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15 **UNITED STATES DISTRICT COURT**
16 **NORTHERN DISTRICT OF CALIFORNIA**

17 CORRELLE WALKER, individually and on
behalf of all others similarly situated,

18 Plaintiff,

19 vs.

20 SONY COMPUTER ENTERTAINMENT
21 AMERICA, LLC, a Delaware Limited Liability
22 Company; SONY COMPUTER
23 ENTERTAINMENT AMERICA, INC., a
24 Delaware Corporation; and SONY
CORPORATION OF AMERICA, a New York
Corporation,

25 Defendants.

Case No.

CLASS ACTION

COMPLAINT FOR:

**(1) Violations of Cal. Bus. & Prof. Code
§ 17200**

(2) Violations of Cal. Civ. Code § 1750

(3) Violations of Cal. Civ. Code §1798.80

(4) Negligence

DEMAND FOR JURY TRIAL

28 CLASS ACTION COMPLAINT

1 Plaintiff, by and through his attorneys, upon personal knowledge as to himself and his own
2 acts, and upon information and belief as to all other matters, complains and alleges as follows:

3 **NATURE OF THE ACTION**

4 1. The PlayStation Network (PSN) is a proprietary network for owners of Sony's
5 PlayStation 3 consoles to play online games with others. PSN also offers movies and TV episodes
6 for rent or purchase, as well as downloadable games and game demos. If and when a consumer
7 decides to purchase anything during the online experience on the PSN platform, PSN
8 automatically bills the customer's credit card on record.
9

10 2. On April 24, 2011, Sony reported that unauthorized hackers obtained the unique
11 personal information of its customers, including: name; address; country; email address; birth date;
12 PSN password and login; and potentially credit card information, among other things.

13 3. As reported by numerous media outlets, the data breach affecting seventy-seven
14 (77) million accounts on Sony's PlayStation Network is widely regarded by security experts as
15 "one of the largest and most damaging security breaches ever." *See, e.g., USA Today, April 28,*
16 *2011, PlayStation breach called one of the largest ever, at 3B.*
17

18 4. Sony learned of the breach between April 17 and April 19, but did not inform users
19 of the risks to their personal and financial data until April 24. This unnecessary delay has created
20 significantly greater risk that the comprised customer data will be exploited – thus compounding
21 the magnitude and severity of the problem.

22 5. What is more, far from taking responsibility for this breach and owning the gravity
23 of the situation, Sony has actually tried to deflect blame on others. Sony has also done nothing to
24 remedy the security breach or assist consumers who have suffered harm, and who continue to face
25 a real and immediate threat of further severe economic harm.
26

1 12. Venue is proper in this District because Defendant is located within the District and
2 a substantial part of the events giving rise to Plaintiff's claims occurred in this District.

3 **INTRADISTRICT ASSIGNMENT**

4 13. Pursuant to Civil Local Rule 3-2(e), this case shall be assigned to the San Francisco
5 Division or Oakland Division.

6 **FACTUAL BACKGROUND**

7 **The Breach of Sony's Database**

8 14. PSN is an online multiplayer gaming and digital media delivery service run by
9 Sony. There are over seventy-seven (77) million registered PSN accounts worldwide.
10

11 15. PSN allows members to play video games online, as well as purchase content and
12 other services through the PlayStation Store, including new games, additional content for existing
13 games, and movies and television shows on demand. PSN users may also access content provided
14 by other subscription services, including Netflix, Hulu TV Plus, and MLB.tv.

15 16. Sony requires all registered users to provide their actual names, addresses, email
16 addresses, birth dates, and to create a unique user ID and password in order to sign up for a PSN
17 account. In addition, Sony requires that a user input a valid credit card number prior to the user's
18 first purchase. Sony then stores the credit card number associated with the user's account on the
19 PSN network for future purchases.
20

21 17. Between April 17 and April 19, 2011, an unidentified third party gained access to
22 the PSN and the sensitive personally identifiable information and financial information of
23 approximately 77 million registered PSN users.
24

25 18. On April 20, 2011, Sony publicly acknowledged that the PSN had suffered an
26 "external intrusion," though Sony did not notify consumers that their personally identifiable
27 information was exposed as a result of the security breach. Sony also shut down all PSN services,
28

1 preventing PSN registered users from accessing their accounts. Users who attempted to sign on to
2 PSN via a PlayStation console received a message stating that PSN was “undergoing
3 maintenance.”

