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10  
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Nintendo of America Inc.

12  
13 UNITED STATES DISTRICT COURT  
14 CENTRAL DISTRICT OF CALIFORNIA  
15

16  
17 NINTENDO OF AMERICA INC., a  
Washington corporation

18 Plaintiff,

19 v.

20 MATTHEW STORMAN, an  
21 individual, JOHN DOES 1-10,  
22 individuals and/or corporations,

23 Defendant.  
24

Case No. 2:19-CV-07818

**COMPLAINT FOR:**

- 25 1) **COPYRIGHT INFRINGEMENT, 17 U.S.C. 501;**
- 26 2) **FEDERAL TRADEMARK INFRINGEMENT AND UNFAIR COMPETITION, 15 U.S.C. §§ 1114, 1125(a);**
- 27 3) **UNFAIR COMPETITION, CAL. BUS. & PROF. CODE § 17200**

**DEMAND FOR JURY TRIAL**

1 For its complaint, plaintiff Nintendo of America Inc. (“NOA”) alleges as  
2 follows:

3 **I. NATURE OF ACTION**

4 1. Defendant Matthew Storman and persons of unknown identity  
5 (“Defendants”) own and operate the website [www.romuniverse.com](http://www.romuniverse.com) (the  
6 “Website”) built largely on brazen and mass scale infringement of Nintendo’s  
7 intellectual property rights. The Website is among the most visited and notorious  
8 online hubs for pirated Nintendo video games. Through the Website, Defendants  
9 reproduce, distribute, monetize, and offer for download thousands of unauthorized  
10 copies of Nintendo’s video games. This includes games for nearly every video  
11 game system Nintendo has ever produced including hundreds of games for its  
12 recently released Nintendo Switch. According to the Website, as of the date of  
13 filing this Complaint, hundreds of thousands of copies of Nintendo games have  
14 been illegally downloaded through the Website including nearly 300,000  
15 downloads of copies of pirated Nintendo Switch games and more than 500,000  
16 copies of pirated Nintendo 3DS games.

17 **II. PARTIES**

18 2. NOA is a Washington corporation with its headquarters and principal  
19 place of business in Redmond, Washington. NOA is a wholly-owned subsidiary of  
20 Nintendo Co., Ltd. (“NCL”) (collectively with NOA, “Nintendo”), a Japanese  
21 company with its headquarters and principal place of business in Kyoto, Japan.  
22 Nintendo is in the business of developing and distributing electronic video game  
23 systems, video games, accessories, and other copyrighted works. NOA is  
24 responsible for the marketing and sale of Nintendo products in the United States  
25 and elsewhere in the Western Hemisphere. NOA is also responsible for enforcing  
26 Nintendo’s intellectual property rights in the Western Hemisphere.

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1           3.     On information and belief, defendant Matthew Storman is a natural  
2 person who resides in this District. Defendant Storman owns or controls the  
3 Website.

4           4.     John Does 1-10 are individuals or corporations working in active  
5 concert and participation with defendant Storman to operate, control, and/or profit  
6 from the Website.

7           5.     Defendants store, categorize, and reproduce unauthorized copies of  
8 Nintendo video games and related copyrighted works and distribute those copies.  
9 For example, infringing Nintendo Switch game files can be easily searched,  
10 located, and downloaded from the Website. In reproducing and distributing these  
11 copies, Defendants make extensive use of Nintendo’s copyrights and trademarks for  
12 their own profit.

13           6.     Upon information and belief, each of the Defendants was, at all times  
14 mentioned in this Complaint, acting as the agent, employee, or alter ego of every  
15 other defendant, and in doing the things mentioned herein, was acting within the  
16 course and scope of such agency, employment, or other relationship and with full  
17 knowledge and consent of each of the other Defendants.

18                                   **III. JURISDICTION AND VENUE**

19           7.     This Court has federal question jurisdiction over this action under 28  
20 U.S.C. §§ 1331 and 1338, because this action alleges violations of the Lanham Act  
21 (15 U.S.C. §§ 1114 and 1125(a)) and the Copyright Act (15 U.S.C. § 501, *et seq.*).

22           8.     This Court has supplemental jurisdiction over the remaining claims  
23 under 28 U.S.C. § 1367.

24           9.     This Court has personal jurisdiction over defendant Storman, who  
25 resides in the Central District of California. NOA does not currently know the  
26 identity or location of the Doe defendants.

27           10.    Venue is appropriate pursuant to 28 U.S.C. §§ 1391(b) and 1400(a),  
28 because defendant Storman resides in the federal judicial district of the Central

1 District of California and a substantial part of the infringing acts occurred in this  
2 District.

#### 3 IV. FACTS AND BACKGROUND

##### 4 A. Nintendo, Its Business, and Its Intellectual Property Rights

5 11. “Nintendo” is a famous brand throughout the United States and the  
6 world, known by consumers of all ages for its fun and innovative video games,  
7 video game systems, and its beloved video game characters.

