Oracle Licensing for Government

Executive Summary

The Making Electronic Government Accountable By Yielding Tangible Efficiencies Act of 2016 (or the MEGABYTE Act of 2016) changed how government organizations were required to manage their software licenses. However, due to the lack of knowledge on how software vendors view license entitlements, this change has also put many organizations at risk of software license non-compliance issues, and even worse, audits. This whitepaper is designed to help an organization's Executive and IT leadership understand how to maintain software license and subscription compliance with Oracle software and hardware products. If your organization is currently being audited, or expects to be audited soon, please see our companion whitepaper Oracle Audit Defense by Miro Consulting, located here, and contact us as soon as possible at sadler@miroconsulting.com.

Challenges

- Due to changes in Oracle policies and rules, managing Oracle Licensing and maintaining compliance can prove challenging.
- Oracle Audits are not getting any less frequent and unbudgeted out-of-compliance fees can range into the millions of dollars.
- Most organizations are out of compliance in one or more ways, but do not realize it. Oracle always considers audit settlements to be about resolving compliance issues and not about negotiating discount, so they will always push for low discounts for licenses purchased under settlement agreements.

Opportunities

- Compliance issues can be largely mitigated by organizations which engage in a comprehensive expert review of their Oracle usage and entitlements before being notified of an audit.
- Organizations may uncover opportunities for substantial cost savings and cost avoidance during a license review process.
- Having a robust software asset management program with documented procedures for audit notices, and properly trained personnel, can greatly improve vendor negotiation outcomes.

About This Whitepaper

This whitepaper is written for Executive and IT decision makers who have a familiarity with software licensing, the Oracle corporation, and its most commonly used products, including hardware, software, and cloud-based services. It will broadly cover types of licenses, contracts, services, support, and the most common issues that cause an organization to be out of compliance.

For a list of standard (non-discounted) pricing for Oracle products, please visit the Oracle pricing page here.

About Oracle

"Oracle Corporation is an American multinational computer technology corporation headquartered in Redwood Shores, California. The company specializes primarily in developing and marketing database software and technology, cloud engineered systems, and enterprise software products — particularly its own brands of database management systems. In 2018, Oracle was the third-largest software maker by revenue, after Microsoft and Alphabet.

The company also develops and builds tools for database development and systems of mid-tier, Enterprise Resource Planning (ERP), Customer Relationship Management (CRM), and Supply Chain Management (SCM) software." – Wikipedia

About Miro Consulting

The author of this whitepaper, Miro Consulting, is a leading global provider of software asset management and subscription services for Oracle, Microsoft, IBM, and Salesforce. We specialize in license management, audit advisory, contract negotiation tactics, support management, and cloud migration services. Learn more at **MiroConsulting.com**

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License Procurement Options

Once you better understand the needs of your current- or near- future environment, you may need to acquire additional licensing. Fortunately, there are more purchasing options today than have ever existed before.

Obtaining a Software License

Purchasing (Considered a "Perpetual" license)

This consists of buying a license through Oracle or an Oracle reseller. However, it is important to note that a software license is a 'right-to-use' product. You do not own software from a vendor, you own the 'right to use' the software in a very specific way. However, you will own this right even if you choose to discontinue support on those licenses.

You do not own software from a vendor; you own the 'right-to-use' the software in a very specific way.

BRING-YOUR-OWN-LICENSE (BYOL)	• If you have already invested in perpetual licensing, but you wish to switch your deployment of licenses from your on-premise environment to a cloud environment, you are permitted to do so for use of the original product license that you purchased.
CUSTOM METRICS	• Oracle is willing to consider an organization's request for a custom metric as long as the organization's intended use cannot be reasonably addressed by any of the standard metrics available for the particular product. A custom metric is a way of licensing a software product that's different than how it's normally licensed. For example, a product that is usually licensed by server cores may instead be licensed by number of named users.

Subscriptions

This consists of acquiring the right to use a product through the subscription of a service that includes the right to utilize a software, in a very specific way, for the duration of the subscription. Such services can include Oracle themselves or a third-party entity that has the authority to provide use of Oracle's software as part of the solution of the service. Support costs are included within the price of subscription and cannot be separated out nor discontinued while maintaining the service. NetSuite, the Oracle CRM product, is licensed this way, for example.

