



# The Current State of Software Protection, Enforcement, and Licensing

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# Speaker

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# ACS v Cincom

- ACS signed a Cincom Ltd. License and NDA which gave ACS access to use products licensed to Hallmark-the license agreement was silent regarding right to transfer or assign.
- SIRVA was a customer of ACS.
- ACS signed a Cincom Ltd. License and NDA which gave ACS access to use products licensed to SIRVA-the license agreement was silent regarding right to transfer or assign.
- ACS was acquired by Xerox.

# ACS v Cincom

## Takeaways:

- *Cincom Vs. Novelis* 6<sup>th</sup> Circuit Opinion remains prevailing law.
- An unintended transfer may result in violation of the license agreement.

## Outcome:

- The matter was settled out of court.

# Xerox v Apteian

- Apteian invokes audit clause in software license
- Xerox agrees to audit but objects to running proprietary scripts
- Apteian purports to terminate licenses for alleged breach of audit clause

# Mars v Oracle

- Oracle Invokes the Audit Clause
- Mars agrees to audit only on reasonable terms and conditions
- Oracle purports to terminate the licenses
- Mars brings declaratory judgment action seeking determination that the purported breach is improper

# Adobe v Levy Group

- SIIA audits Levy Group related to Adobe licenses
- Levy Group complies with the audit request and purchases \$94,000 in additional licenses
- Adobe sues for copyright infringement seeking 3X unbundled MSRP
- Levy moves for partial summary judgment on the proper calculation of damages for copyright infringement related to software

# Questions?



# Contact Information

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