

**EXHIBIT B TO
SECOND SUPPLEMENTAL DECLARATION OF RYAN
BRICKER IN SUPPORT OF PLAINTIFF'S EX PARTE MOTION
FOR TEMPORARY RESTRAINING ORDER**

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Why the latest PS3 crack is disastrous for Sony and for gamers

Don't let anyone tell you it's a good thing

Words: *Justin Towell, GamesRadar UK*

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Every school kid dreams of unlimited free videogames – it's the modern version of being locked in a sweet shop. But the triumphant proclamations of 'PS3 jailbroken' and 'Hacker claims PS3 is hacked for good' are potentially the worst news Sony fans could ever hear. So let's look at why this week in particular may be remembered in future years for all the wrong reasons.

So what's the problem exactly?

A guy called George Hotz (known online as GeoHot), said to be the man responsible for jailbreaking the iPhone, has published the PS3's master key online. This master key sounds like an item from The Legend of Zelda, and in truth it's no less mythical. It's a list of digital signatures that are used in software to tell a PS3 that the program it's playing is an officially licensed Sony product. Copy that and you can make a PS3 play anything.

'Chipped' consoles pass security through physical means (and can normally be combated through firmware upgrades), but the big deal about this latest hack is that it's supposedly undetectable by normal, retail machines. The codes are built into the hardware, so shop-bought PS3s will happily boot up pirated game discs or package files and believe they're 100% legit. They'll feed back to Sony's servers that everything's fine, allowing full online play.

It is even alleged that the only way to combat this breach would be to revise the hardware itself. You know, a *mass recall* by Sony where everyone sends their PS3s back to the manufacturer for a new security system to be installed. And that just ain't gonna happen.



Sony's response

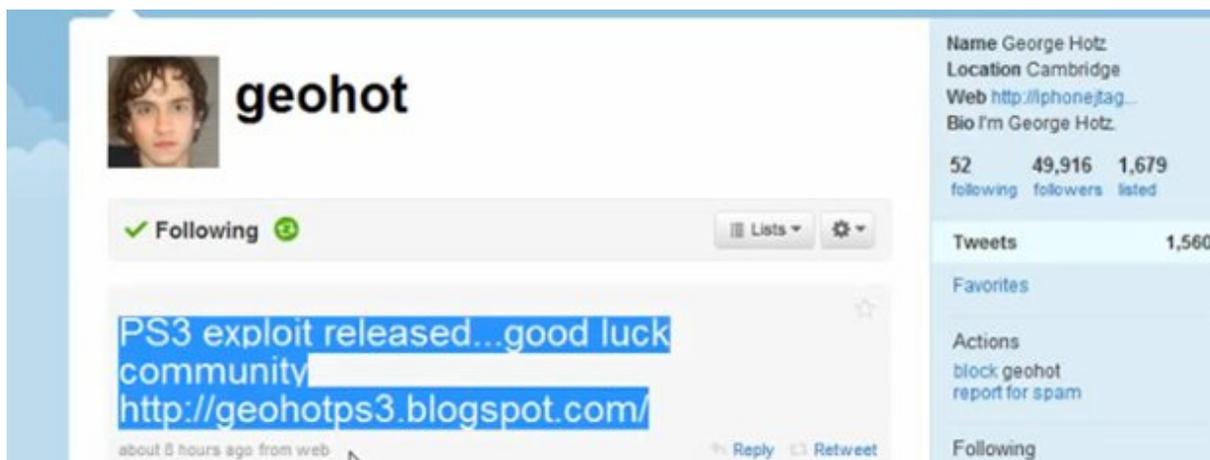
Sony has responded to the issue with a very short statement, saying:

"We are aware of this, and are currently looking into it. We will fix the issues through network updates, but because this is a security issue, we are not able to provide you with any more details."