8 12. Nintendo develops, manufactures, markets, and distributes electronic  
9 video game hardware, software, and related accessories. Nintendo has released a  
10 variety of video game systems, such as the Nintendo Entertainment System,  
11 released in 1985. Nintendo has since released additional video game systems  
12 including the Super Nintendo Entertainment System in 1991, Nintendo 64 in 1996,  
13 Nintendo GameCube in 2001, Nintendo DS in 2004, Wii in 2006, Nintendo DSi in  
14 2008, Nintendo 3DS in 2011, and Nintendo Switch in 2017. To this day, Nintendo  
15 continues to make games for each of these systems available to the public.

16 13. Nintendo is widely recognized as one of the best-selling video game  
17 system developers in the world, and also one of the most recognized international  
18 companies in the world. Nintendo products—including its video game systems and  
19 games—have achieved worldwide renown and have made the Nintendo brand  
20 famous throughout the world.

21 14. Nintendo built its popularity and market achievements through  
22 substantial creative and financial investment in the development of new video  
23 games, products, and intellectual property, as well as in marketing. Nintendo  
24 garnered tremendous consumer awareness and goodwill through its commitment to  
25 developing and delivering innovative, fun, and memorable video game systems and  
26 games. Nintendo’s video game systems and games are enjoyed by tens of millions  
27 of consumers in the United States and abroad.

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1           15. The Nintendo 3DS and Nintendo Switch are two of Nintendo's most  
2 popular video game systems, and the games for these systems have also been  
3 immensely popular. Nintendo has sold more than 100 million units of these two  
4 systems and hundreds of millions of games for the two systems.

5           16. Nintendo has made substantial investments in the development,  
6 marketing, and promotion of its innovative products and services. Nintendo has  
7 acquired intellectual property and authorizes licensees who create and publish many  
8 popular video games specifically and exclusively for play on Nintendo's video  
9 game systems. Nintendo video games can take years and millions of dollars to  
10 develop.

11           17. NOA holds registered copyrights and registered trademarks for various  
12 Nintendo video games, video game systems, video game characters, and related  
13 word and design marks, including without limitation those listed in Exhibit A  
14 (copyrights) and Exhibit B (trademarks).

15 **B. Online Piracy and Nintendo's Efforts to Protect Its Intellectual Property**  
16 **Rights**

17           18. The popularity of Nintendo's video games and video game systems  
18 has made Nintendo the target of intellectual property pirates, who benefit from  
19 Nintendo's investments and innovation by making and distributing unauthorized  
20 copies of Nintendo video games.

21           19. In the world of video game piracy, unauthorized copies of video games  
22 often take the form of copies of the read-only memory files or read-only memory  
23 images of Nintendo's games, commonly referred to as "ROMs." The name refers  
24 to the process of copying the software that constitutes a video game from the read-  
25 only memory found in a game cartridge or disk. These unauthorized copies—  
26 "ROMs"—can be played on computers, phones, and other devices through the use  
27 of an "emulator," a piece of software designed to mimic the functionality of the  
28 physical video game system like the Nintendo 3DS or Nintendo Switch. ROMs can

1 also be played on Nintendo's hardware using hacking techniques.

2 20. Illegal copying of video game software is an international problem.  
3 Nintendo has taken many steps to halt the illegal copying, marketing, sale, and  
4 distribution of Nintendo video games designed to be played on Nintendo video  
5 game systems. For example, Nintendo employs technological protection measures  
6 and digital rights management tools to prevent piracy and supports law enforcement  
7 authorities who target internet piracy around the world.

8 21. Nintendo's efforts have included registration of the intellectual  
9 property rights in and to its video game systems and software in the United States  
10 and around the world. In addition, Nintendo protects and enforces its rights  
11 through legal actions brought around the world to stop individuals and companies  
12 from trafficking in pirated copies of its video games.

13 **C. Defendants' Infringing Activities**

14 22. In or around 2009, defendant Storman sent an email to the members of  
15 the Website noting that he would be adding new content including ROMs for  
16 various Nintendo video game systems. In this same e-mail, defendant Storman  
17 advertised that Website users could purchase Premium Memberships for \$30 per  
18 year to get access to unlimited downloads and download speeds with no  
19 advertisements.

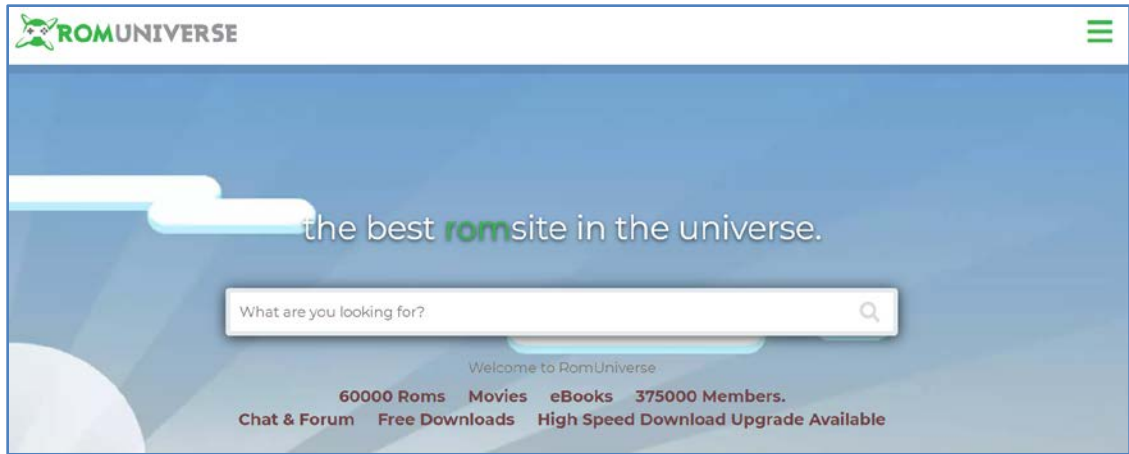
20 23. In 2018, around the time that Nintendo successfully enforced its  
21 intellectual property rights against other infringing ROM websites, defendant  
22 Storman bragged that his Website would continue to offer Nintendo ROMs. After  
23 the removal of the other infringing ROM websites, internet traffic to the Website  
24 increased.

