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 SONY COMPUTER ENTERTAINMENT AMERICA LLC

10  
 11 UNITED STATES DISTRICT COURT  
 12 FOR THE NORTHERN DISTRICT OF CALIFORNIA  
 13 SAN FRANCISCO DIVISION

14 SONY COMPUTER ENTERTAINMENT  
 AMERICA LLC,

15 Plaintiff,

16 v.

17 GEORGE HOTZ; HECTOR MARTIN  
 18 CANTERO; SVEN PETER; and DOES  
 1 through 100,

19 Defendants.

Case No. 11-cv-00167 SI

**DECLARATION OF RYAN BRICKER  
 IN SUPPORT OF PLAINTIFF SONY  
 COMPUTER ENTERTAINMENT  
 AMERICA LLC'S OPPOSITION TO  
 DEFENDANT GEORGE HOTZ'S  
 MOTION TO DISMISS FOR LACK OF  
 PERSONAL JURISDICTION AND  
 IMPROPER VENUE**

Date: April 8, 2011  
 Time: 9:00 a.m.  
 Courtroom: 10, 19<sup>th</sup> Floor  
 Judge: Hon. Susan Illston

20  
 21  
 22  
 23  
 24 I, Ryan Bricker, declare as follows:

25 1. I am an attorney in the law firm of Kilpatrick Townsend & Stockton LLP, counsel  
 26 of record for plaintiff Sony Computer Entertainment America LLC ("SCEA") in the above-  
 27 captioned matter. I make this declaration on personal knowledge and if called as a witness  
 28 could and would testify competently thereto.

1           2.     Attached hereto as Exhibit A is a true and correct copy of SCEA's letter to  
2 counsel for George Hotz memorializing the parties' meet and confer session on February 14,  
3 2011, and the parties subsequent telephone call on February 15, 2011, regarding various  
4 discovery issues.

5           3.     Attached hereto as Exhibit B is a true and correct copy of an email sent by  
6 counsel for SCEA to counsel for Hotz, proposing a location and schedule for inspection of  
7 Hotz's PS3 Systems, and offering an extension for Hotz's discovery responses.

8           4.     Attached hereto as Exhibit C are true and correct copies of Hotz's responses to  
9 SCEA's First Set of Interrogatories, and Hotz's objections to SCEA's First Demand for  
10 Inspection. Hotz did not verify his interrogatory responses and objected to the inspection of  
11 the PS3 Systems. On March 9, 2011, SCEA wrote Hotz requesting that he correct the  
12 deficiencies in his production, provide a verification of his discovery responses and provide  
13 the relevant jurisdictional discovery.

14           5.     Attached hereto as Exhibit D is a true and correct copy of correspondence sent  
15 by counsel for SCEA to counsel for Hotz, proposing a two-week extension of all briefing and  
16 hearing deadlines relating to Hotz's Motion to Dismiss. Also attached hereto as Exhibit D is a  
17 true and correct copy of correspondence from counsel for Hotz, refusing the two-week  
18 extension proposal.

19           6.     Using information from SCEA identifying the GameStop location (Store No.  
20 4489) where Hotz purchased the PS3 System bearing Serial No. CG221368477-CECH-  
21 2001A, I determined that the particular GameStop store is located at:

22                   4 Garden State Plaza, Suite 1029  
23                   Paramus, NJ 07652

24           Using this information, I determined that the particular GameStop store is 5.6 miles from  
25 Hotz's residence in Glen Rock, NJ. Attached hereto as Exhibit E is true and correct copy of  
26 the <www.gamestop.com> report identifying the location of Store No. 4489, and a true and  
27 correct copy of a Google map showing the distance between that store and Hotz's residence.

28           7.     Attached hereto as Exhibit F is a true and correct copy of a forum thread from

1 <forum.gsmhosting.com>, including the following post from user “blickmaniac”:

2 “Just curious what people would pay for exclusive rights to this solution. Tracfone  
3 W175g unlocked and debranded. PM me.”

4 8. Attached hereto as Exhibit G, are true and correct copies of the terms of service  
5 agreements published by Google and Twitter. The terms of service provided by each of  
6 these online service providers include forum selection clauses that require users to agree to  
7 jurisdiction in California.

