

Selling circumvention devices for the *NINTENDO* 3DS is declared unlawful in Spain (again)

The final decision from a Mercantile Court in Madrid represents the third time that Spanish Courts have ruled that dealing in devices that breach the security on the *Nintendo 3DS* console family is unlawful

Madrid, December 5th, 2017. A Mercantile Court in Madrid has issued a decision against the company (J.G.L. Gamesoft S.L.) which operates the website Nosolochips.es, an online seller and retailer of electronic and entertainment products. Gamesoft had sold Sky3DS cards, which are devices that circumvent the security measures installed on Nintendo 3DS consoles and videogames in order to play unauthorized copies of video games.

The ruling, dated 27th September 2017, is final with the Court ordering Gamesoft to cease all current and future advertising and selling of Sky3DS cards. Furthermore, it was ordered to pay damages and publicize the court decision in media.

This is the third decision against importers and distributors of circumvention devices for the Nintendo 3DS, after similar rulings last year by a Mercantile Court in Barcelona and a Penal Court in Fuenlabrada. This indicates that both the civil and the criminal jurisdictions are aligned on the illicit nature of such devices. In terms of criminal liability, this is consistent with the reform of the Penal Code in 2015.

Nintendo is pleased that these rulings follow a long line of judicial precedents established against the dealing in circumvention devices at national courts in a number of Member States including Belgium, France, Germany, Italy, Netherlands and the UK, as well as Europe's highest court (the Court of Justice of the European Union). As stated above, Spanish judges have reached the same conclusion as their Member State counterparts as to the unlawful nature of these devices. This can be seen by the aforementioned rulings which in turn followed similar court decisions with respect to the sale of Nintendo DS (the predecessor to the Nintendo 3DS) circumvention devices.