



Q1: January – March 2016

The Illegality of Distributing Game Copiers Became Conclusive in Japan

In January, the Japanese Supreme Court affirmed the lower court's judgement which rejected the defendants' appeal. The Court ruled that distributing game copier devices is illegal and that the importers will be liable for damages. In October 2009, Nintendo, along with 54 licensees, filed civil cases against the importers of game copiers seeking injunction and damages at Tokyo District Court. The Court accepted Nintendo's claims and affirmed the illegality of importing game copiers, and the liability of the importers regarding the damages which the game copiers caused on the sales of genuine games. The defendants were ordered to pay JPY 95,625,000 (approx. USD \$870k) for damages in total. Some of the defendants appealed to the high court, but in June 2014, the high court affirmed the District Court judgment. Some of the appellants further appealed to the Supreme Court, however, in January 2016, the Supreme Court rejected the appeals and the District Court judgment has been confirmed and fixed.

Nintendo Takes the First Anti-Circumvention Action in Canada against Game Copiers

On February 9, Nintendo filed a civil lawsuit in the Federal Court of Canada against the owner of Go Cyber Shopping LTD, a company distributing game copying devices and hardware modification services. Go Cyber Shopping distributes its unlawful goods and services through a retail location and via multiple websites. The company owner routinely boasts of his activities via social media and markets primarily to customers in Canada and the U.S. The case is the first of its kind to test the recently amended Canadian Copyright Act sections that prohibit the sale of devices used to circumvent technological protection measures.

French Judge Orders a Fine against a Seller of Game Copiers

On March 29 a judge from the Paris Criminal Court handed down a guilty verdict to a French man accused of selling game copiers and ordered him to pay a suspended fine of EUR 5,000 (USD \$5,676) together with the confiscation of any revenue derived from his illegal activities. This ruling is consistent with the decision from the Paris Criminal Court of Appeal in the Divineo case. The defendant was also found guilty for dealing in weapons (knuckledusters).

Read more: http://www.legalis.net/spip.php?page=jurisprudence-decision&id_article=3238.

Spanish Website Operator Found Guilty and Court Orders Websites to Be Blocked

In a ruling published in January 2016, the Criminal Court of Valencia found the operator of the www.wiisos.com and www.n3dsos.com websites guilty of copyright infringement for making available unauthorized copies of video games. The operator was given a one-year sentence and ordered to pay a fine of EUR 3,600 (USD \$4,086) together with damages of EUR 32,113 (USD \$36,456). The Court also ordered the Spanish Internet Service Providers to block Spanish users' access to these sites. The websites have remained closed since January 2015. This decision is an important milestone in the fight against online piracy in Spain. Both websites were very popular (between November–December 2011: www.wiisos.com had 450k registered users and over 2.7k links to pirated *Wii* games; whereas www.n3dsos.com had 143k users and 194 links to pirated *Nintendo 3DS* games). The closure of these sites is expected to impact the ability of Spanish internet users to access pirated *Nintendo* games online.

U.S. Customs Authorized to Disclose Information on the Seizure of Circumvention Devices

On February 24, U.S. President Obama signed the "Trade Facilitation and Trade Enforcement Act of 2015 (TFTEA)". The TFTEA will require U.S. Customs to implement new regulations to facilitate the release of information about the seizure of circumvention devices, including the importer, exporter and quantity of products seized. U.S. Customs has been the only customs agency globally that has been prohibited from sharing this critical information with Nintendo. After many years of tirelessly pushing for this new law, Nintendo is happy that the U.S. is now consistent with its global counterparts and that it will be able to effectively investigate importers and exporters who are unlawfully dealing in circumvention devices (game copiers and modification chips). U.S. Customs has one year to implement new regulations. **Read more:**

<https://www.whitehouse.gov/the-press-office/2016/02/25/statement-press-secretary-hr-644-hr-1428>.