

ARE YOU LEGAL?

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It may seem that licensing is only for the dot-com and high tech fields, but it is more prevalent than one may think. Nearly everyone utilizes licenses every day, whether it is listening to a CD, using a computer, or even parking a car.

I have talked before about the importance of licensing a business's own property, but this time, I'll turn it around and look at *complying* with licenses. If you answer "yes" to any of the following questions, it would be worthwhile to check your practices and avoid future legal problems.

Before starting, what exactly is a license? It is simply an authorization to infringe. The owner of intellectual property is giving permission to do something which it alone has the right to do. For example, under *The Copyright Act*, an owner has the exclusive right to copy a work, or perform a sound recording in public. A license will permit someone else to enjoy those rights as well. Licenses do not have to be formal, signed documents. Tearing the shrink-wrap off a package, or just accepting a parking lot ticket, can signify acceptance of a license.

OK, on to the questions.

1. Do you play recorded music at your business, or through your phone system's "music on hold" feature?

As mentioned above, a copyright owner has the sole right to play a recording for the public. Recordings which are available to consumers seldom include this right. That is why you can purchase a copy of *The Lion King* for twenty bucks, but a video store will pay far more for its rental copies.

This is a very important concept. When purchasing a CD, for example, the buyer does not buy the music. He or she will own the case, the liner paper, and the plastic disc. The music on it, however, is copyrighted, and is usually licensed for personal use. Ownership stays with the copyright owner. This means you can listen to it yourself or with some friends. It does not provide the right to play the music for, say, a public dance.

Office reception areas, restaurants, or music on hold systems can be public places. Playing a music CD for customers or callers is usually an infringement without a (more expensive) public performance license. Societies acting on behalf of artists are surprisingly vigilant about enforcing these rights.

2. Do you buy separate computer programs for each computer in your office?

This is an easy one, and rather obvious to most. It is, however, one of the most common forms of infringement.

Each license needs to be reviewed to determine acceptable use. For instance, suppose an office is using Microsoft Word. There are 12 computers using the program, but the business only purchased one copy of Word and installed it on every machine.

Under Microsoft's current license, this is illegal. Either 11 more copies of Word must be licensed, or a "site license" must be arranged. A site license blankets a certain number of machines at a particular location or company.

I cannot emphasize enough how important it is to review the terms of your licenses. Some

treat the property like a book – it can be used in multiple places, but never at the same time. Others prohibit any installation other than on a single computer.

3. Do you ever copy audio CD's or computer programs, even if only for backup purposes?

Music lovers often copy their CD's onto cassettes, so they can listen to the music in the car or on a portable tape player. Until recently, this was an unauthorized reproduction, and could lead to a fine. It was unenforceable, of course, so a "tax" is now levied on blank CD's and cassettes to help compensate the copyright owners.

There are still, however, many ways to be guilty. Giving one of those copied cassettes or CD's to a friend, while retaining the original, will be an infringement. Converting them to MP3 format could be illegal. Even computer program backups are suspect. The *Copyright Act's* permission of this is so narrow as to be unusable. Therefore, check the license carefully before doing anything with protected works.

4. Does anyone in your office use Napster or similar file sharing programs?

The file sharing program Napster is regularly in the news. Users of the software can download music (in highly compressed MP3 form) from other users' computers, and other users can do the same from you.

This *might* be OK, if both the giver and the receiver own the original CD, and just want the file in MP3 form (the courts are still pondering that question). It would clearly be illegal, however, to download a song that you didn't already have a legitimate license for (in other words, you must own the original CD or cassette).

Many Napster users feel that even if this is stealing, they will not be caught. This may be, but businesses are in a more precarious position if their employees are downloading infringing materials onto company machines. Recording associations and software manufacturers all run anti-piracy hotlines, asking for tips from the public. Most calls are from disgruntled employees, competitors or ex-spouses. Consider what would happen to your business if a police officer with an injunction suddenly appeared one morning, seizing all of your computers pending a later hearing.

Intellectual property piracy is no longer just a moral issue. It can have huge economic repercussions on a business and its continued existence. It will be money well spent to regularly perform a thorough audit of your intellectual property.

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