

**Long Comment Regarding a Proposed Exemption  
Under 17 U.S.C. 1201**

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**Item 1. Commenter Information**

The Entertainment Software Association (“ESA”) represents all of the major game platform providers and nearly all of the major video game publishers in the United States.<sup>1</sup> It is the U.S. association exclusively dedicated to serving the business and public affairs needs of companies that publish computer and video games for video game consoles, personal computers, and the Internet.

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**Item 2. Proposed Class Addressed**

Proposed Class 23: Abandoned Software—video games requiring server communication

**Item 3. Overview**

**A. Executive Summary**

Video games represent a robust, growing, and dynamic industry that is changing the nature of entertainment. Video game access controls are critical to the intellectual property ecosystem that makes valuable, expressive copyrighted content easily and legally accessible, to the benefit of creators, distributors and, most important, the gaming public. Fifty-nine percent of Americans play video games, nearly half (48 percent) of whom are women and 71 percent are age 18 or older.<sup>2</sup> Where other

<sup>1</sup> See <http://www.theesa.com/about-esa/members/> (listing ESA’s members).

<sup>2</sup> ESA Industry Facts, <http://www.theesa.com/about-esa/industry-facts/>.

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creative industries are experiencing challenges and decline in their respective markets, the video game industry is one of the fastest growing sectors in the U.S. economy. In 2013, the industry sold 160 million games and generated more than \$21 billion in revenue, up from \$2.6 billion seventeen years earlier.

Due in large part to the protections afforded under Section 1201, there has been significant innovation over the last decade in how video games and other content are accessed and experienced by users. Video game companies have unleashed new ways of making highly-valuable, copyrighted video games available to users across a multitude of platforms and devices,<sup>3</sup> and Sony recently launched a new “over-the-top” console-based Internet television service.<sup>4</sup> Sales of digital game content surpassed physical sales for the first time in 2013, and purchases of digital full games and add-on content, mobile apps, subscriptions and social network gaming generated approximately \$7.2 billion (or 53 percent of revenue) in 2013.

Access controls are critical to encouraging this innovation and growth. The cost of developing games frequently can exceed \$50 million dollars, and modern blockbuster games can cost \$100 million or more.<sup>5</sup> Video game publishers and other content owners are able to make their copyrighted works available through video game consoles, mobile devices, and online cloud platforms precisely because they can rely on the use of effective controls to restrict unauthorized access to these works. Access controls also are a vital element in the industry’s ability to offer cloud gaming services, which have resulted in classic gaming titles being commercialized in the market in a variety of innovative ways, as well as compelling new games and services.<sup>6</sup> Absent the access controls, game content could easily be infringed, and the incentive to make such content available to the public through personal computers, video game consoles, smartphones, and mobile devices would be greatly diminished.

The proposed exemption would jeopardize the availability of these copyrighted works by enabling—and indeed encouraging—the play of pirated games and the unlawful reproduction and distribution of infringing content. Proposed Class 23 purports to be limited to circumvention of two specific access controls—checks to “authentication

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<sup>3</sup> See, e.g., Dean Takahashi, “Microsoft To Launch New Tools That Enable Cross-Platform Play Across Windows, Xbox, and Mobile Devices,” *VentureBeat* (Mar. 4, 2015), <http://venturebeat.com/2015/03/04/microsoft-to-launch-new-tools-that-enable-cross-platform-play-across-windows-xbox-and-mobile-devices/>.

<sup>4</sup> Geoffrey A Fowler, “PlayStation Vue Review: A Real Rival To Cable TV . . . For a Price,” *Wall Street Journal* (Mar. 24, 2015), <http://www.wsj.com/articles/playstation-vue-review-a-real-rival-to-cable-tvfor-a-price-1427224160?tesla=y>.

<sup>5</sup> See <http://kotaku.com/how-much-does-it-cost-to-make-a-big-video-game-1501413649>.

<sup>6</sup> See, e.g., Zorine Te, “Square Enix’s New Cloud Gaming Venture Named Shinra Technologies, Beta Will Launch Next Year,” *Gamespot* (Sept. 18, 2014), <http://www.gamespot.com/articles/square-enixs-new-cloud-gaming-venture-named-shinra/1100-6422425/> (“One of the driving goals for the future of Now is reintroducing people to gaming and giving lapsed gamers and newcomers access to ‘an entire generation of games that they may have missed.’”).

servers” and to “matchmaking servers” for the purpose “of either authentication or to enable multiplayer matchmaking.”<sup>7</sup> However, this characterization and related explanations from proponents’ comments demonstrate a fundamental misunderstanding and oversimplification of how access controls are used in connection with video games:

- First, there is no such thing as specific access controls that check “authentication servers” and “matchmaking servers” for video games. The sweeping scope of Proposed Class 23, which EFF suggests should cover personal computers, video game consoles, smartphones, and mobile devices (in fact, any platform where games are played), makes it particularly difficult to make any generalizations about the access controls at issue.<sup>8</sup> But, in general, different devices use a wide range of access controls, many of which are interrelated and used in combination with one another for the purpose of authenticating video game content as legitimate. Many of these access controls serve a protective function that is far broader than “authentication” or “matchmaking.”
- Second, in order to play a modified game on a video game console, as the proponents request, the user also must hack the device itself.<sup>9</sup> For example, the access controls for a video game and the access controls for a video game console generally act similar to a “lock and key.” If the “key” on the video game is modified or deleted, the console will not authenticate the game and, as a result, it cannot be played on the console *unless the console-based “lock” also is circumvented*.<sup>10</sup> Because hacking the video game access controls also requires hacking the video game console access controls, Proposed Class 23 raises the same issues and concerns as Proposed Class 19, which covers video game console hacking.<sup>11</sup>
- Third, EFF’s suggestion that circumvention is commonly required to allow single-player or multiplayer gameplay is inaccurate. In ESA’s experience, video game companies rarely require an ongoing server-based authentication check to enable single-player mode. And, as explained below, each of the major console manufacturers offer alternatives to enable multi-player gameplay after game server support ends.
- Fourth, EFF’s discussion of “matchmaking” services and multiplayer-modes is also misguided. The video game industry utilizes access controls in order to offer robust, interconnected online experiences that supplement game play. These immersive gaming experiences leverage users’ Internet connectivity to provide a suite of online network features to gamers. These

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<sup>7</sup> EFF Comments, at 1.

<sup>8</sup> *Id.* at 2.

<sup>9</sup> See Statement 1; Statement 2; Statement 3.

<sup>10</sup> *Id.*

<sup>11</sup> We use the general term “hacking” here to refer to acts by a user to modify the video game’s access controls to remove its ability to authenticate as a legitimate copy.

features can include, for example, not only multiplayer game play, but also chat communications, sharing of user-generated content, leaderboards, points, badges and other achievement markers. Online network features for sports games might update roster information in real time to reflect injuries, trades or even increases or decreases in skill. And the online services may enable users to download customized outfits or other downloadable content. Some modern games, such as *Minecraft*, enable the user to create the very world that the player, and others, inhabit.<sup>12</sup> Still other games may use cloud servers to offload core game calculations to create more realistic game experiences.<sup>13</sup> Significantly, however, all of these online network services generally are entirely distinct services that the user must register for—and sometimes pay for—separately and are not included in the purchase of the video game. Consequently, contrary to EFF’s assertions, multiplayer gameplay over the Internet is not a “core” functionality of the video game, and permitting circumvention to access such functionality would provide the user greater benefits than those bargained and paid for.

Hacking video game access controls facilitates piracy and therefore undermines the core anti-piracy purposes of Section 1201.<sup>14</sup> As explained above, hacking the video game access controls requires, by definition, hacking of the video game console or similar device in order to play the hacked video game. Once the access controls for the video game console are hacked, regardless of the purported purpose or intent of the hacker, *any* content, including pirated games, can be played on a video game console. What’s more, console hackers may distribute their console-hacking solution to gamers that have no intention of using it for the purposes stated in the proposed exemption. The risk of piracy is even greater on personal computers and similar devices that do not utilize device-based access controls to prevent the installation of unauthorized software. The individual can use consoles to make and store infringing copies of copyrighted games and other content and to distribute these unlawful copies online to a large audience.<sup>15</sup> Indeed, the record in this proceeding demonstrates that the ability to

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<sup>12</sup> See <https://minecraft.net/>.

<sup>13</sup> See <http://www.gameinformer.com/b/news/archive/2014/04/03/respawn-talks-about-titanfall-39-s-use-of-xbox-one-39-s-cloud-computing-power.aspx>.

<sup>14</sup> See, e.g., H.R. REP. NO. 105-551, pt. 2, at 23 (1998) (“To operate in this environment, content providers will need both the technology to make new uses possible and the legal framework to ensure they can protect their work from piracy.”).

<sup>15</sup> With respect to television and movie programming applications, for example, circumvention of the access controls in some cases could allow unauthorized users to gain access to subscription services or enable lawful subscribers to gain unauthorized access to content. Similarly, checks for authentication tokens for streaming video programming applications might be ineffective if the access controls for the video game console are hacked. In contrast, robust access controls help facilitate new digital distribution models, such as a recently-launched “over-the-top” television service for the PlayStation 3 and PlayStation 4. See, e.g., Meg James, “Sony Launches TV Service PlayStation Vue, Starting at \$49.99 a Month,” *Los Angeles Times* (Mar. 18, 2015),

access and distribute infringing content is one of the principal reasons why users hack video games and related devices.<sup>16</sup>

Against that background, these comments turn to describing why the proposed class is unfounded and unworkable in practice. The proposed class inappropriately and inaccurately suggests that the copyrighted works of ESA's members are "abandoned." The proposed class also affects an overly broad range of devices and platforms. And it mischaracterizes the purpose and scope of the access controls at issue in this proceeding.

Next, ESA clarifies how the access controls function and the effect of the proposed methods of circumvention on the platforms and devices on which video games are played more generally. As explained in more detail below, video game access controls are designed specifically to support the creation and distribution of copyrighted works and to protect other copyright interests. For example, video game authentication access controls enable the distribution of digital video game content through physical video game discs and downloadable digital files, while preventing individuals from making unauthorized copies of this content, distributing it to others, or using the console to play pirated copies of such works.<sup>17</sup> Similarly, access controls for online network services discourage piracy by preventing individuals with pirated copies of the game from participating in a wide variety of online services that include not only multiplayer gameplay but also downloadable content, leaderboards, badges, chat, and other social features. Consequently, hacking video game access controls necessarily implicates copyright interests.

ESA then explains why proponents have failed to meet their burden of demonstrating a prima facie case for the proposed exemption. Specifically, proponents have not established that the uses identified as being affected by the prohibition on circumvention are likely to be noninfringing. Proponents also have not proven that, as a result of the video game access controls, the prohibition on circumvention is causing, or in the next three years is likely to cause, a substantial adverse impact on those uses. To the contrary, the record in this proceeding is clear that there are ample alternatives

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<http://www.latimes.com/entertainment/envelope/cotown/la-et-ct-sony-playstation-vue-tv-service-launches-20150318-story.html>.

<sup>16</sup> See Exhibit A (compiling evidence demonstrating that piracy is one of the primary purposes of hacking video game access controls).

<sup>17</sup> Notably, the Librarian denied a similar exemption request in the last triennial rulemaking proceeding that would have allowed circumvention of console-based authentication checks, finding that "[c]onsole access controls protect not only the integrity of the console code, but the copyrighted works that run on the consoles. In so doing, they provide important incentives to create video games and other content for consoles, and thus play a critical role in the development and dissemination of highly innovative copyrighted works." Exemption To Prohibition on Circumvention of Copyright Protection Systems for Access Control Technologies, *Final Rule*, 77 Fed. Reg. 65260, 65274 (Oct. 26, 2012) [hereafter, "2012 Final Rule"].

to circumvention and that any adverse impacts are merely hypothetical, *de minimis*, or mere inconveniences. Consequently, the harm the proposed exemption would impose on copyright owners (and consumers, who ultimately would have less access to copyrighted works) far outweighs any alleged and incidental adverse effects. Finally, the comments conclude by demonstrating that the exemption request is unwarranted under the statutory factors.

Because permitting circumvention of video game access controls would increase piracy, significantly reduce users' options to access copyrighted works on platforms and devices, and decrease the value of these works for copyright owners, ESA requests that the Register recommend denying the proposed exemption.

**B. *The Scope of the Proposed Class Is Sweeping and Unworkable In Practice.***

Although the Copyright Office's template comment form does not explicitly provide a place to address the scope of the proposed classes, we touch on this issue briefly here because the scope of Proposed Class 23 has significant implications for the real-world impact that the exemption, if granted, would have on the availability of copyrighted video games and on piracy.

The Librarian has explained that proponents have "an obligation to address the 'real world impact' of their proposed exemption."<sup>18</sup> Here, the proposed class is unfounded and unworkable because it: (1) inappropriately suggests that the copyrighted works of ESA's members would be (or are) "abandoned" in as little as six months after server support for the video game ends, (2) affects an overly broad range of devices and platforms, and (3) mischaracterizes the purpose and scope of the video game access controls at issue in this proceeding. Consequently, there is a significant risk that if the proposed exemption is granted, the practical effect would be that consumers would misinterpret the scope of the exemption and wrongly believe that it permits circumvention for a wide range of activities that enable and facilitate piracy.

*First*, proponents' definition of an "abandoned game" is unworkable and contrary to principles of copyright law. Characterizing copyrighted works as "abandoned" just six months after a video game company stops providing server support for the video game would be in tension with the Copyright Act's duration provisions and the Constitutional principle that authors have exclusive rights in their copyrighted works for a defined period of time in order to reward and incentivize creative expression.<sup>19</sup> In contrast to trademark law, which requires that the rights holder continue to use the mark in commerce to sustain the trademark rights, copyrights are not "abandoned" based on lack of use. Instead, there must be an "intent by the copyright proprietor to surrender rights in his work."<sup>20</sup> Video game publishers do not intend to surrender their rights in their copyrighted video games when deciding to end server support. To the contrary,

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<sup>18</sup> *Id.* at 65274.

<sup>19</sup> See 17 U.S.C. §§ 106, 302; U.S. Constitution, Article I, Section 8, cl. 8.

<sup>20</sup> See, e.g., *A&M Records, Inc. v. Napster, Inc.*, 239 F.3d 1004, 1026 (9th Cir. 2001).

because a video game publisher may invest millions of dollars developing a single video game, it is not uncommon to improve upon or re-introduce a game at a later time or to iterate upon the software after server support has ended to obtain a return on this valuable investment.<sup>21</sup> Proponents also incorrectly suggest that game publishers who update or patch their games could be "abandoning" any prior versions that no longer enjoy networking support due to security problems.

*Second*, the proposed exemption is overly broad because it would allow the circumvention of access controls on *any* device or platform, including not only those designed specifically for gaming but also those intended for general purpose computing (e.g., smartphones, mobile devices, computers, web platforms and devices and platforms not yet created). An exemption "for such a sweeping class would be without precedent in the history of Section 1201 rulemakings."<sup>22</sup> Given its broad scope, granting the request would be incompatible with congressional intent that exemptions be afforded only in the most "exceptional" cases.<sup>23</sup> Consequently, it should not be granted.

*Third*, EFF's comments draw a false distinction between "persistent worlds" (which would not be subject to the exemption) and games where "all or nearly all of the audiovisual content resides in the player's local copy of the game" (which would be subject to hacking). This purported distinction does not correspond to how video games are distributed in practice. Most of the content for the "persistent world" games that EFF mentions, including World of Warcraft, is actually stored locally to improve the gameplay experience.<sup>24</sup> In reality, modern video games include a broad spectrum of local and online content, making it nearly impossible to define the contours of the proposed exemption in practice.

Because video game publishers do not "abandon" the intellectual property in their copyrighted works when discontinuing server support, and because the exemption request is overly broad and confusing, the proposed exemption should be denied.

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<sup>21</sup> For example, Microsoft's *Halo 2* video game, after online support for multiplayer matchmaking was discontinued, would likely have come within the proposed definition of an "abandoned game." Yet Microsoft later re-released *Halo 2* as part of the bundled title, *Halo: The Master Chief Collection*. See, e.g., Marc Graser, "E3: Microsoft To Relaunch 'Halo' Franchise To Build Audience for Web Series, TV Shows," *Variety* (June 9, 2014), <http://variety.com/2014/digital/news/e3-microsoft-to-relaunch-halo-franchise-to-build-audience-for-web-series-tv-shows-1201216591/> (describing the re-release of four "Halo" games in connection with the 10th Anniversary of the game franchise).

<sup>22</sup> 2012 Final Rule, at 65276 (denying similarly broad request for software interoperability on personal computing devices).

<sup>23</sup> Exemption to Prohibition on Circumvention of Copyright Protection Systems for Access Control Technologies, *Final Rule*, 65 Fed. Reg. 64556, 64563 (Oct. 27, 2000).

<sup>24</sup> See, e.g., World of Warcraft System Requirements, <http://us.battle.net/support/en/article/minimum-system-requirements-for-world-of-warcraft> (specifying that the minimum and recommended system specifications for World of Warcraft on Windows and Mac is 35 GB of available hard drive space).

