

Don't be accused of Font Piracy – Defend yourself!

Overview

Font licensing and font piracy issues are bubbling along under the surface as another “compliance area” that the poor jaded overworked IT manager, the audit manager and staff have to contend with.



Fonts are intellectual property of the vendor that creates/owns the font and will typically come with an End User License Agreement (EULA) for individual fonts that are downloaded from Font foundries. Fonts from font foundries in most cases are licensed for use in the same manner that software is licensed for use via a EULA.

Fonts are also embedded with all software applications supplied by OEM vendors and the license terms for fonts are not clearly articulated within current EULA's issued by OEM software vendors.

Fonts are not easily recognized by management in the same way that software can be audited, examined and tracked.

The issues to be faced with font licensing are a lot wider than software compliance!

Seek expert advice

At the outset, let us state that if you get served with a summons for Font piracy (unless you set out to steal fonts) we advise you engage a technically qualified IT lawyer who can defend you as the jury is out on the real issues of font piracy as there are significant technical issues that we believe you would be legally entitled to challenge and defend successfully.

You should defend and fight font piracy vigorously unless you've been stealing fonts.

But, if you have been stealing fonts then you deserve to be caught out and charged with copyright issues.



Why have we made this bold claim about mounting a defence?

Our concern stems from our knowledge that the ability of any organization to be able to effectively audit and manage the fonts in their system, and to defend their position is very limited due to technical issues with fonts, their installation, deployment and method of removal from systems.

How do fonts “arrive” on a system?

Every time you load a piece of software to a system, irrespective of whether it be shareware, freeware, open source, bespoke software or licensed commercial off the shelf software, and also irrespective of whether it is a trial version or a fully paid version or even an illegally copied version, the fonts that are included with the software are “loaded to your system”.

This often means that there may be hundreds and maybe thousands of fonts on a computer system in an organization that have “arrived there” through software downloaded and installed, over long periods of time.

Font characteristics embedded within documents and data files can also arise through documents and files being emailed/exchanged between different entities.

Fonts will also appear from email or peer to peer shared files between individuals and organizations, and this practise is likely to create a licensing issue where the fonts are not standard application package fonts already covered by an appropriate EULA.

Fonts can also arrive on a system from Font libraries downloaded and installed after payment of “a license to use”, appropriate to the number of computers where the font is to be installed.

What if the application is no longer in use or deleted from the system?

Where software applications are deleted from the system using either the Add/Remove capability in Windows or the Uninstall segment of the applications installation package, in some instances the fonts either stay behind due to documents and files that require these fonts, or stay there through the failure of the software vendor to delete all font files attached to their application.

You may chose to delete or uninstall the software after the trial period has expired, or you may no longer require the software, so it sits dormant on your system, or you may no longer continue paying annual maintenance but still continue to use the software. In all these cases the fonts stay there.

Uninstall routines typically do not always delete the fonts from the fonts directory.

Font installation and deletion when a software application is deleted is an OEM software vendor issue. The fact that fonts were not deleted when a software application is removed from a system is not the fault of the end user!

Who carries responsibility for font licensing?

Font libraries available from various “font foundries” should come with a separate EULA for the fonts supplied with a font foundry piece of standalone software.

Fonts come with both operating systems and with software applications (over and above the operating system) downloaded and installed to computer systems.

In most cases the end-user is entitled to assume that all fonts included with the commercial off the shelf software is legitimately supplied and licensed. They license the commercial off the shelf software and assume the fonts embedded within the software are covered under the same licenses.

The end user has no way of knowing or detecting whether the fonts included are legitimate licensed, or not, for use with the commercial off the shelf software supplied. This situation also applies to fonts supplied with freeware, shareware and open source software as well as bespoke software applications.

Therefore, fonts that are installed with any software application (commercial off the shelf, shareware, freeware, open source and bespoke software) can be legally assumed by the buyer of the software license, to be correctly licensed fonts in the 1st place.

