

# EXHIBIT H

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9  
10 **UNITED STATES DISTRICT COURT**  
11 **NORTHERN DISTRICT OF CALIFORNIA**

12  
13 ANTHONY VENTURA, on behalf of himself  
14 and all others similarly situated,

15 Plaintiff,

16 SONY COMPUTER ENTERTAINMENT  
17 AMERICA INC.,

18 Defendant.

Case No. CV 10-1811 EMC

**ADMINISTRATIVE MOTION TO  
CONSIDER WHETHER CASES  
SHOULD BE RELATED  
(Civil Local Rule 3-12)**

The Honorable Edward M. Chen

19 This document also relates to:

20 TODD DENSMORE and ANTAL HERZ, on  
21 behalf of themselves and all others similarly  
situated,

22 Plaintiffs,

23 v.

24 SONY COMPUTER ENTERTAINMENT  
25 AMERICA, INC., a Delaware corporation,

26 Defendant.

Case No. CV 10-1945 EDL

The Honorable Elizabeth D. Laporte

1 This document also relates to:

Case No. 10-cv-1897 SC

2 JASON BAKER, SEAN BOSQUETT,  
3 FRANK BACHMAN, PAUL GRAHAM , and  
4 PAUL VANNATA, Individually and on  
5 Behalf of All Others Similarly Situated,

The Honorable Samuel Conti

6 Plaintiffs,

7 vs.

8 SONY COMPUTER ENTERTAINMENT  
9 AMERICA, LLC successor to SONY  
10 COMPUTER ENTERTAINMENT  
11 AMERICA, INC.

12 Defendant.

13 This document also relates to:

Case No. 10-cv-1975 JL

14 KEITH WRIGHT, on behalf of himself and all  
15 others similarly situated,

The Honorable James Larson

16 Plaintiff(s),

17 v.

18 SONY COMPUTER ENTERTAINMENT  
19 AMERICA INC.; and SONY COMPUTER  
20 ENTERTAINMENT AMERICA, LLC.

21 Defendants.

22 **TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:**

23 **PLEASE TAKE NOTICE** that on May 5, 2010, the case titled *Densmore et al. v. Sony*  
24 *Computer Entertainment America, Inc.* (“*Densmore*”), CV 10-1945 EDL was filed in the United  
25 States District Court for the Northern District of California and assigned to the Honorable  
26 Elizabeth B. Laporte.

27 On April 30, 2010, the case titled *Baker et al. v. Sony Computer Entertainment, LLC*  
28 (“*Baker*”), CV 10-1897 was filed in the United States District Court for the Northern District of  
California and assigned to the Honorable Samuel Conti.

1 On May 6, 2010, the case titled *Wright v. Sony Computer Entertainment America Inc. et*  
2 *al.* (“*Wright*”) was filed in the United States District Court for the Northern District of California  
3 and assigned to the Honorable James Larson.

4 Pursuant to Civil Local Rule 3-12, Plaintiffs Densmore and Herz (“Plaintiffs”) submit  
5 this motion for the Court to consider whether the *Densmore*, *Baker*, and *Wright* actions should be  
6 related to the action titled *Ventura v. Sony Computer Entertainment America Inc* (“*Ventura*”),  
7 CV 10-1811 EMC. Copies of the *Densmore*, *Ventura*, *Baker*, and *Wright* complaints are  
8 attached as Exhibits 1, 2, 3 and 4, respectively, to the accompanying Declaration of Tracy Tien.<sup>1</sup>

9 Local Rule 3-12(a) provides that actions are related to another when: “(1) The actions  
10 concern substantially the same parties, property, transaction or event; and (2) It appears likely  
11 that there will be an undue burdensome duplication of labor and expense or conflicting results if  
12 the cases are conducted before different Judges.” *Densmore*, *Ventura*, *Baker*, and *Wright* meet  
13 the criteria and should be related because they concern substantially the same parties, property,  
14 transaction or event. All four cases are class actions brought on behalf of Sony PlayStation 3  
15 (“PS3”) owners and allege violations against Defendant Sony Computer Entertainment America  
16 Inc. and/or Sony Computer Entertainment America LLC, as successor (collectively “Sony”) for  
17 Sony’s alleged unlawful removal of PS3 features that Sony had advertised and consumers had  
18 paid for.

