

In recent years, software deals have grown even more complicated and difficult to both understand and manage. This is where ICN steps in. We deliver the latest information you need to know about software issues, contracts and negotiations.

This workshop is presented by highly skilled instructors with years of hands-on experience, so you get valuable insights and tips you can put to use immediately. What you learn at this workshop translates directly into greater protection and more flexibility in every agreement you negotiate.

Benefits

- Understand current market trends
- Learn negotiating tactics you can use
- Learn and understand remedies to use for noncompliance
- Avoid litigation
- Save your assets
- Learn keys to success in development contracts
- Obtain meaningful warranties and remedies

Takeaways

- Software License Agreement Checklist
- Software Development Agreement Checklist
- Checklist for a Software Package Contract
- Software license User Form Agreement
- Software Development User Form Agreement

Workshop Topics

Course Length: 2 Days

Your Challenge

Customer Environment

1. Less experience
2. Urgency
3. Less incentive
4. Relationship
5. Tradition
6. Bad process/no process
7. Wired deals
8. A "solution" is acquired
9. Renegade decision makers
10. Standardized on one vendor
11. Don't understand how software is protected

Our Worthy Opponent

1. Full-time
2. Highly trained
3. Information advantage
4. Very motivated
5. Team advantage
6. Superior product knowledge
7. Changing pricing and usage models

Relationship Dynamics

1. Customer objectives
2. Vendor objectives

Risk Allocation

1. Customer
2. Vendor

Defective Process—What's Wrong?

1. Evaluation
2. Selection
3. Negotiations

The Solution—The Managed Acquisition Process

1. Form team
2. Establish decision criteria
3. Determine relationship architecture
4. Gain management approval
5. Develop contract
6. Issue request for proposal
7. Conduct bidders' conference
8. Evaluate potential vendors
9. Implement the Zone of Consideration
10. Manage the contract

How Software Is Protected

1. The four key types of intellectual property law
 - a. Copyrights
 - What they protect
 - Protection requirements
 - When protection attaches

- Protection duration
- Copyright holder's rights
- Other information
 - Assignments
 - Berne Convention
 - First Sale Doctrine
 - Work made for hire

b. Patents

- What they protect
- Protection requirements
- Patent holder's rights
- Types of patents
- Protection duration
- Other information
 - Assignments
 - Paris Convention
 - First Sale Doctrine
 - No independent creation

c. Trade secrets

- Definition
- Examples
- Protection requirements
- Protection duration
- When protection attaches

d. Trademarks

- Definition
- What they protect
- Types

2. Summary

Key Licensing Ingredients

1. Introduction
 - a. Identify the context of the negotiation
 - b. Contracting principles
2. Issue spotting and negotiation strategies
 - a. Parties to the contract
 - Who is the licensor?
 - How is licensee defined?
 - b. Grant of license
 - Do defined terms limit use?
 - Other common restrictions
 - c. Payment terms
 - Pay for performance
 - Acceptance tests
 - Aggregate purchases
 - d. Warranty
 - Do UCC warranties matter?
 - What warranties should be included?
 - e. Documentation
 - Defining your rights to use/modify
 - Is the vendor obligated to update?
 - f. Training
 - Included?
 - Hidden charges
 - Scheduling
 - g. Maintenance
 - Mandatory?
 - What is included/excluded?
 - Has the licensor subcontracted?
 - Methods of delivery
 - Levels (Silver, Gold, Platinum)
 - Caps on increases
 - h. Indemnification
 - Distinguish among
 - Indemnify
 - Defend
 - Hold harmless

- Who is protected?
 - What is excluded?
 - Specific to intellectual property
 - Which versions of the software are covered?
- i. Assignment
 - Consent required?
 - What are each party's interests?
 - j. Source code escrow
 - Limitations
 - Usefulness
 - Rights
 - Under seal agreement
 - k. Termination
 - Who can?
 - When?
 - l. Limitation of liability
 - Carve-outs
 - Reasonableness of the limit
 - m. Confidentiality
 - What should be protected?
 - Reasonable duration
 - What should be disclosed?

Software Development

1. Why have software developed?—**Five reasons, including:**
 - a. Want ownership
 - b. Don't have expertise in-house
2. What does software development encompass?
 - a. New software
 - b. Customization of your software
 - c. Customization of the vendor's software
3. Decide results or resources deal
 - a. Determining responsibility
 - For the outcomes
 - For the project management

4. Other important issues—**Fourteen key considerations, including:**
 - a. Payment triggers
 - b. Acceptance testing
 - c. Infringement protection
 - d. Remedies

Pricing Models and Strategies

1. Pricing models
 - a. Power
 - b. Value
 - c. Production
 - d. Device/site
 - e. Duration of license
 - f. Volume of purchases
 - g. Number of users/devices
 - h. Other emerging models
2. Strategies
 - a. Bundled pricing
 - b. Long-term commitments
 - c. Control of price increases
 - d. Defining terms
 - e. Forced upgrades
 - f. Archaic pricing structures
 - g. Other common vendor plays

Avoiding Litigation

1. Reviewing rights
2. Understanding applicable laws such as UCITA
3. Defining terms appropriately
4. Determining scope of use
5. Identifying potential users
6. Recognizing hidden pitfalls
7. Establishing audit provision limitations

Learn truth from the trenches
from industry pros