



Piracy on Internet Auction Sites

What Consumers Need To Know

A White Paper from the anti-piracy group, SIIA

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Introduction

The Internet has permanently changed the way that consumers purchase goods. Electronic commerce has provided consumers with more options, more alternatives and more opportunities than ever before. Consumers now enjoy virtually unlimited access to goods and services, access that was heretofore unthinkable.

Consumers now have the ability to purchase goods from their computer, PDA or even a web-enabled portable phone. Generally, when we speak of electronic commerce and the individual customer, we most commonly think of business-to-consumer transactions. But one of the most innovative developments in electronic commerce is the rapidly growing Consumer-to-Consumer (C2C) market. The rapid growth of auction sites has created a robust, vibrant online shopping opportunity for online consumers never before available. According to reports in *The Industry Standard*, consumer-to-consumer online auction revenue will climb from \$4 billion in 1999 to more than \$15 billion in 2004.

However, the evolving C2C space has also created a new opportunity for rampant software piracy. Through auction sites, software pirates are using new tactics to reach a huge audience, developing a thriving new customer base among often unsuspecting individuals. Software pirates have learned to manipulate Internet auction sites to reach hundreds of unwitting consumers everyday at little or no cost.

Consumers have a vested interest in learning about the risks associated with the acquisition of pirated software. While pirated software might seem like a good deal financially, such software may contain a virus, will not be supported by the publisher, cannot be upgraded and may in itself lead to fines.

The Software & Information Industry Association (SIIA), building on 15 years of experience fighting software piracy, is fully engaged in efforts to reduce the sale of illegitimate software via Internet auctions.

What we know

To determine the scope of the problem, SIIA initiated its first Online Auction Site Investigation in the fall of 1999. The results of this survey showed that roughly 60% of the software being offered in online auctions were illegitimate copies. By the second [survey](#) in spring 2000, the percentage of infringing software had jumped to a startling 91 percent. With 9 out of every 10 online software auctions offering apparently illegal copies, the association and its members appreciated the crisis at hand.

The evolution of software piracy toward Internet auction sites

Over the years, software piracy has taken many different forms. It primarily started as students and co-workers illegally copied software from floppy disks and passed the illegal copies to colleagues and friends. Weekend computer shows were another common source of pirated goods. While the problem created significant challenges,

disadvantaged legitimate consumers and created tremendous economic losses to the software industry, the problem was largely limited by geographic limitations or to those sophisticated enough to use bulletin board services.

With the growth of the Internet, however, software pirates rapidly learned to take advantage of the wide audience available on global networks. New forms of software piracy quickly emerged, creating even greater challenges for software publishers.

The first Internet manifestation of software piracy was the posting of “Warez” online. These sites generally allowed the free, unauthorized downloading of unlicensed commercial software. The industry also saw a dramatic increase in the number of web sites that posted authorization codes, serial numbers and/or passwords allowing illegal access to pirated software programs. Other sites offer “crackz,” software utilities or programs designed to crack technological protection mechanisms for software programs.

As the Internet has matured and continued to grow, pirates have learned to exploit auction sites. These sites, such as those provided by Amazon, eBay, MSNBC Auctions, Yahoo and others, have become one of the most popular destinations on the Internet. As a result of the large customer base, these auction sites have simultaneously become the next frontier for software piracy. The attraction is clear: auction sites provide a cheap, easy and relatively anonymous venue for illegal sales of software.

All profit all the time

A recent [Federal Trade Commission](#) report found that “Con artists have gone high-tech, using the Internet to defraud consumers in a variety of clever ways.”

For virtually no cost, a pirate can list an auction selling one or hundreds of copies of a software product. The only cost of goods is the recordable CD-ROM, which typically retails for less than \$1. Infringing copies are burned on to CDR media and re-sold to individual consumers. Pirates have clearly found that there is much to gain from using Internet auction sites as a new avenue for ill-gotten gain. They have also found little risk that unwitting consumers will discover

that they have been defrauded or report them to the proper authorities. The minimal risk, the potential large monetary gains and minimal overhead costs has made auction sites a haven for software and other forms of intellectual property piracy.

