



DIGITAL MILLENNIUM COPYRIGHT ACT & WIRE FRAUD

In May 2018, Homeland Security Investigations (HSI) and the Federal Bureau of Investigation (FBI) initiated a criminal investigation into TEAM XECUTER (TX), a financially motivated cyber-criminal organization (CO). TX designs, manufactures, markets, and distributes circumvention devices (“modchips”) to bypass technological security measures that control access to copyrighted works, specifically gaming consoles issued by companies such as Nintendo, Microsoft, and Sony. The trafficked modchips allow purchasers of the devices to play pirated game titles; but for these circumvention devices, infringing copies of games would not be playable on the consoles.

TX has been responsible for numerous modchips and even boasts on its website that it’s been “Rocking the video gaming console scene since 2002.” As soon as the Nintendo Switch hit the market in March 2017, TX started its development of the SX Pro modchip to defeat the console’s technological security measures. TX’s SX Pro modchip kit allows for the accessibility to install SX OS firmware during the console’s recovery mode caused by a short-circuit via a jig tool (included in the kit). The sale of circumvention devices is illegal in the U.S. under the Digital Millennium Copyright Act (DMCA) and federal copyright regulations.

The main operators of TX have been identified as Max LOUARN, a French national living in France, Yuaning CHEN a Chinese national living in China, and Gary BOWSER a Canadian national that was living in the Dominican Republic (DR). TX generated tens of millions of dollars of revenue from the sale of the modchips, and subsequently laundered a portion of those funds. The losses caused to the victim companies are still being calculated, however, the losses associated with the SX family of devices alone is anticipated to exceed \$50,000,000 USD.



On **August 20, 2020**, LOUARN, CHEN, and BOWSER were indicted by a federal Grand Jury in the Western District of Washington for violation of Title 17 USC, §§ 1201(a)(2) (A) and 1204(a)(1): Trafficking in Circumvention Devices (four counts each) and Title 18, USC, § 371: Conspiracy to Circumvent Technological Measures and to Traffic in Circumvention Devices (one count each), as well as federal statutes related to wire fraud, money laundering and conspiracy.



In **October 2021** BOWSER plead guilty to four counts of Title 17, USC, §§ 1201(a)(2)(A) and 1204(a)(1), and one count of Title 18, USC, § 371. CHEN and LOUARN remain outstanding fugitives, despite several arrest and extradition attempts.



In **November 2021**, HSI Seattle, with assistance from the National Intellectual Property Rights Coordination Center, executed 11 seizure warrants for websites utilized by TX to perpetuate the fraud scheme.

The modchips and security by-pass techniques employed by TX are examples of digital IP piracy that harms innovation, consumers, and U.S. economic interests. This investigation, including its website seizures, has effectively shut-down the number one producer of modchips and has helped curb the problem of digital piracy that continues to negatively impact in the gaming industry.