

# Ten Things to Consider About Embroidery Software Piracy



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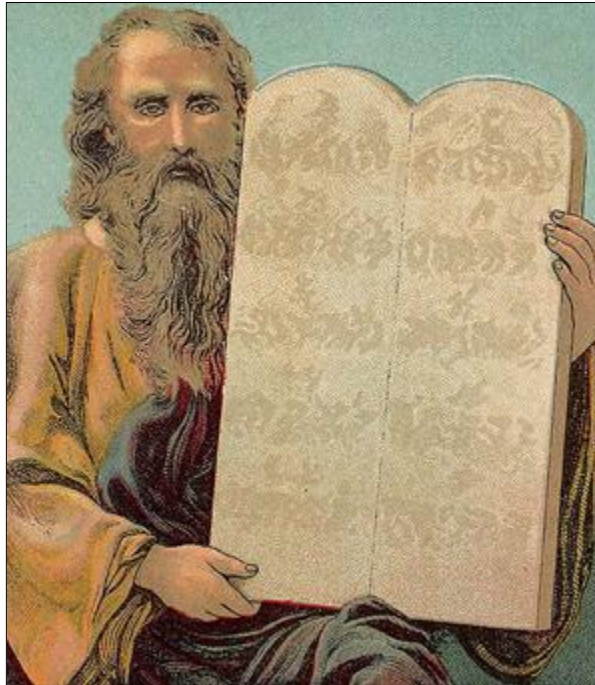
*(Views expressed in this article are the personal opinion of the author.)*

Copyright, Trade Mark, Patent Infringement: there are constant reports in the media about police raiding premises and confiscating pirated goods, DVDs, videos, books, garments and shoes with fake brand names, computers, hard drives, many times machines and tools used in making the infringing products. In this article we try to give you a glimpse to the piracy market and law enforcement issues.

## The Big Picture

Pirated goods are cheaper to produce than the original branded goods because the manufacturer does not need to recover investment on the Research and Development of the product or investment in the marketing and building the brand name, nor on the legal and commercial expenses of creating global presence and sales channels for products and brands. For example, Microsoft just launched Windows 8 and their marketing budget is 1.5 billion dollars (Rs 8,250 crore)! Companies that lead their field

with innovative, new products need to recover these expenses from product sales.



## The Problem

Piracy robs billions of dollars from the innovators. According to a US survey covering 5,000 companies about Intellectual Property infringement, US companies lost \$48 billion (Rs.2.64 lakh crore) in 2009, only because of piracy by Chinese companies. If piracy goes unchecked, all innovations will stop and our quality of life will be poorer. Therefore many countries legislated laws against infringers in order to protect Intellectual property. The specific problem now is globalisation. With the opening of global markets, sales volume went up but profit on unit sales keeps going down. Earlier the

innovative companies could recover their R&D and market development costs in their home market and Asian sales were only a bonus. Now, all markets are equally important. Therefore Asian markets, where piracy is most rampant, represent the biggest losses to innovative companies. Without significantly reducing piracy therefore



may drive many companies broke and the market will be much poorer without their products and innovations.

Piracy also robs the Government of tax revenue that can be used for education, hospitals, roads, etc. The community also misses out on revenues that could help them to improve their lives. This is another reason why piracy is not just a problem for the innovators but for the whole society.

The third aspect of piracy is corruption. Piracy, by nature is an illegal activity and as such, it creates transactions outside the legal economy, it creates bribery, it corrupts the mind of people and it generally lowers the morale and mutual respect between people. Further, it lowers our respect for other laws and leads to lawlessness in society and the erosion of values that govern our relationships with our fellow citizens, partners and customers. We cannot think that we run an honest business if we have illegal products in our factory and we have to hide things from the authorities and the police. We cannot possibly sleep well if we have to live like that.

### **An “East-West” Problem?**

Traditionally, most innovations used to come from the Western countries and were used by the developing countries. Today, however the picture is very mixed and of the first 4 countries, 3 are from Asia. If we look at the patents in force, the ranking in 2008 was:

<b>Rank</b>	<b>Country</b>	<b>No. of Patents in Force</b>
1	United States	1,872,872
2	Japan	1,270,367
3	China	828,054
4	South Korea	624,419
5	United Kingdom	599,062

The same is the case of the approved applications:

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Therefore the trend is clearly moving towards Asia. This is for two reasons: there is more innovation happening in Asian countries. Also, as the legal system is developing, companies use legal protection more frequently within their own country as well as internationally.

In the same year (2007-2008) in India there were 35,218 patents submitted and 15,316 granted. Note though that due to the huge increase of patent applications world-wide,

the patent examination system is under lot of pressure and there is a large backlog. In this area, new systems start forming, where the examination will be conducted by mutually agreed international standards and therefore member countries would recognise others members' examination methods. This would mean that for example a for a patent that has been granted in the United States and after that it is submitted also in, say India, the Indian patent office would grant it without going through the lengthy examination process again.

