

How to Find the Best Lawyer for Your BSA Audit Case

Robert J. Scott

I am a partner in Scott & Scott, LLP a firm that focuses on technology law matters in Southlake, Texas. We represent companies accused of software piracy by industry trade groups such as the Business Software Alliance and Software Information and Industry Association. I had my first encounter with the BSA in 2004 when they sent a company that I advised an audit unfounded letter alleging that the company had installed copies of BSA member software without licenses. We all had a sinking feeling when reading the letter from the attorney in Washington, D.C.

We looked for an experienced attorney to represent the company in the BSA audit matter. I immediately interviewed prospective lawyers. Here are the questions I asked them:

1. How many software audit cases have you personally handled against the BSA?
2. How many BSA audit cases are you handling at this time?
3. How many cases have you had with the specific opposing counsel that we are dealing with?
4. How long will this process take?
5. How much will this process cost including financial exposure and total fees?

I interviewed 3 or 4 lawyers and gave up after it became evident they had no meaningful experience. Ultimately, we decided to handle the case on behalf of the company and resolved the case with no penalty. Realizing that there were very few lawyers with relevant experience, I began speaking and writing about BSA audit cases. Eleven years later I have handled over 230 BSA audit cases.

Now I am on the other side of the discussion speaking to as many as 20 BSA audit targets every month. Here is what I want to know from a prospective client:

1. How many computers does your company own?
2. What BSA member software products do you have installed?
3. Where do you buy BSA member software?
4. Have you made any changes to your environment since receiving the BSA's initial letter?
5. Have you discovered any specific areas of concern regarding financial exposure?
6. Do you have any IT initiatives that need to proceed during the pendency of the audit?

If you have a BSA audit matter and are discussing these questions with your attorney, you are well on the way to finding the best lawyer for your case. Having been on both sides of the discussion for many years, asking and listening for the right questions is the key to finding the best fit.



About the author Rob Scott:

Robert represents mid-market and large enterprise companies in software license transactions and disputes with major software publishers such as Adobe, IBM, Microsoft, Oracle and SAP. He has defended over 225 software audit matters initiated by software piracy trade groups such as the BSA and SIIA. He is counsel to some of the world's largest corporations on information technology matters including intellectual property licensing, risk management, data privacy, and outsourcing. Robert ensures that Scott & Scott, LLP continues its focus on cost-effective strategies that deliver positive results.

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