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UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

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

Plaintiff,

v.

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

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