

# PCProfile

anti-social for its explicit sexual and criminal undertones.

One reviewer's commentary: "Grand Theft Auto is all about maintaining your street cred as a criminal. The local crime bosses send you out on missions ranging from carjacking to kidnapping to drug running. The more missions you complete successfully, the longer you retain and/or advance your criminal status."

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Many of these games are pirated in their own right but we aren't addressing the piracy of games or playing games in this commentary, this feature article focuses on the business issues.

## **Over \$US 10M and 13 years in prison for software sold via the Internet!**

A US citizen has just been jailed for 7 years, <http://www.bsa.org/usa/press/newsreleases/CA-Man-Sentenced.cfm> with charges of grand theft and dealing with stolen property for illegally selling copies of software that have been deemed counterfeited, on the www via his website. This case comes hard on the heels of another site that was charged and fined \$US4M and with 6 years in jail! <http://www.bsa.org/usa/press/newsreleases/Ferrer-sentenced.cfm>

The two recent cases now show that the US criminal system is really serious about software piracy and have laid the most recent charges against one enterprising individual who has been selling hacked and "backup" copies of software and serial numbers and CD keys etc as a means to offer lower cost software on the www, for their own personal gain.

It seems that this individual seems to have forgotten (or maybe he just didn't care) that he was selling software that he didn't own, despite the claims that "the software being sold on the site was "backup copies" to be used by software owners in the event of system crashes".

By the way, he isn't the only site that has been doing this, the practise is quite widespread and a well known ploy to enable widespread low cost access to software.

These purveyors of "backup copies of software" aren't licensed dealers or resellers and are in the simplest of

## **Grand Theft – a game you don't want to be a caught up in!**

It was only a question of time.....

From time to time, US police TV shows and movies mention the words "grand theft auto".

We probably have assumed that this relates to "car theft" and not paid that much attention, but now practices on the Internet has widened the use of these terms to cover "grand theft OF software".

A search of Google shows over 45million site references to "grand theft" and most of these in the top 100 cover the software game that is popular amongst the gaining community relating to "police chase, fast action, shoot them up" games.

"Grand Theft Auto" is one of these games that is very popular for Xbox 360, PlayStation 2 and PC, despite the fact that it has been dubbed by some reviewers as

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terms, counterfeiting the software for their own personal gain. There are many who are using the Internet taking advantage of the claims that it is OK to do obtain backup copies via the net, and the fact they make a profit from it, so, why is that a problem?

Besides who is going to find out?

Restitution in this most recent case for one California man on two counts of criminal copyright infringement for illegally copying and selling pirated covers well over \$US 5M, with the forced sale of assets, along with an enforced holiday in a Federal prison for over 7 years (87 months) after being charged and pleading guilty as listed at <http://www.bsa.org/usa/press/newsreleases/CA-Man-Sentenced.cfm>

## **Software Piracy deemed Grand Theft**

The bottom line that is being used by the major software companies in these cases, after careful examination and tracking over long periods of time, is that these individuals are now branded by the law as criminals “dealing in stolen property” and “grand theft”, both of which carry very severe sentences and fines including confiscation of assets under US law.

On the face of it, one pirate has been found guilty by federal US laws, however other victims are likely to be spawned in an unwitting manner from this case.

We believe from our contacts that there are others to follow a similar fate as the tempo of anti-piracy activity has been increasing ever since the increase in rewards to up to \$US 200,000 earlier this year in USA. The use of the “grand theft” strategy now brings a new spectre to the age old “game” of software piracy and its various forms, that has been going on for years.

### **Definition from the Free Online Dictionary**

<http://www.thefreedictionary.com/grand+theft>

**grand theft** - larceny of property having a value greater than some amount (the amount varies by locale) [grand larceny](#) [larceny](#), [stealing](#), [theft](#), [thievery](#), [thieving](#) - the act of taking something from someone unlawfully.

## **We know your address.....**

“It’s soft, therefore it’s free”, is the “anthem” adopted by many around the world and we all know of companies, individuals and even government sites where a blind eye is turned to software copying (it’s really piracy).

Did you know that, there are tools and investigative powers that allow the FBI to track down one individual using an IP address (usually starting from some tipoff), so if this is the case, they now have wider access to all the “customer records and databases” of the parties who bought these stolen goods.