#### Item 4. Technological Protection Measure(s) and Method(s) of Circumvention

Proponents identify two specific methods of circumventing access controls that would be permitted under the proposed exemption: (1) “eliminating checks to authentication servers” and (2) “modifying access controls in the software that control access to multiplayer matchmaking servers.”<sup>25</sup> According to EFF, this hacking would be permitted “for the purpose of restoring access to single-player or multiplayer gaming.”<sup>26</sup>

EFF ignores the reality of how video game access controls are used in practice. To achieve EFF's stated objectives—*i.e.*, to eliminate authentication checks and enable the video game to be played on a video game console or other device connected to a third-party multiplayer game server—would require circumvention of a much broader array of video game and device-based access controls. Consequently, the proposed exemption would, in effect, eviscerate virtually *all* forms of access protection used to prevent video game piracy.

For console-based video games, for example, a user cannot hack the video game access controls without also hacking both the access controls embedded in video game media *and* the core video game console access controls built into the console's hardware architecture. For example, on Xbox One, in order to make a video game communicate with a third-party online network service, the video game's code would have to be decrypted (circumventing the entire game's access controls) and modified. Because the Xbox One system will only execute genuine (*i.e.*, unmodified) games, the user also would need to hack the video game console before the modified video game code could run on the console. In the last rulemaking, the Librarian notably concluded that these “[c]onsole access controls protect not only the integrity of the console code, but the copyrighted works that run on the consoles. In so doing, they provide important incentives to create video games and other content for consoles, and thus play a critical role in the development and dissemination of highly innovative copyrighted works.”<sup>27</sup> The same is true today with respect to the video game access controls.

Moreover, EFF's description of “matchmaking” access controls is misleading. EFF implies that video game access controls for online network services are used only for multiplayer gameplay.<sup>28</sup> In fact, however, the access controls for multiplayer gameplay typically also restrict access to a wide range of other online network services including, for example, downloadable content, leaderboards, badges, chat, and other social features.<sup>29</sup> Significantly, the user typically must register—and sometimes pay—for this suite of online network services separately; they almost never are included

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<sup>25</sup> EFF Comments, at 1.

<sup>26</sup> *Id.* at 1.

<sup>27</sup> 2012 Final Rule, at 65274.

<sup>28</sup> See *Davidson & Associates v. Jung*, 422 F. 3d 630 (8th Cir. 2005) (finding that the online gameplay made possible by a game server is not limited to functional use, but rather a much more involved expression which would require reverse engineering to replicate).

<sup>29</sup> Statement 2; Statement 3.



in the purchase of the video game. For example, Microsoft requires the user to register for a separate Xbox Live Gold subscription (typically sold at \$59.99 per year) before the user may access online services made available through the online network services server.<sup>30</sup> On the PlayStation 4, gamers must pay for a subscription to “PlayStation Plus” in order to access multiplayer gaming.<sup>31</sup> Similarly, to access online services for Nintendo’s Wii U console, a user must separately register for a free Nintendo Network ID, which is governed by a separate End User License Agreement and Privacy Policy. Contrary to the proponents’ claims that they should be able to “play[] games that they have already paid for,” circumvention would enable users to *avoid* paying for a variety of online services, including network-based multiplayer gameplay, and get a better deal than they bargained for. Consequently, it is inaccurate to suggest that multiplayer gameplay over the Internet is a “core” functionality of the video game or that users acquire rights in accessing such functionality when they purchase a game.<sup>32</sup>

Significantly, the video game access controls are designed specifically to support the creation and distribution of copyrighted works and to protect other copyright interests by creating a secure platform for the development and distribution of legitimate content using innovative digital distribution models. Like console-based authentication checks and other types of access controls that protect copyrighted video game content from piracy, video game authentication and online service access controls enable the distribution of digital content through innovative digital distribution models, while preventing individuals from making unauthorized copies of this content, distributing it to others, or using the console to play pirated copies of such works.<sup>33</sup> These access controls also enable video game companies to offer a wide range of interactive, engaging online experiences that are intended to incentivize users to purchase video games lawfully by making these online experiences accessible only if the user has a legitimate copy of the game. In contrast, unauthorized third-party game servers often do not employ any access control measures of their own. In this manner, circumvention eliminates the incentive to purchase video games lawfully by enabling gameplay on third-party game servers by individuals who have lawfully-obtained copies of games and

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<sup>30</sup> *Id.*

<sup>31</sup> Statement 3.

<sup>32</sup> Circumvention also would allow users to engage in a variety of other activities that they otherwise could not do, such as cheating during gameplay or violating chat moderation policies, which significantly diminishes the gameplay experience for others.

<sup>33</sup> The Librarian denied a similar exemption request in the last triennial rulemaking proceeding that would have allowed circumvention of console-based authentication checks, finding that “[c]onsole access controls protect not only the integrity of the console code, but the copyrighted works that run on the consoles. In so doing, they provide important incentives to create video games and other content for consoles, and thus play a critical role in the development and dissemination of highly innovative copyrighted works.” 2012 Final Rule, at 65274.

pirated versions alike.<sup>34</sup> Hacking the video game access controls, therefore, has significant implications for copyright interests.

More broadly, unauthorized third-party game servers can harm both copyright holders and the gaming community as a whole. Video game publishers carefully cultivate their brands to create a game play experience that is both optimally functional and curated to protect against cheating, offensive language, or abusive conduct. Video game companies are committed to protecting the safety and privacy of all users, and these measures are especially important when children play video games. Unauthorized third-party game servers typically do not offer any of these protections, however. And because operators of these unauthorized third-party game servers typically exploit publishers' trade names and brands in order to attract gamers to their services, they can cause consumers to believe that the video game publisher's games, rather than the unauthorized third-party game service, is unreliable, deceptive, or unsafe. If consumers lose trust in video game companies' ability to protect the safety and privacy of online game services, they may be less likely to purchase new video games or use video game publishers' authorized online game services. In this manner, circumvention of video game access controls can harm the consumer experience and potentially diminish the market for video game publishers' copyrighted works.

#### **Item 5. Asserted Noninfringing Use(s)**

To establish a prima facie case for a proposed exemption, the proponents of the exemption request bear the burden of establishing that "uses affected by the prohibition on circumvention are or are likely to be noninfringing."<sup>35</sup> Proponents must demonstrate that the uses are or are likely to be noninfringing based on the Copyright Act and relevant judicial precedents; the Register will not apply a "rule of doubt" favoring an exemption when it is unclear that a particular use is a fair use."<sup>36</sup> The proponents have not met their burden.

Significantly, the proponents do not dispute that both video games themselves and the firmware protecting video games from piracy on personal computers, video game consoles, smartphones, or mobile devices are computer programs protected by copyright. Nor do the proponents dispute that reproduction and modification of games and firmware implicate the copyright owner's rights to control the reproduction, distribution, and creation of derivative works. Instead, proponents suggest that hacking should be permitted to enable continued single- and multi-player gameplay and that this gameplay may have some indirect benefits for video game preservation, research, and

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<sup>34</sup> See *Davidson & Associates v. Jung*, 422 F.3d 630 (8th Cir. 2005) (noting that unauthorized third-party game servers do not distinguish between pirates and gamers who purchased copies legitimately).

<sup>35</sup> Exemption to Prohibition on Circumvention of Copyright Protection Systems for Access Control Technologies, *Notice of Inquiry and Request for Petitions*, 79 Fed. Reg. 55687, 55690 (Sept. 17, 2014) [hereafter, "2014 NOI"].

<sup>36</sup> *Id.*

study. As explained in more detail below, these arguments are inadequate to support an exemption here.

**A. Proponents Offer No Evidence That Hacking To Enable Continued Gameplay Is Noninfringing.**

As a threshold matter, EFF's suggestion that hacking is necessary to allow continued single-player or multiplayer gameplay after the game server is taken offline is inaccurate. A user almost never needs to conduct ongoing video game authentication checks in order to enable single-player gameplay. Some game publishers, for example, generally requires its games to authenticate via a server-based authentication check only once, the first time that the game is played to confirm that the person has a legitimate copy of the game. Once the game is authenticated this one time, the user can play the game offline indefinitely, without any additional server-based authentication checks. Similarly, games for Nintendo's video game platforms are authenticated only at the time of purchase and installation. Nintendo does not require an authentication check for users to play a video game offline as a single player, and users can continue playing Nintendo games in single-player mode even after the game server is no longer supported. Microsoft also generally does not require any authentication checks for single-player mode.<sup>37</sup> Xbox 360 and Xbox One video games can be played offline, whether they are on disk or have been downloaded over the Internet and stored on the user's console.<sup>38</sup> And as explained in more detail below, many video game systems offer simple alternatives to circumvention for multiplayer mode as well.

With respect to the access controls for online network services, as explained above, users generally are not entitled to access online services (including multiplayer gameplay) as a result of purchasing a game. Instead, online services typically are licensed and offered separately from the purchase of the video game itself. Notably, when online services were terminated as a result of the GameSpy server shutdown referenced in EFF's comments, Nintendo continued to sell the video game titles at retail without any online server support. Nintendo provided users clear notice prior to purchase that they could play the games offline.<sup>39</sup>

Moreover, proponents fail to cite to any provision of the Copyright Act or relevant judicial precedents to support their claim that hacking to enable game play of a copyrighted work within six months after server support becomes unavailable is noninfringing. As explained below, this use is not permitted under the fair use defense,

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<sup>37</sup> Statement 2.

<sup>38</sup> *Id.*

<sup>39</sup> See Mario Kart Wii,

[http://www.nintendo.com/games/detail/O8zz\\_eN8oGRK9ApOgJ86zbE6zRv3pdB2](http://www.nintendo.com/games/detail/O8zz_eN8oGRK9ApOgJ86zbE6zRv3pdB2) (“As of May 20, 2014, the Nintendo Wi-Fi Connection service for Nintendo DSi and Wii systems has been retired. Online features of this game are no longer available after this date *but this game still provides an entertaining experience in offline mode.*”) (emphasis added); Service Discontinuation: Nintendo Wi-Fi Connection Service, <http://www.nintendo.com/consumer/latam/info/en/services-update.jsp>; Exhibit C.

and as noted above, a finding that circumvention is permissible in such circumstances would contradict the anti-piracy purposes of Section 1201, eviscerate the Copyright Act's duration provisions, and undermine the fundamental copyright principles on which our copyright laws are based.

**B. *The Proposed Exemption is Much Broader Than Preservation, Research, and Study and So Should Not Be Evaluated Like a Narrower Exemption Targeting Such Uses.***

As noted above, proponents have “an obligation to address the ‘real world impact’ of their proposed exemption.”<sup>40</sup> Although uses of copyrighted works for purposes of criticism, comment, teaching, scholarship, and research sometimes are permitted as fair uses,<sup>41</sup> courts and the Librarian rightly view such requests with skepticism where they are overly broad and repeatedly have refused to find such uses noninfringing where the public benefit does not outweigh the harm to copyright interests.<sup>42</sup>

Here, the proposed exemption would permit circumvention of video game access controls by *any* person in *any* context, as long as the servers were unavailable for at least six months. The proposed “preservation” and “archival” uses envisioned by EFF would appear to have the effect of superseding the object of the underlying work. If the proposed exemption is granted, the evidence in this proceeding demonstrates that organizations or individuals—perhaps some well-intentioned, but others not—likely would try to use the guise of “preservation” or “research” to make highly-expressive, valuable copyrighted works available for free to the public to play online purely for entertainment purposes, *regardless of whether they ever purchased a lawful copy of the video game*. This “preservation” defense would become the centerpiece of any enforcement proceeding, regardless of the user’s actions, making it difficult for copyright

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<sup>40</sup> 2012 Final Rule, at 65274.

<sup>41</sup> See 17 U.S.C. § 107.

<sup>42</sup> See, e.g., *Cambridge Univ. Press v. Patton*, 769 F.3d 1232 (11th Cir. 2014); *Soc’y. of the Holy Transfiguration Monastery, Inc. v. Gregory*, 689 F.3d 29, 61 (1st Cir. 2012) (“[R]emoving money from the equation does not, under copyright law, remove liability for transgressing another’s works.”); *Princeton Univ. Press v. Mich. Document Serv., Inc.*, 99 F.3d 1381, 1384 (copy shop’s reproduction and sale of copyrighted works as “coursepacks” was not fair use); *Weissmann v. Freeman*, 868 F.2d 1313, 1324–26 (2d Cir. 1989) (rejecting fair use defense where professor copied his assistant’s scientific paper for use in a review course on nuclear medicine); *Pacific & Southern Co., Inc. v. Duncan*, 744 F.2d 1490, 1496 (11th Cir. 1984) (use of a copyrighted news broadcast did not qualify as fair use); *Marcus v. Rowley*, 695 F.2d 1171, 1171, 1175 (9th Cir. 1983) (rejecting fair use defense where a public school teacher copied and distributed to students excerpts from another teacher’s copyrighted cake decorating booklet); *Encyclopedia Britannica Educ. Corp. v. C.N. Crooks*, 542 F. Supp. 1156 (W.D.N.Y. 1982) (rejecting fair use defense for systematic reproduction and distribution of educational films for classroom use).

owners to enforce their rights against circumvention for infringing uses.<sup>43</sup> In addition, the proposed exemption likely would create confusion among consumers about the scope and applicability of the exemption. These real-world impacts weigh heavily against granting the proposed exemption.

In addition, and in contrast to the *Sega* and *Connectix* cases cited in the EFF comments, individuals would not hack the video game access controls in order to develop new, expressive works of authorship. To the contrary, the exemption is intended to permit circumvention of the video game access controls to play *existing, copyrighted* video games. Consequently, the Register should be skeptical of proponents' claims that the proposed exemption would be used primarily for preservation, research, and study and should deny the exemption based on the "real world impact" the proposed exemption would have on diminishing the value of and market for copyrighted video games.<sup>44</sup> Here, it is clear that the overwhelming purpose of the proposed exemption is to enable the widespread online play of highly-expressive video games online by individual users for the very purpose these games were created—entertainment.

**C. *Considering The Real-World Impact Of The Proposed Exemption, The Hacking At Issue Here Is Not A Fair Use.***

When the four fair use factors and judicial precedent are considered in light of the real-world impact of the proposed exemption, it is clear that the hacking at issue here—that is, the circumvention of the video game access controls—in order to modify the firmware protecting copyrighted video games is not a fair use.

**1. *The Purpose And Character Of The Use Is Commercial And Not Transformative.***

This factor weighs against a finding of fair use because the purpose and character of the use is to a significant degree commercial. There is abundant evidence that one of the primary reasons many users seek to hack the video game access controls is not to create new and different works, but to avoid paying the customary cost of existing works or devices.<sup>45</sup> Courts have recognized this as a commercial use.<sup>46</sup> In

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<sup>43</sup> See Consolidated Short Comments Filed Through the Digital Right to Repair Website ("What ever happened to the pursuit of happiness? Look at linux. It's open and free. You can modify it all you want and share it."); *id.* ("When I buy something, it becomes my property, not Apple's, nor any other company's - it is MINE to do with as I wish."); *id.* ("Anything I purchase should be my decision what I do with it."); see Kendra Albert, "An Exemption To the DMCA Would Let Game Fans Keep Abandoned Games Running," *EFF Blog* (Feb. 9, 2015), <https://www.eff.org/let-game-fans-keep-abandoned-games-running> ("We think Section 1201 is an unsound, overbroad statute . . . . It shouldn't exist.").

<sup>44</sup> 2012 Final Rule, at 65274.

<sup>45</sup> See Exhibit A (demonstrating that many users hack their consoles to engage in piracy).

addition, a number of individuals offer to hack users' video game consoles for a fee.<sup>47</sup> None of these are uses that support a finding of fair use.

Hacking a video game merely supersedes the objects of the original work, and is not transformative.<sup>48</sup> In the last triennial rulemaking, the Librarian concluded that “circumventing console code to play games and other entertainment content (even if lawfully acquired) is not a transformative use, as the circumvented code is serving the same fundamental purpose as the unbroken code.”<sup>49</sup> The same logic applies equally to the video games at issue here, particularly given that the proposed exemption is intended in large part to “serve player communities that wish to continue playing their purchased games.”<sup>50</sup>

## **2. The Nature Of The Copyrighted Work Does Not Support Fair Use.**

The access controls at issue here protect the interests of copyright law by encouraging the creation and distribution of copyrighted works and by discouraging the distribution of pirated content. Specifically, the video game access controls decrease the unlawful distribution of infringing works and increase the legal supply of lawful copyrighted works. As noted above, the access controls enable the distribution of digital content through physical media, downloadable files, and live streaming, while preventing individuals from making unauthorized copies of this content, distributing it to others, or using the device or platform to play pirated copies of such works.

In connection with the second fair use factor, the Register also should consider the fact that hacking the video game access controls necessarily enables and is almost always coupled with the unauthorized reproduction or distribution of very creative video game content. The platform providers have developed the access controls to protect from digital piracy the firmware and copyrighted video games that are distributed through the video game consoles and other platforms and devices. These works are expressive and are entitled to the greatest protection.<sup>51</sup>

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<sup>46</sup> *Napster, Inc.*, 239 F.3d at 1015 (“Direct economic benefit is not required to demonstrate a commercial use. Rather, repeated and exploitative copying of copyrighted works, even if the copies are not offered for sale, may constitute a commercial use. In the record before us, commercial use is demonstrated by a showing that repeated and exploitative unauthorized copies of copyrighted works were made to save the expense of purchasing authorized copies.”) (citations omitted).

<sup>47</sup> See, e.g., Exhibit B (providing screenshots of representative advertisements for hacking services).

