The Tale of the License Consultant and Galaxy Licensing

How to Save Millions on Your Oracle Audit

The First Audit Follows Oracle's Unwritten Virtualizing Policy

With over 1,000 employees, ABC Company is a global provider of cloud-based administration software. In November, Oracle started an audit of ABC Company's databases, and middleware and the company decided to engage a third-party license consulting firm to get an objective assessment. The third-party firm found that ABC was out of compliance and owed $57 million in back licenses and fines!!

ABC had six VMware clusters – one cluster to support middleware, another to support the Oracle database, and a third cluster for all non-Oracle software. It also had the same cluster configuration to support Disaster Recovery (DR). In both the production and DR environments, ABC kept their Oracle workloads restricted to those six environments.

However, the third-party consulting firm determined that ABC Company was in violation of its license agreement. However, in so doing, the consulting firm was holding ABC Company to the terms of Oracle's so-called "Partitioning Policy" -- not the licensee's actual contractual obligations. To be clear, this is the same extra-contractual policy document that Oracle License Management Services (LMS) purportedly relies upon when determining the proper way to license Oracle
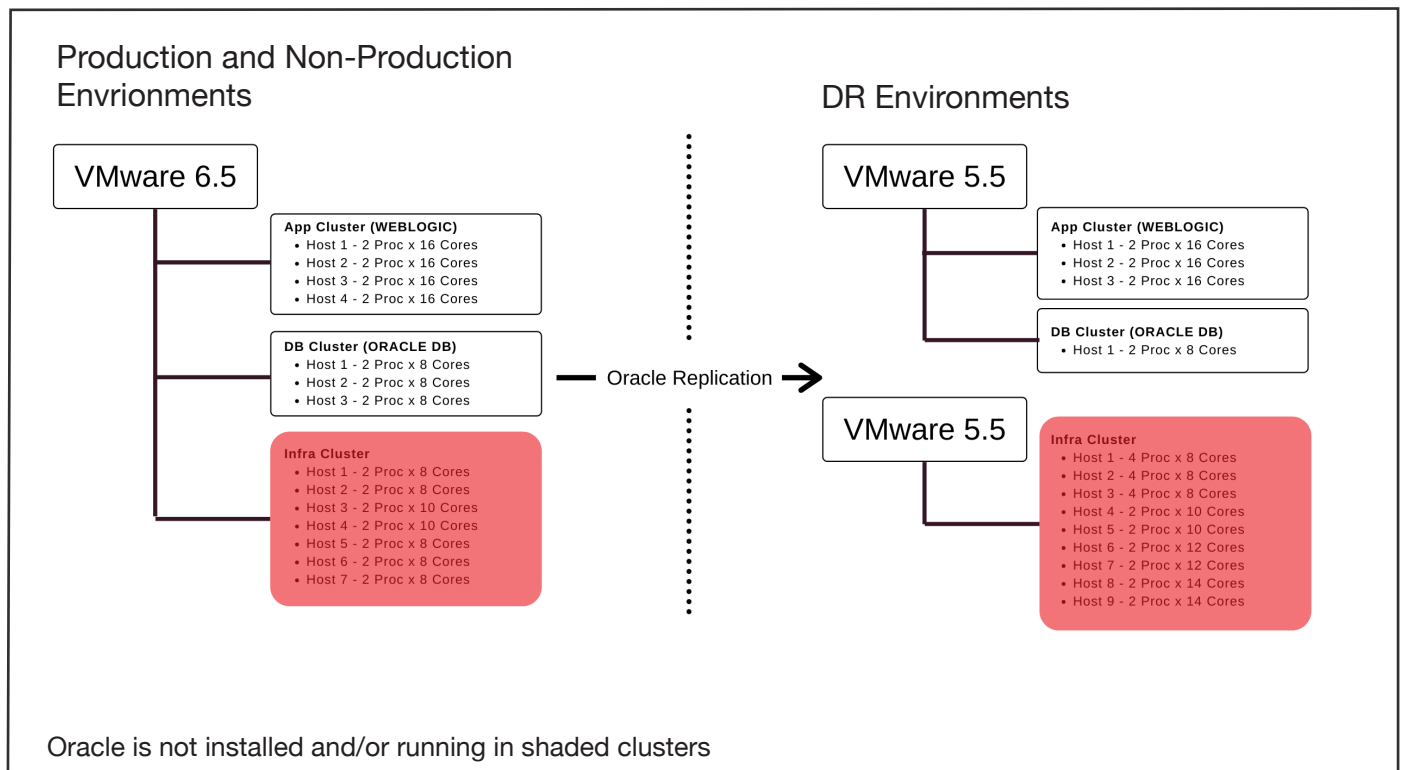
software. In fact, it has been well documented by Gartner research that Oracle attempts to enforce this policy document as if it were a binding contractual obligation. It is License Fortress's position that many (if not most) Oracle customers that adhere to the Partitioning Policy in lieu of their contractual obligations are over licensed and are accordingly paying way too much for their use of Oracle software.

