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BERNIE'S WEIGHED SELLING CHAIN, closing stores in failed bid to stave off bankruptcy liquidation, court papers say. (P. 1)

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Many Options Weighed

Bernie's Eyed Sale, Store Closures Before Liquidation, Court Papers Say

Bernie's Audio Video weighed selling the chain and closing stores to help salvage the chain, but recurring losses and the sluggish economy forced liquidation, according to court documents.

U.S. Bankruptcy Court Judge Albert Dabrowski, Hartford, Conn., on Friday approved a series of orders to start liquidation sales that will run through February. Bernie's financial struggles appeared to peak in December when it defaulted on a RBS Citizens bank loan. As of late November, Bernie's had \$2.1 million and \$10.4 million outstanding on a term loan and revolving credit facility, court documents state.

It hired Altman & Co in December to help review options for salvaging the chain, including closing its 185,000-square-foot warehouse in Enfield, Conn. But Bernie's was unable to overcome a sagging balance sheet. Bernie's 2009 net loss grew to \$1.9 million from \$234,154 a year earlier as sales sank to \$112.2 million from \$125.3 million, court records said. While Bernie's filed for bankruptcy this week, liquidator Hilco began reviewing

the chain earlier this month. Hilco was paid a \$375,000 expense retainer, court documents said. Bernie's will get 0.3 percent of the \$13.2-\$15.2 million cost value of remaining merchandise.

In addition to receiving court approval for liquidation, Bernie's also got clearance to pay customer deposits, gift cards, employee wages and sales and use taxes in Connecticut, Massachusetts, New York State and Rhode Island, according to court documents. As of Jan. 11, Bernie's had \$1.1 million in deposits from 1,020 customers and \$189,164 in outstanding gift cards, the retailer said. It also had \$175,000 in accrued, but unpaid hourly and salary wages owed employees, who were paid through Jan. 9, the retailer said. There also were \$29,420 in sales and use taxes, including \$20,091 owed in Connecticut where the chain had nine stores. On Friday, Dabrowski continued until Jan. 28 a hearing on a motion enabling Bernie's to use \$15.7 million in cash collateral to fund operations through March 31. RBS Citizens has a secured interest in the cash collateral.

Bernie's top unsecured creditor, GE Money Bank, was owed \$730,787, followed by Toshiba, \$509,307; Monster, \$298,140; Haier, \$250,171; Z-Line Designs, \$193,272; Omnimount, \$167,217; Bose, \$67,641; and LG Electronics, \$49,092.

* * * * *

Former Bernie's Chief Financial Officer David Sullivan sued the retailer earlier this month, claiming he was demoted and his salary "greatly reduced" because of his age. The suit, filed in U.S. District Court, Hartford, Conn., Jan. 5, claimed CFO Thomas Glynn, who replaced Sullivan in 2008, "didn't have the qualifications or skills" as he had. Sullivan, 61, joined the chain in 1992 and was promoted to CFO in 2005. Michael Honeyman, who was named Bernie's president in 2006, ignored Sullivan's "many skills and achievements in order to create a pretext for demoting him and eventually to terminate him," the suit said. Bernie's also bought insurance coverage for age discrimination claims, demonstrating the chain's action was "premeditated," the suit said. Sullivan's salary was cut on July 18, 2008, and a "much younger" employee was given many of his responsibilities, the suit said. He left the chain on Feb. 4, 2009. — *Mark Seavy*

Stern E-Waste Rebuke

We're Not Out to Undermine Producer Responsibility, CEA, ITI Say

CEA and the ITI Council gave a stern rebuke Friday to Electronic Takeback Coalition allegations that their lawsuit to block New York City's e-waste law from taking effect was a strategy to sidestep a meaningful commitment to take back products. The claim was made by Barbara Kyle, the coalition's national coordinator, in a Thursday media briefing with reporters (CED Jan 15 p2). It's "utterly false," CEA and ITI said in a joint e-mailed statement.

"As manufacturers, we recognize that we play an important role -- but not the only role -- in providing product stewardship solutions," they said. "Many of our members have instituted voluntary, nationwide producer responsibility programs and we and our members support reasonable recycling solutions that rely on shared responsibility between manufacturers, distributors, retailers, government and consumers. Unfortunately, the NYC program is not reasonable. Rather, it is a globally unprecedented mandate that will impose staggering costs on only one industry among several that are instrumental in transporting, selling and delivering electronics to consumers."

