

02-5013-100

Introduction

Computer software has dramatically transformed today's business and organizational environment. Because of software, today's workers are more efficient and businesses are more productive. Software has reinvented old notions of bringing products and services to customers and established real-time communication as a cornerstone of organizational effectiveness.

Software is one of your business's key assets and software management is an important business practice. Poor software management, on the other hand, can be very costly. Copyright laws and other intellectual property laws and treaties protect software, just like books are protected. This means that you may not make or install unauthorized copies of software, otherwise known as committing **software piracy**.

The law imposes significant penalties for software piracy. Additionally, illegal software is more likely to fail, comes without warranties or product support and can place your computer system at risk of viruses.

The Business Software Alliance is pleased to provide this overview to help you institute sound software management practices within your company or organization. Topics discussed include:

- *Advantages of effective software management*
- *Risks of illegal software use*
- *Software management techniques*
- *Preventing piracy in the workplace*

If you have any questions, contact BSA via the hotline in your country or region (see addendum with hotline numbers) or visit the BSA Website at www.bsa.org

Advantages of Effective Software Management

Software is an important resource for your company. The proper management of that resource offers the following advantages:

- *Cost-effective resource use.*

Purchase and maintain licenses for only the software that your business actually needs.

Redistribute unused/underused software for more effective use.

Limit upgrade purchases to only those packages actually being used.

Increase discounts through volume purchases.

- *Allocation of software and maintenance costs along cost center, division or organizational unit lines.*

- *Avoidance of the risks associated with unlicensed and/or overdeployed software.*

- *Protection against the introduction of viruses.*

- *Assurance that you are using software on which your company may rely with confidence.*

Quality assurance and reliability.

Qualifying for free or reduced-price upgrades through registration.

Full documentation including disks, instruction manuals, tutorials, etc.

Product support and training from the software publisher.

Risks of Illegal Software Use

A company using illegal software is at risk both legally and financially.

Legal

Software piracy can result in both civil and criminal liability. Specifically, piracy can expose your company to heavy fines per work infringed. While many Software Managers and Senior Executives think there is no chance *their* company can get caught, they are wrong. On average, at least one company is caught and confronted with the threat of legal proceedings every working day.¹

How does the software industry discover instances of copyright violations? Through advertising, media and direct mail campaigns, the industry gets the word out that software piracy steals jobs. BSA settles copyright infringement claims based largely on phone calls from employees and former employees to its anti-piracy hotlines.

The industry works with law-enforcement agencies around the world to bring criminal cases against software pirates. Enforcement activities against software pirates in the distribution channel also result in detection of infringing software that has been sold or installed on end-users' premises.

Financial

When you acquire pirated software, you are buying an unknown quantity. It could be, and is likely to be, defective in some way. If you are "lucky," that defect will only be that the software doesn't work properly. Of course, when that happens, you have no one to go to for support or assistance. With legal software you have recourse when problems develop. If you are not "lucky," your system could be damaged or even destroyed by a virus introduced by the pirated software.

Other

There are other risks when you use illegal software:

- *Tarnished reputation for being found liable for copyright infringement or being convicted of a criminal offense.*
- *Criminal charges against directors and managers who consent or turn a blind eye to illegal copying of software.*
- *Employees faced with criminal charges for simply following company policy.*
- *No assurance of product authenticity or reliability.*
- *Forfeiture of product warranties and low-priced or free upgrades.*
- *Lack of user manuals, reference materials, and product support.*
- *No original disks, leading to inability to recover from a software failure.*

¹ Source: BSA Statistics 1997

Overview — Managing Software to Prevent Copyright Violation

Software is an *asset*. Businesses understand that they must manage their assets for maximum return on their investment. Therefore, software management is just another important business practice. Managing software to prevent risks to your business must be a core component of any management tool kit.

Below is a summary of easy-to-remember pointers to help manage software effectively:

- *Buy software from reputable dealers. Beware of prices that seem too good to be true – they probably are.*
- *Make sure you get original disks/CDs for all the software you buy.*
- *Make sure you get licenses for all the software you buy. Generally you need a license for each copy of software.*
- *Licensing agreements are different for every software publisher. Make sure your dealer explains them in detail.*
- *Retain original disks, CDs and the documentation that comes with them.*
- *Call the software publisher or BSA with questions.*

Four steps to
achieving and
maintaining
software
compliance:

1. Determine What You Need

Every company should ask itself the threshold question: “What software do we need?” The answer will always be valuable in ensuring effective and efficient purchasing and use of software. Additionally, the answer to this question will guide your efforts to establish and maintain compliance.

