

Locating Entitlements for SIIA Software Audit

By Julie Machal-Fulks

Once the Software & Information Industry Association ("SIIA") sends a letter to a company questioning the authenticity of software licensing status and demanding a self audit, it is very important to have proofs of purchase for the licenses in question. Unless a company is able to provide sufficient documentation proving all of the SIIA-member software installed was legally purchased, the SIIA will assume that the SIIA-member software installations are unlicensed and will demand that the company pay a penalty to resolve claims of alleged copyright infringement.

There are very specific forms of proof of purchase documentation the SIIA requires in determining software licensing compliance. Generally, photocopies of packaging, CDs or other media, of photocopies of the boxes the software came in are not accepted by the SIIA. Additionally, license keys are not typically accepted by the SIIA as a valid form of entitlement.

It is very important to keep records of all software purchased, regardless of the vendor or the date purchased. Typical forms that are acceptable to the SIIA include receipts of purchase and invoices from authorized vendors. If software is pre-installed on a computer, a company may be able to obtain documentation from the manufacturer showing all such software on that computer.

After the entitlement information is submitted to the SIIA, it conducts an often lengthy review process, and thereafter makes an initial settlement demand. In order to keep the settlement demand as low as possible, all entitlement information should be submitted along with the audit results. By obtaining a lower opening settlement offer, a company can reduce total exposure in negotiations. An attorney experienced in defending against SIIA audits can assist in this process.



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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