8 9. Attached hereto as Exhibit H is a true and correct copy of Hotz’s website,  
9 <geohot.com>, offering the Metldr Keys (also known as the root keys), links to download the  
10 “3.55 Firmware Jailbreak” and the “Signing Tools,” and stating, “if you want your next console  
11 to be secure, get in touch with me.” This copy of the site was accessed on January 9, 2011.  
12 This exhibit is **Highly Confidential** and **Filed Under Seal**.

13 10. The IP logs provided by BlueHost, the web hosting service for Hotz’s  
14 <geohot.com> website, record various actions taken by those who visited the website. Some  
15 logged events include the command “GET /jailbreak.zip”, indicating that that visitor clicked on  
16 the “jailbreak” hyperlink on Hotz’s site, thereby requesting to download the 3.55 Firmware  
17 Jailbreak file. I directed our agents at eLitigation Solution (“eLit Solutions”) to isolate the IP  
18 log events that included the “GET /jailbreak.zip” download command, in order to determine  
19 how many download requests were sent to <geohot.com>. Then, I directed eLit Solutions to  
20 narrow these results to include only unique IP addresses, removing repeat entries. I directed  
21 eLit Solutions to use IP locator software to determine the geographic location of these IP  
22 addresses. Once eLit Solutions delivered to me a list of IP addresses located in California  
23 that requested to download the 3.55 Firmware Jailbreak file (jailbreak.zip), I used the HTTP  
24 codes within the IP logs to determine whether the download requests were successful. If the  
25 HTTP code was 200, 206, or 304, I determined that the user behind that IP address had  
26 successfully downloaded the 3.55 Firmware Jailbreak. If the HTTP code was 404, the user  
27 behind that IP address was unable to download the 3.55 Firmware Jailbreak.

28 Sorted by date, the number of California IP addresses that downloaded or attempted

1 to download the 3.55 Firmware Jailbreak from < geohot.com> follows:

- 2 • 1/8/2011 – 1/12/2011: **6,001** unique California residents requested the Jailbreak  
3 (276 were unsuccessful, **5,725** were successful downloads)
- 4 • 1/13/2011 – 1/27/2011: **8,140** unique California residents requested the Jailbreak  
5 (449 were unsuccessful, **7,691** were successful downloads)
- 6 • 1/28/2011 – 3/7/2011: **3,236** unique California residents requested the Jailbreak  
7 (all 3,236 were unsuccessful downloads)

8 Fourteen of these download requests came from IP addresses in Foster City, California.  
9 Because it is possible that these download requests were initiated by SCEA employees, I  
10 excluded these results. Further, I excluded the two 3.55 Firmware Jailbreak download  
11 requests initiated by SCEA’s counsel. Subtracting these sixteen download requests, since  
12 Hotz posted the 3.55 Jailbreak a total of **17,361** California residents requested to download  
13 the file, and **13,400** California residents successfully downloaded the Jailbreak.

14 11. Since mid-January 2011, Kilpatrick Townsend & Stockton LLP (“Kilpatrick  
15 Townsend”) has engaged in enforcement efforts to limit the trafficking of various  
16 circumvention devices relating to PlayStation®3 computer entertainment system (“PS3  
17 System”) that have been distributed via the Internet since Hotz released his 3.55 Jailbreak  
18 and other circumvention devices.

19 12. From mid-January to date, Kilpatrick Townsend has sent takedown notices to  
20 an array file hosts. Also as a result of our enforcement efforts we have noted hundreds of  
21 listings originating in the San Francisco Bay Area offering installation of PS3 circumvention  
22 devices through online marketplaces.

23 13. Attached hereto as Exhibit I is a true and correct copy of an article titled,  
24 “Playstation cracked wide open”, dated January 25, 2010, by Dan Goodin for *The Register*,  
25 an online tech publication whose US operation is based in San Francisco, CA. Dan Goodin,  
26 reporting from San Francisco, CA, writes in the article that George Hotz has “penetrate[ed]  
27 the previously impervious PlayStation 3 gaming console.” The article also includes the  
28 following direct quotes from by George Hotz:

- 1 • "Basically, I used hardware to open a small hole and then used software to make  
2 the hole the size of the system to get full read/write access."
- 3 • "Right now, although the system is broken, I have great power. I can make they  
4 [sic] system do whatever I want."

