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November 6, 2003

VIA ELECTRONIC MAIL

Luigi Auriemma
aluigi@altervista.org
aluigi@pivx.com
aluigi@autistici.org

Re: GameSpy Industries

Dear Mr. Auriemma:

This firm represents GameSpy Industries ("GameSpy") with regard to Intellectual Property matters. It has come to our attention that you have committed numerous violations of state and federal law by illegally accessing GameSpy servers and by creating, marketing, and distributing software which circumvents the encryption mechanism that protects access to GameSpy's servers. Furthermore, you have published so called "security advisories" which provide step-by-step instructions for others to similarly circumvent security on GameSpy servers. This unauthorized access to GameSpy servers and trafficking in circumvention technology constitutes a violation of numerous state and federal criminal and civil laws, and may subject you to liability for civil damages, criminal fines, and imprisonment.

The software programs at issue are distributed on your website under the following filenames:
- gs3dirc.zip ("Gamespy3d <= 263015 lets code execution through long IRC answer")
- wilco.zip ("Testing tool for RogerWilco 0.2")
- gsinfo.zip ("GSInfo 0.1.3")

The "advisories" at issue are published on your website under the following filenames:
- gs3d-ircbof-adv.txt ("Gamespy3d <= 263015 lets code execution through long IRC answer")
- wilco-remix-adv.txt ("Rogerwilco 1.4.1.2 and 1.4.1.6 remix of bugs")
- wilco-recvbof-adv.txt ("Rogerwilco: server's buffer overflow (<= 1.4.1.6, <= 0.30a)")
- wilco-adv.txt ("freeze bug" from "2001 version" of Roger Wilco server)

We enclose copies of pages from your website listing these items for your convenience.

These programs purport to permit users to circumvent the encryption protection of GameSpy's proprietary software, including GameSpy 3D and Roger Wilco, to obtain access to computer servers owned and operated by GameSpy, or in some cases to cause

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those servers to crash. As you are no doubt aware, GameSpy's private computer network contains highly confidential, valuable, and proprietary information, including the identity of, and access information for, servers around the world which are connected to GameSpy's servers. This information has taken millions of dollars over several years to develop and maintain and constitutes one of the most valuable assets of GameSpy. Please be advised that GameSpy has and will continue to vigorously protect its proprietary information to the fullest extent allowable under law.

Your website demonstrates your knowledge of the confidential and proprietary nature of the information contained on GameSpy's servers. For example, the source code of your "Testing tool for RogerWilco 0.2" software (wilco.zip) contains the comment "This exploit, without using any of these bugs'options, runs like a sniffer and shows you some useful informations [sic]."

Further, the "advisory" documents described above are replete with admissions that your software causes, and has in fact been used to cause, GameSpy servers to crash. In contrast to simply advising GameSpy of these vulnerabilities, by publishing this software to the world at large you are clearly facilitating the intentional crashing of GameSpy's servers by others. For example, your "wilco-adv.txt" advisory states, "This bug is just the perfect situation to make tons of damage using the minimum energy." Your statements regarding the vulnerabilities of GameSpy's servers indicate that you have made systematic, intentional, and ultimately successful attempts to crash GameSpy's servers. For example, your "wilco-remix-adv.txt" advisory states, "Doesn't seem possible to execute remote code but only to crash the server of the 1.4.1.6 clients connected to a dedicated server."

Your acts in circumventing the encryption protection of GameSpy's proprietary software and in manufacturing, marketing and distributing the three software applications described above constitute violations of the criminal and civil provisions of the Digital Millennium Copyright Act ("DMCA"), 17 U.S.C. §§ 1201(a) and (b), subjecting you to civil and criminal penalties as described in 17 U.S.C. §§ 1203 – 1204. Those sections authorize civil damages of up $75,000 per violation for repeated violations, up to $500,000 in criminal fines and up to five years imprisonment. The acts described herein also constitute violations of the Computer Fraud and Abuse Act, 18 U.S.C. §§ 1030 et seq., which may result in an award of civil damages as well as criminal fines and imprisonment of up to ten years. Your use of the GAMESPY trademark in the name, marketing and promotion of your software products also appears to be a further violation of state and federal trademark laws, including the Lanham Act, 15 U.S.C. §§ 1114 et seq.
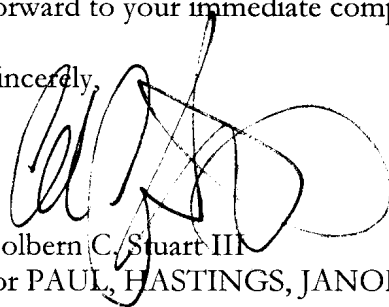
We hereby demand that you *immediately* remove any and all access or reference to the programs and trademarks listed above, as well as the "advisory" documents describing how to utilize the programs to break into and/or crash GameSpy's servers. Please be advised that if you do not comply with this demand by Friday, November 14, 2003, at 5:00 P.M. Pacific Standard Time, we will seek an order from a competent court requiring

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that you immediately remove any and all illegal matter from your site, and seek damages for the same. *Your prompt acknowledgement of the correspondence and compliance herewith is necessary to avoid further legal action.*

No statement herein should be considered an admission or waiver by GameSpy, which specifically reserves all rights with respect to the matters disclosed herein. We look forward to your immediate compliance.

Sincerely,

Colbern C. Stuart III
for PAUL, HASTINGS, JANOFSKY & WALKER LLP

Enclosures

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