SIIA received one email from a pirate auction seller who bragged that he filled "114 orders last week alone." At \$39/CD, this amounts to over \$4,400 in profit in just one week.

Pirates generally sell CDs for around \$30. These CDs may contain one or more illegal applications. The return on investment is significant. Consider the economic gain to the software pirate: the pirate, who already has absorbed the cost of the computer, spends \$1 for the CDR media, sells it for \$30, charges the buyer for shipping, and nets \$29. Limited only by his or her willingness to spend time burning new CDs, a pirate can quickly sell hundreds or thousands of dollars of illegal software. While \$29 is

not a particularly large sum, it is a significant return on investment and given the potential volume, the return for the pirate may be very large indeed.

How many software auctions are there on a given day?

	Number of Software Auctions	Software Share of Computer Related Category
eBay	27,222	22%
MSNBC Auctions	14,891	64%
Yahoo Auctions	3816	14%
Total	45,929	27%

Survey conducted by SIIA December 30, 2000

Manipulating the rules and constantly regenerating identity

Pirates have become sophisticated in their knowledge and operation of Internet auctions. They compare and contrast policies and procedures between auction sites, taking their "business" to the sites that they believe involve the least risk of getting caught. If a particular auction provider disallows one activity but another turns a blind eye to it or does not ban a certain type of transaction, the pirate will use this "preferred" auction provider.

SIIA has documented numerous instances of pirates tailoring their auctions to match the policies and procedures of various auction sites. Some auction providers have banned the use of certain terms to promote auctions; others have not taken such steps. For instance, one particular auction provider did not allow the term 'CD-R' or 'Backup' to be used in the description of the auction because this term is commonly associated with pirated software. Other auction providers allowed the use of these terms, and pirates flocked to those sites to offer their infringing software.

In addition, pirates will often use different auction site identities to list multiple auctions for the same products. Some auction providers prohibit the sale of multiple copies of the same software product (which indicates that the auction may be listing illegitimate product). Pirates easily get around this prohibition by simply creating different auction site identities, allowing the pirate to list multiple auctions for the same product. The pirate's only incentive to create these multiple auction identities is to skirt the rules established by the auction site provider. Consumers should be aware of these distinctly similar auctions, even where the seller's identity appears to differ from one auction to the next.

Software pirates are now direct marketers empowered by Internet auctions

In addition to the blatant sales of pirated software, SIIA has also found that a relatively new method of piracy is occurring on Internet auction sites. In what SIIA has dubbed "auction site stalking," a third party – i.e., someone who is not the seller/auctioneer, a bidder or the ultimate auction winner – monitors a software auction and records the

screen names and email addresses of those who bid on the offered software. Once the auction concludes, or even sometimes before an auction is complete, the third party uses this information to contact those who have bid on the software and offer them pirated copies of the software.

In an attempt to attract bidders away from the auction site, software pirates will frequently offer the same title on which a consumer has placed a bid, but at a lower price, and will offer other titles in special deals meant to entice bidders away from the online auction.

By merely bidding on the product, consumers have exposed themselves to spam e-mails from software pirates and may find themselves being barraged by regular offers from multiple aliases looking to sell illegitimate software.

*The end of this document -- **email solicitations: learning to read between the lines** -- shows examples of unsolicited emails that people have received after bidding on software auctions. These are the actual email solicitations received - all have been used with permission. Names, if any, have been changed.*

What consumers need to know

Auction providers to date have established “Terms of Service” or “User Agreements” that set the rules for the sale of products or materials. Users of Internet auction sites must agree to these terms before using auction services. Most, if not all auction providers’ terms of service agreements specifically prohibit the sale of material that infringes someone’s intellectual property rights. Unfortunately, in most cases, these terms of service agreements only protect the auction provider from incurring liability and do little to protect customers or the owner of the intellectual property that is being pirated.

