

## Direct and Indirect Copyright Infringement

As part of its educational efforts, SIIA Anti-Piracy is providing the following information to educate computer users and managers how some of their actions may be in violation of federal copyright law. These definitions explain under what circumstances a person may be liable for copyright infringement under the law. Following each legal definition is a practical application explaining how these definition apply in the context of the Internet.

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### Direct Infringement

"Anyone who violates any of the exclusive rights of the copyright owner [reproduction, adaptation, distribution to the public, public performance, public display, rental for commercial advantage or importation] is an infringer of the copyright or the right of the author..." Section 501(a) of the Copyright Act.

For example, this includes:

- downloading software
- uploading software
- making software available for download
- transmitting software files

### Indirect Infringement

*Contributory Infringement.* Anyone who knows or should have known that he or she is assisting, inducing, or materially contributing to infringement of any of the exclusive rights by another person is liable for contributor infringement.

For example, this includes:

- posting of serial numbers
- posting of cracker utilities
- linking to FTP sites where software may be unlawfully obtained
- informing others of FTP sites where software may be unlawfully obtained
- aiding others in locating or using unauthorized software
- supporting sites upon which the above information may be obtained
- allowing sites where the above information may be obtained to exist on a server

*Vicarious Liability for Infringement by Another Person.* Anyone who has the authority and ability to control another person who infringes any of the exclusive rights and who derives a financial benefit therefrom, is vicariously liable for the infringement of another person.

For example, this includes:

- ISPs who have warez or pirate sites on their system and do not comply with the Digital Millennium Copyright Act.
- ISPs who have pirates for customers and do not comply with the Digital Millennium Copyright Act
- system administrators for newsgroups or IRC where pirate activity takes place