.

26 25. *Existence and Predominance of Common Questions of Law and Fact.*
27 Common questions of law and fact exist as to all members of the Class and predominate over

28 ⁸ http://us.playstation.com/support/answer/index.htm?a_id=232

1 any questions affecting only individual Class members. These common legal and factual
2 questions include, but are not limited to, the following:

- 3 (a) whether the PS3's contain the same inherent defect;
4 (b) whether SONY has failed to disclose the PS3's inherent defect;
5 (c) whether the claims discussed above are true, or are misleading, or
6 reasonably likely to deceive;
7 (d) whether SONY's alleged conduct violates public policy;
8 (e) whether the alleged conduct constitutes violations of the laws asserted;
9 (f) whether SONY engaged in false or misleading advertising;
10 (g) whether plaintiff and Class members have sustained monetary loss and
11 the proper measure of that loss;
12 (h) whether plaintiff and Class members are entitled to an award of punitive
13 damages; and
14 (i) whether plaintiff and Class members are entitled to declaratory and
15 injunctive relief.

16 26. *Typicality.* Plaintiff's claims are typical of the claims of the members of the
17 Class in that the defendant was unjustly enriched as a result of plaintiff's and the Class'
18 respective purchases of PS3 videogame consoles.

19 27. *Adequacy of Representation.* Plaintiff will fairly and adequately protect the
20 interests of the members of the Class. Plaintiff has retained counsel experienced in complex
21 consumer class action litigation, and plaintiff intends to prosecute this action vigorously.
22 Plaintiff has no adverse or antagonistic interests to those of the Class.

23 28. *Superiority.* A class action is superior to all other available means for the fair
24 and efficient adjudication of this controversy. The damages or other financial detriment
25 suffered by individual Class members is relatively small compared to the burden and expense
26 that would be entailed by individual litigation of their claims against SONY. It would thus be
27 impracticable or impossible for the proposed Class members to prosecute their claims
28

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1 individually. The trial and litigation of plaintiff's claims present no unusual management
2 difficulties.

3 29. In the alternative, the Class may also be certified because:

4 (a) the prosecution of separate actions by individual Class members would
5 create a risk of inconsistent or varying adjudication with respect to individual Class members
6 that would establish incompatible standards of conduct for the defendant;

7 (b) the prosecution of separate actions by individual Class members would
8 create a risk of adjudications with respect to them that would, as a practical matter, be
9 dispositive of the interests of other Class members not parties to the adjudications, or
10 substantially impair or impede their ability to protect their interests; and/or

11 (c) Defendant has acted or refused to act on grounds generally applicable to
12 the Class thereby making appropriate final declaratory and/or injunctive relief with respect to
13 the members of the Class as a whole.

14 30. Unless a Class is certified, defendant will retain monies received as a result of
15 its conduct that were taken from plaintiff and Class members. Unless a Class-wide injunction
16 is issued, defendant will continue to commit the violations alleged, and the members of the
17 Class and the general public will continue to be misled.

18 **COUNT I**

19 **Violation of Business & Professions Code §17200, et seq.**

20 31. Plaintiff repeats and realleges the allegations contained in the paragraphs above,
21 as if fully set forth herein.

22 32. Plaintiff brings this claim individually and on behalf of the Class.

23 33. As alleged herein, plaintiff has suffered injury in fact and lost money or
24 property as a result of defendant's conduct because he purchased a PS3 console in reliance on
25 SONY's deceptive claims as alleged above.

26 34. The Unfair Competition Law, Business & Professions Code §17200, et seq.
27 ("UCL"), prohibits any "unlawful," "fraudulent" or "unfair" business act or practice and any
28 false or misleading advertising. In the course of conducting business, defendant committed

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1 unlawful business practices by, *inter alia*, making the representations (which also constitutes
2 advertising within the meaning of §17200) and omissions of material facts, as set forth more
3 fully herein, and violating Civil Code §§1572, 1573, 1709, 1711, 1770, Business &
4 Professions Code §§17200, *et seq.*, 17500, *et seq.*, and the common law.