On Kyle's claims that CE and IT makers have repeatedly threatened litigation in states with strong e-waste laws, CEA and ITI said their objections are "specific" to New York City. "It is important to note that we do not

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oppose producer responsibility," the trade groups said. "In fact, the consumer electronics and information technology industry, including manufacturers and retailers, exercises producer responsibility in other states where it is the law, and also voluntarily in states where it is not the law. Our industry recycles hundreds of millions of pounds of e-waste per year."

This lawsuit "has always been about the unique and extraordinary burdens of the New York City program, not about the larger issues of producer responsibility," CEA and ITI said. Contrary to claims by Natural Resources Defense Council senior attorney Kate Sinding in the same briefing that it was New York City's direct collection mandate that pushed manufacturers "over the edge" and prompted them to sue where they haven't sued elsewhere, she "is only partially correct," the groups said. "There are a number of elements of the underlying law itself that are also globally unique and extremely burdensome," they said. According to CEA and ITI, these include: (1) A requirement that a manufacturer offer free take-back of an old product of any brand whenever a retailer sells one of its new products anywhere in the city; (2) A requirement that manufacturers provide free collection and recycling of products "we never even made, regardless of a new sale"; (3) An "unprecedented and regressive penalty scheme that could force small manufacturers out of business."

Sinding also "is simply wrong in her claim that manufacturers excel at figuring out how to get products into people's homes and by extension that we will figure out how to get them out," CEA and ITI said. "Manufacturers rely on a national network of wholesalers, distributors and retailers to transport our products (often across state lines), and subsequently distribute, stock, market, sell and deliver electronics to consumers. The city has ignored this complex distribution chain and decided to unilaterally impose all obligations on manufacturers alone."

It's also compelling CE and IT makers "to perform a traditional government service by providing free door-to-door collection of used products," they said. "This is a stunning government over-reach that is illegal and unconstitutional." Sinding also is wrong that manufacturers lobbied the city to drop mandatory minimum collection standards in favor of the direct collection requirement, they said. "Manufacturers never supported direct collection during the legislative process and vehemently opposed it during the rule-making," they said. "Moreover, had we indeed lobbied for direct collection in place of minimum standards, then how is it that we ended up with both requirements?"

As for the possibility of settlement talks to resolve the legal fight, CEA and ITI "have always been willing to sit down with the city to try to reach an amicable solution that serves the interests of all parties, including the

Today in

- **CLOUD COMPUTING THREATS** abound, and law isn't settled on data protection, FCBA told. Virtualization makes breaches harder to find.
- **FACEBOOK PRIVACY CHANGES** receive more scrutiny from EPIC.
- **CAPITOL HILL:** House Foreign Affairs hearing on export controls touches on encryption, Google-China. Overhaul bill due in March.
- **AGENCIES:** USTR seeks comment on Special 301 review.
- **INTERNATIONAL:** Swiss woman must pay \$1,500 in P2P infringement loss.
- **INDUSTRY NOTES:** YouTube launches cyberbullying prevention campaign ... New Media Consortium and Educause forecast technologies soon to enter mainstream campus use.

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residents of New York City," they said. In May, CEA and ITI wrote to the city "to raise concerns we had with respect to a number of aspects of the city's program and asked to meet with city officials to try to resolve them, but the city refused to meet with us," they said. As the July 24 complaint said, the CE and IT industries "are at the forefront of supporting sustainable and effective electronics take back programs around the country and many leading companies in our industry have their own extremely effective voluntary nationwide program in place. The New York City program, in its current form, undermines and jeopardizes the great strides that our industry has made in ensuring the safe disposal of electronics products at the end of their useful life."

The "most critical point to make" about the recent New York City sanitation workers union amicus brief backing CE makers in their e-waste lawsuit is that the filing "does not in any way attack producer responsibility," Sinding said in the Thursday briefing when we asked her to respond to it. In its brief, the union argued that waste collection, including collecting e-waste from residents' homes, should stay the "exclusive province" of sanitation workers and not be shifted to manufacturers and their private contractors, as the city Sanitation Department's (DSNY) rules require.

NRDC and Sinding previously declined comment on the union's brief on the grounds that the filing attacked those rules and not the city's e-waste law itself and NRDC intervened in the case only to defend the law. The union's brief "does not take issue with the New York City law, it does not take issue with the fundamental issue of shifting the burden of managing and handling electronics at the end of their useful lives from the city and its taxpayers to the manufacturers," Sinding said. "The sole point of that filing was that ... the sanitation workers wanted to do the work. The manufacturers would pay for it, but they wanted to get the jobs."