4 19. While Sony learned of the security breach on or before April 20, 2011, it did not
5 immediately inform PSN users that their personally identifiable information had been disclosed or
6 that their credit card and other financial information was at risk as a result of the breach.
7 Accordingly, while some users were aware that they could not access the PSN, they were not
8 informed that an unauthorized third party had access to their personal and financial information.
9

10 20. Finally, on April 26, 2011, Sony revealed on the official PlayStation blog that
11 users’ “name, address (city, state, zip), country, email address, birth date, PlayStation
12 Network/Qriocity password and login, and handle/PSN online ID” had been obtained in the attack.
13 In a subsequent update on the PlayStation blog dated April 27, 2011, Sony admitted that the
14 personally identifiable information stored on the PSN was not encrypted, making it vulnerable and
15 accessible to hackers who gained access to the PSN.
16

17 21. In the April 26, 2011 announcement, Sony further stated that “we are advising you
18 that your credit card number (excluding security code) and expiration date may have been
19 obtained.”

20 22. To date, the PSN remains offline, and Sony has not identified when the PSN will
21 again be accessible.

22
23 23. In addition, Sony failed to properly implement an intrusion detection and prevention
24 system, which is standard among companies that collect and retain customer financial and
25 personally identifiable information. Had Sony properly implemented an IDPS, Sony would have
26 known within a reasonable period of time what information was accessed, and thus would have
27

1 been able to inform affected consumers of the security breach.

2 24. After the security breach occurred, Sony further proliferated the harm to PSN users
3 by waiting several days to inform PSN users of the security breach. As a result, Sony prevented
4 consumers from taking reasonable steps to safeguard or protect their information in a timely
5 fashion.

6 25. Since the security breach has occurred, Sony has failed to take substantial corrective
7 action. As of April 28, 2011, the PSN remains offline, and Sony has failed to identify the source
8 of the breach.
9

10 **Nature of the Harms Suffered by PSN Users**

11 26. PSN users' personally identifiable information has substantial value to Sony. As it
12 admits in its Privacy Policy, Sony exploits this value by sharing and selling its users' information
13 with numerous third parties:

14 We may share the personally identifying information of our website users with
15 our affiliates in the Sony group family of companies and other third parties who
16 assist us with fulfilling your requests, clear and verify transactions, deliver and
17 administer products, content or services, manage and enhance customer data,
18 store and maintain our database records, provide customer service, detect fraud or
illegal activities, conduct customer research and surveys, develop new products
and services and sell products and services to you.

19 27. Indeed, there are active markets through which people and entities buy and sell this
20 type of personally identifiable information.

21 28. As a result of Sony's failure to properly safeguard its users' confidential
22 information, Sony has caused PSN users harm in the form of the loss or diminution in value of
23 their personally identifiable information.
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Facts Relating to Plaintiff

1
2 29. Plaintiff Correlle Walker owns a PlayStation 3 gaming console and is a registered
3 user of PSN.

4 30. As required by Defendant, Plaintiff provided his personal credit card number for
5 purchases at the PlayStation Store. Accordingly, Plaintiff's credit card data was stored on the PSN
6 and was exposed as a result of the security breach.

Class Allegations

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8
9 31. Plaintiff Correlle Walker brings this action pursuant to Fed. R. Civ. P. 23(b)(2) and
10 (3) on behalf of himself and a Class of similarly situated individuals, defined as follows:

11 All individuals and entities in the United States and its territories who were active
12 subscribers to the PlayStation Network as of April 17, 2011.

13 Excluded from the Class are: 1) Defendant, Defendant's agents, subsidiaries, parents, successors,
14 predecessors, and any entity in which the Defendant or their parents have a controlling interest and
15 their current and former employees, officers, and directors, 2) the Judge or Magistrate Judge to
16 whom this case is assigned and the Judge's or Magistrate Judge's immediate family, 3) persons
17 who execute and file a timely request for exclusion, and 4) the legal representatives, successors, or
18 assigns of any such excluded person.

19
20 32. The Class consists of millions of individuals, making individual joinder
21 impracticable.

