

**Academic Software.** Academic software is software designated by the publisher to be used in an academic setting for educational purposes only. Any other use may be prohibited by the license agreement. Many software companies sell academic or educational versions of their software to public schools, universities and other educational institutions. The price of this software is often greatly reduced by the publisher in recognition of the educational nature of the institutions. In order to sell academic software, the vender must be authorized by the software publisher. Furthermore, to purchase and use a license to any software identified as "Academic" or "Academic Edition," the purchaser must be a "Qualified Educational User." Also, in most cases, academic software is not transferable.

**Auction Sites.** Auction sites are websites that provide a method of online advertising and sales through a standard interface. Sellers register with auction sites and create "listings," detailed descriptions of the item(s) they wish to sell. These listings often include pictures of the item(s) being sold. Interested buyers can search the website for free, bidding on any items they find through a simple interface. The website automates the tracking of bids on the item, and sellers can establish a maximum time limit before an item is closed for bidding and an items' final sale price is determined, at which time the website handles all transaction details, facilitating communication between buyer and seller. Some examples of auction sites are eBay, iOffer, and Amazon. Software and content piracy is rampant on these sites.

**Audit.** An audit is a manual or automated inventory of the software installed on the company's computers, servers and other peripheral devices.

**BitTorrent.** A unique variant of P2P technology, BitTorrent is commonly used for distributing very large amounts of data (whereas previously P2P applications were primarily used to distribute files of smaller sizes). BitTorrent has grown in popularity to become one of the most common protocols for transferring large files; by some estimates it accounts for almost 35% of all traffic on the entire Internet. To distribute a file, a user must first create a small file called a "torrent." This file contains information about the files to be distributed and about the "tracker," the computer that will be assigned to coordinate the file distribution. Other users that want to download the file must first obtain the "torrent" file for it, and connect to the specified "tracker," which tells their computer from where to download the pieces of the file.

**Classified Ad Sites.** Classified ads, which began in newspapers, allow private individuals to solicit sales for products and services. The concept has found its way onto the Internet, and there now exist hundreds of sites dedicated to it (an example would be Craigslist). Due to the

perceived anonymity of the Internet, many pirates use these sites to post listings advertising the sale of pirated copies of software and/or content, typically providing an email address or website address where they can be contacted to facilitate a sale.

**Client End.** The term client end refers to the computer system making requests to be serviced by the server end computer system within a network environment. It may also include the individuals or organizations operating the computer system.

**Computer Program.** Under the Copyright Act, a computer program is defined as "a set of statements or instructions to be used directly or indirectly in a computer in order to bring about a certain result."

**Concurrent License.** A concurrent license permits a specified number of users to access software installed on a server at any given time. Usually, metering and lockout software is required by the license to be installed on the server to prevent excessive use. For example, a concurrent license may permit any 75 users to access software on a server, at a single point in time, in a 100 user environment. The remaining 25 users are locked-out until one of the original 75 log off. Check with the publisher or reseller for details.

**Content.** Although the term content is often used to refer to the various types of works (such as text, sound, images, photographs and motion pictures), in the context of SIIA's website the term content refers only to copyrighted works containing words, images, numbers or other types of literary or pictorial material, such as in newspapers, magazines, databases, graphic images, photographs, industry reports, newsletters, and web pages.

**Copyright.** Copyright is the exclusive right granted "to authors" under the U.S. Copyright Act to copy, adapt, distribute, rent, publicly perform, and publicly display their works of authorship, such as literary works, databases, musical works, sound recordings, photographs and other still images, and motion pictures and other audiovisual works.

**Copy.** A copy, as that term is used in the Copyright Act, is any material object, other than phonorecords, in which a work is fixed by any method now known or later developed, and from which the work can be perceived, reproduced, or otherwise communicated, either directly or with the aid of a machine or device.

**Corporate End-User Piracy.** Corporate end-user piracy occurs when an organization has insufficient licenses (i.e., underlicensed) or no licenses to cover the number of software programs it has deployed. For example, an organization that has installed 100 copies of a particular program but only has licenses to install 20 copies of that program is said to be culpable of corporate end-user piracy. Significantly, use of the term “corporate” in this context is somewhat of a misnomer because this type of end-user piracy could apply to any organization that uses software. The term “corporate” is used simply because historically it has been referred to in that manner.

