

NINTENDO'S ANTI-PIRACY PROGRAM

JULY – SEPTEMBER 2008

Anti-Piracy Statistics:

- From July through September, approximately 190,000 counterfeit *Nintendo* products were confiscated and more than 190 seizure actions were conducted globally. In addition, 120 eBay sellers offering counterfeit *Nintendo* video games were stopped from selling fake products over the Internet.
- Nintendo supported over 200 actions and investigations in the following countries: **Australia, Belgium, Brazil, Canada, China, the Czech Republic, France, Germany, Hong Kong, Italy, Korea, Mexico, the Netherlands, Paraguay, Russia, Spain, Sweden, Taiwan, the U.K., and the U.S.**



Significant Cases:

- On July 23rd, police in **Russia** seized over 1,000 counterfeit *Wii* discs from a warehouse in Moscow. The products are currently being held for destruction. Further investigations against the defendant are pending.

- On July 1st, customs officials in **Korea** seized approximately 6,200 game copiers for the *Nintendo DS* from entering the country. The products are currently being held pending destruction. This seizure represents another strong action taken in Korea against game copiers. During the third quarter of 2008, approximately 17,400 game copiers were seized in over 19 actions and approximately 25,500 game copiers have been seized in Korea since the beginning of the year. Nintendo continues to support officials in Korea in their efforts to stop illegal game copiers.
- On July 4th, customs officials at the Sevilla Airport in **Spain** seized approximately 1,000 game copiers for the *Nintendo DS* from entering the country. The products were coming from **Hong Kong**. They goods will be destroyed and Nintendo is conducting further investigations into the exporting company.
- On August 12th, Nintendo's representatives in **China** joined administrative officials in raiding a factory producing counterfeit *Wii Remotes* and *Nunchuks* and seized more than 10,000 counterfeit products. The products were removed by administrative officials for destruction.

The factory was the largest manufacturer of counterfeit *Wii Remotes* and *Nunchuks* in southern China. Investigations showed that many distributors and trading companies purchased illegal products from this factory. The factory owner also claimed to have produced *Wii* mod chips and game copiers for the *Nintendo DS*.

- On August 20th, administrative officials in **China** seized approximately 7,300 counterfeit *Wii* discs from vendors in Guangzhou. The vendors kept a small quantity of games at their market and the remaining inventory was stored in an off-site warehouse. Once action was taken against the retail stores, the officials traveled to the warehouse where they seized the majority of the goods. The products were removed for destruction.
- On September 5th, police in the **Netherlands** seized products infringing Nintendo's intellectual property rights from four individuals in a Beverwijk market. The products included approximately 1,000 R4 game copying devices for the *Nintendo DS*, counterfeit *Nintendo DS* games, and computer equipment used to create the copies. In addition to the counterfeit *Nintendo* products, police also seized a working Bazooka gun from the criminals. The action was applauded by other merchants in the market selling legitimate goods.

The action was supported by the Dutch trade association Bescherming Rechten Entertainment Industrie Nederland (BREIN). Nintendo greatly appreciates BREIN's efforts in this matter.

- On September 10th, customs officials in **Belgium** seized more than 1,900 counterfeit *Nintendo DS* cartridges entering the country. The counterfeit games were shipped in bulk without packaging and manuals and hidden inside a computer shell. Nintendo has filed a civil case against the importer, who is a repeat offender. The action is ongoing.

- On September 23rd, Nintendo filed a civil action in **Italy** against a distributor of *Wii* mod chips and game copying devices for the *Nintendo DS*. The business offers the illegal products on its website for worldwide distribution. The retail store is located in Florence. Nintendo sent a cease and desist letter to the company, with copies to the website's host Internet Service Providers. The company continued to flaunt its sales of the illegal products, despite warnings from Nintendo. Nintendo appreciates the assistance of Nintendo Italia in bringing this case.

Counterfeit Trends:

- During the third quarter of 2008, Nintendo took aggressive action against the sale and distribution of counterfeit software for the *Wii* console. Approximately 49,000 counterfeit *Wii* products were seized in over 80 actions worldwide. Nintendo supported seizures in **Australia, Brazil, China, France, Hong Kong, the Netherlands, Paraguay, Russia, Spain, Taiwan, the U.K., and the U.S.**
- Nintendo has taken aggressive action against the sale and distribution of game copiers for the *Nintendo DS*. To date, Nintendo has seized approximately 82,000 illegal game copiers in over 185 actions worldwide. The illegal devices were seized in **Belgium, Canada, China, Denmark, France, Germany, Hong Kong, Italy, Korea, the Netherlands, New Zealand, Spain, Taiwan, the U.K. and the U.S.**

Nintendo wishes to thank the team at Nintendo España for taking an aggressive stance against the distribution of these infringing products in **Spain**. Nintendo España sent educational letters to retailers throughout Spain regarding the illegal nature of game copiers for the *Nintendo DS* and has been working with the consumer protection authorities in their efforts against retailers selling game copying devices. Most of the stores inspected by the authorities have cooperated and provided information on their suppliers.

- Since the beginning of 2008, customs officials in the **U.K.** have seized approximately 22,000 illegal game copiers for the *Nintendo DS* entering from entering the country over the course of 44 separate actions. The seized devices include the "Acekard 2", "DS Fire" card, "DS One Super" card, "DSTT" card, "Edge" card, "M3 DS Real" card, "N5" card, "NDS Linker", "R4", "DS Supercard". The products were exported from **China** and **Hong Kong**. Nintendo is conducting investigations against the exporters.

