

Order Entered

**IN THE FEDERAL COURT OF AUSTRALIA
VICTORIA DISTRICT REGISTRY
GENERAL DIVISION**

No: (P)VID727/2010

**SONY COMPUTER
ENTERTAINMENT EUROPE
LIMITED**

First Applicant

**SONY COMPUTER
ENTERTAINMENT AUSTRALIA
PTY LTD
(ACN 077 583 183)**

Second Applicant

**OZMODCHIPS PTY LTD
(ACN 136 734 186)**

First Respondent

RYAN EMMANUEL CARUANA

Second Respondent

**GLOBAL SOLUTIONS
INTERNATIONAL PTY LTD T/A
QUANTRONICS
(ACN 102 293 603)**

Third Respondent

**KEN TOLCHER PTY LTD T/A
MOD SUPPLIER
(ACN 054 914 126)**

Fourth Respondent

ORDER

JUDGE: Justice Dodds-Streeton

DATE OF ORDER: 26 August 2010

WHERE MADE: Melbourne

THE COURT ORDERS THAT:

1. Upon the Applicants undertaking to the Court to:

- (i) submit to such order (if any) as the Court may consider to be just for the payment of compensation, to be assessed by the Court or as it may direct, to any person whether or not a party, adversely affected by the operation of Orders 3 to 5 set out below or any continuation (with or without variation); and
- (ii) pay the compensation referred to in (a) to the person or persons there referred to.

2. **ORDERS** that the Applicants' Notice of Motion of 26 August 2010 be made returnable *instanter* and heard *ex parte*.

2.1 **ORDERS** that up to and including 31 August 2010, the First to Fourth Respondents and each of them, whether by themselves, their servants or agents, be restrained from doing any of the following acts with respect to all and any Universal Serial Bus devices described as "PSJailbreak" in Exhibit PJC-1 of the affidavit of Peter John Chalk sworn on 26 August 2010 and filed herein, as packaged and distributed or threatened to be distributed by those Respondents (**PSJailbreak Devices**):

- (i) importing them into Australia with the intention of providing them to another person;
- (ii) distributing them to another person;
- (iii) offering them to the public;
- (iv) providing them to another person; and/or
- (v) otherwise dealing in them.

2.2 **ORDERS** that the First to Fourth Respondents and each of them deliver up to the solicitors for the Applicants, to be held up to and including 31 August 2010, any and all PSJailbreak Devices in those Respondents' possession custody or control.

2.3 **ORDERS** that, up to and including 31 August 2010, the First to Fourth Respondents and each of them continue to deliver up to the solicitors for the Applicants, to be held up to and including 31 August 2010, any and all PSJailbreak Devices that come into those Respondents' possession custody or control, forthwith upon them doing so.

2.4 **ORDERS** that the Applicants' Notice of Motion of 26 August 2010 otherwise be stood over to 10.15 am on 31 August 2010 for the hearing of the Applicants' application for:

- (i) each of orders 3, 4 and 5 to be made on the basis that they continue until further order;
- (ii) an order that such limited number of PSJailbreak Devices as to the Court seems appropriate be released to the Applicants and their advisers (technical, legal or otherwise) for such analysis, including destructive analysis, as the Applicants think fit, upon the payment to the applicable respondent of its retail price for each such PSJailbreak Device.

2.5 **ORDERS** that the Applicants' Notice of Motion of 26 August 2010 be provided to, but need not be served on, the First to Fourth Respondents.

2.6 **ORDERS** that the time by which the Applicants' Application of 26 August 2010 and its accompanying documents be served on the First to Fourth Respondents be abridged to 5 pm on 27 August 2010.

2.7 **ORDERS** that these Orders may be served, and are taken to be served with immediate effect:

- (i) on Ozmodchips Pty Ltd (ACN 136 734 186) and Ryan Emmanuel Caruana, upon the Applicants leaving a copy of these Orders at the shop located at 1137 Burke Road, Kew, Victoria 3101 between the hours of 10am and 5pm Monday to Friday and 10am and 3pm Saturday and the Applicants copying and pasting these Orders into the contact form at <http://www.ozmodchips.com/contact/open.php>; and
- (ii) on Global Solutions International Pty Ltd T/A Quantronics (ACN 102 293 603), upon the Applicants leaving a copy of these Orders at its registered office and emailing a copy of these Orders to "sales@quantronics.com.au"; and

(iii) on Ken Tolcher Pty Ltd T/A Mod Supplier (ACN 054 914 126), upon the Applicants leaving a copy of these Orders at its registered office and emailing a copy of these Orders to "support@modsupplier.com".

2.8 **RESERVES LIBERTY** subject to order , to the parties to apply on 24 hours' notice.

2.9 **RESERVES LIBERTY** to any respondent served with these orders to apply before 31 August 2010 on six hours' notice.

2.10 **ORDERS** that entry of these Orders be expedited.

2.11 **COSTS** reserved.

Date that entry is stamped: 26 August 2010

(for) Deputy District Registrar