**Counterfeiting.** Making, distributing and/or selling copies that appear to be from an authorized source.

**Crackz.** The term crackz usually refers to material or software designed to circumvent copyright protections in software to facilitate illegal use.

**Digital Millennium Copyright Act (DMCA).** The DMCA is legislation that was enacted in 1998 to implement two 1996 treaties of the World Intellectual Property Organization (WIPO). The DMCA is part of the Copyright Act, and can be found in sections 512, 1201, and 1202 of the Act. The DMCA made primarily three changes to the Copyright Act: (1) made it illegal to circumvent technology protection measures (i.e., Digital Rights Management (DRM) Technology) that protects a copyrighted work from infringement (see section 1201 of the Copyright Act); (2) made it illegal to remove or alter copyright management information attached to a copyright work (see section 1202 of the Copyright Act); and (3) immunizes ISPs from copyright infringement liability of their users if, among other things, they take down infringing content posted by their users, following a request by the copyright owner and terminate the accounts of repeat infringers. (see section 512 of the Copyright Act)

**Digital Rights Management (DRM):** DRM refers to technologies used by copyright owners to protect their works from infringement (e.g., access and copy-control technologies) or to control other uses of their works, such as to impose licensing terms.

**Display.** A display, as the term is used in the Copyright Act, means to show a copyrighted work or a copy of it, whether directly or by means of a film, slide, television image, or any other device or process or, in case of a motion picture or audiovisual work, to show individual images

nonsequentially. The term public display right refers to the exclusive right granted to the owner of a copyright to display (and to authorize other to display) his or her work publicly.

**Distribution.** The term distribution, in terms of copyright law, refers to the exclusive right of the copyright holder to sell, trade, rent, lease, lend or otherwise transfer material from one entity to another.

**DMCA.** See Digital Millennium Copyright Act Fair Use. Fair use is a limited doctrine providing for certain exceptions when permission is not required to use portions of copyrighted works. Because most copying of software includes the entire program, its application is rare in this case.

**File Transfer Protocol (FTP).** FTP is a network protocol used to transfer data from one computer to another over the Internet. FTP domains accessed directly by their IP address, these file servers are used to offer directory access to a PC or server offering direct downloading of software and/or content. An FTP program allows a user to upload files to and download files from a site.

**Freeware.** The reproduction and distribution of freeware is allowed and encouraged as long as it is not for profit and with the condition that derivative works must also be designated as freeware. That means that you cannot take freeware, modify or extend it, and then sell it as commercial or shareware software.

**FTP.** See File Transfer Protocol.

**HTTP (a.k.a. Websites).** Domains located on the World Wide Web that offer either “hard goods” or direct downloads. This also includes online message boards and user groups for academic communities (medical, technical, etc.) as well as classified ads sites.

**Implied License.** The term implied license refers to the permission to use a copyrighted work that is implied as a result of some act or conduct on the part of the copyright holder. An implied license is a binding contract between the parties which is agreed to as a result of their conduct,

rather than an overt expression of agreement. The determination of an implied license is subjective depending on the circumstances of use of the copyrighted material.

**Infringement.** The concept of infringement arises in patent, copyright, or trademark law. When someone copies software without permission of the copyright or patent owner, or uses a trademark without the permission of the trademark owner, he or she has committed an act of infringement, that is, he or she has infringed on the rights of the copyright, patent, and/or trademark owner.

**Intellectual Property.** The term intellectual property refers to personal rights of ownership acquired originally or derivatively from intellectual creations. For example: copyrights, trademarks, and patents.

**IRC (a.k.a. Internet Relay Chat).** An internet protocol used extensively by the piracy “scene,” professional and amateur pirates alike gather on servers set up to use IRC protocols and create chat rooms on various server collections (networks) around the world. IRC is both a communication and distribution tool for pirates, as automated fileserver programs (called bots) allow for large-scale distribution of pirated software and/or content to end-users in various chat channels on many IRC networks.

**License.** A license is a contract in which a party with proper authority (the “licensor”) grants permission for another party (the “licensee”) to do something that would otherwise be prohibited. There are different types of licenses, these include:

- Active Consent Agreement: Agreements requiring the user to take an affirmative step to indicate consent to the rights and restrictions of the license before accessing the content.
- Browse-Wrap Agreement: An agreement that typically consists of a link or button on a webpage that directs an end user to the terms and provision of the agreement. The terms and provision of the agreement are typically displayed on a separate webpage.
- Click-Wrap Agreement: An agreement that typically consists of the terms and provisions of the agreement displayed on a webpage with a button stating “I agree”.
- Collective Licenses: A license that covers a collection of publications and content for a variety of purposes under a single license.
- Concurrent User License: License in which a predetermined number of employees at licensee’s organization may access the content at any given time.
- Group License: License in which more than one user can access the content at the same

time. These licenses are generally used via a network. Group licenses can allow access to all members of the group at the same time, or they can limit the total number of users who can access a publication simultaneously.