25 24. Defendants own and operate the Website which offers downloads of  
26 thousands of illegal copies of Nintendo video games, profiting from their blatant  
27 and willful infringement of Nintendo's intellectual property.  
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1           25.     The Website has attracted hundreds of thousands of visitors a month,  
2 reaching nearly 400,000 visitors a month in March 2019, with over 20% of those  
3 visitors residing in the United States and a significant portion of Website traffic  
4 generated by Nintendo Switch and 3DS piracy-related keywords.

5           26.     Defendants have acted and are acting with the purpose of causing  
6 injury to Nintendo or with the substantial certainty that such injury would result.

7           27.     The homepage of the Website claims to be “the best romsite in the  
8 universe” and offers a search bar allowing users to search for specific ROMs to  
9 download.



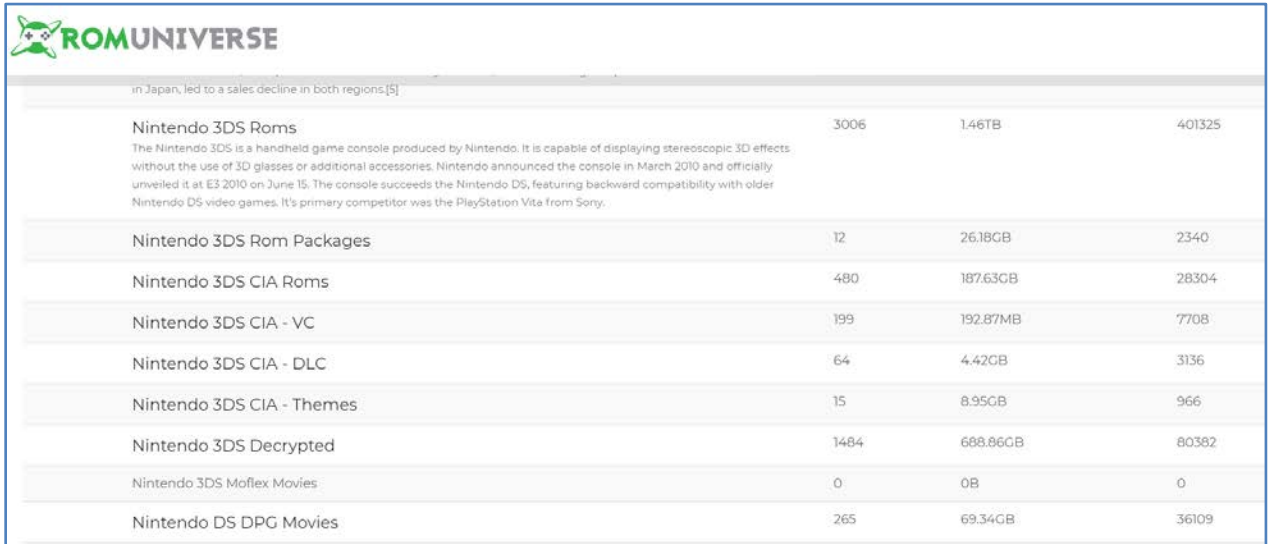
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19           28.     The Website contains and offers to the public an immense library of  
20 unauthorized copies of video games, primarily Nintendo video games designed for  
21 nearly every video game system Nintendo has ever produced. This includes, for  
22 instance, the list of copyrighted games provided in Exhibit A.