<sup>48</sup> See *Campbell v. Acuff-Rose Music, Inc.*, 510 U.S. 569, 579 (1994); *Ty, Inc. v. Publ'ns Int'l*, 292 F.3d 512, 517 (7th Cir. 2002).

<sup>49</sup> 2012 Final Rule, at 65274.

<sup>50</sup> EFF Comments, at 1–2.

<sup>51</sup> See *Brown v. Entertainment Merchants Ass'n*, 131 S. Ct. 2729 (2011).

### **3. *The Amount And Substantiality Of The Portion Used Is Not Reasonable.***

Because the scope of the proposed class is so broad—covering personal computers, video game consoles, smartphones, and mobile devices—it is virtually impossible to fully assess this factor. Notwithstanding EFF’s acknowledgement that “the exact amount of the work used may vary,” EFF goes on to assert, without any evidence or reasoning, that “in all cases, the amount used is the minimum needed.”<sup>52</sup> Depending on the device and the specific access control at issue, this could potentially be virtually all of the code for the copyrighted video game or the program that controls access to the underlying video game. As another example, decrypting an encrypted game disk could require copying all of the encrypted data on the disk, extracting the game binaries, decompiling them to source code, modifying the source code, then recompiling the whole game to binary and saving it to a new disk or space on the hard drive. This process makes multiple copies of the entire game. Such wholesale copying of the copyrighted work (whether it be, for example, the computer program that performs an authentication check or the highly-expressive video game which the access controls are intended to protect) should be disfavored if all or a substantial portion of the work is copied.<sup>53</sup>

### **4. *Hacking Harms The Market For And Value Of Copyrighted Works.***

On the “significant” issue of market harm, there is compelling evidence that permitting circumvention of the video game access controls—regardless of the purpose—would have the effect of diminishing the value of, and impairing the market for, the affected code, because the compromised code could no longer serve as a secure method for the development and distribution of legitimate content.<sup>54</sup>

The video game publishers that create and make available content for use on personal computers, video game consoles, smartphones, and other platforms and devices depend on access controls to prevent piracy of their content. If those access controls can be legally circumvented to allow the widespread, online distribution of their copyrighted games to the public at large, the publishers will be *less* likely to make their content available and there will be *less* legitimate content available. This will undoubtedly harm the market for and value of the firmware at issue, as it is only made available on the video game.<sup>55</sup>

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<sup>52</sup> EFF Comments, at 7.

<sup>53</sup> See, e.g., *Los Angeles News Serv. v. Tullo*, 973 F. 2d 791, 798 (9th Cir. 1992); see generally *Harper & Row Publishers, Inc. v. Nation Enters.*, 471 U.S. 539, 564–65 (1985).

<sup>54</sup> 2012 Final Rule, at 65274.

<sup>55</sup> See generally *Harper & Row*, 471 U.S. at 568 (explaining that the fourth factor “must take account not only of harm to the original but also of harm to the market for derivative works.”).

Significantly, hacking the video game access controls for console-based games requires hacking of the video game console as well.<sup>56</sup> Once a console is hacked, the consumer can easily use the console to play pirated games or make unauthorized copies of copyrighted content. This is because circumvention generally is not limited to a specific title; rather, the impact of circumvention is the same regardless of whether the game is “abandoned” or not. For example, if a user circumvents the access controls for *FIFA 14*—a copyrighted video game published by ESA member Electronic Arts—that user could then connect to a third-party server to play pirated versions of *FIFA 14* on the console. In addition, the technique used to circumvent access controls on *FIFA 14* also likely would enable the user to play pirated copies of other, newer versions of the game on a third-party game server. As a result, the costs of piracy would be borne not only by so-called “abandoned” games, but also by copyright owners of high-value, popular non-abandoned games.

Granting the exemption also would harm the potential market for the underlying work and future iterations of the game. As explained above, video game publishers routinely re-introduce video games that otherwise would be deemed “abandoned” under the proposed exemption.<sup>57</sup> In addition, many video game publishers improve on prior versions to develop new video games within a franchise.<sup>58</sup> In such circumstances, allowing circumvention to enable access to third-party game servers after a video game publisher ends online support harms the market for these new copyrighted works. This is because operators of third-party game servers typically charge less than the video game publisher for access to online services and so may cannibalize sales of new releases by allowing people to continue to access valuable online services for older versions of the game. The suggestion that an entity operating a third-party server would shut down its own servers as soon as a video game publisher renews server support for a re-released game is unsupported and implausible.

Circumvention also harms the market for and value of the copyrighted software that makes up the video game access control. One of the primary purposes of the proposed exemption would be to allow connections with third-party video game servers. These third-party video game servers often include the video game publishers’ trade

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<sup>56</sup> See Statement 1; Statement 2; Statement 3.

<sup>57</sup> See, e.g., Marc Graser, “E3: Microsoft To Relaunch ‘Halo’ Franchise To Build Audience for Web Series, TV Shows,” *Variety* (June 9, 2014), <http://variety.com/2014/digital/news/e3-microsoft-to-relaunch-halo-franchise-to-build-audience-for-web-series-tv-shows-1201216591/> (describing the re-release of four “Halo” games in connection with the 10th Anniversary of the game franchise); Mike Minotti, “Here Are the Classic Square Enix Role Playing Games You Can Play on Mobile Right Now,” *VentureBeat* (Aug. 6, 2014), <http://venturebeat.com/2014/08/06/here-are-the-classic-square-enix-role-playing-games-you-can-play-on-mobile-right-now/>.

<sup>58</sup> See, e.g., Nintendo’s Official Home For Mario, <http://mario.nintendo.com/> (identifying a number of different video games within the popular Mario franchise).



names and copyrighted visual elements from the games.<sup>59</sup> As a result, it is possible that an individual consumer could mistakenly believe that the video game publisher operates or is affiliated with the third-party game server. If the individual user has a bad experience using the third-party game server because, for example, the third party does not moderate user chats or provides unreliable service, the individual user might blame the video game publisher rather than the operator of the third-party game server and decide to buy fewer video games from the video game publisher.

#### **Item 6. Asserted Adverse Effects**

Proponents bear the burden of establishing “that as a result of a technical measure controlling access to a copyrighted work, the prohibition is causing, or in the next three years is likely to cause, an adverse impact on [allegedly noninfringing] uses.”<sup>60</sup> The evidence must demonstrate that these adverse effects are substantial, and not *de minimis* impacts, mere inconveniences, or anecdotal examples of individual cases of harm.<sup>61</sup> The proponents fail to meet this standard.

There are sufficient marketplace alternatives to avoid the adverse effects that could otherwise occur where a video game publisher takes a video game server offline. As explained above, in the vast majority of cases an individual can continue playing in single player mode even after servers for video game access controls are taken offline. Moreover, many video game systems offer simple alternatives to circumvention for multiplayer mode. Although access to online services on the Xbox 360 video game console, including matchmaking for multiplayer gameplay, is purchased separately as a standalone service offered by Microsoft, Microsoft also enables users to play in multiplayer mode using local area network (“LAN”)-style connections through the system link functionality on the console.<sup>62</sup> Specifically, system link is a form of multiplayer gaming that lets a user connect two Xbox 360 consoles by using a cable or up to 16 consoles through a network.<sup>63</sup> With linked consoles, multiple players can play the same game. Similarly, all Nintendo games offer local multiplayer functionality that operates independently of any video game online network service access controls.<sup>64</sup>

As proponents concede, there are a variety of alternatives to circumvention, such as video capture and other non-play alternatives, for archivists, preservationists, and researchers as well. EFF argues that “this is not an optimal solution.” However, an

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<sup>59</sup> See, e.g., OnlineConsoles, <http://onlineconsoles.com/>; Star Wars Battlefront I & II, <http://playstation2.onlineconsoles.com/phpBB2/viewforum.php?f=19&sid=1abb933db7e46390fca50e1a7056ea7c>.

<sup>60</sup> 2014 NOI, at 55690.

<sup>61</sup> *Id.*

<sup>62</sup> Statement 2.

<sup>63</sup> See <http://support.xbox.com/en-US/xbox-360/system/connect-system-link-play>.

<sup>64</sup> See, e.g., “Nintendo Intends To Further Promote 3DS’ Local Multiplayer,” *Nintendo Everything* (Feb 17, 2015), <http://nintendoeverything.com/nintendo-intends-to-further-promote-3ds-local-multiplayer/>.

exemption is appropriate only in the most “exceptional cases.”<sup>65</sup> The Librarian routinely has refused to grant an exemption where other alternatives, even suboptimal alternatives, are available.<sup>66</sup> To grant an exception here because these alternatives are “not optimal” would be contrary to the Librarian’s longstanding practice of denying exemptions where the requested use is merely a matter of convenience.<sup>67</sup>

Notably, ESA and its members have participated in and supported multiple museum exhibitions and educational initiatives related to video games. For example, the Entertainment Software Association worked with the Smithsonian Institute to offer *The Art of Video Games*, which was one of the first exhibitions exploring the evolution of video games as an artistic medium.<sup>68</sup> The exhibit featured playable video games from different eras, including *Pac-Man*, *Super Mario Brothers*, *The Secret of Monkey Island*, *Myst*, and *Flower*. ESA also has partnered with GlassLab, an unprecedented research and development effort that is exploring the potential for existing digital games to serve as powerful learning environments and providing real-time assessments to improve student learning.<sup>69</sup>

Proponents’ evidence of adverse effects is, at best, hypothetical.<sup>70</sup> It is telling that EFF describes the activities of several museums, including the Museum of Modern Art, the International Center for the History of Electronic Games, and the Museum of Art and Digital Entertainment, in archiving video games, but fails to provide a single actual instance of any of these institutions having difficulty in their archival activities as a result of the DMCA’s prohibition on circumvention.<sup>71</sup> Notwithstanding EFF’s assertion that “[k]eeping games playable is a central concern of the *next generation* of video game

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<sup>65</sup> Exemption to Prohibition on Circumvention of Copyright Protection Systems for Access Control Technologies, *Final Rule*, 65 Fed. Reg. 64556, 64563 (Oct. 27, 2000).

<sup>66</sup> See, e.g., 2012 Final Rule, at 65274 (refusing to find exemption for video game console jailbreaking, in part because there are “alternative devices that can be used to develop and run Linux-based video games and other applications); 2009 Final Rule, 75 Fed. Reg. 43834 (refusing to find exemption for subscription based services offering DRM-protected streaming video because many alternatives existed, including purchasing a DVD player); 2006 Final Rule, 71 Fed. Reg. 68478 (rejecting exemption request for DVDs that cannot be viewed on Linux operating systems due to availability of alternatives).

<sup>67</sup> See, e.g., Exemption to Prohibition on Circumvention of Copyright Protection Systems for Access Control Technologies, *Final Rule*, 68 Fed. Reg. 62011, 62017 (Oct. 31, 2003) (noting that the inability to play the desired material “on a particular device or with a particular operating system is simply a matter of preference and inconvenience”).

<sup>68</sup> See <http://www.americanart.si.edu/exhibitions/archive/2012/games/>.

<sup>69</sup> See <http://www.glasslabgames.org/>.

<sup>70</sup> Notably, the nearly identical 1816 combined comments that were received through the Digital Right to Repair website raise only hypothetical, generic concerns and fail to document any actual instances of consumers having difficulty in engaging in single- or multi-player gameplay, preservation or research as a result of Section 1201(a)(1).

<sup>71</sup> EFF Comments, at 8.

archivists and preservationists,”<sup>72</sup> EFF does not—and indeed cannot—demonstrate that there is a need for circumvention in the next three years to alleviate this concern. To the contrary, EFF’s claims are undermined by its concession that Ubisoft has “dropped its ambitious digital rights management plan” and that Microsoft does not require a user to be connected to the Internet at all times for gameplay.<sup>73</sup> In prior proceedings, the Librarian has concluded that “suppositions concerning the features of forthcoming software fell short of making a case that the harmful effects they posited were more likely to occur than not.”<sup>74</sup>

EFF also submits the written statement of Henry Lowood, who works for Stanford University but provided comments in his personal capacity. Mr. Lowood describes, in a general manner, how preservation *could* require bypassing or defeating access controls built into the games. However, Mr. Lowood does not identify any specific examples of actual instances of substantial adverse effects.

EFF’s comments imply that research is adversely affected when online gaming communities “die when servers are deactivated.” In the experience of ESA’s members, however, the relationship works in the reverse—after a game has been in the market for some time, there is a precipitous drop in the number of users in any given online community. Only after the online community has effectively dried up, do video game publishers decide to take the game’s video game servers offline. Because this purported adverse effect would not be remedied even if the exemption request was granted, it is not sufficient to demonstrate that any adverse effect is “substantial.”<sup>75</sup>

Because the proponents have not demonstrated that any adverse effects are “substantial”<sup>76</sup> and, at most, have identified only *de minimis* problems, isolated and anecdotal examples, and mere inconveniences, the exemption request must be denied.<sup>77</sup>

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<sup>72</sup> *Id.* (emphasis added).

<sup>73</sup> *Id.* at 10-11.

<sup>74</sup> 2012 Final Rule, at 65276.

<sup>75</sup> EFF’s comments refer to server connection issues with Assassin’s Creed II, Splinter Cell: Conviction, and Settlers 7. Significantly, however, these issues arose while the games’ authentication and “matchmaking” servers were still being supported. Consequently, these examples are entirely unrelated to EFF’s request, which applies only to games for which the authentication and matchmaking servers are not supported for at least six months.

<sup>76</sup> Committee on the Judiciary, House of Representatives, 105th Cong., Section-By-Section Analysis of H.R. 2281 As Passed By the United States House of Representatives on August 3, 1998, at 6 (Comm. Print 1998) [hereafter, “House Manager’s Report”].

<sup>77</sup> Exemption to Prohibition on Circumvention of Copyright Protection Systems for Access Control Technologies, *Final Rule*, 75 Fed. Reg. 43825, 43826 (July 27, 2010) (“De minimis problems, isolated harm or mere inconveniences are insufficient to provide the necessary showing.”).

## **Item 7. Statutory Factors**

The statute directs the Librarian to consider these factors as to “copyrighted works” generally, including all of the works protected by the access controls at issue.<sup>78</sup> The computer programs that consist of the video game access controls are not the only copyrighted works protected by the access controls at issue in this proceeding; rather, in some cases the video game access controls that would be circumvented also can protect access to a wide variety of copyrighted video game content that is distributed through the video game console. Accordingly, the Librarian also must consider whether the prohibition on circumvention has any positive impacts on the full range of copyrighted works that are protected by the access controls.

### **A. Availability For Use Of Copyrighted Works.**

Congress has directed the Librarian, in assessing the impact of access controls, to “consider the positive as well as the adverse effects of these technologies on the availability of copyrighted materials.”<sup>79</sup> As discussed above, playing in single-player mode of protected games does not generally end when server support ceases, and there are ample alternatives to enable multi-player mode for video games without circumvention. In contrast, however, the video game access controls have a tremendous positive impact on the availability of copyrighted materials through personal computers, video game consoles, smartphones, and mobile devices. These access controls clearly are increasing, not restricting, the availability of these copyrighted works to the public. This positive impact far outweighs any minimal adverse impact.

To provide one specific example from the video game console environment, copyright owners and manufacturers of video game consoles use server-based access controls and console-based access controls in tandem to make copyrighted content available in digital format through video game consoles and to secure this content against the risk of piracy. This process is similar to the content scramble systems or CSS used by the motion picture industry and DVD player manufacturers to protect DVD content from piracy. The video game access controls likewise include authentication checks to enable platform providers to develop new means of distributing a wide variety of copyrighted video game content to users.

The availability of these copyrighted works promotes the goals of the DMCA, which envisioned that platform providers could deploy access controls “not only to prevent piracy and other economically harmful unauthorized uses of copyrighted materials, but also to support new ways of disseminating copyrighted materials to users, and to safeguard the availability of legitimate uses of those materials by individuals.”<sup>80</sup>

In contrast, granting the proposed exemption could disrupt the incentive of platform providers and copyright holders to continue making this copyrighted content

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<sup>78</sup> See 17 U.S.C. § 1201(a)(1)(C).

<sup>79</sup> House Manager’s Report, at 6.

<sup>80</sup> *Id.*

available to the public through video game consoles and other devices and platforms. Copyright owners of highly-expressive, valuable video game content may choose to distribute only lower cost content, terminate innovative network services, digital add-ons, and multi-player functionality, or in some cases, not agree to permit distribution of their content at all if they are not satisfied that their content will remain secure from digital piracy on these devices and platforms.

With respect to console-based games, in particular, granting the exemption would strike at the heart of this concern because hacking video game access controls requires allowing users to hack video game console controls as well. In turn, this enables piracy.<sup>81</sup> Significantly, *one hundred percent of video game consoles that play pirated games are hacked*—video game piracy requires a hacked video game console, and an unhacked video game console cannot play pirated games. Because granting the proposed exemption would enable—and indeed encourage—the play of pirated games and the unlawful reproduction and distribution of infringing content, it would jeopardize the availability of these copyrighted works on video game consoles.

