

EXHIBIT A

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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

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

Plaintiff,

v.

GEORGE HOTZ, et al.,

Defendants.

Case No. 11-CV-000167 SI
[PROPOSED] ORDER

On March 10, 2011, the Court held a hearing on the parties' February 18, 2011 and February 28, 2011 joint letters (Docket Nos. 85 and 86) on discovery and impoundment disputes. Having considered all the papers and arguments, the Court enters the following order:

(1) With regard to third party subpoenas, the Court orders that:

1 (a) SCEA is ordered to immediately notify all subpoenaed parties of their right
2 to file motions to quash and that all responses are to be marked "Attorneys'
3 Eyes Only". SCEA is further ordered to immediately notify all subpoenaed
4 parties that each parties' time to respond, currently March 16, 2011, is ex-
5 tended by 7 calendar days. Further, Mr. Hotz believes that SCEA should be
6 obligated to return any documents that have already been produced by any
7 third party and allow that third party seven days to determine whether it
8 desires to move to quash. These third parties have obligations to protect
9 the privacy of numerous consumers
10

11 (b) Plaintiff SCEA is authorized to serve third party PayPal, Inc. with a sub-
12 poena seeking the following limited information relating to personal juris-
13 diction: documents sufficient to identify funds from payers having an
14 address of record in California, that went into any PayPal account asso-
15 ciated with geohot@gmail.com for the period of January 1, 2009 to Febru-
16 ary 1, 2011. SCEA is ordered to redraft its subpoena to seek this
17 information. SCEA is further ordered to inform PayPal, Inc. that any in-
18 formation produced in response to the subpoena shall be provided on an
19 Attorneys' Eyes Only basis and that the issuance of the subpoena is without
20 prejudice to its right to file a Motion to Quash.
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22 (2) Mr. Hotz is ordered to sign a consent for SCEA to obtain Twitter posts under
23 the Twitter account "geohot" from January 1, 2009 to the present.

24 (3) Defendant George Hotz is ordered to respond to a written deposition relating
25 solely to the question of personal jurisdiction. The parties shall determine the date of
26 the deposition. Additionally, the parties have stipulated that Mr. Hotz cannot be served
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1 with process by the parties to this action or the parties identified in SCEA's Certification
2 of Interested Entities or Person (Docket No. 16) while Mr. Hotz is present in California.

3 (4) With regard to the impoundment, the Court orders that:

4 (a) The Intelligence Group ("TIG"), the third party neutral chosen by both par-
5 ties, shall only take steps with regard to the impounded devices that are au-
6 thorized by Court order.

7 (b) The first \$7000 of TIG costs will be split equally between SCEA and Mr.
8 Hotz. SCEA has agreed to and shall pay any amount over the \$7000.

9 (c) Upon Court order of the places to be searched and items to be impounded,
10 TIG is ordered to conduct the procedure of impoundment in the forensical-
11 ly sound manner as proposed in its Certification of February 27, 2011.

12 (d) The Court orders the parties to meet and confer regarding what exactly is
13 "information related to circumvention devices."

14 (5) With regard to jurisdictional discovery of documents contained in the im-
15 pounded hard drives, the Court orders that:

16 (a) TIG shall conduct a forensically sound search of the impounded hard
17 drives to determine whether:

- 18 (i) they contain specific portions of the development tools for the
19 PlayStation 3 System (the "SDK") which specific portions explicitly
20 state that SCEA owns the SDK and that SCEA is located in Califor-
21 nia;
22 1) SCEA shall provide Mr. Hotz's counsel the specific source files
23 that SCEA allege contain the above-referenced representa-
24 tions;
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- 2) SCEA shall provide Mr. Hotz's counsel the SDK from which the specific portions of the source files were obtained along with a declaration from SCEA stating that SCEA has provided true and correct copies of the SDK as distributed by SCEA; and
- 3) Mr. Hotz's counsel shall have four (4) business days to verify that the specific portions of the files identified by SCEA are contained in the SDK provided by SCEA and that the specific portions of the files identified by SCEA in fact state that SCEA is located in California and that SCEA owns the SDK.

(c) In order to obtain jurisdictional discovery relating to whether the impounded hard drives have ever connected to the Playstation Network ("PSN"), SCEA shall provide a declaration made under penalty of perjury stating that a normal standalone computer hard drive not connected to a PS3 can connect to the PSN, and that if a normal standalone computer hard drive not connected to a PS3 were to connect to the PSN that the user would have to click through the PSN Agreement which contains and has always contained a forum selection clause identifying California as the forum for any lawsuit brought based on a breach of the PSN Agreement.

(d) If the declaration provided for under subdivision (c) is made by SCEA, then TIG shall determine whether the impounded hard drives have been used to access or connect to the PSN.

- (i) SCEA shall specifically identify evidence that would only be created from a hard drives' standalone access to the PSN.
- (ii) SCEA shall provide Mr. Hotz's counsel the specific source files that SCEA alleges would contain such evidence; and

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(iii) Mr. Hotz's counsel shall have four (4) business days to verify that such files identified by SCEA would be created were a standalone hard drive to access the PSN.

(iv) After SCEA and Mr. Hotz verify that subdivisions (i) through (iii) have been completed, TIG shall follow the protocol described in its Certification of February 26, 2011 at ¶ 10(g) to search for the above-described evidence.

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(6) The parties shall enter a Stipulated Protective Order for all discovery matters.

To the extent the parties are unable to agree on the terms, they are ordered to file a joint letter no longer than 10 pages to set forth the disputed terms and the parties' respective positions.

IT IS SO ORDERED.

DATED: _____

HON. JOSEPH C. SPERO
UNITED STATES MAGISTRATE
JUDGE

4822-3543-7832, v. 1