

Landmark Federal Court Case Holds Major Cyberlocker Responsible for Copyright Infringement

In December, the U.S. District Court for the Southern District of Florida ordered one of the world’s most trafficked infringing sites, Hotfile.com, either to implement a filtering technology for infringement prevention or cease operations. Consequently, Hotfile.com shut down permanently. The landmark case, brought by movie studios, led to the first U.S. ruling on whether cyberlockers like Hotfile.com are liable for knowingly facilitating infringement. The court determined that Hotfile.com encouraged its paying members to access infringing content – including *Nintendo* titles – and is liable for users’ actions. The judgment marked an important step in protecting intellectual property rights on the Internet.

Nintendo and U.S. Customs Lab Collaborate to Combat Piracy

In October, Nintendo met with the International Trade Specialist for U.S. Customs and Border Protection (CBP) and the CBP-Laboratory and Scientific Services team to discuss anti-piracy priorities. The U.S. Customs Lab is responsible for testing game-copying devices submitted by Nintendo to determine if they circumvent technological protection measures (TPMs) under the Digital Millennium Act (DMCA). The lab then works with the U.S. Customs Rules and Regulations Department to flag infringing products internally so

inspectors can seize those items nationwide. Nintendo provided key educational training on video game products including game copier demonstrations. The meeting also provided an opportunity for information-sharing and collaboration for future national and international IP training events.

Nintendo Partners with Payment Processors to Obstruct Counterfeit Transactions

In partnership with the International Anti-Counterfeiting Coalition (IACC) and payment processors (including Visa, MasterCard, PayPal and American Express), Nintendo terminated 115 online retailer accounts involved in trafficking counterfeit *Nintendo* video games and circumvention devices via the Internet. Account termination undermines a retail merchant’s credibility with banks, and makes establishing new identities, accounts and credentials both costly and difficult. Payment processors continue to work with Nintendo to identify rogue websites and create disincentives for selling infringing *Nintendo* products. This initiative receives support from law enforcement cooperation, direct access to Chinese banks and third-party fraud detection companies.

Nintendo Applauds Mexican Customs for Apprehending Game Copying Devices

Throughout 2013 Nintendo participated in numerous education and training events with Mexican Customs in Mexico City, Ciudad Juarez,

Puerto Palomas and Mazatlán to highlight priority video game products, detection strategies for circumvention devices and other infringing goods. The work paid off. In 2013 Mexican Customs confiscated over 2,700 game copier devices coming from Asia. Nintendo also participated in a Tijuana training event in the wake of intelligence that importers were diverting game copying device shipments there, because Guadalajara Customs had become increasingly efficient at seizing game copiers.



Game Copying Devices Smuggled in Wii AC Adapters in Mexico – October 2013

Nintendo Supports INTERPOL Training Events in Latin America

The international police organization, INTERPOL, coordinated multiple trainings in Paraguay, Peru and Uruguay in October. Nintendo provided on-site training for the criminal judges and IP prosecutors, as well as police and customs representatives in attendance. INTERPOL enables police around the world to work together, and provides technical and operational support to fight crime worldwide.

Taiwan Courts Deliver More Jail Terms in 2013

Piracy offenders have begun receiving more criminal prison sentences from Taiwan courts. In 2013, six criminal cases reached prison-level decisions, including a 2009 case whose defendant must carry out a 10-month prison term. Currently, after more than a year of follow-up by local Taiwanese counsel, one circumvention device seller is serving an eleven-month prison sentence. Nintendo continues to collaborate with law enforcement authorities to obtain deterrent sentences including imprisonment and fines.



Defendant receives eleven-month sentences for violating Nintendo's IP rights.

Nintendo Reaches Settlement with Korean Multi-room Franchisee

In October, Nintendo reached an agreement with a multi-room franchisee in Seoul, Korea to stop the unauthorized commercial use of *Wii* game consoles and software. A popular entertainment pastime in Seoul, multi-rooms are rented hourly for 2-6 guests and offer movies, music, karaoke and video games. The unauthorized commercial use of *Wii* game

consoles and software constitutes copyright infringement under Korean Copyright Law.

Nintendo Targets Infringing Australian Market Vendors

Nintendo's representatives served cease- and-desist letters requesting a halt to the marketing and selling of counterfeit goods and circumvention devices to 32 infringing stallholders at the Caribbean Gardens & Market in Melbourne. The operator of the marketplace, which provides stalls to individual sellers, was reminded of its responsibility to monitor stalls for any continued infringement issues. The Nintendo team has since visited the Market and noted a decrease in infringing products.

