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COMMENT: False accusations fly over games downloads

Thousands of court cases predicted

by Katie Scott published on 31 October 2008

Games developers, software manufacturers and the music industry are all getting tougher on illegal downloads.

Microsoft wanted us all to be waving flags on 21 October - a day it declared Global Anti-Piracy Day (did you remember?) - whilst there have been months now of wrangling amongst European Union authorities over how to tackle illegal downloading.

Then of course there are the millions of court cases against notorious P2P website The Pirate Bay, which, most recently, was banned in Italy and took the opportunity to have a very personal pop at the Italian prime minister.

I mention The Pirate Bay because it's popular and it's evaded the authorities for years.

But how does it do it? Number one, no one knows where The Pirate Bay servers are, and number two - it admits it inserts random IP addresses into the list of people downloading files in an attempt to throw lawyers off track.

And could it have been tactics like these that saw Gill and Ken Murdoch from Scotland, a pair who had never played a video game in their lives, accused of sharing Atari's Race07.

As has been reported in both the tech press and the nationals, the couple was more than a little surprised when they received a letter asking for £500 compensation or the threat of a court case from the Davenport Lyons law firm.

The case has now been dropped but not before pundits had had a chance to warn this is going to happen time and time again.



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Intellectual property solicitor with law firm Lawdit, Michael Coyle is currently pursuing 70 cases of people who have been wrongly accused of piracy and spoken to "hundreds" of others.

"Some of them are senior citizens who don't know what a game is, let alone the software that allows them to be shared", he said.

The precedent was set in August when Topware Interactive won a landmark case and was awarded more than £16,000 in damages after Isabella Barwinska from London shared a copy of the game Dream Pinball 3D.

Ms Barwinska was guilty, but does a £16,000 fine fit the crime? Did the perpetrator, for example, realise what she was doing was illegal?

Aside from the problem highlighted - that innocent people are going to get accused of downloading games, or indeed any copyright material - there are millions out there who have no idea that going on LimeWire and Bit Torrent could lead to a massive fine or even a conviction. They simply don't understand copyright rules.

Let's face it - most of the people on P2P sites are kids.

Way back in June, a survey revealed that more than half of the tunes on the average British teenager's iPod were illegal. It's bound to be the same with games.

The legal sharks at Davenport Lyons law firm and anti-piracy firm Logistep will be adding names to their list even as I type (perhaps I'm one of them), but what will they actually achieve in the long term?

Most parents, after all, have no idea what their kids are up to on the internet and wouldn't know what a P2P site is, what it does and what the implications are.

I recognise that games developers, like any creators, have the right to protect their copyright, and their livelihoods, but surely there has got to be a better way than threatening web users and raining down fines and threats of legal action. Why not go after the P2P sites themselves? Oh yeah, I forget, unlike your average unsuspecting Joe, they're too clever to get caught.