

handmarc

Providing expertise to organizations facing vendor management challenges.

When are you most at risk for being audited for license compliance by a software publisher?

Almost all software license agreements have a provision that allows the publisher to verify compliance – in other words, allowing them to check that the organization using the software:

- has purchased enough licenses to cover all the users,
- that the licenses are current, and
- that those licenses are of the right type to cover how the software is being used.

For instance, a business should be using commercial licenses, not educational or home-use licenses, and every user of the software should have a current license covering the version of the software they are using and valid for their geographic location. Usually, the license includes how much notice the publisher must provide before auditing, the level of cooperation required from the licensee, and the rules that could be applied to how the organization makes good if it is found to be out of compliance. In practice, the process is both arduous and complex, and influenced by many other terms and rights, so it is best to do your homework and be prepared.

Several triggers raise the risk, including corporate events (such as mergers and acquisitions), business decisions and behaviors (like switching to a competing product or canceling a maintenance agreement), and growth reported in the press that seems inconsistent with software ordering history. While some of these can be foreseen, IT often has no advanced notice of

M&A activity and is unprepared for the potential impacts. However, one entirely predictable factor is the calendar. Increased auditing activity often correlates with the quarter leading up to the publisher's fiscal year end. That is not to say that a publisher won't audit you at any other time, but rather that as the end of the fiscal year draws near, they may come under pressure to meet their numbers by any means available. (On a brighter note, these same pressures lead to sales incentives, such as discounts, that a well-positioned customer can take advantage of by renewing early or increasing their license commitment.)

If you are like most organizations, you don't have the resources to maintain the same high level of readiness across all publishers, year-round. Instead, you will likely decide to assess your risk on a publisher by publisher basis and devote the most attention to those showing the highest propensity to audit and/or presenting the greatest potential financial exposure. The calendar adds a cyclical element to the risk profile, increasing the risk in the three months prior to the publisher's fiscal year end, and slightly reducing it at other times. Recognizing this will not only allow you to use your limited resources more efficiently, but your team will find it easier to maintain interest and focus as different publishers rise to the highest risk category.

The table below (and available to [download here](#)) shows the fiscal year end for several publishers with active audit programs:

Phone 609.915.5665

Email info@handmarc.com

Handmarc LLC is a New Jersey Limited Liability Company

Major Software Publishers' Fiscal Year Ends¹

First Quarter		
January	February	March
Box	Red Hat ²	CA Technologies ²
Dell		Commvault
Autodesk		Sophos
Salesforce		Symantec
VMware (incl Airwatch)		Veritas ²
Workday		
Second Quarter		
April	May	June
elastic	Oracle	ADP
		Microsoft
		OpenText
Third Quarter		
July	August	September
Cisco		Apple
Intuit		Nuance Communications
Palo Alto Networks		
Fourth Quarter		
October	November	December
Micro Focus (Attachmate ²	Adobe	BMC ²
Borland ²	Progress	Citrix
HP Enterprise ²	Tibco ²	ForcePoint ²
NetIQ ²		Alphabet(Google)
NetManage ²		IBM
Novell ²		Informatica ²
Serena ²)		Intel
		McAfee ²
		MobileIron
		Qlik ²
		Quest ²
		SAP
		SAS Institute ²
		ServiceNOW
		Tableau ²
		Tenable
		Trend Micro

Table updated July 2019 with additional company data compiled by Roger Ekkerlink of B-Lay.

Notes:

1. The fiscal year end is usually defined as the last work day of the month, the last Friday, or the Friday closest to the last day of the month, and some require sales teams to book an order days or hours ahead of the deadline to be credited for the sale. It is always wise to check specifically so you are aware of the true deadline for the publisher in question.
 2. A number of publishers have been acquired or taken private in recent years. While they are no longer obligated to publish their own annual accounts many adhere to their former fiscal calendar which often continues to influence sales incentives. Others align to the calendar of their new owner. Several such changes over the past few years are listed below:

- Attachmate, Borland, HP Enterprise, NetIQ, NetManage, Novell, Serena – see Micros Focus International
- BMC went private in 2013, then acquired by KKR in 2018, formerly December
- CA Technologies – acquired by Broadcom, formerly March
- Forcepoint – part of Raytheon, December
- Informatica – privately held, formerly December
- McAfee – privately controlled since April 2017, formerly December when owned by Intel
- Qlik – privately held, formerly December
- Quest – privately held, now December following its divestiture from Dell and acquisition by Francisco Partners
- Red Hat – acquired by IBM in 2019, formerly February
- SAS Institute – privately held, traditionally December
- Tableau – acquired by Salesforce in 2019, formerly December
- Tibco – privately held, formerly November
- Veritas – privately held, formerly March when part of Symantec

I hope this table will prove useful to you in planning ahead and becoming well-prepared for sales approaches and license audits. Please [download a copy](#) for your own use and add your medium and high-risk software publishers to it.

Managing audit responses is just one of of the services Handmarc offers.

We can help with:

- Performing annual license true-ups
- Software Licensing and Compliance
- Assessing the maturity of your software asset management (SAM) processes
- Negotiating Enterprise software agreements
- SaaS and Cloud Service Contracts
- Structuring IT Managed Services agreements (ITSM)
- Overseeing the RFP/RFI/RFQ process
- Defining a Vendor Management strategy
- Assessing Supplier Risk

Marcus Hand is Principal at Handmarc LLC which he started to assist companies to meet challenges in IT vendor management and software licensing such as negotiating enterprise license agreements, managing true-ups, and responding to software compliance audits. Marcus is a Microsoft Certified Professional in the area of Software Asset Management (SAM - Core) and a Certified ScrumMaster. Before starting Handmarc,

Marcus was Director of IT Vendor Management where he negotiated a Microsoft Enterprise Agreement, two mid-term contract modifications, and several true-ups. He also negotiated an enterprise agreement with Adobe and similar agreements with other software publishers, managed several true-ups, negotiated a large IT managed services (ITSM) agreement, and managed the company's response to a number of license compliance audits.

If you need assistance with software licensing or in handling your vendor management challenges, call us today.

Phone 609.915.5665

Email info@handmarc.com