A good approach to determining your needs is to complete the form in the appendix (or something similar) for each employee and software package. As a general principle, your analysis should answer the following questions:

- *Are you using the right software, in terms of efficiency and effectiveness?*
- *Are staff satisfied with their current software applications?*
- *Are there other software programs that would enable staff to operate in a more effective and efficient manner?*
- *Are there software programs you currently possess, but don't need any more?*

You will identify the appropriate software profile for each computer by assessing whether departments/staff members need alternative or additional software applications. It will also identify software that is *not* being used, allowing your company to determine whether it is a product it wishes to validly maintain.

Four steps to achieving and maintaining software compliance:

2. Determine What You Have

The next step is to determine what software your company has on its computers and how much of it is properly licensed.

a. Take a physical inventory of the computers in your company. Count *all* computers (Macs and PCs), including servers, laptops and any computers that are not actually in use. Include all company locations. If employees have loaded company-purchased software on their home computers, this should also be included. You will want to gather information such as serial number, model, location and regular users.

b. Take an inventory of all the software on all the computers you identified in the physical inventory, including those not in use. There are a number of commercially available software tools that will assist you in this process. For example, BSA has developed an audit tool, BSA SoftScan® and MacScan™ specifically designed to help you audit. These tools allow you to confidentially search your computer hard drives and identify installed software. It is available for free by calling the BSA hotline or visiting the BSA Website at www.bsa.org. A sample data collection form is in the Appendix.

However you perform the audit, be sure to collect at least the following information for **each copy** of software installed on each computer:

- **Product Name**
- **Version Number**
- **Serial Number**

Depending on the size of your company, the software audit may take some time. Before you start, make sure employees understand that they should not add, delete, or move any software from their machines during the audit.

c. Take an inventory of all software documentation. This includes the following:

- **All disks and CDs used to install the software on the computers**
- **All original manuals and reference documentation**
- **All license documentation**
- **Invoices or other proofs of purchase for software, including invoices for computers that were delivered with software already loaded**

d. Compare. At this point, you should have a complete picture of the software installed at your company and a complete picture of the documentation demonstrating what software is legitimate. You need to carefully compare these two pictures and determine how much of your software is actually licensed. When doing this, be sure to take into account whether there are multiple users of a single product and whether any associated license permits such use.

If you have any questions about your licenses during this process, contact the manufacturers of the products in question for help.

A few specific pointers to keep in mind:

Upgrades. In order for any upgrade software to be legitimate, you must also have a license for the version of the software that is being upgraded.

Certificates of Authority. A COA is not a license; look for an original license agreement.

Original Media. Possession of an original disk or CD alone does not mean you have a license. Sometimes manufacturers will provide purchasers of large amounts of software with a single copy for installation and a license reflecting how many copies are authorized. You must have a license and only as many copies as are licensed may be made and installed.

3. What Now?

Now that you know which software programs are legal and which are not, you are properly armed to shield your company from any legal and financial risk.

First, delete all copies of software for which you were unable to locate a license or other documentation supporting its legitimacy. Second, compare your remaining software to your needs analysis. If you determine that you need to acquire additional software to meet your needs, purchase that software. This is also a good time to look forward and see what software your company is going to need in the future and plan for its acquisition. For example, if your company knows that it plans to expand its staff by 20 people over the coming year, it knows that it needs to have adequate office space, furniture, etc. But you should also look at the job functions you intend those people to fill and determine what software they will need to accomplish their tasks. That way you can include the software in your budgeting process.

Be sure to obtain all the supporting documentation for all software purchased!

4. What Next?

Software management is an ongoing process. Now that you have established baseline compliance within your company, you need to implement policies and procedures in order to *maintain* compliance. It is important to demonstrate to employees your organization's commitment to using legal software and provide the procedures for them to follow in meeting this goal:

- ***Appoint a Software Manager. This person should develop detailed procedures appropriate to your company's structure and function for the management of software. For example, the inventories prepared during your initial audit should be regularly updated to reflect new computers, new software, new license documentation, upgrades and the deletion of any software. If your company has more than one location, the Software Manager should arrange for a person at each location to undertake some management duties, such as tracking software purchases, and have that person report to the Software Manager.***
- ***Conduct an audit of all machines on a regular basis, at least yearly.***
- ***Coordinate needs and purchases with the Software Manager. All purchases should be checked to ensure that the appropriate documentation was delivered. Installation should be checked to be sure that it is consistent with the licenses purchased.***
- ***Schedule periodic spot-checks on the software installed on computers in your company.***

- ***Issue a company policy statement confirming management commitment to ongoing compliance with the copyright laws. A sample policy statement is included in the Appendix. All employees should sign this policy statement when it is issued, and all new employees should sign it when they begin their employment with the company. Include your policy statement in your Employee Handbook.***

- ***Periodically issue a memo reminding employees of their obligations under the copyright laws and company policy. A suggested memo is included in the Appendix.***

Preventing Piracy within the Workplace

www.bsa.org

Software piracy comes in many shapes and forms, which can find their way into the workplace. To help you understand the areas where piracy poses a risk, below are brief descriptions of the most common types of software piracy and what you can do to keep them out of your company or organization.