**B. Availability For Use Of Works For Nonprofit Archival, Preservation, And Educational Purposes.**

Circumvention is not necessary for nonprofit archival, preservation, and educational uses of video games. As explained above, there are ample alternatives, such as using local connections for multiplayer gameplay or non-play alternatives for archival and preservation. Moreover, proponents failed to provide a single example where a specific video game was unavailable for use for nonprofit archival, preservation, and educational due to Section 1201(a)(1). Accordingly, proponents have failed to establish that these are the kind of “exceptional” circumstances that justify granting an exemption.<sup>82</sup>

**C. The Impact That The Prohibition On The Circumvention Of Technological Measures Applied To Copyrighted Works Has On Criticism, Comment, News Reporting, Teaching, Scholarship, Or Research.**

Proponents do not, and indeed cannot, demonstrate that the video game access controls have any impact on the public’s ability to criticize, comment or report on, teach, or engage in scholarship or research *of either the copyrighted video games or device firmware* that is protected by access controls. Consequently, this factor does not support granting its proposed exemption, since users who hack their consoles have no interest in using the copyrighted firmware for such purposes.

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<sup>81</sup> See Exhibit A (demonstrating the inextricable connection between hacking and piracy).

<sup>82</sup> 2000 Final Rule, at 64563. Indeed, if anything, this factor weighs against granting an exemption. Sony currently provides educational institutions with software development kits that they may use for educational purposes. Statement 3.

As explained above, proponents also have failed to provide any specific evidence that the prohibition on the circumvention of video game access controls has had a substantial adverse impact on criticism, comment, news reporting, teaching, scholarship, or research of any particular game.

**D. *The Effect Of Circumvention Of Technological Measures On The Market For Or Value Of Copyrighted Works.***

As discussed in detail above, granting the proposed exemption would, as a factual matter, allow the widespread play of pirated games on video game consoles and other devices. By encouraging and enabling such piracy, the exemption would stimulate new sources of supply as well as more interest in pirated content. When free, pirated copies are easier to acquire, distribute, and play, the market for and value of the lawful copyrighted works they infringe is diminished.

Consequently, if the proposed exemption is granted, the net result would be fewer copyrighted works created and less access to these works for the public—the opposite result that Congress intended in enacting Section 1201. This evidence alone demonstrates that allowing the exemption would have a substantial and detrimental effect on the market for and value of incredibly popular copyrighted works on new platforms.

**E. *Other Appropriate Factors.***

A significant and practical consequence of granting the proposed exemption, which should not be ignored, is that users would wrongly believe that they can traffic in circumvention tools to hack their video games or engage in wholesale reproduction and distribution of the video game software. The takeaway would be that hacking—an activity closely associated with piracy in the minds of the marketplace—is lawful. Invariably, the market for distribution of hacking tools would grow to serve the market for this “lawful” use. Should litigation be necessary to thwart the unlawful distribution of those tools, the burdens and costs of such litigation would be significant, and would greatly diminish the value of copyrighted works.

Finally, while ESA’s members use access controls primarily to prevent piracy, they have a number of additional benefits as well—so granting the proposed exemption request would have a number of other adverse impacts. For example, users who hack the video game’s access controls also would be unable to receive serial copyrighted content, which requires verification of the user’s software before delivery, and these users could experience greater security risks and software bugs. Each of these other factors would make the systems less attractive and therefore would diminish the creation and distribution of copyrighted works through video game consoles and other devices and platforms.

More generally, and as noted above, copyright owners would lose their ability to manage and control their brands. Video game publishers invest heavily in their branded products and online services, and they want consumers to love the game experiences

they offer and associate their brands with that great game experience. The proliferation of unauthorized third-party servers threatens to diminish the brands that game publishers have worked hard to create by potentially offering a lower-quality experience. Major video game publishers frequently monitor their networks to ensure a positive experience for all users – ensuring their online services are fast, bug-free, and safe for their gaming community to enjoy. Safeguards are often built-in to preclude cheating and other unwanted behavior. For example, video game companies invest significant resources to help protect the safety and privacy of gamers, including children who play video games. These safeguards are lost when users can hack their video games.

Because all these considerations further counsel against granting the exemption, ESA requests that the Register recommend denial of the proposed exemption.

**Item 8. Documentary Evidence**

Please see the attached statements and exhibits.

## Statement 1

Statement of Dylan Rhoads

Senior Software Engineer – Anti-Piracy Support Nintendo of America Inc.

March 27, 2014

1. I am presently employed as a Senior Software Engineer – Anti-Piracy Support at Nintendo of America Inc. (“Nintendo”). I have held this position for over 8 years. Prior to that, I worked for 5 years at Square Enix as an Assistant Producer and programmer for its online and e-commerce systems. I have a Bachelor of Science in Computer Science from the College of William and Mary and an M.B.A. in Technology Management from the University of Washington’s Foster School of Business, and have worked in the IT and video game industry for over 16 years.

2. The *Wii* home console by Nintendo is a distribution platform for a wide range of video games, movies, television programming, and other copyrighted works.

3. To hack, or “jailbreak,” the *Wii* home console—that is, to modify the console’s firmware in order to allow the console to run unauthenticated software—the process described below is followed:

a. Utilize an exploit to bypass the encryption that prevents access to the *Wii* video game console’s firmware.

b. Download and install a modified version of the console firmware into the memory of the *Wii* video game console.

c. Through the use of this exploit and installed modified firmware, unauthorized software, such as pirated games, which cannot normally be executed on the *Wii* video game console due to the *Wii*’s technological protection measures (“TPMs”), can now be executed on the *Wii* video game console.

4. The TPMs employed on the *Wii* home console and *Wii* video game discs prevent the ripping and unlawful distribution of protected content by utilizing encrypted firmware and a signature checking mechanism. Each time a disc is put into a *Wii* video game console, the console performs a “signature check” that looks for the *Wii* copy protection mechanism contained in authentic *Wii* video game discs, before any game data is loaded from the inserted disc into the system memory of the *Wii* video game console. This “signature check” function is performed by encrypted firmware in a *Wii* video game console. This mechanism also operates to prevent play of pirated video game software from other inputs such as the SD card reader of the *Wii* video game console or connected external USB drives.

5. This “signature check” also serves to prevent the *Wii* console from playing Nintendo games whose firmware has been altered in any way.

6. In order to establish communication between a *Wii* game and a server not



administrated by Nintendo, a user would have to re-program the firmware on the game, which would be directed to point to the alternate server rather than Nintendo's network. Without additional steps, this alteration would cause the *Wii* console's "signature check" to fail, and the re-programmed game would not function.

7. A re-programmed *Wii* game can thus only be played on a console that has been hacked to eliminate the "signature check." To my knowledge, all of the existing methods for hacking the *Wii* home console to eliminate the "signature check" also allow for the playback of pirated video games and other content. The circumvention of the TPMs on the *Wii* video game console allow the use of unauthorized software applications, including those which allow playback of pirated *Wii* video games.

8. Accordingly, connection to a third-party "authentication" or "match-making" server for a Nintendo game cannot be accomplished without hacking the *Wii* in the manner described above. The steps required to hack a *Wii* home console for purposes of establishing a connection to a third-party server not administrated by Nintendo are virtually equivalent to the steps an individual must take to install and play pirated content. That is, once the TPMs on the *Wii* home console are circumvented via modification of the console, any other content, including pirated content, can be played on the console.

9. To my knowledge, virtually all of the hacking packages that are available today come bundled with applications that permit users to play pirated content. For example, the HackMii installer package is commonly used to hack the *Wii* home console. During the process of hacking the console, it installs a "Homebrew" channel on the *Wii*'s home menu, which includes applications that enable the console to play pirated content.

10. Hacking also allows users to transform a *Wii* home console into an FTP server, which allows users to then transfer data files containing unauthorized copies of copyrighted content over the Internet to and from the *Wii* home console.

## **Statement 2**

Statement of Peter Waxman

Principal PM Manager  
OSG Enterprise & Security  
Microsoft Corporation

March 27, 2015

1. I am presently employed as Principal PM Manager, OSG Enterprise & Security at Microsoft Corporation ("Microsoft"). I have worked in Xbox security at Microsoft since 2010.
2. While at Microsoft, I have worked extensively with technological protection measures ("TPMs"), including TPMs used on video games and in video game consoles such as Xbox 360 and Xbox One ("Xbox Consoles").
3. Among other activities, Microsoft develops, publishes, markets, and sells Xbox Consoles, video games, the online gaming and digital media service Xbox LIVE, and general purpose personal computing devices, tablets, and smartphones.
4. Microsoft employs TPMs in connection with its video games and Xbox Consoles.
5. To make a game running on Xbox 360 or Xbox One leverage multiplayer matchmaking services from an unofficial, third-party service, at a minimum, one would have to modify the game's code (by circumventing TPMs embedded in the game copy) so that the game's instructions would route multiplayer communications to the third party server. The Xbox 360 or Xbox One console security ensures that only the original authentic game code is allowed to run, so in order to run the modified game code, the console security itself would have to be circumvented (i.e., "jail-broken"). And even then, it may be necessary to gain unauthorized access to and modify the Xbox LIVE service before the console will communicate with an unauthorized third-party matchmaking service.
6. In order to engage in Xbox LIVE multiplayer features of any Xbox 360 or Xbox One games, a user must have a subscription to Xbox LIVE Gold, which typically costs \$59.99 per year. Purchasing or installing a game does not, by itself, entitle a player to use Xbox LIVE Gold. Typically a player separately purchases an Xbox LIVE Gold subscription, though sometimes Xbox LIVE Gold is provided free for a limited time as a promotion. The Xbox LIVE online network services vary from one game to the next, but may include, for example, not only multiplayer gameplay but also downloadable content, leaderboards, badges, chat, and other social features.
7. Microsoft generally does not require any server-based authentication checks for single-player mode. Unless the game publisher has designed the game otherwise, video games for the Xbox Consoles may be played offline. This is true whether the video

game is stored on a physical disk or whether it has been downloaded over the Internet and stored on the user's Video Game Console.

8. Xbox 360 users, whether or not they have an Xbox LIVE Gold account, may play in multiplayer mode using local area network ("LAN")-style connections through the Xbox 360's system link functionality if the game developer has enabled that functionality in their game. System link is a form of multiplayer gaming that lets a user connect two Xbox consoles using a cable. Users also may connect up to sixteen Xbox 360 consoles through a network.

### **Statement 3**

Statement of Anthony Justman

Senior Director, Legal & Business Affairs  
Sony Computer Entertainment America LLC

27 March 2015

1. I am presently employed as Senior Director of Legal & Business Affairs at Sony Computer Entertainment America LLC ("SCEA"). I have worked at SCEA for approximately eight years. In connection with my job responsibilities I have worked closely with engineering and network teams within the Sony Computer Entertainment group in North America and in Japan on matters related to console system software functionalities, online services, network platform functionalities, digital rights management schemes for the PlayStation 3 and PlayStation 4 systems, PlayStation Network authentication and console-game authentication mechanisms, and therefore have a basis of knowledge of the matters set forth in this statement.
2. SCEA sells the PlayStation 3 and PlayStation 4 computer entertainment systems in the United States. These systems are developed and manufactured by SCEA's affiliated company and former parent, Sony Computer Entertainment Inc. in Japan.
3. In order for an individual to circumvent any access controls to online or multiplayer functionality for any particular PlayStation-platform video game, that individual would need to first circumvent the access controls that authenticate the video game with the applicable console system. This means that for a user to circumvent online access controls for an "abandoned" game (as defined in the exemption request), the individual would have to also circumvent the same access controls that prevent unauthorized use of that game, commonly referred to as piracy.
4. SCEA and its affiliates use a variety of server-based access controls to offer different online network services for PlayStation 4 format video games. To access many of these online network services, the individual must sign up and pay for a subscription to PlayStation Plus. A PlayStation Plus account (and its associated online network services) are not included with the purchase of a video game. The online network services requiring PlayStation Plus for PlayStation 4 systems vary from game to game, but may include elements like multiplayer gameplay and certain other social features.
5. A number of alternatives to circumvention currently exist to allow nonprofit educational use of video games. For example, SCEA provides educational institutions with software development kits for several of its platforms that these institutions may use for educational purposes.

# EXHIBIT A



### WHAT EXACTLY PALYSTATION JAILBREAK IS? IS PLAYSTATION JAILBREAK ILLEGAL?

PlayStation Jailbreak, often referred to as ps3 jailbreak, was the first Universal Serial Bus chipset that allows unauthorized code execution, such as homebrew, on the PlayStation 3. It bypasses a system security check using a memory exploit which occurs with USB devices that allows the execution of unsigned code. One of the most popular pieces of homebrew software used with the device is Backup Manager, which allows users to copy game titles from the optical media to the hard drive of the PlayStation 3. Backup Manager can also be used to run homebrew applications that are created to run in the console's native mode.

By Jailbreaking, you can also play PlayStation 2 games and install Linux. Backup Manager can also be used to run homebrew applications that are created to run in native mode. There are many similar devices to the ps3 jailbreak, such as the open sourced versions (e.g. PSgroove, PSfreedom), although these only work on PlayStation 3 system software v3.41 or lower as PlayStation's System Software v3.42 patches the mod chip exploit on the console.

### PLAYSTATION 3 JAILBREAK

The PS3 Jailbreak, as the word itself suggests, means that some brilliant hackers are able to break the firmware for the ps3 game console. It means, they have figured out how the whole system works and how to run their own custom code or home brews on the ps3. Jailbreaking ps3 is also unanimous to the fact that you can now play pirated games on your console. Jailbreaking ps3 involves inserting a PS3 Modchip to your hardware which is a plug and play device that decodes your ps3 and lets you play your home brew and pirated games.

### BENEFITS OF PLAYSTATION JAILBREAK:

The benefits of jailbreaking a PlayStation are endless. Downloading and installing the PlayStation system software update will

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#### Archives



**Leon** December 16, 2014 at 6:08 pm  
Can we burn the ISO to a BD and play it on CFW yet?

Reply



**MBA** December 16, 2014 at 7:10 pm  
Could someone tell me an advantage of using ISO over folder format? I heard about compatibility, but I haven't been having any issues with folder format, so I don't see it as a significant advantage.

Folder Format at least allows you to change files and stuff, like UNDUB games, but I can't see any reason for ISO besides not needing to configure the NTFS drive in **Multiman** (Which for me right now is pretty important, since I bought a 3TB HDD and couldn't get Multiman to recognize it like I did with my previous 1TB HDD (Both in NTFS), so I have to resort to wired FTP transfer now)

Reply



**ErnieBall** December 16, 2014 at 8:53 pm  
i guess transferring a single ISO file via FTP is faster than a folder that contains many files. Not sure if it's a big difference though.  
Other than that and the claimed compatibility improvement i can't think of any advantages.

Reply



**Pholly** December 16, 2014 at 7:16 pm  
Wololo is against piracy but here's how to do it. Quit being hypocrites.

Reply



**Yifan Lu** December 16, 2014 at 9:06 pm  
I know right? It is curious that the "official" policy is no discussion of piracy or piracy sites, but then every week there's a front page article about "how to use a flashcart" "how to play ISOs" etc. Take any random viewer and tell them to read the front page and ask them "does wololo.net endorse piracy?" and they would say "of course."

Reply



**ErnieBall** December 16, 2014 at 11:26 pm  
All this can be used if you own the original games, but want them to be on your hdd/memory card with easy access. On the other hand i guess there only small percentage of people who use it this way.

Reply

PS3! (by mileleku)

+ Reply to Thread

### Nintendo 3DS CFW (Custom Firmware) for v4.5 by Govanify, DevMenu

Thread Tools

11-01-2014 #1

PS4 News

MODERATOR



Join Date: Apr 2005

Posts: 29,336

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### Nintendo 3DS CFW (Custom Firmware) for v4.5 by Govanify, DevMenu

Following the leak of the Nintendo 3DS v7.x Keys, today Nintendo 3DS homebrew developer **Govanify** released the first soft-mod for the **Nintendo 3DS** portable gaming console, and the Nintendo 3DS CFW (Custom Firmware) runs on v4.5 without the need for any DRM-infected for-profit flashcarts with a DevMenu installation video, tutorial and further details below!

