



### ACTIONS



**Mexican Federal Agents Raid Vender Booths in San Juan de Dios and La Fuyuca Markets**

**California Authorities Make Arrest in Game Copier Case.** A California man was arrested, with bail set at \$100,000 USD, and charged with felony trademark violations under the California Penal Code. In September, authorities issued a search warrant on the distributor's residence and local police uncovered a variety of counterfeit products, including game copying devices and almost 5,000 pirated Nintendo DS games.

**Mexican Agents Support Major Counterfeit Video Game Raid in Guadalajara.** In July, Mexican federal agents executed raids against 80 retailers located in the *San Juan de Dios* and *La Fuyuca* markets. The authorities seized an estimated 15 tons of illegal products including 35,300 counterfeit Wii games and various materials intended for assembly and distribution of pirated games. The raids received local media attention. Under the direction of the newly appointed head of the Specialized IP Unit, criminal authorities are placing more pressure on managers of informal markets to cooperate and to curtail the distribution of illegal products.

**Nintendo Teams up to Block Infringing Devices on U.S. Comparison Shopping Site.** Nextag.com, a popular comparison shopping site used by consumers to compare the prices of millions of products, is teaming up with Nintendo to prevent the sale of game copying devices. Nextag has agreed to stop users from searching and shopping for game copying devices by screening and blocking the devices on all nine of its regional shopping sites, including Australia, Canada, France, Germany, Italy, Japan, Spain, the U.K., and the U.S.

### IP POLICY ACTIVITIES

**Internet Framework Bill Continues to Stall in Brazil.** Scheduled for a vote on September 19, the long-awaited Marco Civil Internet legislation was once again delayed, likely due to controversy over certain provisions, including ISP liability.

**Mexico Signs Anti-Counterfeiting Trade Agreement (ACTA).** In a surprise move, Mexican officials traveled to Japan to sign ACTA on the heels of its rejection by the European Parliament during Q2. By signing the agreement, Mexico has acknowledged its obligations to combat piracy. Existing ACTA members include: Australia, Canada, Japan, South Korea, the U.S., Morocco, and New Zealand.

**U.S. Government Seeks Help in Identifying Pirate "Notorious Markets."** In response to a request from the U.S. Government, Nintendo collaborated with the Entertainment Software Association (ESA) to identify Internet sites that host or link to illegal Nintendo video games. The request is part of the Special 301 Committee's review to shed light on markets that, year-after-year, remain impervious to the deterrent effects of enforcement actions.

### AWARENESS AND TRAINING

**"City Free of Piracy" Program Prompts Anti-Piracy Training in Brazil.** In August, local industry group, ABES, participated in a National Council Against Piracy (NCAP) supported training for approximately 500 municipal police officers in Rio de Janeiro. The training, prompted by Rio's efforts to ramp up anti-piracy actions under its obligations under the "City Free of Piracy" program, featured information on detecting infringing Nintendo video game products.

**Annual INTERPOL Conference Focuses on Organized Intellectual Property Crimes.** In September, the Entertainment Software Association (ESA) represented Nintendo at INTERPOL's annual conference in Panama. The three-day conference attended by the National Police of Panama and Underwriters Laboratories included over 500 delegates representing 58 countries. The conference covered best practices in the fight against transnational organized intellectual property (IP) crime. The ESA participated in an effort to boost awareness of Internet piracy and its threat to the video game industry.

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**Large Online Game Copier Distributor Receives Criminal Penalty Decision in China.** On the heels of a large May 2012 game copier-related raid (see Q2 Snapshot), a penalty decision was issued and ordered the distributor to pay a fine of \$5,200 USD. While the penalty decision is disappointing, the raid conducted by the authorities in Longgang led to the seizure of 11,000 game copiers and disrupted a large global network that once supplied over 100 customers in 30 different countries with the highest concentration of customers located in Europe – Denmark, France, Germany, Italy, the Netherlands, Spain, and the U.K.

**People’s Court in China Rules Against Online Seller of Counterfeit Nintendo Products.** The Bao’an People’s Court issued a stiff judgment against an online seller of copied *Wii* software and *Wii* accessories. Based on the distributor’s criminal activities and status as a repeat infringer, the seller received three years’ imprisonment, with four-year probation, and a fine of \$9,500 USD (RMB 600,000 Yuan). In June 2011, authorities raided the seller’s warehouse and uncovered over 17,000 illegal *Nintendo* products.

**Court Dismisses Appeal and Issues Criminal Fines Against Korean Internet Sellers.** In July, the Korean Court ignored appeals made by individuals responsible for selling over 42,000 game copier devices (R4 and DSTT products) via their Internet sites and confirmed its earlier rulings against the sellers. One seller was sentenced to a one year prison term (granting a four-year probation) and ordered to pay a fine of roughly \$83,000 USD (92,367,884 Korean Won). The second game copier seller received a fine of approximately \$8,990 USD (10,000,000 Korean Won).

**Korean Court Issues Criminal Penalty Against Online Shopping Operator.** Seoul authorities announced in July the arrest of 25 people who illegally copied *Nintendo* products and sold game copiers, including fifteen Internet operators, who copied and sold over 90,000 *Nintendo* games and R4 devices. During Q3, four cases were criminally prosecuted. In August, the Korean Court ordered a fine of approximately \$18,000 USD (20,000,000 Korean Won). There are three defendants still awaiting trial with additional prosecutions anticipated against others arrested.

