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VRW

12
 13 UNITED STATES DISTRICT COURT
 14 FOR THE NORTHERN DISTRICT OF CALIFORNIA

CV 10 3909

17 SONY COMPUTER ENTERTAINMENT
 AMERICA LLC, a Delaware limited liability
 18 company,

19 Plaintiff,

20 v.

21 ZOMBA LDC;
WWW.SHOPPSJAILBREAK.COM; and DOES 1
 22 through 100,

23 Defendants.

Case No. _____

**COMPLAINT FOR DAMAGES AND
 INJUNCTIVE RELIEF BASED ON
 VIOLATIONS OF DIGITAL MILLENNIUM
 COPYRIGHT ACT; COPYRIGHT
 INFRINGEMENT; FEDERAL UNFAIR
 COMPETITION; TRADEMARK
 INFRINGEMENT; AND CALIFORNIA
 UNFAIR COMPETITION.**

DEMAND FOR JURY TRIAL

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 RICHARD W. WIEKING
 CLERK, U.S. DISTRICT COURT
 NORTHERN DISTRICT OF CALIFORNIA
 E-filing

1 Plaintiff Sony Computer Entertainment America LLC ("SCEA") hereby alleges as
2 follows:

3 **NATURE OF THE ACTION**

4 1. This is a complaint for injunctive relief and damages based on unlawful
5 distribution of circumvention devices in violation of the Digital Millennium Copyright Act, 17
6 U.S.C. § 1201, *et seq.*; contributory copyright infringement arising under the Copyright Act of
7 the United States, as amended, 17 U.S.C. § 101, *et seq.* ("Copyright Act"); the Trademark
8 Act of 1946 (the Lanham Act), 15 U.S.C. § 1051, *et seq.*, as well as a related state law claim
9 for unfair competition.

10 **JURISDICTION AND VENUE**

11 2. This Court has subject matter jurisdiction over the claims relating to the
12 Copyright Act (17 U.S.C. §§ 101, 501), the Digital Millennium Copyright Act (17 U.S.C. §
13 1201), and the Lanham Act (15 U.S.C. § 1051, *et seq.*), pursuant to 28 U.S.C. § 1331
14 (federal subject matter jurisdiction), 28 U.S.C. § 1338(a) (any act of Congress relating to
15 copyrights, patents, and trademarks), and 15 U.S.C. § 1121 (Lanham Act). This Court has
16 subject matter jurisdiction over the related state law claim under 28 U.S.C. § 1367 (action
17 asserting a state claim of unfair competition joined with a substantial and related federal
18 claim under the patent, copyright or trademark laws) and the doctrines of ancillary and
19 pendent jurisdiction.

20 3. This court has personal jurisdiction over the Defendants as the Defendants are
21 doing business in California and have advertised, offered for sale, and, on information and
22 belief, sold unlawful and infringing products in California, and featured testimonials of
23 California consumers who have purchased Defendants' infringing products.

24 4. Venue is proper in this judicial district under 28 U.S.C. §§ 1391(b) and (c)
25 because a substantial part of the events or omissions giving rise to the claim occurred here,
26 a substantial part of the subject property is located here, the Defendants transact business in
27 this district, and/or harm to SCEA has occurred in this district.

1 **INTRADISTRICT ASSIGNMENT**

2 5. Intra-district assignment to any division of the Northern District is proper under
3 Local Rule 3-2(c) and the Assignment Plan of this Court as an "Intellectual Property Action."

4 **PARTIES**

5 6. SCEA is a Delaware company with its headquarters and principal place of
6 business at 919 East Hillsdale Boulevard, Foster City, California. SCEA is engaged in the
7 business of marketing and distributing computer video game console hardware and
8 peripheral accessories and developing, marketing and distributing video game software.

9 7. Upon information and belief, Defendant Zoomba LDC is a company with its
10 principal place of business at 10685-B Hazelhurst Dr., #10054, Houston, Texas.

11 8. Upon information and belief, Defendant www.shoppsjailbreak.com is an online
12 retailer with its principal place of business at 10685-B Hazelhurst Dr., #10054 Houston,
13 Texas.

