

1 KILPATRICK TOWNSEND & STOCKTON LLP
 JAMES G. GILLILAND, JR. (State Bar No. 107988)
 2 TIMOTHY R. CAHN (State Bar No. 162136)
 HOLLY GAUDREAU (State Bar No. 209114)
 3 Two Embarcadero Center, 8th Floor
 San Francisco, California 94111
 4 Telephone: (415) 576-0200
 Facsimile: (415) 576-0300
 5 Email: jgilliland@kilpatricktownsend.com
 tcahn@kilpatricktownsend.com
 6 hgaudreau@kilpatricktownsend.com

7 Attorneys for Plaintiff
 SONY COMPUTER ENTERTAINMENT AMERICA LLC

8
 9 SEGAL SKIGEN LLP
 LAWRENCE SEGAL (State Bar No. 101339)
 WAYNE D. SKIGEN (State Bar No. 100249)
 10 9595 Wilshire Boulevard, Suite 201
 Beverly Hills, California 90212-2504
 11 Telephone: (310) 550-4840
 Facsimile: (310) 550-4848
 12 Email: Wayne@legalsegal.com
 Lawrence@legalsegal.com

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 14 Attorneys for Defendant
 WILDCAT CREEK, INC.

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

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

20 Plaintiff,

21 v.

22 BRIDGESTONE AMERICAS, INC.; a Nevada
 23 corporation; WILDCAT CREEK, INC., a
 California corporation; and DOES 1 through 10,

24 Defendants.
 25

Case No. C12-04753 CRB

**ORDER RE STIPULATED INJUNCTION
 ENTERED INTO BY DEFENDANT
 WILDCAT CREEK, INC.**

Judge: Hon. Charles R. Breyer

1 On September 11, 2012, Plaintiff Sony Computer Entertainment America LLC
2 (“SCEA”) filed its Complaint against Defendant Bridgestone Americas, Inc. (“Bridgestone”)
3 and Defendant Wildcat Creek, Inc. In the Complaint, SCEA alleges violations of trademark
4 and unfair competition laws, and common law misappropriation and interference with
5 contractual relations against Bridgestone. SCEA alleges breach of contract against Wildcat
6 Creek, Inc. Jerry Lambert (“Lambert”) is the President of Wildcat Creek, Inc. “Wildcat
7 Creek” as referenced herein shall refer collectively to Wildcat Creek, Inc. and Lambert as an
8 individual.

9 SCEA and Wildcat Creek have agreed to a settlement of the dispute between them.
10 As a part of that settlement, SCEA and Wildcat Creek have agreed to the entry of a
11 stipulated injunction (“Injunction”) upon the following stipulated facts. Each party has waived
12 the right to appeal from the Injunction. Each party will bear its own fees and costs in
13 connection with this action. The parties further agree that, in the event of any proceedings to
14 enforce the Injunction, the prevailing party therein shall recover its/his reasonable attorneys’
15 fees and costs. The parties further agree that violation of Paragraph A of the Injunction
16 would cause irreparable harm to SCEA and a violation of Paragraph B of the Injunction may
17 cause irreparable harm to SCEA, and, thus, if such a violation occurs, SCEA would be
18 entitled to immediate relief from this Court, including, as appropriate, monetary, injunctive,
19 and other equitable relief. Wildcat Creek consents to the jurisdiction of this Court to enforce
20 the terms of the Injunction, including but not limited to contempt proceedings.

21 **STIPULATED FACTS**

22 1. On or about August 7, 2009, SCEA through its agent entered into a contract
23 (“2009 Contract”) with Wildcat Creek, whereby Lambert agreed to furnish services as an
24 actor in connection with the production of advertising materials to promote SCEA and its
25 products (such as the PlayStation® 3 (PS3), a computer entertainment system designed for
26 the playing of video games, Blu-ray discs, and DVD movies);

2. During the term of the 2009 Contract, SCEA produced numerous commercials using Lambert’s services as an actor playing a character called “Kevin Butler,” and the “Kevin Butler” character achieved widespread fame and consumer recognition, especially among consumers of computer entertainment systems and video games, and, as a result, the “Kevin Butler” character became closely associated in consumers’ minds with SCEA and its products;