- Implied License: Agreement based on a parties' conduct, instead of any written instrument. For example, many online publications include a "print" button, which, in the absence of any terms and conditions, implies that the reader has a license to print a copy of the article.
- Individual License: A license permitting only one individual to access the content.
- One-to-Many License: An agreement that allows access to a particular set of content from a single location ("one"), but also allows distribution to all ("many") employees of a company outside of the single location access.
- Passive Assent Agreement: Agreements that apply as soon as the user accesses the content, without any other steps by the user to indicate consent.
- Perpetual License: Licenses that allow indefinite access to the software or content, so long as it is used in accordance with the license.
- Shrink-Wrap License: Licenses that are accepted by the consumer upon opening the product. The term describes the shrinkwrap plastic wrapping used to encase boxes containing the licensed software. The license terms can be viewed before opening the shrinkwrap.
- Site/Campus Licenses: A license that limits access to software or content by geographic area, building(s), department(s), or organization.
- Subscriber License: Licenses which limit the time a licensee has access to content.
- True-Up License: A license in which the number of users covered by the license is adjusted to reflect the fact that the actual (or true) number of users during the term of the license was greater than the number of users outlined in the license at the beginning of the term.
- User Base License: License in which all employees of a company can access software or content at the same time, under one license.

**Licensee.** The licensee is the party who acquires permission to exercise certain rights in software or content, subject to the terms and conditions imposed by the licensor, in a license agreement. A licensee obtains no ownership rights in the copy of the content that he or she receives.

**Licensor.** The licensor is the party who grants to another certain limited rights to possess and use software or content.

**OEM Software.** OEM stands for Original Equipment Manufacturer. OEM, when used to describe software, is used to differentiate that version of the software which is bundled with specific hardware from that same software package sold on its own as a retail package. For example, software that is packaged with a scanner, licensed for use only with that scanner and

not for redistribution or “resale.” A great deal of OEM software is packaged with, or loaded on, personal computers from dealers such as Dell, HP, Apple and others. Selling OEM software separately from the hardware is a violation of the distribution contract between the vendor and the software publisher and the copy of the software transferred from the vendor to the buyer is therefore an illegitimate copy. Because OEM Software only is licensed by the publisher and not sold, there is no “first sale” right with respect to OEM Software, and attempts to distribute, sell (or resell) or use the software apart from the specific original hardware, or outside the terms of the original license, may subject the user to lawsuits for copyright infringement.

**Orphan Work.** Works for which the owner cannot be identified or located through a reasonably diligent search.

**Patent.** A patent is a grant of exclusive rights issued by the U.S. Patent and Trademark Office that gives an inventor a 20-year monopoly on the right to “practice” or make, use, and sell his or her invention.

**Peer-to-Peer (P2P).** The broadest application of file distribution, P2P programs use networks of users interconnected directly through their own PCs to relay search requests and facilitate distribution of pirated software and/or content among every user on the network. P2P includes programs and networks such as: BitTorrent, DirectConnect, eDonkey, Gnutella, LimeWire, etc. This category also includes file storage or “sharehosting” websites such as Rapidshare and MegaUpload.

**Piracy.** The illegal copying, distribution or use of intellectual property.

**Pirated Software.** An illegal copy of software. A copy of copyrighted software that was made without the authority of the copyright owner or otherwise allowed by the Copyright Act.

**Public Domain.** The status of material that is not protected under copyright. Public domain software comes into being when the original copyright holder explicitly relinquishes all rights to the software. Since under current copyright law, all copyrighted works (including software) are protected as soon as they are committed to a medium, for something to be public domain it must be clearly marked as such.

**Published, Publication.** Publication, under the Copyright Act, is the distribution of copies of a copyrighted work to the public by sale or other transfer of ownership, or by rental, lease, or lending. The offering to distribute copies to a group of persons for purposes of further distribution, public performance, or public display also constitutes publication. A public performance or display of a work does not of itself constitute publication.