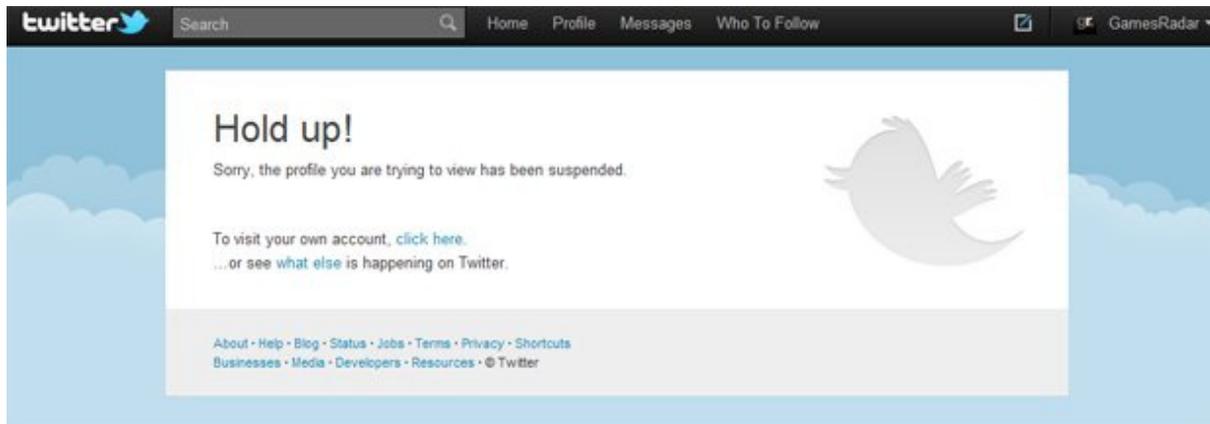
However, the hackers say the *entire console* is compromised and that network updates will have zero effect. It's important to stress that GeoHot and the group of hackers he works with claim they do not believe in piracy – all they want to do is go back to not being restricted to Sony's OS so that they can run independently created and developed software. GeoHot himself **admitted he is worried** about a lawsuit, but said:

"I am confident I would win since what I released was just a number obtained by running software on the PS3 I purchased"

However, there's no denying his Twitter feed once looked like this:



And now looks like this:



Coincidence?

Know your arguments!

Sure, it's easy to argue the case for hacking a console in this way. Firstly comes the **"we're only getting back what we originally paid for"** argument. Sony's decision to remove the 'Other OS' option from PS3 via a firmware upgrade (downgrade?) annoyed a lot of people. Meiks is the only member of the GR UK team to have installed Linux on his PS3 and he rather bluntly describes it as 'shit'. It didn't use all the PS3's processors, ran like a 7-year-old PC and could barely stream an SD episode of Lost without breaking. As a result, very, very few people used it. But it sure gave people a reason to get angry when it was taken away, and a reason to start hacking.

The second argument is: **"I don't believe in piracy – I'm only going to use homebrew on it."** If you've paid for a computer of any sort, many believe you should be able to run your own applications on it. While this does infringe End User License Agreements, it's arguably harmless enough for bedroom developers to potter away with their 'GOTO 10's (am I showing my age there?) and I admit I am totally jealous of anyone who has Flash on their iPhone. Even so, if you break the EULA, you're breaking a legal contract, so you're always going to be on dodgy ground where the law's concerned.

The third argument is the oldest. **"Games cost too much anyway - who are the criminals really?"** OK, fine. But when everyone has easy access to free games and nobody pays for them, the developers get zero money. What's the point of having infinite access to free games when no developer can stay in business long enough to make new ones? That's the reality of it. With game budgets already so big that a single flop can destroy you (R.I.P. Realtime Worlds), the prospect of widespread piracy is a death knell. Oh, and shops 'mark-up' prices for a reason. They *employ* people. Probably even the parents of the gamers playing the pirated games.



The fourth argument is possibly the most stupid. **"Sony's making money on every PS3 they sell, so if more people are buying full-price consoles to play the free games, everyone's a winner"**.

