

Business Software Alliance

Software Piracy and the Law

Information on Software Piracy in the United States

What Is the Law Regarding Software Piracy?

Most people would never consider stealing something that did not belong to them. But those who copy software without authorization are, in fact, stealing someone else's property — their intellectual property. And they are breaking the law.

You may not realize it, but software development involves a team effort that blends the creative ideas and talents of programmers, writers and graphic artists. And like most creative works, such as books, music and films, computer software is protected by U.S. copyright laws.

When you purchase software, you do not become the owner of the copyright. Rather, you are purchasing the right to use the software under certain restrictions imposed by the copyright owner, typically the software publisher. The precise rules are described in the documentation accompanying the software — the license. It is imperative that you understand and adhere to these rules. Most often, they state that you have the right to load the software onto a single computer and make one backup copy. If you copy, distribute or install the software in ways that the license prohibits, whether you are swapping disks with friends and coworkers or participating in widespread duplication, you are violating federal copyright law. Even if you only help someone else make unauthorized copies, you are still liable under the copyright law.

Many businesses, both large and small, face serious legal risks because of software piracy. Under the law, a company can be held liable for its employees' actions. If an employee is installing unauthorized software copies on company computers or acquiring illegal software through the Internet, the company can be sued for copyright infringement. This is true even if the company's management was unaware of the employee's actions.

Quite simply, to make or download unauthorized copies of software is to break the law, no matter how many copies are involved. Whether you are casually making a few copies for friends, loaning disks, distributing and/or downloading pirated software via the Internet, or buying a single software program and then installing it on 100 of your company's personal computers, you are committing a copyright infringement. It doesn't matter if you are doing it to make money or not — you are exposing yourself to severe civil and potentially even criminal penalties. For example, those individuals using the Internet to sell or distribute pirated or counterfeit software programs through online auctions and "warez" sites may be criminally prosecuted, even if they do not profit from the illegal activity.

What Are the Penalties for Pirating Software?

Software theft is a serious matter. If you or your company would be caught copying software, you may be held liable under both civil and criminal law.

If the copyright owner brings a civil action against you, the owner can seek to stop you from using its software immediately and can also request monetary damages. The copyright owner may then choose between actual damages, which include the amount it has lost because of your infringement as well as any profits attributable to the infringement, and statutory damages, which can be as much as \$150,000 for each program copied.

In addition, the government can criminally prosecute you for copyright infringement. If convicted, you can be fined up to \$250,000, or sentenced to jail for up to five years, or both.

Apart from legal consequences, using copied or counterfeit software also means:

- *Greater exposure to software viruses, corrupt disks or otherwise defective software*
- *Inadequate or no documentation and no warranties*
- *Lack of technical product support available to properly licensed users*
- *Ineligibility for software upgrades offered to properly licensed users*

What Are Your Responsibilities As a Software User?

Your first responsibility as a software user is to purchase only legitimate software products. When buying software, make sure you get genuine disks, manuals and license documentation. Avoid loose or hand-labeled disks or software offered at prices that are “too good to be true.” Be wary of unscrupulous Internet vendors, who advertise attractive deals on “genuine” software that was overstocked or otherwise discounted for inventory reasons. Keep in mind that a high percentage of software sold through online auctions is illegal.

Next, you have a responsibility to install and use your software in accordance with the license agreement. Since these agreements differ from publisher to publisher, you need to read them carefully. When someone else installs the purchased software, be sure that individual provides you with proof that the product is properly licensed. If you have outsourced your information technology needs to a consultant or application service

provider, you are still responsible for software license compliance.

Software piracy is not a victimless crime. Piracy denies the software developer its rightful revenue and harms consumers and the industry as a whole. All software developers, both big and small, spend years creating software. A portion of every dollar spent in purchasing original software is funneled back into research and development, so that newer, more advanced software can be produced. When you purchase illegal or counterfeit copies, your money goes straight into the pockets of software pirates.

What Is the Economic Impact of Software Piracy?

In the United States, 23 percent of all business software is unlicensed. The Business Software Alliance (BSA) estimates that in 2002 the industry lost nearly \$2 billion in revenue in the United States alone due to software theft. But software piracy’s damaging economic impact is not only confined to the software industry. In fact, software piracy has an effect on the economic health of the nation as a whole. Due to pirated software, in 2002, the United States suffered a staggering 105,000 job losses, \$5.3 billion in lost wages and \$1.4 billion in lost tax revenue.

What More Can You Do to Prevent Piracy?

For more information about software piracy, to obtain a free software management guide or to report piracy, call the toll-free BSA Anti-Piracy Hotline at 1-888-NO-PIRACY or log on at www.bsa.org. Qualifying reports may be eligible for Rewards of up to \$200,000.

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