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22 UNITED STATES DISTRICT COURT
 23 NORTHERN DISTRICT OF CALIFORNIA
 24 SAN FRANCISCO DIVISION

25 SONY COMPUTER ENTERTAINMENT
 26 AMERICA LLC, a Delaware limited liability
 27 company,

28 Plaintiff,

v.

GEORGE HOTZ, et al.,

Defendants.

Case No. 11-cv-000167 SI

DEFENDANT GEORGE HOTZ'S OBJECTIONS TO DECLARATION OF RYAN BRICKER IN SUPPORT OF PLAINTIFF'S OPPOSITION TO DEFENDANT'S MOTION TO DISMISS

Date: April 8, 2011
 Time: 9:00 a.m.
 Place: Courtroom 10, 19th Floor

Defendant George Hotz objects to the following paragraphs in the Declaration of Ryan Bricker in support of Sony Computer Entertainment America LLC's ("SCEA") opposition to Mr. Hotz's Motion to Dismiss.

<p>1 Paragraphs 2-5; Exhibits A-D.</p> <p>2</p> <p>3</p> <p>4</p> <p>5</p> <p>6</p> <p>7</p> <p>8</p>	<p>Federal Rules of Evidence, Rule ("FRE") 403. Mr. Bricker's description of SCEA's overbroad, burdensome and oppressive, discovery is not relevant to California's personal jurisdiction over Mr. Hotz. Further, an examination of Mr. Hotz's discovery responses shows that they were straightforward and clear. SCEA cannot claim his discovery responses were insufficient simply because Mr. Hotz does not have responsive documents.</p> <p>FRE 1001-1008. Best Evidence Rule. Mr. Bricker's characterizations of the parties' communications and Mr. Hotz's discovery responses are improper. The documents speak for themselves.</p>
<p>9 Paragraph 6; Exhibit E.</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p>	<p>FRE 403. Mr. Law (who identified the GameStop store the Playstation was allegedly purchased from) did not provide a declaration under penalty of perjury. Those statements are inadmissible as evidence. Mr. Bricker's follow-up on the inadmissible evidence is similarly tainted.</p> <p>FRE 403. Confusion of issues, misleading, and waste of time. Presenting information on where the Playstation was purchased is confusing, misleading and a waste of time since it is not an issue in this case. The manner in which information is presented is misleading.</p> <p>FRE 602. No personal knowledge/ foundation. Mr. Bricker does not have personal knowledge of the Gamestop store number or its alleged sale of the Playstation.</p> <p>FRE 802. Hearsay. SCEA's representations to Mr. Bricker regarding the Gamestop store are hearsay. They are not admissible for truth.</p>
<p>23 Paragraph 7; Exhibit F..</p> <p>24</p> <p>25</p> <p>26</p> <p>27</p> <p>28</p>	<p>FRE 403. Not relevant, misleading. Information Mr. Bricker found on the Internet is not relevant to whether California has personal jurisdiction over Mr. Hotz or not. Further, the forum that "blickmaniac" posted in is a separate thread from the posts from the "geohot" user. The time between the posts was 18 months. Mr. Bricker's inclusion of both threads in the same exhibit is misleading.</p> <p>FRE 803. Hearsay. The items Mr. Bricker found on the Internet are inadmissible as</p>

1		hearsay. Further they have not been authenticated and have no foundation.
2	Paragraph 8.	FRE 403. Not relevant. The Terms of Service for Google and Twitter are not relevant to jurisdiction over Mr. Hotz for the present action. SCEA cannot piggyback off the terms of service published by Google and Twitter. Further, SCEA has not made any showing that Mr. Hotz is even subject to those particular terms of service.
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6	Paragraph 9.	FRE 403. Not Relevant. SCEA does make the Playstation Computer, SCEA does not make the firmware, therefore, SCEA does not control the security of the Playstation Computer. Thus, this comment could not have been directed at SCEA. Moreover, the rule of completeness requires that the entire statement be quoted, "If you want your next console to be secure, get in touch with me. any of you 3. " Emphasis added.
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11	Paragraph 10.	FRE 403. Needless presentation of cumulative evidence already presented by Andrew Pierce.
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13		FRE 403. Confusion of issues, misleading, and waste of time.
14		Misleading. Code 304 does <i>not</i> indicate a successful download. Stamos Dec. ¶ 11.
15		Further, there is no foundation for the so-called "geolocation" software used by eLit.
16		Additionally, the total number of downloads of the jailbreak.zip file while it was available was 323,518. This makes the number of California downloads paltry in comparison. Stamos Dec. ¶ 8.
17		Information as presented is prejudicial to Defendant.
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20		FRE 602. The eLit declaration is inadmissible for lack of foundation. (See Objections to the Declaration of Andrew Pierce filed herewith). Therefore, the recitation of what eLit did is irrelevant. Further, Declarant claims he did what Andrew Pierce also claimed he did. eLit's work is not Declarant's personal knowledge.
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25		FRE 702. Inadmissible lay opinion. The summation of information regarding Unique IP Address visits to <geohot.com> requires an expert. Mr. Bricker is not qualified as an expert.
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28	Paragraph 11	FRE 402. Not relevant. What SCEA's attorneys have done relating to the jailbreak