19 All four cases allege that Sony sold PS3 gaming consoles that included an advertised  
20 feature, the “Install Other OS” feature, which allowed users to install operating systems. See  
21 *Densmore* Compl. ¶¶ 17-18; *Ventura* Compl. ¶¶ 13; *Baker* Compl. ¶ 16; *Wright* Compl. ¶ 10-11.  
22 The “Install Other OS” feature allowed users to run web browsers and run programs and  
23 essentially operate the PS3 like a computer. *Densmore* Compl. ¶¶17-21, 31-32; *Ventura* Compl.

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25  
26 <sup>1</sup> On May 14, 2010, Plaintiff Jason Baker in the action, *Baker et al v. Sony Computer*  
27 *Entertainment America, LLC*, Case No. 10-cv-01897-SC, filed an Administrative Motion to  
28 Relate *Baker* to the *Ventura* action.

1 ¶ 14-22; *Baker* Compl. ¶ 30; *Wright* Compl. ¶ 11-12. Sony advertised the “Install Other OS” as  
2 being an important feature to the PS3. *Densmore* Compl. ¶¶ 19-24; *Ventura* Compl. ¶¶ 14-16;  
3 *Baker* Compl. ¶ 26; *Wright* Compl. ¶ 10. On April 1, 2010, Sony released an update, Firmware  
4 3.21. *Densmore* Compl. ¶ 27; *Ventura* Compl. ¶ 24; *Baker* Compl. ¶ 30; *Wright* Compl. ¶ 14.  
5 Users are required to install Firmware 3.21 if they wish to maintain certain PS3 functions for  
6 which they paid, such as the ability to play Blu-ray discs and play games online. *Densmore*  
7 Compl. ¶¶ 26, 28-29; *Ventura* Compl. ¶ 26-29; *Baker* Compl. ¶ 30; *Wright* Compl. ¶ 15. Failure  
8 to install Firmware 3.21, however, causes users to lose PS3 functionality. *Id.* If users do install  
9 Firmware 3.21, they lose the “Install Other OS” feature, another paid-for and advertised PS3  
10 function. *Densmore* Compl. ¶¶ 27-29; *Ventura* Compl. ¶ 23-24; *Baker* Compl. ¶ 29-30; *Wright*  
11 Compl. ¶ 14.

12 All four cases are brought on behalf persons in the United States who purchased a PS3  
13 from November 17, 2006 to March 27, 2010 and continued to own the PS3 on March 27, 2010.  
14 *Densmore* Compl. ¶ 33; *Ventura* Compl. ¶ 32; *Baker* ¶ 33; *Wright* ¶ 16.

15 All four cases should be related because they name Sony Computer Entertainment  
16 America Inc. and/or Sony Computer Entertainment LLC as defendant(s) and concern the same  
17 property, transaction, and event, namely, the PS3 gaming console and Sony’s removal of the  
18 “Install Other OS” feature via Firmware 3.21. Furthermore, all four cases state claims for breach  
19 of contract, breach of the covenant of good faith and fair dealing, and violations of the  
20 Consumers Legal Remedies Act (Cal. Civ. Code §§ 1750, *et seq.*) and California Unfair  
21 Competition Law (Cal. Bus. and Prof. Code §§ 17200, *et seq.*). *Densmore* Compl. ¶¶ 41-51, 55-  
22 68, 82-87; *Ventura* Compl. ¶¶ 35-71; *Baker* Compl. ¶ 36-66; *Wright* Compl. 19-42.<sup>2</sup>

23 It appears likely that there will be an unduly burdensome duplication of labor and  
24 expense or the possibility of conflicting results if the cases are handled by different judges.