14 9. SCEA is informed and believes and on that basis alleges that Defendants
15 market, offer to the public for sale, sell, distribute and/or traffic in circumvention devices
16 called "PS Jailbreak," among other devices. These activities violate the Digital Millennium
17 Copyright Act and constitute contributory copyright infringement and other wrongful acts, all
18 as alleged herein.

19 10. SCEA is unaware of the true names and capacities of the Defendants named
20 as "Does" herein. SCEA is informed and believes and on that basis alleges that each of the
21 Doe defendants is legally liable and responsible directly or indirectly for the matters alleged
22 herein. SCEA will seek leave to amend this Complaint to show the true names and
23 capacities of the Doe Defendants when, and if, they become known.

24 11. SCEA is informed and believes and on that basis alleges that at all times
25 mentioned in this Complaint, each of the Defendants, including Does 1 through 10, was the
26 agent or principal or both for one another, was acting within the scope of such agency when
27 engaging in the conduct alleged in this Complaint and is jointly and severally liable for all
28 damages and profits arising from the conduct described herein.

1 **GENERAL ALLEGATIONS**

2 **I. SCEA and the PS3® System**

3 12. SCEA is presently a subsidiary of Sony Corporation of America. Prior to April
4 1, 2010, SCEA was a wholly-owned subsidiary of Sony Computer Entertainment Inc.
5 ("SCEI"), a Japanese corporation, which is itself a subsidiary of Sony Corporation of Japan.

6 13. SCEA is known for its sales of home entertainment products and is highly
7 regarded in the video game industry. Chief among the many products SCEA sells is the
8 PlayStation® 3 computer entertainment system, a video game entertainment system
9 featuring hardware and software designed for the playing of video games, Blu-Ray movies,
10 and built in Wi-Fi (collectively "the PS3® System"). The PS3® System is a highly
11 sophisticated apparatus that, in conjunction with compatible video game software, simulates
12 three-dimensional action. The PS3® System also features PlayStation® Network ("PSN"),
13 an entertainment network that supports online gameplay and PS3® System connectivity.

14 14. The PS3® System has enjoyed wide success throughout the United States and
15 the world. Over 38 million PS3® computer entertainment systems have been sold worldwide
16 since the product release in November 2006. There are hundreds of different game titles
17 currently available for the PS3® System in the U.S. These validly licensed games typically
18 sell for retail prices of between \$40.00 and \$70.00.

19 **A. SCEA's Copyrights, Copyright Licenses and Copy Protection**
20 **Mechanisms**

21 15. SCEA develops and publishes games for the PS3® System. SCEA has made
22 and continues to make a substantial investment of time, effort and expense in the design,
23 development, testing, manufacturing and marketing of its interactive entertainment software
24 games.

25 16. These games include a significant quantity of creative audiovisual material,
26 stories, and characters that are wholly original to SCEA. SCEA's copyrighted works are
27 referred to collectively as the "SUBJECT WORKS." The SUBJECT WORKS contain material
28 wholly original to SCEA and are copyrightable subject matter pursuant to 17 U.S.C. § 102.

1 SCEA owns the valuable copyrights to the audiovisual images, stories, characters and other
2 protectable features of the SUBJECT WORKS.

3 17. SCEA is currently, and at all relevant times has been, the sole owner of all
4 right, title, and interest in and to the copyrights in the SUBJECT WORKS.

5 18. SCEA has published, produced, and distributed the SUBJECT WORKS in
6 accordance with the provisions of the Copyright Act and all other laws governing copyright.
7 SCEA has secured the exclusive rights and privileges in and to numerous copyrights for its
8 video games, and has received from the Register of Copyrights numerous copyright
9 registrations for those games.

10 19. Among other copyright registrations, SCEA has registered copyrights nos. PA
11 1-616-055 (Ratchet & Clank Future: Tools of Destruction), PA 1-619-506 (Resistance 2), and
12 PA 1-611-286 (Uncharted Drake's Fortune) for the SUBJECT WORKS.

