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Class Counsel

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

In re SONY PS3 "OTHER OS" LITIGATION	Case No. 4:10-CV-01811-YGR **DECLARATION OF JAMES J. PIZZIRUSSO IN SUPPORT OF PLAINTIFFS' MOTION FOR AWARD OF ATTORNEYS' FEES, COSTS, AND INCENTIVE AWARDS** Date: January 24, 2017 Time: 2:00 PM Judge: Hon. Yvonne Gonzalez Rogers Courtroom: 1, 4th Floor

I, James J. Pizzirusso, declare as follows:

1. I am a partner with Hausfeld LLP ("Hausfeld") one of the Court-appointed Interim Lead Counsel for Plaintiffs in this class action. I make this declaration in support of Plaintiffs' Motion for Award of Attorneys' Fees, Costs, and Incentive Awards. I have personal knowledge of the matters set forth herein and could testify thereto under oath if called as a witness.

2. I am admitted to practice law in the District of Columbia and Virginia and a member in good standing of both of those bars. I am also admitted *Pro Hac Vice* before this Court. I have been practicing law for over 15 years.

3. As a partner with Hausfeld and head of its Consumer Protection practice group, I have extensive experience litigating complex class-action cases on behalf of Plaintiffs. Prior to joining Hausfeld as one of its founding partners in 2008, I was an associate at our predecessor law firm (Cohen, Milstein, Hausfeld & Toll), where I also worked on class actions. Hausfeld LLP has offices in Washington, DC; Philadelphia, PA; San Francisco, CA; Boston, MA; and internationally in London, Brussels, and Berlin. I am located in our Washington office; my San Francisco office also worked on this case given that the case is pending there.

4. In May 2010, Mr. Jonathan Huber retained my firm (along with Pearson, Simon, Warshaw, LLP) to file a complaint on his behalf which we filed on May 21, 2010 (*Huber v. Sony Computer Entertainment America*, LLC, Case No. CV 10-2213 (N.D. Cal.)).

5. While other attorneys also assisted, I generally assigned one associate to work on the matter with me (Spencer Jenkins and, after he left the firm, Stephanie Berger, who also left). For most of the case, I was the only attorney assigned to oversee it. One of my San Francisco partners, Arthur Bailey, Jr., also provided some assistance and took one deposition.

6. During the course of my firm's representation, Hausfeld spent a significant amount of time investigating Mr. Huber's claims, drafting and editing pleadings, participating in discovery and court hearings, appearing in front of the appeals court, and participating in settlement negotiations for the benefit of the class.

7. In particular, in addition to assisting on other tasks such as reviewing and editing briefs submitted to Court, Hausfeld took the lead responsibility (with assistance from other firms) in handling the following tasks:

- Researching, briefing, and arguing the express and implied warranty and Magnuson Moss claims in both the Motions to Dismiss and appellate briefing;
- Drafting the First Amended Consolidated Class Action Complaint and researching specifically the claims regarding SCEA's representations about the continued availability of the Other OS feature and the life span of the PS3;
- Locating, researching, coordinating and working with technology consultants to assist in the preparation of the Complaint;
- Locating, researching, coordinating and hiring survey experts to assess classwide harm and damages and draft a report regarding the same in support of Plaintiffs' anticipated Motion for Class Certification;
- Researching, briefing, and arguing issues related to SCEA's responsibility for producing documents in the possession of its Japanese parent;
- Researching, briefing, and arguing issues related to SCEA's attempts to take the depositions of dismissed class representatives;
- Drafting letters and meeting and conferring with SCEA regarding numerous discovery protocols and disputes;
- Reviewing, coding, and analyzing SCEA's documents and preparing a "hot" documents memorandum for deposition teams;
- Preparing for and defending the deposition of Jonathan Huber and coordinating the production of his documents, imaging of his PS3, and answers to interrogatories;
- Preparing for and taking the deposition of Dominic Mallinson;
- Preparing for and taking the deposition of Patrick Seybold; and
- Finalizing the Settlement term sheet, final Settlement Agreement, and details thereto.

8. Attached hereto as **Attachment 1** is a chart of Hausfeld's billing summary of time spent during the course of its representation in this action. This and other attachments hereto were prepared under my direction and supervision.

