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Software crimes, easy getaways

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Admit it. When was the last time you actually "bought" original software? Chances are the software you are working on at home or in office is pirated. But that's something we have learnt to ignore.

In fact, the National Association of Software and Service Companies (NASSCOM) survey in India claims that software piracy in India was 64 per cent in the financial year 2002-03 which amounts to a loss of Rs 1,500 crore the same year. NASSCOM is, however, working towards bringing the target down to 25 per cent by the year 2008. But its initiatives don't seem to be heading anywhere.

A recent example would be Dew Soft, an IT company that deals with online education. The management has alleged that two of its former employees - Om Prakash and Ram Pravesh - stole one of their educational software. The sad part is that the company is finding it difficult to lodge a complaint at the Prasad Nagar police station. "We went to the police in October but they are yet to register a complaint," says Rishi Sahdev, the company's MD.

He thinks the cops' ignorance about the impact of software piracy is a major reason why they haven't yet registered an FIR. "The police don't understand data theft," says he.

This, of course, is not the first instance of software piracy. The first reported case of software piracy was as late as June 2003 involving Antares Systems vs C1 India Pvt Ltd. For the record, the IT Act was passed in October 2000. "The reason is that the Government issued the notification for appointing adjudicating officers only this March. Only after that was a real forum for seeking damage created," says advocate Pavan Duggal, an expert in cyberlaws.

In another case, a US company got an Indian firm to develop an Indian version of one of their softwares. Two employees of the Indian company stole a copy of the source code, quit the company to join another one and then misused the source code. As per Duggal, the case was resolved after the source code was returned. "The company didn't get the two persons convicted fearing negative publicity," adds he.

Piracy of software is an easy task for any amateur programmer. All you need to do is copy the software on to blank CDs and develop either a crack or a key generator programme to register your copy of the software.

Only recently a Delhi-based company had received an order from an EU client for developing GIS (Geographic Information System) software. The local company gave the project to nine employees. After about 90 per cent of the software was completed, the nine employees started demanding a salary hike. The management asked them to turn in their resignations. They resigned alright but not without doing the

damage. "During the period they deleted almost 90 per cent of the GIS software worth Rs 60 lakh. The company did not seek damages fearing they will not receive any order in future," says Duggal.

According to him, one can approach high courts for injunctions or seek damages under the IT Act. But companies usually avoid the legal hassle because some arbitrary powers have been provided to police superintendents.

"They can arrest anyone who, in their opinion, have committed, are committing or are going to commit a cyber crime. Moreover, they can do so without issuing a warrant," says Duggal.

"To add insult to the injury, section 84 of the IT Act provides absolute immunity to the police officials engaging in the search operation if they have done so in good faith," adds he.

Another reason is the amount of non-refundable processing fee the companies have to submit to the government. "Under the IT Act, for every one lakh of compensation, companies have to deposit Rs 2,000 to the government," informs Duggal.

Interestingly, for cases filed under the Copyright Act, 1957, the normal court fee structure is followed. Duggal says India needs designated software courts.

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