



SOFTWARE PIRACY AND THE DESIGN PROFESSIONAL

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What is Software Piracy?

Software piracy can take several forms, but generally it involves the copying and use of computer software without the appropriate permission and authorization from the company that developed the software. Examples of software piracy include: a) permitting software to be installed onto computers without permission from the software developer; b) copying and selling the software without authorization from the software developer; and c) installing software on to more computers than permitted by the specific software license.

Does Software Piracy Apply to Design Professionals?

Yes. Software piracy applies to anyone who purchases software. Once software is purchased, the design professional is obligated to strictly comply with the terms of the licensing agreement which is included with the software. In fact, should the installer of the software reject the express terms of the licensing agreement, most software licensing agreements require that the software be promptly returned. However, once the design professional accepts the terms of the software agreement and installs the software on to his or her computer(s), the design professional is bound by all of the terms and conditions of the licensing agreement, including the strict penalties for violation of the software agreement.

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How Can a Design Professional Protect Against Committing Software Piracy?

Carefully read and understand the terms of the licensing agreement, including the maximum number of authorized installations and users of the software. Software licensing agreements provide the purchaser with a non-transferable license specifying the maximum number of installations and users of the software. While the most common licensing agreements permit installation of one program to be used by one person on one computer at one location at one time, exceptions may exist with networked systems where multiple users may access the same program. However, while multiple users may access the same software on a networked system, unless the appropriate number of licenses are purchased only one person may make use of the software at a given time.

What Can Happen to a Design Professional Who Commits Software Piracy?

The developers of software are just as serious as design professionals when it comes to protecting against the unauthorized use of their work product. Accordingly, software developers are actively pursuing design professionals for breach of the licensing agreements in courts of law across the country. Pursuant to Federal Copyright law, unauthorized duplication of computer software products constitutes copyright infringement. As a result, in civil actions, pursuant to 17 U.S.C. §504, the software company is permitted to recover either: a) its actual damages and any additional profits realized by the design professional; or b) statutory damages. Statutory damages can be as much as \$30,000 per work infringed when the infringement is found to be non-willful and up to \$150,000 per work infringed when the infringement is found to be willful. In criminal actions, 17 U.S.C §506(a) provides for various monetary fines and terms of imprisonment depending on the number of offenses during given periods of time. The Copyright Act also permits the prevailing party to be reimbursed its attorneys' fees.

Protect Yourself Now!

In order to protect yourself, it is necessary that you take the time to carefully read each of your existing software licensing agreements and make certain that you are in full compliance with the terms of each agreement. If necessary, immediately contact the software developer and purchase any additional software licenses. These two simple steps may save you hours of needless aggravation as well as the costs associated with litigation.

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