



ENLIGHTENED

an informational newsletter on intellectual property matters

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May I see your license and registration?

Encounters with the Software Police

by **Andy Peterson**
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A familiar refrain is appearing in an unfamiliar context. In 2007, the Software & Information Industry Association (“SIIA”) announced a program offering rewards up to one million dollars to individuals who report the use of unlicensed software. Reporting individuals may be company employees, contractors, or other individuals with personal knowledge of a company’s network and software installations. The SIIA does not reveal the identity of its informants. Another software license enforcement company that has a similar program is the Business Software Alliance (“BSA”).

The use of unlicensed software is copyright infringement and a vexing problem for software publishers. The goal of software enforcement companies like the SIIA and BSA is to discover, punish and deter unlicensed software users. Companies on the receiving end of a software licensing inquiry face threats of lawsuits, injunctions, high monetary damages and, in some cases, even seizure of company computers and servers.

In order to protect against costly business interruptions and fines, companies should consider the following procedures and guidelines:

1. Implement an internal software audit. There are a number of software audit products that are commercially available.



2. Reconcile the number of software installations to corresponding license agreements.
3. Address any problem areas or shortfalls. In areas where license shortfalls exist, determine the cause for unlicensed installations in order to prevent a reoccurrence.
4. Address any shortfalls with the corresponding software publishers. Carefully document any deletions of software. Make an image of any hard drive from which software is deleted before deletion of the software. Do not delete any software after an inquiry letter is received.
5. Implement a policy regarding use of software and the installation of software on company computers to prevent unauthorized installations.
6. Educate employees about proper software licensing. One common mistake employees make is sharing software downloads and installation discs. Some employees believe that as long as the company owns the software, installation is fine without checking to see if there are an appropriate number of licenses in place.
7. Monitor software installations by all employees, including those in information technology departments.
8. Implement clear policies regarding software installations and conduct regular software audits to ensure adherence to the established policies.



No company is immune to probing licensing inquisitions. If your company is the target of a licensing inquiry, contact competent legal counsel before disclosing any software installation or purchasing information. Again, do not delete any software after receiving a licensing inquiry. The SIIA and the BSA commonly threaten companies with lawsuits and demand exorbitant settlements. Legal counsel can assist you in both assessing and minimizing your company's exposure. By immediately addressing the above steps, your company will be more prepared when you hear the familiar refrain, "May I see your license and registration?" in an unfamiliar context.

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