SIIA has found that most auction providers immediately suspend or cancel any auction when notified by a software publisher that illegitimate products are being offered. But the sheer number of online auctions featuring software has made efficient tracking by the software publisher nearly impossible, creating new challenges for copyright holders and bidders.

It has been the experience of SIIA that once a seller distributing unauthorized material is notified by the provider that his auction is infringing, the seller simply moves to another auction provider, changes their screen name, or alters their auction description. Because an auction provider will, at best, only terminate the account of a known software pirate who attempts to transfer pirated software through the particular auction site, software publishers and consumers are left to fend for themselves with little or no recourse against either the auction provider or the pirate. It is very time consuming and expensive for the software publisher and consumer to continually identify these sellers to the auction provider.

Defrauded consumers, upon learning that they will not receive technical support or access to upgrade offers, often try to contact the seller of infringing software. Not surprisingly, pirates do not readily respond to disgruntled buyers. Many of these customers turn their anger towards the software publisher. But the software publisher is also an innocent victim of the same fraud. The publisher has not been compensated for the transfer of the software and may have not been compensated for the original purchase of the product. Obviously publishers cannot support a pirated version of their software, and often must tell an angry consumer that they are not eligible for support or help from the publisher. The only “winner” is the pirate. Both consumers and publishers lose.

While consumers are wise to review the ratings on specific sellers, these may not always tell the whole story about the seller. Consumers should carefully read a site’s privacy policy to ensure that their contact information is protected from use by third-parties or other auction site users, including software pirates. Insurance is also regularly offered for auction bids. However, this too, is often an insufficient guarantee. At least one auction provider’s standard insurance covering up to \$200 for a specific auction can only be used one time per month.

It is essential that consumers take steps to educate and protect themselves from software pirates and auction site stalkers lurking on auction sites. The first step a consumer should take is to be suspicious when a deal is too good to be true. Consumers who see auctions where software is offered for prices drastically below the typical retail price should be wary of that auction. While the auction may in fact be legitimate, deals that look “too good to be true” often turn out to be just that, and the unwary consumer soon finds himself in possession of pirated software.

To assist online consumers in educating themselves about the potential pitfalls that they may face online, SIIA developed the “[Consumer Online Auction Alert](#).” The [alert](#) teaches consumers about the language incorporated by software pirates into online auction product descriptions. The alert also notes that the language omitted by the seller can be just as important as the listed description. For example, if consumers review a software auction but the product description lists nothing about peripheral materials such as manuals, the original CD-ROM, or registration cards, this should be a warning sign that the software being offered may not be legitimate.

Specific examples of the types of illegitimate software offered via auctions include:

- Beta (pre-release) software.
- CD only.
- CD-ROM in jewel case (no other documentation included).
- CD-R or back-up software.
- Compilation: one CD containing software from two or more software publishers that are normally not distributed together.
- Multiple copies of the same software program being offered by the same seller.

In addition, some software publishers’ license agreements prohibit the transfer of software, thereby making the presence of their software on auction sites illegitimate.

The risks of purchasing pirated software

A market research company, [e-Marketer](#), reported 87 percent of online fraud last year took place at auction sites, and the average cost to victims was about \$600.

Consumers have a vested interest in learning about the risks associated with the acquisition of pirated software. *While pirated software might seem like a good deal financially, such software may contain a virus, will not be supported by the publisher, cannot be upgraded and may in itself lead to fines. In some cases, the consumer never receives the software, and instead becomes the victim of simple fraud scheme whereby the software pirate advertises an item in an auction, collects money from the winner, and then never sends the item.* These cases of fraud are on the rise. Not surprisingly, software pirates do not abide by the rules of retail, very rarely providing strong customer service. SIIA has found the attitude of most software pirates to be “we have your money, leave me alone!”