5 35. Plaintiff and the Class reserve the right to allege other violations of law, which
6 constitute other unlawful business acts or practices. Such conduct is ongoing and continues to
7 this date.

8 36. Defendant's actions also constitute "unfair" business acts or practices because,
9 as alleged above, *inter alia*, defendant engages in false advertising, misrepresents and omits
10 material facts regarding its PS3 consoles, and thereby offends an established public policy, and
11 engages in immoral, unethical, oppressive, and unscrupulous activities that are substantially
12 injurious to consumers. *The gravity of defendant's conduct outweighs any benefits*
13 *attributable to such conduct.*

14 37. There were reasonably available alternatives to further SONY's legitimate
15 business interests, other than the conduct described herein.

16 38. Business & Professions Code §17200, *et seq.*, also prohibits any "fraudulent
17 business act or practice."

18 39. SONY's actions, claims, nondisclosures, and misleading statements, as alleged
19 in this Complaint, were false, misleading and likely to deceive the consuming public within
20 the meaning of Business & Professions Code §17200, *et seq.*

21 40. Plaintiff and other members of the Class have in fact been deceived as a result
22 of their reliance on defendant's representations and omissions. This reliance has caused harm
23 to plaintiff and other members of the Class. Plaintiff and other Class members have suffered
24 injury in fact and lost money as a result of these unlawful, unfair, and fraudulent practices.

25 41. As a result of its unfair business practices, defendant has obtained unjust
26 revenue and profits.

27 42. Unless restrained and enjoined, defendant will continue to engage in the above-
28 described conduct. Accordingly, injunctive relief is appropriate.

1 43. Plaintiff, on behalf of himself, all others similarly situated, and the general
2 public, seeks restitution of all money obtained from plaintiff and the members of the Class
3 collected as a result of its unfair competition, an injunction prohibiting defendants from
4 continuing such practices, corrective advertising and all other relief this Court deems
5 appropriate, consistent with Business & Professions Code §17203.

6 **COUNT II**

7 **Violations of the Consumers Legal Remedies Act –**
8 **Civil Code §1750 et seq.**

9 44. Plaintiff repeats and realleges the allegations contained in the paragraphs above,
10 as if fully set forth herein.

11 45. Plaintiff brings this claim individually and on behalf of the Class.

12 46. This cause of action is brought pursuant to the Consumers Legal Remedies Act,
13 Civil Code §1750, et seq. (the "Act"). Plaintiff is a consumer as defined by Civil Code
14 §1761(d). The PS3 consoles are goods within the meaning of the Act.

15 47. SONY violated and continues to violate the Act by engaging in the following
16 practices proscribed by Civil Code §1770(a) in transactions with plaintiff and the Class which
17 were intended to result in, and did result in, the sale of the defective PS3 consoles:

18 (5) Representing that [PS3 consoles have] . . . characteristics, . . . uses [or]
19 benefits . . . which [they do] not have . . .

20 * * *

21 (7) Representing that [the PS3 consoles are] of a particular standard, quality
22 or grade . . . if they are of another.

23 * * *

24 (9) Advertising goods . . . with intent not to sell them as advertised.

25 * * *

26 (16) Representing that [PS3 consoles have] been supplied in accordance with
27 a previous representation when [they have] not.

28 48. SONY violated the Act by representing through its advertisements the PS3
videogame consoles as described above when it knew, or should have known, that the
representations and advertisements were unsubstantiated, false and misleading.

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1 49. Pursuant to Civil Code §1782(d), plaintiff and the Class seek a Court order
2 enjoining the above-described wrongful acts and practices of defendant and for restitution.

