

EXHIBIT D

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

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Holly Gaudreau
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March 15, 2011

*VIA EMAIL at stewart@etrny.com and
jack@mbvllaw.com*

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Re: *Sony Computer Entertainment America LLC v. Hotz, et al.*
Case No. C-11-00167 SI (N.D. Cal)

Gentlemen:

We are writing to propose that the parties agree to a two-week extension for the hearing on the motion to dismiss currently scheduled for April 8, 2011, and request that the Court reschedule the hearing for April 22, 2011. The Initial Case Management Conference is also scheduled on that date. We believe that such an extension is warranted because much of the jurisdictional discovery will not be produced until after the current deadline for SCEA's opposition, March 18, 2011. We are also writing to follow-up on SCEA's inspection of the PS3 consoles.

As you know, there are a number of outstanding jurisdictional discovery issues that need to be resolved:

Documents responsive to the PayPal subpoena: The language of the proposed order regarding the PayPal subpoena is currently before Judge Spero. After the Court rules and the subpoena is issued, PayPal will need sufficient time to produce responsive documents. This will not happen before SCEA's opposition is due.

Other third party jurisdictional discovery: We are still awaiting responsive documents from Google, YouTube, SoftLayer and Twitter and do not expect to receive them prior to SCEA's opposition. For example, Google has informed us that they do not intend to produce documents until 20 days after the subpoena has been served. Therefore, we do not expect to receive documents from them until March 28, 2011, at the earliest.

Jurisdictional discovery on the impounded devices: The language of the Court's order relating to the jurisdictional discovery Magistrate Judge Spero ordered is currently before Judge Spero. After the Court rules, TIG will need sufficient time to conduct searches for responsive materials based on the agreed upon protocols. Responsive materials, therefore, will not be produced prior to SCEA's opposition.

Mr. Hotz's insufficient discovery responses and lack of verification: We still have not received a response to our letter of March 9, 2011 outlining the many deficiencies in Mr. Hotz's discovery responses, including his inadequate document production. Moreover, Mr. Hotz has failed to verify his interrogatory responses, which are thus incomplete.

Mr. Hotz's deposition: Although the Court has already ruled that Mr. Hotz's deposition should be taken, in yesterday's joint letter Mr. Hotz has asked the Court to revisit this issue yet again. After the Court rules, the parties will need to agree on a date for the deposition. It is our understanding that it may take some time to schedule the deposition and give Mr. Hotz sufficient notice for travel to California.

Discovery served on SCEA: On March 7, 2011, Mr. Hotz served Requests for Production and Interrogatories on SCEA and demanded an expedited response within two weeks (i.e., March 21, 2011). If Mr. Hotz wanted the discovery from SCEA so quickly, he should have served his requests earlier. Indeed, SCEA served its original jurisdictional discovery on February 4, 2011. As it stands, much of the requested discovery is overbroad and beyond the scope of jurisdictional discovery. SCEA will need more time to respond to this discovery and possibly time to meet and confer.

Inspection of Mr. Hotz's PS3 consoles: We wrote to you on February 26, 2011 to schedule this inspection, but you did not respond. Mr. Hotz then served his objections to the inspection on March 7, 2011. This is now our second attempt to schedule the inspection. SCEA is amenable to conducting the inspection in New Jersey at an agreed upon location. With regard to the scope of the inspection, SCEA, through its technical experts, intends to:

- (1) Conduct a visual examination of each of the PS3 consoles identified by Mr. Hotz, including taking photographs of both the internal and external views of each console as well as a snapshot of the XMB for each console.
- (2) Conduct a visual examination of the packaging for and manuals and other documentation provided with each of the PS3 consoles identified by Mr. Hotz, including taking photographs of these materials.
- (3) Make two forensic images of each PS3 console identified by Mr. Hotz. One image will be sent to TIG for maintenance as a pristine copy of each PS3 console and the second will be used by SCEA for its analysis.

(4) Connect to the PlayStation Network (by creating a new user account) using each PS3 console identified by Mr. Hotz.

Please provide dates for the inspection, as well as a proposed location.

Given the above items, it is clear that SCEA will not have obtained all of the jurisdictional discovery sought by it before March 18, 2011, and not for lack of effort. Please let us know by **the close of business today** whether or not you are amenable to filing a stipulation with the Court to request the two-week extension for the briefing and hearing date as set forth below.

SCEA's Opposition – April 1, 2011
Hotz's Reply – April 8, 2011
Hearing – April 22, 2011

Very truly yours,



Holly Gaudreau

Lott, Shelley G.

From: Lott, Shelley G.
Sent: Tuesday, March 15, 2011 11:00 AM
To: 'stewart@etrny.com'; 'jack@mbvlaw.com'
Cc: Gaudreau, Holly
Subject: Sony v. Hotz (Case No. C-11-00167 SI) -- 2011-03-15 Letter to Stewart Kellar and Jack Praetzellis
Attachments: 2011-03-15 Letter to S Kellar and J Praetzellis.pdf

Please see attached letter of today's date.

Thank you.



Shelley Lott

Legal Secretary

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