22 33. There are many questions of law and fact common to the claims of Plaintiff and the
23 other members of the Class, and those questions predominate over any questions that may affect
24 individual members of the Class. Common questions include but are not limited to the following:

25 (a) whether Sony failed to use reasonable care in safeguarding and securing its
26 users' sensitive financial and personally identifiable information;
27

1 (b) whether Sony had properly implemented an intrusion detection and
2 prevention system to protect customer data from attack;

3 (c) whether Sony took reasonable measures to determine the extent of the
4 security breach after it first learned of the external invasion;

5 (d) whether Defendant's delay in informing PSN users of the security breach
6 and exposure of information was unreasonable;

7 (e) whether Sony's conduct violated the Unfair Competition Law, Cal. Bus. &
8 Prof. Code § 17200;

9 (f) whether Sony's conduct violated the Consumers Legal Remedies Act, Cal.
10 Bus. & Prof. Code § 17200;

11 (g) whether Sony's conduct violated Cal. Bus. & Prof. Code § 1798.80;

12 (h) whether Sony's conduct constituted negligence; and

13 (i) whether Plaintiff and members of the Class are entitled to damages,
14 injunctive relief, or other equitable relief.
15

16 34. Plaintiff's claims are typical of the claims of all of the other members of the Class.
17

18 35. Plaintiff will fairly and adequately represent and protect the interests of the other
19 members of the Class. Plaintiff has retained counsel with substantial experience in prosecuting
20 complex litigation and class actions. Plaintiff and his counsel are committed to vigorously
21 prosecuting this action on behalf of the members of the Class, and have the financial resources to
22 do so. Neither Plaintiff nor his counsel have any interest adverse to those of the other members of
23 the Class.
24

25 36. Absent a class action, most members of the Class would find the cost of litigating
26 their claims to be prohibitive and will have no effective remedy. The class treatment of common
27

1 questions of law and fact is also superior to multiple individual actions or piecemeal litigation in
2 that it conserves the resources of the courts and the litigants, and promotes consistency and
3 efficiency of adjudication.

4 37. Sony has acted and failed to act on grounds generally applicable to Plaintiff and the
5 other members of the Class, requiring the Court's imposition of uniform relief to ensure
6 compatible standards of conduct toward the members of the Class.

7
8 38. The factual and legal bases of Sony's liability to Plaintiff and to the other members
9 of the Class are the same and resulted in injury to Plaintiff and all of the other members of the
10 Class. Plaintiff and the other members of the Class have all suffered harm as a result of Sony's
11 wrongful conduct.

12 **FIRST CAUSE OF ACTION**
13 **Violation of California's Unfair Competition Law**
14 **Cal. Bus. & Prof. Code § 17200, *et seq.***

15 39. Plaintiff incorporates the foregoing allegations as if fully set forth herein.

16 40. California's Unfair Competition Law ("UCL"), Cal. Bus. & Prof. Code § 17200, *et*
17 *seq.*, protects both consumers and competitors by promoting fair competition in commercial
18 markets for goods and services.

19 41. The UCL prohibits any unlawful, unfair or fraudulent business act or practice. A
20 business practice need only meet one of the three criteria to be considered unfair competition. An
21 unlawful business practice is anything that can properly be called a business practice and that at
22 the same time is forbidden by law.

23 42. As described herein, Defendant's knowing and willful failure to safeguard and
24 secure its users' sensitive PII violates the UCL.

25
26 43. Cal. Civ. Code § 1798.81.5 requires businesses to implement and maintain
27 reasonable security procedures and practices to protect any consumer personal information in their

1 possession in order to protect such information from unauthorized access, use or disclosure. By
2 failing to adequately protect users' PII, Sony unlawfully breached its duty to PSN users and
3 violated § 1798.81.5.

4 44. California Civil Code § 1798.82 requires any business that owns or licenses
5 computerized data that includes personal information to "disclose any breach of the security of the
6 system following discovery or notification of the breach . . . whose unencrypted personal
7 information was, or is reasonably believed to have been, acquired by an unauthorized person . . . in
8 the most expedient time possible and without unreasonable delay." By failing to encrypt PSN
9 users' personally identifiable information, and waiting several days to disclose to users that their
10 information had been exposed, Sony willfully violated § 1798.82.

12 45. Commonly accepted and widely practiced industry standards provide that sensitive
13 personally identifiable information stored in a commercial database, especially user passwords and
14 credit card information, should be encrypted to provide a barrier to removal or manipulation.

16 46. By failing to establish adequate safeguards to protect users' personally identifiable
17 information and failing to maintain its users' personal data in an encrypted database, Sony failed to
18 maintain reasonable security measures to protect the loss and misuse of its users' information.

19 47. Plaintiff and the Class members relied on Sony's misrepresentations that it would
20 employ reasonable security measures to safeguard their personal data.

21 48. Defendant has violated the "unlawful" prong of the UCL because its conduct as
22 alleged herein violated California Civil Code §§ 1798.81.5 and 1798.82, the Consumer Legal
23 Remedies Act, Cal Civ. Code § 1750 *et seq.*, and the common law.