Significant Sentences:

- August 15th, Kifah Maswadi was sentenced to 15 months in prison and ordered to pay \$415,000 in restitution for distributing the Power Player and other infringing 8-bit devices in the **U.S.** This is a significant sentence and unusually strict for an IP infringement case in the U.S.

Maswadi distributed the infringing products at wholesale rates to kiosk operators throughout the U.S., in addition to offering them direct to the public on his many

websites. Nintendo supported the FBI's investigation and provided technical analysis on the products as the case developed.

- On August 27th, **Taiwan's** Banchiao District Court sentenced a man to 16 months imprisonment for selling counterfeit *Nintendo* products. On October 7th, 2007, police seized five counterfeit *Game Boy Advance* cartridges and a USB card containing a large amount of *Nintendo DS* games from the man. No probation was granted to the man. Nintendo is pleased with the strict sentence handed down by the court.
- On September 19th, a **U.K.** court found a man guilty of violating Nintendo's intellectual property rights by distributing mod chips for the *Wii* console. The court found the man guilty of 15 of the 17 counts against him.

The man was identified as the top distributor of mod chips in the U.K. for all video game consoles on the market. In addition, he also sold game copiers for the *Nintendo DS*. The man ran a website and online forum. The initial examination of the defendant's computers and mobile phones revealed an enormous amount of evidence of trading in all forums of circumvention devices.

The successful case was a collaborative effort by members of Nintendo Co. Ltd., Nintendo of Europe (NOE), Nintendo U.K., Nintendo of America Inc. and the Entertainment and Leisure Software Publishers Association (ELSPA). Engineers from Nintendo Co. Ltd. and members of NOE collaborated on expert testimony provided in the case. Nintendo of America Inc. wishes to thank Mr. Miyamura of NOE for his efforts in this matter.

Anti-Piracy Training / Detection of Counterfeit Products:

- During the third quarter of 2008, trainings to detect counterfeit *Nintendo* products were conducted in **Brazil, Mexico, Spain**, and the **U.S.** Training materials were sent to Nintendo's representatives in **Russia, Singapore**, and the **U.S.**

Government Lobbying Efforts:

- During the third quarter of 2008, representatives of Nintendo met with U.S. and foreign government officials to discuss anti-piracy matters in **Canada, China, Poland**, and the **U.S.**

Monthly Breakdown of International / Domestic Enforcement Actions:

- **January:** Seizures were conducted in **Belgium, Brazil, China**, the **Czech Republic, Denmark, France, Hong Kong, Italy, Mexico, Malaysia**, the **Netherlands, New Zealand, Paraguay, South Korea, Taiwan**, and the **U.S.** More than 15,000 products were confiscated. Over 20 eBay sellers offering counterfeit *Nintendo* video game products for sale were removed from the Internet.

- **February:** Seizures were conducted in **Australia, Belgium, Brazil, the Czech Republic, Hong Kong, Malaysia, the Netherlands, South Korea, Taiwan, the U.K., and the U.S.** More than 4,600 products were confiscated. Forty eBay sellers offering counterfeit *Nintendo* video game products for sale were removed from the Internet.
- **March:** Seizures were conducted in **China, Denmark, France, Mexico, South Korea, the U.K., and the U.S.** Approximately 14,400 products were confiscated. More than 30 eBay sellers offering counterfeit *Nintendo* video game products for sale were removed from the Internet.
- **April:** Seizures were conducted in **Australia, Brazil, China, Denmark, France, Germany, Israel, Italy, the Netherlands, Russia, South Korea, Taiwan, Thailand, the U.K., and the U.S.** Approximately 111,300 products were confiscated. More than 40 eBay sellers offering counterfeit *Nintendo* video game products for sale were removed from the Internet.
- **May:** Seizures were conducted in **Australia, Brazil, China, Germany, Hong Kong, the Netherlands, South Korea, Taiwan, and the U.S.** Approximately 36,100 products were confiscated. Over 60 eBay sellers offering counterfeit *Nintendo* video game products for sale were removed from the Internet in **Australia, Belgium, Canada, Germany, France, the U.K., and the U.S.**
- **June:** Seizures were conducted in **Australia, China, France, Germany, Mexico, the Netherlands, Taiwan, and the U.S.** Approximately 32,300 products were confiscated. Over 35 eBay sellers offering counterfeit *Nintendo* video game products for sale were removed from the Internet in **Australia, Belgium, Canada, Germany, the U.K., and the U.S.**
- **July:** Seizures were conducted in **Australia, Belgium, China, the Czech Republic, France, Germany, Hong Kong, Italy, Korea, Mexico, the Netherlands, Paraguay, Russia, and Taiwan.** More than 32,700 products were confiscated.
- **August:** Seizures were conducted in **Brazil, China, France, Hong Kong, Germany, Korea, Mexico, the Netherlands, Paraguay, Taiwan, and the U.K.** Approximately 137,400 products were confiscated. Over 45 eBay sellers offering counterfeit *Nintendo* video game products for sale were removed from the Internet in **Australia, France, Germany, India, Singapore, the U.K., and the U.S.**
- **September:** Seizures were conducted in **Belgium, China, Germany, Hong Kong, Italy, Korea, the Netherlands, Sweden, Taiwan, the U.K. and the U.S.** Approximately 18,400 products were confiscated. 75 eBay sellers offering counterfeit *Nintendo* video game products for sale were removed from the Internet in **Australia, Belgium, France, Germany, India, Singapore, Spain, the U.K., and the U.S.**