LicenseFortress has recently announced an exclusive partnership with **Beeman & Muchmore, LLP,** for its programs that offer its clients legal counseling and guidance with regard to Oracle agreements and any disputes between Oracle and its licensees. Founding Partners Arthur S. Beeman and Joel T. Muchmore were counsel of record for **Mars vs. Oracle**, the first and, to date, the only suit brought on behalf of a licensee against Oracle challenging its auditing and licensing tactics. Through their years of representing Oracle licensees in contentious audit disputes they have challenged the application of the Partitioning Policy on dozens of occasions and their legal position has been unwaivering for years: Oracle's Partitioning Policy is extra contractual and unenforceable.

Neither ABC Company nor most companies that license Oracle software pursuant to the standard Master Agreement and the terms of the typical Ordering Document agreed to be bound by the terms of the Partitioning Policy. Absent agreement between Oracle and the licensee, these terms are simply not enforceable against the licensee and cannot be used to establish a licensing gap. Confirming this, the Partitioning Policy itself explicitly states that it is "for education purposes only," "may not be incorporated into any contract" and "does not constitute a contract or a commitment to any specific term." Per this language alone, not only is the typical licensee not obligated to conform to the terms of the Partitioning Policy, neither is Oracle. The fact that Oracle itself has explicitly reserved the right to change the terms of the policy (and thereby mooting any licensee attempts to meet its terms) underscores the unenforceability of the Partitioning Policy and the futility of any licensee attempts to meet its terms.

Naturally, the terms of the Partitioning Policy are overwhelmingly lucrative for Oracle. Following Oracle's virtualizing licensing policy: ABC would need to count all the physical cores of all the physical ESXi hosts in all the vCenter Server Instances, even if your organization is not running Oracle across the entire VMware environment. Based on this position, ABC Company's total core count was 306. The details are depicted in Figure 1 below.

Figure 1

Production and Non-Production Envrionments

VMware 6.5

App Cluster (WEBLOGIC)
- Host 1 - 2 Proc x 16 Cores
- Host 2 - 2 Proc x 16 Cores
- Host 3 - 2 Proc x 16 Cores
- Host 4 - 2 Proc x 16 Cores

DB Cluster (ORACLE DB)
- Host 1 - 2 Proc x 8 Cores
- Host 2 - 2 Proc x 8 Cores
- Host 3 - 2 Proc x 8 Cores

Infra Cluster
- Host 1 - 2 Proc x 8 Cores
- Host 2 - 2 Proc x 8 Cores
- Host 3 - 2 Proc x 10 Cores
- Host 4 - 2 Proc x 10 Cores
- Host 5 - 2 Proc x 8 Cores
- Host 6 - 2 Proc x 8 Cores
- Host 7 - 2 Proc x 8 Cores

Oracle Replication →

DR Environments

VMware 5.5

App Cluster (WEBLOGIC)
- Host 1 - 2 Proc x 16 Cores
- Host 2 - 2 Proc x 16 Cores
- Host 3 - 2 Proc x 16 Cores

DB Cluster (ORACLE DB)
- Host 1 - 2 Proc x 8 Cores

VMware 5.5

Infra Cluster
- Host 1 - 4 Proc x 8 Cores
- Host 2 - 4 Proc x 8 Cores
- Host 3 - 4 Proc x 8 Cores
- Host 4 - 2 Proc x 10 Cores
- Host 5 - 2 Proc x 10 Cores
- Host 6 - 2 Proc x 12 Cores
- Host 7 - 2 Proc x 12 Cores
- Host 8 - 2 Proc x 14 Cores
- Host 9 - 2 Proc x 14 Cores

