

SIIA Policy Statement on the 24-hour Rule and Abandonware

Urban Legends Established to Promote Copyright Infringement

The *24-hour rule* and *Abandonware* are urban legends created and circulated to justify violations of copyright law on the Internet. The 24-hour rule claims that a user can download a program and use it for 24 hours to determine if they want to continue use—they then have to delete it or buy it. Abandonware is a term used to describe software that a copyright holder has ceased distributing or supporting for more than five years. In fact, neither exists under copyright law.

The 24-hour Rule

"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. Infringement may occur by downloading software, uploading software, making software available for download, and transmitting software files.

Whenever the distribution of a computer program occurs without the consent of the copyright holder, normally the publisher of the product, it is a direct infringement of the copyright law. The unauthorized reproduction or distribution of a program, even for only 24 hours, is illegal. The amount of time is not an exempting factor.

To assist users in evaluating software, many publishers offer trial versions of software. The license specifically defines the period of time for use and requires the user to either delete the program or buy it, after that time has expired. However, only publishers and their authorized distributor may offer trial versions.

Users who promote the mythical 24-hour rule are attempting to justify their infringing activity. They establish sites to illegally distribute software under the false premise that it is legal to do so, as long as the downloader buys or deletes it after 24 hours. Those who provide the software, and those who download the software, often unsuspecting or unknowledgeable users, may be held liable for this activity.

Abandonware

Section 302 of the copyright law specifies the duration of copyrights. For works created after 1978, the copyright lasts for the life of the author plus fifty years, or, in the case of anonymous works, pseudonymous works, and works made for hire, the "copyright endures for a term of seventy-five years from the year of its first publication, or a term of one hundred years from the year of its creation, whichever expires first." 17 USC Section 302(c). The copyright law does not impose an obligation on the part of the copyright owner to market the work or otherwise make it available to the public for any period of time.

Thus, the notion of the abandonment of a copyright due to a lack of distribution, technical support, or even the copyright holder's going out of business, is false. Furthermore, as most software becomes outdated after ten years, few people would have use for 75 year-old product.

Similarly to those users who promote the 24-hour rule, the concept of abandonware is an attempt to justify copyright infringement. Abandonware does not exist. Users who establish abandonware sites and users who download titles from them are both liable under copyright law.