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9 Attorneys for Plaintiff
 10 SONY COMPUTER ENTERTAINMENT AMERICA LLC

11 UNITED STATES DISTRICT COURT
 12 FOR THE DISTRICT OF CALIFORNIA
 13 SAN FRANCISCO DIVISION

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

16 Plaintiff,

17 v.

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

20 Defendants.

CASE NO. 11-cv-000167 SI

**STIPULATION AND [PROPOSED]
 ORDER RE: PRELIMINARY
 INJUNCTION AND HEARING ON
 MOTION TO DISMISS**

Judge: Hon. Susan Illston



1 WHEREAS, on February 10, 2011, the Court held a further hearing on the Motion
2 for Temporary Restraining Order filed by plaintiff Sony Computer Entertainment America
3 (“SCEA”), and the Motion for Reconsideration, Response to Order to Show Cause, and
4 Motion for Hearing on Temporary Restraining Order filed by Defendant George Hotz
5 (“Defendant Hotz”);

6 WHEREAS, during the hearing, the Court stated that it intended to enter the
7 Temporary Restraining Order [Docket No. 50] as the Preliminary Injunction subject to
8 certain modifications;

9 WHEREAS, during the hearing, the Court directed the parties to meet and confer
10 on certain language in the Temporary Restraining Order and possible rescheduling of the
11 hearing on Defendant Hotz’s Motion to Dismiss for Lack of Personal Jurisdiction currently
12 set for hearing on March 11, 2011;

13 WHEREAS, on February 14, 2011, the Court entered its Order Granting Plaintiff’s
14 Motion for a Preliminary Injunction; Referring Parties to Magistrate Judge Spero for
15 Discovery and Issues Related To Preliminary Injunction [Docket No. 79];

16 WHEREAS, the parties, through their counsel, met and conferred on February 14,
17 2011 and were able to achieve agreement on certain language in the Temporary
18 Restraining Order for entering as a Preliminary Injunction, and on rescheduling the
19 hearing on Defendant Hotz’s Motion to Dismiss;

20 THEREFORE, the parties hereby STIPULATE as follows:

- 21 1. The Preliminary Injunction shall be entered in the form of Exhibit A attached
22 hereto.
- 23 2. SCEA shall file its Opposition to Defendant Hotz’s Motion to Dismiss on
24 March 18, 2011;
- 25 3. Defendant Hotz shall file his Reply, if any, on March 25, 2011.
- 26 4. The hearing on Defendant Hotz’s Motion to Dismiss shall be held on April
27 8, 2011



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Respectfully submitted,
DATED: February 17, 2011 KILPATRICK TOWNSEND & STOCKTON LLP

By: /s/ Holly Gaudreau
JAMES G. GILLILAND, JR.
TIMOTHY R. CAHN
MEHRNAZ BOUROMAND SMITH
RYAN BRICKER

Attorneys for Plaintiff
SONY COMPUTER ENTERTAINMENT AMERICA
LLC


DATED: February 17, 2011

/s/ Stewart Kellar
STEWART KELLAR
E-ttorney at Law™

Attorney for Defendant
GEORGE HOTZ

IT IS SO ORDERED.

DATED: 2/18/11


HON. SUSAN ILLSTON
UNITED STATES DISTRICT JUDGE

63161046 v1



EXHIBIT A

TO

STIPULATION AND [PROPOSED] ORDER RE: PRELIMINARY
INJUNCTION AND HEARING ON MOTION TO DISMISS

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Attorneys for Plaintiff
SONY COMPUTER ENTERTAINMENT AMERICA LLC

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

<p>SONY COMPUTER ENTERTAINMENT AMERICA LLC, Plaintiff, v. GEORGE HOTZ; HECTOR MARTIN CANTERO; SVEN PETER; and DOES 1 through 100, Defendants.</p>	<p>Case No. C 11-167 SI [PROPOSED] ORDER GRANTING PRELIMINARY INJUNCTION Judge: Hon. Susan Illston</p>
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1 On January 11, 2011, Plaintiff Sony Computer Entertainment America LLC
2 ("SCEA") filed a Complaint against Defendants George Hotz ("Defendant Hotz"), Hector
3 Martin Cantero, Sven Peter and Doe Defendants 1 through 100.

4 SCEA has alleged that each Defendant, individually and in concert with the other
5 Defendants, has: (1) circumvented effective technological protection measures ("TPMs")
6 employed by SCEA to protect against unauthorized access to and/or copying of SCEA's
7 proprietary PlayStation®3 computer entertainment systems ("PS3 System"), and other
8 copyrighted works; and (2) trafficked in circumvention technology, products, services,
9 methods, codes, software tools, devices, components or part thereof, including but not
10 limited to the Elliptic Curve Digital Signature Algorithm ("ECDSA") Keys, encryption
11 and/or decryption keys, dePKG firmware decrypter program, Signing Tools, 3.55
12 Firmware Jailbreak, and/or any other technologies that enable unauthorized access to
13 and/or copying of PS3 Systems and other copyrighted works.

14 SCEA has alleged that Defendants have violated the Digital Millennium Copyright
15 Act ("DMCA") 17 U.S.C. §1201, *et seq.*; the Computer Fraud and Abuse Act ("CFAA"), 18
16 U.S.C. § 1030, *et seq.*; and has alleged contributory copyright infringement arising out of
17 the Copyright Act, 17 U.S.C. §501, *et seq.*; as well as related state and common law
18 claims for violation of the California Comprehensive Computer Data Access and Fraud
19 Act, Cal. Penal Code § 502, *et. seq.*, breach of contract, tortious interference with
20 contractual relations, trespass and common law misappropriation.

