



## ACTIONS



Civil Police Raid in Rio de Janeiro

**Police Turn Up the Heat Against Game Piracy in Brazil.** Two key raids in Q4 show a new level of police commitment to combating piracy. In December, illegal *Nintendo* products were seized in an industry-led action targeting a popular Rio de Janeiro market, with full support from the civil police's specialized anti-piracy unit (DRCPIIM). A police raid of 11 vendors in a key marketplace called *Camelodromo de Campos dos Goytacases* in northern Rio de Janeiro led to the seizure of hundreds of counterfeit *Wii* games, and garnered significant media coverage. In October, the specialized IP unit of the civil police in Sao Paulo coordinated a raid action against three stores owned by the same individual. Police arrested the owner for selling counterfeit games, after seizing 12,800 pirated copies of games including 1,200 *Wii* titles.

**Long-term Game Pirates Sentenced in British Columbia for Criminal Activity.** In December, two business owners pled guilty to multiple counts of criminal copyright infringement. The Royal Canadian Mounted Police (RCMP) conducted a criminal investigation that uncovered a retail shop dealing in counterfeit video game products and modification services including *Wii* and *Nintendo DS*. The RCMP raided the business, confiscating approximately 500 pirated video games, modified consoles, modification chips and dozens of game copying devices. The Vancouver Provincial Court sentenced the business owners to a lengthy probation and ordered them to pay significant fines.

**The FBI Takes Action to Protect the *Wii*.** In November, a Northern District of California judge ordered a California man to pay a fine of \$10,000 plus significant restitution to the injured parties, following an FBI investigation that revealed he was selling modified *Wii* consoles, along with countless copied *Wii* games, via Craigslist and other online marketplaces. The FBI confiscated a customer list, along with over 48,000 email messages confirming the promotion and sale of infringing products. The California man began his illegal business in 2007 by offering modification chips for *Wii* hardware along with a library of copied *Wii* games on recordable discs. Based on the extensive evidence, the man pled guilty to multiple counts of criminal copyright infringement.

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**Amendment to Canadian Copyright Law May Provide Nintendo with a Significant New Enforcement Tool.** Canadian law was amended in November to include anti-circumvention provisions. Previously, the distribution of game copiers and mod chips had been lawful in Canada. While the changes to the law are a long time coming, they are significant and will enable the video game industry to take action against modified consoles and game copying devices.

**Video Game Console "Jailbreaking" Remains Unlawful Under the U.S. Copyright Act (DMCA).** In October, the Librarian of Congress rejected the Electronic Frontier Foundation's (EFF) request for an exemption under the Digital Millennium Copyright Act (DMCA) that would allow users to hack video game consoles (including the *Wii*) to enable the play of homebrew applications. Section 1201 of the Digital Millennium Copyright Act (DMCA) mandates the Copyright Office to conduct this rulemaking every three years. The last 1201 Rulemaking proceeding resulted in a high profile decision to permit the legal "jailbreaking" of the Apple iPhone.

## AWARENESS AND TRAINING

**Mexico Training Yields Important Seizures for Nintendo.** In October, Nintendo and the Entertainment Software Association partnered with the American Chamber of Commerce in Mexico to hold anti-piracy training seminars for customs officers from key cities including Guadalajara, Aguascalientes, Manzanillo, Lázaro Cárdenas and Guanajuato. The training already has proven effective for Nintendo, as Guadalajara Customs ramped up its seizures of game copying devices, seizing 14 shipments in 2012. In November, Nintendo participated in additional industry trainings targeting Mexican and U.S. border cities. Customs authorities from Nogales, Naco, Agua Prieta and Guaymas learned how to identify illegal *Nintendo* products.

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**Nintendo Seeks to Rid the Notorious *Australian* Caribbean Market of Illegal *Nintendo* Products.** In October, Nintendo served over 30 cease and desist letters to sellers of circumvention devices and various counterfeit *Nintendo* products operating in a large Melbourne open-air market. Later investigations confirmed that the sellers complied with the letters and have stopped their illegal activities. Nintendo will continue to monitor this market and take enforcement actions should sellers return to selling illegal *Nintendo* products.



Raid in Chongqing City, China

**People's Court in *China* Issues Stiff Criminal Punishment.** On October 2, the Bao'an People's Court convicted two online distributors for violating Nintendo's intellectual property rights, ordering each business owner to serve a three-year prison term and to pay a fine of approximately \$21,000 USD (130,000 RMB). In May 2012, the Chinese authorities raided the infringer's factory and warehouse, and confiscated nearly 500 infringing *Wii* consoles, counterfeit *Wii* products and sales documents reflecting rampant infringement activities.

**Nintendo Works with *Korean* Authorities Against Multi-Room Operations.** The play of copied *Nintendo* games on modified *Wii* consoles is rampant in businesses renting consumers entertainment space. Nintendo filed a criminal complaint for copyright violations against the franchisees offering the play illegal *Nintendo* products. The authorities pursued an investigation and a Korean court indicted the owner of a large franchised operation. On December 11, a Korean court imposed a fine of almost \$3,000 USD (3,000,000 KRW) against the owner of a multi-room establishment and ordered the business owner to stop the unlawful activities.

