Careful Recordkeeping Key to Software Compliance
By Keli Johnson Swan

Software audits are on the rise and often take the targeted company by surprise. Most audited companies are ill equipped to produce an accurate inventory and records for hardware and software purchases and lack the funding or resources to conduct an accurate analysis of its software compliance.

There are many important factors to ensuring a software audit is as inexpensive and painless as possible, including accurate recordkeeping and retention policies for all hardware and software purchases and routine management of the computer network.

Two software auditing entities, the Business Software Alliance ("BSA"), and the Software & Information Industry Association ("SIIA") conduct software audits on behalf of the software publishers it represents, including, but not limited to, Adobe, Microsoft, Autodesk, Corel, and many others. These entities demand that the companies they target comply with an arbitrary and arduous process in order to resolve any potential copyright infringement and software compliance out of court.

Often a company is confident that it purchased valid licenses for all software on its network, but does not keep accurate records, or simply has no policy to retain records of the hardware or software purchases. Although the IRS recommends that businesses keep records for 7 years, the BSA and SIIA require a company to produce records for all software installed on its network regardless of when that purchase was made. The BSA and SIIA argue that the burden is on a company to prove ownership of a valid license because the software is protected by a copyright. There may be other ways to prove ownership, through credit card records or e-mail confirmation of online software purchases. All receipts must detail the type and quantity of software purchased, the purchase price, and the date of purchase.

A good record retention policy can ensure that hardware and software purchase receipts are maintained and kept in the ordinary course of business. Although many companies destroy records after a reasonable period of time, it is important to keep hardware and software receipts, regardless of the date of purchase. When faced with a software audit, diligent recordkeeping can resolve the audit more efficiently. In addition to record retention, it is equally important for a company to routinely audit its network to prevent unauthorized software installation.

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.

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