

Consider Your Exposure in Microsoft Access Patent Case

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A patent ruling will require changes to some Microsoft Office and Access installations. Only new installations are affected, but most businesses will need to take some action.

NEWS ANALYSIS

Event

On 30 January 2006, Gartner clients reported that Microsoft has begun informing business customers that they are required to install Service Pack 2 (SP2) on all new Office 2003 installations, and Service Pack 3 (SP3) and an additional patch on all new Office XP installations. The changes — which result from a court decision against Microsoft in a patent case — remove a feature that allows Access to add or edit data in an Excel spreadsheet. Microsoft has confirmed that this policy is in effect. Details are available at <http://support.microsoft.com/kb/904018>.

Analysis

Installing this additional code is a legal, rather than technical, requirement. It applies only to copies of Access 2002 or 2003 installed after the Microsoft notice is received. Copies installed earlier are not affected; moreover, only Office packages that include Access are affected, and only if the Access code is actually installed as part of the Office installation.

Relatively few companies are likely to be in the middle of an Office deployment that includes Access 2002 or 2003. However, most refresh a portion of their PC installed base each year and reimage broken PCs on a daily basis — and this likely constitutes a new installation. For this reason, most companies need to take action.

Many details remain unclear, including: what penalties could result from not installing the new code; who would seek penalties (Microsoft or the patentholder); and how it would be possible to determine when a given copy of Access was deployed. Nonetheless, it is clear that a risk exists and that Microsoft — having provided a compliant alternative — will not indemnify customers against liability for patent infringement.

Recommendations for businesses

- Test all Office-based applications to ensure that they work with the new code, because newly purchased, repaired or reimaged PCs are affected. Pay particular attention to Access applications that interface with Excel.
- Consider deploying Office without Access to users with no specific need for its database functionality, as a quick and viable alternative to installing the new code.
- Recognize that installing the patches on new implementations without testing may be a quick alternative that minimizes legal risk, but risks breaking applications.
- Request that Microsoft issue a patch for Office 2003 SP1, as it has for Office XP SP3, so that an entire service pack does not need to be tested and deployed for Office 2003.
- If you anticipate significant difficulties in complying with the letter, try to get Microsoft to offer consulting assistance at little or no cost. Microsoft says that account managers will make arrangements to help organizations that have major problems complying.
- If you feel you cannot comply with the order, work with legal counsel to understand your risk and exposure.

Analytical Sources: Michael Silver and Alexa Bona, Gartner Research

Recommended Reading and Related Research

- "Microsoft's Open XML Moves May Stall OpenDocument Format" — Microsoft is taking steps toward making its Open XML file format a standard. **By Rita Knox and Michael Silver**
- "Office 12 Interface May Up Productivity, Migration Complexity" — The new Office interface may improve user productivity, but will likely complicate migrations. **By Michael Silver and Stephen Kleynhans**

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