

Why Big Development Projects Can Equal Big Legal Headaches without Well-Drafted Agreements

If your company has just landed a big tech or software development project for a third party, do not underestimate the importance of the agreement in protecting the revenue stream you are being offered in exchange for your development services.

The typical tech or software development agreement requires lump sum payments in installments throughout the term of the relationship. Also, the typical development agreement will have at most a statement of work connected with the project and will rarely be accompanied by technical specifications or milestones, with respect to which approval can be sought at the various phases of the development.

Why can this be a problem? Well, if your company agrees to take on a large tech or software development project and has not defined contractually in detail the technical specifications and standards required to be performed, or developed detailed milestones that can be tied to satisfaction of particular phases of the project, how exactly can you prove that you earned the money paid in installments if the customer pulls the plug on the project at any stage? How exactly do you prove that you fulfilled your responsibilities with respect to the development project if you never actually reached agreement as to the technical terms of the development project?

The reality is that it can be very hard to enforce an agreement when the key terms of the relationship were never

actually memorialized in writing. While the risk of not being able to enforce your agreement may be low in low dollar value development projects, that risk escalates dramatically as the dollar value of the project also increases into the hundreds of thousands of dollars or even millions.

In general, when I see disputes involving tech or software development projects, the dispute can almost always be attributed to a poorly drafted agreement between the parties.

So, what can you do to minimize your risks of taking on a tech or software development project?

First and foremost, obtain help from experienced technology transactions counsel when your company is first approached with a potential development project. An experienced attorney in this space can guide you through the negotiation process at the early stages, so that you don't have to renegotiate terms that have already been agreed to by the potential development partner. It can be very hard to get partner buy-in on developing and memorializing good technical terms when the parties are already weeks or months into the negotiation the deal.

Second of all, ensure that the technical specifications and requirements for the project have been defined in detail, and develop milestones throughout the development process, which can be approved. Also, develop a process that is very well-defined within the contract to obtain that approval. If a specific timeline is required at any part of the process, develop terms that reflect the agreed upon timeline as well.

Third, instead of merely requiring payment by installments through the development work, develop payments that are tied to the accomplishment of specific well-defined milestones, in order to ensure that your company is can prove that any payment received was earned as a result of the successful accomplishment of the applicable milestone(s).

The bottom line is that a big tech or software development project should be accompanied by a very detailed, technically-specific development agreement if a company prefers to avoid big legal headaches down the road. It is in your company's best interest to ensure that any development agreement that the parties execute is drafted to protect the anticipated revenue stream from the development project.

If your company is contemplating a tech or software development project and is concerned about avoiding future legal headaches, schedule a consultation today at <https://calendly.com/prinzlawoffice>.

IP Licensing Lawyer Kristie Prinz shares Recording on Leveraging an IP Portfolio in the Development of Partnering Relationships

To view a recording of the presentation available in The Prinz Law Store, [click here](#).