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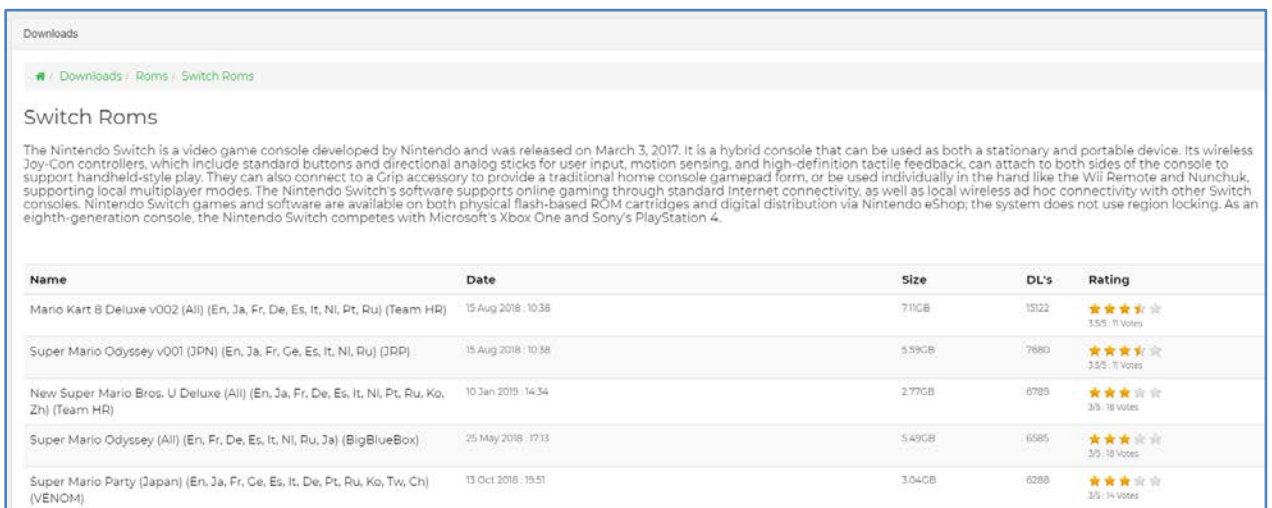
29. Visitors to the Website can use the search bar to locate pirated games, or browse through a catalog of pirated games organized by the system for which the games were originally developed:



The screenshot shows the ROMUNIVERSE website interface. At the top left is the logo for ROMUNIVERSE. Below it, there is a table listing various game categories. The table has four columns: Category, Count, Size, and Downloads. The categories listed are Nintendo 3DS Roms, Nintendo 3DS Rom Packages, Nintendo 3DS CIA Roms, Nintendo 3DS CIA - VC, Nintendo 3DS CIA - DLC, Nintendo 3DS CIA - Themes, Nintendo 3DS Decrypted, Nintendo 3DS Moflex Movies, and Nintendo DS DPG Movies.

Category	Count	Size	Downloads
Nintendo 3DS Roms	3006	1.46TB	401325
Nintendo 3DS Rom Packages	12	26.18GB	2340
Nintendo 3DS CIA Roms	480	187.63GB	28304
Nintendo 3DS CIA - VC	199	192.87MB	7708
Nintendo 3DS CIA - DLC	64	4.42GB	3136
Nintendo 3DS CIA - Themes	15	8.95GB	966
Nintendo 3DS Decrypted	1484	688.86GB	80382
Nintendo 3DS Moflex Movies	0	0B	0
Nintendo DS DPG Movies	265	69.34GB	36109

30. Once visitors to the Website select a particular video game system (such as the Nintendo Switch), they are taken to a dedicated page for that system which lists all of the pirated games offered by Defendants for download for that system.

