Furor Over Sony Patent

Technology that could prevent resale of games and other digital goods raises speculation, fears.

By Dawn C. Chmielewski, Times Staff Writer
July 10, 2006

Sony Corp. has patented technology that would prevent its PlayStation consoles from playing used, rented or borrowed video games — raising questions about whether the electronics and entertainment giant may attempt to redefine what it means to own something in the digital age.

Sony has said little about the technology, patented in Japan in 2000, or how it might be deployed. But speculation over Sony's plans has sparked a furor online as game fans and consumer advocates fret that the company may incorporate it into the upcoming PlayStation 3 console, due to hit stores this fall.

They worry that it would wipe out the $1-billion-a-year market for used games and could even prevent someone from playing their games at a friend's house.

"Since only titles for which legitimate software has actually been purchased and which have been initially registered in the machine table can be used, resale (so-called used software purchase) after purchase by an end user becomes practically impossible," according to the patent documents.

Documents filed in April 2000 with the U.S. Patent Office describe a method of copy protection by which the game system would verify a disc as legitimate, register the disc to that particular game console, then wipe out verification data so the disc would be rendered unreadable in other PlayStations.

"Maybe they'll copy protect movies or music downloads," he said.

Whatever Sony's plans, the tempest illustrates the changing nature of ownership as millions of people accumulate vast collections of digital entertainment. Few people realize that when they buy software, music or movies, they are actually buying a license to use, listen or watch.

That's why it violates copyright laws for people to sell copies of their music collection.

Sony was attacked this year for including software on some of its music CDs that surreptitiously installed itself on computers playing the disc. The software was intended to prevent unauthorized copying. Sony later apologized.
What does Sony get from that?“ said John Taylor of Arcadia Investment Corp. “Sony gets a black eye. It doesn’t make sense to me.”

Several analysts said the patent appeared to principally be aimed at deterring game piracy. Indeed, Sony’s patent notes that through the complexity of its copy-protection scheme “manufacture of counterfeit software becomes extremely difficult.”

And it’s not unusual for technology companies such as Sony to register patents either in anticipation of one day collecting royalties from someone seeking to license the technology or to prevent someone else from deploying it.

“These are all things technologically possible to do in any computing device,” said one cryptographer, who requested anonymity. “In the video game business, it would be suicide for someone to do this. It’s actually possible Sony filed this because they wanted to keep people from doing that.”

Nonetheless, online speculation that Sony would use technological or other means to ban the sale of used PlayStation 3 video games prompted one analyst, P.J. McNealy of American Technology Research, to study its potential effect on the industry.

“While we believe it is unlikely that SNE will ban PS3 pre-owned games from being sold by the same chains that sell new PS3 games, we believe this issue remains under consideration,” McNealy wrote in a research note issued June 23.

McNealy estimated that game fans spent about $990 million buying used games, primarily from GameStop or through eBay. Much of that spending — about $620 million — is for used PlayStation 2 games.

Were Sony to ban the sale of used games for its next-generation PS3, the effect on independent video game publishers would be negligible, McNealy said.

Used-game sales are a growing source of irritation for game publishers, which receive no proceeds from the resale of games. Executives privately complain that cheaper secondhand games are available for sale shortly after a new game’s release; publishers, which give retailers marketing money to promote games, end up competing with discounted versions of their own titles.

Major independent game publishers Electronic Arts Inc., Activision Inc. and THQ Inc. declined to comment.

Meanwhile, used games are a lucrative source of revenue for retailer GameStop, which began reporting pre-owned game sales after its acquisition of competitor EB. Last year, secondhand game sales accounted for $930 million in revenue and $418 million in profit. The profit margin was 45%, compared with 21% for new games, according to Arcadia Investment Corp.

Analysts say used-game sales contribute to the overall growth of the video game market, in the same way that the ability to trade in a used vehicle fuels the new-car market.

“A used-car market creates currency to buy new cars. Same with games. Everybody acknowledges that,” Pachter said. “The problem is if the used game is available a week after the new game is out for a $5 discount.”
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