13 20. In addition to developing software games for the PS3® System, SCEA licenses
14 third-party interactive software developers to develop interactive entertainment software
15 products for the PS3® System. These licenses authorize the third-party licensees to use
16 proprietary PlayStation® 3 technology to develop games for the PS3® System. The third
17 party licensees are authorized to publish and distribute their games incorporating the
18 proprietary PlayStation® 3 technology and to use the PlayStation® trademarks and
19 copyrighted designs in connection with those games. SCEA receives royalties on each
20 PlayStation® 3 game manufactured pursuant to its licenses with third party publishers.

21 21. All genuine PS3® Systems are manufactured with a technological measure
22 ("Security Mechanism") that effectively controls access to the SUBJECT WORKS and
23 prevents unauthorized or unlicensed software from playing on the PS3® System. A
24 legitimate, authorized or licensed game contains code that verifies the disc's authenticity,
25 allows the PS3® System to boot, and allows the video game to play on the PS3® System.
26 The Security Mechanism cannot be replicated using commercial CD or DVD burners.
27 Unauthorized or unlicensed game discs (such as those "burnt" from genuine game discs) do
28 not have the Security Mechanism, cannot boot up the PS3® System, and will not play on the

1 PS3® System. The purpose of the PS3® System's Security Mechanism is to prevent,
2 restrict or otherwise limit access to, and infringement of, SCEA's exclusive right to sell and
3 distribute the SUBJECT WORKS.

4 22. The PS3® System's software media, console architecture and Security
5 Mechanism were designed to allow only the operation of legitimate, licensed and approved
6 software that is licensed for distribution in the region or geographical territory of the console's
7 sale. By taking these precautions, SCEA has been able to protect its exclusive rights to
8 copy, sell, distribute and manufacture the SUBJECT WORKS and to create derivative works.
9 In addition, SCEA has been able to protect its substantial investment in the development,
10 creation, and distribution of the game consoles and the SUBJECT WORKS.

11 **B. SCEA's Trademarks and Exclusive Trademark Licenses**

12 23. SCEA is the exclusive licensee of the trademarks for, among others,
13 PlayStation®, PS®, and PS3® (collectively, "Trademarks"). The marks are registered, and
14 the registrations for these marks are valid, extant, and in full force and effect.

15 24. To distinguish the products of SCEA in the marketplace, SCEA has, among
16 other things, prominently displayed the Trademarks on SCEA's goods, and in advertising
17 and marketing and packaging materials distributed throughout the United States. SCEA's
18 trademarks have come to identify SCEA as the source or sponsor of a specific series of
19 interactive simulation entertainment hardware and software products.

20 25. SCEA has invested substantial time and money in promoting the Trademarks
21 in connection with the marketing and sale of its products and the products it licenses. As a
22 result, the Trademarks have become, through widespread and favorable public acceptance
23 and recognition, an asset of substantial value as a symbol of SCEA and its quality products
24 and goodwill.

25 26. SCEA continuously has used the Trademarks in interstate commerce, from the
26 dates indicated in the applications or earlier, until the present and during all time periods
27 relevant to the claims in this Complaint. SCEA has used the Trademarks to identify goods
28 and services distributed and provided by SCEA. Since the issuance of the registrations for

1 these Trademarks, SCEA has given notice that they are registered.

2 **II. Defendants' Illegal Activities**

3 27. Defendants have been promoting, marketing, trafficking in, offering to the
4 public and/or distributing devices known as the "PSJailbreak" and "PS3 Modchip" that
5 impermissibly circumvent the PS3® System's Security Mechanism and contribute to the
6 infringement of the copyrights in the SUBJECT WORKS.

7 28. The PS3 Jailbreak/Modchip is a USB device, colloquially known as a "dongle,"
8 that connects to the PS3® System for the purpose of circumventing the PS3® System's
9 Security Mechanism (the "CIRCUMVENTION DEVICES").

