2026-2 Highlights

Computer Software Protection / Liability / Law / Forms discusses issues relating to computer software and the often–obscure intersections between intellectual property law and contract, tax, and consumer law.

The work explains the legal, business, and tax issues affecting software-related dealings and examines intellectual property, contract, tax, regulatory, tort, and consumer law. Software publishing, custom development, and licensing are also discussed. This work also provides more than 100 customizable sample forms and documents, accompanied by commentary and cautions.

Topics covered in this publication include:

- Avenues of appeal if the U.S. Copyright Office refuses to register copyright claim
- Dangers of software developers losing trade secrets when state and local governments license software
- The final Shareware Regulations governing the recordation of documents pertaining to computer software
- Problem of "false positive" indications from computer virus detection programs
- Income characterization and tips on how to qualify for capital gains treatment
- Restrictive agreements in employment contracts
- Database protection
- Data privacy regulation
- Source code escrow arrangements
- International licensing and the sale of software

New features and recent developments in this 2026-2 update include:

- **Updated guidance on digital-contract enforceability:** Added discussion on courts' growing focus on conspicuous UI disclosures and affirmative user assent, including clickwrap versus sign-in-wrap design, recent case law, and audit-trail requirements for electronic signatures.
- **Expanded analysis of advanced-computing export controls:** Added discussion on BIS's May 2026 headquarters-based licensing guidance, which requires companies to assess the headquarters and ultimate-parent location of foreign counterparties—not just shipment destination—and strengthen ownership screening and remediation procedures accordingly.

- **New Supreme Court guidance on Lanham Act profit awards:** Added analysis of *Dewberry Group* and its limitation of disgorgement to profits earned by named defendants, underscoring the need to join relevant affiliates or establish a basis for veil piercing when pursuing trademark-infringement remedies.

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