Download: [3DS\\_CFW.7z](#) / [ramtracer-ctrclient GIT](#) / [devMenu.idb](#) / [St4rkDev-scfw-4f15c0947073.zip](#) / [st4rk-1.png](#) / [st4rk-2.png](#) / [SSBXORPAD19F.bin](#) / [NCCH\\_Decryptor\\_v3\\_3DS\\_INTERNAL-VOID.rar](#) / [NCCH\\_Decryptor\\_v3 GIT](#) / [smash-stuff GIT](#) / [3DS Archive](#) / [Wii U Archive](#) / [3DS\\_To\\_CIA\\_Converter\\_v5.rar](#) / [3DS\\_To\\_CIA\\_Converter\\_v8.rar](#) / [3DS\\_To\\_CIA\\_Converter\\_v10.rar](#) / [3DS\\_To\\_CIA\\_Converter\\_v11.rar](#) / [3DS\\_To\\_CIA\\_Converter\\_v12.rar](#) / [3DS\\_To\\_CIA\\_Converter\\_v14.rar](#) / [3DS\\_To\\_CIA\\_Converter\\_v15.rar](#) / [3DS\\_To\\_CIA\\_Converter\\_v17.rar](#) / [3DS\\_To\\_CIA\\_Converter\\_v18.rar](#) / [3DS\\_To\\_CIA\\_Converter\\_v19.rar](#) / [3DS\\_To\\_CIA\\_Converter\\_v20.rar](#) / [3DS\\_To\\_CIA\\_Converter\\_v21.rar](#) / [3DS\\_To\\_CIA\\_Converter\\_v22.rar](#) / [3DS\\_To\\_CIA\\_Converter\\_v23.rar](#) / [3DS\\_To\\_CIA\\_Converter\\_v24.rar](#) / [3DS\\_To\\_CIA\\_Converter\\_v25.rar](#) / [3DS\\_To\\_CIA\\_Converter\\_v26.rar](#) / [3DS\\_To\\_CIA\\_Converter\\_v27.rar](#) / [3DS\\_To\\_CIA\\_Converter\\_v28.rar](#) / [3DS\\_To\\_CIA\\_Converter\\_v29.rar](#) / [3DS To CIA Converter v3.2.rar](#) / [3DS To CIA Converter v3.3.rar](#) / [3DS To CIA Converter v3.4.rar](#) / [3DS To CIA Converter v3.5.rar](#) / [3DS To CIA Converter v3.6.rar](#) / [3DS To CIA Converter v3.6.rar \(Bug Fix\)](#) / [3DS\\_To\\_CIA\\_Converter\\_v3.6.rar \(More Bugs Fixed\)](#) / [3DS To CIA Converter v3.6.rar \(Latest\)](#) / [3DS To CIA Converter v3.7.rar](#) / [3DS To CIA Converter v3.7.rar \(Latest\)](#) / [3DS To CIA Converter v3.8.rar](#) / [3DS To CIA Converter v3.8.rar \(Latest\)](#) / [3DS To CIA Converter v3.9.rar](#) / [3DS To CIA Converter v3.9.rar \(Latest\)](#) / [3DS To CIA Converter v4.0.rar](#) / [3DS To CIA Converter v4.0.rar \(Latest\)](#) / [customfile.rar](#) / [slot0x25KeyX Generator.rar](#) / [slot0x25KeyX Generator.rar \(Update\)](#) / [slot0x25KeyX Generator v1.1.rar](#) / [slot0x25KeyX Generator v1.2.rar](#) by [RazorX2014](#) / [3ds\\_to\\_cia.rar](#) by [liomajor](#) / [Decrypt9-master.rar](#) / [GIT](#) by [archshift](#)

💡 If you are planning to grab a Nintendo 3DS, be sure the manufacturer date is 2012 or before and the serial number begins with SW10 SW11 and SW12 for 4.X Firmware consoles.

#### Related Pages:

- [govanify.x10host.com](#)
- [govanify.x10host.com/3DS\\_0x25\\_KEYX.html](#)
- [govanify.x10host.com/3DS\\_CFW.html](#)
- [govanify.x10host.com/3DS\\_DRAMA.html](#)

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To quote: So there you go, enjoy a 3DS CFW!

**Tutorial:**

- 1) Backup your own 4.5 NAND (not 6.x, 7.x or anything, 4.5)
- 2) Replace your emuNAND or anything at the sector one of your SD card by your NAND(!\ It needs to not be into the FAT32 partition of the SD card(!\)
- 3) Launch the CFW by the normal way(by putting the whole folder 3DS\_STUFF on your SD card), and keep L pressed. It willn't boot everytime so you'll surely have to retry several time! (The ROP tool installed must be the Launcher homebrew 4.x one!)
- 4) You should've rebooted into the home menu. If you didn't, then go back to step 3.
- 5) Get the IP Adress of your 3ds (or set it in the settings), replace it by the one to replace in the file run.bat (use notepad for this) and execute run.bat
- 6) If the message "failed to connect" appear, retry. If it still not work after several times, then you should think about relaunching the CFW when pressing L.
- 7) If a list of messages like "Sending CIA Install command..." appear, then wait for them to stop and go to step 8.
- 8) Turn off your 3ds, then turn it on. Go launch the CFW, but this time, no need to press L button.
- 9) Once you're back on the home menu, the CIA you wished to install should appear as a gift! If it don't, then retry several times to launch the CFW and launch the run.bat command.

If after several times it still didn't worked, you should consider to install some apps on your sd then reinstall the 4.5 NAND.

**Quick Overview:**

- This is a 3ds CFW. It will patch the signature checks, and some other parts of the firmware. It have the ability to run a CIA server and to use it for install the CIA wanted.
- This CFW works only on 4.5 because, firstly, the keyX isn't implemented, the mem allocations of the Home Menu, for example, changed between firmwares, etc...
- This CFW is launching something that can be compared to Gateway's emuNAND system (I'll call it redNAND from now), then patching parts of the firmware for let it launch unsigned code.
- This allows a lot of things, such as piracy (you can convert CCI (3ds roms) to CIA (Home menu apps) using 3dsguy's makerom software.) and home menu homebrews. Tho this would need mods in the CFW for allows so.

# 3DS CFW LEAKED FOR 4.5 FIRMWARE

reprep | November 1, 2014 | 3DS, All post | 1 Comment

Tuesday 24, March 2015  
16:23 PM



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Do you remember, last week the 3DS 7.x KeyX were released by Govanify. With it, came the possible to decrypt games which need 7.x keys.

Now even better news arrived :)Govanify has released or leaked the yellows8's cfw? It lets you install .CIA files to your 3DS and patches the firmware to run unsigned code.

Easily found 3DS roms can be converted to .CIA files by 3dsguy's makerom software. So this enables piracy and homebrew at the same time. We all know that we'll see more piracy out of this, then homebrew 😊 but we all need to look beyond that. Lets just hope, it's used for the better and it would be nice to we see some real cool customs themes and homebrew for the 3DS.

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Just got a Jailbroken ps3: cfw rogero 4.55, and i want to play online.

Results 1 to 5 of 5

Thread: Just got a Jailbroken ps3: cfw rogero 4.55, and i want to play online.

Like 9.6k Follow @NextGenUpdate 4,118 followers +1 567

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Profile: Itachifan109 Keeper, Join Date Feb 2014, Posts 12, Membership Standard, Reputation: 50

Just got a Jailbroken ps3: cfw rogero 4.55, and i want to play online. 12-05-2014 07:57 PM #1

DOWNLOAD OS: Windows 8/7/Vista/XP Language: English License: Free

I'm aware you can get ban and such.... but i mostly want to mod trophies of incomplete games i have.(Lazy) I don't know much about cfw and what to do. When i got it, it came with Psn Patch 1.06, spoof 4.55, and mutiMan.

Quote

Microsoft Azure Push notifications. AdChoices Microsoft

okay, are you able to online on the firmware you are on? and i have pm'd you my skype. add me and i'll help you with whatever u need help me 😊



Quote

	<b>Itachifan109</b> Keeper	Join Date Feb 2014	Posts 12	Membership Standard	Reputation: 50 

12-05-2014 10:29 PM #3

I was on ofw 3.55, then i updated with cfw rogero 4.55. ( When i mean "i", i mean the person i got it from)... The previous owner said he has not been online on this ps3.

Quote

	<b>Get Frosty'd</b> Trophy Hacker Extraordinaire	Join Date Nov 2013	Posts 3,370	Membership Elite	<b>ELITE MEMBER</b>	Reputation: 15044 

12-06-2014 05:41 AM #4

Originally Posted by **Itachifan109**

*I was on ofw 3.55, then i updated with cfw rogero 4.55. ( When i mean "i", i mean the person i got it from)... The previous owner said he has not been online on this ps3.*

You'll need to update to 4.66 cfw, since you're on CEX. Either that, or use a 4.66 spoofer. One thing every modder/hacker should use is PSNpatch. Sounds like the previous owner was smart then. Just after you spoof or update, run PSNpatch and press triangle. Some versions use different layouts, but just find the one that says "Disable CFW syscalls" or similar. Now then, now that you have a cfw, you'll most likely be looking to pirate games. Now, I am not going to tell you how to do so, or give you any links to pirated games, since warez is expressly prohibited, but I will say this: Some games will tell you to update to 4.60+ firmware, even with the spoofer. Don't! You'll become unjailbroken and have to flash/downgrade your PS3. What you should do is use your PSNpatch and press L2, then start, and start again. It will patch all games to 4.46 fw. Uhhh...I doubt you're going to understand everything I'm saying, but just remember, I was a nub too, at one time. And I quickly learned the ropes, through the help of SaltCracka and OldSchool, and my own ingenuity.

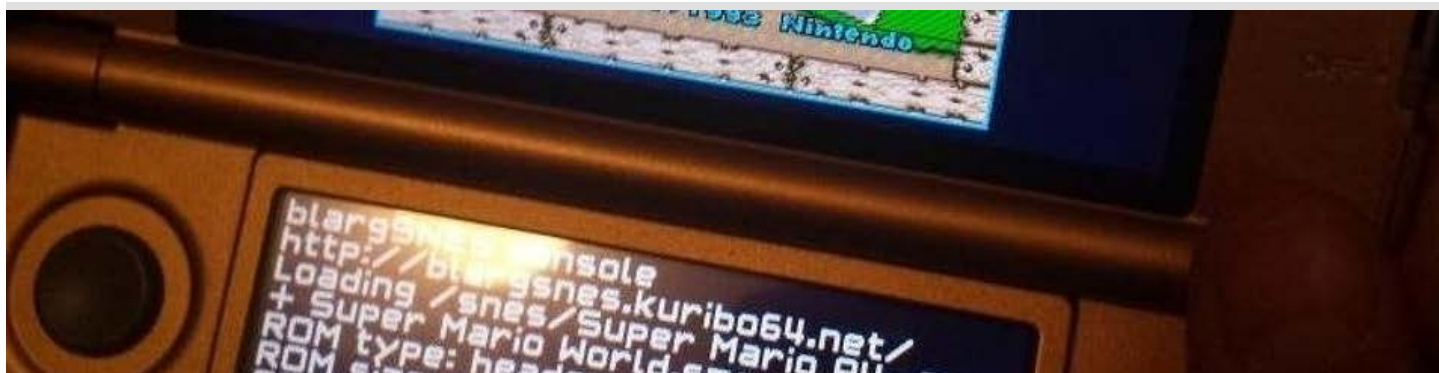
Now, with modding trophies, that's apparently my specialty these days. There's two easy ways to mod trophies, really. One depends on your account being eligible for the process, the other requires you to actually own the games. And before you ask, yes, my level 206 is legit \*wink wink\*, and no there is not a site to download trophies. Believe me, I was opting to make one, but feeding leeches is never a good thing.

Last edited by Get Frosty'd; 12-06-2014 at 05:45 AM.

Home Articles 3DS

# "I don't want to be a part of piracy"

Meet the student who just made 3DS homebrew easy - and set Nintendo on high alert.



**And Your Retargeting Strategy Is?**

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By Tom Phillips Published 21/11/2014

This week, 22-year-old Jordan Rabet sat down at his keyboard and told his many Twitter followers the good news: his year-long project to crack the 3DS' security was finally at an end.

He had found a backdoor into Nintendo's handheld - a way for anyone to load unofficial "homebrew" games, normally outlawed by companies due to fears such methods enable piracy.

What makes Rabet's exploit, which he's called NINJHAX (you'll see why in a second), special is its simplicity. It is the first to work across all Nintendo 3DS types and does not require any fiddly programming skills.

And while he wasn't yet ready to explain how his method worked, he was able to reveal what 3DS owners would need to access his new-found exploit: a copy of Cubic Ninja, a long-forgotten Ubisoft platformer that was now out of print.

### Games featured in this article

Cubic Ninja

3DS


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 **smea**  
@smealum Follow

ok so exploit game is cubic ninja, eshop or retail is fine. however eshop version is JPN only !

8:03 PM - 17 Nov 2014

100 RETWEETS 120 FAVORITES

Within hours, several strange things happened.

"We have five of these games for sale," read the \$50 Amazon listing. "This price is for one item, Cubic Ninja, brand new factory sealed. Needed for homebrew."

"This item is hot," a \$99 listing for the same game explains. "Get it while it lasts. :)"

"This game is now a desirable game and supposedly there were only 20,000 copies made," read a third, priced at just \$69.99 plus shipping. "You can hack your 3ds with it."

Not only did demand for Cubic Ninja skyrocket, causing it to sell out at the few places that still had copies in bargain bins, but its digital version disappeared as well.



Cubic Ninja had only been available to download via the 3DS eShop in Japan. Within four hours of Rabet's tweet it was gone.

"I expected attention but I guess not that much," Rabet confesses in an interview with Eurogamer. "The way the game has sold out, the way the price has raised so much, I didn't expect that to happen so quickly. It's insane."

One thing he seems flattered by is how quickly Nintendo noticed his tweet - and how the company seemed to have just believed it.

"It's interesting because I didn't provide any proof that it really was going to be Cubic Ninja," he explains, as if still trying to puzzle out the fact. "I'm wondering if they would have done that with any game..."

Announcing his exploit instead works using the newly-released blockbuster Super Smash Bros. for 3DS "would have been an interesting experiment", he laughs.

But the fact Nintendo took his announcement seriously shouldn't come as a surprise. Rabet, known online as Smealum, is well-known within the homebrew scene, having made a name for himself for uncovering software exploits in Nintendo handhelds and then developing homebrew games to play on them.

"Basically, I love video games and have done since I was a little kid," he says. "I've always

wanted to make my own games and when I was 11 or 12 I started making my own. I had a Game Boy and Game Boy Advance, so got a flash card and a dev kit and started making games from that. And then I started making games for DS, too.

"I made a Portal adaptation which I thought was pretty cool," he continues, referencing Aperture Science DS, a 3D adaptation of Valve's puzzle adventure he built from scratch, shrunken down perfectly for Nintendo's dual-screened device.



His next project was DSCraft, an unofficial port of Markus "Notch" Persson's smash-hit sandbox game Minecraft. It was downloaded more than half a million times.

"I also made a few original games but they weren't very successful," he concedes, laughing again. "I wonder why! Then the 3DS came out and no-one was making homebrew for it yet, so I decided to try and make it happen as some way to give back to the community."

Rabet, born in France but now living in the US to study computer science at the prestigious Stanford University, never pursued software development as a career. His success creating homebrew games, however, begs the question: why not?

"I don't know..." he says, when asked if he'd ever consider it. "Maybe." His work poking about inside console code and cobbling together games has always been more of a hobby, while his current "3DS stuff" is just a side-project in what sounds like an incredibly busy schedule.

By day Rabet works on his Master's degree, specialising in artificial intelligence - "which is completely different", he explains. "The Master's is not a lot of hours of class - probably around nine - but then you're supposed to do a bunch of homework. It depends on each assignment but it could be five hours a week, or 10 or 25."

On the days he's not in class or doing project work he has a part-time job at a California-based start-up, where he works to develop self-driving technology that will be built into cars.

"The days I'm at work, that's eight or nine hours of that, then an hour on the train back, then I work on 3DS stuff until I go to bed, probably about five hours later. And then I sleep after that. Doing all those things sometimes feels impossible, which is why it's going to be really nice to release this so I can take a break."

A break Rabet will fill by completing another ongoing hobby project: 3DSCraft, a port of Minecraft for 3DS.

"The 3DS Minecraft thing is interesting. It uses the console's GPU to render stuff, which is what we should be doing, but we don't really know how it works that well," he says, referencing himself and the team of

artists and coders he's also roped in. "So while I'm working on Minecraft I'm also writing a driver for the GPU. That's the main project after this: making a stable and complete driver for the 3DS GPU."



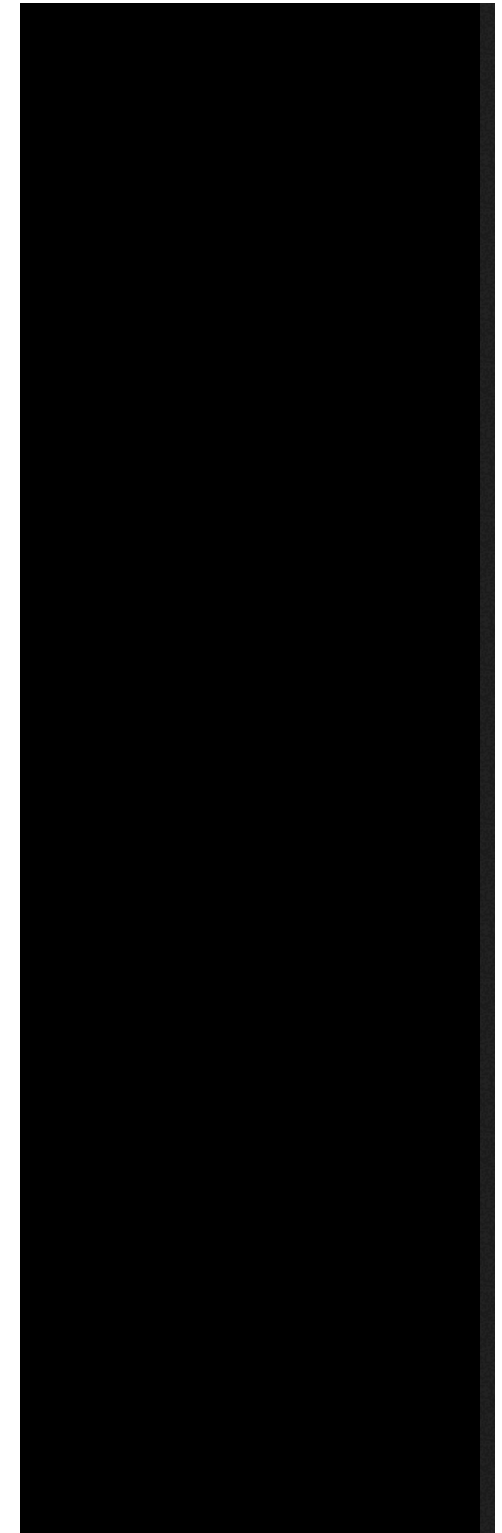
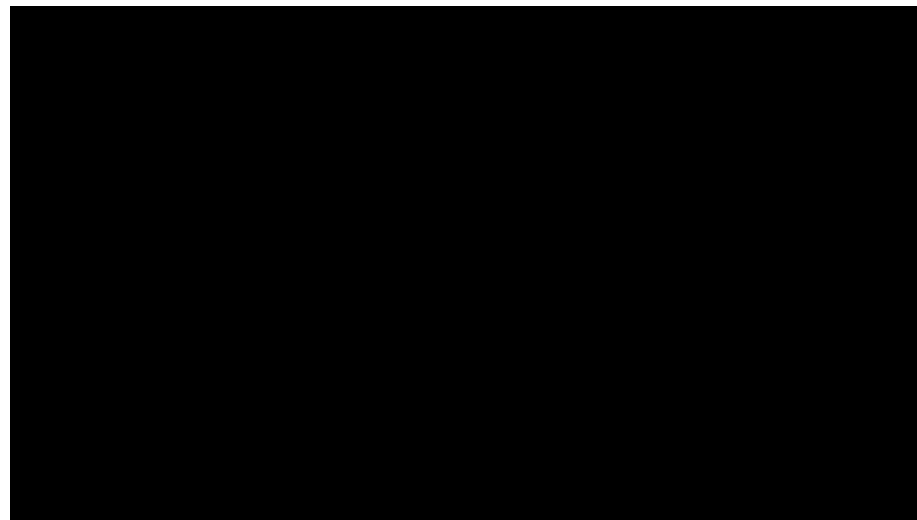
3DSCraft is currently one of the main attractions for Rabet's new homebrew loader, and perhaps the only legal one, which brings us onto the elephant in the room.