To be clear, most online auction sites have printed policy statements about what can or cannot be auctioned using their service. In addition, many, if not all auction providers post their respective privacy policies that detail how a consumer’s information may be used, accessed by third parties or redistributed. It is a matter of the auction sites rigorously enforcing these policies that will ultimately help prevent consumers from getting defrauded, and help instill confidence in the auction site. If not, the [empowered customer](#) will shape the online business model by demanding that sites respond to their policy and privacy preferences or risk the proverbial, “I’ll take my business elsewhere.”

While it is important for customers to take steps to protect themselves, SIIA is taking its own measures to step up its investigations of this type of fraud. Now that surveys have been completed that detail the extent of the problem, SIIA has sued several individuals for selling illegitimate products via online auctions. Fines can be as high as \$150,000 for each infringing work. In addition to civil pursuits, SIIA is also referring matters for criminal action. SIIA has forwarded case information to the U.S. Department of Justice, FBI and U.S. Postal Service. Fines for criminal violations can be as high as \$250,000 and/or five years imprisonment.

How online auctions are working to solve the privacy and piracy problems

Online auction sites bear a certain amount of responsibility, in terms of public trust and consumer confidence, to ensure that their online auction services are not used as instruments of fraud. The ability of pirates to obtain contact information about bidders on these auction sites undermines the viability of online auction sites as a consumer-friendly venue for legitimate commercial transactions.

Strictly enforced privacy policies will help online auction sites gain public trust and diminish consumers’ concerns that they will become the next victim of software piracy on an online auction site.

Some online auction sites have taken steps that help to minimize the presence of infringing material on their sites, be it illegal software or video games. For instance, one auction provider, Amazon.com, has instituted a policy of reviewing all auctions that are posted on their auction service. Any auction that appears suspicious is removed and the user faces banishment from Amazon's site. Amazon's policy of reviewing all online auctions dovetails with a "[Best Practices](#)" Guideline that SIIA released in April 2000. These "[Recommended Policies and Procedures for the Auction of Software on Internet Auction Sites](#)" provide auction sites with various business models that they can adopt regarding the review of software auction postings on their sites, thereby minimizing the chance that infringing material will be sold in an online auction.

Using a different approach, eBay has instituted a Verified Rights Owner (VeRO) program that is designed to assist copyright and trademark owners in protecting their products against pirates and counterfeiters. VeRO Program participants may identify and request removal of allegedly infringing auction listings. eBay has also maintained a policy of prohibiting any "offline" transactions, which occur when sellers and prospective buyers move beyond the auction site to conclude their deal and potentially make new ones, depriving eBay of its profit, and placing the buyer outside of eBay's insurance program for members of the eBay community.

Finally, Yahoo! Auctions also launched a new program to help enforce refined policies and identify items that do not comply with Yahoo!'s Terms of Service. The program will incorporate both a new, internally developed technology, as well as trained representatives who will regularly review the auction site.

Email solicitations: learning to read between the lines

In early 2000, in response to the growing problem of consumers falling prey to online auction site pirates, SIIA produced its "[Consumer Online Auction Alert](#)."

In this alert, SIIA described some of the terminology that software pirates use to advertise their illegal copies of software. This terminology is not limited to the product description, as the tone and text of general correspondence between the seller and potential buyer can also indicate that pirated goods are being offered.

Consumers who receive unsolicited emails offering software products for sale should look out for certain phrases that may reveal that the person soliciting them has obtained their contact information from an auction site, and may be attempting to sell them pirated software. For example, in one email solicitation received by SIIA, the seller wrote, "I noticed you were in the process of bidding for graphic software on Ebay. I have copies of over 20 of the top selling graphic art programs. Very Cheap alternative!!"

Additionally, an immediate red flag is notification by the seller that registration for the software is impossible or the 800 number of the publisher is should not be used.

A list of common terminology that software pirates employ is provided as Appendix A to this document. This is not an exhaustive list of examples, but rather a general guideline for consumers to use so that they can spot common phrases or terminology that should cause them to question the legitimacy of the advertised software. These examples are actual email correspondence and solicitations received by SIIA. They have not been altered in any way other than what was necessary to format them to this paper.