10 29. The CIRCUMVENTION DEVICES will allow the user to create unauthorized
11 copies of the SUBJECT WORKS and store those copies on the PS3® System's internal hard
12 drive, or to an external hard drive or USB storage device. Once the user has created and
13 stored a copy of the SUBJECT WORK, the SUBJECT WORK will be available for use on the
14 PS3 System regardless of whether the actual disc containing the SUBJECT WORK is
15 present in the machine. Consequently, unauthorized copies such as pirated or burned
16 games can be created using the PS3 Jailbreak/Modchip.

17 30. SCEA is informed and believes and thereon alleges that the primary design
18 and function of the CIRCUMVENTION DEVICES is to bypass the Security Mechanism.
19 SCEA is informed and believes and thereon alleges that the CIRCUMVENTION DEVICES
20 have only limited commercially significant purposes other than to circumvent the Security
21 Mechanism. SCEA is informed and believes and thereon alleges that the CIRCUMVENTION
22 DEVICES are manufactured and sold with knowledge of their circumventing uses and with
23 knowledge that they are used to enable the PS3® System to play unauthorized and illegal
24 copies of the SUBJECT WORKS. The CIRCUMVENTION DEVICES thereby infringe,
25 permit, encourage, authorize, induce and/or contribute to the infringement of SCEA's
26 registered copyrights in the SUBJECT WORKS.

27 31. Moreover, SCEA is informed and believes and thereon alleges that Defendants
28 have marketed, promoted, offered to the public, trafficked in, and sold CIRCUMVENTION

1 DEVICES for the primary purpose of encouraging, contributing to, causing, inducing, and/or
2 authorizing infringement of SCEA's copyrights in the SUBJECT WORKS and/or with
3 knowledge that such devices are used for these illegal purposes.

4
5 **FIRST CLAIM FOR RELIEF**

6 (Violation of Digital Millennium Copyright Act, 17 U.S.C. § 1201, *et seq.*)

7 32. SCEA repeats and realleges each and every allegation set forth in the
8 foregoing paragraphs as though fully set forth herein.

9 33. Defendants have directly, or acting in concert with a third party, violated
10 SCEA's rights under 17 U.S.C. § 1201(a) by offering to the public, providing, trafficking in,
11 promoting, selling, distributing and/or placing in the market CIRCUMVENTION DEVICES
12 that are primarily designed or produced for the purpose of circumventing a technological
13 measure, or protection afforded by a technological measure, that effectively controls access
14 to the SUBJECT WORKS. These products are promoted, offered to the public, trafficked in,
15 sold and distributed by Defendants, have only limited commercially significant purposes
16 other than to accomplish these illegal purposes, and are manufactured, marketed and sold
17 with knowledge of their circumventing uses.

18 34. Defendants have directly, or acting in concert with a third party, violated
19 SCEA's rights under 17 U.S.C. § 1201(b) by offering to the public, providing, trafficking in,
20 promoting, selling, distributing and/or placing in the market CIRCUMVENTION DEVICES
21 that are primarily designed or produced for the purpose of circumventing a technological
22 measure, or protection afforded by a technological measure, that effectively controls the
23 rights of the copyright owners of the SUBJECT WORKS and other copyrighted works.
24 These products are promoted, offered to the public, trafficked in, sold and distributed by
25 Defendants, have only limited commercially significant purposes other than to accomplish
26 these illegal purposes and are manufactured, marketed and sold with knowledge of their
27 circumventing uses.

28 35. SCEA is informed and believes and thereon alleges that the actions of

1 Defendants are knowing, deliberate, willful and in utter disregard of SCEA's rights.

2 36. As a direct and proximate result of Defendants' conduct set forth above, SCEA
3 has been injured and damaged in an amount to be proven.

4 37. The above actions of the Defendants constitute direct and contributory
5 violations of SCEA's rights under the Digital Millennium Copyright Act, 17 U.S.C. §§ 1201-
6 1205. Defendants have violated, and on information and belief will continue to violate, the
7 Digital Millennium Copyright Act, 17 U.S.C. §§ 1201-1205, unless enjoined by the Court.

8
9 **SECOND CLAIM FOR RELIEF**

10 (Contributory Copyright Infringement—Copyright Act)

11 38. SCEA repeats and realleges each and every allegation set forth in the
12 foregoing paragraphs as though fully set forth herein.

