

Proving Ownership of Underlying Licenses for Adobe Upgrades in Software Audits

Software publisher Adobe Systems Inc. actively investigates its existing customers to determine whether each customer has properly licensed Adobe software, or is committing copyright infringement, reports **Keli Johnson Swan**, an associate at **Scott & Scott LLP**.

Her article follows:

Adobe often pursues its customers directly, but sometimes grants a power of attorney for BSA | The Software Alliance to pursue copyright infringement claims on its behalf. In each instance, Adobe requires its customers to prove ownership for each and every license for all copies of Adobe products installed on a customer's computers, or face harsh monetary penalties.

Adobe license terms often change as each new product is released, which means that the way a customer may have previously been licensing software is no longer valid.

For example, historically, Adobe has offered easy paths to upgrade older Adobe software by allowing components of Creative Suite to be upgraded to a full suite. However, that changed with Adobe Creative Suite 6, which stopped allowing customers to upgrade from a component of the suite to the full suite.

The change has created an obstacle for clients with older products installed on its network to track the upgrade paths and prove ownership of the upgraded products. While a client may have previously been able to upgrade CS3 Dreamweaver to Creative Suite 5 Design Premium, that is no longer the case

for Creative Suite 6. Beginning with CS6, Adobe requires a customer to have an existing license for the full Creative Suite in order to upgrade to a CS6 Creative Suite. However, customers may still upgrade older standalone products to the newer version of the same product.

It is important for customers to keep an accurate record of each underlying license for its Adobe upgrades in order to prove it is compliant with the current software licensing terms, and avoid potential copyright infringement damages. When in doubt, a customer should consult with an attorney with experience defending against software audits.