Conclusion

While the Internet offers users access to a wealth of goods and services that they have never before enjoyed, it is being exploited by criminals and subjecting honest users to new manners of fraud. The ascendance of Internet piracy across online auction sites highlights the pitfalls that many consumers unknowingly face in the C2C space.

As online commerce grows, the educated and savvy consumer must be able to navigate this new space with increased confidence that they will be making wise and informed purchasing decisions. Knowing the manner in which software pirates operate, and the methods that they employ, vigilant consumers will be prepared to detect a bad business proposition, and can steer clear of these individuals and illegal goods.

For further information, or to obtain educational materials, contact SIIA at: (800) 388-7478 or online at <http://www.siiia.net/piracy>.

- Report Piracy (<http://www.siiia.net/piracy/report/default.asp>)
- Consumer Online Auction Alert (<http://www.siiia.net/sharedcontent/piracy/news/consumer.html>)
- SIIA Recommended Policies and Procedures (<http://www.siiia.net/sharedcontent/piracy/news/auctionpol.html>)
- SIIA Internet Auction Survey data (<http://www.siiia.net/sharedcontent/piracy/news/april2000.html>)

and also see:

Federal Trade Commission (<http://www.ftc.gov>),

BBB online (<http://www.bbb.com>),

TrustE (piracy seal) (<http://www.truste.com>),

EBay User Agreement (<http://pages.ebay.com/help/community/png-user.html>),

Yahoo Terms Of Service (<http://docs.yahoo.com/info/terms/>),

Amazon Conditions of Use (<http://www.amazon.com/exec/obidos/tg/browse/-/508088/107-8002102-9034113>),

MSNBC Terms & Conditions (<http://auctions.msnbc.com/scripts/terms.asp>)

APPENDIX A:

Email Solicitations: Learning to Read Between the Lines

These are actual email solicitations received-all have been used with permission. Names, if any, have been changed.

Hello!

I noticed you bid on some software on ebay and I thought you might be interested in what I have. I work as a professional web designer and have this software in my private home collection. I'm trying to get rid of this stuff to pay for some bills, so if you are interested in anything write back to me and please include your return email address, so I can keep track of what people want what software. I am willing to sell the entire thing as a bundle for \$300 or sell items separately. If you'd like I can also provide you with descriptions of any products.

Sent: Saturday, January 06, 2001 9:16 AM

To: xxxxxxxxxxxxxxxx

Subject: CDR Backup Copies of Software for Windows

Hello. I am selling CDR backup copies of software for Windows. I charge only \$10/CD and I have a huge collection including all of the very latest programs. If you are interested, please e-mail me and I'll send you a list. Thanks.

(SIIA Comment: The list sent by the seller, once printed, was 21 pages long)

Good Evening/Morning,

Allow me to steal a few minutes of your time that might just prove to be worth more than you could possibly imagine. I saw that you were bidding for Adobe's Software on ebay so decided to

write this to you. If I'm intruding please forgive me. ****Use Paypal, and order 3 or more programs, and get another one free! order 5 or more and get 2 free programs.***** any 3 titles for \$55 or any 5 titles for \$80. All single programs are \$30 a piece.

In today's fast-paced society, there are numerous people who are looking to "reel" you into buying software from Ebay, Yahoo auctions etc. Ever hear the term - You get what you pay for?? Most people are offering program setup files along with the serial/keycode to install a program onto your system, but they are not offering you the clipart, tutorial files, or help files.

Now, if you are like me, the "hobby" computer user, You want the help files, tutorials and any other help that can possibly aid in learning these fantastic, but commonly overpriced software

programs. It is very hard to figure out with all the emails people send to decide whom to buy from, if anyone. I mean, there is no "online store" to go browse so it becomes a "gut instinct." I offer COD, and also refund/exchange if for some reason a program will not install onto a computer or if you are just unhappy. I do not refund shipping charges though.