3 50. Pursuant to Civil Code §1782, by letter dated May 6, 2011, plaintiff notified
4 defendant in writing by certified mail of the particular violations of Civil Code §1770 and
5 demanded that defendant rectify the problems associated with the actions detailed above and
6 give notice to all affected consumers of its intent to so act. A copy of the letter is attached as
7 Exhibit 1. If defendant fails to rectify or agree to rectify the problems associated with the
8 actions detailed above or give notice to all affected consumers within 30 days of the date of
9 written notice pursuant to Civil Code §1782, plaintiff will amend this Complaint to add claims
10 for actual, punitive and statutory damages, as appropriate.

11 51. Defendant's conduct is malicious, fraudulent and wanton.

12 52. Pursuant to Civil Code §1780(d), attached hereto as Exhibit 2 is the affidavit
13 showing that this action has been commenced in the proper forum.

14 **PRAYER FOR RELIEF**

15 Wherefore, plaintiff prays for a judgment:

- 16 A. Certifying the Class as requested herein;
- 17 B. Awarding plaintiff and the proposed Class members damages;
- 18 C. Awarding restitution and disgorgement of SONY's revenues to plaintiff and the
19 proposed Class members;
- 20 D. Awarding declaratory and injunctive relief as permitted by law or equity,
21 including: enjoining defendant from continuing the unlawful practices as set forth herein, and
22 directing defendant to identify, with Court supervision, victims of its conduct and pay them
23 restitution and disgorgement of all monies acquired by defendant by means of any act or
24 practice declared by this Court to be wrongful;
- 25 E. Ordering SONY to engage in a corrective advertising campaign;
- 26 F. Awarding attorneys' fees and costs; and
- 27 G. Providing such further relief as may be just and proper.

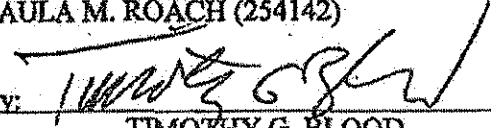
28 ///

JURY DEMAND

Plaintiff demands a trial by jury on all issues so triable.

Dated: May 6, 2011

BLOOD HURST & O'REARDON, LLP
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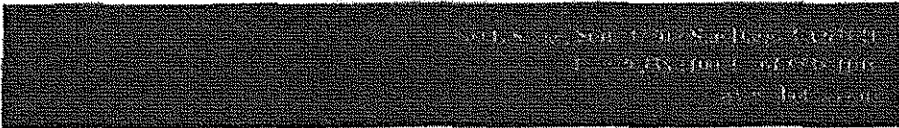
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EXHIBIT 1



Timothy G. Blood
tblood@bholaw.com

May 6, 2011

VIA CERTIFIED MAIL (RETURN RECEIPT)
(RECEIPT NO. 70050390000591562592)

Mr. Jack Tretton
President and CEO
SONY COMPUTER ENTERTAINMENT LLC
919 East Hillsdale Blvd.
Foster City, CA 94404

Re: *SONY Playstation*®3

Dear Mr. Tretton:

We represent Henry Garcia ("Plaintiff") and all other consumers similarly situated in an action against Sony Computer Entertainment America LLC ("Sony" or "defendant"), arising out of, *inter alia*, Sony's unlawful and unfair business acts and practices regarding its defective Playstation®3 ("PS3") gaming consoles.

Plaintiff and others similarly situated purchased PS3 gaming consoles, unaware of the fact that defendant's PS3 consoles are defective from the time of purchase because they overheat during normal and intended use of the Sony-authorized videogames, including Call of Duty: Modern Warfare 2 and Call of Duty: Black Ops. The overheating triggers a phenomenon known as the "Yellow Light of Death" or "YLOD." This defect renders the PS3 completely and permanently inoperable. Despite knowledge of the inherent defect, Sony has not taken responsibility for and continues to deny the existence of a defect. Rather than confront the defect, which it fixed in later models of the PS3, Sony has covered up and profited from the defect, including by telling consumers that they should send the defective PS3 to Sony for a costly "repair." The full claims, including the facts and circumstances surrounding these claims, are detailed in the Class Action Complaint, a copy of which is attached and incorporated by this reference.

These representations and omissions are false and misleading and constitute unfair methods of competition and unlawful, unfair, and fraudulent acts or practices, undertaken by defendant with the intent to result in the sale of PS3 gaming consoles to the consuming public.

