

Armstrong

HOUSING & RESIDENCE LIFE

Copyright, Piracy, and File Sharing

What is Copyright?

Copyright is the protection of the expression of an original idea, whether it is expressed in the form of music, a painting, or other written material. If you create something, it's yours. Copyright owners have a number of rights under current federal laws that include the right to control the reproduction, distribution, and adaptation of the work, as well as the PUBLIC performance or display of the work. Copyright law applies to computer and gaming software as well as music.

Who Owns the Copyrights to Music or Software?

For any given musical recording, there are at least two copyrighted works involved. First, there is the copyright in the musical work; that is the lyrics and musical notes as they are written on paper. The songwriter or music publisher typically owns this copyright. Then there is the copyright in the sound recording, which is a recording of the performer singing or playing a particular song. The record company usually owns this copyright. In the case of software titles, the copyright may be owned by the writer of the software or the company for whom the programmer works (i.e., Microsoft owns the copyright to MS Windows 98 and Apple Computer owns the copyright to Mac OS 9).

How do Copyright Laws Apply to Music & Software on the Internet?

The laws remain the same. Reproduction, distribution, digital transmission of sound recordings, even samples in many cases, must be authorized by the sound recording owners. Uploading music from a CD that you own, allowing people to download music from your web site, downloading sound recordings or software without express permission from the copyright owner are all violations of copyright law. At this time, the most commonly available software for listening to audio on your computer is MPEG Layer-3 Audio, commonly known as MP3. This is a file format used for storing sound digitally, such as on a computer hard drive. Many Web Sites now offer music to listen to and download. The problem with many of these sites, however is that they are being created without the copyright owners' permission to use the music and thus violate federal and/or state copyright laws. Consequences for these violations can be severe.

What is Software Piracy?

There are different types of Software Piracy. They are End User Piracy, Reseller Piracy, BBS/Internet Piracy, and Trademark/Trade Name Infringement.

End User Piracy is using multiple copies of a single software package on several different systems or distributing copies of software to others.

Reseller Piracy occurs when a reseller distributes multiple copies of a single software package to different customers; this includes preloading systems with software without providing original manuals and diskettes (or CDs). Reseller piracy also occurs when resellers knowingly sell counterfeit versions of software to unsuspecting customers.

BBS/Internet Piracy occurs when there is an electronic transfer of copyrighted software. If system operators and/or users upload and download copyrighted software and materials onto or from bulletin boards or the Internet for others to copy and use without the proper license, then that is illegal.

Trademark/Trade Name Infringement occurs when an individual or dealer claims to be authorized either as a technician, support provider, or reseller, or is improperly using a trademark or trade name.

Types of software:

Shareware: Software distributed on the basis of the honor system. Most shareware is delivered free of charge, but the author usually requests that you pay a small fee if you like the program and use it regularly. By sending the small fee, you become registered with the producer so that you can receive service assistance and updates. You can copy shareware and pass it along to friends and colleagues, but they too are expected to pay a fee if they use the product. Shareware is inexpensive because it is usually produced by a single programmer and is offered directly to customers; thus, there are practically no overhead expenses. Note that shareware differs from public-domain software in that shareware IS copyrighted. This means that you cannot sell a shareware product as your own.

Freeware: Copyrighted software given away for free by the author. Although it is available for free, the author retains the copyright, which means that you cannot do anything with it that is not expressly allowed by the author. Usually the author allows people to use the software, but not sell it. **Public-domain software:** Refers to any program that is not copyrighted. Public-domain software is free and can be used without restrictions. The term public-domain software is often used incorrectly to include freeware, free software that is nevertheless copyrighted.

So how do I recognize a Piracy site?

Now that you know the types of piracy and the types of software, how can you tell if a site is offering software or music illegally? According to the Interactive Digital Software Association (IDSA) it can be difficult to tell. However, they do list common characteristics of Piracy web sites.

Characteristics of a Piracy site:

Free Download sites: These sites provide free download of copyrighted works, which are located on the same server as the web page. They often provide games (also referred to as "warez" or "gamez") and business applications ("appz"). The page is updated frequently to provide the latest titles. They are often sponsored by pornographic web sites to help defray their bandwidth costs.

Link Sites: These sites facilitate and encourage the free download of copyrighted works, which are located on a remote server. They often provide games and business applications. While the page itself usually doesn't contain infringing software it does provide the means to obtain it, which creates legal liability. There is usually a news section next to each link, which gives the status of the remote sites. These sites are updated very frequently since most of the servers that link there are removed within a few hours and new ones pop up at the same time. Again, these sites are often sponsored by pornographic web sites.

Professional Pirates: These are typically large sites (often with their own domain name) that provide numerous pirated titles. They sometimes offer games the same day that they are available in the stores or a few weeks before their official release. These pages are updated frequently. Some of these sites accept credit card payments for their transactions and, in many cases, are perpetrating fraud on the consumer by taking the consumer's payment but sending no product in exchange. For information on a particular site, contact the IDSA: piracy@idsa.com or via phone at 202-833-4372.

Music & the Internet Myths

Myth# 1: If I upload music from a CD that I own, I'm not violating copyright law.

Just because you own the CD does not mean you own the music. You can't legally upload music to the Internet without permission of the copyright owners of the sound recording and the musical composition.

Myth# 2: If I don't charge people for downloading music from my site, it is not a violation of the law.

The No Electronic Theft (NET) Act, which amended Section 506 of the Copyright Act, clarified that even if a site barter or trades infringing materials or does not charge or otherwise make a profit there still may be criminal liability.

Myth# 3: If I just download sound recordings, it's not a violation.

It IS a violation if you upload or download sound recordings without permission of the copyright owners. You should assume other people's works are copyrighted and can't be copied unless you know otherwise.

Myth# 4: If a web site doesn't display a copyright notice for the music, the music is not copyrighted.

In the U.S., almost every work created privately and originally after March 1, 1989, is copyrighted and protected whether or not a website has a notice to that effect.

Myth# 5: If I upload or download a sound recording and leave it on my server or hard drive for less than 24 hours, then I am not liable for copyright infringement.

Whether you upload or download a sound recording for 24 hours, or 24 seconds, you are still likely to be violating copyright law.

Myth# 6: It is okay to have a site which links to a number of unauthorized files. As long as the actual files are not on my server, it is legal.

Just as with the case of Piracy Link sites, Web sites that link to sites that infringe copyrighted materials are also infringing on copyright.

What are my legal alternatives?

For a list of sites that offer legal alternatives to unauthorized downloading, please see-

<http://www.educause.edu/legalcontent>

Where can I get more information?

General Information:

U.S. Copyright Office

Copyright Basics

Friends for active Copyright Education (FACE), the Copyright Society

For music rights information on the Internet, go to the following:

Recording Industry Association of America

For Software Piracy information on the web see:

Protection Against Software Piracy

Business Software Alliance

To report piracy or ask questions about software use:

Contact the Software & Information Industry Association (SIIA) at: 800- 388-7478 or e-mail at piracy@spa.org.