

Selling circumvention devices for the *NINTENDO* 3DS is declared illegal in Spain

The final decisions from a mercantile court in Barcelona and from a penal court in Fuenlabrada represent the first time that any Spanish Court has decided whether dealing in the new devices that breach the security on the *Nintendo 3DS* console family is unlawful

Madrid, July 19, 2016. After a series of important wins in Spanish and international courts in the fight against Nintendo DS piracy, for the very first time in Spain, and with a difference of just over one month, two courts have also declared illegal the cards designed to circumvent the security measures in the current generation of Nintendo handheld consoles, the Nintendo 3DS. Firstly, a Mercantile Court in Barcelona issued a decision against the owner of Disfrutadetuconsola.com, an online seller and retailer of Sky3DS cards. Soon after, a Penal Court in Fuenlabrada issued another decision against the owner of Myconsola.com, an online official reseller of Gateway and Sky3DS cards. Both are circumvention devices for the Nintendo 3DS console family.

The civil decision, dated 12th May, is final and orders the defendant to cease all current and future advertising and selling of Sky3DS or any other circumvention devices for the Nintendo 3DS.. Furthermore, he is ordered to pay damages and publicize the court decision in two newspapers and two specialized magazines.

The criminal decision, dated 23rd June, is also final and sentences the defendant to 4 months in prison and the payment of damages. It is the first time that the new article 270.6 of the Penal Code, entered into force in July last year, has been applied. That provision further clarified that the dealing in circumvention devices is illegal, and elevated the maximum prison term to 3 years.

Nintendo is pleased that these rulings are consistent with 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). This tendency has also been confirmed in Spain by these and many other rulings on circumvention devices for the *Nintendo DS*, the previous generation of Nintendo handheld consoles, both in the criminal and civil arenas.

Nintendo supports all criminal enforcement and will continue to take legal actions against the distribution of illegal devices that facilitate Internet piracy. Nintendo initiates these actions not only on its own behalf, but also on behalf of over a thousand video-game development companies that depend on the sales of their legitimate games to continue their creative work.