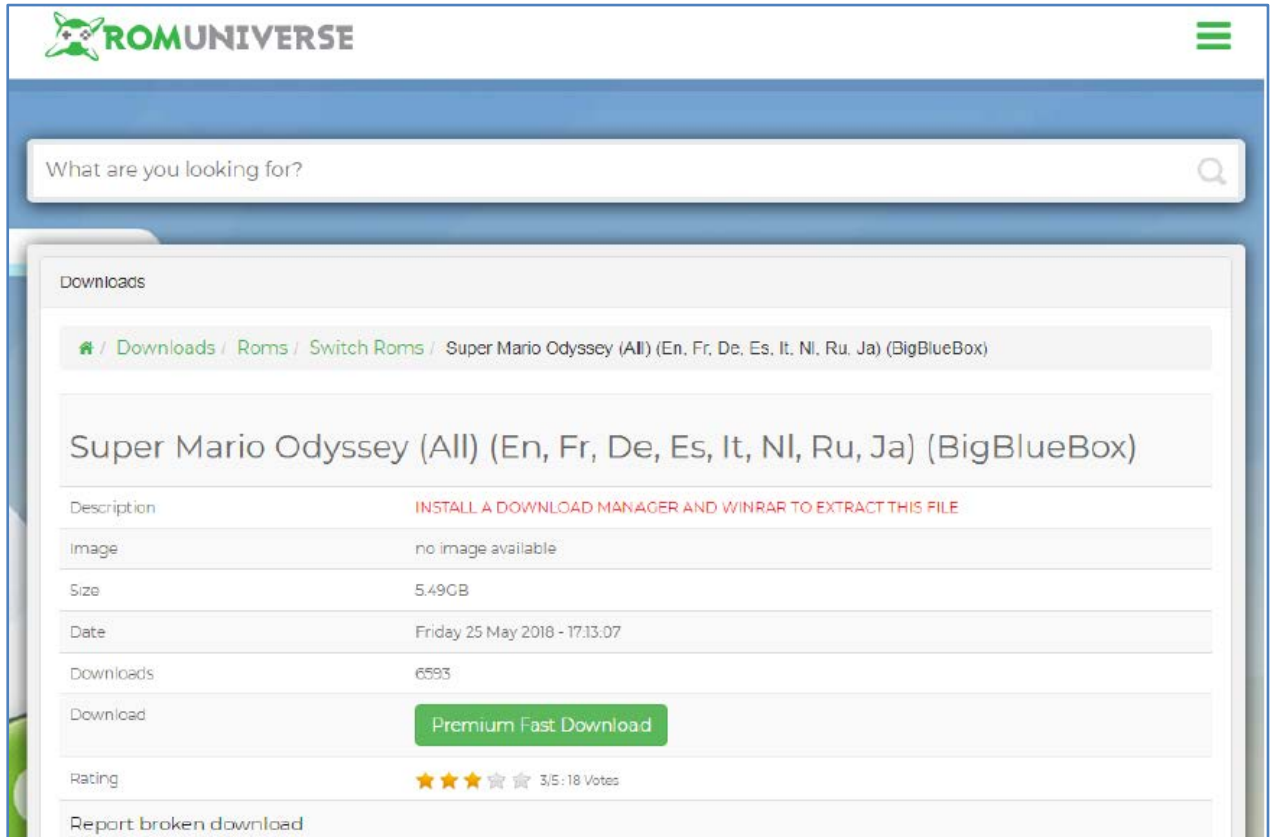


The screenshot shows the 'Switch Roms' page on the ROMUNIVERSE website. It features a breadcrumb trail: Downloads > Roms > Switch Roms. Below the breadcrumb is a heading 'Switch Roms' followed by a paragraph of text describing the Nintendo Switch console. Below the text is a table listing various game titles with their release dates, sizes, download counts, and ratings.

Name	Date	Size	DL's	Rating
Mario Kart 8 Deluxe v002 (All) (En, Ja, Fr, De, Es, It, Ni, Pt, Ru) (Team HR)	15 Aug 2018 : 10:38	711GB	15122	★★★★☆ 3.5/ 11 Votes
Super Mario Odyssey v001 (JPN) (En, Ja, Fr, Ce, Es, It, Ni, Ru) (JRP)	15 Aug 2018 : 10:58	5.99GB	7680	★★★★☆ 3.5/ 18 Votes
New Super Mario Bros. U Deluxe (All) (En, Ja, Fr, De, Es, It, Ni, Pt, Ru, Ko, Zh) (Team HR)	10 Jan 2019 : 14:34	2.77GB	6789	★★★★☆ 3.5/ 18 Votes
Super Mario Odyssey (All) (En, Fr, De, Es, It, Ni, Ru, Ja) (BigBlueBox)	25 May 2018 : 17:13	5.49GB	6585	★★★★☆ 3.5/ 18 Votes
Super Mario Party (Japan) (En, Ja, Fr, Ce, Es, It, De, Pt, Ru, Ko, Tw, Ch) (VENOM)	13 Oct 2018 : 19:51	3.04GB	6288	★★★★☆ 3.5/ 14 Votes

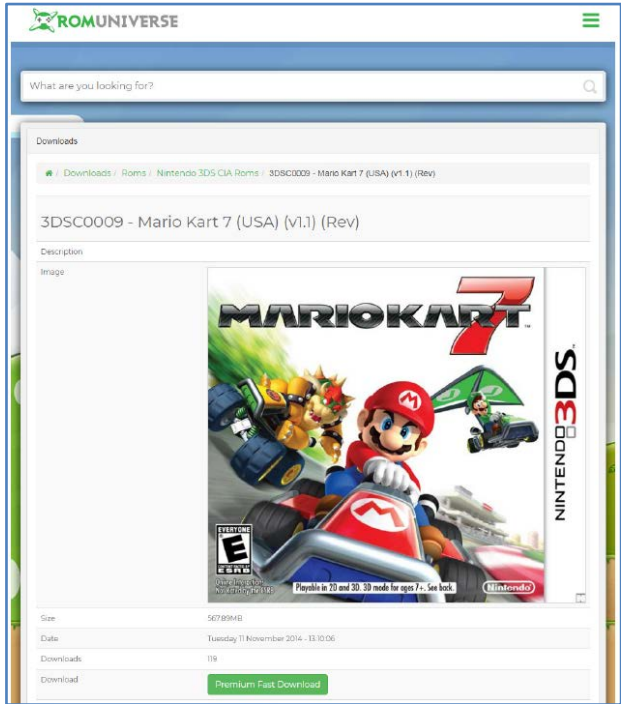


1           31. Next, visitors to the Website can select a particular pirated game and  
 2 are then taken to a dedicated webpage for that game. The visitor can then  
 3 download an unauthorized copy of that game from that webpage.



18           32. For several of the pirated games that the Website offers for download,  
 19 the Website also displays an image of the video games' original "box art," many of  
 20 which include Nintendo's registered copyrights for commercial packaging and  
 21 graphic designs on the packaging, as well as Nintendo's registered trademarks (for  
 22 example, images of Mario and the Nintendo logo):

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33. As shown below, the Website also displays the total number of games available for each video game system, the total number of downloads of each game, and the total file size for the library of games for each video game system. For instance, the Website advertises that it offers more than 3000 games for the Nintendo 3DS, amounting to over 1.4TB of memory, with more than 500,000 downloads. Likewise, the Website advertises that it offers more than 200 games for the Nintendo Switch constituting more than 1TB of memory and has provided nearly 300,000 downloads of those games. These numbers increase daily.

