

# KNOW THE LAW

## 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 the Canadian Copyright Act.

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 rights are described in the documentation accompanying the software - the licence. It is imperative that you understand and adhere to these restrictions set out in the licence. Most often, they state that you have the right to load the software onto a single computer and make one backup copy. But if you copy, reproduce in any way, or distribute the software in ways that the licence prohibits, whether you are swapping disks with friends and co-workers or participating in widespread, illegal duplication, you are violating Canadian copyright law.

Many businesses, both large and small, face serious legal risks because of software piracy. Under the law, a company is liable for its employees' actions. Therefore, 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 may well be committing a crime. 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 list, sell or distribute pirated or counterfeit software programs through online auctions and "warez" sites may be prosecuted, even if they do not profit from the illegal activity.

## What Are the Penalties for Pirating Software?

Software theft is a serious crime. If you or your company is caught with illegal software, you may be fined and prosecuted to the full extent of the law. In fact, you may be 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 and an accounting of profits derived from the copyright infringement. The copyright owner may then choose between actual damages, which includes the amount it has lost because of your infringement, and statutory damages, which can be as much as \$20,000\* for each individual program copied. In addition, the government can criminally prosecute you for copyright infringement. If convicted, you can be fined up to \$1 million, 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. 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 licence documentation. Avoid loose or hand-labeled disks or software that is offered at prices "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 licence 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 licence 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 Canada, 28 per cent of all computer software is unlicensed\*\*. BSA estimates that in 2010, losses to the Canadian economy due to software piracy were \$1.1 billion. While Canada remains among the top 20 countries with the lowest software piracy rates worldwide, it still lags behind the United States, where the software piracy rate is 21 per cent.

## **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 Anti-Piracy Hotline 1-888-NO-PIRACY or by visiting [nopiracy.ca](http://nopiracy.ca).