For your own information....All Adobe products should come with the LE version of Photoshop, or a training cd, All Metacreation 3D Products are 2 disks, there is NO Macromedia product under 100 Megs. IF you buy from someone else, ask them if their media does come with it all. Ask how large everything is, and make sure above all else that each program comes on its own disk. If you are going to spend Money, you should "get what you pay for." All software is for the PC. Sorry no Mac software at this time.

You may chose to pay by check/money order and Credit Card,

If you are uncertain regarding this, you can order any 1 title for \$30 and remember, I will refund your Money if you are not completely satisfied. Remember though, to get a refund, you must first send back the Cd. To answer the most commonly asked Questions :

1. no Paper Manuals are supplied, but all tutorials, and help files are.
2. All products are completely upgradable in the future.
3. since the software is used, it can not be registered, however, it can be used on your computer, and is fully functionable. You just can not use the 1 800 number for help questions.
4. Shipping is \$5.20 for US orders, and \$15.20 for overseas orders. When inserting a Cd into your Cd-rom drive, YES the Autorun/Autoinstall will work!

Hi Pal,

I Am The Merchant That Sells Adobe PhotoShop 5.0, Pagemaker 6.5 Premiere 5.0 and Illustrator 8.0 back-ups On Ebay for only \$39 !

This Is For The PC Only !

I "Do Not" sell the Mac Version !

I own a CD Rom recorder and am able to make EXACT COPIES of anything that I want.

I sell Adobe Pagemaker 6.5, Adobe PhotoShop 5.0,

Premiere 5.0 and Adobe Illustrator 8.0 CD Roms.

I sell them all for the exact same price.

They cost Only \$39 Per. CD and the shipping to you is FREE !

They are the FULL COMMERCIAL VERSIONS ! Not The Upgrade Versions.

I "Do Not" sell the Mac Version !

There is No Difference between what I am selling and what you would get if you were to buy this software in the store except the paint job and printing on the CD. The software itself is identical and comes with a serial number so that you can install it easily.

I am a VERY FAST SHIPPER !

I FILLED 114 ORDERS LAST WEEK ALONE !

SPECIAL TIME SENSITIVE BONUS OFFER BELOW !

(For A Limited Time Only) I Will Include Norton AntiVirus 5.0 as a FREE BONUS GIFT ! With every order that is recieved before March 15th 1999 ! SO HURRY AND GET YOUR ORDER IN TODAY !!!

DON'T WORRY !

I have NEVER stiffed anyone !

I always deliver the products that I sell very quickly and my customers always get exactly what they have ordered.

If all of this sounds good to you then just follow the instructions below and before you know it you will be receiving your software in the mail.

All that you have to do send a MONEY ORDER ONLY to the address below.

Please Remember that I only accept MONEY ORDERS !

Absolutely NO Personal Checks ! (They Bounce Way To Often)

Absolutely NO Cashiers Checks ! (I Have Been Sent So Many Fake Cashiers Checks !)
It Is To Easy To Print Your Own Using A LASER PRINTER.

Make sure that you don't put anything in the PAY TO THE ORDER OF portion of the MONEY ORDER.

I am Chinese and most people ALWAYS misspell my last name then I have have trouble cashing the MONEY ORDER.

That is why I will write my own name in Thank You :)

ALSO this way I can stay more anonymous and continue to bring you great deals on CD Software.

I am paying for the shipping of the product to you but I will only serve customers who are in the Continental USA.

No Canadian - Puerto Rican or Hawaii orders will be filled.

Although Alaskan orders are FINE !

PLEASE NOTE: I will 'only' ship using US MAIL !

NO UPS - NO FEDEX - NO COD's !

Okay Here Is My Address. Send Your Payment To:

(address removed by SIIA)

Once I receive your payment I will immediately ship out your software ! I am a VERY FAST SHIPPER and please remember to send a MONEY ORDER ONLY with NO NAME AT ALL in the pay to the order of area on the money order.

Greetings,

I noticed you were in the process of bidding for graphic software on Ebay. I have copies of over 20 of the top selling graphic art programs. Very Cheap alternative!!