9. The rates indicated on Attachment 1 are the rates that my firm normally charges its other clients and are commensurate with rates charged for attorneys with similar experience in the San Francisco Bay Area (where we have an office), as well as Washington, DC (where I primarily practice). Hausfeld spent over 1,661 hours for a total lodestar of $891,187.50 (not including the additional time we have spent and will spend finalizing the settlement and related materials).

10. Numerous federal courts, including those in this District, have reviewed and approved Hausfeld's and similar firms' hourly rates. For example, in In *O'Bannon v. NCAA*, No. C 09-3329 CW, Judge Wilkin approved Hausfeld's rates in awarding fees, costs and expenses after the plaintiffs partially prevailed during a bench trial. *See* Dkt. 477 (March 31, 2016). In *In re TFT-LCD (Flat Panel) Antitrust Litigation*, MDL 1827 (N.D. Cal.), Judge Illston evaluated and approved a fee petition from more than 100 law firms with hourly attorney rates ranging from $350 to $1000. *In re TFT-LCD (Flat Panel) Antitrust Litig.*, M 07-1827 SI, 2013 WL 1365900, at *1, *9 (N.D. Cal. Apr. 3, 2013); see also LCD, Dkt. 6662 (petition), 7127 (report and recommendation of special master). Hausfeld's rates are in line with (or lower than) the rates approved in *LCD* (and Hausfeld's rates were submitted and approved in a separate decision by Judge Illston involving direct purchasers).

11. Hausfeld LLP is Interim Co-Lead Counsel in *In re Processed Egg Products Antitrust Litigation*, MDL No. 2002, 2012 WL 5467530 (E.D. Pa. Nov. 9, 2012). There, the court granted the direct purchaser plaintiffs' request for attorney fees in its entirety, conducting a "lodestar cross-check' to confirm that percentage fee was appropriate. *Id.* at 6. In performing its analysis, the court determined that Hausfeld LLP's hourly rates were reasonable given the efficiency of the litigation; the division of labor among partners, associates, and staff; and "the complexity of this litigation and the corresponding appropriate need for and use of heavy involvement by experienced attorneys." *Id*. Ultimately, the court approved billing rates ranging

from $470 to $950 for Hausfeld LLP partners and rates ranging from $200 to $340 for Hausfeld LLP associates.

12. In *In re Vitamin C Antitrust Litigation* (E.D.N.Y.), the court approved plaintiffs' fees and costs application, identifying as reasonable the hourly rates of co-lead Hausfeld. In re Vitamin C Antitrust Litig., No. 06-MD-1738 BMC JO, 2013 WL 6858853, at *1-4 (E.D.N.Y. Dec. 30, 2013). Those approved hourly rates ranged from "a low of $375 per hour for junior associates to $980 per hour for senior partners." *Id*. at *1. The court noted further that "[t]he rates charged by plaintiffs' counsel are thoroughly reasonable based not only on the market, but on the uniqueness of the case and the high quality of their work. Significantly lower rates would be unreasonable." *Id*. at *4.

13. Other cases in which courts have approved fees after determining Hausfeld LLP's standard hourly rates to be reasonable include *In re Air Cargo Shipping Services Antitrust Litigation*, No.06-md-1775 (E.D.N.Y.); *In re Municipal Derivatives Antitrust Litigation*, No. 08-2516 (S.D.N.Y.); *In re TFT-LCD (Flat Panel) Antitrust Litigation*, MDL 1827 (N.D. Cal.); *In re Flat Glass Antitrust Litigation II*, MDL No. 1942 (W.D. Pa.); *In re Ethylene Propylene Diene Monomer (EPDM) Antitrust Litigation*, No. 03-md-1542 (D. Conn.); and *In re Endosurgical Products Direct Purchaser Antitrust Litigation*, No. 05-cv-08809 (C.D. Cal.).

14. Also submitted herewith as **Attachment 2** is a summary of the costs and expenses incurred by Hausfeld during the course of its representation in this action. These costs and expenses include court fees and associated expenses, deposition costs, travel expenses, courier costs, photocopy costs and other related expenses. The total amount of costs/expenses incurred is $48,143.85.

I declare under penalty of perjury under the laws of the United States on this 30th day of November, 2016 in Washington, DC that the foregoing is true and correct.