Nintendo 3DS Roms	3006	1.46TB	404042
The Nintendo 3DS is a handheld game console produced by Nintendo. It is capable of displaying stereoscopic 3D effects without the use of 3D glasses or additional accessories. Nintendo announced the console in March 2010 and officially unveiled it at E3 2010 on June 15. The console succeeds the Nintendo DS, featuring backward compatibility with older Nintendo DS video games. It's primary competitor was the PlayStation Vita from Sony.			
Nintendo 3DS Rom Packages	12	26.18GB	2390
Nintendo 3DS CIA Roms	480	187.63GB	28966
Switch Roms	247	1.08TB	200070
The Nintendo Switch is a video game console developed by Nintendo and was released on March 3, 2017. It is a hybrid console that can be used as both a stationary and portable device. Its wireless Joy-Con controllers, which include standard buttons and directional analog sticks for user input, motion sensing, and high-definition tactile feedback, can attach to both sides of the console to support handheld-style play. They can also connect to a Grip accessory to provide a traditional home console gamepad form, or be used individually in the hand like the Wii Remote and Nunchuk, supporting local multiplayer modes. The Nintendo Switch's software supports online gaming through standard Internet connectivity, as well as local wireless ad hoc connectivity with other Switch consoles. Nintendo Switch games and software are available on both physical flash-based ROM cartridges and digital distribution via Nintendo eShop, the system does not use region locking. As an eighth-generation console, the Nintendo Switch competes with Microsoft's Xbox One and Sony's PlayStation 4.			
Nintendo Switch Scene Roms	3082	5.77TB	89323
New content is added instantly upon release from the scene. This category includes all scene releases for the Nintendo Switch, including eShop, Proper, DLC and Updates. The rar file contains a nfo and a nsp or xci file.			
Nintendo Switch Roms Trimmed (XCI)	367	1.72TB	141435
Trimmed XCI files are roms that have the useless filler data removed resulting in a smaller size rom.			

1           34. Once downloaded, the pirated games can be played on computers,  
2 phones, and other devices with an emulator. When the pirated games are played,  
3 they display counterfeit copies of Nintendo's trademarks.

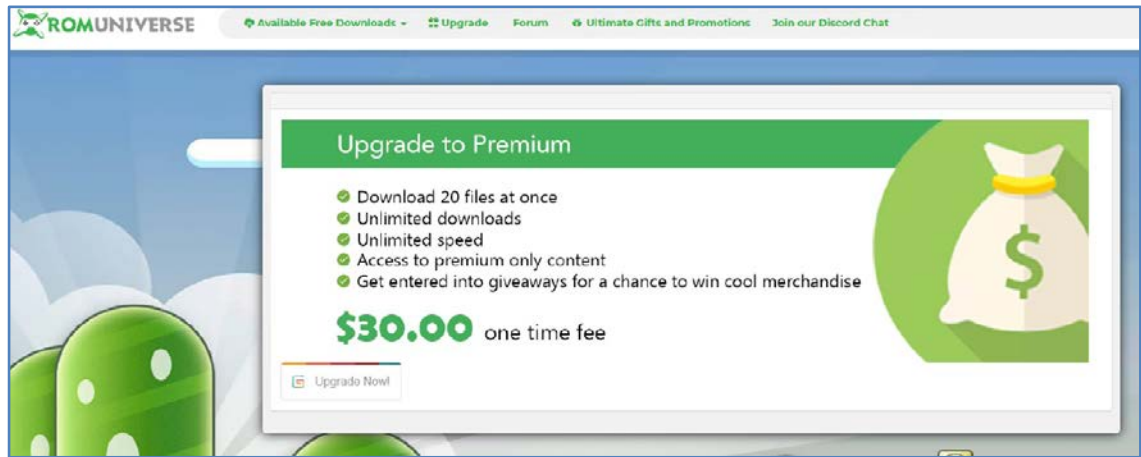


13  
14           35. Similarly, counterfeit copies of Nintendo's marks appear during the  
15 game play of the pirated games.



26           36. In addition to the vast library of pirated Nintendo 3DS and Nintendo  
27 Switch games, the Website offers for download thousands of other games for nearly  
28 every other Nintendo video game system.

1           37. Since at least as early as January 2013, Defendants have offered paid  
2 “Premium Memberships” for the Website for \$30 per year. Premium Memberships  
3 now require a one-time payment of \$30 and allow users to download an unlimited  
4 number of pirated games, with higher speeds than non-members. Non-members are  
5 also restricted in the number of pirated games they can download. Currently, non-  
6 members can only download one free game before being required to purchase a  
7 Premium Membership for additional downloads.



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15           38. Payment for the Premium Memberships is paid to Defendants through  
16 the use of a third-party payment processor, GumRoad.com.

