



## Q4: October – December 2016

**Dutch Anti-Piracy Organization (BREIN) Obtains an Injunction Against an R4 Seller.** In November, the Rotterdam District Court ordered a local man who was selling DS circumvention devices bundled with up to 300 pirated games to halt all sales. As a result of the court proceeding, the seller agreed to sign a cease and desist undertaking with BREIN and pay 15k Euros toward BREIN's legal costs. In the event the seller continues to sell circumvention devices, the court has the discretion to impose fines of 2k Euros per day with a maximum penalty of 50k Euros.

**Irish Police Close 250+ Domains Used in the Marketing and Supply of Circumvention Devices.** In late December, the Irish police, An Garda Síochána, executed a search warrant at a residence in the Republic of Ireland, and interviewed an individual who is believed to operate a cluster of e-commerce websites selling DS and 3DS circumvention devices globally. He agreed to hand over control of over 250 domains and to immediately stop further sales of circumvention devices. During the action more than 280 circumvention devices were recovered. Nintendo will continue to support the ongoing police investigation as their inquiries continue.

**Pre-Release Piracy of *Pokémon Sun* and *Pokémon Moon*.** Nintendo's IP and Enforcement ("IPE") team took the lead in managing the pre-release of pirated copies of *Pokémon Sun* and *Pokémon Moon*. The IPE team worked with internal stakeholders, global vendors and outside counsel to mitigate the damage in the lead up to this significant release. Actions included tracking and removing lengthy pre-release game footage from YouTube and Twitch, as well as removal of hundreds of illegal copies from websites, host sites and Bit Torrent networks.

**California Raid on Game Modification Business.** The Los Angeles County Sheriff's ("LACS") Department investigated an individual operating a group of businesses, "ModSpotPro" and "GameonMods," in Pomona, CA that offered modification services for *Nintendo* consoles complete with hundreds of current and legacy *Nintendo* titles. The LACS uncovered game copying devices and external drives loaded with infringing games for *Wii*, *NES*, *SNES*, *Game Boy*, *Game Boy Advance* and *Game Boy Color* platforms. Nintendo supported this action by offering expert evidence analysis. The individual was issued felony citations based on California Penal Code violations and has ceased his modding business.

**Brand Owners and Representatives from the International Shipping Industry have Joined Forces in Signing an Historic Declaration of Intent Aimed at Preventing the Maritime Transport of Counterfeit Goods.** Leaders from global shipping firms, freight forwarders, brand owners - whose products are counterfeited - and trade associations representing both industries signed a joint "*Declaration of Intent to Prevent the Maritime Transport of Counterfeit Goods*" in Brussels. It marks the first time the global shipping industry and brand owners have made a public commitment to work together to stop the transport of counterfeit goods on shipping vessels. Initial signatories include the leading global shipping firms, freight forwarders, and ten major multinational brand manufacturers, along with the International Federation of Freight Forwarders Associations (FIATA), the International Chamber of Commerce (ICC), the Business Action to Stop Counterfeiting and Piracy (BASCAP), and the Commercial Crime Service (CCS). More transporters, brand owners, and their industry associations are expected to join the voluntary initiative as awareness grows. Nintendo is a member of BASCAP and fully supportive of this initiative. **Read more:** <http://www.iccwbo.org/News/Articles/2016/Brand-and-transport-leaders-sign-historic-declaration-to-stop-maritime-shipping-of-counterfeit-goods/>.

**Nintendo Wins the First Anti-Circumvention Action in Canada against Distributor of Game Copiers and Mod Chips.**

The Federal Court of Ontario, Canada awarded Nintendo \$12,760,000 (CAD) in damages, sending a strong deterrent message to current and future violators of Canadian anti-circumvention laws. The decision is the first to test Canada's anti-circumvention law and confirms that the importation, sale and distribution of "flashcarts," "modchips," "game copiers," and similar devices used to play illegal copies of game software is illegal in Canada.

In 2016, 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 boasted of his activities via social media. The case is the first of its kind to test the amended Canadian Copyright Act sections that prohibit the sale of devices used to circumvent technological protection measures. The judge ruled in favor of Nintendo on all issues and damages were awarded based on copyright infringement supported by circumvention of Nintendo's technological protection measures. Nintendo is very pleased with this precedent-setting decision that will assist future enforcement efforts in Canada.