**Taiwan IPR Court Confirms Modifying Wii Consoles is Unlawful.** In September, Taiwan’s Intellectual Property Court confirmed modifying *Wii* consoles violates Taiwan copyright laws. Nintendo supported a criminal prosecution against a shop owner offering modification services and pirated *Wii* video games. The September decision overturned a previous court’s ruling and ordered the defendant to pay approximately \$18,500 USD in exchange for the serving a six-month prison sentence.

## IP POLICY ACTIVITIES

**Australia Seeks to Educate Against Online Piracy.** On August 31, the Attorney General’s office convened its sixth stakeholder meeting aimed at developing a voluntary practice for addressing online piracy. Discussions have focused on the creation of an educational “notice scheme,” but disagreement on cost sharing between Internet Service Providers and IP owners has slowed progress.

**China Announces Campaign Against Online Piracy.** On July 3, the National Copyright Administration (NCA) announced it would launch a special campaign to combat online piracy. Set to run between July and October, the campaign aimed to bring “major cases” against operators of infringing online services, but has yet to benefit Nintendo.

**IP Owners to Pay \$25 Per Notice in New Zealand for Internet Service Providers (ISPs) to Enforce Rights.** On September 5, the Ministry of Commerce issued a final ruling confirming IP owners must pay \$25 for ISPs to forward notices of infringement pursuant to the Copyright (Infringing File Sharing) Regulations 2011. The Minister declined to reduce the fee prescribed in the original regulations, noting it has not encumbered the desired outcome.

## AWARENESS AND TRAINING



Nanchang Customs Training

**Nanchang Customs Training in China.** On September 21, Nintendo collaborated with 18 other rights owners (i.e., Reebok, Chanel, Samsung, Canon) to teach Nanchang Customs officials in China how to detect counterfeit products. Nanchang Customs has jurisdiction over numerous Custom agencies. The training was well attended, with a far-reaching number of Customs agencies represented.

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**Belgian Authorities Crack Down on Console Modding Service.** On behalf of Nintendo, the Belgium industry group (Belgian Anti-Piracy Federation) worked with criminal authorities to pursue a website owner offering *Wii* modification services that enable the play of illegal *Nintendo* software. On August 16, the Criminal Court of Tournai convicted the Belgian national of criminal copyright and trademark violations, ordering him to pay damages and levying a suspended jail sentence. The defendant has appealed the Court's decision.

**French Criminal Court Convicts Game Copier Sellers.** On September 19, the Criminal Court of Toulouse convicted four individuals for attempting to import thousands of counterfeit *Nintendo* accessories and game copier components into France. The Court sentenced each of the accused to imprisonment (without probation) ranging from three months to one year.

**U.K. Domain Registrar Seizes 30 U.K. Domains.** After submitting complaints to the Metropolitan Economic and Specialist Crime Unit, Nintendo successfully removed 30 new .co.uk domains that sold many types of game copiers. Although Nintendo continues to monitor any reappearance of these domains, previous take-downs suggest that the majority of these sites will not reappear.

## IP POLICY ACTIVITIES

**Is This the End of the French HADOPI Law?** In the wake of Françoise Hollande's appointment as President this May, a new Commission will examine the impact of notice-sending and sanction-based Internet anti-piracy procedures under the HADOPI law. The Commission will consider the level of public funding for the scheme, which currently costs €12 million (over \$15 million USD) a year and requires 60 officers to manage. An analysis is underway to consider whether HADOPI achieves its objective of reducing online piracy.

**Italian Workshop Addresses Internet Piracy.** In September, the Economic Affairs office of the U.S. Embassy to Italy, together with industry groups, sponsored an IP rights workshop on "Piracy and Counterfeiting in a Digital Environment" at the U.S. Consulate General's office. Participants included government institutions, magistrates and law enforcement officials. The U.S. Ambassador called for enhanced digital economic growth, and recognized Italy's inclusion on the U.S. Special 301 Report Watch List because of its failure to adopt effective Internet regulations and for its weaknesses in enforcement actions. Nintendo collaborated with both U.S. Embassy representatives and its Italian industry association (AESVI) to ensure that these important government to government discussions raised Nintendo's Internet piracy concerns.

**Russia Joins The World Trade Organization (WTO).** After 18 years of negotiations, Russia joined the WTO in August, binding it to an array of multilateral rules and obligations, including protection of intellectual property.

**Spanish IP Commission Starts to Take Action.** Responsible for implementing the new Internet anti-piracy law, the IP Commission announced it has notified operators in at least 10 separate proceedings to remove unauthorized content or links to unauthorized content. In three proceedings the sites complied. Under the new law, if site operators fail to comply, the IP commission can close or order Spanish ISPs to block access to the sites. Nintendo is pleased with the IP Commission's initial steps, but there significant work must be done to combat Internet piracy in Spain.

## AWARENESS AND TRAINING

**French General Customs Administration Undergoes Training.** On September 26, Nintendo met with the French General Customs Administration to educate them on the legal situation for game copiers in France in the aftermath of the "Divineo" decision. Rendered by the Paris Court of Appeals, the decision deemed game copiers illegal under French Law.

**Nintendo Conducts Customs Training at Roissy Charles de Gaulle Airport and Leipzig Airport.** In separate trainings for Customs officers based at France's Roissy Airport on July 5, and for officers at Germany's Leipzig Airport on September 6, Nintendo provided a tutorial on game copiers and tips for detecting counterfeit *Nintendo* products. Nintendo targeted these airports for their strategic locations: Leipzig Airport is a major hub for "DHL" and small parcels arriving directly from China, and Paris-Roissy Airport, is one of the main cargo canters in France.