1 2 3 4 5 6 7 8	STEWART KELLAR, State Bar #267747 E-ttorney at Law TM 148 Townsend St., Suite 2 San Francisco, CA 94107 Telephone: (415) 742-2303 Email: stewart@etrny.com Attorney for Defendant GEORGE HOTZ UNITED STATES	DISTRICT COURT
9	FOR THE NORTHERN DISTRICT OF CALIFORNIA	
10	SAN FRANCISCO DIVISION	
11	SONY COMPUTER ENTERTAINMENT AMERICA LLC, a Delaware limited	CASE No.: 3:11-cv-00167-SI
12	liability company,	DECLARATION OF STEWART
13	Plaintiff, v.	KELLAR IN SUPPORT OF MOTION FOR AN ORDER SHORTENING TIME
14 15	GEORGE HOTZ; HECTOR MARTIN	FOR HEARING MOTION FOR HEARING ON TEMPORARY
16	CANTERO; SVEN PETER; and DOES 1 through 100,	RESTRAINING ORDER
17	Defendants.	
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DECLARATION OF STEWART KELLAR ISO MOTION FOR AN ORDER SHORTENING TIME FOR HEARING ON MOTION FOR HEARING TEMPORARY RESTRAINING ORDER

CASE No.: 3:11-cv-00167 Dockets.Justia.com

I, Stewart Kellar, declare:

- 1. I am counsel of record for Mr. George Hotz in the above-captioned matter. I have personal knowledge of the facts stated in this declaration, unless otherwise indicated, and could and would testify competently thereto.
- 2. Pursuant to Local Rule 6-3 (a)(1), the reason for the requested shortening time is because George Hotz needs a Motion for Hearing so that he may have an opportunity to contest the language and restraints of the Temporary Restraining Order ("TRO") which was granted without a hearing. If a hearing is not held by February 10, 2011, Mr. Hotz will be forced to surrender his storage devices to Plaintiff SCEA, and will continue to be restrained, without a hearing or consideration of the substance of the TRO Order. A hearing is also needed so that Mr. Hotz may limit the breadth and vagueness of the TRO.
- 3. Pursuant to Local Rule 6-3 (a)(2), Mr. Hotz is unable to obtain a stipulation to the change in time since counsel for SCEA has not agreed to allow Mr. Hotz to hold a hearing on the TRO prior to the date the impoundment order becomes effective.
- 4. Pursuant to Local Rule 6-3 (a)(3), Mr. Hotz will be substantially harmed and prejudiced if the Court does not grant its request for shortened time because Mr. Hotz will be forced to surrender his storage devices without a hearing. The storage devices contain much more than the alleged circumvention devices at issue, such as privileged, confidential and otherwise private files and information. Additionally, Mr. Hotz will be unable to obtain a hearing on the TRO and impoundment until March 11, 2011, requiring this Court to extend the TRO more than three times its standard duration. Moreover, SCEA will come into possession of physical evidence they would attempt to proffer at trial, prior to a determination of this Court's jurisdiction over Mr. Hotz.
- 5. Pursuant to Local Rule 6-3 (a)(4) (i), Civil. L. R. 37-1(a) is not applicable because this is not a motion to compel disclosure or discovery or for sanctions.
- 6. Pursuant to Local Rule 6-3 (a)(4) (ii), the nature of the underlying dispute that will be addressed in the motion is that Mr. Hotz seeks a hearing to allow the Court to consider the substance of the TRO Order prior to Mr. Hotz's required compliance with the Impoundment

1	Order therein. Mr. Hotz's position is that, if this hearing is not held, the impoundment order with		
2	have issued without a hearing and the overbroad, impermissibly vague, impossible to perform,		
3	and speech restraining aspects of the TRO will not be considered by this Court. SCEA's position		
4	is that a hearing need not be held because this Court has already ruled on the TRO.		
5	7. Pursuant to Local Rule 6-3 (a)(5), there have been no previous modifications in time.		
6	8. Pursuant to Local Rule 6-3 (a)(6), the requested time modification will help advance		
7	the schedule for this case because Mr. Hotz will be afforded an adequate opportunity to dispute		
8	the overbroad and impermissibly vague restraints of the TRO and the unwarranted impoundment		
9	order, which will aid in consideration of the merits and scope of a preliminary injunction, a		
10	hearing which is scheduled for March 11, 2011.		
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12	I declare under penalty of perjury on this date under the laws of the United States of		
13	America in San Francisco, California that the foregoing is true and correct.		
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16	DATE: February 8, 2011 Respectfully Submitted,		
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18	/s/ Stewart Kellar		
19	STEWART KELLAR		
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