25 49. Defendant has violated the "fraudulent" prong of the UCL by misrepresenting to its
26 users that it had "security measures in place to protect the loss, misuse, and alteration of the
27

1 information under its control.”

2 50. Defendant violated the “unfair” prong of the UCL because it induced users to
3 submit their personally identifiable information with the written assurance that the data would be
4 protected with reasonable security measures. Defendant knowingly failed to provide such
5 reasonable security measures.

6 51. As a result of Sony’s conduct as alleged herein, Plaintiff and Class members have
7 suffered economic injury, including but not limited to the loss of value of their valuable personally
8 identifiable information.

9 52. Pursuant to Cal. Bus. & Prof. Code §§ 17203 and/or 17204, Plaintiff seeks an order
10 permanently enjoining Defendant from continuing to engage in the unfair and unlawful conduct
11 described herein. Plaintiff seeks an order requiring Defendant to: (1) immediately stop the
12 unlawful practices stated in this Complaint; (2) ensure that Sony employs reasonable methods to
13 safeguard its user data; and (3) pay attorneys’ fees, and costs pursuant to Cal. Code Civ. Proc. §
14 1021.5.
15
16

17 **SECOND CAUSE OF ACTION**
18 **Violation of the Consumers Legal Remedies Act, Cal. Civ. Code § 1750, *et seq.***

19 53. Plaintiff incorporates the foregoing allegations as if fully set forth herein.

20 54. The Consumers Legal Remedies Act prohibits the act, use or employment by any
21 person of any deception, fraud, false pretense, false promise, misrepresentation, concealment,
22 suppression or omission of any material fact with intent that others rely upon such act in
23 connection with the sale or advertisement of any merchandise whether or not any person has in
24 fact been misled, deceived or damaged thereby.

25 55. As described within, Defendant has engaged in deceptive practices, unlawful
26 methods of competition, and/or unfair acts as defined by Cal. Civ. Code §§ 1750, *et seq.*, to the
27

1 detriment of Plaintiff and the Class.

2 56. Defendant, acting with knowledge, intentionally and unlawfully brought harm upon
3 Plaintiff and the Class by deceptively inducing Plaintiff and the Class register for the PSN and
4 provide credit card information for the purchase of content from the PlayStation Store based upon
5 deceptive and misleading representations that it had adequate security measures in place to protect
6 the loss or misuse of sensitive data provided to Defendant.

7
8 57. Specifically, Defendant's actions in selling defective products and failing to remedy
9 these defects have violated the following provisions of the CLRA:

10 a) Civil Code § 1770(a)(5): Representing that goods or services have
11 characteristics, uses, or benefits which they do not have;

12 b) Civil Code § 1770(a)(7): Representing that goods or services are of a
13 particular standard, quality or grade, if they are of another;

14 c) Civil Code § 1770(a)(9): Advertising goods or services with intent not to
15 sell them as advertised; and

16
17 d) Civil Code §1770(a)(14): Representing that a transaction confers or involves
18 rights, remedies or obligations which it does not have or involve.

19 58. Plaintiff and the Class members purchased PlayStation 3 and/or PlayStation
20 Portable devices to be used on the PSN, thereby making them consumers under the CLRA.

21 59. The PlayStation 3 console, the PlayStation Portable Console, and the PSN
22 constitute "goods" and/or "services" within the meaning of the CLRA.

23
24 60. Plaintiff and the Class members relied on Sony's promise that it had adequate
25 security measures in place to protect the loss or misuse of sensitive data provided to Defendant,

1 and that the PSN would be available to registered purchasers of PlayStation 3 or PlayStation
2 Portable gaming consoles.

3 61. Plaintiff and the Class have suffered harm as a direct and proximate result of
4 Defendant's violations of law and wrongful conduct. In particular, as a result of Defendant's
5 actions the PSN database was accessed without authorization, Plaintiff and the Class's sensitive
6 personally identifiable information was compromised.

7
8 62. Pursuant to Civ. Code § 1780(a), Plaintiff seeks injunctive relief requiring
9 Defendant to cease and desist the illegal conduct described herein, and any other appropriate
10 remedy for violations of the CLRA.

11 **THIRD CAUSE OF ACTION**
12 **Violations of Security Requirements for Customer Records,**
13 **Cal. Civ. Code § 1798.80, et seq.**

14 63. Plaintiff incorporates the foregoing allegations as if fully set forth herein.

15 64. Cal. Civ. Code § 1798.82 requires any business that owns or licenses computerized
16 data that includes personal information to "disclose any breach of the security of the system
17 following discovery or notification of the breach . . . whose unencrypted personal information was,
18 or is reasonably believed to have been, acquired by an unauthorized person . . . in the most
19 expedient time possible and without unreasonable delay."

