95173 - Ruling on copying programs

the question

What is the ruling on copying computer programs?.

Detailed answer

Praise be to Allah.

If the owners and inventors of the program have stated that it is copyrighted, and that is not permitted to make copies of it for personal or public use, then the basic principle is that this condition of theirs should be fulfilled, because the Prophet (peace and blessings of Allah be upon him) said: “The Muslims are bound by their conditions.” Narrated by Abu Dawood (3594) and classed as saheeh by al-Albaani in al-Irwa’ (1303).

See: Fatawa al-Lajnah al-Daa’imah (13/188).

This is supported by the fact that copyright of writings, inventions and products, and other tangible and intangible rights, are guaranteed and it is not permissible to transgress against them without the permission of the owners. That includes tapes, disks and books.

The Islamic Fiqh Council has issued a statement with regard to intangible rights in which it says:

Firstly:

Trade names, trademarks, copyright and patents are all rights which belong exclusively to their owners. In modern times they have come to have a considerable financial value. These rights are recognized according to sharee’ah, and they should not be violated.

Thirdly:

Copyright and patents are protected by sharee’ah. Their owners have the right to dispose of them

and nobody has the right to violate these rights.

End quote.

Undoubtedly those who produce tapes and disks have put time, effort and money into producing them, and there is nothing in sharee'ah to prevent them from taking the profit that results from this work. The one who transgresses against their rights is wronging them and consuming their wealth unlawfully.

Moreover, if it were permitted to transgress against these rights, these companies would stop producing and inventing things because it would bring them no profit, and they may end up being unable to pay their employees. Undoubtedly if this work were to cease, people would be deprived of a lot of good, so it is appropriate that the scholars have issued fatwas stating that it is haraam to transgress against these rights.

Secondly:

If there is no statement that it is not allowed to make personal copies, then it is permissible to make copies for personal use, but not for profit.

Shaykh Muhammad ibn Saalih al-'Uthaymeen said concerning this issue:

This should be dealt with according to custom. If a person wants to make a copy for himself and the one who initially wrote it did not state that it is not allowed to make personal or public copies, then I hope that there is nothing wrong with that. But if the person who initially wrote it stated that it is not permitted to make personal or public copies, then it is not permissible at all. End quote.

See also the answer to question no. 454.

Thirdly:

What we have mentioned in either case is the general ruling with regard to principles. But there may be some cases in which it is permissible to make copies without permission of the owners. That applies in two cases:

1 – If it is not available in the marketplace and one needs it, and the copies are for personal use or charitable distribution, and they not going to be sold or profited from.

2 – If there is a great need for it and the owners are demanding more for it than it is worth, and they have already made enough money to cover their costs with a reasonable amount of profit, and that is something to be decided by experts. In that case it is permissible to copy it for personal use, not with the aim of selling it.

From this we may derive the ruling on:

1-Copying nasheeds from the original recording and compiling them on one tape:

There is nothing wrong with this because the creators of the tape did not state that it is not allowed to make personal copies, rather they stated that their rights are protected. This is based on the fact that it is not allowed to make copies for sale, or to do things that will adversely affect them, such as making copies for public distribution, As for copies for personal use, that does not come under this heading.

The Standing Committee was asked: Is it permissible for me to make a tape from other tapes and sell it, without asking permission from the owners for that, or if the owner is no longer living, from the publishing house that published it? Is it permissible for me to copy a book and make a lot of copies and sell them? Is it permissible for me to make a copy of a book and not sell it, rather keep it for myself? These books that carry the message “all rights reserved” – should I ask for permission or not?

They replied: There is no reason why you should not record useful tapes and sell them, and copy books and sell them, because that is helping to spread knowledge, unless the owners have stated that this is not allowed, in which case it is essential to have their permission."(Fatawa al-Lajnah al-Daa’imah 13/187).

2 – Downloading programs from websites to bulletin boards

If the website allows users to download programs and use them for free, there is nothing wrong

with you downloading them and putting them ion bulletin boards or keeping them for yourself.

But if it is not allowed to download them, or it is allowed to download a copy to try it, then it is not permissible to transgress against their rights, by violating this protection or looking for so-called cracks and secret numbers and so on, because there is no difference between putting the program on one’s site or on a disk. What the scholars have said about respecting rights and adhering to conditions applies in both cases, and the same exceptions apply here as in the first case.

And Allah knows best.