

## How to Discourage Piracy

May 1991

by Sandra Boulton

Software piracy is a problem of tremendous proportions. Even the most conservative estimates indicate that piracy costs the industry \$2 to \$4 billion worldwide. The United States alone accounts for \$1.5 billion of that, despite tough copyright protection laws. Therefore, any antipiracy program should focus on the U.S. market as well as on markets in other countries. My company, Autodesk, uses a program in the U.S. and Canada as a template for programs in other parts of the world. Unfortunately, in international markets we often have to contend with laws that are often weak, not enforced, or nonexistent. Therefore, antipiracy activities in these markets are typically more expensive and more difficult to implement.

Autodesk, like most software companies, has a significant piracy problem. We estimate that seven to ten illegal copies of AutoCAD, our flagship product, are made for each legal copy sold. These illegal copies have such a dramatic impact on our bottom line that we can't afford not to try to stem the tide. Like many companies, we briefly experimented with physical copy protection, but the user community reacted with such concern that we dropped the protection from our U.S. copies in 1986 (but left it on all international versions).

At that point, we decided that illegal copying should be countered by legal action. In the U.S., duplicating our products is a direct violation of the license agreement and is thus a federal crime punishable by a fine of up to \$25,000 and imprisonment for up to one year. Civil law also allows us to recover losses based on the number of copies produced or to collect damages of up to \$100,000 for willful copyright infringement.

Since the inception of our antipiracy program in 1988 we've investigated more than 3,000 cases, and we currently look into approximately 160 cases a month. Our financial recoveries have been substantial. Sales made directly as a result of the antipiracy program have topped \$3 million. We also try to keep tabs on indirect sales that result from the program, but that can't be directly tracked; we estimate that last year alone, these incremental sales were half a million dollars. The bottom line: For each dollar spent on antipiracy activities, we've made back more than two dollars.

## PROGRESS THROUGH EDUCATION

To tackle retail and corporate piracy, we've developed an aggressive program. Our approach includes independent action as well as cooperative efforts with other companies and associations that are fighting piracy. Our program focuses on user and dealer education; dealer participation; and, when necessary, legal action. Education is a key strategy in our war on piracy. We produce antipiracy kits that contain literature for dealers and users, conduct public-speaking tours that educate and warn of the consequences of illegal duplication, and encourage the press to recognize and openly discuss the problem. We also place advertisements in national publications. The ads focus on the benefits of buying legal versions of products—what users get with a legitimate copy and what they don't get with an illegal one. Other ads aim to educate the many people who don't even realize that copying is illegal.

Distributors and dealers with a strong commitment to increasing sales by decreasing piracy are of the utmost importance. In many parts of the world, even a 10 percent decline in piracy can result in a hundredfold increase in sales, which benefits both the manufacturer and dealer. It's very important to educate your sales and distribution channels about how important these antipiracy campaigns are—to themselves, the manufacturers, and the local economy. I often make the point that 40 to 75 percent of the money spent on legitimate software stays in the country where the sale occurs. This represents the support, training, and margin on sales provided by dealers and distributors to the local economy.

## COOPERATIVE EFFORTS

Groups such as the Software Publishers Association (SPA) wage their own wars on piracy, in which we participate. We also encourage local software associations and distributors in other countries to take such action as placing antipiracy ads. For example, ANIPCO, the Mexican software association, developed an ad that focuses on educating users who don't know that copying is illegal. The text of the ad says something like "The copy-holic is the last to know." A group of distributors in Chile took a particularly interesting tack. They created an ad that tells software users to be sure they have bought original software, and shows them that only original software carries a special, recognizable seal.

Autodesk is also a founding member of the Business Software Alliance, now an arm of the SPA. This group combines the forces of leading business-software companies worldwide in an effort to educate users, prosecute offenders, and improve copyright legislation. With this group, we've conducted numerous raids of corporations and retail pirates, which have resulted in significant publicity (in such high-profile publications as BusinessWeek and The Wall Street Journal) about piracy and the penalties levied on offenders.

In a raid, we procure a court order that allows our attorneys (when operating in another country, we usually hire local attorneys) and the proper law-enforcement agents to enter an establishment and search for specific things. We have them look for evidence of pirated software: manuals, diskettes, and the like. Properly done, the raids are usually a surprise to the company in question. We search the computer directories and the premises, as set forth in the court document. Of course, we first prepare for the raid by conducting an internal investigation of the suspected offender to provide the court with the proper evidence to get permission for the search.

