

## Costly Software Audit Mistakes

By Keli Johnson

The Business Software Alliance (BSA) and the Software & Information Industry Association (SIIA) are organizations that represent software publishers seeking to enforce the copyrights in the products they publish. In furtherance of this goal, these entities routinely send letters to businesses they believe may be infringing their members' copyrights by failing to satisfy the requirements of applicable software license agreements. In the letter, the BSA and SIIA request audits of all member software products installed on all computers and servers owned by the targeted businesses.

The audit process is lengthy and arduous and often is affected by costly mistakes. One of those mistakes involves the use of an inadequate tool to conduct the kind of audit called for by the auditing entity. There are many ways a business may tackle the audit process. It may hire a law firm that specializes in software audits to conduct the review, it may hire external IT consultants, or it may proceed with its own in-house software audit. There are a number of free online tools to assist with a self-audit, including Belarc and Spiceworks, which may be attractive alternatives.

However, if a company chooses to conduct a self-audit, it is essential to verify the results produced by the tool deployed prior to submitting any information to the BSA or SIIA. Often, software audit tools are not sophisticated enough to discern between free trial software or remnants from previous installations and full installations of licensable software products within the scope of the audit. Over-reporting can carry significant consequences, because each product mistakenly reported as a full version for which a business is unable to demonstrate license ownership typically entails a penalty at settlement based on the MSRP of that product. The BSA then typically applies a multiplier for each product included in its settlement offer calculations.

For these reasons, it is important when conducting an in-house software audit to carefully look for any mistakes in the audit results and to ensure that those results accurately reflect what was installed as of the effective date of the audit requested by the BSA or SIIA. If there is any doubt regarding the accuracy of those results, it is vital to seek the advice of a knowledgeable attorney or consultant prior to submitting any information to the auditing entity.



### About the author Keli Johnson:

As an associate attorney at Scott & Scott, LLP, Keli is primarily focused on software licensing and copyright infringement matters. She advises clients in a variety of industries to ensure compliance with software licenses and develop strategies for maximizing the value of software licenses.

Get in touch: [kjohnson@scottandscottllp.com](mailto:kjohnson@scottandscottllp.com) | 800.596.6176

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