Wrong. PSP may well have sold millions of units to people who want it to play old SNES games on the train, but this kind of market is not sustainable. Wonder why PSP's software line-up is so poor? Sales just aren't high enough to encourage devs to release their premium fare. And look at Nintendo DS' crash in software sales thanks to that damned R4 card. Game piracy will not make Sony happy. It's extremely selfish, highly illegal and no good for anyone in the long run.

What you can do

I'm going to sound like every anti-piracy advert that you try to skip past on DVDs, but it's at times like this



that true gamers need to be resolute. So probably best to read this in the voice of South Park's school councillor, Mr Mackey. Don't get suckered in, mmmkay? If you love games, then buy them. It's healthy for the industry and you'll value them more.



What would we do if consoles died out because they no longer work as a business model? We'd probably make games ourselves. And then we'd undoubtedly hope that someone pays us for doing it. After all, all that hard work ought to be rewarded, right?

07 Jan, 2011

Sources: [BBC](#), [Next-Gen](#), [OneFaceInAMillion](#)

Tags: [Sony](#)

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[celticwhisper](#) - 5 days 11 hours ago

This article sounds like blatant propaganda. Linux on PS3 runs like a 7-year-old PC, proven by one claim from one member of one website's staff? EULAs are legal contracts (at least here in the States, that has not been tested in court)? Homebrew developers "playing with their GOTO 10 statements"?

No, how about the right to use what you bought and paid for how you want? Sony doesn't like it? Too bad. They have their money, the customer has the product. Just as ownership of the money has been transferred to Sony, ownership of the product has been transferred to the customer. Sony sure wouldn't appreciate it if the customer, post-sale, tried to dictate how they used the money, would they? Same principle, and weasel words about "hardware vs copyrighted software" have no impact on the moral reality of the situation.

Sony lost. They were playing a game they couldn't ever hope to win in the first place, and were playing it out of a desire to be control-freaks. I have zero sympathy for them and, conversely, would like to buy GeoHot a drink if I could.

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[8bitBaby](#) - 5 days 11 hours ago

oh my.

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[ChrisMacDee](#) - 5 days 11 hours ago

I totally agree however i admit i hacked my psp to play snes, gameboy, n64 (etc) games on it. If only there was a programming language for each console that took full power of each system, then geohot and the hacker people wouldnt have to hack the systems and compromise the industry. Obviously Sony, Nintendo etc would have to have some sort of screening process before such applications could be added to the system (like Xbox's indie games when they are developed with XNA) to prevent any dodgy software being let loose on the system.

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[v8ninety](#) - 5 days 11 hours ago

Agree totally, if the PS3 security has been comprised so badly as are the claims then I can see the PS3 console quickly turning into an expensive blu-ray player or door stop. Sony have some serious PR work (and possible sweetners) to do with developers to keep them interested in the machine if games piracy takes off in a big way.

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grim08 - 5 days 11 hours ago
@celticwhisper

Regardless, piracy is wrong and hurts gamers in the long run. Anyone who advocates it wants a future where we get crappy homemade games from kids living in their moms basements.

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Rhybo - 5 days 11 hours ago

(1) = You support hacked consoles, jailbreaking, free games; (2) = Companies stop funding developers making games; (3) = Quality games stop coming out for... anything; (4) = Developers and their families live in poverty because they can't make money with their current skillset; (5) = Cliffy-B ends up working at Wal-mart to get by.

Since the transitive law of mathematics applies in this situation let me summarize it: You support hacked consoles, jailbreaking, and free games EQUALS Cliffy-B ringing you up at the register, and goodness knows your not buying games because there aren't any left.

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wulibo - 5 days 11 hours ago

Honestly, what is wrong with some people?

FIRST of all, if you're only using the crack to run your own stuff, why post the crack for everyone to use?