26 <sup>2</sup>*Ventura*, *Densmore*, and *Wright* also assert a claim for unjust enrichment. In addition, the  
27 *Densmore* Complaint asserts claims for trespass to chattels, and violation of the Computer Fraud  
28 and Abuse Act (18 U.S.C. ¶ 1030) and California’s False Advertising Law (Cal. Bus. and Prof.  
Code §§ 17500 *et seq.*). *Densmore* Compl. ¶¶ 77-87.

1 Since all four cases arise from the same practices by Sony and include similar allegations, the  
2 factual and legal issues will overlap. To prevent inconsistent and possibly conflicting rulings, it  
3 would be in the interest of judicial efficiency to have the same judge handle all four cases. For  
4 the foregoing reasons, Plaintiffs respectfully request this Court relate *Densmore, Ventura, Baker,*  
5 *Wright.*

6  
7 Dated: May 17, 2010

Respectfully submitted,

8 **FINKELSTEIN THOMPSON LLP**

9 /s/ Tracy Tien

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11 **UNITED STATES DISTRICT COURT**  
12 **NORTHERN DISTRICT OF CALIFORNIA**

13 ANTHONY VENTURA, on behalf of himself  
14 and all others similarly situated,

15 Plaintiff,

16 v.

17 SONY COMPUTER ENTERTAINMENT  
18 AMERICA, INC.,

19 Defendant.  
20

Case No. 10-CV-1811 EMC

**[PROPOSED] ORDER RELATING CASES**

The Honorable Edward M. Chen

21 This document also relates to:

22 TODD DENSMORE and ANTAL HERZ, on  
23 behalf of themselves and all others similarly  
24 situated,

Plaintiffs,

25 v.

26 SONY COMPUTER ENTERTAINMENT  
27 AMERICA, INC., a Delaware corporation,

28 Defendant.

Case No. 10-cv-1945 EDL

The Honorable Elizabeth D. Laporte

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This document also relates to:  
  
JASON BAKER, SEAN BOSQUETT,  
FRANK BACHMAN, PAUL GRAHAM, and  
PAUL VANNATTA, Individually and on  
Behalf of All Others Similarly Situated,  
  
Plaintiffs,  
  
vs.  
  
SONY COMPUTER ENTERTAINMENT  
AMERICA, LLC successor to SONY  
COMPUTER ENTERTAINMENT  
AMERICA, INC.  
  
Defendant.

Case No. 10-cv-1897 SC  
  
The Honorable Samuel Conti

This document also relates to:  
  
KEITH WRIGHT, on behalf of himself and all  
others similarly situated,  
  
Plaintiff(s),  
  
v.  
  
SONY COMPUTER ENTERTAINMENT  
AMERICA INC.; and SONY COMPUTER  
ENTERTAINMENT AMERICA, LLC.  
  
Defendants.

Case No. 10-cv-1975 JL  
  
The Honorable James Larson



1 On May 17, 2010, Plaintiffs Todd Densmore and Antal Herz filed an Administrative  
2 Motion to Consider Whether Cases Should Be Related, pursuant to Local Civil Rule 3-12.

3 The Court having considered the papers and pleadings on file, and good cause appearing,  
4 hereby GRANTS Plaintiffs' Administrative Motion to Consider Whether Cases Should Be  
5 Related.

6 It is hereby ordered that the following cases be related to Ventura:

- 7 1. *Densmore, et al., v. Sony Computer Entertainment America, Inc.*, Case No. 10-cv-  
8 1945 EDL,  
9 2. *Baker, et al., v. Sony Computer Entertainment LLC*, Case No. 10-cv-1897 SC, and  
10 3. *Wright v. Sony Computer Entertainment America Inc. et al.*, Case No. 10-cv-1975

11 JL.

12 **IT IS SO ORDERED.**

13  
14  
15 Dated: \_\_\_\_\_

\_\_\_\_\_   
The Honorable Edward M. Chen  
United States Magistrate Judge