

An extra life for the pre-owned games market?

By [Verdict Comment](#)

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LONDON, UK: Following a ruling by the Court of Justice of the European Union that software authors cannot oppose the resale of licenses, the games industry now has to work out what the consequences will be. The ruling comes at a time of evolution in the supply of video games to customers, with EA stating its intention to go 100% digital, placing games retailers at risk of losing out on the lucrative pre-owned market.



The Court of Justice of the European Union ruled on July 3, 2012, that "an author of software cannot oppose the resale of his 'used' licenses, allowing the use of his programs downloaded from the internet." While this lawsuit was brought to the courts by Oracle with regard to its own software, it could have huge ramifications for the gaming industry.

With the first of the next generation video games consoles expected to be released at the end of 2012, Nintendo, Sony, and Microsoft will have to consider the impact of migrating users to direct downloads of game content. A recent announcement by Electronic Arts (EA) labels boss Frank Gibeau, stating that the publisher's goal is to go 100% digital in its content delivery, points to the intention of the console industry, already seen in the PC games market through the likes of online gaming platform Steam.

Selling on the rights

However, when digital is considered in tandem with the ability of customers to resell access to their games at the click of a button, priorities could change. The future revenues from released games might be vastly lower than previously estimated, due to extremely short periods in which the publisher could sell licenses before they were sold on in a digital free-for-all pre-owned market.

By allowing the transfer and sale of licensing for digital content, a shopper who downloads a game could sell on the rights to use that digital version at any price they wish. Third-party websites could facilitate the transaction legally; however, whether closed platforms such as Sony and Microsoft's consoles will be obliged to allow these third parties to operate is uncertain.

If the ruling is challenged and full support becomes law, it could delay the transition to fully digital downloads until a suitable method of controlling licenses can be found. This would extend the life of physical video games - a lifeline for the already suffering Game Group. Game developer lawyers will be desperately looking to find ways to work around the ruling, and one such option may be to move to a "freemium" model, where the basic game files are distributed for free, but revenue is

earned through access to levels or online usage.

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