21 On January 11, 2011, pursuant to Fed. Civ. P. 65, Civil Rules 65-1 and 7-10, SCEA
22 moved *ex parte* on its claims for violation of the DMCA and CFAA against Defendant Hotz
23 for a Temporary Restraining Order ("TRO"), an Order to Show Cause why a preliminary
24 injunction should not issue, and an Order of Impoundment (17 U.S.C. § 1203 (b) (2)).
25 Following notice to Defendant Hotz, this matter was heard on January 14, 2011. On
26 January 27, 2011, the Court granted the Temporary Restraining Order [Docket Nos. 50
27 and 51]. A further hearing on SCEA's motion for a Temporary Restraining Order, and
28



1 Defendant Hotz's Motion for Reconsideration, Response to Order to Show Cause, and
2 Motion for Hearing on Temporary Restraining Order was held on February 10, 2011.

3 Having considered all the papers and arguments, the Court finds that SCEA has
4 shown a likelihood of success on the merits of its claims for violation of the DMCA, and
5 that it will suffer irreparable harm unless Defendant Hotz's violations are enjoined. The
6 Court also finds that a Preliminary Injunction is necessary to prevent immediate and
7 irreparable injury and to preserve the status quo. The Court further finds that the balance
8 of equity and interests of justice support granting such relief. Accordingly, the Court enters
9 the following order:

10 **PRELIMINARY INJUNCTION**

11 IT IS HEREBY ORDERED that Defendant Hotz and his officers, employees,
12 attorneys and representatives, and all other persons or entities in privity or acting in
13 concert or participation with Defendant Hotz, be enjoined from:

14 1. Offering to the public, posting online, marketing, advertising, promoting,
15 installing, distributing, providing, or otherwise trafficking in any circumvention technology,
16 products, services, methods, codes, software tools, devices, components or part thereof,
17 including but not limited to the Elliptic Curve Digital Signature Algorithm ("ECDSA") Keys,
18 encryption and/or decryption keys, dePKG firmware decrypter program, Signing Tools,
19 3.55 Firmware Jailbreak, root keys, and/or any other technologies that enable
20 unauthorized access to and/or copying of the PS3 System and/or enable compatibility of
21 unauthorized copies of other copyrighted works with the PS3 System (hereinafter,
22 "Circumvention Devices").

23 2. Providing links from any website to any other website selling, offering for
24 sale, marketing, advertising, promoting, installing, importing, exporting, offering to the
25 public, distributing, providing, posting, or otherwise trafficking in any Circumvention
26 Devices.

27 3. Engaging in acts of circumvention of TPMs in the PS3 System to access,
28 obtain, remove, or traffic in copyrighted works.



1 4. Engaging in unauthorized access to the PS3 System or the PlayStation
2 Network ("PSN") in order to obtain, access, or transmit any program, code, information or
3 command therein.

4 5. Publishing, posting, or distributing any information, code, program,
5 instructions, video, or other material obtained by circumventing TPMs in the PS3 System
6 or by engaging in unauthorized access to the PS3 System or the PSN.

7 6. Assisting, facilitating or encouraging others to engage in the conduct set
8 forth above in 1-5.

9 IT IS FURTHER ORDERED that Defendant Hotz, his officers, employees, attorneys
10 or representatives, and any and all other persons acting in concert or participation with
11 Defendant Hotz, with notice of this Order, shall preserve, and not destroy, erase, delete,
12 dispose of, or alter any documents or records, in whatever format, including electronic
13 documents, computer files, computer discs and drives, that relate to, reflect, record, or
14 contain any information regarding the manufacture, distribution, promotion, marketing,
15 advertising, purchase, sale, offer to sell, trafficking, import, export, installation, payment,
16 storage, and/or shipment of any and all of the Circumvention Devices, or any
17 communications with any party concerning the manufacture, distribution, promotion,
18 marketing, advertising, purchase, sale, offer to sell, trafficking, import, export, installation
19 payment, storage, and/or shipment of any and all of the Circumvention Devices.

20 IT IS FURTHER ORDERED that Defendant Hotz is required to deliver his
21 computers, hard drives, CD-roms, DVDs, USB sticks, and any other storage devices on
22 which any Circumvention Devices are stored (but not his Sony PS3 consoles) to a third
23 party neutral selected by the parties for the purpose of isolating, segregating and/or
24 removing the information on those devices related to Defendant Hotz's circumvention of
25 the TPMs in the PS3 System. Defendant Hotz's devices shall be promptly returned to him
26 after the information has been segregated and removed from those devices. The logistics
27 and protocol for this impoundment shall be worked out by the parties with Magistrate
28 Judge Spero.



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IT IS FURTHER ORDERED that the \$10,000.00 posted by SCEA on January 27, 2011 as security for the Court's issuance of the Temporary Restraining Order shall suffice for this Preliminary Injunction.

IT IS FURTHER ORDERED that this Preliminary Injunction shall remain in effect during the pendency of this case unless otherwise stipulated to by the parties or ordered by the Court.

IT IS SO ORDERED.

DATED: _____

HON. SUSAN ILLSTON
UNITED STATES DISTRICT JUDGE

63156887 v1