The forensic tools that are in use these days and the tracking systems adopted by the investigators means they can home in on sites, and even street addresses that are engaged in the practice of engaging in software copyright infringement (intellectual property laws apply) which is what is at the heart of the whole affair.

Does this make the persons who “bought” the software either knowingly or unwittingly, “criminals, aiding and abetting these pirates”, under law? It probably does in most jurisdictions.

## **Software is NOT a product**

Before we start arguing over a viewpoint of law, about whether buying software like the examples shown here, makes you a criminal by aiding and abetting, people need to be reminded that “software isn’t a product”, as is a pen, or a car, or a book, or a can of soup.

It’s only ever sold, as far as we can ascertain, under a “right to use” which is governed by a software license. These are typically known as end user licenses or EULAs. You know, the kind that says when you download the software “to accept these conditions click YES here, if you don’t accept click NO”.

How many of you actually read the EULAs before installing the software? Very few it seems, as most are blindly ignorant of the very powerful terms and conditions that are embedded within these often very lengthy documents.

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Those that do read them forget that these EULAs often change as “supplemental” patches and fixes are released and the terms and conditions vary over time, much of them to your disadvantage but that's food for another commentary later on.

## ***We have your IP address AND your customer records!***

If you have purchased the software from the anonymity of your own home account using hotmail/gmail or anyonmiser addresses then you might be safe, maybe. But I wouldn't count on it!

But for those of you that used the company e-mail system and IP addresses then you may need to start being concerned as the FBI and any other investigative agencies involved now have electronic records of your purchases and they may well come knocking on your door as being a willing party to the crime. Can they do this? Sure can! See Anton <http://www.pcprofile.com/anton.htm> for details on how they can come and seize your own assets as part of their investigations. If this doesn't wake you up to the threats you face then all you need do is sit back and wait, as it's not a question of if, but when, you are asked to account for your actions.

## ***Operation Copycat***

From <http://www.bsa.org/usa/press/newsreleases/DOJ-Copycat-sentencings.cfm>

“Operation Copycat is an ongoing investigation by the FBI and the U.S. Attorney's Office, targeting online “warez” groups that illegally distribute newly-released movies, games, software and music. Warez groups operate as the original source for a majority of the pirated copyrighted works distributed and downloaded via the Internet. The groups can globally distribute the pirated works within hours, where they will reach peer-to-peer and other public file sharing networks that allow anyone with Internet access to download the pirated goods.”

The result so far has seen 37 charged and 32 convicted in USA since July 2005. These aren't big numbers but the amount of “customer data” being gathered will result in flow on investigations that have wide reaching impact.

Other campaigns that have generated success in USA have seen over \$US2M in fines and penalties which by rule of thumb equates to around 1/3 to 1/4 the total

impact cost of the activity! See

<http://www.bsa.org/usa/press/newsreleases/Over-2-Million-in-Settlements.cfm>

## ***Other Copycats emerging?***

Based on our observations over the last 15 years as advisers to management of businesses and governments worldwide, as well as the auditor, accounting and IT professions, on the issues of software piracy etc we have noticed that other organizations who have similar issues tend to adopt the same approach on a “me-too basis” when they see the successes being achieved through legal actions such as this.

For example, the reward scheme that the US is currently offering of up to \$US 200K (it started at \$US 50K in Feb 06 and moved upwards within a few months due to initial success

[http://www.pcprofile.com/get\\_your\\_reward\\_here.htm](http://www.pcprofile.com/get_your_reward_here.htm) ) has now spread to UK and some European countries (Sweden etc) as a means to entice the reporting of piracy behaviour over software licenses. From time to time, an amnesty or curfew has applied in US, UK and Ireland, and when one country starts another often follows.

The reward scheme actually started in Australia back in the 1994/1995 years and has been particularly successful in flushing out instances of software piracy. Even the software vendors themselves offer rewards in their own names.

## ***Where is all this heading?***

The music and the movie industry are also “soft” industries (electronic media) that are suffering similar issues with copyright and should also see the advantages in charging persons caught copying music and movies and selling them (as many already do) then they too, will no doubt embark on a “Name and Shame” game plan and use the Grand Theft approach to dealing with individuals engaged in this practise.

Remember, the anti-piracy forensic investigators know how to trace you back to your IP address and with both static and dynamic addresses, it is possible then through access to your ISP to identify the physical location of the sites (leading to street addresses etc) where this activity was occurring.

