



ACTIONS

Brazilian Police Seize Counterfeit *Wii* Games in Rio de Janeiro and São Paulo. Raids conducted by the video game industry and supported by Brazilian Military Police in April led to the seizure of more than 10K counterfeit *Wii* games, along with manufacturing equipment used to produce the counterfeit games locally, from a Rio de Janeiro warehouse and manufacturing lab. São Paulo police ramped up their activities during Q2 and conducted raids that yielded an additional 10K counterfeit *Wii* discs. The criminal enforcement actions targeted multiple retail stores, distribution locations and production facilities.

Guilty Plea for Canadian Infringer Involved in Hardware Modification. In May, an online seller pleaded guilty to copyright violations for providing modification services for Xbox 360, PS3 and *Wii*, along with copied video games. In 2011, the police targeted the individual for his unlawful distribution via the online marketplace Kijiji.com. During a raid action, police recovered multiple computers, hard drives, DVD burners and game files. The online seller was ordered to pay a fine and forfeit all computer equipment and unlawful products.



Street raids in Cuautitlán, Naucalpan and Tlalnepantla, Mexico

Mexican Police Face Vendor Retaliation During Video Game Raids. The Attorney General's Office (AGO) in Mexico City supported multiple street raids against counterfeit game sellers in Cuautitlán, Naucalpan and Tlalnepantla. When the police actions left store shelves empty, the vendors turned violent and began removing seized products from the trucks, causing damage to police property. Police successfully secured the area and ultimately confiscated more than 20K counterfeit video game products, including equipment used to copy games locally.

FBI Targets U.S. Site Operator for *Nintendo* Legacy Games Piracy. After the Austin, Texas-based site operator of Underground-gamer.com website failed to comply with takedown notices sent by the Entertainment Software Association earlier this year, the FBI raided his home, confiscating computers, his cell phone and other equipment. The website distributed illegal game content, including thousands of classic *Nintendo* games for *Game Boy Advance*, *Nintendo GameCube*, *SNES* and *NES*. The site operator earned an estimated \$200K USD in revenue through direct donations and, in return, granted members access to private forums. Currently, the Underground-gamer.com site remains offline citing "legal problems." *Nintendo* continues to support the FBI directly in its ongoing investigation.

IP POLICY ACTIVITIES

U.S. Government Unveils Special 301 Report. On May 1, the U.S. Government (USG) released its Special 301 report detailing a review of U.S. trading partners' IP protection and enforcement. In February, *Nintendo* filed recommendations to the Special 301 report, proposing that Brazil, China, Mexico and Spain be placed on the Priority Watch List. *Nintendo's* recommendations were accepted, with the exception of Spain; however, the USG recognized that Spain must take concrete steps to combat Internet piracy and a further review will be conducted. The USG will continue to encourage Spain to make progress on IPR issues of concern.

White House Releases 2013 Joint Strategic Plan on IP Enforcement. On June 20, through its Intellectual Property Enforcement Coordinator (IPEC), the Obama Administration released the 2013 Joint Strategic Plan on Intellectual Property Enforcement. The Plan details the Administration's progress in improving U.S. intellectual property rights enforcement, and outlines steps it will take over the next three years to promote economic growth, ensure global competitiveness, and protect the health and safety of U.S. citizens. Customs Border Patrol (CBP) will move forward on IPEC recommendations to release specific information on circumvention devices.

AWARENESS AND TRAINING

Training in Mexico Enhances *Nintendo* Video Game Product Knowledge. In May, the American Chamber Mexico (AMCHAM) organized a Mexico City anti-piracy training focused on identifying counterfeit video games. The American Chambers of Commerce are independent, non-profit, organizations based in 21 countries in Latin America and the Caribbean that promote trade and investment between Latin countries and the United States. The training event provided officials from Mexican Customs, Mexican Institute of Intellectual Property (IMPI) and the Copyright Office with the opportunity to expand their video game product knowledge. Earlier this quarter, customs officials from Ciudad Juárez, Puerto Palomas and Mazatlán received anti-piracy training on detecting pirated *Nintendo* products.