It's a "legally possible outcome" that the court could uphold the city's producer responsibility law but strike down the DSNY's direct collection rules, Sinding said in Q-and-A. NRDC "intervened to defend the law, but not the regulations, because we do believe it's possible that the court could parse its decision between those two aspects and uphold the underlying principles of product stewardship for producer responsibility even were it to have qualms about the implementing regulations," she said. The U.S. District Court in Manhattan has rescheduled oral argument on CE makers' preliminary injunction motion to Feb. 10 at 9:45 a.m. -- *Paul Gluckman*

17 Percent Headcount Reduction

Majesco Sees Opportunity in 3D, Other 'Hot New Technologies'

Majesco Entertainment is weighing its "opportunities to exploit hot new technologies such as 3D," CEO Jesse Sutton said in a conference call, saying 3D was "the most talked about technology" at CES. Majesco, meanwhile, reported mixed results for Q4 and the fiscal year ended Oct. 31, and said it was taking several "steps to fine tune our strategy," including about a 17 percent reduction in headcount. The cuts will result in 16 job cuts, it said in an SEC filing.

The company will release its first 3D game, *Attack of the Movies 3D*, this spring for the Wii. Sutton called it "the first-ever 3D shooter designed exclusively for" Nintendo's console, and said it will come "packaged with four pairs of 3D glasses to support four-player cooperative shootouts and does not require a 3D-enabled TV."

Majesco continues "to focus on the fastest growing market segment in the industry, the family friendly mass market genre," Sutton said, but "we view all platforms as potential opportunities, and while we believe Nintendo systems continue to present the best fit for our strategy in the near term, we are closely watching the development of the next generations of systems." He predicted 2011 will be "the year all three major consoles broaden their appeal to the family friendly demographic" as Microsoft and Sony release new motion control systems. "Social and casual multiplayer games are specific areas of interest" for Majesco, "along with digital downloadable content across all distribution channels," Sutton said.

The company surpassed its Q4 revenue forecast despite the economy and "continued softness across our industry which was driven by a consumer retail environment that was much weaker than expected," Sutton said. Q4 revenue jumped 32.8 percent to \$23.9 million vs. Q4 last year. But the company swung to a \$4.5 million, 14 cents per share, from a \$387,000, 1 cent per share, profit in Q4 last year. Sales for the fiscal year soared 47.8 percent to \$94.5 million vs. the prior year. But it swung to a \$7.2 million, 24 cents per share, loss versus a \$3.4 million, 12 cents per share, profit.

Majesco was "disappointed" with its "bottom line results," Sutton said. Profitability and gross margin for the quarter and full year were hurt by "the cancellation or impairment of" certain 2010 titles, weak sales of the game *Our House Party* for the Wii and DS, and new IP titles due to a "difficult retail environment," and "industrywide softness" as well as game delays in Majesco's business outside the U.S., he said. Certain unspecified games the company intended to ship abroad in 2009 slipped into 2010, he said.

The company shipped 33 SKUs in the fiscal year, including 17 DS, 12 Wii and one Xbox 360. Revenue for the year "was driven by the continued success" of Majesco's *Cooking Mama* franchise, as well as *Jillian Michael's Fitness Ultimatum 2009* and *2010*, and increased distribution sales, Sutton said. The company sold more than 6 million units of games in the *Cooking Mama* series cumulatively and "extended its reign as the most successful third-party franchise on the DS," he said. *Cooking Mama* games accounted for 40-50 percent of Majesco's revenue for the year, Chief Financial Officer John Gross said.

The job cuts are part of an overall effort to achieve "additional efficiencies across our operations by reducing our overall cost structure," Sutton said. Majesco is also "looking to focus our resources on our best opportunities, publishing stronger titles," he said. The initiatives will result in annualized savings of about \$2.5-\$3 million in 2010, he said. The company expects to record a charge of about \$500,000 in Q1 for the job cuts, he said.

Majesco will "introduce two new line extensions in 2010" for its *Cooking Mama* series, Sutton said. The company also continues "to explore opportunities to leverage this important franchise across new media," he said. The franchise "is having a strong first quarter across both its current and catalog SKUs," he said.

There's been a perception that the DS platform is struggling, in part fostered by comments made by rival Ubisoft last week (CED Jan 15 p4). But NPD sales data for December showed DS hardware sales are still robust. (See the separate report in this issue.) Sutton said, "I think the DS platform is actually stronger than people give it credit for." While piracy is hurting the DS in Europe, he said the platform is doing better in the U.S. "If you have products that have historically done well on the DS, they're going to continue to do well," he said. The Wii market for third-party game makers, however, has suffered from "a lot of over-crowdedness," and holiday sales started on the platform "a little later into the holiday than anyone was expecting," he said. He predicted Majesco will benefit from some larger rivals reducing their game releases on the Wii.