17           39. As a direct result of Defendants’ infringement of Plaintiffs’ copyrights  
18 and trademarks, Defendants’ Website has become enormously popular. The  
19 Website has received hundreds of thousands of visitors each month and currently  
20 received more than 75,000 visitors each month. These visitors are drawn to the  
21 Website by the widespread availability of free, unauthorized copies of Nintendo’s  
22 video games and other highly valuable intellectual property. Defendants are  
23 directly profiting and have profited from their exploitation of Nintendo’s  
24 intellectual property through donations, paid memberships, and advertising on the  
25 Website.  
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**V. FIRST CAUSE OF ACTION:  
COPYRIGHT INFRINGEMENT**

**(The Copyright Act, 17 U.S.C. §§ 106 *et seq.* and 501)**

40. NOA incorporates by reference and re-alleges the preceding paragraphs.

41. NOA owns numerous registered copyrights related to Nintendo video games, characters, BIOS firmware for Nintendo video game systems, Nintendo musical compositions and audio recordings. These include without limitation the copyrighted works identified in Exhibit A. NOA has received Certificates of Copyright Registration from the Register of Copyrights for each of the copyrighted works identified in Exhibit A. These copyrights are in full force and effect and are enforceable by NOA.

42. According to the Website, tens of thousands of copies of the pirated works identified in Exhibit A have been downloaded through use of the Website.

43. Through the Website, Defendants regularly reproduce, distribute, publicly perform, and display unauthorized copies of the Nintendo video games, commercial packaging, and other copyrighted works, including the copyrighted works identified in Exhibit A, all without Nintendo’s permission.

44. The Website offers at least 247 pirated Nintendo Switch games and more than 3000 pirated Nintendo 3DS games for download, and on information and belief, these pirated games infringe hundreds of NOA’s separately registered copyrighted works, including NOA’s copyright registrations for the works identified in Exhibit A.

45. The foregoing acts of Defendants constitute direct infringement in violation of NOA’s exclusive rights in its copyrighted works under 17 U.S.C. § 106.

1           46. Defendants are also liable under the Copyright Act for inducing the  
2 infringing acts of the users of the Website. Defendants operate the Website with  
3 the object of promoting its use to infringe NOA's copyrights.

4           47. Defendants are also liable under the Copyright Act as contributory  
5 infringers for the infringing acts of users of the Website. Defendants have actual  
6 and constructive knowledge of the infringing activity of users of the Website and  
7 knowingly cause or otherwise materially contribute to those infringements of  
8 NOA's copyrights.

9           48. Defendants are also vicariously liable for the infringing acts of users of  
10 the Website. Defendants have the right and ability to control and supervise the  
11 infringing activities that occur through the use of the Website, and at all relevant  
12 times have derived a direct financial benefit from the infringement of NOA's  
13 copyrights.

14           49. The foregoing acts of infringement by Defendants have been willful,  
15 intentional, and purposeful, or in reckless disregard of NOA's rights.

16           50. As a direct and proximate result of Defendants' infringement of  
17 NOA's exclusive rights under Section 106 of the Copyright Act, NOA is entitled to  
18 damages as well as Defendants' profits under 17 U.S.C. § 504(b).

19           51. Alternatively, and at NOA's election, NOA is entitled to the maximum  
20 statutory damages available under 17 U.S.C. § 504(c) in the amount of \$150,000  
21 per each infringement of NOA's copyrighted works or for such other amount as  
22 may be proper.

23           52. NOA is entitled to its attorneys' fees and full costs pursuant to 17  
24 U.S.C. § 505.

25           53. Defendants' conduct is causing, and unless enjoined and restrained by  
26 this Court, will continue to cause Nintendo great and irreparable injury that cannot  
27 be fully compensated for or measured monetarily. NOA has no adequate remedy at  
28

1 law. NOA is entitled to a permanent injunction prohibiting any further  
2 infringement of NOA's exclusive rights under the Copyright Act.

3 **VI. SECOND CAUSE OF ACTION**  
4 **TRADEMARK INFRINGEMENT**

5 **(The Lanham Act, 15 U.S.C. §§ 1114 and 1125(a))**

6 54. NOA incorporates by reference and re-alleges the preceding  
7 paragraphs.

8 55. NOA owns federal registrations for the trademarks identified in  
9 Exhibit B hereto. These registrations are in full force and effect and are  
10 enforceable.

11 56. The pirated games offered by Defendants through the Website use and  
12 incorporate NOA's registered trademarks, including in the opening credits for each  
13 game.

14 57. Additionally, Defendants use NOA's registered trademarks and  
15 counterfeit copies of NOA's registered trademarks, including the trademarks  
16 identified in Exhibit B, on the Website to promote the sale of the pirated games and  
17 to encourage visitors to download or play unauthorized copies of NOA's  
18 copyrighted works, thereby infringing NOA's registered trademark.

19 58. Defendants' actions constitute use in interstate commerce of a false  
20 designation of origin, false or misleading description of fact, or false or misleading  
21 representation of facts that is likely to cause confusion or mistake, or to deceive as  
22 to the affiliation, connection, or association of the goods and services with NOA, or  
23 as to origin, sponsorship, or approval of the goods and services provided by  
24 Defendants in violation of Section 43(a) of the Lanham Act, 15 U.S.C. § 1125(a).