5 14. As a result of Hotz's hacking efforts, consumers and third party game  
6 developers have complained that individuals are using "hacked" PS3 Systems to cheat during  
7 online gameplay, thereby damaging the integrity and fairness of multiplayer video games,  
8 compromising the security of some users' PSN accounts, and harming SCEA's reputation  
9 and goodwill with its consumers and third party game developers. Attached hereto as Exhibit  
10 J are true and correct copies of the following articles reporting examples and magnitude of  
11 individuals using "hacked" PS3 Systems to cheat during online gameplay, and the resultant  
12 harm to SCEA:

- 13 • *Top 5 Reasons Hackers are Hurting the Sony Community, Not Helping*, by Steve  
14 Kohlbecker, published on February 18, 2011, at <<http://loot-ninja.com>>, describing  
15 how Hotz's hack is damaging the PlayStation 3 gaming community.
- 16 • *How to share Platinum Trophies*, by "mzil", published on January 10, 2011, at  
17 <<http://nextgenupdate.com>>, instructing forum readers how to cheat using "Geohot  
18 3.55 CFW". This is redacted to remove user ID.
- 19 • *PS3 set for a lot of piracy*, by "Sean", published on January 14, 2011, at  
20 <<http://realtalkgaming.com>>, summarizing game developer Martin Walfisz's  
21 concerns that "due to the nature of the [Hotz] breach, . . . Sony will struggle to  
22 detect which consoles are running illegally pirated content" thereby making the  
23 hack difficult to stop.
- 24 • *PS3 Piracy Could Eclipse PSP*, by Martin Robinson, published on January 14,  
25 2011, at <<http://ign.com>>, quoting game developer Martin Walfisz, who explained,  
26 "I would assume that pirated copies can be stored on the HDD as well making it so  
27 easy to use that PS3 piracy, given time, might even surpass the handhelds."
- 28 • *PS3 "Trophy Unlocker" threatens to break Trophy system*, by Debabrata Nath,

1 published on January 14, 2011, at <<http://vg247.com>>, reporting a new homebrew  
2 app called "PS3 Unlocker" that allows "users running custom firmware to achieve  
3 100 percent completion in any game and unlock all the trophies in the process."  
4 The article says: "All this is the result of George 'Geohot' Hotz completely hacking  
5 the PS3 by exposing its security keys . . . earlier this month."

- 6 • *Will PS3 Trophy Unlcok Hack Render Game Incentives Useless?*, Anthony  
7 Taormina, published on January 14, 2011, at <<http://gamerant.com>>, expressing  
8 concern of the PS3 hack that unlocks trophies will spoil the incentives to compete  
9 fairly in online gaming through the PS3 community.

10 15. Attached hereto as Exhibit K are true and correct copies of articles published at  
11 <[ihackintosh.com](http://ihackintosh.com)> and <[gamesradar.com](http://gamesradar.com)> reproducing screen captures of Twitter messages  
12 posted by Hotz using the Twitter account "geohot." The messages read "fine, one tweet... i  
13 just hacked the PS3... <http://geohotps3.blogspot.com>" and "PS3 exploit released... good luck  
14 community <http://geohotps3.blogspot.com>" respectively.

15 16. Within 24 hours of releasing his jailbreak, Hotz's circumvention devices had lead  
16 to video game piracy. Attached hereto as Exhibit L is a true and correct copy of a forum thread  
17 titled "Geohot: Full 3.55 CFW Jailbreak Is Working!", posted on January 7, 2011. On this page,  
18 there is a direct link to George Hotz's YouTube video (See Docket No. 28, ¶25, Exh. W) as well  
19 as an embedded excerpt of a chat session with George Hotz (operating under the moniker  
20 "geohot"). This exhibit is **Highly Confidential** and **Filed Under Seal**. Also attached in Exhibit  
21 L is a true and correct copy of this embedded chat text. Additionally, attached hereto as  
22 Exhibit M is a true and correct copy of a How To guide: "Jailbreak PS3 Running 3.55 Firmware  
23 [Guide]", published on January 9, 2011. This exhibit is **Highly Confidential** and **Filed Under**  
24 **Seal**. Also, attached hereto as Exhibit N is a true and correct copy of a forum entry titled "Full  
25 Backup Working on Geohot CFW 3.55," providing instructions of how to play copied, pirated  
26 games using the code distributed by George Hotz. The page was accessed on January 10,  
27 2010. This exhibit is **Highly Confidential** and **Filed Under Seal**.

