

Autodesk Settlement Agreements | Beware of Restrictive Superseding License Terms

By Keli Johnson Swan

A software audit typically resolves in one of three ways: a dismissal, a settlement, or litigation. The most common path to resolution is a settlement between the parties for potential copyright infringement stemming from allegedly unlicensed software. Software publishers sometimes authorize entities such as the Business Software Alliance (“BSA”) or Software & Information Industry Association to pursue copyright infringement claims on its behalf, while other publishers prefer to pursue potential copyright claims directly.

Autodesk, for example, is among a number of software publishers that audits companies directly and use trade associates to conduct audits on its behalf. If a company is unable to produce valid proof of purchase documentation for each of its Autodesk installations, that company typically pays a settlement fee and enters into a settlement agreement with Autodesk. Among the various provisions of the settlement agreement, Autodesk requires future compliance with the software license, future purchases directly through Autodesk, and often attempts to require the companies to agree to an invasive audit provision that supersedes the license agreement terms.

This language essentially rewrites the existing audit provision in the Autodesk License and Services Agreement.

The proposed provision in the settlement agreement reduces the written notice Autodesk is required to grant the target of the audit, and requires the company to bear the cost of the audit if unauthorized software is discovered.

It is important to be cognizant of the legal and monetary ramifications of agreeing to superseding terms of license agreements, and if possible, negotiate these out of the settlement agreement. If in doubt, consult an attorney with experience resolving copyright infringement claims resulting from software audits.



About the author Keli Johnson Swan:

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 | 800.596.6176

[Click here](#) for a complimentary subscription to Scott & Scott, LLP’s *Business & Technology Law* newsletter.