Secondly, piracy. What in the nine hells is wrong with the human race. I thank the gods that it's small enough normally to only kill off small companies (which honestly is far from acceptable), but it does damage the huge companies we love. It's not gamers who are jerks like GR has implied before, (<http://www.gamesradar.com/f/worst-dick-moves-ever-pulled-on-developers-by-gamers/a-20101221114856016>), it is the human race. And let's be honest, until very recently, we gamers had been discriminated against, so it's natural that the more ignorant ones still think we're getting screwed by society, but I fail to see, in any way, shape, or form, how that is close to having to do with damaging the people who make the things you love?

I choose to believe that anyone who pirates a game is not a true gamer, not just because it makes them not allowed to be, but because if they were a gamer in terms of someone who just enjoys gaming, they would not do something so horrid and vile to the video game world. Many pirates are the same people who go into 7/11 and steal a bag of candy, or into the toy store to steal a few little toy animals, they do it because "stealing is cool."

There is nothing cool about pirating, and I have never been more mad than when somebody treats pirating like it is nothing. "Stop complaining, you didn't waste any money, video games are free!!!!11!!1one! What do you mean you bought it, that's stupid!" SMACK!

If I could kill every major game pirate out there, I would.

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iluvmyDS - 5 days 11 hours ago

This is great. You know just in case you want to help cripple an industry that we all love. No big deal.

[Report](#)



FanofSaiyan - 5 days 11 hours ago

I agree with your statements Justin, I just wish the rest of the internet saw it your way...

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celticwhisper - 5 days 11 hours ago

The problem is that you're equating the breaking of the PS3's security with piracy. They are not one and the same. While cracking the PS3 opens the door for piracy, it does not necessitate it.

If Sony wants to file suit against copyright infringers (reasonably, none of this settle-or-it's-max-statutory-damages crap), that's their business and they can do that. However, until someone actually starts distributing pirated PS3 games, they had better back off. And when someone does start distributing pirated PS3 games, they should go after that person and only that person, since that person is the only one who's done something illegal. If I hand you a hammer and you smash someone's face in with it, who's the wrongdoer? Me, for giving

you the hammer? Or you, for causing someone grievous bodily harm? You could have used the hammer to help build a house. Additionally, you could have wounded someone by a myriad of different means; you didn't need a hammer to do it.

I really hope someone uses the newfound hardware access this hack provides to run the folding@home GPU client and makes some massive breakthrough in curing Alzheimer's or some other terrible disease. A breakthrough that wouldn't have been possible without this hack. I'd love to see Sony persist in arguing against it in that case.

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[Rhybo](#) - 5 days 11 hours ago
[@celticwhisper](#)

Actually, if you read in the EULA of every Sony product (I haven't but I can guarantee you it's there) I'm sure it plainly states in legal jargon that tampering with the system will ruin your day. So yes, the ownership of the console has transferred to you... but by you purchasing it and turning it on and just clicking through the "Yes I accept" buttons and checking the "I have read and fully understand" boxes, you agree to use it under Sony's terms.

So I'd like to buy you and GeoHot a drink... like a tall stiff glass of my urine.

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[NeelEvil](#) - 5 days 11 hours ago

"Sony's making money on every PS3 they sell, so if more people are buying full-price consoles to play the free games, everyone's a winner".

I thought Sony & Microsoft both sold consoles at a loss & then made the money from games? Which makes it even worse.

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[GamesRadarJustinTowell](#) - 5 days 11 hours ago

[@NeeEvil](#) That used to be the case, but since the PS3 Slim came out, Sony's a little further into the black with each sale.

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[Baron164](#) - 5 days 11 hours ago

I purchase all my games, I haven't pirated a single game in years. Not since I was in college and couldn't afford them. Now that I can actually afford games I buy them, and usually even get them new. All though I still buy games used, and you can get games so cheap if you just wait a few months its almost silly to pirate. I like to support developers who make games I enjoy, I don't want them to go under. All though I still don't have sympathy for Activision when the latest Call of Duty is pirated a ton and they still broke sale records when it came out. But it's bullsh#1 when an indie game bundle for charity is pirated more then purchased.

