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19 **UNITED STATES DISTRICT COURT**
20 **NORTHERN DISTRICT OF CALIFORNIA**
21 **SAN FRANCISCO DIVISION**

22 AGUSTIN CACCURI, on behalf of himself
23 and all others similarly situated,
24
25 Plaintiff,
26
27 v.
28
29 SONY INTERACTIVE ENTERTAINMENT
30 LLC,
31
32 Defendant.

Civil Action No.

CLASS ACTION COMPLAINT

DEMAND FOR JURY TRIAL

1 Plaintiff Agustin Caccuri, on behalf of himself and all others similarly situated, brings
2 this Class Action Complaint against Sony Interactive Entertainment LLC for violation of federal
3 and state antitrust and unfair competition laws. Based upon personal knowledge, information and
4 belief, and the investigation of counsel, Plaintiff alleges as follows:

5 I. INTRODUCTION

6 1. This is an antitrust and unfair competition class action seeking damages and
7 injunctive relief for violation of Section 2 of the Sherman Antitrust Act, 15 U.S.C. § 2, and the
8 California Business and Professions Code § 17200, against Sony Interactive Entertainment LLC
9 (“Sony” or “Defendant”). Plaintiff brings this action on behalf of himself and all other similarly
10 situated Class members who purchased digital video games on Sony’s PlayStation Store (the
11 “Class”) between April 1, 2019 and the present (the “Class Period”).

12 2. Sony manufactures the PlayStation, a line of video game consoles that launched
13 in 1994 and has become one of the most popular video game systems in the world. Sony’s most
14 recent model, the PlayStation 5, is expected to become the best-selling video game console of all
15 time. PlayStation 5 launched on November 12, 2020, and by March 31, 2021, Sony had sold 7.8
16 million units.¹ Despite record sales numbers, Sony has been unable to supply anywhere close to
17 enough units to meet consumer demand.² Sales are predicted to surpass 200 million units within
18 the next five years.³

19
20
21
22 ¹ See Sam Byford, *Sony has sold 7.8 million PS5 consoles*, The Verge (Apr. 28, 2021),
23 <https://www.theverge.com/2021/4/28/22407195/sony-ps5-sales-numbers-q4-2020-earnings>.

24 ² See N.F. Mendoza, *PlayStation rakes in \$2.6 billion in PS5 sales*, TechRepublic (Feb. 25,
25 2021), <https://www.techrepublic.com/article/playstation-rakes-in-2-6-billion-in-ps5-sales/>.

26 ³ Aernout van de Velde, *PS5 Sales to Exceed 200 to 300 Million Units in 5 to 6 Years, Analyst
27 Says; Could Terminate the Long-Running Console War*, WCCF Tech (Oct. 17, 2020),
<https://wccftech.com/ps5-sales-200-300-million-700-console-war/>; Lionel Sujay Vailshery,
Forecast unit sales of the PlayStation 5 worldwide from 2020 to 2024 (Apr 12, 2021),
<https://www.statista.com/statistics/1124784/unit-sales-ps5-worldwide/>.

1 3. Sony has used the console's popularity to build PlayStation into a multinational
2 and multifaceted digital entertainment brand⁴ which includes an online store for purchasing and
3 downloading digital video games directly to the console (the PlayStation Store),⁵ a unified online
4 multiplayer gaming and digital media delivery service (the PlayStation Network),⁶ a
5 subscription-based digital video game streaming service (PlayStation Now)⁷, a digital movie and
6 TV distribution service (PlayStation Video),⁸ and Sony's video game development arm
7 (PlayStation Studios).⁹

8 4. The bulk of the profits Sony derives from the PlayStation franchise come not
9 from sales of its consoles, but from the digital video games and other digital content sold through
10 the PlayStation Store and the PlayStation Network, which produced over \$17 billion in revenues
11 for Sony in the fiscal year ending March 31, 2021.¹⁰

12 5. The PlayStation Store launched in 2006 alongside the PlayStation 3 console,
13 allowing users to purchase digital copies of PlayStation games and download them directly to the
14 console as an alternative to buying physical disks and inserting them into the console's disk
15 drive. Since the launch of the original PlayStation in 1994, the games had been available only on
16 disks. Now users can access the PlayStation Store from their console, purchase games, and

17 ⁴ See *About Us: We are PlayStation*, Sony Interactive Entm't, <https://www.playstation.com/en-us/corporate/about-us/> (last visited Apr. 29, 2021).

18 ⁵ See *About PlayStation Store*, Sony Interactive Entm't, <https://www.playstation.com/en-us/about-playstation-store/> (last visited Apr. 29, 2021).

19 ⁶ See *PlayStation Network*, Sony Interactive Entm't, <https://www.playstation.com/en-us/playstation-network/> (last visited Apr. 29, 2021).