Playing illegally-copied games on 3DS is, unfortunately for Nintendo, not difficult. Piracy-enabling "flashcards" are now outlawed in many countries but remain easy to find online. Buy one of those and you can play any pirated 3DS game. But this wasn't what Rabet wanted to enable - and NINJHAX currently doesn't.

"It's very dangerous," he says. "If you release an exploit that's too powerful you might let people do whatever they want with their console - which can be great - but you also have the possibility of piracy... which isn't so great."

"I don't care if people pirate in their private lives, but I don't want to be a part of it," he continues. "I don't want to release something others can use to steal someone else's intellectual property. That's not what I want. I wouldn't release something that could be used for piracy... it's just not something I want to do."

"Right now I'm hoping the loader attracts more developers and people start building more homebrew games. I'm working on the 3DS version of Minecraft and a bunch of people are working on emulators. I'd really like to see how far we can push the 3DS."





Furthering independent homebrew development is a noble cause, but it's easy to see why companies such as Nintendo would be alarmed. For many, homebrew remains synonymous with piracy, and even methods such as Rabet's open up a Pandora's box packed with problems.

"Nintendo continuously monitors all threats to its products' security," a spokesperson for the company told Eurogamer this week. "We will take the necessary technical and legal steps to prevent the facilitation of piracy and to protect intellectual property rights."

Rabet highlights some homebrew games that push hardware further than the games Nintendo actually does allow on its platform. He suggests "commercial" developers work on a game up to a point but never fully investigate how much better it could be because studios, inevitably, hit project deadlines and budget caps. And anyway, he says, a handheld game would likely sell the same no matter how shiny a gun was.

"But right now basically it's that Minecraft port and a bunch of emulators," he says, returning to the fledgling 3DS homebrew scene. "There's a SNES emulator that works really well on homebrew games and commercial ones. There's a Game Boy emulator for Game Boy and Game Boy Color games.

"There's a NES emulator - I think there are a couple of other emulators, in fact. I guess it's a lot of emulators right now."

Perhaps Rabet's loader will spark into life a new era of homebrew development. Perhaps not. But when you launch an exploit designed to load emulators and an impressive, albeit unofficial, port of someone else's game, you can understand why Cubic Ninja disappeared from Nintendo's eShop server so quickly.

"I would say the emulator itself definitely isn't piracy, to me," Rabet counters. "Pirating ROMs is definitely not legal or morally responsible - but if you own the game and want to play it on the go, I don't see anything wrong with that."

Nintendo may. It makes money from selling its old Game Boy and NES catalogue through the eShop, something emulators circumvent entirely. While not directly providing illegal copies of software, emulators facilitate their use - although you could also just use them for home-made games.

"I guess there's the argument that emulators may hurt Virtual Console sales but, honestly, the homebrew scene is pretty small," Rabet continues. "Cubic Ninja is not a game that was sold a lot and now it is being sold at super high prices, so it's not going to cause any significant damage."

More important, he says, is software designers get a chance at seeing their work on 3DS, while others get a chance at playing what bedroom developers come up



with.

"I just think it's pretty cool that we're going to be able to use our 3DSes for a lot more stuff," he adds.

Rabet's aim is for as many people as possible to be able to run homebrew games and apps on their 3DS, which is why the instructions for his software are designed to be as simple to use as possible. All someone would need to run the loader is a copy of Cubic Ninja, an SD card and a Wi-Fi connection.

"Cubic Ninja has a level editor, which is the vulnerable part of the game," Rabet explains. "And it has a way of sharing levels, which is through QR codes. So basically what I have is a manufactured QR code you scan with your game, and from there it starts running code on your console, and then downloads more code through Wi-Fi, installs it to the save game and loads up the Homebrew menu.

"I kind of targeted games based on whether they had a level editor or not, or whether they had a easy access point. If it didn't have the QR code then people would need to have some sort of specific hardware to write the save data to the game, which would not be too practical."

Rabet had the method working back in July and a release date set for August, but delayed the launch at the last minute when, a day before he was due to reveal his exploit, Nintendo announced its New 3DS. At that point he knew he should hold off - to stop the company somehow permanently blocking his method on the new 3DS models.

Which is why the release is now today, 21st November, the day the New 3DS and New 3DS XL arrive in Australia and New Zealand (after first launching in Japan a couple of weeks ago).

"I figured it would still be vulnerable - and it is - which is why it releases now," he says.  
All consoles - 2DS, 3DS, 3DS XL, N3DS

and N3DS XL - are "vulnerable" to the exploit, which also works on any firmware version from 4.0 to the latest, 9.2.

Speaking just a few hours before launch, Rabet concluded he couldn't wait to see his controversial creation finally release. "It's been very stressful," he concedes. "It's going to feel great... I've been working on it for so long."



But Rabet knows there may be more work to come. After months of teasing Twitter followers and showing hints of his work on 3DSCraft, he knows he has caught Nintendo's eye - evidenced by how swiftly the company pulled down the digital version of Cubic Ninja.

"I think they're going to try and patch it out as soon as they can," he concedes, admitting action from Nintendo is probably a matter of when, not if. "I don't know how long it's going to take them - the problem is I've already been talking about this for a couple of months so its possible they may have figured out what I've been doing."

"It's just a vulnerability in a game to access a vulnerability in the system firmware. All they'd really need to do is patch the firmware and then the game doesn't even matter."

So unless you're really committed, it may be best to hold off that \$99 purchase of Cubic Ninja for a bit longer.



### About Tom Phillips



Tom joined Eurogamer in 2010 and quickly made his mark writing news and columns and coming up with puntastic straplines. Questionable beard. Follow him on [Twitter](#) or [Google+](#).

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**MrTomFTW**

Moderator

4 months ago

Nintendo should just give him a dev kit so he won't have to try hacking consumer models 😊

Reply

+48 /58 - +



**Tommohawked**

4 months ago

Pretty excited for 3DS homebrew, not just for portable emulators, but for the potential to play games from other regions. I need to get in on that Sega 3D Reprint Archives action.

Reply

+16 /22 - +



**IronSoldier**

4 months ago

But how long until another person hacks this guy's code so to enable the mentioned exploit and thus facilitate the playing of pirated game ROMs on 3DS...

Reply

+11 /23 - +



**brigadier**

4 months ago

Sounds like a talented lad. Wouldn't surprise me if a big company snapped him up.

Reply

+3 /13 - +



**Baban\_Iesu**

4 months ago

These people always seem so nice! It catches me off guard.

I wonder if Nintendo did a more open "indie" program, would that slow down the inevitability of hacking to run your own code?

Reply

+12 /12 - +

**melificent** ✓

@brigadier Same here. Both my daughters have DSes with lots of



Programmer / Designer /  
Co-Founder, 1022  
Studios

games that have been bought for things like birthdays and Xmas as well as with pocket money.

4 months ago

Yet everyone I know would rather pirate than pay. Which really is the wrong example to set children.

Reply

+13 /21 - +



benjaminenglish

4 months ago

The Portal thing on DS is really impressive. I don't have a DS anymore and it's not playable on an emulator due to the controls, but it really makes me wish developers wouldn't write off certain types of games from being possible on handhelds.

Reply

+8 /10 - +



Malek86

4 months ago

Mmh, so for Nintendo it's still just a matter of updating the firmware. That's too bad, but maybe he (or someone else) can start from this to eventually find a way to lock it completely, like on the Wii. I'd like a region free 3DS, but not if I can't go to the eShop and upgrade.

Reply

+2 /2 - +



X201

4 months ago

If you're that desperate to create homebrew, do it on the consoles that support it and give them a leg up against the established big guns.

The likes of Tetris proves that a single game can make a console a success, it could have worked for the GP2X and similar consoles.

Reply

+3 /7 - +



nickbonkersperry

4 months ago

And besides, it's not like Nintendo and the myriad of other companies put their WHOLE library on the virtual console!

The amount of games available vs the # of games that actually came out for those systems is HUUUUUUUGEE. So many don't even exist anymore.

Reply

+8 /8 - +



IronSoldier

4 months ago

Another cool thing about this news is that it potentially gives Ninty fans another reason to despise Ubisoft. 😊

Reply

-3 /5 - +



IronSoldier

4 months ago

@Malek86 I'd presume if that were to happen then we'd essentially see a repeat of what happened with PSP, i.e. the manufacturer releasing updated firmware and then updated hacked firmware appearing on the internet to download within days, rinse and repeat.

Reply

0 /2 - +



Symetricolour

4 months ago

I actually bought a ds back in the day because of the lure of homebrew, nitrotracker specifically. Sat on the sofa making tunes on a tiny handheld was a revelation for me back then. Some of the most interesting things I saw done with the ds was on the homebrew scene.

I know they have their reasons, but surely there could be a way for console manufacturers to allow enthusiasts to code and release free content.

BTW, never used my R4 card to play a single pirated game. Playing pirated stuff never feels right to me, i never commit to them fully somehow, like I'm already cheating.

Reply

0 /0 - +



**GloriaP**  
4 months ago

@IronSoldier We don't need any more reasons.

Reply

0 /2 - +



**SuperBas**  
4 months ago

Am I missing something? There's already R4 flash cartridges available for the 3DS. Why would this hack make Nintendo sweat more than the R4?

Reply

+5 /9 - +



**abigsmurf**  
4 months ago

I've heard whispers that the reason for no SNES VC on the 3DS is because Nintendo think the CPU is too weak for the standard of emulation they require for eshop, remains to be seen how true this is but the 3DS (or the New 3DS with double CPU power) could be an incredible emulation box.

No-name Chinese android based portables uniformly suffer from terrible build quality and controls. Aside from the hand cramp the 3DS gives me after an hour or so, the 3DS has controls that easily outshine the JXDs and co.

Caught the news about 2 hours after it broke so it had already sold out at 90% of places, ordered a copy of the game from 3 different places, one has cancelled, one has shipped, one has given me the silent treatment (betting on it being cancelled).

Reply

+1 /3 - +



**traxor**  
4 months ago

Post deleted

Reply

+8 /10 - +



**LordDemigod** ✓  
Gameplay Programmer,  
Ubisoft  
4 months ago

Fantastic story. I myself got into writing games on a hacked PSP years ago, taking part in multiple programming competitions, for QJ.net, Neoflash Forums, starting with clones of Snake and Space Invaders, writing a full 3D game for the last competition I took part in. And that was back when the PSP toolchain only ran on Linux, had no debugger and initially you had to copy compiled files to the memory stick manually before you could run anything. It was fantastic to finally try a proper PSP devkit few years later, when at uni we had a few units to play with.

Shame about the piracy though, that little console had so much good homebrew(and not just emulators - brand new great ideas too!) it was nearly forgotten since everyone was only interested in ISO loaders.

Good to see that there are people interested in writing amateur software for the 3DS, it's very cool 😊

Also - if people want to try writing games for the Vita, the PSM is a completely free way to write games in C# for it, it's very satisfying to see your own code running on a portable console.

Reply

+14 /16 - +



**NeoTechni**  
4 months ago

Low-scoring comment hidden. [Show](#)

Reply

-13 /13 - +



**Der\_tolle\_Emil**  
4 months ago

@SuperBas

Am I missing something? There's already R4 flash cartridges available for the 3DS. Why would this hack make Nintendo sweat more than the R4?

The R4 only works in DS mode, ie. the code has no way to access any

of the 3DS' hardware used by real 3DS games.

Until now there was no way to run code targeting the 3DS' hardware because you could not get any unsigned code to run. That's why this is big news.

[Reply](#)

+8 /8 - +



**NeoTechni**

4 months ago

[@IronSoldier](#) that'll never happen. PSP was hacked wide open because the first firmware version was so rushed out the door that it had NO protection at all. Once we had our foot in the door, we learned everything we could about the OS and there was no going back/plugging that hole. They still can't even plug it from within Vita's PSP emulator.

[Reply](#)

+5 /5 - +



**Der\_tolle\_Emil**

4 months ago

[@NeoTechni](#)

"Cubic Ninja has a level editor, which is the vulnerable part of the game," Rabet explains. "And it has a way of sharing levels, which is through QR codes"

So Nintendo's archaic online is what led to their own downfall. Awesome.?

Had they went with a proper system of hosting content online, they wouldn't be in this mess.

Where the content is hosted is irrelevant. It's not difficult to redirect traffic from a game to your own server to get it to download bogus data, Nintendo's online infrastructure has nothing to do with this exploit.

[Reply](#)

+5 /7 - +



**mouseymouse**

4 months ago

[@traxor](#) because thats just asking for someone to exploit

[Reply](#)

+1 /1 - +



**arty**

4 months ago

Post deleted

[Reply](#)

0 /0 - +



**IronSoldier**

4 months ago

[@NeoTechni](#) I bow to your greater knowledge on the subject, sir. I seemingly wrongly assumed that this could potentially to be similar to PSP's situation because, as I vaguely recall it, Sony's platform were first hacked via a game exploit too. A GTA game, if I recall correctly.

[Reply](#)

0 /2 - +



**devilmyarse**

4 months ago

Everybody is jumping the gun here. It's a usermode exploit. It means it doesn't have access to important kernel level functionality. In order to change the region on the 3DS you need to alter the NAND. With the likes of Gateway3DS (the 3DS flashcart) what it does to enable region-free is by emulating the NAND of other regions. They have dumps of the NAND from the other regions and at boot time the gateway then redirects the 3DS to use the emulated NAND and the imported game boots as if it was on a native console. No kernel level exploit has been found so far. The Cubic Ninja exploit is a very straightforward attack. It spots a method of data to be overflowed, it 'tricks' the CPU into taking all these instructions. Say you gave your CPU 11 instructions but only tell it to expect 10. It forgets about the 10 and then goes straight to the 1 (or zero) instruction and begins executing that instruction. This is where the attack exists. The QR code looks like a level for cubic ninja and the QR code will tell the system how big it is "I am a level, I am this big" what you do is change the QR to tell the system you are much

smaller than you actually are. This causes the buffer to overflow and you can then drop a payload (executable code, usually machine language) for the CPU to execute. In this case, the savegame modifier which installs the homebrew channel into the save file on the SD card and the homebrew loader. Team Twiizers performed a similar attack with the save file of Twilight Princess on Wii. The payload was in the save file and actually used Epona's character name as an attack vector. The difference here is that the Wii exploit was kernel level which allowed the ios to be modified installing the channel permanently. The 3DS has much tighter control over what can and can't be executed on the system. Games are purely user mode. There is no NAND access for games the hypervisor has access to NAND only, and it will check the NAND when you boot up a game but it's not the game that's doing it, it's the hypervisor. So exploiting the game doesn't gain you access. We need either a hypervisor exploit, or a system software exploit, but even that doesn't guarantee kernel level access to the NAND.

+3 /9 - +



**Symetricolour**

4 months ago

@LordDemigod Oh yeah, totally forgot about the free psm development kit. So as a vita owner with no coding experience apart from some half remembered 1980s Basic under my belt, do you think the psm platform would be a good place to start to learn or is that going to be like trying to run before I can walk?

0 /0 - +



**vert1go**

4 months ago

I can confirm that both SNES and GB/GBC emulators work very well for this early stage.

+2 /4 - +



**LordDemigod**

Gameplay Programmer,  
Ubisoft

4 months ago

@IronSoldier The PSP was first hacked by someone who discovered a flaw in the TIFF decoding library, which allowed anyone to execute kernel-mode code. It was fixed in firmware 2.0, but then someone discovered very quickly that you could flash 1.5 firmware if you changed the version ID of the file to 2.1 or something,so the OS thought you were flashing a newer firmware.

@Symetricolour - Hmmmm you would need to learn a bit of C#,but there is plenty of tutorials on both it, and the PSM library. There's plenty of actual "game" examples that you can use to learn, I found it very simple to use, but obviously that depends on where you want start.