25 59. Defendants' actions also constitute the use in interstate commerce of a  
26 reproduction, counterfeit, copy, or colorable imitation of a registered trademark of  
27 NOA in connection with the sale, offering for sale, distribution, or advertising of  
28 goods or services on or in connection with which such use is likely to cause

1 confusion or mistake, or to deceive, in violation of Section 32 of the Lanham Act,  
2 15 U.S.C. § 1114.

3 60. Defendants knew or should have known of NOA's rights, and  
4 Defendants' infringement has been knowing, willful, and deliberate, making this an  
5 exceptional case within the meaning of 15 U.S.C. § 1117.

6 61. The infringing acts alleged above have a foreseeable effect on U.S.  
7 commerce.

8 62. Nintendo has been and continues to be damaged by Defendants'  
9 wrongful acts in a manner that cannot be fully measured or compensated in  
10 economic terms, and NOA has no adequate remedy at law. Defendants' acts have  
11 damaged, and threaten to continue to damage, Nintendo's reputation and goodwill.

12 **VII. FOURTH CAUSE OF ACTION**  
13 **(California Unfair Competition)**

14 63. NOA incorporates by reference and re-alleges the preceding  
15 paragraphs.

16 64. By the acts described herein, Defendants have engaged in unlawful  
17 business practices that have and will continue to injure NOA and its business in  
18 California, in violation of California Business and Professions Code section 17200  
19 *et seq.*

20 65. The conduct of Defendants is unlawful as required by section 17200,  
21 because Defendants have engaged in violations of state and federal law, including  
22 unfairly competing with NOA by using NOA's registered trademarks and  
23 copyrights.

24 66. The above unlawful conduct constitutes a business practice of  
25 Defendants in violation of section 17200 *et seq.*

26 67. The foregoing acts have damaged and irreparably harmed NOA and  
27 will continue to do so if not enjoined.  
28



1 68. As a direct and proximate result of Defendants’ conduct alleged  
2 herein, Defendants have been unjustly enriched and should be ordered to disgorge  
3 any and all profits earned as a result of such unlawful conduct.

4 **PRAYER FOR RELIEF**

5 WHEREFORE, plaintiff NOA seeks the following relief:

6 A. For judgment in favor of NOA, and against Defendants, for damages  
7 in such amounts as may be proven at trial;

8 B. An award of statutory damages as allowed by law, in an amount up to  
9 \$150,000 for the infringement of each NOA copyrighted work and up to  
10 \$2,000,000 for the infringement of each NOA trademark through use of counterfeit  
11 marks;

12 C. An award of enhanced damages or profits, whichever is greater, under  
13 Section 35 of the Lanham Act, 15 U.S.C. § 1117, and as otherwise provided by law;

14 D. Based on Defendants’ willful and deliberate infringement of NOA’s  
15 intellectual property, and to deter such conduct in the future, NOA be awarded  
16 punitive damages;

17 E. An accounting of all Defendants’ profits and gains from the Website;

18 F. For the costs and expenses of this action, as well as NOA’s reasonable  
19 attorneys’ fees;

20 G. Pre-judgment and post-judgment interest;

21 H. A permanent injunction enjoining Defendants and their agents,  
22 servants, employees, and all those in active concert or participation with Defendants  
23 to:

- 24 a. Permanently cease all copying, distributing, selling, performing,
- 25 displaying, playing, or otherwise using any unauthorized copy
- 26 of a NOA copyrighted work, or any derivative thereof;
- 27 b. Permanently cease using, or inducing or enabling others to use,
- 28 and reproduction, counterfeit, copy, or colorable imitation of

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NOA’s trademarks, in any manner in connection with the manufacture, printing, distribution, advertising, offering for sale or sale of any goods or services, including the use of NOA’s trademarks in connection with a website;

- c. Permanently cease using any trademark, service mark, name, logo, design or source designation of any kind on or in connection with Defendants’ goods or services that it likely to cause confusion, mistake, deception or public misunderstanding that such goods or services are produced or provided by Nintendo, or sponsored or authorized by Nintendo, or are in any way connected or related to Nintendo;
- d. Destroy all unauthorized Nintendo games or other unauthorized copies of Nintendo’s intellectual property including movies, books, and music; and
- e. Transfer all domains used by Defendants in furtherance of their infringing activities to NOA, including but not limited to NDSUniverse.com and RomUniverse.com;

I. For such other relief as the Court may deem just and proper.

DATED: September 10, 2019

**PERKINS COIE LLP**

By: /s/ Katherine M. Dugdale

Attorneys for Plaintiff Nintendo of America Inc.

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**DEMAND FOR JURY TRIAL**

Plaintiff Nintendo of America Inc. hereby demands a trial by jury on all claims so triable.

DATED: September 10, 2019

**PERKINS COIE LLP**

By: /s/ Katherine M. Dugdale

Attorneys for Plaintiff Nintendo of America Inc.