



To Copy or Not to Copy

A Summary of Ethical Issues and Technology

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To copy or not to copy, that is the whether it is better to obtain some software by relatively easy means and think of all sorts of justifications to rationalize the action, or whether it is better to aspire to a standard that many others ridicule.

When we first wrote this chapter, it was totally a coincidence that we made it chapter 11. Someone back in 1991 pointed out to us what appropriate chapter # it was. We only wish we had been that clever!

Arguments in Favor of Pirating Software

Here are the standard arguments used by many children and adults in favor of copying, in a format that David Letterman could use on television.

- #10 ... I never knew there was anything wrong with it.
- #9 ... The salesman told me it was fine to do.
- #8 ... It does not really hurt anyone.
- #7 ... Most people that I know do it.
- #6 ... It is virtually impossible to get caught.
- #5 ... Software is generally too expensive.
- #4 ... I wasn't planning to actually use the software. I just wanted to have a copy so I could check it out and occasionally play with it.
- #3 ... Access to information tools should not be restricted this way. As people realize this, the law will change to reflect the technology.
- #2 ... I thought it was okay to buy one package and burn multiple copies for all our machines. How can they expect me to buy so many copies?
- #1 ... Copying software is no different than photostating pages from books, copying sheet music or copying records, cassettes or video tapes.

From a teacher:

How can they expect us not to copy CDs? It's just like records, cassettes and videotaping. Look here — the Supreme Court finally ruled that it's legal to copy television shows. People have been doing that for years. They can't stop it — it's the nature of the medium. Okay, so maybe copying software is illegal, but everyone is doing it, you can't stop it — it's just the electronic nature of the medium. In a few years, they'll rule that copying software is legal and we'll all find out that what we've been doing for years is okay.

A teacher wrote a letter to the editor to A+/InCider Magazine (June 1986) with a compelling title: Software Copying as Civil Disobedience, sadly, A+ Magazine is long gone and while more than twenty five years have elapsed, many would still use the same arguments:

Americans have always gone around or ignored repressive, restrictive, old unenforceable laws and regulations. Civil disobedience, to borrow a latter-day buzzword, seems to be the norm rather than the exception in the culture of our country. I won't belabor the point, but look at the underwhelming success of Prohibition and the 55 MPH speed limit. As George Bernard Shaw pointed out through the words of Alfred Doolittle, the poor can't afford morals. Unfortunately, all too many school systems and teachers are literally poor. Response from Editor: [Any] reference to students with one book per course is ill-chosen. A textbook might cost \$20 to \$25 (as opposed to \$39.95 to \$49 for a piece of commercial software), but it will last a whole semester or a whole year in contrast to a piece of software that might be useful for just one week. Sorry. I'm afraid that as long as teachers are interested in teaching the kids in their charge, regardless of the lousy pay and tight budgets, piracy of educational software will remain alive and well.

A high school student posted this notice on the computer room door:

Do not let the school tell you what to do. Copy all you want. The school's place should not be to make moral decisions for you. Decide on your own if you find duplicating a disk for personal use unethical. The copying of software is unlike shoplifting, since shoplifting involves the loss of property on the store's part. Copying involves loss of potential profit, a profit which often would not have been made. It may remove this possible money from the state, but uncaught speeding takes money from the state, as does unpaid parking meters. Thus you must place its moral value in your own life and decide how bad it is. Note that the school distributes photocopies in class, does not stop the public performance of illegally recorded music in assemblies or used in student films. And should not.

Go to www.summercore.com/Honesty.html for more information.

Now Let's Review the Facts

Fact #1: Copying computer software without authorization violates the U.S. Copyright law. It is a federal offense. Civil damages for unauthorized software copying can be as much as \$50,000 and criminal penalties include fines and imprisonment.

Fact #2: Most software companies struggle financially. Over half the companies in the last 10 years have gone out of business. Producing software is often a labor of love, particularly for educational software.

