

Retaining and Recovering Software Licenses

By Julie Machal-Fulks

When a consumer or a business purchase software, it is critical to retain the software license as proof of the rights conveyed as part of the license. One of the issues that arises during a software audit is that a) companies are using software that is many years old; b) it is difficult for the company to find the physical copy of its licenses; and c) older licenses are not always readily available online.

When a company is audited and cannot locate the software license, it is difficult to determine what audit rights the publishers have and what use rights the end users have.

It is important to have access to the license agreement that governed use of the particular edition and version of the software because license metrics and terms change rapidly. If the license is missing, there are several steps the licensee can take to try to find the license;

1. Check the software media to determine whether it contains a copy of the license agreement;
2. Research online repositories that keep historical copies of license agreements; and finally as a last resort,
3. Contact the publisher and ask for a copy.

Once the business locates the software license, it is important to label it and retain a copy. Without the governing license agreement, it will be difficult or impossible to identify and limit the scope of the audit and determine whether the usage is consistent with the license grant in the agreement.



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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