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

ALLEN NEUMARK, on behalf of himself
and all others similarly situated,

Plaintiff,

v.

SONY INTERACTIVE ENTERTAINMENT
LLC and SONY GROUP CORPORATION,

Defendants.

Civil Action No. 3:21-cv-5031
CLASS ACTION COMPLAINT
DEMAND FOR JURY TRIAL

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4 Plaintiff Allen Neumark (“Plaintiff”), on behalf of himself and all others similarly situated,
5 brings this Class Action Complaint against Sony Interactive Entertainment LLC and Sony Group
6 Corporation (collectively, “Sony” or “Defendants”) for violation of federal and state antitrust and
7 unfair competition laws. Based upon personal knowledge, information and belief, and the
8 investigation of counsel, Plaintiff alleges as follows:

9 I. INTRODUCTION

10 1. This is an antitrust and unfair competition class action seeking damages and
11 injunctive relief for violation of Section 2 of the Sherman Antitrust Act, 15 U.S.C. § 2, and the
12 California Business and Professions Code § 17200, against Sony. Plaintiff brings this action on
13 behalf of himself and all other similarly situated Class members who purchased digital video games
14 on Sony’s PlayStation Store (the “Class”) between November 12, 2020 and the present.

15 2. Sony manufactures the PlayStation, a line of video game consoles that launched in
16 1994 and has become one of the most popular video game systems in the world. Sony’s most recent
17 model, the PlayStation 5, is expected to become the best-selling video game console of all time.
18 PlayStation 5 launched on November 12, 2020, and by March 31, 2021, Sony had sold 7.8 million
19 units.¹ To date, Sony has sold 9.1 million units.² Despite record sales numbers, Sony has been
20 unable to supply anywhere close to enough units to meet consumer demand.³ Sales are predicted to
21 surpass 200 million units within the next five years.⁴

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

24 ² Tom Chapman, *Sony has Sold Over 9 Million PS 5 Consoles Since Launch*, GGRecon (June 22,
2021) <https://www.ggrecon.com/articles/ps5-9-million/>

25 ³ N.F. Mendoza, *PlayStation rakes in \$2.6 billion in PS5 sales*, TechRepublic (Feb. 25, 2021),
26 <https://www.techrepublic.com/article/playstation-rakes-in-2-6-billion-in-ps5-sales/>.

27 ⁴ Aernout van de Velde, *PS5 Sales to Exceed 200 to 300 Million Units in 5 to 6 Years, Analyst
28 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, Statista (Apr 12, 2021),

1 3. Sony has used the console's popularity to build PlayStation into a multinational and
2 multifaceted digital entertainment brand⁵ which includes an online store for purchasing and
3 downloading digital video games directly to the console (the PlayStation Store),⁶ a unified online
4 multiplayer gaming and digital media delivery service (the PlayStation Network),⁷ a subscription-
5 based digital video game streaming service (PlayStation Now),⁸ a digital movie and TV distribution
6 service (PlayStation Video),⁹ and Sony's video game development arm (PlayStation Studios).¹⁰

7 4. The bulk of the profits Sony derives from the PlayStation franchise do not come
8 from sales of its consoles, but from the digital video games and other digital content sold through
9 the PlayStation Store and the PlayStation Network, which produced over \$17 billion in revenues
10 for Sony in the fiscal year ending March 31, 2021.¹¹

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

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18 <https://www.statista.com/statistics/1124784/unit-sales-ps5-worldwide/>.

19 ⁵ *About Us: We are PlayStation*, Sony Interactive Entm't, <https://www.playstation.com/en-us/corporate/about-us/> (last visited June 22, 2021).

20 ⁶ *About PlayStation Store*, Sony Interactive Entm't, <https://www.playstation.com/en-us/about-playstation-store/> (last visited June 22, 2021).

21 ⁷ *PlayStation Network*, Sony Interactive Entm't, <https://www.playstation.com/en-us/playstation-network/> (last visited June 22, 2021).

22 ⁸ *PlayStation Now*, Sony Interactive Entm't, <https://www.playstation.com/en-us/ps-now/> (last
23 visited June 22, 2021).

24 ⁹ *PlayStation Video*, Sony Interactive Entm't, <https://www.playstation.com/en-us/playstation-video/> (last visited June 22, 2021).

25 ¹⁰ *SIE PlayStation Studios*, Sony Interactive Entm't, <https://www.playstation.com/en-us/corporate/playstation-studios/> (last visited June 22, 2021).

26 ¹¹ Sony Corporation, Financial Statements and Consolidated Financial Results for the Fiscal
27 Year Ended March 31, 2021 (Apr, 28, 2021), https://www.sony.com/en/SonyInfo/IR/library/presen/er/pdf/20q4_sony.pdf. Dollar figure based on the following exchange rate
28 from April 28, 2021: 1 JPY = 0.0092 USD.

1 them directly to their console through the PlayStation Network. In 2020, digital downloads made
2 up 62% of sales for PlayStation games, compared to only 43% in 2018.¹²

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 the
6 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 only
10 source from which consumers can purchase digital PlayStation games, and the only source to which
11 video game publishers can sell digital PlayStation games. Sony also requires publishers who sell
12 digital games on the PlayStation Store to relinquish full control over the retail price. As a result, the
13 policy swiftly and effectively foreclosed any and all price competition in the retail market for digital
14 PlayStation games.

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

19 9. A comparison of prices for the most popular digital games on the PlayStation Store
20 with prices for the same games available on disk from an array of retailers suggests prices on the
21 PlayStation store are, on average, about 76% higher than those for games on disk, and in some cases
22 closer to 100% higher.¹³ There is no legitimate reason digital games should be more expensive than
23 their physical counterparts. In fact, given the costs saved on packaging and distribution, prices for
24 digital games in a truly competitive market would likely be lower than they are for games on disk.

25 _____
26 ¹² Mustafa Mahmoud, *62% of all full PlayStation game sales were digital in 2020*, Kitguru (Mar.
27 12, 2021), <https://www.kitguru.net/gaming/mustafa-mahmoud/62-of-all-full-playstation-game-sales-were-digital-in-2020/>.

28 ¹³ See ¶¶ 57-59 and Table 1, *infra*.

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