

microsoft.public.windowsxp.general: Re: XP or 2000? ... Really about Kurt trolling the group

Re: XP or 2000? ... Really about Kurt trolling the group

Source:

<http://www.tech-archive.net/Archive/WinXP/microsoft.public.windowsxp.general/2005-02/13839.html>

From: Raymond J. Johnson Jr. (*RayJay_at_nospam.org*)

Date: 02/10/05

Date: Thu, 10 Feb 2005 14:30:38 -0600

I also can't believe it, but, responses in line...

"Linda B" <someone@microsoft.com> wrote in message
news:#8DK9K6DFHA.3504@TK2MSFTNGP12.phx.gbl...

| I can't believe I'm going to do this, but...

|

| Regardless of whether or not you think the whole idea of software
licensing,

| copyright law, and fair use is legal, the simple fact is that, when you

| install Windows, you agree to abide by the terms of the EULA, which is a

| legally **enforceable** contract between you and Microsoft.

You seem to be missing the point. Only a court of law can determine whether
or not any contract, in any single instance, is enforceable.

| The reason the EULA has not been enforced between MS and any given end
[user] is quite simply that it's not worth their time or money to go after
single

| users.

Speculation on your part.

| When MS goes after pirates, it's **far** more cost-effective for them
| to go after large-scale sources. The reasoning is the same as government
| officials going after drug dealers: they can either spend large amounts
of

| time and money going after millions of individual drug users, or spend a

| tiny fraction of that time and money going after the source, the dealer.

| There is no benefit for Microsoft to pursue legal action against Kurt, or

| anyone else who pirates software in the comfort of their own home.

All basically true, I think, except that you seem to be equating fair use
with piracy, albeit on a small scale.

| You keep talking about how Microsoft "doesn't have the balls" to enforce
| their EULA against a case of single-user piracy. It's not that they think

Re: XP or 2000? ... Really about Kurt trolling the group

microsoft.public.windowsxp.general: Re: XP or 2000? ... Really about Kurt trolling the group

| that they're going to lose — rather, it's a foregone conclusion that they
| would win that case.

Major speculation. There are some very good reasons to believe that they
might not prevail, particularly in cases where the alleged EULA-breacher has
made no profit, and had no intention to make any.

| There is no need for them to establish that a breach
| of contract is illegal.

You have to be very careful about use of "illegal." To rob a bank is
illegal. The act in and of itself is illegal, regardless of who's accused of
it. When dealing with contract law, the principles are different. If I
have a contract with you, and you believe I've breached it, you can't go to
the police and have me arrested. The police would tell you to hire a lawyer,
because it's a civil matter. And in civil matters, legality is established
in court.

| It's very simple. The EULA states very clearly
| that you're not allowed to have the software installed on more than one
| machine at the same time, and you agree to abide by those terms when you
| install the software for the first time.

Maybe I don't agree. Don't forget, it's the EULA that says I must agree, and
we haven't tested it yet. The EULA might be unenforceable. And if I buy a
copy of XP and then install it on two machines, it might be considered fair
use by a court of law. If I had no intention of buying a copy of XP for the
second machine, and if estopped from doing it I still wouldn't, MS hasn't
lost anything.

You also state that violating a
| contract is not illegal, which is ridiculous. How many times have you
heard
| of people getting sued for breach of contract? This is exactly what
you're
| doing when you install one copy of Windows on two or more computers —
| you're committing a breach of contract. The outcome of these breach of
| contract trials is based on whether or not an actual breach of the
contract
| was committed — not whether or not there is a legal precedent for
contracts
| being breached.

Wrong. All civil (and much criminal) law is based on precedent.

If there were any benefit to MS going after you for piracy,
| there is no question that they would win that trial. Seriously. Think
| about it. You, and your lawyer, against the multi-billion dollar corporate
| behemoth and their legions of hunchbacked, fang-toothed, bloodied,
| war-hardened robot lawyers. And they're made out of carbon fiber and pure
| evil, and their brains are supercomputers from the future. Who's gonna

Re: XP or 2000? ... Really about Kurt trolling the group

microsoft.public.windowsxp.general: Re: XP or 2000? ... Really about Kurt trolling the group

win
| that battle?

More speculation, this time with a dose of fantasy.

| I'm not saying I like this arrangement, I'm not saying that I think that
the
| EULA is a good idea, or fair, or whatever. I'm not even against doing
what
| you will in the privacy of your own home. I'm saying that, by installing
| the software on two computers --- with one license --- you are committing a
| breach of contract.

But it's not *illegal* if the contract's not enforceable! Why is that so
hard for people to understand?

| MS won't come after you for the simple reason that
| you're a small fry, you're too small a target, and not worth their time.
If
| you were duplicating CDs and selling them on the internet --- or even just
| giving them away --- your legal troubles might be much more pressing.

Because then a criminal act would have taken place, and the seller would be
depriving MS of sales. A completely different situation than installing XP
on your desktop and your laptop.

|
|
| "kurttrail" <dontemailme@anywhereintheknowuniverse.org> wrote in message
| news:OdVGS45DFHA.3648@TK2MSFTNGP10.phx.gbl...
| > Leythos wrote:
| >> On Thu, 10 Feb 2005 17:51:56 +0100, Alias wrote:
| >>>
| >>> Besides, where I live, fair use HAS been proven in MANY courts of
| >>> law to be all right for personal use. You act like US laws are the
| >>> only laws in the world and, guess what, they aren't.
| >>>
| >>> Nope, I do not. If your laws say it's good then I'm happy for you and
| >>> have no argument. Kurt has not indicated that he's from outside the
| >>> US or that his laws support his position (since the ones he quotes do
| >>> not).
| >>>
| >>> If your country had made it legal then I have no issues with you or
| >>> your ability to take that action - is that simple enough for you?
| >
| > And there is no law or legal precedent that makes fair use of software
| > illegal in the US.
| >
| > Is that simple enough for you?!
| >
| > ---
| > Peace!

Re: XP or 2000? ... Really about Kurt trolling the group

microsoft.public.windowsexp.general: Re: XP or 2000? ... Really about Kurt trolling the group

|> Kurt
|> Self-anointed Moderator
|> microscum.pubic.windowsexp.gonorrhea
|> <http://microscum.com>
|> "Trustworthy Computing" is only another example of an Oxymoron!
|> "Produkt-Aktivierung macht frei"
|>
|>
|
|