Majesco predicted fiscal 2010 revenue will come in at about \$80 million, and non-GAAP earnings per share will be about 5 cents, assuming the release of about 37 SKUs, including 14 DS and 16 Wii, Gross said. -- **Jeff Berman**

Public Notice a Springboard

FCC Broadband Staffer Seeks TV Response to Low-Power Plan

The TV industry could best help the FCC craft a spectrum proposal in the National Broadband Plan by providing a wide array of information, including the industry's response to several plans for low-power stations, a

commission broadband official told us. A proposal from CEA and CTIA, which they say will free up as much as 180 MHz of spectrum by having broadcasters use lower-power and gear similar to cell sites and technology from CTB Group (CED Dec 24 p3) for low-power broadband, was mentioned by Scenario Planning Director Phil Bellaria of the National Broadband Task Force. He oversees the commission's broadcast spectrum reclamation efforts.

"I would love to get responses from broadcasters to those relatively new ideas," Bellaria said Friday. "We'd love to figure out a way where broadcasters can continue to use 120 MHz of spectrum but the 174 remaining could be used for something other than separation between stations," he said of TV use of radio waves in the top-10 U.S. markets. "We'd love comments from broadcasters on whether they think that's feasible" since the distributed technology system in the CEA-CTIA plan "has traditionally been thought of as more of a gap filler for coverage." Several broadcast industry lawyers agreed with that assessment, citing the technology's cost and technical limitations.

Broadcasters and the FCC broadband staffers continued to disagree last week whether the agency is giving industry all the information it needs to fully participate in the broadband plan and especially spectrum reallocation efforts. Industry representatives contend they need more concrete information from the commission, such as the amount of spectrum being sought, to more fully comment. The FCC continues to hold productive meetings with broadcasters where much information is exchanged, Bellaria said. FCC members aren't closely participating in spectrum reallocation decision making because most of the work is still being done at the staff level, said another commission official.

It's hoped the public notice issued last week giving parties until Jan. 27 to file additional comments on the plan will garner more broadcast industry responses on spectrum, Bellaria said. He also hopes for filings on the so-called gateway TV device that can be used across subscription-video providers, he said. "We've gotten some specific comments from some of the public interest groups" including Free Press on that issue and also from TiVo, he said. "I think we'd love input from both the operators and others in the industry on those specific proposals."

"Our perspective throughout has been the more information the better and the earlier the better, because we're operating under a tight time line," Bellaria said. That includes econometric studies such as one NAB is said by industry officials to have commissioned but not released, he added. "I don't think it's to anyone's advantage to hold anything back for a later date if that information is available now. ... The only thing that's not helpful is repeating comments that have been submitted. Anything else is extremely helpful -- whether it be economic, technical, business-model related."

"We're going to be submitting our comments to the FCC, you can be sure of that," an NAB spokesman said. "It's in our best interests to provide all the data that supports our position for continuing a robust free over-the-air television system." For the industry, "the very future of broadcasting hinges on whatever actions policy-makers could take as a result of these proposals," he added. "It is difficult for us to comment on a plan that we haven't seen. We support expanding broadband to unserved homes. We don't think that has to come at the expense of jeopardizing all the promises of digital television to over-the-air TV households, who I would note are predominately the same people who have been at risk over the digital divide issue."

Bellaria said TV stations could each decide whether they wanted to give up some spectrum, under one scenario being examined, and that the broadband staff hope any solution gets support from the industry. Voluntary or not, broadcasters can't make an informed judgment now without more information from those staffers, said President David Donovan of the Association for Maximum Service Television. "To the extent the task force has not made what its plan is public, it is difficult to engage in a rational dialogue if you don't know what the plan is. And statements to date certainly do not guarantee that this will be solely a voluntary program."

"Do you know what their plan is? Does anybody with the proposals?" Donovan asked. "It's certainly not transparent to us. If the latest position by the broadband task force is this is only going to be voluntary, if broadcasters are only exaggerating the problem, the easiest response would be for them to tell us what their proposal is so

we can evaluate” it. Bellaria responded that the point of the plan is to arrive at a proposal when the broadband task force’s work is put into a report and given to Congress, not to be constantly previewing the plan for industry.

