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10 Attorneys for Plaintiffs and Counterclaim-
 defendants Capcom Co., Ltd. and Capcom
 11 Entertainment, Inc., and Third Party Defendant
 Capcom U.S.A., Inc.

12 UNITED STATES DISTRICT COURT
 13 NORTHERN DISTRICT OF CALIFORNIA
 14 SAN JOSE DIVISION

15 CAPCOM CO., LTD. AND CAPCOM
 16 ENTERTAINMENT, INC.,

17 Plaintiffs,

18 v.

19 THE MKR GROUP, INC.,
 20 Defendant.

21 THE MKR GROUP, INC.,
 Counterclaim-Plaintiff and
 22 Third-Party Plaintiff,

23 v.

24 CAPCOM CO., LTD. AND CAPCOM
 ENTERTAINMENT, INC.,
 25 Counterclaim-Defendants
 and
 26 CAPCOM U.S.A, INC.

27 Third-Party Defendant.
 28

Case No. CV-08-0904 RS

**DECLARATION OF KOICHI NIIDA IN
 SUPPORT OF PLAINTIFFS' AND THIRD
 PARTY DEFENDANT'S MOTION TO
 DISMISS AMENDED COUNTERCLAIMS
 AND THIRD PARTY COMPLAINT**

Date: August 6, 2008

Time: 9:30 a.m.

Courtroom: 4, 5th Floor

Judge: Hon. Richard Seeborg

1 I, Koichi Niida, declare:

2 1. I am the General Manager of the Intellectual Property Management Department at
3 Capcom Co., Ltd. ("Capcom"). In that capacity, I have familiarity with the content of all video
4 games published by Capcom, including *Dead Rising*, which was released in North America on
5 August 8, 2006. I submit this declaration in support of Plaintiffs' and Third Party Defendant's
6 Motion to Dismiss Amended Answer, Counterclaims and Third Party Complaint. I have personal
7 knowledge of the matters set forth in this declaration and, if called upon to do so, could and
8 would testify competently as to the matters set forth herein.

9 2. Attached as Exhibit 5 to the concurrently filed Request for Judicial Notice in
10 Support of Plaintiffs' and Third Party Defendant's Motion to Dismiss Amended Answer,
11 Counterclaims and Third Party Complaint is a true and correct copy of a document authored by
12 Capcom entitled "DEAD RISING Scenario" (the "Script"). The Script accurately describes, in
13 detail, the scenes and settings of the *Dead Rising* video game, in the same order in which they
14 appear during gameplay, and includes the scripted dialogue spoken by the game's characters
15 during each of these scenes.

16 I declare under penalty of perjury under the laws of the United States that the foregoing is
17 true and correct, and that this declaration was executed at Osaka, Japan, on June 10, 2008.

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20 Koichi Niida