20 ⁷ See *PlayStation Now*, Sony Interactive Entm't, <https://www.playstation.com/en-us/ps-now/>
21 (last visited Apr. 29, 2021).

22 ⁸ See *PlayStation Video*, Sony Interactive Entm't, <https://www.playstation.com/en-us/playstation-video/> (last visited Apr. 29, 2021).

23 ⁹ See *SIE PlayStation Studios*, Sony Interactive Entm't, <https://www.playstation.com/en-us/corporate/playstation-studios/> (last visited May 3, 2021).

24 ¹⁰ See Sony Corporation, Financial Statements and Consolidated Financial Results for the Fiscal
25 Year Ended March 31, 2021 (Apr. 28, 2021), available at https://www.sony.com/en/SonyInfo/IR/library/presen/er/pdf/20q4_sony.pdf. Dollar figure based on the following exchange rate
26 from April 28, 2021: 1 JPY = 0.0092 USD.
27
28

1 download them directly to their console through the PlayStation Network. In 2020, digital
2 downloads made up 62% of sales for PlayStation games, compared to only 43% in 2018.¹¹

3 6. Until recently, consumers could also purchase download codes for digital
4 PlayStation games from the same online and brick-and-mortar retailers who also sell physical
5 games such as Amazon, GameStop, Best Buy, and Wal-Mart. The codes could be redeemed on
6 the PlayStation Store for digital copies of PlayStation games.

7 7. On April 1, 2019, Sony eliminated retailers' ability to sell download codes for
8 digital PlayStation games. Because delivering digital content to PlayStation consoles requires
9 access to Sony's PlayStation Network, the new policy established the PlayStation Store as the
10 only source from which consumers can purchase digital PlayStation games, and the only source
11 to which video game publishers can sell digital PlayStation games. Sony also requires publishers
12 who sell digital games on the PlayStation Store to relinquish full control over the retail price. As
13 a result, the policy swiftly and effectively foreclosed any and all price competition in the retail
14 market for digital PlayStation games.

15 8. Sony's new restrictions established a monopoly over the sale of digital
16 PlayStation games. Sony's monopoly allows it to charge supracompetitive prices for digital
17 PlayStation games, which are significantly higher than their physical counterparts sold in a
18 competitive retail market, and significantly higher than they would be in a competitive retail
19 market for digital games.

20 9. A comparison of prices for the most popular digital games on the PlayStation
21 Store with prices for the same games available on disk from an array of retailers suggests prices
22 on the PlayStation store are, on average, about 75% percent higher than those for games on disk,
23 and in some cases closer to 175% higher.¹² There is no legitimate reason digital games should be
24

25 ¹¹ Mustafa Mahmoud, *62% of all full PlayStation game sales were digital in 2020*, Kitguru (Mar.
26 12, 202), <https://www.kitguru.net/gaming/mustafa-mahmoud/62-of-all-full-playstation-game-sales-were-digital-in-2020/>.

27 ¹² See ¶¶ 56-58 and Table 1, *infra*.

1 more expensive than their physical counterparts. In fact, given the costs saved on packaging and
2 distribution, prices for digital games in a truly competitive market would likely be lower than
3 they are for games on disk.

4 10. Sony's ability to maintain supracompetitive prices on the PlayStation Store while
5 consumers continue to switch from disks to digital game in ever increasing numbers, along with
6 Sony's skyrocketing revenues from digital games, demonstrate that prices for digital games on
7 the PlayStation store are not responsive to changes in prices for PlayStation games on disk.

8 11. The relevant product market in this case is the market for downloadable,
9 digitally-delivered video game content that is compatible with a PlayStation console ("digital
10 PlayStation games").

11 12. As a direct and proximate result of Sony's unlawful acquisition and maintenance
12 of a monopoly over the sale of digital PlayStation games, Plaintiff and Class members have paid
13 and will continue to pay significantly more for digital games than they would have absent Sony's
14 monopoly. Plaintiff seeks damages for himself and Class members equal to the amount they have
15 already overpaid, treble damages, and injunctive relief to end to the overcharges they will
16 continue to pay as long as Sony is allowed to keep its unlawful monopoly.

17 **II. THE PARTIES**

18 13. Plaintiff Agustin Caccuri is an individual residing in Santa Monica, California.
19 Plaintiff owns a PlayStation 5 Digital Edition console, has purchased digital video games on the
20 PlayStation Store and downloaded them to his console during the Class period, and plans to
21 purchase and download more digital games from the PlayStation Store in the future.

22 14. Defendant Sony Interactive Entertainment LLC ("Sony") is a corporation
23 organized and existing under the laws of California, with its headquarters and principal place of
24 business at 2207 Bridgepointe Parkway, San Mateo, California. It is a wholly-owned subsidiary
25 of the Japanese consumer electronics and media conglomerate Sony Corporation, and is the sole
26 owner the PlayStation digital entertainment brand.

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