Oracle is not installed and/or running in shaded clusters

The third-party firm stated that ABC was out of compliance and owed over **$57 million in back licenses and fines!** The recommendation was made that ABC Company settle with Oracle by purchasing an Unlimited License Agreement (ULA) for around $8 million. Not surprising that the recommended an ULA given that they believe Oracle policy is the proper way to license Oracle software. See Figure 2 below.
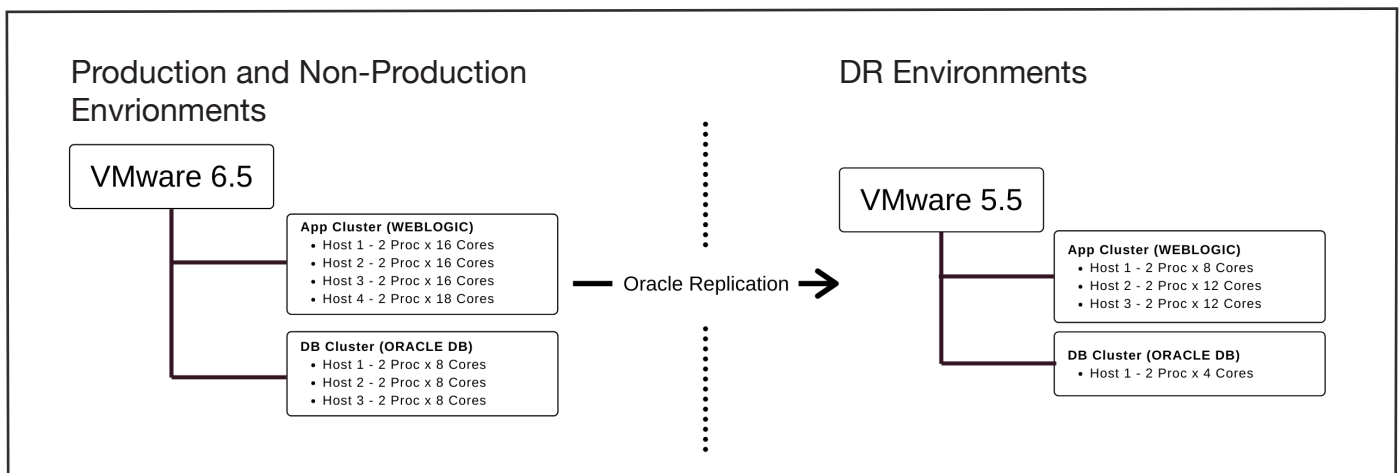
Figure 2

Product Group	Product Family	Product Name	Entitlement Metric	Quantity	Deployment Metric	Quantity	Surplus Licenses	Non-Compliance	Compliance Cost
Database	Database	Database Enterprise Edition	Processor	28	Processor	306	0	278	$16,110,100
Database	Options	Advanced Security	Processor	28	Processor	306	0	278	$5,087,400
Database	Options	Database Vault	Processor	28	Processor	0	28	0	$0
Database	Options	Partitioning	Processor	28	Processor	306	0	278	$3,900,340
Database	Options	Real Application Clusters	Processor	24	Processor	0	24	0	$0
Database	Options	Advanced Compression	Processor	0	Processor	306	0	306	$4,293,180
Database	Management Packs	Diagnostics Pack	Processor	28	Processor	306	0	278	$2,543,700
Database	Management Packs	Tuning Pack	Processor	0	Processor	306	0	306	$1,866,600
Database	Management Packs	Data Masking and Subsetting Pack	Processor	0	Processor	306	0	306	$4,293,180
Database	Management Packs	Database Lifecycle Management Pack	Processor	0	Processor	306	0	306	$4,479,840
Database	Integration	Golden Gate	Processor	28	Processor	306	0	278	$5,935,300
Middleware	Application Server	WebLogic Server Enterprise Edition	Processor	0	Processor	306	0	306	$9,333,000
								Total	$57,842,640

LicenseFortress Audit Corrects the Policy Interpretation

Before making any payments, ABC Company's Board directed its executives to engage another consulting firm and reached out to LicenseFortress for a second opinion. LicenseFortress performed an analysis that the previous consulting firm and found no issue with the VMware configuration that ABC Company had set up (see Figure 3).

Figure 3

Production and Non-Production Environments — DR Environments

VMware 6.5

App Cluster (WEBLOGIC)
- Host 1 - 2 Proc x 16 Cores
- Host 2 - 2 Proc x 16 Cores
- Host 3 - 2 Proc x 16 Cores
- Host 4 - 2 Proc x 18 Cores

DB Cluster (ORACLE DB)
- Host 1 - 2 Proc x 8 Cores
- Host 2 - 2 Proc x 8 Cores
- Host 3 - 2 Proc x 8 Cores

Oracle Replication →

VMware 5.5

App Cluster (WEBLOGIC)
- Host 1 - 2 Proc x 8 Cores
- Host 2 - 2 Proc x 12 Cores
- Host 3 - 2 Proc x 12 Cores

DB Cluster (ORACLE DB)
- Host 1 - 2 Proc x 4 Cores

Unlike the first consulting firm, LicenseFortress did not include servers/clusters on which Oracle is not installed and/or running. Nowhere in the Oracle contract does it mention VMware or virtualization. It's completely up to the customer how they want to control where Oracle is running. The contract is very clear, you must pay for where Oracle is installed and/or running explained in the Oracle contract excerpt below.

