

No court order against PlayStation hackers for now

Written by bad_brain

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source: The Register

A San Francisco federal judge declined to order New Jersey-based hacker Geohot to turn over the technology he used to root the PlayStation 3, saying she doubted Geohot was subject to her court's authority.

The move by US District Judge Susan Illston on Friday was a blow to Sony, which argued that the 21-year-old hacker, whose real name is George Hotz, should be forced to surrender his computer gear and the code he used to circumvent digital rights management features in the gaming console. Illston rejected arguments that Hotz's use of Twitter, PayPal, and YouTube, all located in the Northern District of California, were sufficient contacts with the region to establish personal jurisdiction.

"If having a PayPal account were enough, then there would be personal jurisdiction in this court over everybody, and that just can't be right," Illston told James G. Gilliland Jr., an attorney representing Sony. "That would mean the entire universe is subject to my jurisdiction, and that's a really hard concept for me to accept."

Sony's motion for a temporary restraining order came in a lawsuit it [filed on Tuesday against Hotz](#) and more than 100 individuals who belong to a hacking collective known as fail0verflow. At the Chaos Communication Congress in late December, fail0verflow members revealed the key used to sign PS3 games and demonstrated how to use it to run homebrew apps on the console. A few weeks later, Hotz independently deduced the "metldr" key, which allowed him to root the PS3.

Sony's suit claims that by publishing the means to bypass the protection measures built into the console, the hackers violated provisions of the Digital Millennium Copyright Act. It also claims they violated the Computer Fraud and Abuse Act "by transmitting in interstate and foreign commerce a communication containing a threat to obtain information from a protected computer without authorization." Both laws carry stiff civil and criminal penalties.

Sony attorneys asked Illston to order Hotz and the other hackers to give Sony “any and all computer hardware” and software used to root the PS3. They are also seeking unspecified monetary damages.

Suit lambasted by critics

The action has been lambasted by technologists and legal scholars who believe that people should have the right to do what they want with the hardware they own.

“You bought the computer,” George Washington School of Law professor Orin Kerr [wrote](#) on *The Volokh Conspiracy* blog. “You own it. You can sell it. You can light it on fire. You can bring it to the ocean, put it on a life raft, and push it out to sea. But if you *dare* do anything that violates the fine print of the license that the manufacturer is trying to impose, then you're guilty of trespassing onto your own property. And it's not just a civil wrong, it's a crime.”

As Christopher Soghoian, a Ph.D. candidate in Indiana University's School of Informatics and Computing program, [blogged on Friday](#), the PlayStation rooting was inevitable following last year's highly controversial [disabling of the OtherOS](#), which made it easy for users to install Linux on the PlayStation. Sony took that action to disable [an earlier hack](#), released by Geohot, that allowed full memory access, including ring 0 access from OtherOS.

“Users were thus given a choice,” Soghoian wrote of Sony's decision to disable OtherOS. “If they kept the old firmware, they got to keep using Linux, but lost access to Sony's Playstation Network, and the ability to play games online. Alternatively, users could upgrade the firmware, keep playing new titles, but lose access to the Linux functionality.”

The use of IBM's Cell processor makes the PlayStation ideal for performing [brute force crypto attacks](#), among other things. Once OtherOS was removed, people who wanted to use the console for such uses had little choice but to hack it.

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Hotz was among the first to jailbreak Apple's iPhone so it would work on carrier networks other than AT&T's. Last year, the US Copyright Office [exempted iPhone jailbreaking from the DMCA](#) so that they can run apps not officially sanctioned by Apple.

Illston said she may still decide that she has jurisdiction over Hotz if presented with evidence of more substantial contacts to Northern California.