A SURVEY OF THE AACSB UNIVERSITIES’ POLICIES ON SOFTWARE COPYING

Susan Athey
Colorado State University

Eighty-four survey responses are analyzed to determine what, if any, software copying policies are in effect at the AACSB institutions and how users (both students and faculty) are informed of these policies. Approximately 15% of the respondents have no policies about software copying. The methods of enforcing the policies, if any, are also analyzed as well as determining who is responsible for setting the policies and what actions are taken when the policy is broken. A significant difference in actions against students versus faculty was found. Current methods employed to prevent software copying by universities are analyzed with the most popular method the use of human lab monitors to watch users, followed by network file servers for software.

In April 1989 the Software Publisher’s Association (SPA) settled a suit out of court with Cavalier Office Products/Today’s Business Computer Center (TBCC). The suit was brought against TBCC on behalf of Ashton-Tate, Lotus, Microsoft, and WordPerfect and charged TBCC with illegally loading software. The settlement called for at least $25,000 to be paid to SPA.

As recently as June 1989, a copyright infringement suit was also settled out of court between SPA and Facts On File, a New York book publisher. The company agreed to pay more than $100,000 for loading illegal software on hard disks on its office PC’s. Included in the settlement were legal fees and the cost of buying legal copies of the software. This still leaves 5 cases pending that were brought by SPA against various organizations. (Moran, 1989)

As software companies take the initiative and exhibit more willingness to prosecute organizations which make illegal copies of software, many large businesses are examining their own policies and procedures relating to software and minimizing their exposure and risk of such lawsuits. (Athey, 1989) But what are another group of organizations, the universities and colleges in the United States, doing about this problem? Are they setting themselves up for expensive lawsuits and bad publicity by ignoring the problem or by pretending it does not exist? From
a legal standpoint, an employee who copies a program bought by his or her employer causes the employer to violate its licensing agreement with the software company and makes the employer liable. (Cooper and Somerville, 1986) “The corporation will be liable even it is was not aware that copyright infringement was occurring or that the employee’s actions constituted infringement” (Cooper and Somerville, 1986, p.75).

Currently this is a moot point for state universities since a legal loophole forbids suing individual states and state agencies (including state universities) for violations of parts of federal legislation, including copyright law. Legislation has been introduced, however, in Congress to clarify that states are not immune to copyright law. (Woltring, 1989) Massachusetts, in fact, recently enacted an executive order requiring state agencies, including the state universities, to comply with software copyright laws and holds managers responsible for the enforcement of the order. (Keefe, 1990) At the least, however, violations and attempted suits can result in negative publicity if not monetary punishment for the university. Colleges of business at least do recognize the problem, however. They site software copying as one of the most important operational problems in the UCLA Computer Usage Survey. (Frand and Britt, 1989) This agrees with Shim and Taylor’s (1988) finding that about 40% of business faculty members acknowledge copying software illegally at least occasionally.

If universities do adopt policies, it is also important to ask if they enforce these policies. “Such a policy, when policed and enforced, arguably removes the copying activities from the scope of employment and renders the activities personal in nature, for which the employer is not liable”. (Cooper and Somerville, 1986, p.75)

This paper analyzes and presents the results of a survey of 245 AACSB universities to determine the common practice followed in terms of software copying and examines some tactics in use for minimizing the danger of copy.

Methodology

A sixteen item survey was used to collect data for this study. The instrument was sent to the dean of each College of Business in the AACSB-accredited institutions with a cover letter and a stamped, self-addressed envelope for their replies. Eighty-four surveys or 28% of the total population of 245 schools were returned with responses. One was returned with the school declining to participate. Each instrument included fourteen questions about the university’s software copying policies and enforcement methods. Two questions requested demographic data about the organization and each college was asked to include a copy of their software policies if applicable. Additional space was available for respondents to add comments.

The surveys were completed by people with a variety of different job titles. Most of them were filled out by professors of information systems or deans of the college (22), directors of computing services for the college (18) or the directors of microcomputer labs (5). Other people who replied include computer specialists, director of decision center, computing coordinator, and the director of technical services.

Analysis

Demographics

The survey was sent to the 245 AACSB-accredited colleges and universities in the United States. The sizes of the schools ranged from those with fewer than 1000 undergraduates in the college of business to those with over 5000 undergraduates. All but seven of the schools have graduate programs in business, most with less than 500 graduate students while others have over 1000 graduate students in business. The number of faculty in the respondent colleges is also fairly representative. Five schools have less than 25 faculty while six have over 200 business faculty members. [Table 1] The responses were received from 34 different states, cross section of the country. [Table 2]