

Software Licensing 101

Understanding Your Responsibilities

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Statistics show that over one-third of the world's commercial software applications are being used without a license, often by people who have no intention of breaking the law but who are unfamiliar with software licensing laws or have common misconceptions regarding software use.

Downloading and using copyrighted software without a license is considered piracy, and having unlicensed software on a computer can expose the responsible party and associated organization to legal action and hefty fines. This article provides an overview of software licensing basics — and some common misconceptions — that can help NYU community members to avoid the unintentional or accidental misuse of software.

What Is Software Licensing?

Today almost all computers run software programs, most of which are copyrighted. Just like a book, DVD or audio CD, computer software is intellectual property that is owned by the people who created it. To use software legally, you must get the express permission of the software developer or publisher. This permission almost always takes the form of a license or a license agreement. Therefore, when you purchase software, you are not purchasing the actual software, but rather a license to use the software.

A software license is a contract or agreement between the software publisher and the end user. These license agreements typically contain a definition of the product, acceptance terms, warranty provisions and, unless otherwise noted, strict prohibitions on further copying and distributing the software to other people or computers. It is sometimes permissible to make a backup copy of purchased software, to be used only as a backup in the event of a system crash. Always make sure

to read the software license agreement carefully to determine the nature of the agreement.

Types of Licenses

There are many types of software licenses, but most fall into two main categories, single-user and multi-user licenses. Additionally, there are often special discounted licenses for educational institutions for software designated for educational use in classrooms and labs.

Single-User Licenses are the most common type of licenses, usually referred to as an “End-User License Agreement” or EULA. These licenses are supplied with fully packaged products that are typically purchased off-the-shelf at retail computer stores, including the NYU Computer Store. Today, EULAs are typically embedded

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in the software itself as part of the installation process, and if the user does not agree to the on-screen “Terms and Conditions” of the software, the installation process aborts. Original equipment manufacturer licenses are another type of single-user license, used when a PC comes preloaded with software that must stay bundled with the computer system rather than being distributed as a separate or stand-alone product.

Multi-User Licenses (also called volume or site licenses) allow organizations with larger systems to obtain multiple licenses under one license agreement. With this type of license, multiple copies of the same application can be installed and used by several people at the

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same time. These licenses are different from EULAs because typically they are obtained through negotiation and a written agreement with the software publisher. Volume licensing can be negotiated for as few as two users to tens of thousands of users per volume license. Today, most software publishers offer volume licensing for all their products.

Myths and Misconceptions

Several common myths and misconceptions about software licenses, including the 24-hour rule, the 80/20 rule, and the concept of Abandonware, are urban legends created on the Internet and circulated to justify violations of copyright law.

The 24-hour rule claims that a person can download software and use it for 24 hours to determine if s/he really wants to use it, after which time they have to delete it or buy it. This is untrue. Use of computer software without the consent of the copyright holder is considered copyright infringement, even for only 24 hours or less.

The 80/20 rule claims that a person can install and use a single-licensed software program concurrently on both a work computer and a home computer, as long as work use is no greater than 80 percent and home use is no greater than 20 percent. This is also untrue. Licenses usually are based on a “one-license-per-computer” model. Concurrent use rights do not exist for operating system software and operating system licenses cannot be transferred or removed from the particular computer to which they are assigned.

Abandonware is a term used to describe software that the copyright holder has not distributed or supported for more than five years. The assumption is that the owner has abandoned the copyright. This is untrue since copyright law specifies the duration of the copyright, which, for works

created after 1978, is defined as the life of the author plus 50 years.

Inventory Your Computer!

The first thing you need to do is inventory your computer to determine what software is present on it. Public domain software, freeware, or software that is copyright-free can be excluded from this inventory. Make sure that all copyrighted software residing on your computer is licensed.

There are several ways in which unlicensed software can end up on your computer. Most commonly, this happens when publishers offer customers a free download for a seven-day trial. If you choose not to buy the software and forget to uninstall it, you will have unlicensed software on your computer! After the trial period, the program might stop working, but you are still responsible for that software if it is on your computer. It's important that you uninstall any trial software downloads for which you do not have a license.

Keep Records!

The second thing you need to do is to match up the licensed software on your computer with purchase receipts that prove that the software license was purchased for your computer. Agencies like the Business Software Alliance (who represent big software companies like Microsoft) consider software on your computer unlicensed if it is not accompanied by the proper proof of purchase, even if the licenses for the software were originally purchased legitimately! Missing or insufficient proofs of purchase have resulted in lawsuits and fines. Therefore, it is critical to keep each proof of purchase, such as cash register receipts, dated invoices or signed and dated license agreements, for all software purchased (see sidebar for details).

Proof of Purchase

When software is purchased, it is important to retain valid proof that the purchase was actually made. Missing or insufficient proofs of purchase can result in lawsuits and fines. The list below clarifies what constitutes valid proof.

Valid Proof of Purchase:

- Dated invoices in the name of NYU
- Soft records (online account statements) from recognized reseller
- Signed and dated License Agreements
- Soft records such as Microsoft Licensing Statements
- Cash register receipts for retail sales where product, version, quantity, and price paid are included

Not Considered Valid Proof:

- Copies of checks (or other payments made) to software vendors
- Dated purchase orders without invoices
- Undated software licenses
- Credit card statements evidencing software purchases
- Media, manuals, or key-codes
- Invoices bearing an entity name other than NYU

Third, in addition to purchase receipts, it is advisable to keep a log of all software licenses purchased. This log should contain the software product's serial number, the date and source of the purchase, the serial number of the hardware (computer) on which each copy of the software is installed, and the location of all backup copies. The proof of purchase and this log should be kept in a safe location. In the workplace, a designated person within each office or department should be responsible for maintaining these records.

Software Licensing at NYU

A Software Licensing Committee has been created at NYU, with representation from ITS, the Office of Legal Counsel, the Computer Store, the Purchasing Services Division, and the Office of Operational Risk Management. The committee's objectives are to increase NYU community members' awareness of copyright and software licensing issues, and to create tools to assist the NYU community in identifying and tracking licensed and unlicensed software and in maintaining accurate and appropriate records.

To assist the NYU community, the Software Licensing Committee has created a website which provides additional information regarding purchase of different license types and required license documentation, specific instructions on how to identify licensed and unlicensed software on their own or their department's computers (self-audit), and tools to help record and track on which computer(s) the software was installed. This information and the tools created are available on the NYU website at www.nyu.edu/operational.risk.compliance/compliance/software.licensing.html.

In addition, please be aware that the University's Policy on Responsible Use of NYU Computers and Data has been amended to include your obligations concerning software licensing (www.nyu.edu/its/policies/responsibleuse.html). For more information on the software licensing project at NYU, contact Sunita DeSouza at sunita.desouza@nyu.edu or Norma Kenigsberg at norma.kenigsberg@nyu.edu. §