Fact #3: The copyright laws of this country have evolved over the last two hundred years; they are part of our American heritage and do not exist in all countries today. As with many American privileges, we should be careful about what we take for granted. Here are the basic history facts:

On May 31, 1790, Congress used the power given it in Article 8-2 of the Constitution to promote the Progress of Science and useful Arts by securing for limited Times to Authors and Inventors the exclusive Right to their respective Writing and Discoveries. This act provided for 14 years of protection. In 1909, the term was extended to 28 years plus a possible renewal of 28 more years. In 1976, the term was extended to its current length, the life of the author plus 50 years.

Fact #4: The widespread copying of music has not been so innocent. Grokster, Kazaa, and other Web sites have raised a number of ethical issues.

Fact #5: Many software companies offer site licenses and multiple disk lab packs as attractive alternative for schools: Scholastic, Sunburst, Microsoft, Tom Snyder, and so on. Other companies will make some arrangements for schools if contacted.

Fact #6: It is not so complicated to explain the proper use for taping television shows for educational purposes.

They may be shown to students during the first 10 consecutive school days after the date of recording and may be retained for up to 45 days for teacher evaluation only; beyond these two guidelines, all educational use of television recording is improper. (Source: The Copyright Primer, page 41, American Library Association, 50 East Huron St., Chicago IL 60611)

Fact #7: It is not so complicated to explain the proper use for photostatting printed material for educational purposes. Single copies of a chapter from a book, an article from a periodical or newspaper, or a chart, diagram or cartoon may be made by a teacher for use in teaching or for preparation. Multiplies copies of an article can be made only if these four conditions are satisfied:

- **Brevity:** poems must be less than 250 words, articles must be less than 2500 words, excerpts of books must not exceed 10% of the work, but no copying of consumables such as workbooks, exercises, standardized test, test booklets is allowed.
- **Spontaneity:** the copying and moment of desired classroom teacher use are so close that it would be unreasonable to expect a timely reply for permission.
- **Cumulative effect:** the sum total from one author should not exceed one article or two excerpts, no more than 9 instances for one course during one class term, no copying of consumables such as workbooks, exercises, standardized test, test booklets.
- **Repetition:** no copying shall be repeated with respect to the same item by the same teacher from term to term.

These rules are not so complicated after all. The Copyright Primer makes all this information quite clear, even including a question and answer format!

Fact #8: Information is available! The Copyright Primer is available from The American Library Association (800-545-2433). The Computing Teacher from ISTE (800-336-5191) and ADAPSO (703-522-5055) are excellent sources.

Fact #9 It is not so hard to create a school policy. The ISTE Software Copyright Committee suggests the following guidelines:

- The ethical and practical implications of software piracy will be taught to educators and school children in all schools.
- Faculty and school employees will be informed that they are expected to adhere to the 1976 Copyright Act governing the use of software.
- When permission is obtained to use software on a hard drive, network or site license, efforts will be made to secure this software from copying.
- Under no circumstance shall illegal copies of copyright software be made or used on school equipment.
- The [head of each school] is responsible for establishing practices which will enforce this copyright policy.

Outside of a Small Circle of Friends

Thank goodness that some people have chosen to take a stand and voice their opinions, even if they are in the minority. Phil Ochs wrote a song called Outside of a Small Circle of Friends. When it comes to the software piracy issue, that is the way it has seemed. Fortunately, if you read enough and talk to enough people, you can find some people who agree with you. The Bob Dylan song called Obviously 5 Believers (which interestingly uses the same music as Norwegian Wood) suggests the need for a critical mass of faculty at each school who believe in technology honesty! With at least 5 believers, it is generally reasonable to raise the obvious issue!

From a former headmaster:

I would say that our approach to the copying of software — illegal copying of software — is perhaps the best ethical thing that we do. Clearly, the use of the Xerox machine is one of the worst things that we do.

From a music teacher at Bloomingdale School of Music in NYC:

No, I never photostat sheet music or copy cassette tapes, but I know lots of music teachers that do. I've always felt that copying sheet music or tapes was in some symbolic way undermining the sense of intellectual achievement of the artist. That's the same as copying software. To copy a cassette tape or music CD so that someone else can use it is the same as stealing software.

From the headmaster of a New England independent school:

The argument against software pirating makes considerable sense. One of the striking polls that we did recently with our faculty involved asking ourselves which personal characteristics in our student we most wanted to foster and which