Counterfeiting

Counterfeiting is the illegal duplication and sale of copyrighted material with the intent of directly imitating the copyrighted product. In the case of packaged software, it can include packaging, documentation, labels, registration and security precautions. This is a common and sophisticated practice. International organized crime rings are actively engaged across the globe, as they perceive counterfeiting as a highly lucrative trade.

What can you do?

Software Managers must carefully check the authenticity of any product they acquire, by purchasing from reputable software dealers only and by checking the Certificate of Authenticity and other documentation at the time of purchase.

End-User Piracy

End-user software piracy occurs when businesses, other organizations or individuals make unauthorized copies of software in different ways:

- *By using one disk to install a program on multiple computers.*
- *By copying disks for installation and distribution.*
- *By taking advantage of upgrade offers without having a legal copy of the version to be upgraded.*
- *By downloading software from the Internet.*
- *By swapping disks in or outside the workplace.*

It can occur anywhere: within large multinational corporations, small and medium sized businesses, universities, government agencies and other public institutions.

What can you do?

Software Managers must carefully check the licensing agreements at the time of purchase/installation because authorized use varies from manufacturer to manufacturer. Educate your employees on legal software use. Ask them to sign an agreement acknowledging their understanding of and adherence to the law (see suggested memorandum to employees).

Gold CD-ROMs

A “Gold” CD-ROM is a CD on which pirates have placed unauthorized copies of programs. These CDs are often “compilation” CDs, including thousands of dollars of software for minimal prices. These CDs are usually sold through popular black-market channels. Unlike counterfeit CDs, which try to duplicate the appearance of legitimate software, purchasers of Gold CD-ROMs know they are purchasing illegal software.

What can you do?

Software Managers should ensure that all installation CDs are original CDs. Avoid handwritten or similarly “home-grown” labels. If software is being offered for prices that are “too good to be true,” they probably are. Purchase from reputable dealers only.

Client/Server Piracy

When businesses make the switch from a “standalone” environment to a network environment, they often rely on resellers or consultants to install the network and manage the transformation. Sometimes they may load pirated copies of software onto servers and you may be consequently placed at legal risk. It is important to remember that software loaded onto servers for use in a network environment is also subject to license restrictions. Appropriate licenses will authorize use of one installed copy by multiple users, but only within the limits of the license provisions.

Exceeding the permitted number of users constitutes unauthorized use. Just because one original piece of software is purchased does not mean the number of users is immaterial.

What can you do?

Coordinate all software and hardware purchases with your Software Manager. Make sure that there are sufficient software licenses to meet the needs of every software user in your company and projected increases to your workforce. When software is to be loaded onto a server, ensure that the appropriate number of licenses has been purchased and no more than the licensed number of users has access. The software licensing model for Client/Server software varies from software publisher to software publisher. Make sure you know what type and number of licenses are needed for the use of the client and server parts of the software application. When dealing with resellers and other third parties in managing your network, be certain to deal with reputable parties and to obtain original disks and documentation for all software installed.

Hard Disk Loading

In efforts to move computer hardware off the shelves, some computer resellers will load unauthorized copies of software onto the machines as an added incentive for their customers to buy. It is against the law, yet customers who trust their suppliers, often small businesses and other organizations, do not know they have been placed at legal risk.

Hard-disk loading should not be confused with legitimate pre-installed software through agreements between software publishers and computer manufacturers.

What can you do?

Ensure that hardware and software purchases are coordinated through your IT or Software Manager. Purchase only through reputable dealers and obtain all original licenses, disks and documentation when you receive new hardware. If the software is pre-installed, make sure you look for collateral documentation such as a license agreement, manuals or other proof of authenticity.

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Online Piracy

As Internet access becomes standard in the workplace, online piracy is rapidly growing. Programs can be transferred or downloaded easily and anonymously, often at the click of a mouse. Making unauthorized copies of software by downloading them over the Internet is a violation of the copyright laws. It is the same as if you were making an unauthorized copy of a disk. Bear in mind that software made available over the Internet frequently gives the right to download and make copies, albeit for restricted purposes.

What can you do?

Software Managers must pay careful attention that employees are not downloading what appear to be “can’t-refuse” software offers that place the company at risk. Educate your employees on what can and cannot be downloaded or uploaded.

Who is the BSA?

www.bsa.org

The Business Software Alliance promotes the continued growth of the software industry through its international public policy, education and enforcement programs throughout the world. BSA worldwide members include the leading publishers of software for personal computers and the Internet including Adobe Systems Inc., Autodesk Inc., Bentley Systems Inc., Lotus Development Corporation, Microsoft Corporation, Novell Inc., and Symantec Corporation.

