

Top Tips for Post-Audit Software Remediation

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Responding to a software audit can be an arduous, expensive, and time-consuming process for a company. The remediation process to close compliance gaps may vary slightly depending on whether the audit is initiated the software publisher itself or outsourced to an agency such as BSA| The Software Alliance (“BSA”) or the Software & Industry Information Association (“SIIA”).

Because many companies are weary from the time and expense incurred during the course of the audit, some do not take the remediation process seriously. The following are tips for remediation to ensure the post-settlement obligations are met and the release of liability is secured.

1) Determine the best license for each use case. Smaller companies prefer to purchase original equipment manufacturer (“OEM”) licenses for operating systems and other software on a case-by-case basis. However, larger corporations may choose to take advantage of bulk purchases by entering into site or enterprise agreements directly with the software publisher, which may offers discounts and other benefits. Regardless of which purchase option a company uses, it is important to ensure that each license covers the specific use case for the installed software.

2) Ensure subscription software is renewed. Some software publishers are moving to a subscription licensing model instead of a perpetual license. A perpetual license grants a user the right to use the software forever, as long as it is in accordance with the license agreement. However, a

subscription typically must be maintained in order to continue to use the software. If a company misses a renewal, it may create a compliance gap if the user continues to install and use the software. There are very few instances (such as some Microsoft developer licenses) that allow the software to continue to be used after the subscription expires, but generally all subscriptions must be active in order to be compliant with the license agreement.

3) Avoid cutting corners and purchasing discounted software. A sizeable portion of software sold on online auction sites is not legitimate. Software auditors typically assume that all software sold for less than 90% of its MSRP value is counterfeit or being illegally sold or transferred. It is important to purchase from reputable, authorized resellers in order to avoid paying additional penalties in future audits. Some software publishers offer a list of authorized vendors on their web sites.

These are just a few issues to consider when completing post-audit software remediation. It is crucial to properly remediate any compliance gaps to secure the release of liability and protect against future audits. If in doubt, contact an attorney experienced in software licensing and copyright infringement matters.