Defendant's practices constitute violations of the Consumers Legal Remedies Act, California Civil Code §1750 *et seq.* Specifically, defendant's practices violate California Civil Code §1770(a) under, *inter alia*, the following subdivisions:

- (5) Representing that [the PS3 consoles] have . . . approval, characteristics, . . . uses [or] benefits . . . which they do not have

* * *





Mr. Jack Tretton
May 6, 2011
Page 2

(7) Representing that [the PS3 consoles] are of a particular standard, quality or grade . . . if they are of another.

(9) Advertising goods or services with intent not to sell them as advertised.

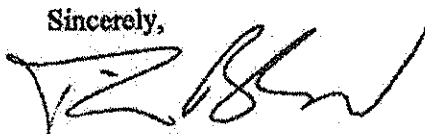
(16) Representing that [the PS3 consoles have] been supplied in accordance with a previous representation when [they have] not.

As detailed in the attached Complaint, defendant's practices also violate California Business and Professions Code §17200 *et seq.*

While the Complaint constitutes sufficient notice of the claims asserted, pursuant to California Civil Code §1782, we hereby demand on behalf of our client and all others similarly situated that defendant immediately correct and rectify these violations by ceasing the misleading marketing campaign, ceasing dissemination of false and misleading information as described in the enclosed Complaint, and initiating a corrective advertising campaign to re-educate consumers regarding the truth of the PS3 consoles at issue. In addition, Sony must offer to refund the purchase price to all consumer purchasers of PS3 consoles, plus provide reimbursement for interest, costs, and fees.

We await your response.

Sincerely,



TIMOTHY G. BLOOD

TGB:lh

Enclosure

EXHIBIT 2

BLOOD HURST & O'REARDON, LLP

1 BLOOD HURST & O'REARDON, LLP
 TIMOTHY G. BLOOD (149343)
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 11 619/544-9232 (fax)
 dcasey@cglaw.com
 12 fschenk@cglaw.com
 gblatt@cglaw.com

13 Attorneys for Plaintiff

14 [Additional counsel appear on signature page.]

15
 16 UNITED STATES DISTRICT COURT
 17 NORTHERN DISTRICT OF CALIFORNIA
 18 SAN FRANCISCO DIVISION

19 HENRY GARCIA, On Behalf of Himself,
 All Others Similarly Situated and the
 20 General Public,

21 Plaintiff,

22 v.

23 SONY COMPUTER ENTERTAINMENT
 AMERICA, LLC,

24 Defendant.

Case No.:

CLASS ACTION

AFFIDAVIT OF THOMAS J. O'REARDON II
 PURSUANT TO CALIFORNIA CIVIL CODE
 §1780(d)

DEMAND FOR JURY TRIAL

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I, THOMAS J. O'REARDON II, declare as follows:

1. I am an attorney duly licensed to practice before all of the courts of the State of California. I am a member of the law firm of Blood Hurst & O'Reardon LLP, one of the counsel of record for plaintiff in the above-entitled action.

2. Defendant Sony Computer Entertainment LLC ("Sony") has done and is doing business in San Mateo County. Such business includes the development, marketing and sale of its Playstation®3 gaming consoles. Furthermore, Sony is headquartered in Foster City, California.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed this 6th day of May, 2011, at San Diego, California.


THOMAS J. O'REARDON II

BLOOD HURST & O'REARDON, LLP

CIVIL COVER SHEET

JS 44 (Rev. 12/07) (CAND Rev 1/10)

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON PAGE TWO OF THE FORM.)