In addition to its public policy, education and enforcement programs, the BSA also initiates audits of organizations suspected of using illegally copied software. BSA operates 50 hotlines around the world for callers seeking information about copyright matters or to report suspected incidents of unauthorized copying of software. Callers can dial these hotlines to speak with experts who regularly staff the hotline.

Education

BSA conducts advertising, direct mail, media relations and school-level education programs to raise awareness among software users about the importance of copyright law as it relates to software. BSA also educates businesses and organizations on methods of effective software management.

Enforcement

The BSA conducts a range of enforcement programs in over 65 countries. Since its formation in 1988, the BSA has brought thousands of actions worldwide against organizations that have violated software copyright laws. These include actions against software resellers and dealers, counterfeit producers and resellers, and end-user organizations that make unauthorized copies of software.

A company that settles with the software industry for copyright infringement typically must:

- *Erase illegally copied software.*
- *Obtain legitimate software to meet its needs.*
- *Compensate the industry for damages and all legal fees.*
- *Sign a statement committing to comply with copyright law in the future.*

Public Policy

The Business Software Alliance is waging key public policy campaigns across the globe on the issues that will shape the future viability of software publishers. The opening of electronic commerce and numerous sweeping changes in the global marketplace hold tremendous promise for the industry. These new technological and business developments are spawning legislative and regulatory proposals that will determine the way in which we interact in the new digital age.

BSA's policy members include: Adobe Systems Inc., Apple Computer Inc., Autodesk Inc., Bentley Systems Inc., Compaq Computer Corporation, Digital Equipment Corporation, IBM, Intel Corporation, Intuit Inc., Lotus Development Corporation, Microsoft Corporation, Novell Inc., Sybase and Symantec Corporation.

For more information on BSA's educational, enforcement and public policy programs and initiatives, call the hotline or visit the Website at www.bsa.org

Suggested Memorandum to Employees

To: (specify distribution)
From: (CEO or Senior Management Official)
Subject: **Computer Software and the Copyright Law**
Date: (insert)

The purpose of this memorandum is to remind you of (name of organization)'s policy concerning the illegal copying and use of software.

Unlicensed duplication or use of any software program is illegal and can expose you and the Company to civil and criminal liability under the copyright law.

In order to ensure that you do not intentionally or inadvertently violate the software publisher's copyright, you should not copy any program installed on your computer for any purpose without permission from (insert reference to responsible manager or department). Likewise, you should not install any program onto your computer without such permission, in order to verify that a license is held to cover such installation.

- The Company will not tolerate any employee making unauthorized copies of software.
- Any employee found copying software illegally is subject to termination from the Company.
- Any employee illegally copying software to give to any third party, including clients and customers, is also subject to termination.
- If you want to use software licensed by the Company at home, you must consult with (insert name of manager) in order to make sure such use is permitted by the publisher's license.

This may seem harsh, but unless we enforce a strict policy on software use, you and the Company will be exposed to serious legal consequences.

(insert name of manager) will be visiting your department over the next week to inventory hard disks and ascertain that licenses exist for each copy of a software product resident on a hard disk. If unlicensed copies are found, they will be deleted and if necessary, replaced with licensed copies.

Please do not hesitate to contact me if you have any questions.

Software Needs Analysis Form

(Company Name)

Software Needs Analysis

Name: _____

Department: _____

Authorization: _____ Date: _____

Computer serial number and location: _____

Software

Software program	Publisher	Version	Usage (1,2,3 or 4)

Usage (Key)

1. = Daily 2. = Weekly 3. = Monthly 4. = Never

Is there software that you feel you need but don't have, which will assist you in your job?
Please list below.

1: _____

2: _____

3: _____

Sample Corporate Employee Agreement

Corporate policy regarding the use of personal computer software.

1. (Organization) licenses the use of computer software from a variety of outside companies. (Organization) does not own this software or its related documentation and unless authorized by the software developer, does not have the right to reproduce it except for backup purposes.
2. With regard to Client/Server and network applications, (Organization) employees shall use the software only in accordance with the license agreements.
3. (Organization) employees shall not download or upload unauthorized software over the Internet.
4. (Organization) employees learning of any misuse of software or related documentation within the Company shall notify the department manager or (Organization)'s legal counsel.
5. According to applicable copyright law, persons involved in the illegal reproduction of software can be subject to civil damages and criminal penalties including fines and imprisonment. (Organization) does not condone the illegal duplication of software. (Organization) employees who make, acquire, or use unauthorized copies of computer software shall be disciplined as appropriate under the circumstances. Such discipline may include termination.
6. Any doubts concerning whether any employee may copy or use a given software program should be raised with a responsible manager before proceeding.

I am fully aware of the software use policies of (Organization) and agree to uphold those policies.

(employee signature and date)

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