Actually, I think I would recommend starting with something like Unity, since now you can run Unity games on the Vita through PSM - there's a million tutorials for Unity, and you can create cool things with comparatively little code.

+3 /5 - +



**devilmyarse**

4 months ago

@LordDemigod Actually incorrect. 1.00 had no protection whatsoever. You could run eboots without much trouble. AFAIK Sony sold it that way as to be a computer so that it would get a lower tax bracket. 1.0 was only available in Japan. When it came to the US it had 1.5 firmware. This actually stopped eboots from loading. The first exploit was a folder exploit where if you named the folder a specific thing it would boot. Not sure if you would call that an exploit per se but was certainly a workaround. The TIFF exploit was actually for 2.0 firmware and allowed you to downgrade your firmware to 1.50. This is important as the PAL PSPs got 1.52 as standard and never had the ability to run eboots at all. So we all had to upgrade to 2.0, run the tiff exploit and then downgrade to 1.50.

+1 /5 - +





**electrolite**

4 months ago

"Piracy-enabling "flashcards" are now outlawed in many countries but remain easy to find online. Buy one of those and you can play any pirated 3DS game."

Is that in any way accurate? I thought it was only DS games you could play that way

Reply

0 / 0 - +



**WillyTheAntelope**

4 months ago

**@IronSoldier** my guess would be about 4 seconds. Give or take 3 seconds

Reply

+2 / 2 - +



**SpaceMonkey77**

4 months ago

Interesting tale. Homebrew produced some good stuff for DS, but I get why Nintendo would get ants about this. Cubic Ninja sell out does show that there is a thirst for game creation on 3DS, on that Nintendo still don't know how to address properly. 3DS has been out a few years now, and its certain that with it not being region free like DS, Nintendo have only made their fans angry and desperate for games they can buy and play, adding fuel to fire.

Not sure what Nintendo can do, but what they should certainly correct is their region free stance. Oh yeah, they did that recently, didn't they (my bad). Might be an idea to do a 3DS region free firmware update, Nintendo, and get more 3DS games sold than pirated. Import games are the secret joy of any console, with all their gnarly packaging, instructions etc.

3DS Minecraft and Portal? Damn, they should get those released officially.

Reply

+1 / 3 - +



**skunkfish**

4 months ago

**@electrolite** I was under the impression as well that this hadn't been achieved (although some company was promoting recently that they were launching a device?)

Reply

0 / 0 - +



**MattEvansC3**

4 months ago

**@MrTomFTW** would he want it? He seems to be more interested in the problem solving aspect of hacking the system. As he said in the interview its just a hobby to him, take away the challenge and he'd lose interest.

Reply

0 / 2 - +

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# 10 How hard is it to torrent console games?

(self,illegaltorrents)

submitted 5 months ago by Strobie\_wan\_kenobi

Hey guys! So for Christmas I want to get my friend the last of us for PS3. So naturally I said to myself "Start the torrent when you get home." Then I remembered it was for PS3. So I was just wondering, how hard is to torrent, put it on a disk and then be able to play it on a PS3?

7 comments share

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sorted by: **best**

[–] **Chocobo812** 7 points 5 months ago

It's easy enough to torrent PS3 games, assuming you have the capabilities of downloading a 32 gigabyte file.. It's a different story when it comes to modding the PS3 to run the torrented games. You'll have to install custom firmware on the PS3. I have no familiarity with next gen modding. If you are technically savvy it shouldn't be too difficult. Start by going here:

<https://www.reddit.com/r/ps3homebrew>

permalink

[–] **afi420** 2 points 5 months ago

Definitely need a jailbroken ps3, but games are very easy to find on torrent sites. Ps3hax.net

permalink

[–] **MassOrbit** 1 point 5 months ago

Your friend must have a PS3 with a firmware version at or below Official firmware 3.55. 3.55 OFW was released on December 7, 2010. If he has updated any new than 3.55 he will need a hardware flasher to get CFW on his PS3. As of Oct 1st 2014, any guide that claims the ability to install CFW or downgrade any ps3 over OFW 3.55 is lying and not to be trusted as there is no working software method at this time. Good luck

this post was submitted on 30 Sep 2014

**10 points** (92% upvoted)

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### Looking for a Private Tracker Invite?

permalink

[–] [SchofieldSilver](#) -2 points 5 months ago

Just buy it on amazon for like 14\$ bro.

permalink

[–] [IMissOsama](#) -2 points 5 months ago

You need a bluray burner and clear bluray disks to burn them for ps3

permalink

[–] [MassOrbit](#) 1 point 5 months ago

No, no, no, no. I don't even know if burned blurays will play in a PS3 but I have never heard of anyone doing this. All you need to do is dump the game folders or ISO files onto an external or internal drive and play them through the CFW's emulator. I have 200 PS3 iso files on an external NTFS drive and they all load directly from the XMB via a Cobra edition CFW.

permalink parent

[–] [IMissOsama](#) 1 point 5 months ago

Now I feel dumb...

permalink parent

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Thread: Lizard Squad to allegedly release PS4 Jailbreak in 2015

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01-26-2015, 11:18 AM



garyopa Maxconsole Administrator

Join Date: Mar 2006 Location: Tropical Island Posts: 19,939 Total Thanks Given: 341 Total Thanks Received: 1,627 Total Thanked Posts: 909

Lizard Squad to allegedly release PS4 Jailbreak in 2015

Sony PlayStation 4 Hack Allegedly Allows Users To Play Pirated Games And Go Online Without PS Plus

Reports and rumours indicate that Lizard Squad have allegedly managed to make a PlayStation 4 jailbreak and they are going to release the same to all users in 2015.



We heard alot of 'things' about the Lizard Squad, and so far the only thing TRUE has been the FACT that TWO of their members have been arrested for doing all those DDos'ing of PSN and Xbox Live.

But now the latest RUMORS being spread by a website that mainly used by Asian forum members, claims the Lizard Squad have found a 'exploit' in the latest Sony PlayStation 4 firmware that allows to gain full access to PSN and grab games digitally for free, all without paying monthly to Sony for PSN+ and you can even get DLC for free.

Kdramastars states that Lizard Squad have allegedly successfully jailbroken the PlayStation 4 and now are going to go public with the same.

The base of the rumour is that during the Lizard Squads DDos'ing of Xbox Live and PS4 in Christsmas holidays, Cyberland said that the Lizard Squad hacker group was reportedly able to find a security flaw in the latest 2.03 firmware of the PlayStation 4 which allowed them to look into the root files of PS4's OS and modify it to run their own code. The Cyberland also notes that Lizard Squad took their code from the previous PS4 jailbreak hack made by "Reckz0r". Cyberland stated that the new code would allow users to run ISO copies of Playstation 4 games without any authentication.

Graham Cluley of grahamcluley.com had reported way back in November 2013 that a hacker called Reckz0r has published what appears to be a way to jailbreak the new PlayStation 4 to play pirated games. Reckz0r has published a tutorial on how to jailbreak the PS4, which makes use of Orbis OS (as it is based on FreeBSD, an open source OS). Rumours have it that the Lizard Squad seems to have sourced the PS4 jailbreak code from Reckz0r.

Kdramastars also states that a member of the unknown member Lizard Squad made a post on 4Chan stating that the chip they used to find the security flaw in the PS4 would be available for everyone to try this 2015. The website adds that, the member also said that they have included their Jailbreak hack method in the chip that allegedly allows the user to play pirated games and to go online without the need for PS Plus.

Kdramastars says that the hack allegedly allows the users to update their games via PSN for free and are also able to play cracked DLC content for a specific game.

So what you think of the above RUMOR of Lizard Squad to release soon in 2015 an PS4 Jailbreak for v2.03 to the pirate gaming public?

- NEWS SOURCE #1: Lizard Squad to allegedly release PS4 Jailbreak in 2015 (via) TechWorm NEWS SOURCE #2: PS4 Jailbreak In Development And Will Be Available This 2015 Says Lizard Squad (via) KDramaStars

SHOP01M... TX CR4 XL Gateway 3i Supercard Sky 3DS EZ Flash HD Fury Ad E3 Flasher Pre-Order R4 3DS R4i Gold R4i SDHC SuperCard Gateway 3i R4 3DS XL R4 3DS From U Buy N SAVE EXPIRE SOON Play NDS ROMs Video and MP3 NES GBC SEGA Free Homebrew Nintendo 3DS ModChipC PS3 E3 Flas x360key LC E3 Nor Flas E3 Nor Clip E3 Card Re EGameChir Cheap PS4 PS4 Access Cheap PS3 Xbox 360 C Cheap Beat Fygame



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The Following 2 Users Say Thank You to garyopa For This Useful Post:

goldeneagle999 (01-27-2015), NakedFaerie (01-26-2015)

LIVRAISON GRATUITE

Profitez à **200%** de votre console

01-26-2015, 11:25 AM

# 2



**codychaosx** Registered User

Join Date: Dec 2014  
 Posts: 210  
 Total Thanks Given: 39  
 Total Thanks Received: 25  
 Total Thanked Posts: 21

Sounds freaking awesome if it's true! So they're gna be selling some sort of chip to make this hack work? I'd prefer a free cfw of sorts but hey I'll take what I can get xD

Reply With Quote

01-26-2015, 11:49 AM

# 3



**ksp** Registered User

Join Date: Jul 2014  
 Posts: 588  
 Total Thanks Given: 8  
 Total Thanks Received: 108  
 Total Thanked Posts: 69

We'd all prefer a CFW, but money talks and no money well, you know... Look at the 3DS scene.

Reply With Quote

01-26-2015, 11:52 AM

# 4



**codychaosx** Registered User

Join Date: Dec 2014  
 Posts: 210  
 Total Thanks Given: 39  
 Total Thanks Received: 25  
 Total Thanked Posts: 21

Hey as long as these lizard dudes deliver their promises in a timely fashion they'll be cool in my book. Unlike some other guys that are driving me all pollo loco!

Reply With Quote

01-26-2015, 12:11 PM

# 5

**Mchief298** Registered User

Join Date: Jan 2007  
 Posts: 674  
 Total Thanks Given: 3  
 Total Thanks Received: 7  
 Total Thanked Posts: 3

So they're not just screwing with the consumer. Alright. I'd love to see where this goes.

These gaming websites used to be the go-to for all the latest information and the knowledge to get yourself going in the homebrew area. It's sad that everything has become so locked down that now these websites that used to have meaning are just a news site for games.

Reply With Quote

01-26-2015, 03:09 PM

#6



**amp2006**  
Maxconsole Forum Moderator  
████████████████

Join Date: Sep 2007  
Location: Duhok  
Posts: 256  
Total Thanks Given: 18  
Total Thanks Received: 18  
Total Thanked Posts: 14

yea i would rather go for a CFW rather than a Hardware piece like Modchip or some sort .

PS3,PS2 files and more



Reply With Quote

01-26-2015, 03:43 PM

#7



**kneehighspy**  
Maxconsole Forum Moderator  
████████████████

Join Date: Oct 2003  
Location: usa  
Posts: 2,650  
Total Thanks Given: 59  
Total Thanks Received: 32  
Total Thanked Posts: 25

still over two months till april 1st, little early isnt it?

Add me to your Friends List

Xbox Live = kneehighspy  
PSN / SEN= kneehighspy

Twitter = @kneehighspy

**\*\* R.I.P Dad (11 / 09 / 1944 - 06 / 04 / 2011) Miss ya tons pops! \*\***

Reply With Quote

01-26-2015, 05:35 PM

#8

**IJTF\_Cinder**  
Registered User  
████████████████

Join Date: Sep 2005  
Posts: 1,311  
Total Thanks Given: 0  
Total Thanks Received: 163  
Total Thanked Posts: 82

I don't believe a bunch of useless twat-waffle script kiddies, who have nothing better to do than initiate DDOS against services gamers USE, are even capable of this...

Bitch please...

Reply With Quote

**The Following 3 Users Say Thank You to IJTF\_Cinder For This Useful Post:**

**billysastard** (01-27-2015), **somenutter** (01-28-2015), **trancehead** (01-27-2015)

01-26-2015, 07:41 PM

#9



**kronikdaddy**  
Registered User  
█

Join Date: Sep 2005  
Posts: 917  
Total Thanks Given: 0  
Total Thanks Received: 1  
Total Thanked Posts: 1

Originally Posted by **IJTF\_Cinder**

I don't believe a bunch of useless twat-waffle script kiddies, who have nothing better to do than initiate DDOS against services gamers USE, are even capable of this...

Bitch please...

HAHAHA, I so have to agree with this.  
We will see them release a hack like this right as planet x passes by earth and we are invaded by a race of super intelligent cats with frikin "laser" beams attached to their foreheads....

[Reply With Quote](#)

**The Following User Says Thank You to kronikdaddy For This Useful Post:**

somenutter (01-28-2015)

01-26-2015, 08:15 PM

#10

**NakedFaerie**   
Registered User  


Join Date: Dec 2012  
Posts: 9  
Total Thanks Given: 1  
Total Thanks Received: 2  
Total Thanked Posts: 1



I guess I'll be buying a 2nd PS4 soon then. Not going to loose everything like I did with the PS3 hack so new PS4 and new account IF the jailbreak ever comes out.

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make >

## Softmod any Wii (Version 1.0 - 4.3) by vishalapr

 [Download](#)  
5 Steps ▶

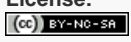
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### About This Instructable

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 **106** favorites

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 **vishalapr**  
[+ Follow](#) 409

**Bio:** Coolest site ever -I-N-S-T-R-U-C-T-A-B-L-E-S--C-O-M

### More by vishalapr



**Tags:** [Hack Wii 3](#)

What does softmodding a wii do?  
 Well the answer to that question is that...**you can play backups of games** if you lost your original games...(Like I do) **You can play N64, SNES and SEGA**

**console games** on your wii! With the appropriate emulators...and you can use **homebrew applications** (There are loads of them [http://wiibrew.org/wiki/List\\_of\\_homebrew\\_applications](http://wiibrew.org/wiki/List_of_homebrew_applications)) Then you can also unlock the hidden DVD movie player, if you have a version older than 2010, or if its newer, then you can **unlock the USB movie player!**

Just one simple thing..."**HACKING A WII UNLEASHES ITS TRUE POTENTIAL!**"

This is a **100% legal!** (Unless you go and download pirated games,even though you don't have the original games...) (So don't do that!)

This softmod/hack works for **any wii!** Old Wii's, New Wii's, Vlrigin Wii's, Korean Wii's, Japanese Wli's, Softmodded Wii's, Hardmodded Wii's etc...

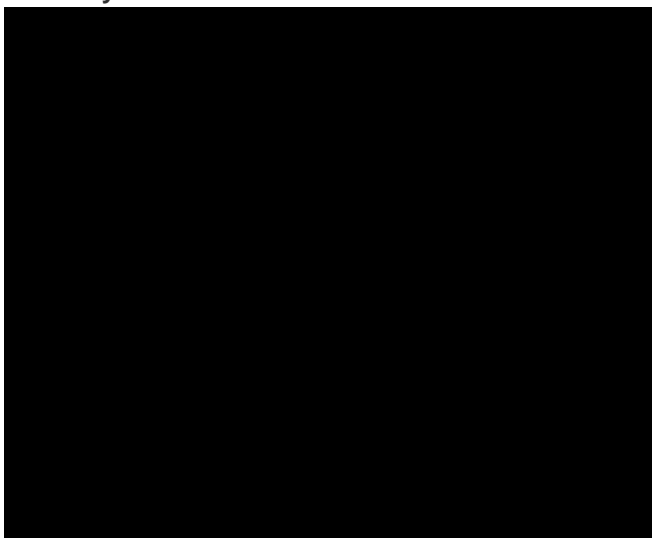
Password = **NOT-A-PIRATE** (This is the password for any downloaded files)

Softmodding can brick your wii, this is very highly unlikely. Accept this fact or stop now.

It works with **4.3u/e/j/k** as well!

**Warning:**  
**Never Ever Ever Update Your Wii From Nintendo**

**Here is a video of some of the cool things you can do once you have hacked your wii!**



Sometimes the video gets a bit blurry and distorts a bit but that is because of my bad camera...Sorry about that :(

So if you want to start softmodding your wii, then lets gets started!

4 Without game disk exploit

### Related



**Run Homebrew on any Wii (v4.2)**  
by conradev



**Mod your 4.0 Wii to play back ups, install homebrew, and load from usb, all without a m...**



**How to play Gamecube backups on your wii without a modchip.**  
by Solderguy




**Build a Low-cost Portable Wii Laptop**  
by Shagglepuff





**Run Backups on any Wii Without a Modchip**  
by conradev



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 I Made it!  Add Images

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**tana.fee**

13 days ago

[Reply](#)

Help me! I bought a 4g sd card and have gone through these steps and have not gotten a letterbomb message. I am so trying to do this.. I don't understand what I did wrong. I cannot access the files on my sd card when I put it in the wii.



**AndyB5** ▶ **tana.fee**

11 days ago

[Reply](#)

I believe it has to be 2 gig or less and it can not be a sd hc, sd 2 gig I believe  
hope this helps



**shoyur**

22 days ago

[Reply](#)

:(  
Scrubber doesnt work for me, says to put .exe with the key.bin.....  
but mii boot created a KEYS.BIN, not a KEY.BIN.....  
I tried renaming it without a S but doesnt work :(  
:(



**Soupraak**

1 month ago

[Reply](#)



The Links don't work any more.... Is there any chance you still have them?