“I’m not sure I understand the frustration -- I feel like we’ve had very positive, engaging dialogue with broadcasters throughout this process, and that’s been very helpful for us, and hopefully for them, to understand what we’re thinking and why,” Bellaria continued. “So maybe there’s a difference between the public dialogue and the more productive ongoing daily dialogues. When we come out with a plan, I think we will have a perspective on how much spectrum is required to meet growing demand for wireless data usage in that spectrum will come from multiple sources, but if a voluntary mechanism doesn’t provide enough spectrum in conjunction with all the other sources then the FCC may need to pursue other alternatives,” Bellaria said. “If we’re able to establish a voluntary market-based mechanism where each station owner has a choice with what that broadcaster wants to do with his spectrum license, it feels like that’s a hard thing to impose. Because at the end of the day they could just choose to keep the status quo” and keep using the entire 6 MHz of spectrum.

The FCC has kept its cards close to its vest on the issue, but broadcasters are fretting too much about what will be a report to Congress and not a mandate, an industry executive said. If the NAB doesn’t file its economic study in response to the public notice, it would be a tactical decision to wait longer before unveiling it, said an industry lawyer. The lawyer and executive agreed that the TV industry continues to be concerned about the high cost and technical limitations of the distributed transmission systems sought by CEA and CTIA.

CEA also hopes broadcasters will use the additional comment period to discuss that proposal, Jamie Hedlund said on his last day as vice president of the group before moving to ICANN. “There are some engineering issues that would need to be sorted through and clarified to make this work. Based on the information that we have that we’ve submitted in the record we think it could be a compelling idea ... a win for broadcasters and a win for mobile DTV.” Of the FCC broadband staff, “I’m not at all surprised that they have not proposed a concrete plan to the broadcasters before they submit their report to Congress,” he said. “There would have to be rules to require the broadcasters to move, but it’s our hope the broadcasters will see they actually benefit from this plan and, assuming all the engineering is correct and it works, that even with rules they would voluntarily go along with it.” -- *Jonathan Make*

Nintendo Still Dominant

PSP Go Still Struggling in U.S., But PS3 Thriving

While the new PSP Go continued to struggle in the U.S. during December, the PS3 continued to thrive since the price cut implemented by Sony Computer Entertainment America (SCEA) late last year, according to the latest sales data released by NPD.

Life-to-date U.S. sales of the PS3 passed 11 million units in December after another 1.36 million units were sold, helping the console narrowly outperform the Xbox 360 in the month. But Nintendo's platforms remained dominant. December was the PS3's "biggest month of sales ever, and the first time sales have exceeded 1 million units" in a month for the console, said NPD analyst Anita Frazier. PS3's U.S. installed base is now about 11.2 million.

Total PSP sales increased to about 654,700 units in December from only about 293,900 one month earlier, but were down significantly from the more than 1 million units sold in December 2008. NPD didn't specify how many PSP Gos were sold in December, and Sony Computer Entertainment America (SCEA) declined to provide the figure Friday. But an industry source who received more detailed data from NPD told us only about 137,000 PSP Gos were sold in December. The PSP's overall U.S. installed base increased to about 16.8 million in December -- far below the 39 million Nintendo DS systems that have been sold to date in the market.

The Wii was the best-selling hardware system of December, moving about 3.81 million units -- far more than the 2.2 million sold in December 2008 and 1.26 million sold in November 2009. The Wii's U.S. installed base increased to about 27.2 million. About 9.6 million Wiis were sold in the U.S. during 2009, and "of all the Wii consoles ever sold" in the market since its November 2006 launch, 18.7 percent were sold in the last two months of 2009, Nintendo of America said.

Even more Wiis and PS3s likely could have been sold last month if not for the hardware shortages that GameStop reported on those platforms. "The consumer response has simply been overwhelming and we anticipate the high demand for PS3 to continue into the coming months as we work closely with retail to meet the demand," SCEA spokesman Patrick Seybold said. PS3 unit sales have almost doubled each month since October, he said.

The DS was the month's No. 2 system, selling about 3.31 million units, up from the more than 3 million in December 2008 and the 1.7 million in November 2009. About 2 million of the DS systems sold in December were the new DSi, which reached 5.8 million in cumulative sales through December.

About 1.31 million Xbox 360s were sold in December, more than the 819,500 one month earlier, but less than the 1.4 million in December 2008. The console maintained its large U.S. installed base lead over the PS3, at about 18.55 million. Xbox 360 console sales "topped 10 million units globally" in 2009, Microsoft said Friday. The console's worldwide installed base is now 39 million, it said.