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Hong Kong Authorities Continue Piracy Crackdown. Authorities in Hong Kong continue to leverage the judicial system to curtail piracy. A distributor of counterfeit *Nintendo DS* handheld systems and game copiers was convicted on a forged trademark claim for violating Nintendo's intellectual property rights and levied a fine. In a separate case, an individual who pleaded guilty for marketing and selling game copiers was sentenced to 200 hours of community service. Prosecution in other game copier cases continues.

Tokyo District Court Rules in Favor of Nintendo and Awards Damages. Nintendo Co., Ltd. scored a key legal victory for the game industry in Tokyo District Court. In response to a 2009 lawsuit filed by Nintendo and 49 software manufacturers against game copier sellers, the court found the defendants guilty under Japan's Unfair Competition Prevention Act. Additionally, the court imposed an injunction against importing/selling game copiers and ordered the defendants to pay 95,625,000 YEN (approx. \$1 million USD) in damages to Nintendo. Nintendo issued a press release announcing the decision, garnering favorable and widespread media coverage, and prompting a swell in positive consumer sentiment. Since the decision was issued, the defendants have filed an appeal with the Tokyo IP High court.

Game Copier Sellers in Korea Receive Criminal Penalties. Korean courts issued deterrent criminal penalties against four prolific online sellers of game copiers and pirated *Nintendo* games. The defendants, whose illegal activities had a market value equivalent of KRW 2,000,000,000 (\$1,774,630 USD), were sentenced to large criminal fines ranging from \$4,400 to \$49,000 USD and imprisonment ranging from six to 14 months (most sentences were granted with multiple year probations). One matter remains on appeal.

Taiwan Police Target Online Seller of Game Copiers. In May, the Intellectual Property Rights (IPR) Police in New Taipei City raided an online seller dealing in game copier devices via the popular Ruten auction site, seizing over 130 fully packaged game copiers. The IPR Police continue to pursue distributors involved in selling illegal products on Ruten, eBay's local offering in Taiwan. Nintendo has enhanced its monitoring of the marketplace, seeking the removal of 228 circumvention device postings in Q2.

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New Australian Law Eases Counterfeit Goods Tracking. The *Intellectual Property Laws Amendment (Raising the Bar) Act 2011*, which came into force on April 15, facilitates better information sharing between Australian Customs and IP owners related to seized goods. Previously, an IP owner was only entitled to review photographs to determine the authenticity of suspect products. Under the new regime, IP owners like Nintendo have access to shipment details (such as import and export information detailing product origins) and may evaluate suspect product samples for counterfeit testing. This new law is a big step forward in pursuing counterfeit products in Australia.

AWARENESS AND TRAINING



Customs Training in Chengdu, China

REACT Partnership Boosts Enforcement in China. Nintendo has partnered with REACT in China to bolster training initiatives with customs authorities. REACT's large international network of strategically placed offices around the globe has been instrumental in Nintendo's battle against piracy. Moving forward, REACT will train Chinese officials to curtail the flow of illegal *Nintendo* products distributed inside and outside the country. REACT also has worked with Chinese Customs authorities to distribute an "Alert" aimed at educating authorities on detecting pirated *Nintendo* products. In Q2 alone, REACT participated in 11 different customs trainings in a number of cities, including Shanghai, Chengdu, Chongqing, Shenzhen and Shantou. The increased training led to a sizeable action resulting in the seizure of 8,000 unauthorized *Wii* products.

Nintendo Appoints New Customs Agent in Taiwan. Based on positive results in China, Nintendo designated REACT to work with customs officials in Taiwan. In Q2, REACT participated in a large-scale training in Kaohsiung that provided approximately 85 Customs officials from Taiwan Customs, Ministry of Finance, Department of Intellectual Property, IP Police, Economic Police, Department of Justice, and the Judiciary of Taiwan with tips for detecting illegally copied *Nintendo* products, as well as information about the company's global anti-piracy priorities. Over 22 brand owners presented at this two-day training conference.