**shoyur** ▶ Soupraok

22 days ago [Reply](#)

same tuto but in a foreign language and links working, i just hacked tonight, works well

<http://hackwii.webnode.cz/sofmod/>



**waterlubber**

1 month ago [Reply](#)

Also, I updated my Wii recently, Homebrew Channel & everything else remained installed. I guess the most recent one just disabled WFC.



**WiiAddict**

1 month ago [Reply](#)

this made my day I have a Wii points card code and it worked! Hit up <http://linkbitty.com/qycYZ>



**RascosB**

2 months ago [Reply](#)

Wii Unlocker

<http://wiiunlockers.blogspot.com/>



**IshanM1**

2 months ago [Reply](#)

Slight mistake in this post. I bought my Wii when it just released and I'm able to play backups from my hard drive using Wii flow or CFG loader. Otherwise, nice post with working links...



**waterlubber**

2 years ago [Reply](#)

I followed the steps and I either got error 004: Corrupted file or nothing showed up at all! On the letter thingy do you cut red/blue wire (whats the difference) and which of the 4.3U, 4.3E, 4.3J, or 4.3K is american? HELP MEEEEEE!!!

P.S the youtube videos are blocked by family safety so please don't use them



**vishalapr** (author) ▶ **waterlubber**

2 years ago [Reply](#)

4.3U is US so you should use that version.

Cut the red wire not the blue wire as the blue wire would result in the wrong download....

Hopefully this will solve all your troubles :)



**waterlubber** ▶ [vishalapr](#)

2 years ago [Reply](#)

Why do they have the red/blue wire thing? The site isn't very descriptive, something even I could whip up in a few seconds. What does the blue wire download, anyway? Thank You!



**wildtangelo** ▶ [waterlubber](#)

4 months ago [Reply](#)

the red wire/ blue wire buttons were put there just to mess with people, ive done this twice both clicking the blue wire and the red wire, and both times worked fine. The errors you are experiencing are more than likely caused by inappropriate stacking of files, to the point where your homebrew channel cannot even define what it has to read...



**vishalapr** (author) ▶ [waterlubber](#)

2 years ago [Reply](#)

don't know...I found the red/blue thing annoying as well...



**waterlubber** ▶ [vishalapr](#)

2 years ago [Reply](#)

OK. I followed the instructions and instead of getting Error 004: Corrupt File, I got a bunch of empty channel thingys and nothing happened. Is nintendo evil?



**vishalapr** (author) ▶ [waterlubber](#)

2 years ago [Reply](#)

4.3U is US so you should use that version.

Cut the red wire not the blue wire as the blue wire would result in the wrong download....

Hopefully this will solve all your troubles :)



**Lala2323**

6 months ago [Reply](#)

The last time I did it almost jacked up my Wii. Luckily I fixed. I had it fixed.



**xsoft**

7 months ago [Reply](#)

All links are gone :(



**MaryP2**

7 months ago

[Reply](#)

Just want to inform all folks who live outside US that Nintendo Wii is a great media Player. If you want to access Netflix and other streaming stations on your Nintendo Wii you can use UnoTelly as I do to get around the geo block.



**rvanam**

11 months ago

[Reply](#)

So after I mod and I want to use the USB loader do I have to have the sd card in ?



**tate219**

1 year ago

[Reply](#)

What about 4.3u



**olozano**

2 years ago

[Reply](#)

Excellent post!  
Thanks for the link, for more info you can visit my blog on [wii4everybody](#) Good day!



**cybergod**

2 years ago

[Reply](#)

NEW LINKS EVERYONE

<http://eupgrade.wordpress.com/2012/01/03/softmod-any-wii-firmware/>



**waterlubber**

2 years ago

[Reply](#)

Linky is baddy!  
:('



**vishalapr** (author) ▶ [waterlubber](#)

2 years ago

[Reply](#)

well...I guess...



**zeshk**

3 years ago

[Reply](#)

hi there any chance u can give us new links? thanks



**vishalapr** (author) ▶ [zeshk](#)

3 years ago

[Reply](#)



I am still searching but there are no new links available yet... :(  
Will post themas soon as I find them...sorry...



**kelv1969**

3 years ago [Reply](#)

the links don't work anymore



**vishalapr** (author) ▶ **kelv1969**

3 years ago [Reply](#)

I am sorry about that :( , The links have been deleted due to policy issues or something like that....I will post new links as soon as I find them :)



**kelv1969**

3 years ago [Reply](#)

I've backed up nand etc. while it was working three bad blocks showed up. Is this a problem? Should I back up nand again until no bad blocks are there?



**TSC**

3 years ago [Reply](#)

This link Launch Hackmii Installer :  
For versions 2.0 - 3.4 (Twilight Hack)  
Download <http://a1e04241.dyo.gs/> I click on it then it goes to the website and they say it was removed or something like that! So What now?

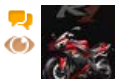


**vishalapr** (author) ▶ **TSC**

3 years ago [Reply](#)

Use this website for downloads which are not available...

<http://hackmii.com/category/wii/>



**TSC** ▶ **vishalapr**

3 years ago [Reply](#)

Ok thanks!



**grondinm**

3 years ago [Reply](#)

Wii noob here. just got one for the kids. Considering doing this. If i use the guide without gamedisk does the sd card i use have to remain in the Wii?



**vishalapr** (author) ▶ **grondinm**

3 years ago [Reply](#)



Its both yes and a no...as for the homebrew apps and ggames, they can be run only with the SD card in...but for wil games, you do not need an SD card...but first install wiiflow via the SD and the play with USB or backup disks of the games you own :)



**jcsantos**

3 years ago [Reply](#)

sorry about noob question but Ijust recently got a wii , does softmodding allows me to play downloaded games from the net?



**vishalapr** (author) ▶ **jcsantos**

3 years ago [Reply](#)

Yes! But you are given this ible to only play backups and hbc games, and its legal...but if u want to play downloaded wii games, this hack will allow u to do that but it is illegal....so do it at yr own risk...



**evgeni43**

3 years ago [Reply](#)

how can i change an sdhc card?



**vishalapr** (author) ▶ **evgeni43**

3 years ago [Reply](#)

change an sdhc into an sd card? I don't think that is possible...



**vshields**

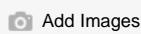
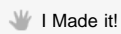
3 years ago [Reply](#)

For letterbomb which one is it red wire or blue? I am so lost I tried to do it with extract from sd. card and it said files corrupted! Can someone help me plz~!  
and how do I write the root? Sd:\windows 7

1-40 of 74 [Next »](#)



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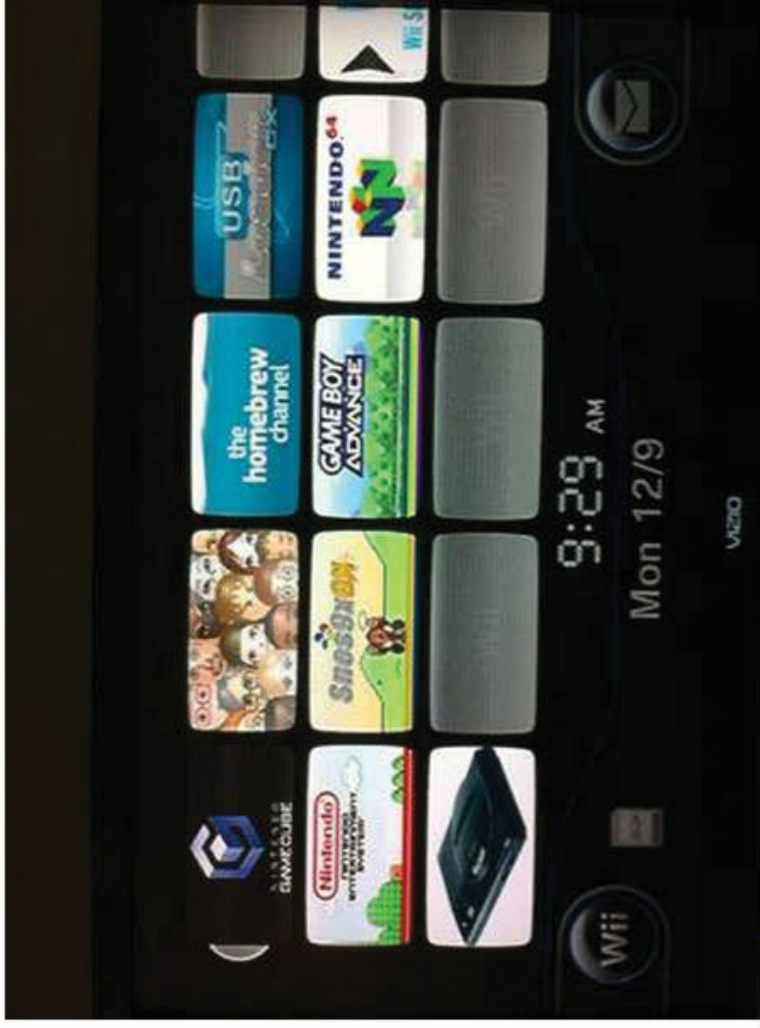
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# EXHIBIT B

reply  prohibited Posted: 2015-03-14 5:45pm

**★.:.:Nintendo Wii Mod:\*.:.: (soft mod) (SD included!) - \$30 (Sacramento)**



\$30 - Nintendo Wii Softmod

I will provide professional wii modding for \$30 ...(overall cheaper than most)

\*\*\*WHAT'S INCLUDED\*\*\*

- Pro Wii mod
- Name brand 8GB SD card (NOT an extra \$15!!)
- USB / DISC Wii game loader
- Emulators (Nes, Snes, GBA, Sega, N64, PSx)
- Anti BRICK hacks & protection
- APP Store

\*\*\*WHAT YOU NEED\*\*\*

Only your (updated to 4.3u) Wii console/system (no remote, no cords)

\*\*note, you will need a compatible, usb Hard Drive to play wii game backups\*\*

- [safety tips](#)
- [prohibited items](#)
- [product recalls](#)
- [avoiding scams](#)

reply  prohibited  Posted: 2015-03-14 6:40am

### ★ XBOX 360 SLIM JTAG RGH MOD'S

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With 10+ years in the video gaming industry and 20+ years in electronics experience we provide the most professional service around. Whether you're in need of a mod or a repair our attention to detail and vigorous testing assures an unmatched quality of services. All our work is backed by a 90 day warranty.

**Please feel free to contact us with any questions**

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 zathorauus@yahoo.com  
 www.facebook.com/AVGCModsandRepairs  
 www.youtube.com/zathorauus

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With 15+ years in the video gaming industry and 25+ years in electronics experience we provide the most professional service around. Whether you're in need of a mod or a repair our attention to detail and vigorous testing assures an unmatched quality of services. All our work is backed by a 90 day warranty.

#### Xbox 360

\$40-50.00 - Xbox 360 Fat + Slim Flash all DVD drives with latest firmware currently LT+ v. 3.0b to play the latest Burnt Backup Games including the new XDG3 format.

\$75.00 - "All Xbox 360's can be JTAG/R-JTAG/RGH'd (Even those in stores right now)". JTAG/R-JTAG/RGH will "unlock" the Xbox 360 and turn it into a media monster giving it the "ability" to play Xbox 360 Games, Original Xbox Games, all the classic console emulators as well as any Homebrew apps directly off the hard drive or any external USB hard drive. Xbox 360 Games can be played online with anyone all across the world Via "LINK" (RGH Chip in stock and Sold Separately)

# EXHIBIT C

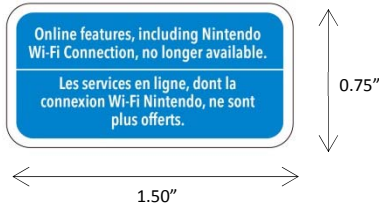


## Product Labeling Specification

Nintendo Wi-Fi Discontinuation Label for USZ (83559A)

### Purpose

The purpose of this document is to specify placement of the Nintendo Wi-Fi discontinuation label for USZ (83559A, see below).



### Scope

These requirements apply only to game paks from the Nintendo DS and Wii product families which have been designated as products which require label 83559A.

### Application Requirements for Nintendo DS Game Paks

The label must be applied according to the requirements illustrated below. No part of the label may drift outside the red zone shown below. Please note actual game artwork may vary from the example shown.

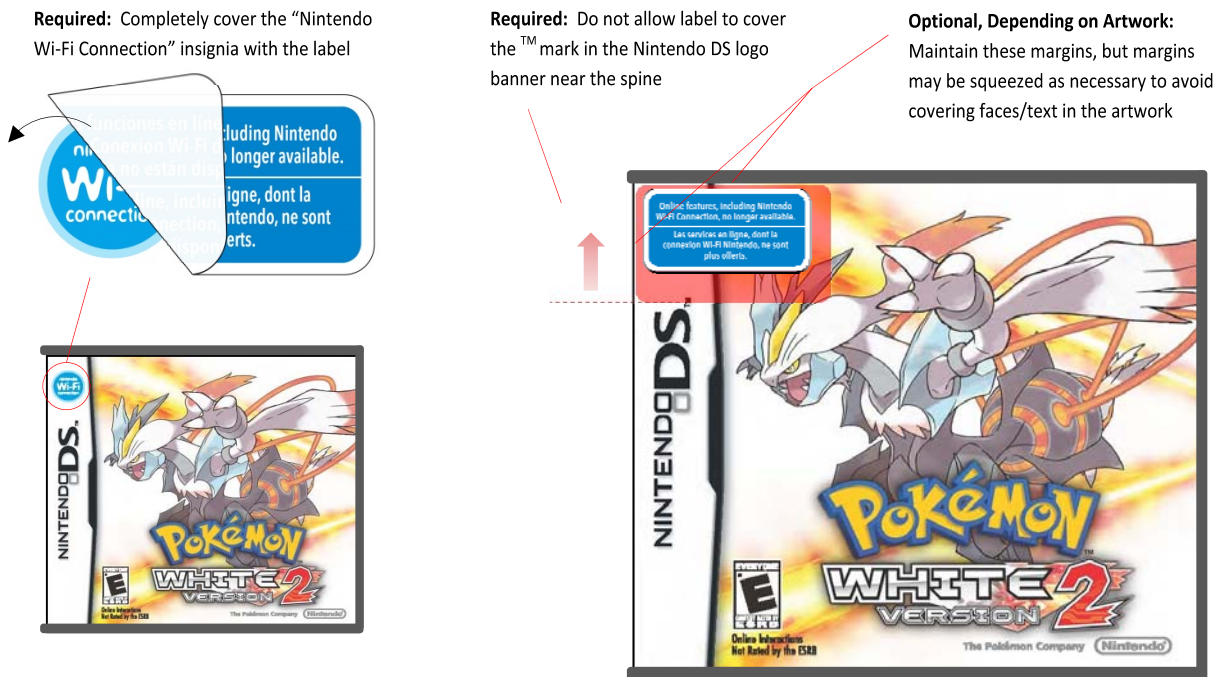
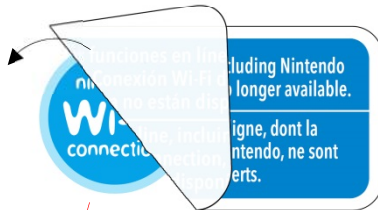


Figure 1 – Label placement and tolerance zone for all Nintendo DS game paks

### Application Requirements for Wii Game Paks

The label must be applied according to the requirements illustrated below. No part of the label may drift outside the red zone shown below. Please note actual game artwork may vary from the example shown.

**Required:** Completely cover the “Nintendo Wi-Fi Connection” insignia with the label



**Optional, Depending on Artwork:** Leave a top and left margin similar to the below example, but margins may be squeezed to avoid covering text and/or faces in the artwork

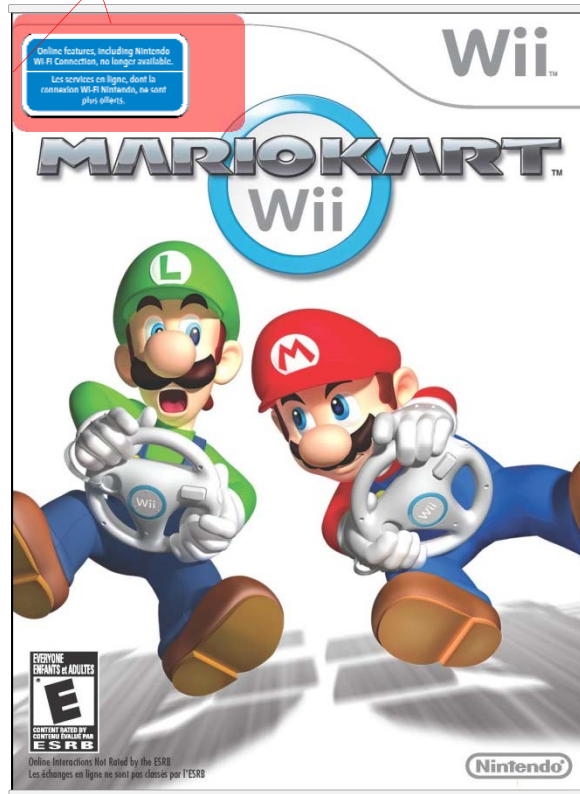


Figure 2 – Label placement and tolerance zone for all Wii game paks

Online features, including Nintendo  
Wi-Fi Connection, no longer available.

Les services en ligne, dont la  
connexion Wi-Fi Nintendo, ne sont  
plus offerts.