There was still strong demand for Sony's legacy PS2, which sold about 333,200 units in December, up from about 203,100 one month earlier but fewer than the 410,000 sold in December 2008. Its U.S. installed base increased to about 45.81 million.

Total U.S. videogame industry sales increased 4 percent in November from November 2008 to \$5.53 billion for hardware, software and accessories, NPD said. Hardware sales jumped 16 percent to \$2.19 billion, while accessory sales increased 15 percent to \$760.2 million. But software sales fell 7 percent to \$2.58 billion.

The 4 percent increase wasn't nearly enough to make up for the sales declines seen throughout 2009, and total 2009 U.S. videogame industry revenue came in 8 percent lower than last year, at about \$19.66 billion, said NPD. "The only category to see an increase over last year was portable hardware, which was up due to a 7 percent increase in the average retail price," Frazier said. Nintendo's handheld platform, across all categories, contributed 17 percent of total industry dollars in 2009, "up three points from 2008," she said. Unit sales were down 6 percent in 2009 from 2008 across all categories, NPD said.

"Average retail prices were down in all categories except for portable hardware and accessories, which led to the greater dollar sales decline," Frazier said. December was "just the fourth month of the year where the industry saw an increase over" 2008, along with January, February and September, she said. But she said the December results, "particularly on the hardware front," provided optimism "for the industry headed into what will hopefully be a recovery year in 2010."

Nintendo's *New Super Mario Bros. Wii* was the best-selling videogame SKU of December, moving about 2.82 million units. The company dominated the top 10 videogame software chart, with six of its titles charting there, including No. 2 *Wii Fit Plus* (2.41 million units), No. 3 *Wii Sports Resort* (1.79 million), No. 6 *Wii Play* (1.01 million), No. 7 *Mario Kart Wii* (about 936,100) and No. 10 *Mario & Luigi: Bowser's Inside Story* for the DS (about 656,700).

Activision Blizzard was the only other publisher with more than one SKU in the top 10, the Xbox 360 and PS3 versions of *Call of Duty: Modern Warfare 2*, which sold 1.63 million units for Microsoft's console and 1.12 million units for Sony's console. Both SKUs combined made it the month's No. 2 videogame title, behind only *New Super Mario Bros. Wii*.

Seven of the top 10-selling accessories of December were for the Wii, NPD said. The only other accessories in the top 10 were Xbox Live points cards and wireless controllers for the 360 and PS3, it said.

PC game revenue tumbled 23 percent in 2009 to \$538 million versus 2008, NPD said. Combined PC and videogame software sales for the year fell 11 percent to \$10.5 billion, it said. Videogame software sales include console and handheld system games.

The top-selling videogame in units for 2009 was the 360 version of *Call of Duty: Modern Warfare 2*, NPD said. The game is "the fourth best-selling game of all time," and three of the top 10 games of all time are *Call of Duty* games, Frazier said. But underscoring the strength of Nintendo's platforms, seven games in 2009's top 10 were first-party titles for either the DS or Wii, led by No. 2 *Wii Sports Resort* and No. 3 *New Super Mario Bros. Wii*. The best-selling PC game of the year was *The Sims 3* from Electronic Arts.

"Clearly, 2009 was a tough year for consumers and the national economy," said Entertainment Software Association President Michael Gallager. But he said 2009 and 2008 were still "the highest grossing years in our industry's history." -- *Jeff Berman*

3D Notes

"A dose of reality would be welcome in the hype about 3D TV," Bernstein Research analyst Craig Moffett said Friday in a post-CES report. "Not only do 3D televisions not even exist yet, we don't even have consistent standards yet," Moffett said. Not all 3D TVs will support all encoding formats, and when the first sets arrive on store shelves later this year, "they're expected to cost as much as twice as much as today's budget-minded HDTV sets," he said. "Then there's the not-small question of whether wearing expensive battery-powered glasses -- which themselves would cost more than \$100 per pair -- is compatible with the way we multi-task as we watch TV." But "the chicken and egg problem" of content is the biggest 3D TV challenge of all, Moffett said. "What, exactly, will we watch? DirecTV's initial channel doesn't exactly sound like a world beater."

Jan. 22 is the deadline for abstracts of papers to be presented at the International Conference on 3D Systems and Applications, organizer 3dsa.org said Friday. Topics include 3D image and audio capture, signal processing, communications, storage and applications.

