

**UNLAWFUL DUPLICATION OF COMPUTER RELATED
MATERIAL IN THE FIRST DEGREE
(Intent to Commit a Felony)
Penal Law §156.30(2)
(Committed on or after Nov. 1, 2008)**

The (*specify*) count is Unlawful Duplication of Computer Related Material.

Under our law a person is guilty of Unlawful Duplication of Computer Related Material when having no right to do so, he or she copies, reproduces or duplicates in any manner any computer data or computer program with an intent to commit or attempt to commit or further the commission of any felony.

[Add if applicable:

It is a defense that the defendant had reasonable grounds to believe that he or she had the right to copy, reproduce or duplicate in any manner the computer data or the computer program¹.]

The following terms used in that definition have a special meaning:

COMPUTER PROGRAM is property and means an ordered set of data representing coded instructions or statements that, when executed by computer, cause the computer to process data or direct the computer to perform one or more computer operations or both and may be in any form, including magnetic storage media, punched cards, or stored internally in the memory of the computer.²

COMPUTER DATA is property and means a representation of information, knowledge, facts, concepts or instructions which are being processed, or have been processed in a computer and may be in any form, including

¹

Penal Law § 156.50(3).

²

Penal Law § 156.00(2).

magnetic storage media, punched cards, or stored internally in the memory of the computer.³

INTENT means conscious objective or purpose. Thus, a person acts with intent to commit or attempt to commit or further the commission of any felony when his or her conscious objective or purpose is to do so.⁴

A FELONY includes (*specify*).⁵ (*Add the appropriate definition(s).*)

In order for you to find the defendant guilty of this crime, the People are required to prove, from all the evidence in the case, beyond a reasonable doubt, each of the following two/three elements:

1. That on or about (date), in the county of (county), the defendant, (defendant's name), having no right to do so, copied, reproduced or duplicated in any manner any computer data or computer program; [and]
2. That the defendant did so with an intent to commit or attempt to commit or further the commission of a felony; [and]

[Add if applicable:]

³ Penal Law 156.00(3).

⁴ See Penal Law § 15.05(1).

⁵ See Penal Law § 156.00(9).

3. That the defendant did not have reasonable grounds to believe that he/she had the right to copy, reproduce or duplicate in any manner the computer data or the computer program.]

If you find the People have proven beyond a reasonable doubt [both / each] of those elements, you must find the defendant guilty of this crime.

If you find the People have not proven beyond a reasonable doubt [either one / any one or more] of those elements, you must find the defendant not guilty of this crime.