**Reprints.** High quality reproductions of the original published work that either presents the complete content or some agreed-to excerpt.

**Reproduction.** The term reproduction right refers to the exclusive right granted to the owner of a copyright to make (and authorize others to make) copies of his or her work.

**Rights Holder.** With respect to any of the exclusive rights comprised in a copyright, refers to the owner of that particular right.

**Server End.** The term server end refers to the computer system servicing the client computer is requests within a network environment. It may also include the individuals or organizations operating the computer system.

**Server License.** A server license permits all the users and/or workstations connected to a server to access software installed on the server. Other times a server license specifically permits a set number of users or workstations to access software installed on the server--often called a per seat or per node license.

**Sharehosting.** A file-hosting service (sometimes referred to as "One-click hosting" or File hosting") is an Internet hosting service specifically designed to provide storage for files, typically, very large files such as movies, music, software, games, books, etc. The term "sharehosting" is used to describe such web services that allow internet users to easily upload one or more files from their hard drives onto the file-hosting services' servers free of charge. Most of these sites simply provide a website address (URL) which can be given out freely to other users who can then access the file at a later point in time. Because of their ease of use and anonymity, sharehosting sites have become a haven for software and content piracy.



Some examples of sharehosting sites include RapidShare, SendSpace and MegaUpload.

**Shareware.** The copyright holders for shareware allow purchasers to make and distribute copies of the software, but demand that if, after testing the software, you adopt it for use, you must pay for it.

**Softloading.** Purchasing a single user license and loading it onto multiple computers or a server.

**Software.** See computer program.

**Software Audit.** See Audit.

**Software Piracy.** The illegal copying, distribution or use of software. Types of software piracy, for example, include: 1) purchasing a single user license and loading it onto multiple computers or a server ("softloading"); 2) making, distributing and/or selling copies that appear to be from an authorized source ("counterfeiting"); 3) renting software without permission from the copyright holder; 4) distributing and/or selling software that has been "unbundled," or separated, from the products with which it was intended to have been "bundled"; and 5) downloading copyrighted software from the Internet without permission from the copyright holder.

**Statutory Damages.** Some laws provide a threshold level of damages, called statutory damages, independent of the actual harm caused by the violation or the violator's actual profits. One such statute is the Copyright Act, which provides that the plaintiff may recover between \$750 and \$150,000 for each copyrighted work infringed by the defendant, regardless of whether he or she is able to prove in court that he or she has actually been damaged.

**Subscriber Agreement.** Allows clients to access content subject to various restrictions, but not to re-publish to third parties.

**Torrent.** A file containing information necessary to find and begin downloading the desired movie, music, software, game, etc. file that a BitTorrent user desires. It includes info on the “seeder,” or original location of the file; the “tracker,” the computer which controls Internet traffic between computers trying to download the file; and “peers,” or users’ who are trying to download the file. Torrent files are usually found on “torrent” sites which archive hundreds of thousands of active files and allow users to search for movies, music, software, games, etc. by name.

**Trademark.** A trademark is any word, name, symbol, or device, or any combination thereof, adopted and used by a manufacturer or merchant to identify his or her goods and distinguish them from those manufactured or sold by others.

**Trademark Dilution.** the use of a similar mark in a manner that weakens or reduces the distinctive quality of a distinctive mark, regardless of whether the use causes confusion.

**Trademark Infringement.** When one party uses the mark of another party in a way that creates a likelihood of confusion, mistake and/or deception with consumers.

**Unbundling.** Distributing and/or selling software that has been "unbundled," or separated, from the products with which it was intended to have been "bundled." Underlicensed. When an organization does not have enough licenses to cover the software it has deployed. For example, an organization that has installed 50 copies of a particular program but only has licenses to install 20 copies of that program is said to be underlicensed.

**URL.** The term URL is an acronym for uniform resource locator. It is the address of a site on the Internet and tells the client software where to locate a sought after file. (i.e. <http://www.siiia.net>)  
**Users.** A user is a person who uses a computer or the Internet. A user may have a user account that identifies the user by a user name.

**USENET (a.k.a. Newsgroups or NNTP).** Newsgroups are electronic bulletin board services that allow users to post content through either attachments or posts on the newsgroup. Larger files are often broken down into 50 or more smaller file attachments, which are then reassembled to create the full file.

**Warez.** The term warez refers to pirated or illegal software. Software or sites labeled as warez usually contain illegal material and should be avoided and reported.