Displays

E Ink forged an alliance with Texas Instruments to make its power management ICs and OMAP processors available for e-readers, the companies said. TI developed a software-based display controller for its OMAP 3 processors that can be applied to electrophoretic displays, reducing the size of the silicon needed. TI also will market its TPS65180 power management chip in a 7mmx7mm package for 5, 6, 9.7 and 11-inch electrophoretic displays based on E Ink's Vizplex material. TI's new e-reader development platform combines an 720 MHz ARM-based OMAP3621 processor with a WiLink 6.0 single-chip WLAN and Bluetooth IC. Freescale Semiconductor and Marvel also are marketing e-reader processors.

E-Commerce

ShowUhow is "talking with a significant number" of CE makers about its Web-based video customer support and sales platform, CEO Kim Folsom told us Friday. A small number of electronics manufacturers are

already using the company's platform to create online video instruction guides for their products, including security product makers Lorex Technology, Odyssey Technologies and Swann Security, she said. But the company kicked off a campaign at CES to attract more CE clients, she said. "In this marketplace, given the economy, retailers are forecasting flat to single-digit sales" increases for 2010-2011, so some "manufacturers are looking at ways to leverage technology ... to improve the efficiency of their support infrastructure," to reduce returns and "differentiate" their products, she said. About \$150-\$200 billion in electronics merchandise is returned each year, the company said. Those returns can impact future sales "by as much as 10 percent," it said. A four-month study by it found that online video instruction guides "reduced returns by as much as 20 percent, and reduced tech support calls by as much as 50 percent," it said. Manufacturer clients have used ShowUhow's platform in conjunction with product sales via online retailers including Amazon, Best Buy, Costco and Toys "R" Us, Folsom said. Amazon and Costco didn't immediately respond to requests for comment. Best Buy and Toys "R" Us declined to comment. -- *JB*

Companies

Microsoft's Zune now is "close on our heels" in U.S. MP3 market share, but Sansa MP3 players remain No. 2, behind only Apple's iPod, which maintains a wide lead over all rivals, Ryan Donovan, SanDisk's senior director of corporate communications and Web, told us. While the Zune has been gaining share due to the release of new models including the Zune HD, it "hasn't taken a lot of share from" SanDisk, he said. Microsoft seems to be picking up share from either new customers to the category or away from other manufacturers, he said. The Zune remained far behind SanDisk in share for the first three quarters of 2009, according to data supplied by NPD Friday. Apple was No. 1 with a 73 percent share, followed by SanDisk at 9 percent. Sony came in No. 3 with a 3 percent share, Microsoft No. 4 with a 2 percent share and Philips No. 5 with a 1 percent share. SanDisk, meanwhile, has seen some sales "strength" in its genre-based SlotRadio music players that come pre-loaded with songs, Donovan said. Specific sales data wasn't provided. It remains "a new category" and there's "a lot of education that goes with it," he said. But he said, consumers seem to "like the simplicity of it," and the category is in response to the music industry leaving a large segment of the public "under-served," he said, referring to consumers who don't want to or don't know how to download music. The Slot products, however, remain only in limited distribution. SlotRadio products are sold in the U.S. by Best Buy, QVC and RadioShack, a company spokeswoman said. In Canada, it's sold by Best Buy and its Future Shop division, she said. -- *JB*

Sony will outsource some of its human resources and accounting operations to IBM Japan. The outsourcing includes those services at Tokyo-based Sony Corp. and some of its subsidiaries in Japan, the company said Friday. The outsourcing is part of Sony's global restructuring to streamline operations and improve profitability, the company said. To implement the outsourcing, Sony, IBM Japan and services company Manpower Japan will form a joint-venture company called Human Capital Associates, they said. IBM Japan will own 60 percent and Manpower and Sony 20 percent each. IBM Japan will provide services to Sony in Japan using the new joint venture as its base there, and use the IBM Global Delivery Center in Dalian, China, as its base outside Japan.

Components & Devices

Onkyo was among the investors when Avnera raised \$10 million in a fourth round of funding, Avnera executives said. Onkyo will develop products based on Avnera's 2.4 GHz wireless multipoint-to-multipoint technology with the first them expected to ship in the second half, they said. The size of Onkyo's investment wasn't disclosed. It wasn't clear if the Onkyo products will use Avnera investor Best Buy's Rocketboost brand. Best Buy

and Averna forged an alliance with a goal of expanding use of the company's technology beyond the Rocketfish products that have been sold through Best Buy. Onkyo's products are sold through Best Buy's Magnolia. Avnera is supplying its chips to Vizio for use in soundbars.