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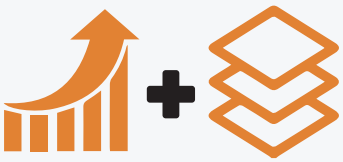
Core Factor

- Relates to Oracle's use of a table that indicates an amount to calculate against when determining licensing requirements for metrics based on processor count, which is typically a Technology product
- Originally introduced as a way to better allocate the performance of multicore processors at the core level, as different vendor's processors had different performance characteristics
- Currently it is less about actual performance and more about Oracle's characterization of competing platforms
- The use of a core factor can vary depending upon the environment to which the licenses are being applied
- Oracle approved Cloud vendors (Amazon and Microsoft) have specific calculation requirements for determining the number of licenses needed within those compute environments



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Java SE

- While as of this writing, Java SE is not part of a formal audit structure, it can lead to audits of other Oracle products.
- As a Technology product, Java SE is subject to the same rules involving core-factor, Proprietary Hosting, and virtualization as other Technology products, notably Oracle Database. This means that the very same strategies that would apply to Oracle Database licensing apply to Java SE licensing.
- Per Oracle's own rules, no licensing is required for development use, personal use, Oracle approved product use, and/or Oracle Cloud Infrastructure use.
- Oracle has stated that "For purposes of clarity, the 'to develop' grant includes using the Programs to run profilers, debuggers and Integrated Development Environments (IDE Tools) where the primary purpose of the IDE Tools is profiling, debugging and source code editing Applications."
- "Oracle approved product use" essentially refers to products such as the e-Business Suite products which use the Java platform. The included Java license is restricted to the use of the Oracle Application.
- The use of third-party tools built on the Java platform require investigation by your organization.
- Recently, the Account Teams at Oracle have included "back usage" to the quotes for Java SE. These are caused by caused by the downloads of licensable upgrades. And Oracle keeps track of these.
- In Java SE 17, the JDK can be downloaded as a separate element. This allows the customer to deploy only the portions of Java SE that are necessary.

The same strategies that would apply to Oracle Database licensing apply to Java SE licensing.

The use of third-party tools built on the Java platform require investigation by your organization.

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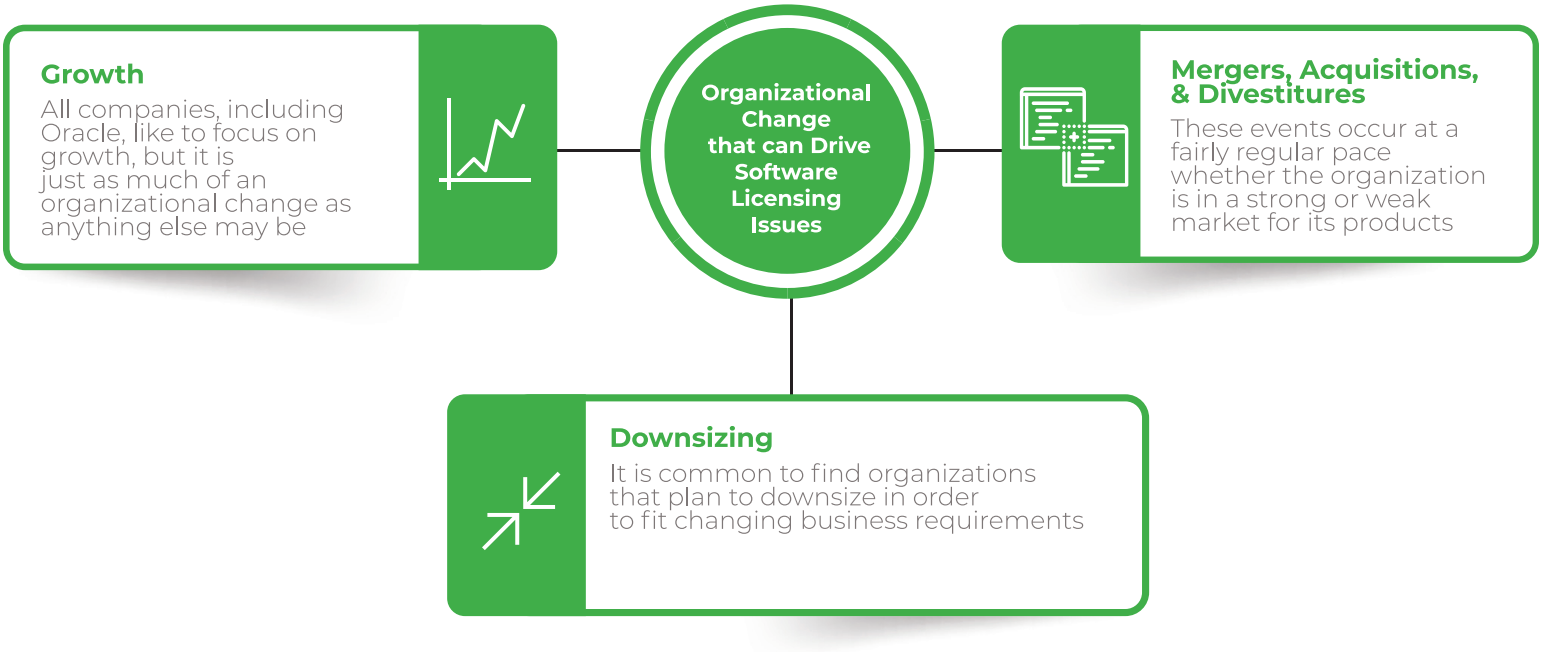
Organizational Changes that can Drive Software Licensing Issues

Organizational changes are one of the primary types of events that can cause software licensing issues. These include merges, acquisitions, divestitures, downsizing and business growth.



