

## Making SIIA Settlements Affordable With Payment Terms

By Keli Johnson

Legal fees and expenses can quickly add up defending against a Software & Information Industry Association (“SIIA”) audit and potential software copyright infringement claims. The SIIA typically demands a penalty based on some multiple of the MSRP of each product alleged to have been infringed, in addition to the SIIA’s attorney’s fees and a sometimes requests an additional payment to keep the existence and terms of the settlement confidential. By the time settlement is reached, it may be difficult for a company to pay a large settlement fee related to the alleged copyright infringement.

It is important to negotiate extended settlement-payment terms to make the settlement fee more affordable. Typically the SIIA makes a settlement demand premised on a lump-sum payment, so it is important to be clear about the necessity for payment terms. Depending on the size of the settlement payment and financial condition of the company, the SIIA may allow 3-6 months or more of settlement payments. If a business is able use financial documentation to demonstrate an inability to pay, it may be possible to obtain even longer payment terms. However, some businesses are not comfortable releasing such sensitive information.

It is advisable to obtain an interim confidentiality agreement with the SIIA prior to submitting the audit results and any sensitive financial information. When in doubt, it is important to seek legal counsel experienced in defending against SIIA audits.



### About the author Keli Johnson:

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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