I. (a) PLAINTIFFS Henry Garcia, On Behalf of Himself, All Others Similarly Situated and the General Public	DEFENDANTS Sony Computer Entertainment America, LLC
(b) County of Residence of First Listed Plaintiff San Diego County (EXCEPT IN U.S. PLAINTIFF CASES)	County of Residence of First Listed Defendant San Mateo County (IN U.S. PLAINTIFF CASES ONLY) NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE LAND INVOLVED.
(c) Attorney's (Firm Name, Address, and Telephone Number) See Attachment.	Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)	III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)																
<input type="checkbox"/> 1 U.S. Government Plaintiff <input type="checkbox"/> 2 U.S. Government Defendant <input type="checkbox"/> 3 Federal Question (U.S. Government Not a Party) <input checked="" type="checkbox"/> 4 Diversity (Indicate Citizenship of Parties in Item III)	<table style="width:100%;"> <tr> <td style="text-align: center;">PTF</td> <td style="text-align: center;">DEF</td> <td style="text-align: center;">PTF</td> <td style="text-align: center;">DEF</td> </tr> <tr> <td>Citizen of This State</td> <td><input checked="" type="checkbox"/> 1</td> <td>Incorporated or Principal Place of Business in This State</td> <td><input checked="" type="checkbox"/> 4</td> </tr> <tr> <td>Citizen of Another State</td> <td><input type="checkbox"/> 2</td> <td>Incorporated and Principal Place of Business in Another State</td> <td><input type="checkbox"/> 5</td> </tr> <tr> <td>Citizen or Subject of a Foreign Country</td> <td><input type="checkbox"/> 3</td> <td>Foreign Nation</td> <td><input type="checkbox"/> 6</td> </tr> </table>	PTF	DEF	PTF	DEF	Citizen of This State	<input checked="" type="checkbox"/> 1	Incorporated or Principal Place of Business in This State	<input checked="" type="checkbox"/> 4	Citizen of Another State	<input type="checkbox"/> 2	Incorporated and Principal Place of Business in Another State	<input type="checkbox"/> 5	Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6
PTF	DEF	PTF	DEF														
Citizen of This State	<input checked="" type="checkbox"/> 1	Incorporated or Principal Place of Business in This State	<input checked="" type="checkbox"/> 4														
Citizen of Another State	<input type="checkbox"/> 2	Incorporated and Principal Place of Business in Another State	<input type="checkbox"/> 5														
Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6														

IV. NATURE OF SUIT (Place an "X" in One Box Only)					
CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES	PROPERTY RIGHTS
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayments of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury	<input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Suits of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs. <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal <input type="checkbox"/> 28 USC 157	<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 830 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statute	<input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark
REAL PROPERTY	CIVIL RIGHTS	PRISONER PETITIONS	LABOR	SOCIAL SECURITY	FEDERAL TAX SUITS
<input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Eminent Domain <input type="checkbox"/> 230 Real Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 250 All Other Real Property	<input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 449 Other Civil Rights	<input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability <input type="checkbox"/> 510 Motion to Vacate Sentence <input type="checkbox"/> Habeas Corpus: <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition	<input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 750 Other Labor Legislation <input type="checkbox"/> 791 Empl. Ret. Inv. Security Act	<input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (403(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (403(g))	<input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609

V. ORIGIN (Place an "X" in One Box Only)

<input checked="" type="checkbox"/> 1 Original Proceeding	<input type="checkbox"/> 2 Removed from State Court	<input type="checkbox"/> 3 Remanded from Appellate Court	<input type="checkbox"/> 4 Reinstated or Reopened	<input type="checkbox"/> 5 Transferred from another district (specify)	<input type="checkbox"/> 6 Multidistrict Litigation	<input type="checkbox"/> 7 Appeal to District Judge from Magistrate Judgment
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VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):
 28 U.S.C. 1332(d)(2)

Brief description of cause:
 Violations of CLRA, Civil Code 1750 and UCL, Bus. & Prof. Code 17200

