

1 STEWART KELLAR, State Bar #267747
 E-Attorney at Law™
 2 148 Townsend St., Suite 2
 San Francisco, CA 94107
 Telephone: (415) 742-2303
 3 Email: stewart@etrny.com

4 Attorney for Defendant
 GEORGE HOTZ

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

10
 11 **SONY COMPUTER ENTERTAINMENT**
 AMERICA LLC, a Delaware limited
 12 liability company,

13 Plaintiff,

14 v.

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

17 Defendants.

CASE No.: CV 11-00167 SI

**NOTICE OF MOTION AND MOTION
 FOR LEAVE TO FILE MOTION FOR
 RECONSIDERATION**

[CIVIL L.R. 7-9]

Date: February __, 2011
 Time: 9:00 a.m., or as soon as can be heard
 Courtroom: 10, 19th Floor
 Judge: Hon. Susan Illston

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1 Without consenting to personal jurisdiction, now comes Mr. George Hotz by and
2 through his attorney of record specially appears and respectfully moves this Court, pursuant to
3 Civil L.R. 7.9, for leave to file a motion for reconsideration of the Court's January 27, 2011
4 Order (Dkt. No. 50) granting Plaintiff's ex parte Motion for Temporary Restraining Order. The
5 undersigned bring this motion for leave because, as will be shown below, there has been a
6 manifest failure by the Court to consider material facts which were presented to the Court
7 before the January 27th Order. *See* Civil L.R. 7-9(b)(3). The material facts show that the
8 Temporary Restraining Order requires a hearing on the TRO itself, and that the TRO is both
9 overbroad and impermissibly vague, does not preserve the status quo, and amounts to prior
10 restraint on speech, and that the Order of Impoundment therein is likewise overbroad and
11 unwarranted. An injunction, such as a TRO, must be "tailored to eliminate only the specific
12 harm alleged. An overbroad injunction is an abuse of discretion." *E. & J. Gallo Winery v. Gallo*
13 *Cattle Co.*, 967 F2d 1280, 1297 (9th Cir. 1992). Accordingly, movant asks the Court to grant it
14 leave to file the attached motion for reconsideration and to schedule a hearing on the matter as
15 soon as possible.

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17 DATED: January 31, 2011

Respectfully Submitted,

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19 _____
/s/ Stewart Kellar

20 STEWART KELLAR

21 Attorney for Defendant
22 GEORGE HOTZ
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[PROPOSED] ORDER

Defendant George Hotz’s motion for leave to file a motion for reconsideration of the Court’s January 27, 2011 Order granting Plaintiff’s *Ex Parte* Motion for Temporary Restraining Order is granted. Mr. Hotz may file a motion for reconsideration on or before _____, 2011.

IT IS SO ORDERED,

Dated: _____, 2011

Hon. Susan Illston
United States District Judge