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[celticwhisper](#) - 5 days 11 hours ago

[@Rhybo](#): Sony can say that, but if a court of law says otherwise, then the law trumps Sony's wishes. As I said, EULAs have not been tested in court and so there is no legal precedent to say that "Yes, clicking 'I agree' constitutes a legally-binding contract." It may, it may not, but until it's tested we do not know and Sony is being disingenuous by claiming that it is.

Also, while it's within their rights to refuse warranty service, refuse PSN access, and deny software updates to cracked PS3s, it is arguably less so for them to harass or persecute people for tinkering with hardware, even if it lights the way for results undesirable to Sony. As I said, if they want to go after illegal distribution of games, they should be permitted to. But to attack people simply for modifying hardware that they own is at least morally, if not also legally, indefensible.

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[Tispower](#) - 5 days 11 hours ago
Totally agree with you Justin!

There's not moral reason to pirate games unless say censorship is involved, but 99.99999% of the time that's not the case. People just want to have their cake and eat it as it were.

[Report](#)



Rhybo - 5 days 11 hours ago

Stating that "cracking the PS3 opens the door for piracy, it does not necessitate it" and using your hammer argument, essentially acquits Hitler from the genocide of Jews. He didn't personally kill them, he simply ushered it in to the national mentality and military directives.

GeoHot I'm not equating you to Hitler in any way (and I'm sorry I even used the big H in this dispute) but I still think you're a d-bag who was simply a little to selfish and didn't think ahead. Good luck in court.

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garnsr - 5 days 11 hours ago

Hasn't the 360 been hacked for a while now? Piracy hasn't killed it yet.

Do the hackers really believe that we believe they do it for the good of mankind? They do it just to show they can, and to screw with anyone they can.

[Report](#)



celticwhisper - 5 days 11 hours ago

@Rhybo: Godwin's law aside, not quite the same. If Hitler ordered the construction of concentration camps but prescribed no use for them, that would be closer to what you're describing. "Here are some camp facilities. You could use them as...um...military training grounds. Or for something else." However, as the so-called "final solution" was of Hitler's design and those implementing it were under his command, the parallel you're drawing doesn't exist as you imagine it.

If Geohot had cracked the PS3 and told an army of crackers under his command to "go forth and infringe Sony copyrights, use this tool I have given you to do so" then that, too, would be closer to the parallel you're drawing. As it is, however, he cracked the PS3's encryption keys and said "now it's open. Do what you will." The key point is "what you will." Yes, some people will certainly desire to pirate software, and those individuals should be fair game for reasonable infringement suits.

Those who modify their PS3s out of a sense of curiosity, however, or for educational purposes in pursuit of an understanding of electronic engineering or software design, or who use Geohot's hack to run their own software or do whatever else they wish that's not proscribed by law, should be vigorously protected by both the courts and their peers in society from undue harassment from a company that has shown itself in the past to have little regard for the individual when it's pursuing perceived wrongdoing.

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hoob22 - 5 days 11 hours ago

Whether what Geohot did was legally or morally defensible is irrelevant to the majority of PS3 owners. This crack is bad for companies, devs, and ultimately gamers. Probably not going to be the end of gaming as we know it, but still pretty bad.

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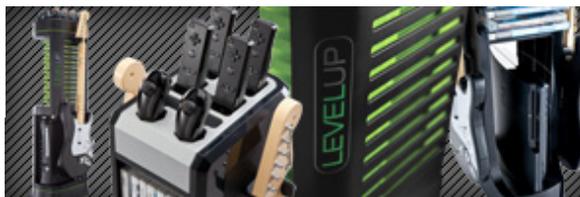
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