If a vendor adds a font into the font library that isn't correctly licensed, this is not the fault of the end-user, it's an issue the software OEM needs to face up to and be accountable. e.g.; there are many freeware, shareware and open source applications that “deliver” fonts with the application and if these contain proprietary software of another vendor e.g.; Monotype, then the end user is NOT at fault, it's the software vendor who embedded the font with the application.

In our view, the only area of responsibility an end user has in terms of font licensing is in the case where they download fonts from an Internet source, these MUST be correctly licensed or where they share a font with another party via email or peer to peer, they are more than likely to be infringing font licensing conditions. Other than that they should be entitled to relief in defending their position over fonts installed on their systems.

Font audit tools

Font audit tools and software audit tools are distinctly different and our observation about font audit tools is that they are not yet mature enough or robust enough to detect, delineate and differentiate the fonts being tied directly to a software application and/or document/data file.

Without this information, which identifies the source application relationship, (which may be shared with another application) an organization or auditor may make an incorrect assumption and decision in terms of fonts detected in an audit, assuming the audit tool detects them all.

In our view font audit software needs to very clearly identify that the font installed came installed with xyz application and is being used solely or in conjunction with another application and has data files a, b, c, d, e, f etc which are associated and tied to these fonts. Without this information the font audit is not satisfactory for helping solve the issues raised, or providing adequate protection or proof of guilt. It is very difficult to ascertain whether there are any unlicensed fonts or unused font licenses on a company's system for the reasons stated above, and deleting fonts without knowing whether they are tied to documents and data files created can cause corruption of data files and massive amounts of rework in reformatting data.

Are you operating illegally?

There is a view amongst the font vendors that organisations may be operating illegally putting them at risk of an external audit and potential heavy fine.

You are guilty, if you downloaded fonts without licensing them correctly from an Internet site or received the files via email or via a peer to peer sharing approach.

However it seems so far that the presumption of guilt is being made through the position of font vendors who immediately apply the rationale across all users without the benefit of any solid proof. The font industry vendors seem to be ignoring the issues that fonts present through the fact that fonts in most cases come embedded and included with the installed/downloaded software, and the issue of fonts embedded is outside end-user and management control.

For a company/organization to be operating illegally it would have had to have acquired the font library outside the software application without paying the license fee applicable e.g.; supply of fonts by “exchange” through 3rd parties, peer to peer, download via torrent sites etc.

Guilty as charged? How can you be, if you can't prove conclusively where the font came from? How do you know that font that is claimed as illegal didn't come with some freeware/shareware application and was left behind as it wasn't uninstalled? Why are you guilty in this instance?

Should we add fonts to our software asset management register?

Fonts typically are licensed in conjunction with a software application. Adding the software application to your software asset management register should be enough for you to track for proof of purchase records assuming you also have original invoices matched to software asset records and electronic inventory.

However, should an organization require additional fonts over an above what a software application delivers as part of its installation routine, these should be treated in the same manner as a software license acquisition and added to the software asset management database for tracking and monitoring. In this instance we would expect an organization to license the font from a font foundry with a EULA to go with it and only install the font on the number of PCs up to the paid license count. If you exceed the license count paid for, we would expect the organization to be found guilty for illegal use of the font software.

Recording of font license details in any database should only apply for fonts acquired above and beyond what has been installed through standard software applications.

The end user is entitled to assume that the OEM application software vendor has the legal entitlement to include the font with their software, however if they are including fonts without licensing, then the issue of legality is not with the end user being at risk, but with the OEM software application vendor.

Auditing for fonts

The task of auditing and validating fonts is unbelievably onerous and in our view, at present, a waste of time. The burden of proof issue is being forced on unwitting users who have no way of accurately determining the source of the fonts, apart from glaring examples where some have illegally downloaded fonts from font libraries without paying for the right number/s of licenses.

Auditing for fonts is not high on your agenda, we realise, but you need to be aware of the issues looming and make sure that your organisation at the very least ensures that should you need to use fonts over and above what came with the software applications you have installed (of course these will be correctly licensed, won't they?) that the fonts are also correctly licensed as well.

The bottom-line?

We are not certain that the issue of fonts, font management and font licensing is fully understood when organizations are being accused of font piracy.