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Operation “In-Our Sites” Extends to Europe. In June, Belgian law enforcement, in close conjunction with Europol and international counterparts in the U.S. and the U.K., recovered 11 domain names being used by e-commerce website operators to sell circumvention devices, including game copiers. Nintendo collaborated with its industry association, the Belgian Anti-Piracy Federation (BAF), who referred the sites to law enforcement authorities.

German R4 Sellers Fined for Importing Game Copiers. A complaint initiated by GVV, a German anti-piracy organization, and supported by Nintendo, led to two penalty orders of 2.250 EUR (\$3,000 USD) rendered against two importers of game copiers by the Regional Court of Ludwigshafen. The defendants planned to offer the devices via e-commerce platforms.

Italian Authorities Shut Down Popular Pirate Website. Following a complaint submitted in May by the local video game industry association, AESVI, the Italian Fiscal Police seized and blocked the ddlhits.com website, which was offering many links to pirated video games. Prior to blocking the popular site, police reported that ddlhits.com offered Italian users access to pirated content including *Nintendo* games. It had 118,000 unique daily visitors and made around \$900 USD daily from advertising revenue. Investigations are underway to learn what role five individuals played in the operation of the website.

Two U.K. Courts Punish Game Copier Sellers. Following a raid by a local Trading Standards Department on April 16, a business owner was prosecuted for selling R4 and Acekard-type game copier devices. During the raid, authorities seized over 1,000 game copiers and nearly 1,000 unauthorized *Nintendo DS* games found on his computer. The business owner pleaded guilty to running a fraudulent business contrary to the Fraud Act. He was sentenced by Birmingham Crown Court to a six-month imprisonment (suspended for 12 months). In addition, the judge ordered a full financial investigation to uncover the profits made from this illegal operation. In a separate case, Crewe Crown Court sent a game copier seller, who also was dealing in modified Xbox consoles, to prison. On June 6, the defendant pleaded guilty and was sentenced to 15 months in prison for dealing in circumvention devices.

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The Future of the French Hadopi Law. A report commissioned by the French Government was released in May detailing the effectiveness of the anti-piracy legislation entitled “Hadopi.” The report highlights a recommendation to abolish Hadopi’s notice-sending program, along with the rarely enforced sanction of suspending users’ Internet access. The report also called for transferring the responsibility for reducing online piracy from the Hadopi authorities to the Higher Audiovisual Council (CSA) which is France’s broadcasting regulator.

The U.K. Digital Economy Act’s Notice-Sending Program Sees More Delays. National telecommunications regulator Ofcom, which is responsible for implementing the operational guidelines for the Internet notice-sending program under the Digital Economy Act (DEA), has been reclassified as a public authority. As a result, additional regulations must be passed to establish procedures for Ofcom’s handling of funds transferred between IP rights holders and ISPs under the notice-sending scheme. A further consultation and approval from Parliament could delay the Internet notice-sending program until 2015.

Spanish Criminal Law Sees Favourable Reforms. A new bill to reform the Penal Code, published this June, includes positive changes to the existing Spanish laws that prohibit the sale of circumvention devices. After strong lobbying by the Spanish video game industry, ADESE, the bill introduces new language to the Penal Code to bolster the current anti-circumvention provisions. If passed, the new law will provide for stronger protection against those who deal in game copier devices.

AWARENESS AND TRAINING



Customs Training
Marseille, France

France and Germany Hold Customs Trainings. Training on how to detect counterfeit products and circumvention devices was provided to over 60 border officials at training sessions organized by REACT Germany (Cologne, May 15) and the French Anti-Counterfeiting Association, UNIFAB (Marseille, May 30). Attendees came from various Customs offices, and included personnel from the Cologne airport’s mail services as well as several Customs offices in Southern France, including Marseille Airport.