3. In the 2009 Contract, SCEA, through its agent, and Wildcat Creek agreed that SCEA would forever own all rights in the “Kevin Butler” character;

4. SCEA, through its agent, and Wildcat Creek also agreed that during the term of the 2009 Contract, Lambert’s services would be exclusive to SCEA to the extent that Lambert would not “provide his services” and would not “authorize or permit the use or imitation of [Lambert’s] name, photograph, likeness, endorsement, voice or biography, in any way, in connection with the advertising, promotion or sale of (i) any electronic game or gaming system; or (ii) any product related to electronic games or gaming systems” specifically including any games or systems manufactured by Nintendo; and

5. In early September 2012, SCEA learned that a commercial was airing in various media in which Lambert was shown with a Nintendo Wii gaming system (the “Game On!” promotion), and that many consumers had identified the character Lambert portrayed in the “Game On!” commercial as “Kevin Butler.”

ORDER

A. ACCORDINGLY, IT IS HEREBY ORDERED AND ADJUDGED by consent of SCEA and Wildcat Creek, that Lambert shall not, for a period of two (2) years from the date this Order is entered, appear in any advertisement, commercial, promotion, or co-promotion, in any media, that features, includes, or mentions any other video game or computer entertainment system or video game company. By “Appear,” the parties mean that Lambert’s likeness, image, photograph, and/or voice may not be used in any way in which the actor Lambert is identifiable. This restriction with respect to “any advertisement, commercial, promotion, or co-

1 promotion, in any media, that features, includes, or mentions any other video
2 game or computer entertainment system or video game company,” is not intended
3 to apply where the inclusion of a video game or computer entertainment system is
4 without advance knowledge on Lambert’s part – e.g., is included as set
5 background in a scene in which Lambert does not appear and of which Lambert is
6 unaware -- and is not for the purpose of advertising, promoting, co-promoting or
7 cross-promoting a video game or computer entertainment system or manufacturer
8 thereof and no video game, computer entertainment system or manufacturer
9 thereof is identified by name or brand.

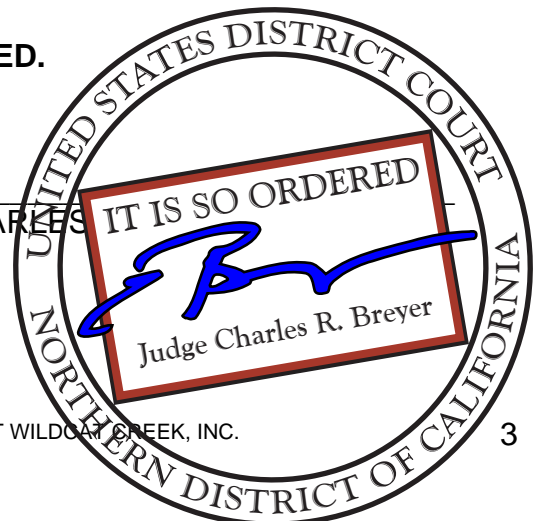
10 **B. IT IS FURTHER ORDERED AND ADJUDGED** that for two years thereafter
11 Lambert will provide SCEA with at least 10 days’ notice, or immediate notice upon
12 learning that performance is required in less than 10 days, prior to performing or
13 appearing in any advertisement, commercial, promotion, or co-promotion, in any
14 media, that features, includes, or mentions any other video game or computer
15 entertainment system or video game company and will provide SCEA with
16 sufficient information about the commercial, advertisement, promotion or co-
17 promotion so SCEA can assess whether or not Lambert’s intended performance
18 violates SCEA’s rights in the Kevin Butler character.

19 **C. IT IS FURTHER ORDERED AND ADJUDGED** that this Court shall retain
20 jurisdiction for the purpose of enforcing the terms of the Injunction, including but
21 not limited to contempt proceedings.

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23 **PURSUANT TO STIPULATION, IT IS SO ORDERED.**

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25 DATED: January 10, 2013

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HON. CHARLES R. BREYER



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