

New Year, Same BSA Problems:

Common issues to Keep in Mind



Sepideh K. Nassabi
Partner
Litigation and Intellectual Property Litigation
Minden Gross LLP
T. 416.369.4323
snassabi@mindengross.com

January 5, 2022

May this New Year bring business owners success, prosperity, and no letters from the BSA alleging the use of unlicensed software. In our [previous article](#) about the BSA, we discussed their typical approach in instances of alleged use of unlicensed software.

In this update for the New Year, we want to share two common issues:

1. A caveat on the number of different users of downloaded software;
2. Separation of bundled software by the BSA.

1. Number of Users

One of the common issues that can put a business owner on the BSA's enforcement radar is software installation across **multiple devices** (personal computers, phones, tablets, etc.) Even if the software is downloaded from a legitimate source, permits installation on multiple devices, and is the correct version to use, the software license may have caveats about the exact number of users allowed to access it. Under some license agreements, the end-user of those multiple devices has to be the **same person**. Without a thorough check of the license agreement, some business owners may incorrectly assume that if the software is permitted for download on multiple devices, then different end-users may access that software.

2. Separation of Bundled Software

Another common issue that can arise is the separation of bundled software. Bundled software is sold as a package, for example, Microsoft Office and Abode Creative. One strategy used by the BSA is to calculate the total penalty amount by adding up the manufacturer's suggested retail price



(MSRP) for **each component of the bundle**, rather than using the lower bundled price. This approach increases the amount allegedly owing to the BSA.

As a reminder, you should never ignore a letter from the BSA. As we stated in our [previous article](#), if you receive a letter from the BSA, you should contact an experienced lawyer who can help you respond to the allegations and negotiate better terms of settlement with the BSA.

If you have received a letter from the BSA or have any other concerns or questions regarding software use for your business, contact [Sepideh Nassabi](#) at snassabi@mindengross.com.