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## The bottomline?

The risk for business occurs where staff are performing this task using your assets within your premises under your nose, then you are at risk of a raid from the legal representatives who can use the Anton Pillar order as referred to elsewhere in this commentary, to gain access to your business and to seize your records.

Being dragged into court as a criminal aiding and abetting grand theft of software may not be the sort of career enhancing line you want to have added to your resume!

## Tips to avoid this risk when buying software licenses from web sites.

- ◆ If the price of the software being offered looks cheap, then it's probably not a legitimate copy, ie; its pirated or copied, but you already know this!
- ◆ Buy ONLY from reputable licensed vendors and websites where bonafide credentials can be verified.
- ◆ If in doubt chose another vendor who is known and verified as legitimate.
- ◆ If still in doubt you should report the organization and claim a reward via the piracy reporting helpline. [www.bsacybersafety.com/fraud](http://www.bsacybersafety.com/fraud)
- ◆ Do not buy serial numbers or CD keys to unlock software!
- ◆ Do not buy hacked, cracked or software from underground web sites or friends etc

## Do we care if you are charged for being caught with illegal software?

Not really, that's your problem to deal with!

Our big concern, is the amount of wasted effort, money and time being spent by organizations who just don't understand the issues that are faced.

PCProfile can assist you with self-help information that you can safely use and adapt in house to ease your pain and make sure you get back to business basics.

## Grand Theft Of Software – is a game you don't want to be a caught up in!

For those organizations that ended up on the wrong side of the law see - **Named and Shamed**  
[http://www.pcprofile.com/Name\\_and\\_Shame.pdf](http://www.pcprofile.com/Name_and_Shame.pdf)

# PCProfile

## FREE Articles on Software Compliance Issues

- ◆ Who is liable for software piracy?
- ◆ What is an Anton Pillar order?
- ◆ Why Do Staff Install Software Without Authorization? So, an 80 percent compliance level is OK?
- ◆ Management Dilemma of Software Compliance Auditing HOW STUPID IS THIS?
- ◆ Risks of being caught with illegal software
- ◆ What steps are necessary - looking at the big picture?
- ◆ 1st Principles
- ◆ Audit tools viewpoint
- ◆ Court orders and injunctions
- ◆ Governance Issues
- ◆ We Don't Care How Much They Lose Due to Piracy!
- ◆ Licensing FAQ

send an e-mail to [pcprofile@internode.on.net](mailto:pcprofile@internode.on.net) with a SUBJECT LINE: **FREE Articles on Software Compliance**

## FEATURE Articles by PCProfile

- ◆ **Stolen is a Strong Word**
- ◆ **Pssst - Do You want some free software?**
- ◆ **Can you afford to be audited via the WWW?**
- ◆ **We DON'T CARE how much they lose!**
- ◆ **15 Steps to Compliance**
- ◆ **Who Is Responsible?**
- ◆ **Who Else Is Responsible?**
- ◆ **Are you wasting your time?**
- ◆ **Who was "caught in the act"!**
- ◆ **Raze The Jolly Roger!**
- ◆ **Software\_Piracy**
- ◆ **No Budget?**

See also <http://www.pcprofile.com/features.htm>

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## **MORE USEFUL TIPS from PCProfile [www.pcprofile.com](http://www.pcprofile.com)**

### **1. Reduce risk**

You can't manage what you can't measure. This is true for many business and organizational scenarios!

- What risks do you really face with software compliance?
- Do you have any idea what they are?
- Do you have any idea about the levels of unauthorized software, music, movies, videos, pictures, and fonts in your organization?

This Software Compliance Toolbox will outline a range of different scenarios that can place you "at risk" when it comes to managing not only software but also sound, MP3s, images, videos, DVDs, and movie files as well as fonts. It will highlight to you the need for an effective management mandate to ensure that you reduce your risk at all times!

### **2. Increase productivity through reverting to core business basics**

One of the key objectives with the production of this Software Compliance Toolbox is to focus management attention on the amount of lost productivity you face in an organisation due to staff being actively engaged in activities that can bring you undone (cost you fines and significant unplanned costs) when you get caught with illegal and unauthorised software. After all, they are being paid by you to provide a service or an outcome. In some areas when analysed, the amount of wasted effort due to downloads, installing software that is unauthorised, copying files, games, music etc can be as high as 45% on a repeated basis for some staff.