***Korean* Customs Investigations Lead to the Courts Issuing Harsh Penalties.** Korean Customs' diligent investigation of sellers of game copiers and illegal *Nintendo* software resulted in Korean courts issuing punishments against four online business operators. In October, two distributors were sentenced to prison terms of eight months and ten months respectively. In November and December, two online sellers of game copying devices and illegal software were each sentenced to one-year imprisonment (suspending the sentences for two years).

**Nintendo Takes Steps to Curtail Piracy in the *Middle East*.** During the last quarter of 2012, the administrative authorities in Dubai raided 13 retailers and seized over 3,300 counterfeit *Nintendo* products. The seized illegal products suggest that *Game Boy Advance* games are the most counterfeited product available in local markets. The authorities destroyed the counterfeits and imposed large monetary fines against the retailers, totalling almost \$45,000 USD (165,000 AED).

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**IP Rights Owners Appeal to the *Hong Kong* Government for Copyright Legislation.** The copyright industry and Internet Service Providers have urged the Hong Kong Government to pass proposed amendments to the Copyright Bill 2011. The proposed legislation would clearly criminalize copyright violations. Alongside local industry groups, Nintendo has urged the Hong Kong Government to remove the main obstacles in passing the Copyright Bill, seeking that proposed changes move forward for consideration by Hong Kong's Legislative Council.

## AWARENESS AND TRAINING

***China* Holds Three Customs Trainings.** From November to December 2012, Nintendo participated in three training conferences conducted by Shenyang Customs, Zhanjiang Customs and Nanning Customs, along with other right owners (i.e., Dior, SONY, Chanel) to teach authorities the proper identification skills to target illegal *Nintendo* products in their daily inspection.

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Seized Product in Jersey

**Enforcement Campaign Targets French R4 Sites.** Nintendo shut down 31 French e-commerce sites selling R4 cards between October and December 2012, through a combination of enforcement tools. In addition to sending out cease and desist notices to the Internet service providers, domain registrants and website operators, Nintendo leveraged payment processing facilities to prevent websites from collecting payment from users attempting to purchase game copiers via MasterCard and/or Visa credit cards.

**German Court Convicts Modchip Seller.** On October 15, the Criminal Court of Stralsund sentenced the operator of e-commerce website (PS2tune.com) to six months' probation for selling *Wii* modchips. The proceedings were initiated by a complaint filed by Nintendo in 2008 and supplemented by an additional complaint filed by German Anti-Piracy Association (GVU) in 2011.

**Nintendo-led Enforcement Action Shuts Down "R4mania" Distribution Network.** Through close collaboration with local enforcement authorities, Nintendo closed one of the largest remaining pan-EU distributors of R4 cards, R4mania. R4mania was an online distributor of game copiers connected to over 33 e-commerce sites operated from the island of Jersey. A day after the enactment of a new law (see below), Nintendo assisted authorities in raiding the Jersey operation, seizing over 5,000 game copiers, business records and a replicator used to update SD cards with new firmware designed to combat *Nintendo's* system menu updates. In addition, Nintendo took control over website domain names used for selling the R4 devices.

**Italian Fiscal Police (GdF) Blocks Two Major Internet Piracy Sites.** In December, a public prosecutor blocked access to two popular sites, Torrentreactor.net and Torrents.net, following a complaint supported by the video games industry association (AESVI). Torrentreactor.net was a popular website, with around 600,000 unique visitors per month. The Torrents.net site was also well-traveled, averaging approximately 320,000 unique visitors per month and offered roughly 800,000 pirated copies of copyright works (including video games). The AESVI estimates the sites earned between \$1 million - \$2 million (USD) through advertising revenue.

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**Jersey Closes Legal Loophole.** In response to Nintendo's persistent lobbying of the U.K.'s Intellectual Property Office and the States of Jersey, Jersey enacted the Intellectual Property (Unregistered Rights) (Jersey) Law 2011, which came into force on December 18. The new law contains anti-circumvention provisions and now provides rights holders with a legal basis to target the island's large-scale importation and distribution of circumvention devices, such as R4 game copiers.

**Spanish IP Commission (IPC) Shows Little Progress in Curtailing Internet Piracy.** The IPC was formed 10 months ago following the enactment of the Spanish Internet anti-piracy law (Ley Sinde). The IPC's role is to review and act on submissions filed by rights holders against websites offering unauthorized copies of copyrighted works. Since its creation, the IPC has received over 100 submissions from rights holders yet has initiated only 14 complaints. The Spanish video game industry association (ADESE) has filed 14 complaints targeting websites offering pirated video games (including *Nintendo* games) but no action has been taken. The poor results have been communicated to the United States Trade Representative, as part of its Special 301 process, targeting countries failing to adequately protect intellectual property rights.