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4 Attorney for Defendant  
5 GEORGE HOTZ

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8 **UNITED STATES DISTRICT COURT**  
9 **FOR THE NORTHERN DISTRICT OF CALIFORNIA**  
10 **SAN FRANCISCO DIVISION**

11 SONY COMPUTER ENTERTAINMENT  
12 AMERICA LLC, a Delaware limited  
liability company,

13 Plaintiff,

14 v.

15 GEORGE HOTZ; HECTOR MARTIN  
16 CANTERO; SVEN PETER; and DOES 1  
through 100,

17 Defendants.

**CASE No.: 3:11-cv-00167**

**SUPPLEMENTAL DECLARATION OF  
STEWART KELLAR IN SUPPORT OF  
DEFENDANT'S OPPOSITION TO  
PLAINTIFF'S EX PARTE MOTION FOR  
TEMPORARY RESTRAINING ORDER**

Date: January 13, 2011

Time: 9:00 a.m., or as soon as can be heard

Courtroom: 10, 19th Floor

Judge: Hon. Susan Illston

1 I, Stewart Kellar, declare:

2 1. I am counsel of record for Mr. George Hotz in the above-captioned matter. I have  
3 personal knowledge of the facts stated in this declaration, unless otherwise indicated, and  
4 could and would testify competently thereto.

5 2. Attached hereto as Exhibit A is a true and correct copy of an article published at  
6 "playstation.com" on March, 28, 2010, The post reads in pertinent part: " will disable the "Install  
7 Other OS" feature that was available on the PS3 systems prior to the current slimmer models,  
8 launched in September 2009 . . . Consumers and organizations that currently use the "Other OS"  
9 feature can choose not to upgrade their PS3 systems, although the following features will no  
10 longer be available; Ability to sign in to PlayStation Network and use network features that  
11 require signing in to PlayStation Network, such as online features of PS3 games and Chat;  
12 Playback of PS3 software titles or Blu-ray Disc videos that require PS3 system software version  
13 3.21 or later; Playback of copyright-protected videos that are stored on a media server (when  
14 DTCP-IP is enabled under Settings); Use of new features and improvements that are available on  
15 PS3 system software 3.21 or later."

16 3. Attached hereto as Exhibit B is a true and correct copy of a changelog published at  
17 "us.playstation.com" at or around March 28, 2010, containing statements that the update  
18 removes features of the Playstation computer. The statement reads: "The [Install Other OS] and  
19 [Default System] features have been deleted. If you update your system software to version 3.21  
20 or later, you will not be able to use [Install Other OS] or [Default System]."

21 4. Attached hereto as Exhibit C is a true and correct copy of an article published at  
22 "ign.com" on April 28, 2010, entitled "Sony Sued For Removal Of Linux Support From PS3."  
23 The article begins: "A class action lawsuit has been filed against Sony Computer Entertainment  
24 America for the removal of the 'Other OS' feature from the PlayStation 3."

25 5. Attached hereto as Exhibit D is a true and correct copy of an article published at  
26 "sfgate.com" on December 5, 2009, entitled "New game for PlayStation 3: Crunching Numbers."  
27 The article mentions several noninfringing uses of the Playstation computers non-video game  
28 related features. The article states: "Through Stanford University's Folding@home project,

1 almost 40,000 PS3s volunteered by their owners during idle time currently contribute to the  
2 study of protein folding” and The U.S. Air Force Research Laboratory in Rome, N.Y., uses a  
3 cluster of 336 PS3s for research on urban surveillance and large image processing.” And “Since  
4 the PS3's unveiling in 2005, the console has been touted not only for its amped-up gaming  
5 capabilities but also for its ability to generate complex real-time graphics and calculations thanks  
6 to its ground-breaking Cell processor, created by IBM in collaboration with Sony and Toshiba.  
7 What particularly caught the attention of researchers was the PS3's ability to have the Linux  
8 operating system installed on it - which allows the gaming console to be transformed into a  
9 powerful home computer.”

10  
11 I declare under penalty of perjury on this date under the laws of the United States in San  
12 Francisco, California that the foregoing is true and correct.

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14  
15 DATE: January 13, 2011

Respectfully Submitted,

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18 STEWART KELLAR