

Press Cuttings

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From Soho House to City, there is no excuse to use illegal software

SOHO House prides itself on being a favourite of the media set, popular with everyone from chief executives to editors, TV producers to public relations bosses. So the Greek Street club – now the hub of a £100 million-plus empire, with offshoots in Shoreditch, Notting Hill, Chiswick and around the world – must be mortified. Soho House Group stands accused of using illegal software in its head office in contravention of one of the media industry's most cherished concepts, copyright law.

The Evening Standard can reveal that Soho House, owned by founder Nick Jones and Richard Caring, has just paid an undisclosed sum for "alleged under-licensing of Microsoft software" to the British Software Alliance, a not-for-profit anti-piracy organisation representing almost 80 firms.

It's a case that illustrates how the computer industry is taking a "zero

Gideon Spanier



ANALYSIS

"tolerance" approach to illegal use of software by businesses – particularly in London, which has the highest incidence of piracy in the UK – even when a company insists it made an unintentional oversight or blunder.

A spokesman for Soho House said: "Earlier this year, we were notified by the BSA that we may be under-licensed for Microsoft Office. Of the 250 Microsoft Office licences we had purchased a decade ago, 13 could not be located physically, lost, we believe, in an office

move that took place at the end of 2008. As such we resolved the shortfall immediately with the BSA. We never copy any software and run regular checks on all our systems to ensure they are clear of any unauthorised software."

The Soho House case, which is thought to involve a four-figure sum, demonstrates how the onus is on businesses to prove they have bought their software legitimately.

Problems sometimes occur when a company might buy software from a high street store and the purchaser's details are not passed on to the manufacturer. So a receipt, perhaps dating back many years, is often the only evidence that it was legally obtained.

Ignorance or poor book-keeping is no excuse in the eyes of the law.

In cases where there is strong evidence of deliberately using illegal software, fines can run into six-figures sums – and



Payout: Soho House founder Nick Jones, on the roof of Shoreditch House. The group paid an undisclosed sum after it admitted using under-licensed software

'The Soho House case shows how the onus is on firms to prove they have bought their software legitimately'

criminal prosecution could follow. The BSA, one of a number of umbrella trade bodies that enforce copyright law on behalf of members, says its biggest recent settlement in the UK was £250,000 in 2007. Last year, it carried out 294 legal actions in the UK. Fines vary dramatically depending on the scale of the offence and the length of time the software has been used on machines.

The BSA does not have the resources to check up on everyone. It has two main methods for cracking down on illegal software: receiving tip-offs from whistleblowers and asking firms to self-audit. If a company says that it has 100 computers on which it uses a particular piece of software but only evidence of, say, 50 licences, then there are immediate grounds for action.

We don't get to hear about many of these cases as they are usually settled by lawyers, before going to trial. Software firms – like other copyright owners, such as music labels, which are battling piracy – are wary of being seen to be persecuting customers.

Some estimates reckon 20% of software used in the capital is illegal, although the true figure could be far higher. A recent survey conducted by the Federation Against Software Theft, another industry alliance, claimed that 68% of company directors believed that UK companies would try to cut costs by under-licensing because of recession.

Last week's Digital Britain Report promised few new concrete measures to tackle software piracy.

Organisations such as the BSA admit

that education is often better than prosecution which is why the software alliance has launched a two-month campaign this month in London, contacting more than 1000 firms to offer them free help and persuade them to carry out a "software health check".

The idea is to encourage firms to clean themselves up voluntarily and warn them that illegal software can increase the threat from computer viruses. There are also legal costs and reputational damage to consider, if businesses are caught. "The current downturn in the economy does not negate the need for businesses to keep the software they are using up-to-date and legal," said Alyna Cope of the BSA.

The wider media industry is hoping this carrot-and-stick approach can work in the battle against piracy and under-licensing.

The judicious use of "the stick" can certainly have a powerful effect. Earlier this year the Financial Times sued the private equity firm Blackstone after the newspaper discovered that thousands of articles on its website were being accessed on multiple machines using one paid subscriber login.

The FT initially approached Blackstone last year but decided to go public in February, filing a writ in court in New York. The two sides subsequently reached a confidential settlement. The FT is reluctant to elaborate but, in practical terms, the financial value of any settlement often matters far less than the resultant publicity – which serves as a powerful warning to others about the perils of breaking copyright law.