### **Intellectual Property in India**

The high economic growth in India in the past decades is partially the result of well-developed education systems, successful mass production and distribution, fast developing infrastructure of delivery systems but increasingly, of innovation of new technologies and products. There is a rapid growth of Indian brands, representing new ideas, unique styles. Many of these brands are now entering the global markets. The apparel industry has a large share of these. Similarly, there are thousands of Indian software companies creating applications specific to the Indian financial systems, taxation, transport and logistics infrastructure. These companies invested serious R&D and brand developing efforts and they only can be successful if these efforts will be recovered from sales. Piracy targets these companies and many suffer serious losses from fake, pirate copies.

### **Consumer and Industrial Products**

There is an important distinction between say, gaming software and embroidery design software. Gaming software is a consumer product and it is aimed to have millions of users, who use this product for fun. Embroidery design software is an essential tool without which one cannot produce embroidery on uniforms and garments. Its user base therefore is tiny, compared to the user base of gaming software or even general purpose accounting software or other financial products. Therefore such software must be more expensive because the R&D and market development costs have to be recovered from a small number of sales. In this sense “buying” pirated embroidery software is more attractive to a user because the price gap is much bigger than the same for example, for an accounting software product. This also means that the software developer suffers much bigger losses because the piracy market is stronger when the original product is perceived to be expensive.

### **The Law**

Given the huge impact of piracy on the economy, most countries have strict laws about protecting the three types of Intellectual Properties i.e. Patents, Trade Marks and Copyrights. In India, separate legislations were created for each area: Patents Act, 1970, Designs Act, 2000, The Trade Marks Act, 1999, Geographical Indications of Goods (Registration and Protection) Act, 1999, etc. The driving force and knowledge base is located in the National Institute for Intellectual Property Management (NIIPM) and the

Intellectual Property System is under the Ministry of Commerce and Industry, Department of Industrial Policy and Promotion.

### **Law Enforcement**

Laws that cannot be enforced are not worth the paper that they are written on. So, how is law enforcement in India? Wilcom has been conducting investigations and organised dozens of piracy raids in the past five years. Once the police finds the infringing material, which, in our case is the software on one or more computers, they confiscate the computers as evidence, raise an FIR and arrest the manager of the raided organisation. Copyright infringement is a bailable offence (under 3 years maximum jail term) therefore after the arrest the manager can be released on bail but he is charged. The computer will be withheld as evidence for forensic investigation unless that offender admits the copyright infringement in writing. Then the case goes to criminal court. If the infringer legalises the software in the meantime the complainant can request the withdrawal of the case, in court.

### **Software Legalisation**

No software company wants to be in the police business; this is only last resort. The nature of software is such that it is constantly being developed, partially to provide new and more efficient functions and tools and partially because new machines and techniques become available, sequins, rhinestones, multi-decoration (printing+embroidery), etc. Therefore unlike with machines, which eventually become old and obsolete, investment in software keeps growing with the new releases adding more value to it. Once the users have legal software, training, support, updates, upgrades and business consultation become available to them and the value proposition of the software becomes strong. Note though that having one legal software license does not mean that the user does not need to legalise all pirated copies. Using even one illegal copy with say, five legal licenses is still breaking the law. Wilcom provide a Software License Certificate for each legal copy the customer has. Over the past three years many Wilcom users concluded that using legal software was better, safer and more beneficial to their business and Wilcom has increased the number of legal licenses by one thousand.

### **Cost Structure of the Embroidery Business**

The Indian embroidery units have gone through a gradual change regarding the internal costs structure. The Chinese machines dramatically reduced the investment necessary for production. The fabrics, threads, are all made in India further reducing the costs. The software piracy made it possible that companies who earlier could not financially justify buying design software (and used to deploy contract digitisers to make their designs) now expect to have in-house design software. These changes made it possible to mass produce embroidered garments for the domestic markets which have much smaller buying power than the export markets. The sudden increase of embroidery design software also required many new digitisers. Embroidery designer training is

much behind demand and the designers going through the quick courses do not understand properly what the software can do and know only a limited set of functionality of the software. Software piracy is the main reason why design quality today is much lower than ten years ago. Wilcom is promoting and building training centres and working with training institutes in order to help to increase the education standards in the embroidery industry. Wilcom also works on restoring the value of the embroidery design software and on building the cost and depreciation of the software into the total costing of the embroidery business unit including the wages of the properly trained and highly skilled designers.

### **Distributors of Pirated Software**

Not only the users but the distributors of pirated software are also criminally liable for Copyright infringement. No matter if the distributor is only a small seller at the flea market near the Nehru Place in Delhi, a freelance digitiser who only works part time in a few embroidery factories, or a distributor of Chinese embroidery machines, all can go to jail for breaking the law. Also some unscrupulous computer suppliers preload many pirated software. Sometimes the user may not be aware of the fact that he was given an unlicensed Microsoft Windows operating system or a Tally accounting software or a Wilcom pirate digitising software. Still, not knowing the law does not exempt one from its effect. Therefore honest users also need to carefully check if all the software, they use, have a proper license.

We focused in this article on Wilcom but we strongly believe that users must have only licensed software for every application no matter what brand. After all, they are managing a business and that has to have viable cost structure, pricing and profits. We all need to be able to run a successful business without using pirated software.

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