

## **81614 - Ruling on buying copied computer programs**

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### **the question**

Here in Algeria we buy the programs we use on computers from normal sellers. We know that these copies we buy are not the original ones. We know also that selling or buying them is not permissible; as its rights are reserved. But we have no way to reach the original copies, they are not available. Are we permitted to buy the unoriginal copies due to the unavailability of the original one?.

### **Detailed answer**

Firstly:

This issue is part of the serious issue of “intellectual property”; it is one of the issues that has been discussed at length in shar’i terms and even at the international level, because of its important consequences. It includes industrial ownership that protects patents and tradenames, as well as literary and artistic ownership that protects copyright.

In fact, unprecedented issues such as these require comprehensive study from all angles, whether legislative, shar’i, economic or otherwise. They must be examined from all the different angles that may affect the ruling, and these angles must all be examined thoroughly.

We will quote the fatwas of some specialized shar’i bodies that have researched these unprecedented issues.

1.Statement of the Fiqh Council of the Muslim World League in Makkah al-Mukarramah.

All praises belong to Allah Alone, and blessings and peace be upon the one after whom there is no Prophet, our master Muhammad (peace and blessings of Allaah be upon him). To proceed:

The Islamic Fiqh Council in its ninth session, which was held at the headquarters of the Muslim World League in Makkah al-Mukarramah from Saturday 12 Rajab 1406 AH until Saturday 19 Rajab 1406 AH, examined the issue of copyright for the authors of books, research and scientific papers – are these rights confirmed and owned by the authors, and is it permissible according to sharee’ah to receive payment for them and to make a contract with a publisher; is it permissible for anyone other than the author to publish his books and research and sell them without his permission, on the basis that it is permissible for everyone, or is that not permissible?

Reports and studies on these issues prepared by some members of the committee were presented to the committee, and the committee also discussed the view of some contemporary researchers who suggested that the author does not have any legitimate financial right to what he has written or published of books containing knowledge, on the basis that according to sharee’ah it is not permissible to keep knowledge away from the people, rather it must be made available, and on the Day of Resurrection Allaah will put a rein of fire on the one who concealed knowledge, so anyone who obtains a copy of an author’s book in a legitimate way has the right to copy it and publish it or sell it and make money from publishing it, and he may sell as many copies as he wants, and the author has no right to stop him.

The council also studied the opposite view, and the papers that been published in support of it, concerning patent rights as well as literary ownership and industrial ownership, on the basis that every author of a book, research, technical work or invention of a useful machine has the exclusive right to benefit financially from his book or invention, whether as a publisher, producer or seller, and to give it up to whomever he wants in return for compensation or otherwise, subject to the conditions that he agrees to, and no one has the right to publish the author’s book or written research without the author’s consent, or to imitate his invention and make a business out of it without the inventor’s consent.

After a comprehensive discussion, the council reached the following conclusions:

1 – That before the invention of modern printing methods that can produce thousands of copies of a book, when there was no other means of publishing a book except by means of handwritten copies, a scribe might spend years copying a large book to produce one copy of it. At that time the scribe was in the service of the scholar or author, and would make one copy or several copies with his pen, and were it not for that, the book would be limited to the author's original copy and would be vulnerable to being lost forever if the original copy was destroyed. So copying the book was not a transgression against the author, and the copier was not making use of the efforts and knowledge of another person for his own benefit; rather the opposite was true – he was serving him and spreading his knowledge and efforts.

2 – But after the invention of printing presses, it became the exact opposite: the author may spend most of his life writing a beneficial book, and publishing and selling it, then another person could take a copy of it and publish it by modern means of printing and photocopying, and he could sell it in competition with the author, or distribute it for free in order to become famous by means of distribution, and thus the author's efforts would be wasted. The same may also be said of inventors.

This is something that could discourage people of knowledge and smart people from writing and inventing, when they see that their efforts are going to be stolen as soon as they appear, and people who put no effort into them as the original authors and inventors did will make a business out of selling them and competing with them.

The situation changed with the development of new means and methods, which had a serious impact on the change from what things used to be to how they have become, which requires us to examine anew how people's efforts and rights may be protected.

The author and inventor should have rights with regard to that which they have written and invented, and this right is something that belongs to them according to sharee'ah. It is not permissible for anyone to take it away from them without their permission, provided that the book or research does not promote evil in any way, or contain bid'ah (innovation) or

misguidance that is contrary to the laws of Islam, otherwise it should be destroyed and it is not permissible to publish it.

Similarly neither the publisher with whom the author makes a deal nor anyone else has the right to change any of the book's content or to change anything else without the author's consent. This right may be inherited from the author, but should be restricted to the norms of international rules, covenants, systems and traditions which do not go against sharee'ah and which regulate and define this right after the author dies and in the light of his individual rights and the public's rights, because every author and inventor seeks the help of ideas and products of those who came before him, even it is only in terms of general information and means that existed before him.

With regard to the author or inventor who is commissioned or hired by a publisher to write a book or by a company to invent something for it for a specific purpose, what he produces becomes the right of the company that hired him, and he is bound by the conditions that they agreed upon.