Unless people have been deliberately going out to steal fonts and install them on their systems, then they should consult a very good technical expert who can argue the case that the font industry in conjunction with the software industry really has a difficult case to answer when it comes to fonts.

The font "piracy" issue may well be more of bluff than of substance and you should be quite aggressive in your defence, as it's not all your fault for the reasons outlined in this article.

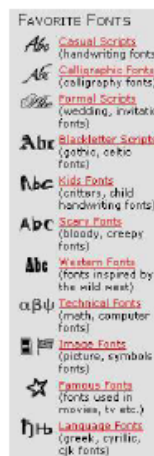
For other information on fonts see http://www.pcprofile.com/What_The_Font.pdf written several years ago which has some more useful information?

We know that you really have better things to do with your time and resources than to waste lots of money on this area. We would expect that your priorities as an organisation in this current economic climate are more centred on business survival, chasing more sales, manufacturing, building, making, selling and/or providing services in a manner that adds value to your business and derives benefits for all stakeholders.

It's the software and font industry itself that doesn't understand what is faced at the desktop level surrounding fonts and font management issues.

The software and font industry needs to come up with a much better solution than waving the piracy flag over fonts and then waving the big stick over end user sites and punishing them for having incorrect numbers of fonts on their systems, and asking them to conduct audits that in our view are fruitless at this stage.

Managing Clouds and Moving Goalposts is a series of "Management Focused" articles
Copyright © 2005-2007 Rob Harmer Consulting Services Pty Ltd All Rights Reserved Worldwide



This feature article outlines the risks you now face through use of **UNLICENSED FONTS** on your PCs within and throughout your organization.

If your Corporate Image or Branding depends on specific **FONT** styles then this is a must read article!

Did you know that Fonts have always been a "license issue"?

But, up until now, this issue has been very **VERY** low on the radar!

Recent events indicate that more attention needs to be paid to copyright issues looming through Fonts, as well as Software, Digital Rights Management and also Movies and Music installed on your PCs.

End users at the desktop level can drag you unknowingly into a copyright wrangle that could end up in grief (costs, fines, penalties and unsavoury press) for your organization if you don't understand the effects this may have on your business.

What The Font.....?

is a feature article, in the
Managing Clouds and Moving Goalposts @
series of "Management Focused" articles
by PCProfile <http://www.pcprofile.com>

Worldwide Copyright Notice

Copyright © 2008 PCProfile trading as Rob Harmer Consulting Services Pty Ltd ABN 77 035 134 400 All rights reserved worldwide.

Guidance For Publishers

Publishers are encouraged to publish this report as free content resource in accordance with the following guidelines:

- 1) Articles must be published "as is" (unedited);
- 2) Articles must be published with the author's bio paragraph and copyright information included;
- 3) URLs listed should be set as hyperlinks, with no redirection;
- 4) Whenever possible, authors should be notified of intent to publish;
- 5) This Published Article cannot be used in spam communications or sold;
- 6) PCProfile prohibits the use of copyrighted material in a manner that violates the copyright owner's rights;
- 7) Publishers who violate copyright law are legally liable and subject to possible fines under Copyright Laws worldwide.

Disclaimer

The content of this report is provided for informational purposes only as "guidance notes" and for redistribution as outlined in the "Guidance For Publishers" paragraph and Copyright Notice above. PCProfile does not represent that all technology aspects have been outlined as a complete position and does not accept any responsibility or liability for the use or misuse of the content of this report or reliance by any person of the publisher's contents.

About the Author - PCProfile is an Adelaide based company with over 30 years practical computing experience in small, medium and large enterprises and offers managers and business owners in SMEs, and SOHO businesses practical tips and advice on how to get the best out of the technology used by your SME/SOHO business.



Other Self Help "Tips and Tricks" Tutorials and feature articles are available on;

- Outlook Express,
- email Tips and Tricks,
- Wireless Tips and Tricks.

PCProfile also runs seminars on technology topics for SME and SOHO business owners.

www.pcprofile.com email

enquiries@pcprofile.com Mobile 0448 650 227