13 39. SCEA has been, and still is, the sole proprietor of all rights, title, and interest in
14 the SUBJECT WORKS.

15 40. SCEA is informed and believes and thereon alleges that Defendants are aware
16 that Defendants' actions as described above infringed SCEA's copyrights and exclusive
17 rights to reproduce, display and distribute SCEA's copyrighted material.

18 41. After the registration dates for SCEA's various copyright registrations in the
19 SUBJECT WORKS, Defendants have induced, caused, or materially contributed to the
20 infringing conduct of potential purchasers and thus have contributorily infringed, and will
21 continue to infringe, those copyrights by knowingly distributing and/or placing in the market
22 CIRCUMVENTION DEVICES that are intended to, and do, encourage, cause, induce, assist,
23 and/or materially contribute to the infringing conduct of others, including users of infringing
24 copies of the SUBJECT WORKS within the United States.

25 42. SCEA is informed and believes and thereon alleges that Defendants' acts of
26 infringement alleged above were deliberate, knowing, willful, malicious, oppressive, and
27 without regard to SCEA's proprietary copyrights.

28 43. Defendants' copyright infringement has caused, and will continue to cause,

1 SCEA to suffer substantial injuries, loss and damage to its proprietary rights to the
2 copyrighted products and, further, has damaged SCEA's business reputation and goodwill,
3 diverted trade and caused a loss of profits, all in an amount not yet ascertained.

4 44. Defendants' copyright infringement, and the threat of continuing infringement
5 has caused, and will continue to cause, SCEA repeated and irreparable injury.

6 45. The above acts by Defendants constitute contributory copyright infringement of
7 SCEA's copyrights in the SUBJECT WORKS. As a result, Defendants have infringed, and
8 will continue to infringe, upon SCEA's intellectual property rights pursuant to 17 U.S.C. § 101
9 *et seq.*, unless enjoined by the Court.

10
11 **THIRD CLAIM FOR RELIEF**

12 (Federal Trademark Infringement and Unfair Competition)

13 (15 U.S.C. §1114 and §1125)

14 46. SCEA repeats and realleges each and every allegation set forth in the
15 foregoing paragraphs as though fully set forth herein.

16 47. SCEA, under agreements with SCEI, possesses an exclusive license in the
17 United States to use, control, and enforce rights in the trademarks PlayStation®, and PS®,
18 and PS3® (collectively, the "Trademarks"). The Trademarks are each registered, and the
19 registrations for these marks are valid, extant, and in full force and effect. By way of
20 example, the following are registrations for the Trademarks: Registration No. 2259732
21 [stylized "PlayStation" word mark]; 2087964 [stylized "PlayStation" word mark]; 2859185
22 ["PS" stylized word mark]; 2863923 ["PS3" stylized word mark]; 2984420 ["PS.com" word
23 mark].

24 48. SCEA continuously has used the Trademarks in interstate commerce, from the
25 dates indicated in the applications or earlier, until the present and during all time periods
26 relevant to the claims in this Complaint. SCEA has used the Trademarks to identify goods
27 and services distributed and provided by SCEA. Since the issuance of the registrations for
28 these Trademarks, SCEA has given notice that they are registered. The registration for the

1 PlayStation® mark and many other of the Trademarks have become incontestable under the
2 provisions of 15 U.S.C. § 1065.

3 49. Without authorization from SCEA – indeed in blatant disregard of SCEA's rights
4 and the law – Defendants have used some or all of the Trademarks, or close copies of, them
5 in a manner that is likely to confuse consumers as to sponsorship, affiliation, or approval by
6 SCEA. For example, the PS3 Jailbreak/Modchip appears to bear a copy of SCEA's
7 “PS.com” trademark and/or the stylized “PS” mark. Defendants' websites at
8 www.psjailbreak.com and www.shoppsjailbreak.com also prominently feature SCEA's
9 trademarks.

10 50. Defendants' conduct constitutes violations of 15 U.S.C. § 1114.