Nintendo of Korea Trains Local Customs Agents

Nintendo of Korea (NOK) presented a training seminar to 20 Korean Customs agents in November. Nintendo's participation highlighted the importance of the agency's enforcement work; it also improved communication and localized product knowledge. Based on the event's success, NOK will attend Korea Technology and Information Promotion Agency's (TIPA) future training sessions.

Nintendo, REACT China Partner for Key Customs Training

This November, Nintendo continued to leverage its strong partnership with REACT China by providing a training seminar for Nanjing Customs. The Nanjing authorities

are responsible for activities underway in the whole Jiangsu province, which consists of harbor, road, postal, official and railway outposts. Nanjing Customs' Intellectual Property Rights (IPR) seizure cases rank in the top 10 of all the customs districts in China.

Nintendo Meets with Hong Kong Customs

Representatives from Nintendo's anti-piracy team met with top ranking Hong Kong Customs officials in November. Nintendo holds regular, strategic meetings with Customs to optimize Nintendo's ongoing support; to review pending IP cases, complaints and actions; to share information on new Nintendo products and enforcement challenges; and to discuss regional counterfeiting and piracy trends.

Belgian ISPs Proactively Block Pirate Bay Domains

In November, Belgium's Supreme Court ordered local Internet Service Providers (ISPs) to actively monitor the services of the [Pirate Bay](#) website, which include access to pirated game files, and block subscriber access to these sites. This decision refines a Court of Appeal judgment ordering ISPs to block access to the Pirate Bay website following the emergence of many proxy domains allowing users to circumvent the blocking order and resume access to the Pirate Bay website. The Belgian Anti-Piracy Federation, of which Nintendo is a member, initiated these legal proceedings as part of a collaborative strategy with ISPs to reduce online piracy.

Nintendo Takes Action to Battle Piracy in Spain

In November, Nintendo filed a legal action in Spain against a notorious online distributor responsible for selling game copiers throughout Europe. The business owners chose to ignore Nintendo's warning letter and blatantly distributed game copiers through their online e-commerce site and via their retail stores located in a number of towns throughout Spain. As the criminal enforcement regime in Spain has proven unpredictable in actions against circumvention devices, such as game copiers and mod chips, Nintendo filed a civil claim in the mercantile Court of Barcelona against the business owners for commercially dealing in game copying devices and for downloading and selling unauthorized copies of *Nintendo* games. The action remains pending.

IP Rights Holders Welcome Spanish Court Decision against Pirate

Last October, the criminal court of Castellon sentenced the operator of the bajatedo.es cluster of websites to 18 months in prison and a fine. Each website in the "bajatedo.es" cluster links to pirated video games, including *Nintendo* titles. Along with other local and international rights holders, Nintendo applauded the decision as a positive step toward addressing piracy in Spain, long considered a "safe haven" for pirate websites in part due to court leniency.

Italian ISPs Block International Pirate Websites

Following complaints filed by Italian video game trade association AESVI to Italy's financial police in late October, a local criminal Court ordered Italian Internet Service Providers (ISPs) to block subscriber access to four highly popular pirate websites. AESVI, of which Nintendo is a member, had long targeted these sites in its ongoing campaign to reduce piracy. Obtaining this favorable court decision underscored the strategic value in cross-collaboration between local private and public sectors to the broader piracy fight. Another encouraging court decision came days later in Rome, when the Court blocked Italian users' access to a host of sites featuring pirated film content. That decision attracted some negative press and could have an impact on the site-blocking provisions recently proposed by the Italian Telecoms Authority that provide a more expeditious path for IP rights holders seeking to block access to pirate sites.

Italian Telecoms Authority Publishes Regulations to Combat Online Piracy

In December, the Italian Telecoms Authority (AGCOM) published long-awaited regulations that allow rights holders to petition AGCOM with requests to block pirated websites. The local video game association, AESVI, worked to secure specific provisions seeking to reduce online video game piracy through these regulations. For example, video game content is now listed among the works that can be protected. Proposed as a more efficient path for website suspension than lengthy court proceedings, the proposed regulations could see offending sites suspended within a month, and as quickly as two weeks. The new procedures, which grant IP rights holders like Nintendo better recourse in fighting piracy, are set to come into force on March 31, 2014.

Two Piracy Bills Make Advancements in Spain

Spanish Parliament held a positive vote in December on a bill to reform its criminal legislation that includes a new provision clarifying the offence of dealing in circumvention devices. Also in December, The Council of State published recommendations for a proposed bill to reform IP and civil law procedures, including the IP Commission's implementation of the *Ley Sinde* law, which was designed to address Internet piracy. The Council's advice incorporated input from rights holders submitted via the cross-industry Coalition and Spanish video game industry association ADESE. The Government submitted the final text to Parliament at the end of January. Both bills should come into force in 2014.