VII. REQUESTED IN COMPLAINT: CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23 DEMAND \$ 5,000,000.00

CHECK YES only if demanded in complaint:
 JURY DEMAND: Yes No

VIII. RELATED CASE(S) IF ANY PLEASE REFER TO CIVIL L.R. 3-12 CONCERNING REQUIREMENT TO FILE "NOTICE OF RELATED CASE".

IX. DIVISIONAL ASSIGNMENT (CIVIL L.R. 3-2) (PLACE AND "X" IN ONE BOX ONLY)

SAN FRANCISCO/OAKLAND SAN JOSE EUREKA

DATE: 05/06/2011

SIGNATURE OF ATTORNEY OF RECORD: *[Handwritten Signature]*

Garcia v. Sony Computer Entertainment America, LLC
CIVIL COVER SHEET ATTACHMENT

Plaintiff's Attorneys:

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JS 44 Reverse (Rev. 12/07)

INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS 44**Authority For Civil Cover Sheet**

The JS 44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and service of pleading or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. The attorney filing a case should complete the form as follows:

I. (a) Plaintiffs-Defendants. Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use only the full name or standard abbreviations. If the plaintiff or defendant is an official within a government agency, identify first the agency and then the official, giving both name and title.

(b) County of Residence. For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing. (NOTE: In land condemnation cases, the county of residence of the "defendant" is the location of the tract of land involved.)

(c) Attorneys. Enter the firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section "(see attachment)".

II. Jurisdiction. The basis of jurisdiction is set forth under Rule 8(a), F.R.C.P., which requires that jurisdictions be shown in pleadings. Place an "X" in one of the boxes. If there is more than one basis of jurisdiction, precedence is given in the order shown below.

United States plaintiff. (1) Jurisdiction based on 28 U.S.C. 1345 and 1348. Suits by agencies and officers of the United States are included here.

United States defendant. (2) When the plaintiff is suing the United States, its officers or agencies, place an "X" in this box.

Federal question. (3) This refers to suits under 28 U.S.C. 1331, where jurisdiction arises under the Constitution of the United States, an amendment to the Constitution, an act of Congress or a treaty of the United States. In cases where the U.S. is a party, the U.S. plaintiff or defendant code takes precedence, and box 1 or 2 should be marked.

Diversity of citizenship. (4) This refers to suits under 28 U.S.C. 1332, where parties are citizens of different states. When Box 4 is checked, the citizenship of the different parties must be checked. (See Section III below; federal question actions take precedence over diversity cases.)

III. Residence (citizenship) of Principal Parties. This section of the JS 44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.

IV. Nature of Suit. Place an "X" in the appropriate box. If the nature of suit cannot be determined, be sure the cause of action, in Section VI below, is sufficient to enable the deputy clerk or the statistical clerks in the Administrative Office to determine the nature of suit. If the cause fits more than one nature of suit, select the most definitive.

V. Origin. Place an "X" in one of the seven boxes.

Original Proceedings. (1) Cases which originate in the United States district courts.

Removed from State Court. (2) Proceedings initiated in state courts may be removed to the district courts under Title 28 U.S.C., Section 1441. When the petition for removal is granted, check this box.

Remanded from Appellate Court. (3) Check this box for cases remanded to the district court for further action. Use the date of remand as the filing date.

Reinstated or Reopened. (4) Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.

Transferred from Another District. (5) For cases transferred under Title 28 U.S.C. Section 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.

Multidistrict Litigation. (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C. Section 1407. When this box is checked, do not check (5) above.

Appeal to District Judge from Magistrate Judgment. (7) Check this box for an appeal from a magistrate judge's decision.

VI. Cause of Action. Report the civil statute directly related to the cause of action and give a brief description of the cause. Do not cite jurisdictional statutes unless diversity. Example: U.S. Civil Statute: 47 USC 553

Brief Description: Unauthorized reception of cable service

VII. Requested in Complaint. Class Action. Place an "X" in this box if you are filing a class action under Rule 23, F.R.Cy.P.

Demand. In this space enter the dollar amount (in thousands of dollars) being demanded or indicate other demand such as a preliminary injunction.

Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded.

VIII. Related Cases. This section of the JS 44 is used to reference related pending cases if any. If there are related pending cases, insert the docket numbers and the corresponding judge names for such cases.

Date and Attorney Signature. Date and sign the civil cover sheet.