

Customers Using Software Recently Acquired by IBM Should Proceed with Caution

By Julie Machal-Fulks

In 2015, IBM acquired no fewer than 11 software and services companies. Many software customers are surprised that after IBM purchases a company, IBM often significantly changes the license terms of the products. For some customers that have purchased unlimited or site licensing with the prior software publishers, IBM's changes can be surprising and expensive.

After IBM incorporates a newly acquired product into its product lines, it often reevaluates the prior licensing models and makes many changes. These changes can go into effect when the software customer upgrades to the latest model of the product or otherwise accepts new licensing terms.

After an IBM transaction, customers should carefully evaluate any proposed changes to the license terms, and prepare any objections immediately. Customers often lose the right to challenge the revised license terms after the software is used in the environment.

Customers who are unsure about their rights and unclear about how to object to new licensing models or restrictions should contact counsel experienced with reviewing license agreements. A proactive approach to the new relationship with IBM for the newly acquired products can save companies significant expense related to new license purchases and costs associated with responding to IBM audits.



About the author Julie Machal-Fulks:

As a partner at Scott & Scott, LLP, Julie Machal-Fulks leads a team of attorneys in representing and defending clients in legal matters relating to information technology. Her practice focuses on complex litigation ranging from privacy and network security, data breach notification and crisis management, intellectual property disputes, service provider negligence claims, and content-based injuries such as copyright and trademark infringement in software, the Internet, and all forms of tangible media.

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