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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 ANDREW
 PIERCE IN SUPPORT OF PLAINTIFF'S OP-
 POSITION 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 Andrew Pierce's declaration in support of plaintiff's opposition to Mr. Hotz's motion to dismiss. Moreover, Mr. Peirce's Declaration was late filed. SCEA must play by the rules, just like all other litigants. Opposition to Mr. Hotz' Motion to Dismiss was due on March 18, 2011, which pursuant to F.R.C.P.

1 Rule 6.4 and Local Rules 7-3, required all supporting affidavits and declarations to be filed on
 2 March 18, 2011. The Peirce Declaration was filed on March 19, 2011. This is cause to strike it in
 3 its entirety.

<p>4</p> <p>5 Paragraph 2. Entire paragraph.</p> <p>6</p> <p>7</p> <p>8</p> <p>9</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>23</p> <p>24</p> <p>25</p>	<p>Federal Rules of Evidence, Rule ("FRE") 402. Relevancy. The whole of Mr. Pierce's declaration is irrelevant. The fact of persons accessing Mr. Hotz's website who, according to the unknown, undescribed, and unverified service "IP2Location software" may have been located in California is insufficient for California to exercise personal jurisdiction over Mr. Hotz. A defendant "will not be haled into a jurisdiction solely as a result of random, fortuitous, or attenuated contacts, or of the unilateral activity of another party or third person." <i>Doe v. American Nat. Red Cross</i>, 112 F.3d 1048, 1051 (9th Cir. 1997) (quoting <i>Burger King v. Rudzewicz</i>, 471 U.S. 462, 475 (1985)).</p> <p>FRE 403. Confusion of issues, misleading. Technical information is presented in a confusing and misleading manner. Does not specify who the actor is or who "we" refers to.</p> <p>FRE 602. No foundation. No foundation for "IP2Location software." What it is, how it works, what error tolerance it has.</p> <p>FRE 702. Not qualified as an expert. Declarant never qualified as any sort of expert. Paragraph 1 is wholly inadequate to qualify Mr. Pierce as any sort of expert. Further, declarant provided no technical information relating to the manner in which he conducted the task described.</p> <p>FRE 602. Lack of personal knowledge. Unclear who performed actions and declaration does not state how declarant had personal knowledge.</p> <p>FRE 1001-1008. Best evidence. Declarant simply testifies to contents of contract. The documents should speak for themselves.</p>
<p>26 Paragraphs 3-4. Entire paragraphs.</p> <p>27</p> <p>28</p>	<p>FRE 402. Not relevant.</p> <p>FRE 403. Confusion of issues, misleading. Technical information is presented in a confusing and misleading manner. Does not specify who the actor is or who "we" refers to.</p>

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	<p>FRE 602. Lack of personal knowledge. Unclear who performed actions and declaration does not state how declarant had personal knowledge.</p> <p>FRE 702. Not qualified as an expert.</p>
Paragraph 5. Entire paragraph.	<p>FRE 402. Not relevant.</p> <p>FRE 702. Not qualified as an expert.</p> <p>FRE 602. No foundation.</p> <p>FRE 602. Lack of personal knowledge. Unclear who performed actions and declaration does not state how declarant had personal knowledge.</p> <p>FRE 403. Misleading. Logging HTTP codes 200, 206 and 304 as "hits" for the "GET /jailbreak.zip" command. HTTP code 200 is the only code that could even theoretically be relevant. Code 206 means: "Partial Content" which is not itself a complete download. Therefore, no complete download occurred and the end user cannot be said to have received the file. Code 304 is even more questionable as it only indicates that the file requested to be gotten was "Not Modified" and doesn't say anything about the success or failure of the GET request. Stamos Dec. ¶ 11. Confusion of issues. Technical information is presented in a confusing manner.</p>
Paragraph 6. Entire paragraph.	<p>FRE 602. No foundation.</p> <p>FRE 602. Lack of personal knowledge. Unclear who performed actions and declaration does not state how declarant had personal knowledge.</p> <p>FRE 402. Not relevant. Declarant attached Exhibit A, a "sample page" his company's analysis to the declaration. The sample page is redacted and filed under seal.</p> <p>FRE 403. Confusion of issues, misleading. Technical information is presented in a confusing and misleading manner. Information is prejudicial as presented.</p> <p>FRE 702. Not qualified as an expert.</p>
Exhibit A	<p>FRE 602. No foundation.</p> <p>FRE 602. Lack of personal knowledge. Unclear who performed actions and declaration does not state how declarant had personal know-</p>

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	<p>ledge.</p> <p>FRE 402. Not relevant. The document is <i>re-dacted and filed under seal.</i></p> <p>FRE 403. Confusion of issues, misleading. Technical information is presented in a confusing and misleading manner. Information is prejudicial as presented.</p> <p>FRE 702. Not qualified as an expert.</p>
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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

4817-9164-5193, v. 2