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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 OBJEC-
 TIONS TO DECLARATION OF KENNETH
 LAW IN SUPPORT OF PLAINTIFF'S OPPO-
 SITION TO DEFENDANT'S MOTION TO
 DISMISS AND MOTION TO STRIKE TES-
 TIMONY CONTAINED THEREIN**

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

Defendant George Hotz objects to the following paragraphs of Kenneth Law's dec-
 laration in support of plaintiff's opposition to Mr. Hotz's motion to dismiss. There are two rea-
 sons to strike Mr. Law's declaration. (1) **The declaration is not made under penalty of
 perjury.** It is not admissible evidence. 28 United States Code Section 1746 requires that a dec-

1 laration made within the United States state "I declare (or certify, verify, or state) under penalty
 2 of perjury that the foregoing is true and correct. Executed on (date). (Signature)". This declara-
 3 tion is clearly not admissible evidence and cannot be relied on to make a ruling on Mr. Hotz's
 4 motion to dismiss. Further, it is an intentional attempt to mislead the Court. Exhibit A is inten-
 5 tionally altered to *not* show the actual serial number contained on the Document. Kellar Dec.,
 6 Ex. I. (2) Moreover, Mr. Law's Declaration was late filed. SCEA must play by the rules, just like
 7 all other litigants. Opposition to Mr. Hotz' Motion to Dismiss was due on March 18, 2011, which
 8 pursuant to F.R.C.P. Rule 6.4 and Local Rules 7-3, required all supporting affidavits and declara-
 9 tions to be filed on March 18, 2011. The Law Declaration was filed on March 19, 2011. This is
 10 cause to strike it in its entirety.

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<p>Paragraph 3. Entire paragraph.</p>	<p>FRE 402. Not relevant. Mr. Hotz stated he has not accessed the Playstation Network. Not relevant because Mr. Law does not indicate <i>which version of the terms of service</i> that he claims applies to Mr. Hotz. Not relevant because Mr. Law does not indicate <i>which version of the terms of service</i> he is describing. Not relevant because a PSN account is not at issue here.</p> <p>FRE 403. Confusion of issues, misleading, and waste of time. Presenting information on PSN Account is confusing, misleading and a waste of time since no account was created and it is not an issue in this case. The manner in which information is presented is misleading. It implies that authentic information must be used. Information is prejudicial because it describes only one unerring user experience which requires authentic data as the only option.</p> <p>FRE 602. No personal knowledge/ foundation.</p> <p>FRE 1001-1008. Best Evidence Rule. To the extent they are relevant, which they are not, the terms of service speak for themselves.</p>
<p>Paragraph 4. Entire paragraph.</p>	<p>FRE 403. Confusion of issues, misleading, and waste of time.</p> <p>FRE 602. No personal knowledge/ foundation. Declarant cannot speak to other users' experience and whether they can access the</p>

<p>1 Paragraph 5. Entire paragraph.</p> <p>2</p> <p>3</p> <p>4</p> <p>5</p> <p>6</p> <p>7</p> <p>8</p> <p>9</p> <p>10</p> <p>11</p> <p>12</p>	<p>PSN.</p> <p>FRE 402. Not relevant.</p> <p>FRE 403. Confusion of issues, misleading, and waste of time. Offering another individual's account is confusing, misleading and a waste of time. Misleading information is prejudicial to Defendant.</p> <p>FRE 602. No personal knowledge/ foundation. The declarant has not given any reason why he knows what he knows about the Playstation Network, or why he is competent to search the Playstation Network registration system, or why it is reliable, or whether multiple products bear the same serial number or console id. Or where the attached documents show that the Playstation was purchased at a GameStop store.</p> <p>FRE 701. Inadmissible lay opinion. Not qualified as an expert. Has not presented method to acquire data or accuracy of data.</p>
<p>13 Paragraph 6. Entire paragraph.</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 402. Not relevant.</p> <p>FRE 403. Confusion of issues, misleading, and waste of time. Offering another individual's location is confusing, misleading and a waste of time. Declarants implications are prejudicial to Defendant in an amount that substantially outweighs its probative value.</p> <p>FRE 602. No foundation. Just as there is no foundation for the accuracy of the geolocation service used by "eLit" and there is no foundation for the accuracy of the geolocation service used by Mr. Law. Mr. Law has no foundation for believing the website <whatismyipaddress.com> will yield accurate results. Simply because Mr. Law typed an IP address into the site's search box, and the result stated that the IP address was located in New Jersey, does not make it so.</p>
<p>23 Exhibit A</p> <p>24</p> <p>25</p> <p>26</p> <p>27</p> <p>28</p>	<p>FRE 402. Not relevant. Mr. Hotz stated he has not accessed the Playstation Network and does not have an account. Not relevant because Mr. Law does not indicate what program he is using or the accuracy of the results. Not relevant because a PSN account is not at issue here.</p> <p>FRE 403. Confusion of issues, misleading, and waste of time. Information is confusing, misleading and a waste of time since no PSN account created by Defendant. Information is misleading as presented and does not explain</p>

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	<p>accuracy of data, malfunctions, or other factors which may effect data. Information is presented as a conclusion which is prejudicial to Defendant.</p> <p>The manner in which information is presented is misleading. It implies that authentic information must be used. Information is prejudicial because it describes only one unerring user experience which requires authentic data as the only option.</p> <p>FRE 602. No personal knowledge/ foundation. The search box indicates the Console ID, and not the Serial No, was used to connect the systems. Mr. Law has no foundation for knowing the console ID associated with the Serial Number of Mr. Hotz's Playstation.</p> <p>FRE 1001-1008. Best Evidence Rule. Best evidence in this case would be direct evidence; which in fact contradicts Mr. Law's testimony. Kellar Decl., Ex. I.</p>
Exhibit B	<p>FRE 402. Not relevant. Mr. Hotz stated he has not accessed the Playstation Network and does not have an account. Not relevant because the IP address is not at issue here.</p> <p>FRE 403. Confusion of issues, misleading, and waste of time. Information is confusing, misleading and a waste of time since no PSN account created by Defendant. Information is misleading as presented and does not explain accuracy of data, malfunctions, or other factors which may effect data. Information is presented as a conclusion which is prejudicial to Defendant.</p> <p>The manner in which information is presented is misleading. It implies that it is authenticated and reliable information, but lacks foundation for both claims. Further, the unauthenticated information is highly prejudicial because it implies that the IP address belongs to Mr. Hotz.</p> <p>FRE 602. No personal knowledge/ foundation. Declarant has no personal knowledge as to the data in the website used, the methodology of the website, or the accuracy. Declarant has not established a foundation regarding the use of a third party website.</p> <p>FRE 1001-1008. Best Evidence Rule. Best evidence in this case would be direct evidence.</p>

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4 For the foregoing reasons, Plaintiff respectfully requests the Court to sustain these objec-
5 tions and to strike the testimony referred to above.

6 Further, the Court cannot rely on this declaration as it is not made under penalty of per-
7 jury and because it intentionally attempted to hide relevant evidence from the Court by not
8 showing the serial number that SCEA actually found in its database, which does not match the
9 serial number of the Playstation Computer owned by Mr. Hotz.

10 Dated: March 25, 2011.

11 MBV LAW LLP

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13 By _____/s/ Stewart Kellar_____
14 Stewart Kellar
Attorneys for Defendant George Hotz

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