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Mergers, Acquisitions, and Divestitures

- These events occur at a fairly regular pace whether the organization is in a strong or weak market for its products
- Licensing is something that many organizations fail to plan for and consider in the details of the organizational change
- It is important to note that organizations, such as Oracle, pay close attention to the business activity of their client base, and their contractual language typically includes specific language related to M&A and divestitures

These type of events can trigger additional licensing requirements

- There is a high probability some portion of either the buyer and/or seller's Oracle software licensing contracts include some type of special language related to M&A and divestitures, which can be heavily customized with specific requirements
- This type of event will **likely** have an impact on an organization's Oracle software licensing, and in many cases such an event can trigger additional licensing requirements
- Organizations may find out months later that they acquired a company that was not compliant with their Oracle software at the time of acquisition, and depending upon how agreements are structured, such a finding can fall on the buyer or the seller

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Downsizing

- It is common to find organizations that plan to downsize in order to fit a changing marketplace, and since most are not trying to do it overnight, so there is planning involved
- Many underestimate the challenges in trying to reduce their licensing support costs for a shrinking environment
- Organizations often establish new software licensing contracts thinking they can shrink their usage and costs as part of the plan, but Oracle's policies favor growth and do not have a mechanism to assist their customers in downsizing, so any downsizing initiatives need to be carefully planned

Oracle does not support downsizing, so any downsizing initiatives need to be carefully planned

Detailed planning, and challenges are involved when reducing licensing support costs

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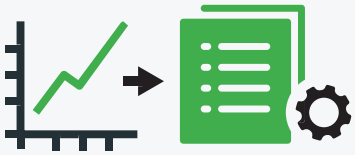
Growth

- All companies, including Oracle, like to focus on growth, but it is just as much of an organizational change as anything else may be
- Oracle may assume an organization's growth is a clear trigger for additional licensing, and in many cases they may or may not be correct, but with the power of server hardware today, which may not be true
- If true growth is becoming a reality, then it is important to consider how it may specifically impact the organization's software licensing needs in the future and plan accordingly



With growth, it is important to consider how it may impact software licensing needs

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Software Asset Management (SAM) Tools

SAM Tools come in many different flavors. They can be simple scanning tools all the way up to full multivendor contract management systems and everything in between.

Many organizations hope that the use of such a tool will resolve all of their software license compliance issues and concerns they no longer need to manage it. This is absolutely **not true** for the following reasons:

Limited Detection
No tool can identify all software products, and correctly calculate their licensing requirements.

Rules & Policy Limitations
Many licensing rules that cannot be calculated through the physical existence of the software.

Certification
Any tools that may be "certified" by Oracle are not certified to identify software compliance; they are "certified" to collect base information, and only on certain products.

Custom Metrics
In particular scenarios where it makes sense, Oracle allows the use of custom metrics. Such metrics would have special counting requirements that no software could possibly know, or be prepared to allocate properly.

Changes in Rule Interpretations
Oracle evolves the interpretations of their licensing policies, which means there are no changes to the current policy documents. There is no way for a tool vendor to become aware of this in order to make such changes to their software, since Oracle has not officially changed a rule, only the interpretation of the rule.

Hosting Restrictions
Many organizations have outsourced some or all of their datacenters to third-party hosting sites, which do not allow organizations to run tools within their environments.

Security Restrictions
Due to the heightened security requirements within many organizations, tools cannot reach all portions of the organization without requiring many more deployments of the tools or adjustments – even temporary ones – to the security protocols.

Incomplete Scanning
Even though a tool may discover information, it is important that an organization verify everything reported. For various reasons, tools may miss, or not have access, to servers that have software. There is no way to know unless you review all of the information that is reported by the tool.

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When does a tool make sense?

For most organizations, a tool can be helpful to try and gather information from large environments with hundreds, even thousands, of servers. This is particularly true if a company has little IT resources of their own. Even though they can collect some of the information, it is important to review that information to ensure it is actually correct. All identification of software compliance should be confirmed by your own team or through the use of a vendor such as Miro.

Conclusion

We hope you have found this document helpful in understanding the complexities of software licensing. The purpose of this document is to inform IT and non-IT readers of the nuances and complexities of software licensing, and the importance of maintaining a compliant environment. Miro has worked with nearly 1,000 companies worldwide in uncovering these (and many more) compliance issues, devoting nearly 200,000 hours over the last two decades to uncovering these compliance issues (and more), implementing solutions which lower the total cost of ownership, optimize environments, and strategize for the future.

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