

Pillage & Plunder

Copyrights and Software: The Brief Journey from Constitution to Piracy

The role of the United States Constitution and the United States legal system in business regulation is to lay “out the highest level of rules involved in forming a government” while it protects the rights of the people of the United States. One of those rules, intended to protect the rights of the people, is Article 1, Section 8, Clause 8 of the United States Constitution – the Copyright and Patents Clause.

What the Law Says

According to the Legal Information Institute at Cornell University Law School, Article 1, Sec. 8, Clause 8, it states, “The Congress shall have Power ... To promote the Progress of Science and useful Arts, by securing for limited Times to Authors and Inventors the exclusive Right to their respective Writings and Discoveries.” (LLI) Among those “useful Arts” is computer software licensed by companies like Adobe, McAfee, Microsoft, and Symantec.

Further protections are granted under 17 U.S.C. §504, the Federal civil penalties for the recovery of actual damages for and profits made from the non-compliance based on the actual number of copies produced. Additionally, unless a company can prove otherwise, the assumption is that the infringement was willful and therefore damages may be up to \$150,000 in statutory damages for each infringement. Furthermore, the costs can also include the recovery of attorneys' fees under 17 U.S.C. §505. (Copyright.gov)

Why the Law is Important to Our Society

In an article written for the Business Software Alliance titled *Judgment Entered Against PA Company for Widespread Unauthorized Distribution of Software*, Janice M. Laurente quotes Neil MacBride, BSA Vice President of Anti-Piracy and General Counsel, “When buying software, a person is actually purchasing a license to use that product, not the copyright. Therefore, the software product itself cannot be reproduced without the proper consent of the copyright holder.” (Laurente, 2008) The article also stated, “In 2002, software piracy cost the Pennsylvania economy more than 4,100 jobs, over \$195 million in wages and salaries, over \$193 million in retail sales of business software applications, and approximately \$51 million in total tax losses. In total in 2002, software piracy cost the state of Pennsylvania over \$439 million in losses.” (LLI)

The Cost to Business

In fact, in 2006, 35% of all the software loaded on personal computers worldwide, were not associated with legal licenses. (Laurente, 2008) That means the software developers lost equals nearly \$40 billion globally due to software piracy in just one year!

Is it any wonder that software companies join organizations like the Business Software Alliance (BSA) to protect their interests? Companies join BSA, which in turn investigates leads of software license copyright violations. That is bad news for companies like MD of PC, based out of Coraopolis, PA, who recently agreed to a \$36,000 settlement in a judgment with the Federal District Court in Western District of Pennsylvania for selling unlicensed software. In another recent software piracy case, two brothers in Florida – Maurice and Thomas Robberson – received collective sentences of 66 months in federal prison for selling more than \$6 million dollars of illegal software.

How the Laws are Enforced

BSA referred both of these companies to the Department of Justice because of a tip from various sources – software distributor, manufacturer, or customer. After the Department of Justice receives a tip, it refers the case to the FBI for investigation. Once a case receives confirmation as a viable tip, the Department of Justice pursues prosecution.



Why Should the Laws Be Enforced?

As the case with the Robberson brothers shows, software piracy can be a lucrative business and that is why software manufacturers consider it a growing problem worldwide. In fact, according to the article, 35% of PCs worldwide have illegal licenses installed – 21% of that is in the US. That is nearly \$40 billion in global losses for the year 2006 alone! (Laurent, 2008) To help stem the losses, companies like the BSA offer a reward of up to \$1,000,000 for qualifying reports that come into their hotline. That incentive appeals to many disgruntled employees, who turn in former employers for violations.

Conclusion

Now, just in case you think that only the deep pockets of software manufacturers are the ones being affected by software piracy, the article points out that in 2002, “software piracy cost the Pennsylvania economy more than 4,100 jobs, over \$195 million in wages and salaries, over \$193 million in retail sales of business software applications, and approximately \$51 million in total tax losses. In total in 2002, software piracy cost the state of Pennsylvania over \$439 million in losses.” (Laurent, 2008) With statistics like those, it is plain why copyright laws are not only necessary for protecting the rights of the creator of the software, but also vital to the economic health of businesses worldwide.

References

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Where do your IT assets go when you dispose of them?

- Landfills in third world nations
- Evidence rooms awaiting litigation
- The grateful hands of identity thieves
- The water supply you drink from



Where should they go?

Intechra is the world leader in IT asset disposition. We focus exclusively on eliminating the risks surrounding data security, compliance, and environmental impact, while maximizing value recovery on IT asset investment for businesses around the world. Visit us at www.intechra.com/itak for more information or to schedule a meeting.