After such raids and the ensuing publicity, legitimate sales jump tremendously. For example, during a raid on a retail operation in Hong Kong, we confiscated more than 100,000 manuals and diskettes. We followed that with a series of raids on corporate end users. After the raids, our sales boomed in that part of the world.

### **WHEN THE LAW IS UNCLEAR**

Unfortunately, support of antipiracy activities by local law enforcement and the underlying legal structure is not strong throughout the world. Where no formal antipiracy protection exists, we work with organizations such as the SPA, but we also have to rely on our own resources. Often we depend on distributors to help plan and implement regional campaigns and to provide referrals to local attorneys.

Even low-cost but well-planned programs can be successful. For example, we did a very successful letter-writing campaign; by carefully targeting the suspected pirates and crafting a tough but diplomatic letter, we got substantial results. The letters usually outline the information we've gathered about the recipient, such as how many pirated copies they have. We also quote the local copyright laws and ask the recipients to respond to our local representative by a certain date if they don't want to hear from our attorneys. In many cases, an overseas company assumes that you won't go to the trouble

to pursue their ten pirated copies. When the letters arrive, you suddenly don't seem to be quite as far away as they thought you were. Sales in some countries more than doubled after we sent these letters.

Indeed, as ambitious as our U.S. efforts are, they are nothing compared with our worldwide efforts, especially in markets where copyright protection laws are poorly defined or difficult to enforce. Even blatant piracy can be hard to battle. In Malaysia I sought out an Autodesk product that had been released in the U.S. the day before at a retail price of \$300. I purchased it for \$3; for an additional \$10, I got a manual (complete with our copyright notification). The company gave me a receipt. It took all the major credit cards; the salesperson changed my money for me and duplicated the disk while I waited! Of course, the disk was missing some files, so the application was useless. But even if I had bought a copy that worked, I would have had to contend with various operational problems and lack of support.

## FINDING THE CULPRITS

In the U.S. and Canada, we rely on many individuals to report piracy. About 80 percent of our reports originate from dealers; the rest come from consultants, former and current employees, and competitors of offending companies. Several people have called me and said very quietly, "I don't want my boss to hear me tell you, but we've got illegal copies here." (You may wish to consult a lawyer before taking action on such a tip.)

Our program includes dealers and distributors, because they're the closest to the customers, but it places them in a tenuous position: They want to uphold the copyright laws, but they're afraid of losing future business. As a result, a cornerstone of any program must be complete confidentiality. When we receive a report about a particular customer's possibly pirating software, we leave the dealer totally out of the investigation. We check our database and determine which serial numbers are registered to the customer. If it conflicts with the number the dealer reported to us, then our attorneys send the customer a letter requiring that the customer contact them directly and purchase a quantity of legal copies equal to the number of pirated ones—or face a lawsuit. Those purchases must be made at full retail price, which further penalizes the pirate, because discounted software is so readily available.

We do compensate dealers who report piracy; because a legal sale would have resulted in some profit for the dealer, we feel that a sale through the antipiracy program should also result in compensation. We also require dealers to install and support any packages sold through the antipiracy program.

MAY I SEE YOUR LICENSE, PLEASE?

We've had several impressive successes. For example, when a department of the Canadian government insisted that it had the right to copy our software across its network without paying for the copies, we tried for several months to resolve the problem directly with its representatives. When that got us nowhere, however, we were forced to take legal measures. Imagine workers' surprise when 30 armed Mounties appeared at their door and demanded that they move away from the computers. The incident got a lot of press, which focused on our approach to the problem: diplomacy first, legal action second.

We also remedied problems at a large naval architecture firm. The firm had annual sales of \$37 million plus and more than 700 employees—and 43 illegal copies of our software. We recovered \$150,000 from that company for the infringement.

We've also succeeded in identifying and prosecuting individuals who are duplicating and selling illegal copies. We recently participated in an FBI raid in which we seized bootleg manuals and diskettes and an entire customer list that gave us names, addresses, and personal information about everyone who had ever bought software illegally from this individual. We obtained a temporary restraining order and a default judgment of \$100,000 plus \$35,000 in attorneys' fees.

There are many reasons for embarking on a vigorous antipiracy campaign. You may not always get immediate results, but the time spent and the effort invested will usually increase sales. With the persistence and support of local distribution channels, there's great potential for making dramatic gains in world markets.

Sandra Boulton is the director of the copyright protection program at Autodesk, Inc., in Sausalito, California. She has been with Autodesk for eight years and holds an MBS from Michigan State University.

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