28 17. Attached hereto as Exhibit O is a true and correct copy of an article published by

1 BBC news reporting Hotz's efforts to hack the PS3 System, titled "iPhone hacker publishes  
2 secret Sony PlayStation 3 key", published on January 5, 2011.

3 18. Attached hereto as Exhibit P is a true and correct copy of a blog post titled  
4 "OtherOS Supported on 3.2100" published by Hotz on April 7, 2010, and the corresponding  
5 comments. Approximately one week after Hotz published the post, a user named "someguy"  
6 posted a comment referencing SCEA. Later that same day, a user with the handle  
7 "us.playstation.com" posted corporate information from SCEA's website  
8 (<http://us.playstation.com/corporate/about/theplaystationstory/>), then continued to post multiple  
9 excerpts from the Terms of Service and User Agreement for the PSN  
10 ([http://us.playstation.com/support/useragreements/ps\\_playstation\\_network\\_nov\\_07.html](http://us.playstation.com/support/useragreements/ps_playstation_network_nov_07.html)),  
11 which repeatedly references SCEA. Hotz also actively participated in the comment section of  
12 this blog entry, posting six comments himself. Due to the large size of the original document, I  
13 have omitted irrelevant pages and highlighted relevant text. This exhibit is **Highly**  
14 **Confidential** and **Filed Under Seal**.

15 19. Attached hereto as Exhibit Q are true and correct copies of blog posts titled  
16 "Legal Defense Fund" and "First round of donations is closed" published by Hotz, and touting  
17 the success of his legal defense fundraising requests.

18 20. Attached hereto as Exhibit R is a true and correct copy of PlayStation's website,  
19 at <http://us.playstation.com/corporate/about/>, stating: "Sony Computer Entertainment  
20 America LLC (SCEA) is responsible for keeping PlayStation® growing and thriving in the  
21 United States, Canada and Latin America. Based in Foster City, California, SCEA serves as  
22 headquarters for all North American operations and is a wholly owned subsidiary of Sony  
23 Corporation of America Inc."

24 21. Attached hereto as Exhibit S is a true and correct copy of an email sent by  
25 Michael Grennier of The Intelligence Group on March 17, 2011, explaining that hard drives  
26 without controllers are unusable.

27 22. Attached hereto as Exhibit T is a true and correct copy of a forum thread on  
28 <http://psx-scene.com>, including a post published by Hotz under the username "geohot" on

1 January 2, 2011, announcing that certain circumvention devices, including the Metldr Keys, are  
2 available at his website, and posting a link to the <geohot.com> site. This exhibit is **Highly**  
3 **Confidential** and **Filed Under Seal**.

4 23. Attached hereto as Exhibit U is a true and correct copy of a blog post published  
5 by Hotz on January 23, 2010, at <geohotps3.blogspot.com> titled "Hello hypervisor, I'm  
6 geohot", and explaining that Hotz had gained "read/write access to the entire system memory."  
7 Hotz encourages readers to "follow @geohot on twitter". Comments in response to the blog  
8 post appear below the text, some indicating that Hotz received online financial donations,  
9 including the following:

10 adminsaid...  
11 i love u man!!!!!!! i really am! we are waiting to play all the ps3 games atleast!  
12 **i will donate u**  
January 23, 2010 6:44 AM

13 CSCsaid...  
14 **i agreed on donation to Geohot !!!**  
January 23, 2010 7:45 AM

15 Kirillersaid...  
16 **Thanks GeoHot, substantial donations are coming to you**, dont even think of  
17 sharing the info or taking any bribe from sony, people will offer far much greater amount  
18 and satisfaction then sony ever will :) Keep it on the downlow, so it dosnt get patched or  
19 f\*cked with, we dont want to end up at ground 0 once again after so many years.  
Cheers to you buddy.  
January 23, 2010 9:02 AM

20 I declare under penalty of perjury under the laws of the United States that the  
21 foregoing is true and correct to the best of my knowledge and belief. Executed on March 18,  
22 2011, at San Francisco, California.

23  
24 /s/ Ryan Bricker  
25 Ryan Bricker

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