Processor: shall be defined as all processors where the Oracle programs are installed and/or running. Programs licensed on a Processor basis may be accessed by your internal users (including agents and contractors) and by third party users. The number of required licenses shall be determined by multiplying the total number of cores of the processor by a core processor licensing factor specified on the Oracle Processor Core Factor Table which can be accessed at http://oracle.com/contracts. All cores on a multicore chips for each licensed program are to be aggregated before multiplying by the appropriate core processor licensing

Ultimately, LicenseFortress found two minor compliance gaps totaling $244k (see figure 4):
- Unlicensed usage of Tuning Pack
- DR environment was not licensed for WebLogic

Figure 4

Product Group	Product Family	Product Name	Entitlement Metric	Quantity	Deployment Metric	Quantity	Surplus Licenses	Non-Compliance	Compliance Cost
Database	Database	Database Enterprise Edition	Processor	28	Processor	~~306~~ 28	~~0~~	~~278~~ 0	~~$16,110,100~~ $0
Database	Options	Advanced Security	Processor	28	Processor	~~306~~ 28	~~0~~	~~278~~ 0	~~$5,087,400~~ $0
Database	Options	Database Vault	Processor	28	Processor	0	28	0	$0
Database	Options	Partitioning	Processor	28	Processor	~~306~~ 28	0	0	~~$3,900,340~~ $0
Database	Options	Real Application Clusters	Processor	24	Processor	0	24	0	$0
Database	Options	Advanced Compression	Processor	0	Processor	0	0	0	~~$4,293,180~~ $0
Database	Management Packs	Diagnostics Pack	Processor	28	Processor	~~306~~ 28	0	0	~~$2,543,700~~ 0
Database	Management Packs	Tuning Pack	Processor	0	Processor	~~306~~ 28	0	28	~~$1,866,600~~ $170,800
Database	Management Packs	Data Masking and Subsetting Pack	Processor	0	Processor	0	0	0	~~$4,293,180~~ $0
Database	Management Packs	Database Lifecycle Management Pack	Processor	0	Processor	0	0	0	$4,479,840 $0
Database	Integration	Golden Gate	Processor	28	Processor	~~306~~ 28	0	0	~~$5,935,300~~ 0
Middleware	Application Server	~~WebLogic Server Enterprise Edition~~ WebLogic Server Standard Edition	Processor	8	~~Processor~~ Socket	~~306~~ 14	0	6	~~$9,333,000~~ $73,200
								Total	~~$57,842,640~~ $244,000

The Lesson Learned

How did the ABC company go from owing over $57 million in back licensing fees and fines to only $244,000? Simple. Most license consultants lack the technical expertise across the Oracle portolio. In this case, the consultants admitted they couldn't tell the difference and just applied the worst case scenario. Because of this, they incorrectly identified a product and they applied "galaxy licensing," meaning: license *everything*. These two errors in their recommendations would result in the customer significantly over-licensed and paying a substantial amount more than necessary. Even the consultant's final recommendation to settle for an $8 million ULA is still substantially more than LicenseFortress' findings.

ABC Company made the right decision to bring in an outside consultant and not rely on an Oracle audit. Unfortunately, the company learned that "all consulting firms are not equal."

Before making any multi-million decisions to pay back-license fees and fines or upgrade your Oracle licenses, consider engaging LicenseFortress. We will validate your Oracle configuration based upon your Oracle contract, and issue your organization a certificate of compliance.

As a LicenseFortress Standard and Premier customer, you will have the benefits of technical and license expertise as well as legal advice from **Beeman & Muchmore, LLP**.

For our Premier customers, the enhanced protection of our financial guarantee holds us liable if a court of law deems our contract interpretation was incorrect. This means that regardless of the outcome of an Oracle audit, you will never pay for back-license fees and fines.

About LicenseFortress

LicenseFortress was developed in 2014 by VLSS's Founder & Chief Architect, Dean Bolton. VLSS has spent over 13 years specializing in Oracle and VMware technologies. LicenseFortress was born after VLSS was approached by VMware about a predicament that many of their customers were facing when trying to license Oracle on VMware. Oracle's aggressive auditing tactics shed light on the dire situation that most companies face when using Oracle's products, especially in a cloud environment. While some companies have been deterred from using Oracle, we believe it is a powerful tool for your business when deployed correctly. That's where LicenseFortress helps you take control of your license investment while removing the threat of being out of compliance.

We help customers optimize their licenses by making sure they are using 100% of what they already purchased, retiring unused licenses to reduce support costs and eliminate compliance risks. These changes result in an average savings of $2.9 million (USD) per customer. That is 125% more than traditional software license consultants. To learn how LicenseFortress can help your organization save more money on Oracle licensing, contact us today at **info@licenesortress.com** or **book a demo**.

Anonymity Statement

This case study is based upon a customer of LicenseFortress. LicenseFortress takes steps to properly safeguard sensitive and personal information by removing all direct identifiers – e.g., name, location, CSI numbers, etc. This step is taken to protect the identity of our customers.

LicenseFortress LLC

515 S. Flower Street
18th Floor
Los Angeles, CA 90071
United States
+1 424 231 4135
info@licensefortress.com