

Software Police Increase Enforcement Efforts

How to Protect Your Company

DALLAS – On the corporate high seas, piracy is everywhere. Companies are filled with computers but not enough software. When you cut costs and install programs on more than one workstation, you're walking a thin plank.

The Business Software Alliance, established in 1988, is cracking down on software compliance and piracy in the workplace. The BSA is owned and funded by big name member companies such as Microsoft, Apple and Adobe.

"The BSA preys on disgruntled employees to instigate investigations regarding software use," says Rob Scott of Scott & Scott L.L.P. (www.scottandscottllp.com), a Dallas law firm specializing in software compliance consulting and audit representation. "Software licensing is so difficult to manage that most companies don't realize they are out of compliance."

The BSA collected more than \$12 million in fines from underlicensed companies in 2002. A company based in Akron, Ohio recently paid over \$500,000 in the largest U.S. settlement yet. Money collected on settlements goes into funding for future investigations and financing for PR and advertising campaigns.

BSA actions usually commence following reports of unauthorized software use. Targeted companies are contacted by the BSA with requests that the company conduct a self-audit and report the results. The BSA threatens that

penalties and statutory fines can cost up to \$150,000 per violation of law.

"It is important to understand that the BSA has no greater rights to information than the software publishers it represents," says Scott. "If the BSA institutes an investigation, companies should consult with attorneys to formulate a strategy."

Many companies who are targeted by the BSA scramble to purchase additional software, but this strategy has significant risks. If changes are made to the network following the BSA's initial letter, they will seek sanctions for spoliation of evidence if litigation ensues. Getting into compliance is not as simple as conducting a self-audit and procuring the needed licensing. Self-audits should be supervised by attorneys to ensure that results are confidential and software is legitimate.

"Internally prepared or IT vendor audits will not enjoy the protection of attorney supervised audits," says Scott. "Once the audit is complete, many companies discover a high degree of counterfeiting in software titles. It is difficult to determine which vendors are trustworthy."

Even the slightest compliance infraction can create big fines and a lot of headaches. Careful planning and sound legal advice can keep you out of the waters of piracy. Otherwise, you could be the BSA's next target.