

**ONTARIO  
SUPERIOR COURT OF JUSTICE**

THE HONOURABLE MADAM ) FRIDAY, THE 30<sup>TH</sup>  
JUSTICE MACDONALD ) DAY OF SEPTEMBER, 2005

BETWEEN:

**CHRISTOPHER HIRST**

Plaintiff

- and -

**SONY OF CANADA LTD. and  
TOYS "R" US (CANADA) LTD.**

Defendants



**ORDER**

**(Conditional Certification and Preliminary Settlement Approval)**

THIS MOTION, made by the Parties for an order that the within proceeding be conditionally certified as a class proceeding and the settlement of the within action be preliminarily approved, and for approval of procedures for notice, objections and exclusions, was heard this day.

ON BEING ADVISED that Sony of Canada Ltd. was improperly named as a defendant to the action as having distributed the PlayStation® 2 computer entertainment system models 30001, 30001R, 35001, 39001 and 50001 ("PS2") in Canada, and that Sony Computer Entertainment America Inc. ("SCEA") is the proper party and has agreed to meet the Defendants' obligations in the settlement;

ON BEING ADVISED of the consent of the parties to the Order sought; and

ON READING the materials filed and on hearing the submissions of counsel for the Representative Plaintiff and the Defendants,

1. **THIS COURT ORDERS** that all of the definitions contained in the Settlement Agreement and Mutual General Release made as of August 2005 by, between and among Sony Computer Entertainment America Inc., Sony of Canada Ltd. and Toys "R" Us (Canada) Ltd., and Edward Kaen, Robert Hinojosa and Christopher Hirst attached hereto as Appendix "A" (the "Settlement Agreement") shall apply to this Order and are incorporated by reference as if fully set forth herein.
2. **THIS COURT ORDERS** that the within proceeding be conditionally certified as a class proceeding pursuant to the *Class Proceedings Act, 1992*, S.O. 1992, c.6, ss.2 and 5.
3. **THIS COURT DECLARES** that the Settlement Agreement is preliminarily approved as fair, reasonable, adequate and in the best interests of the members of the Class.
4. **THIS COURT DECLARES** that the Settlement Agreement in its entirety (including all Attachments) forms part of this Order and is conditionally binding upon the Representative Plaintiff, upon all members of the Settlement Class who do not opt out of the Class in accordance with the Settlement Agreement, and upon the Defendants.
5. **THIS COURT ORDERS** that for settlement purposes, the Settlement Class be conditionally defined as:

All persons resident in Canada encompassed within the allegations in the Statement of Claim herein, including all Canadians, who are original purchasers or original gift recipients of PlayStation 2 Consoles.

6. **THIS COURT ORDERS** that the within proceeding is conditionally certified on the basis of the following common issues:
  1. Whether the PS2 contains a defect.
  2. What remedy is appropriate in respect of the alleged PS2 defect.

7. **THIS COURT ORDERS** that Christopher Hirst be appointed as the Representative Plaintiff for the class proceeding.
8. **THIS COURT ORDERS** that Rust Consulting, Inc. be appointed as the Administrator of the settlement in accordance with section I.T of the Settlement Agreement.
9. **THIS COURT ORDERS** that the forms of Class Notice attached hereto as Appendix "B" (being the Publication Notice as Appendix "B-1", Mailed Notice as Appendix "B-2", Email Notice as Appendix "B-3", and Claim Form and Instructions as Appendix "B-4") are hereby approved and directs SCEA to provide notice in that form, including in versions translated in French.
10. **THIS COURT ORDERS** that the following is due and sufficient notice of the settlement in these circumstances: (1) publication in *The Globe and Mail*, *La Presse* and *The Wall Street Journal* on 2 days at least 15 days apart; (2) mail notice to the Repair Fee Subclass at the last known address in repair records available to SCEA; (3) e-mail notice sent to the potential PS2 owners identified in the PlayStation® Underground™ database; and (4) posting a link to the settlement webpage maintained by the Settlement Administrator on the official PlayStation® website.
11. **THIS COURT ORDERS** that all costs in connection with the identification of the Settlement Class Members and with the dissemination of Class Notice shall be paid by SCEA in accordance with the Settlement Agreement.
12. **THIS COURT ORDERS** that each Canadian member of the Settlement Class who elects to opt-out of the Class shall deliver an Opt-Out Notice signed by the Class member in the form attached as Appendix "C", by prepaid mail, courier or fax to the Settlement Administrator, Canadian Class Counsel, and SCEA's Counsel as set out in the Opt-Out Notice on or before 120 days after the Preliminary Approval Date.
13. **THIS COURT ORDERS** that Class Members shall deliver any objections or opposition to the settlement in writing as provided in the Class Notice on or before 120 days after the Preliminary Approval Date.

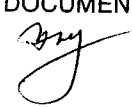
14. **THIS COURT ORDERS** that the hearing for final approval of the settlement is set for COURT DATE TO BE FIXED, 200~~5~~<sup>6</sup>, and that if no objection or opposition is received by the Court, the settlement shall be finally approved and the Settlement Class finally certified with no further notice to the Class.



JOSEPH P VAN TASSEL  
REGISTRAR

ENTERED AT / INSCRIT À TORONTO  
ON / BOOK NO:  
LE / DANS LE REGISTRE NO.:

OCT 12 2005

AS DOCUMENT NO.:  
À TITRE DE DOCUMENT NO.:  
PER / PAR: 

CHRISTOPHER HIRST  
Plaintiff and

Defendant

SONY OF CANADA LTD. and TOYS "R" US (CANADA) LTD.

Court File No: 04-CV-264146CP

**ONTARIO  
SUPERIOR COURT OF JUSTICE**

Proceeding commenced at Toronto

**ORDER**

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