James J. Pizzirusso

EXHIBIT A

IN RE: SONY PS3 "OTHER OS" LITIGATION
TIME REPORT

Firm Name: HAUSFELD LLP **Reporting Period: As of November 29, 2016**

(P) Partner

Categories:

(1) Investigations, Factual Research
(2) Discovery
(3) Pleadings, Briefs and Pretrial Motions (includes legal research)
(4) Court Appearances and Preparation
(5) Settlements
(6) Litigation Strategy, Analysis and Case Magangement
(7) Class Certification
(8) Trial Preparation and Trial
(9) Communications with Clients
(10) Experts

(A) Associate
(LC) Law Clerk
(PL) Paralegal
(L) Librarian
(CT) Contract Attorn
(OC) Of Councel

ATTORNEY OR PARALEGAL	1	2	3	4	5	6	7	8	9	10	HOURS	HOURLY RATE	LODESTAR
Bailey, Jr., Arthur N. (P)	0.20	86.20	4.50	1.60	3.80	2.60				3.00	101.90	$650.00	**$66,235.00**
Berger, Stephanie (A)		68.00	7.40	1.30	0.80	63.80				10.60	151.90	$350.00	**$53,165.00**
Butterfield, William P. (P)		3.30				0.10					3.40	$920.00	**$3,128.00**
Elder, Candice (PL)			0.50			6.80					7.30	$320.00	**$2,336.00**
Jenkins, Spencer H. (A)		5.50	70.40		2.10	12.10					90.10	$325.00	**$29,282.50**
Jones, Megan E. (P)						0.80					0.80	$650.00	**$520.00**
Jowers, Joshua (A)	59.30			104.90		0.40					164.60	$325.00	**$53,495.00**
Lebsock, Christopher L. (P)	1.00		0.40		2.10	3.70					7.20	$710.00	**$5,112.00**
Lehmann, Michael P. (P)	4.00		1.00								5.00	$960.00	**$4,800.00**
Lewis, Richard S. (P)			4.00								4.00	$920.00	**$3,680.00**
Lucas, Brian (PL)	7.50		2.50								10.00	$255.00	**$2,550.00**
Mitchell, James (PL)						0.80					0.80	$340.00	**$272.00**
Patel, Krishna (PL)						18.00					18.00	$340.00	**$6,120.00**
Pava, Mindy (A)						0.30					0.30	$390.00	**$117.00**
Pizzirusso, Jamie J. (P)	34.40	244.60	209.60	133.80	207.50	150.00				26.40	1,006.30	$630.00	**$633,969.00**
Robinson, Elliot (PL)		3.70				4.20					7.90	$320.00	**$2,528.00**
Ryan, Kathryn (PL)				0.20		54.00					54.20	$310.00	**$16,802.00**
Sandberg, Amanda (PL)			5.00			2.00					7.00	$275.00	**$1,925.00**
Sittler, Edward (PL)						0.30					0.30	$340.00	**$102.00**
Stubbs, Kristina (PL)						0.40					0.40	$310.00	**$124.00**
Attorney Totals	**106.40**	**411.30**	**305.30**	**241.80**	**216.30**	**320.30**	**0.00**	**0.00**	**0.00**	**40.00**	**1,641.40**		**$886,262.50**
Menon, Deepa (LC)	5.20				14.50						19.70	$250.00	**$4,925.00**
Non-Attorney Totals	**5.20**	**0.00**	**0.00**	**0.00**	**14.50**	**0.00**	**0.00**	**0.00**	**0.00**	**0.00**	**19.70**		**$4,925.00**
TOTALS:	**111.60**	**411.30**	**305.30**	**241.80**	**230.80**	**320.30**	**0.00**	**0.00**	**0.00**	**40.00**	**1661.10**		**$891,187.50**

EXHIBIT B

NAME: HAUSFELD LLP MONTH: As of November 29, 2016

IN RE: SONY PS3 "OTHER OS" LITIGATION
MONTHLY COSTS REPORT

CATEGORY	DESCRIPTION (If necessary)	PRIOR COSTS	CURRENT COSTS	CUMULATIVE COSTS
Litigation Assessment				$15,000.00
Court Costs				$226.00
Deposition Costs				
Experts/consultants				
Federal Express				
Hearing Transcripts				
Investigation				
Lexis/Westlaw				$7,464.48
Messenger/delivery				$325.01
Photocopies - in House				$937.26
Photocopies - Outside				
Postage				$7.57
Service of Process				
Special Supplies				
Telephone/telecopier				$953.28
Travel				$23,211.48
Miscellaneous				$18.77
TOTAL		**$0.00**	**$0.00**	**$48,143.85**