Digital TV

Set-top boxes and other video devices are innovative, Cisco and Motorola executives said in a Wednesday meeting with National Broadband Task Force Scenario Planning Director Phil Bellaria, Media Bureau Chief Bill Lake and other FCC officials. That includes "the growing number of TVs and TV-connected devices that can access Internet content and applications," an ex parte filing said. The commission should keep pursuing "policies that promote investment in faster and more efficient broadband networks" and navigation devices have a role in increasing broadband adoption, the filing said.

There are limitations to the two digital set-top boxes Cablevision will let each basic-cable subscriber use free for as long as 10 years in the company's plan to encrypt programming on that tier, the company's lawyer said. The boxes are free as long as a subscriber remains at the current address and uses the same level of service, Howard Symons of Mintz Levin wrote Media Bureau Chief Bill Lake Jan. 7. The cable operator's offer of free installation of the devices is good for 30 days before encryption begins and another 30 days after, he added. The bureau's exemption to Cablevision from encryption rules is conditioned on the offer of two free set-top boxes or CableCARDS in a move the company says will reduce greenhouse gases by letting it turn on and off service without sending out a technician (CED Jan 11 p6).

Mergers & Acquisitions

Integrated Device Technology (IDT) bought Mobius Microsystems, a silicon oscillator developer, in the latest in a string of acquisitions that have expanded the company's technology portfolio. Terms of the deal weren't disclosed, Mobius' all-CMOS technology is used in the timing market and will expand IDT's reach in crystal oscillator replacements, the company said. IDT's most recent previous purchase was Silicon Optix's video processing business in October for \$22 million. In re-branding Silicon Optix's HQV technology as Vida, IDT will sell a \$100 add-on dongle featuring technology that automatically adjust image quality from different sources and reduces artifacts in displays, the company said. IDT also acquired Silicon Optix's Reon technology. IDT sold its network search engine products to Netlogic Microsystems for \$90 million last spring. IDT also is selling its micro networks business to Spectrum Control for \$13 million. The company also acquired Tundra Semiconductor and touch sensor IP now-defunct Leadis Technology. IDT also is moving toward a fabless strategy. It is closing a Gresham, Ore. factory and will shift production to Taiwan Semiconductor Manufacturing Co. by 2012, the company said.

Patents

Kodak complained to the U.S. International Trade Commission that Apple's iPhone and RIM's camera-enabled BlackBerry devices infringe a Kodak patent related to previewing images. Separately, Kodak filed two lawsuits against Apple in the U.S. District Court for the Western District of New York alleging the infringement of patents related to digital cameras and certain computer processes. Discussions with Apple and RIM have lasted several years, but the companies failed to resolve the issue "amicably," said Laura Quatela, Eastman Kodak's chief intellectual property officer. RIM and Apple representatives didn't immediately respond to requests for comment.

Videogames

The PSP moved up one to dethrone the Wii from the top of the Japan videogame hardware sales chart, according to Media Create data for the week ended Jan. 10. PSP sales increased to about 145,700 units from about 132,900 the previous week. Sales of Sony's handheld system were likely helped by the release of Square Enix's *Kingdom Hearts: Birth By Sleep*, the week's best-selling game, which moved about 446,000 units its first week available. But consumers continued to show little interest in Sony's newer, download-only PSP Go handheld system, which came in last again among all hardware systems, its sales tumbling to only about 2,800 units from about 3,900. Sales of all hardware systems were weaker than the prior week. The Wii fell to No. 2, its sales tumbling to about 76,800 from about 163,900. The PS3 repeated at No. 3, but sales slid to about 61,600 from about 114,400. The DSi was again No. 4, but sales fell to about 50,200 from about 92,500. The new DSi LL, available only in Japan now, was again No. 5, with sales of about 45,200 versus about 70,600. The DS Lite repeated at No. 6, sales slipping to about 10,100 from about 17,400. The Xbox 360 was again No. 7, with sales of about 5,500 vs. about 6,900. The PS2 repeated at No. 8, its sales dipping to about 3,100 from about 4,000. Nintendo's *New Super Mario Bros. Wii*, the previous week's No. 1 videogame, slid to No. 2, with about 159,000 units vs. 268,200.

Consumer Electronics People

Sue James, Ernst & Young, elected to Yahoo board ... M-Dot Network names **David Diamond** to its board of advisers ... Changes at Scripps Networks Interactive: **Lori Hickok** adds title of executive vice president, finance, Lifestyle Media division, retaining post as senior vice president, finance, for parent company; **James Clayton** promoted to executive vice president, planning and strategy, Lifestyle Media ... Warner/Chappell Music names **Phil May**, ex-R2M Music, vice president and general manager-Nashville.

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