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	<p>is irrelevant to whether California has personal jurisdiction over Mr. Hotz.</p> <p>FRE 602. No personal knowledge/ foundation regarding law firm's actions.</p> <p>FRE 403. Confusion of issues, misleading, and waste of time. Declarant misleadingly implies that action taken by law firm was result of Defendant's actions. Information as stated has a probative value that is substantially outweighed by its prejudice to Defendant Hotz.</p> <p>FRE 803. Hearsay.</p>
Paragraph 12.	<p>FRE 402. Not relevant. What SCEA's attorneys have done relating to the jailbreak is irrelevant to whether California has personal jurisdiction over Mr. Hotz.</p> <p>FRE 602. No personal knowledge/ foundation regarding law firm's actions.</p> <p>FRE 403. Confusion of issues, misleading, and waste of time. Declarant misleadingly implies that actions taken by law firm was result of Defendant's actions. Information as stated has a probative value that is substantially outweighed by its prejudice to Defendant Hotz.</p> <p>FRE 803. Hearsay.</p>
Paragraph 13; Exhibit I.	<p>FRE 402. Not relevant to personal jurisdiction.</p> <p>FRE 803. The article is hearsay and inadmissible as are the alleged quotes because they are used for the "truth" of the matter asserted.</p>
Paragraph 14; Exhibit J.	<p>FRE 402. Not relevant to personal jurisdiction.</p> <p>FRE 602. No personal knowledge/ foundation regarding law firm's actions.</p> <p>FRE 403. Confusion of issues, misleading, and waste of time. Declarant misleadingly implies that action taken by law firm was result of Defendant's actions. Information as stated, is prejudicial to Defendant without any relevancy.</p> <p>FRE 803. All of the articles cited and quotations are hearsay without an exception. They are clearly not admissible for truth.</p>

1	Paragraph 15; Exhibit K.	FRE 402. Not relevant to personal jurisdiction.
2		FRE 803. Articles are hearsay.
3	Paragraph 16; Exhibits L-N.	FRE 402. Not relevant to personal jurisdiction.
4		FRE 403. Not relevant and misleading because it implies that Mr. Hotz's code in and of itself allows for playing pirated games. Exhibit M claims to be a "guide" but no such guide is present in the Exhibit. Further, Exhibit N to the Bricker declaration shows that only 2 of 6 steps involve Mr. Hotz's software.
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9		FRE 602. No personal knowledge/ foundation regarding information.
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11		FRE 403. Confusion of issues, misleading, and waste of time.
12		Information as stated has a probative value that is substantially outweighed by its prejudice to Defendant Hotz.
13		FRE 803. Hearsay.
14	Paragraph 17; Exhibit O.	FRE 803. Article is hearsay and not admissible for truth.
15	Paragraph 18; Exhibit P.	FRE 403. Not relevant. The post from us.playstation.com including the terms of service states that it was posted approximately 6 days before March 18, 2011. In other words, it was posted nearly two months after SCEA sued Mr. Hotz. Further, the SCEA terms of service are on the 221st page of 224 pages of comments on the blog. It is beyond reason to expect that Mr. Hotz looked at all of these comments, and further, even if we assume that he saw a block cut/paste from SCEA that cannot somehow subject him to personal jurisdiction in California.
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22		FRE 602. No personal knowledge/ foundation
23	Paragraph 19.	FRE 403. Not relevant. Mr. Hotz was forced to seek donations because SCEA sued him. The donations he received, or lack thereof, cannot create a basis for California's jurisdiction over him.
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26	Paragraph 20.	FRE 403. Not relevant. What the Playstation website says is irrelevant to personal jurisdiction. SCEA never alleged that Mr. Hotz has been to that page on the Playstation website, or for that matter, any other page on the Playstation website.
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1	Paragraph 21.	FRE 403. Not relevant.
2	Paragraph 22; Exhibit T.	FRE 403. Not relevant.
3		FRE 803. Hearsay.
4		No foundation for author of post.
5	Paragraph 23; Exhibit U.	FRE 403. Not relevant.
6		FRE 803. The comments on Mr. Hotz's blog are clearly hearsay and not admissible for truth.

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9 For the foregoing reasons, Plaintiff respectfully requests the Court to sustain
10 these objections and to strike the testimony referred to above.

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12 Dated: March 25, 2011.

13 MBV LAW LLP

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15 By _____/s/ Stewart Kellar
16 Stewart Kellar
17 Attorneys for Defendant George Hotz

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