And Allaah is the Source of strength. May Allaah send blessings and peace upon our master Muhammad and his family and companions.

End quote from Fiqh al-Nawaazil by Dr. Muhammad ibn Husayn al-Jeeraani (3/127-129).

2.Statement of the Islamic Fiqh Council in Jeddah, belonging to the Organization of the Islamic Conference.

It says in Qiraaraat wa Tawsiyaat Majma' al-Fiqh al-Islamic (94):

In the session of the Islamic Fiqh Council that was held during its fifth conference in Kuwait from 1 to 6 Jumaada al-Oola 1409 AH (10 to 15 December 1988 CE), after studying the papers that were submitted by members and experts on the topic of intangible rights, and listening to the discussion that took place on this topic, the following was determined:

Firstly: trade names, company names, trademarks, writings and inventions are all the copyright of their owners or authors, which in modern practice have acquired monetary

value. These rights are respected by sharee'ah and it is not permissible to transgress against them.

Secondly: It is permissible to dispose of a trade name, company name or trademark, and to transfer any of them in return for financial compensation, provided that this is not for the purpose of deceit or fraud, given that this has become a financial right.

Thirdly: the owner of these rights has the right to dispose of them and no one should transgress against them.

End quote.

### 3.Statement of the Standing Committee for Academic Research and Issuing Fatwas in the Kingdom of Saudi Arabia.

The scholars of the Standing Committee (13/188) were asked the following:

I work in the field of computers, and since I started working I have been making copies of programs to work with them. I have been doing that without purchasing an original copy of these programs, knowing that these programs carry warnings against making copies and their copyright is protected, like the phrase "all rights reserved" which appears on some books. The author of the program may be a Muslim or a kaafir. My question is: is it permissible to make copies in this manner or not?

They replied: It is not permissible to make copies of programs whose authors have forbidden the making of copies without their permission, because the Prophet (peace and blessings of Allaah be upon him) said: "The Muslims are bound by their conditions." And he (peace and blessings of Allaah be upon him) said: "Whoever reaches a permissible thing first has more right to it." It does not matter whether the author of the program is a Muslim or a kaafir who is not in a state of war with Islam, because the rights of a kaafir who is not in a state of war with Islam are to be respected like the rights of a Muslim.

End quote from Fataawa al-Lajnah al-Daa'imah, 13/188.

Based on the above, it is not permissible for anyone to copy anything of which the author's copyright is protected, and it is not permissible to buy any of these programs that have been copied without the permission of their authors. With the ease of communication nowadays, it is not difficult to obtain and purchase these things. The original program is available and one should be able to get it from the official agents of these companies. They are also available on the websites of the same companies on the internet and one can easily buy them and obtain them from those places.

Secondly:

Some of our scholars think that it is haraam to do this (copy things) for the purpose of selling them, but if a person makes a copy just for himself, that is permissible. This opinion is a moderate one that treads a middle path between those who ban it altogether and those who permit it altogether.

In the answer to question no. [21927](#) we gave a brief answer to this question, quoting from Shaykh Sa'd al-Humayyid, in which it says the following:

Making copies of books or disks for the purpose of selling them or to cause harm to the original author is not permissible. But if a person makes a single copy for his own use, then we hope that is o.k., even though it is better and preferable not to do it.

There follows a fatwa from Shaykh Ibn 'Uthaymeen (may Allaah have mercy on him) which is in accordance with that:

Question: Is it permissible to copy a computer program even though the companies and the system do not allow that? Or is that regarded as a monopoly? They are sold at high prices but if they are copied they may be sold for cheaper prices.

He replied: Do you mean Qur'aan (programs)?

Questioner: Computer programs in general.

Shaykh: For Qur'aan?

Questioner: For Qur'aan and other things, hadeeth and many other programs.

Shaykh: Do you mean what is recorded in it?

Questioner: What is recorded on the disks.

Shaykh: If the authorities forbid that, then it is not permissible, because Allaah has enjoined us to obey those who are in authority, except it if involves disobedience to Allaah, but banning the copying of these things is not disobedience to Allaah. With regard to companies, what I think is that if a person makes a single copy for himself only, there is nothing wrong with it, but if he makes copies to sell, that is not permissible, because it is harming others, and it is like undercutting one's Muslim brother, because if they sell it for one hundred and you copy it and sell it for fifty, this is undercutting your brother.

Questioner: Is it permissible for me to buy it for fifty from the shop-owners, if it is a copy?

Shaykh: It is not permissible, unless he proves that he has permission, but if he does not have such proof then this is encouraging sin and transgression.

Questioner: If he does not have permission – may Allaah reward you with good?

Shaykh: If you do not know, sometimes a person may not know, he may pass by a store and buy something and he does not know, there is nothing wrong with that; the one who does not know is not to blame.

Liqaa'aat al-Baab al-Maftooh (178/question no. 6)

For more information please see the answer to question no. [52903](#)

And Allaah knows best.