Through this Software Compliance Toolbox you should be able to put in place measures that raise awareness at all levels across an organisation and at the same time generate an outcome for you that reduces wasted effort and resources, thus improving bottomline performance targets.

### **3. Minimise and eliminate audit costs**

We also aim to show you ways in which you can minimise or eliminate expensive recurring audit costs!

You may be surprised to hear that, in our view, (and in the eyes of many other organizations), software audits are a waste of time, money and effort!

Wasting money on auditing is no way to run your business entity, when the money for the cost of conducting software compliance audits (in the manner they are being conducted at present) could be far better spent on your core business activities BUT you already know this!

We know that software compliance is NOT the core business activity of your organization and the money spent on traditional auditing techniques is MOSTLY WASTED and could be better deployed and utilised elsewhere.

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## 70 PDF & RTF files - information to reduce your risk!

### Totalling 6MB of information useful to reduce your risk, increase productivity and reduce audit costs!

- 100 percent legal backups available here
- 1st principles
- A simple model for an anti-piracy action at 80percent compliance level
- About Our Software Audit Tools
- Advantages of a Software Asset Management Strategy
- Audit Conditions Now Embedded In Some EULAs
- Audit Independence Governance and Code Of Ethics
- Audit tools viewpoint
- BREAKING NEWS on Copyright Issues - 1 USA
- BREAKING NEWS on Copyright Issues - 2 AUST
- Can I Use Software (From My Organization) At Home?
- Certificate of Authentication Theft and Conterfeiting
- Copyright Code of Practice
- Copyright Declaration By Employee
- Copyright Issues
- Court orders and injunctions
- Details On Our Organisation
- Draft Letter Of Software Destruction
- DRAFT Software Compliance Policy
- DRAFT SOFTWARE NEEDS ANALYSIS FORM
- End User License Agreements EULA
- Even Templates have licences restricting their use
- FILE Sharing Issues
- File sharing issues
- Frequently Asked Questions
- Google Search for the word PIRACY
- Help We've Been raided
- HELPFUL HINTS Share These With Your Staff
- HOW STUPID IS THIS
- How to conduct a self audit using Outlook Task
- How to Spot and Avoid Software Piracy and Scams
- Imaging PCs Check your license Agreements 1st
- Is Your Number Up
- Is Your Software Compliance Message Getting Through
- Its been tried before - upgrade tricks and traps
- Management Dilemma of Software Compliance Auditing

- Microsoft has a lot to say about Licences too
- No Budget For Audit Software
- Ongoing Management based on Microsoft best practices
- Open Ports for Audit Can Present Un-Acceptable Risks
- Product Activation and "Cracking the Code"
- Proof Of Purchase Really Means
- PSSSST do you want some cheap software
- QUIZ Would you pass a Software Compliance Audit\_Rev1
- Recording and tracking software licenses
- Risks of being caught with illegal software
- Software Compliance Audit Task Template
- Software Compliance Audit Policy is a MUST HAVE!
- Software Compliance Auditing some definitions
- Software Compliance In Perspective
- Software Licensing Issues
- Software Piracy Defined
- Software Piracy How many different ways are there
- Software Piracy isn't an issue that's going to go away in a hurry
- Software Profile for a PC
- Software UPDATE Services Affect EULAs
- Some other PHYSICAL ways to detect illegal software
- Time To face The facts
- Typical costs you might face from an anti-piracy raid
- Understanding License Agreements
- What constitutes copying of software
- WHAT IS LICENCE MISUSE OR ABUSE
- What Manager Levels need to be involved
- What should you be doing as the auditor
- What steps are necessary when looking at the big picture
- Where do you start on a Software Compliance Audit
- Who are the antipiracy police
- Why Do Staff Install Software To Your Systems Without Authorisation
- Why HR needs to be involved

### TOOLS

- Licence\_Cost\_Model
- OUTLOOK TASK - RTF version
- Software Compliance Audit - Outlook Task
- Software Compliance Message Reminder Software
- Our\_Application\_Naming\_To\_Detection\_Rates.xls

You can purchase the 70 PDF and RTF files and the Tools as listed above for \$US 75 at <http://www.pcprofile.com/order.htm> The RTF files are for use within your own organization so that you can make your own policy and training documents and procedures from them.

See also Frequently Asked Questions on Software License Management - <http://www.pcprofile.com/FAQ.pdf>

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