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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 MARVIN  
 MILLER IN SUPPORT OF PLAINTIFF'S  
 OPPOSITION TO DEFENDANT'S MOTION  
 TO DISMISS AND MOTION TO STRIKE  
 TESTIMONY CONTAINED THEREIN**

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 Marvin Miller in support of Sony Computer Entertainment America LLC's ("SCEA") opposition to Mr. Hotz's Motion to Dismiss.

Moreover, Mr. Miller's Declaration was late filed. SCEA must play by the rules,

1 just like all other litigants. Opposition to Mr. Hotz' Motion to Dismiss was due on March 18,  
 2 2011, which pursuant to F.R.C.P. Rule 6.4 and Local Rules 7-3, required all supporting affidavits  
 3 and declarations to be filed on March 18, 2011. The Miller Declaration was filed on March 19,  
 4 2011. This is cause to strike it in its entirety.

<p>6 Paragraph 2.</p> <p>7</p> <p>8</p> <p>9</p> <p>10</p> <p>11</p> <p>12</p>	<p>Federal Rules of Evidence, Rule ("FRE") 403. The documents that come with the Playstation3 are irrelevant to whether California has jurisdiction over Mr. Hotz. SCEA has never alleged Mr. Hotz read the manual in question. Indeed, Mr. Hotz's instruction manual was (and remains) shrink wrapped. Hotz Dec. ¶ 10; Kellar Dec. Exs. A-E.</p> <p>FRE 602. No foundation or personal knowledge. The declarant never states how he knows these facts testified to other than by declaring his job title in paragraph 1.</p>
<p>13 Paragraph 3. 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>23</p> <p>24</p>	<p>FRE 402. Not relevant. The fact that the manual is located on a website is wholly irrelevant to whether SCEA has personal jurisdiction over Mr. Hotz. SCEA has never alleged Mr. Hotz read the manual in question. Indeed, Mr. Hotz's instruction manual was (and remains) shrink wrapped. Hotz Dec. ¶ 10; Kellar Dec. Exs. A-E.</p> <p>FRE 402. Relevancy. Even a cursory review of the various quotes from the manual evidence the fact that they are wholly irrelevant to jurisdiction. The fact that the manual states "for more information, visit <a href="http://www.us.playstation.com">www.us.playstation.com</a>" has no bearing on California's ability to exercise jurisdiction.</p> <p>FRE 403. Confusion of issues, misleading, and waste of time.</p> <p>FRE 1001-1008. Best evidence. Declarant simply testifies to various portions of the Playstation 3 manual. The documents should speak for themselves.</p>
<p>25 Paragraph 4. Entire paragraph.</p> <p>26</p> <p>27</p> <p>28</p>	<p>FRE 403. Not relevant. The outer packaging, assuming it states "SCEA," is irrelevant to whether California has personal jurisdiction over Mr. Hotz. SCEA did not allege Mr. Hotz read the packaging, or that he personally opened the box. Further, the paragraph does not state that SCEA is <i>located in California</i>,</p>

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	which is the only way the paragraph could even theoretically be relevant.
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For the foregoing reasons, including SCEA's untimely filing, Plaintiff respectfully requests that the Court strike the declaration in its entirety. In the event this Court chooses not to strike the declaration in its entirety, Plaintiff respectfully requests this Court to strike the testimony referred to above.

Dated: March 24, 2011.

MBV LAW LLP

By \_\_\_\_\_ /s/ Stewart Kellar  
Stewart Kellar  
Attorneys for Defendant George Hotz

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