11 51. Defendants' conduct also constitutes federal unfair competition under 15
12 U.S.C. § 1125(a) because their use of the Trademarks in connection with the unlawful
13 circumvention devices constitutes a false designation of origin or false or misleading
14 representation of fact which is likely to cause confusion, or mistake or to deceive as to the
15 affiliation, connection, or association of Defendants with SCEA, or as to the original,
16 sponsorship, or approval of Defendants' goods, services, or commercial activities by SCEA.

17 52. As a direct and proximate result of Defendants' infringing and unfair activities,
18 SCEA has suffered, and if Defendants are not enjoined will continue to suffer, substantial
19 harm.

20 53. SCEA is informed and believes and thereon alleges that Defendants' actions
21 alleged above were deliberate, willful, malicious, oppressive, and without regard to SCEA's
22 proprietary rights and that Defendants' infringement is an exceptional case and was
23 intentional.

24 **FOURTH CLAIM FOR RELIEF**

25 (Unfair Competition/Unfair Business Practices)

26 (California Business and Professions Code, § 17200 *et seq.*)

27 54. SCEA repeats and realleges each and every allegation set forth in the
28 foregoing paragraphs as though fully set forth herein.

1 55. Defendants' providing the means of circumventing SCEA's security measures,
2 their infringement and unfair and misleading use of SCEA's trademarks, and their
3 introduction into the stream of commerce of CIRCUMVENTION DEVICES designed to
4 circumvent the Security Mechanism, among other wrongful acts, constitute unlawful and
5 unfair business acts and practices within the meaning of California Business and Professions
6 Code § 17200 *et seq.*

7 56. Defendants' unlawful and unfair business acts and practices are a direct and
8 proximate cause of injury to SCEA.

9 57. SCEA is informed and believes and thereon alleges that Defendants' actions
10 alleged above were deliberate, willful, malicious, oppressive, and without regard to SCEA's
11 proprietary rights.

12 58. Defendants' wrongful acts have proximately caused and will continue to cause
13 SCEA substantial and irreparable injury, including loss of customers, dilution of goodwill,
14 confusion of potential customers, injury to reputation, and diminution in the value of its
15 intellectual property.

16 59. SCEA is entitled to recover amounts by which Defendants have been unjustly
17 enriched from their unlawful and unfair business acts and practices of unfair competition.

18 60. As set forth in the forgoing paragraphs, Defendants have violated Sections
19 17200 *et seq.* of the California Business and Professional Code and California unfair
20 competition common law.

21 **PRAYER FOR RELIEF**

22 WHEREFORE, SCEA prays as follows:

23 1. That the Court enter judgment in favor of SCEA and against Defendants on all
24 counts;

25 2. That the Court issue a preliminary and permanent injunction order enjoining
26 and restraining Defendants and their agents, servants, employees, successors and assigns,
27 and all other persons acting in concert with or in conspiracy with or affiliated with

28 Defendants, from:

1 a. directly infringing, contributorily infringing or authorizing infringement of
2 any of SCEA's copyrights, including SCEA's copyrights in the SUBJECT WORKS;

3 b. directly or contributorily violating SCEA's rights under the Digital
4 Millennium Copyright Act, 17 U.S.C. § 1201;

5 c. continuing to market, offer, sell, transfer, advertise, promote, develop,
6 manufacture, import, provide or otherwise traffic in any CIRCUMVENTION DEVICES;

7 d. continuing to market, offer, sell, transfer, advertise, promote, develop or
8 manufacture any products that infringe or contribute to the infringement of SCEA's
9 intellectual property rights, including its rights in the SUBJECT WORKS, or to participate
10 in or facilitate any such activity;

11 e. moving, discarding, destroying, selling, transferring, or otherwise
12 disposing of any of the CIRCUMVENTION DEVICES, or any other devices that
13 circumvent SCEA's copyright protection scheme or that infringe or contribute to the
14 infringement of SCEA's intellectual property rights, including, but not limited to, its
15 copyrights;

16 f. moving, discarding, destroying, selling, transferring, or otherwise
17 disposing of any business records, emails, labels, wrappers, stickers, signs, sales
18 materials, advertising materials, or promotional materials relating to any devices that
19 infringe or contribute to the infringement of SCEA's intellectual property rights, including,
20 but not limited to, its copyrights;

21 h. engaging in any other activity constituting unfair competition and
22 deceptive trade practices against SCEA, or constituting an infringement or contributory
23 infringement of SCEA's intellectual property, or constituting any damage to SCEA's
24 intellectual property, reputation or goodwill.