20 65. As alleged herein, Defendant failed to disclose to Plaintiff and the Class, in the
21 most expedient time possible and without unreasonable delay, the breach of security that exposed
22 users' names, credit card numbers, and other sensitive personally identifiable information for
23 several days after it learned that such information had been compromised by an external breach.

24 66. In particular, Defendant learned of the external intrusion on or before April 19,
25 2011, but failed to publicly disclose that consumer data, including names and credit card numbers,
26 were exposed until April 26, 2011.

1 67. Moreover, Defendant failed to publicly disclose that user personally identifiable
2 information was not encrypted, and thus more vulnerable to exploitation once the PSN's security
3 was breached, until April 27, 2011.

4 68. Moreover, by posting notice of the security breach on the official PlayStation blog,
5 Defendant did not take reasonable steps to ensure that all PSN users were informed of the security
6 breach.

7 69. As a direct and proximate result of Defendant's acts and omissions described
8 herein, Plaintiff and the Class have suffered damages including, but not limited to, invasion of
9 privacy, loss of control of their personal financial and other nonpublic information, future
10 economic harm and identity theft, and the burden of monitoring their financial and credit accounts,
11 in an amount to be proven at trial.

12
13 **FOURTH CAUSE OF ACTION**
14 **Negligence**

15 70. Plaintiff incorporates the foregoing allegations as if fully set forth herein.

16 71. In order to sign up for a PSN account, Plaintiff and the Class transmitted several
17 pieces of sensitive personally identifiable information to Defendant, including their names,
18 addresses, and e-mail addresses, and were required to create unique user ID's and passwords.

19 72. In order to purchase content from the PlayStation Store via credit card, Defendant
20 required that PSN users input and store a valid credit card number that is stored on the PSN for
21 subsequent use.

22 73. By agreeing to accept Plaintiff and the Class's sensitive personally identifiable
23 information and consumer credit card data, Defendant assumed a duty, which required it to
24 exercise reasonable care to secure and safeguard that information and utilize reasonable methods to
25 do so.
26
27

1 74. On information and belief, Defendant failed to adequately protect its databases from
2 third-party attacks, failed to properly implement an intrusion detection and prevention system, failed
3 to encrypt plaintiff and the Class member's passwords, and failed to provide Plaintiff and the Class
4 with prompt and sufficient notice that their sensitive PII had been compromised, thereby breaching
5 its duties to Plaintiff and the Class.

6 75. Defendant's conduct was grossly negligent and departed from all reasonable
7 standards of care.

8
9 76. As a direct and proximate result of Defendant's misconduct described herein,
10 Plaintiff and the Class were injured because they suffered the public disclosure of personal
11 information without consent, the increased and imminent threat of economic harm through the use
12 of compromised credit card accounts, all of which has ascertainable value to be proven at trial.

13 **PRAYER FOR RELIEF**

14 WHEREFORE, Plaintiff Correlle Walker, individually and on behalf of the Class, prays for
15 the following relief:

16
17 A. An order certifying this case as a class action on behalf of the Class defined above,
18 appoint Plaintiff Correlle Walker as Class Representative, and appoint his counsel as Class
19 Counsel;

20 B. Declare that Sony's actions, as described herein, violate the California Unfair
21 Competition Law, Cal. Bus. & Prof. Code § 17200, *et seq.*, the Consumer Legal Remedies Act,
22 Cal. Bus. & Prof. Code § 1750, the Security Requirements for Customer Records, Cal. Bus. &
23 Prof. Code § 1798.80, and constitute negligence;
24

25 C. Awarding injunctive and other equitable relief as is necessary to protect the interests
26 of the Class, including: (i) an order prohibiting Sony from engaging in the wrongful and unlawful
27

1 acts described herein; and (ii) requiring Sony to protect all data collected on the PSN in accordance
2 with industry standards;

3 D. Award damages, including statutory damages where applicable, to Plaintiff and the
4 Class in an amount to be determined at trial;

5 E. Award Plaintiff and the Class their reasonable litigation expenses and attorneys'
6 fees;

7 F. Award Plaintiff and the Class pre- and post-judgment interest, to the extent
8 allowable under law; and
9

10 G. Award such other and further relief as justice may require.


11 **JURY TRIAL**

12 Plaintiff demands a trial by jury for all issues so triable.

13 DATED: May 9, 2011

14 Respectfully submitted,

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28 CLASS ACTION COMPLAINT