25 3. That Defendants be required to deliver to SCEA, to be held for destruction or
26 other disposition at the conclusion of this litigation, any and all computer hardware and
27 peripherals containing infringing material, all CIRCUMVENTION DEVICES including "PS
28 Jailbreak" and "PS3 Modchips," and hard disc drives containing infringing material, computer

1 software, inventory of CD-ROMs, computer diskettes or the like, packaging, labels,
2 promotional, or advertising material or other materials bearing unauthorized copies of the
3 interactive software products or any of SCEA's trademarks, or any copy, simulation, variation
4 or colorable imitation thereof;

5 4. That judgment be entered in favor of SCEA and against Defendants for all
6 damages suffered by SCEA as a result of Defendants' violation of the Digital Millennium
7 Copyright Act, 17 U.S.C. §§ 1201-1205;

8 5. That judgment be entered in favor of SCEA and against Defendants for all
9 profits received due to Defendants' violation of the Digital Millennium Copyright Act, 17
10 U.S.C. §§ 1201-1205;

11 6. That judgment be entered in favor of SCEA and against Defendants for
12 statutory damages based upon Defendants' violation of the Digital Millennium Copyright Act,
13 17 U.S.C. §§ 1201-1205;

14 7. That judgment be entered in favor of SCEA and against Defendants for all
15 damages sustained by SCEA as a result of Defendants' copyright infringement under the
16 Copyright Act;

17 8. The judgment be entered in favor of SCEA and against Defendants for all
18 profits received due to Defendants' copyright infringement in violation of the Copyright Act;

19 9. That judgment be entered in favor of SCEA and against Defendants for
20 statutory damages based upon Defendants' acts of copyright infringement under the
21 Copyright Act;

22 10. That judgment be entered in favor of SCEA and against Defendants for unfair
23 competition under the Federal Lanham Act and for an award of three times Defendants'
24 profits or SCEA's damages, whichever is greater, plus other damages authorized under
25 U.S.C. § 1117;

26 11. For an order requiring Defendants to pay as restitution to SCEA all sums both
27 gained by Defendants and lost by SCEA as a result of Defendants' unfair business practices,
28 including those in violation of California law;

1 12. That Defendants be required to account for and to pay over to SCEA the
2 Defendants' profits and damages sustained by SCEA by reason of Defendants' unlawful acts
3 alleged herein, and that such amounts be trebled as provided by law;

4 13. That the Court order injunctive relief and restitution pursuant to California
5 Business and Professions Code § 17203;

6 14. That the Court issue an order requiring Defendants to file with this Court and
7 serve on SCEA within thirty (30) days after service of an injunction a report, in writing, under
8 oath, setting forth in detail the manner and form in which Defendants have complied with the
9 injunction;

10 15. That the Court award SCEA its reasonable attorneys' fees and costs of suit
11 incurred herein;

12 16. That SCEA be awarded prejudgment and post-judgment interest on the above
13 damages awards; and

14 17. That SCEA be awarded such other and further relief as the Court deems just
15 and proper.

16
17 DATED: August 31, 2010

Respectfully submitted,

TOWNSEND AND TOWNSEND AND CREW LLP

18
19
20 By: 

JAMES G. GILLILAND, JR.

21 Attorneys for Plaintiff
22 SONY COMPUTER ENTERTAINMENT AMERICA LLC
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DEMAND FOR JURY TRIAL

Plaintiff Sony Computer Entertainment America LLC hereby demands a jury trial on all issues so triable.

DATED: August 31, 2010

Respectfully submitted,

TOWNSEND AND TOWNSEND AND CREW LLP

By: 
JAMES G. GILLILAND, JR.

Attorneys for Plaintiff
SONY COMPUTER ENTERTAINMENT AMERICA LLC

62857615 v1