

# **Silicon Valley Software Lawyer Kristie Prinz to Present Upcoming Webinar on “Drafting Software Hosting Agreements”**

Silicon Valley Software Lawyer Kristie Prinz will be presenting an upcoming webinar with FieldFisher partner Laura Berton on “Drafting Software Hosting Agreements: Service Availability, Performance, Data Security, Other Key Provisions” for Strafford on Thursday, July 25th from 10 a.m. to 11:30 a.m. PST. For more information on the program, please [click here](#).

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# **Software Attorney Kristie Prinz to Present Webinar on “Drafting Software Hosting Agreements” Hosted by Strafford**

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Provisions” for Strafford on Thursday, July 25th from 10 a.m. to 11:30 a.m. PST. For more information on the program, please [click here](#).

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## **The Prinz Law Office to Launch New Alternative Billing Solution**

The Prinz Law Office is pleased to announce the launch of a new alternative legal billing solution for our clients in the software/SaaS, tech and health tech/digital health, and IT/healthIT industries: the subscription billing model. We have been following the recent popularity of this model with California companies, and have decided to adopt our own version. We believe that it may be a good fit for clients with ongoing firm needs, particularly in the transactional space. Our new plans will be based on daily and half-daily billing, eliminating traditional hourly timekeeping for clients who choose this option. For more information on how a subscription solution would work, please contact Kristie Prinz at [kprinz@prinzlawoffice.com](mailto:kprinz@prinzlawoffice.com) or 408.884.854.

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## **What SaaS Companies Need to**

# **Know about Source Code Escrow Agreements**

If you run a SaaS company, you may come across a negotiation where a prospective customer or business partner insists on the inclusion of source code escrow in the deal terms. However, the traditional source code escrow product is unlikely to provide the protections that your prospective customer or business partner is seeking. The Silicon Valley Software Law Blog addresses the issue of source code escrow products designed for SaaS products and what SaaS companies need to know about them in the following blogpost:

<http://www.siliconvalleysoftwarelaw.com/what-saas-companies-need-to-know-about-source-code-escrow-agreements/>

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## **News Update on California's Enactment of Landmark Data Privacy Law**

News Update 6.29.18

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## **In the Aftermath of GDPR,**

# California Passes Consumer Privacy Act of 2018

Software companies are still taking steps to comply with the European Union's General Data Privacy Regulation ("GDPR"), which just recently went into effect, but they now are facing the prospect of having to comply with a law closer to home: California's New Consumer Privacy Act of 2018. The Silicon Valley Software Law Blog discusses this development at the following blogpost:

<http://www.siliconvalleysoftwarelaw.com/in-aftermath-of-gdpr-california-passes-consumer-privacy-act-of-2018/>

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# California Supreme Court Ruling To Have Long Term Impact on Silicon Valley Reliance on Gig Workers

If your Silicon Valley company relies on Gig workers as part of its business model, then the California Supreme Court's ruling is likely to have significant consequences for your business. The Silicon Valley Software Law Blog discusses this ruling at the following blogpost:

<http://www.siliconvalleysoftwarelaw.com/california-supreme-court-strikes-blow-to-software-industry-reliance-on-gig-workers/>

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# European Court to Hear Challenge to Privacy Shield: Will the Framework Survive Court Review?

If your software company has pursued Privacy Shield certification and is relying on the certification to comply with EU data privacy regulations, then you will be interested to know that a challenge to the framework is to be heard by a European High Court. The Silicon Valley Software Law Blog has addressed this development and what it may mean for the Privacy Shield framework in the following blog post:

<http://www.siliconvalleysoftwarelaw.com/irish-court-has-referred-case-to-european-court-which-challenges-privacy-shield-will-the-eu-u-s-privacy-shield-framework-withstand-scrutiny-by-the-european-high-court/>

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## What Software Companies Need to Know about the GDPR

The European Union's General Data Protection Regulation (the "GDPR") will go into effect on May 25, 2018. In case you are not up to speed on the law already, what do you need to know about it before it goes into effect? The Silicon Valley Software Law Blog addressed the highlights of the regulation

in the following blogpost

:<http://www.siliconvalleysoftwarelaw.com/what-software-companies-need-to-know-about-the-eu-general-data-protection-regulation/>

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# **Silicon Valley Software Lawyer Kristie Prinz to Present Webinar on “Negotiating SaaS Agreements: Drafting Key Contract Provisions, Protecting Customer and Vendor Interests”**

Silicon Valley Software Lawyer Kristie Prinz will be co-presenting a webinar on “Negotiating SaaS Agreements: Drafting Key Contract Provisions, Protecting Customer and Vendor Interests” with Kelley Miller of Reed Smith on August 8, 2017 at 10:00 a.m. PST/1:00 p.m. EDT. To register for this webinar, please sign up at: <https://www.straffordpub.com/products/negotiating-saas-agreements-drafting-key-contract-provisions-protecting-customer-and-vendor-interests-2017-08-08>.

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# **Bipartisan Bill Introduced in Senate that Seeks to Prevent Attacks on American Cyber-Networks**

The “PATCH Act of 2017” has just been introduced in the Senate, which would require government agencies to submit security holes in software products they identify for independent review in order to determine any vulnerabilities that need to be addressed. For more information on the bill, please check out the Silicon Valley Software Law Blog posting on the story:

<http://www.siliconvalleysoftwarelaw.com/bipartisan-bill-introduced-in-senate-that-seeks-to-prevent-attacks-of-american-cyber-networks/>.

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# **BiPartisan Bill Introduced in Senate that Seeks to Prevent Attacks on American Cyber-Networks**

The “Protecting Our Ability to Counter Hacking Act of 2017” or “PATCH Act of 2017” has just been introduced in the

Senate. For more background on the bill, please check out this Silicon Valley Software Law Blog post:

<http://www.siliconvalleysoftwarelaw.com/bipartisan-bill-introduced-in-senate-that-seeks-to-prevent-attacks-of-american-cyber-networks/>

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## **Investigation Reportedly Launched by Department of Justice into Uber's Use of "Greyball" Software**

The Department of Justice has launched an investigation into Uber's use of the Greyball software program. For more information on the investigation, please check out the following Silicon Valley Software Law Blog posting on the story:

<http://www.siliconvalleysoftwarelaw.com/investigation-reportedly-launched-by-department-of-justice-into-ubers-use-of-greyball-software/>

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## **Common Software Fee Drafting**



# Problems and How to Fix Them

A common problem in software and SaaS agreements is that the fee terms in the contract make no sense. Why is this the case and how do you fix the terms? The Silicon Valley Software Law Blog addresses this issue in the following posting:

<http://www.siliconvalleysoftwarelaw.com/common-software-agreement-fee-drafting-problems-and-how-to-fix-them/>

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## Does Your Customer Software License or SaaS Agreement Leave Your Company Vulnerable to a Dispute Over Implementation?

If your company is like most in the software space, your product requires some sort of initial set-up and configuration for customers that in an enterprise scenario can require a significant investment of time and resources. However, many software contracts are silent regarding what is involved in this initial phase of a business relationship, which results in many disputes. The Silicon Valley Software Law Blog discusses this issue in the following blogpost:

<http://www.siliconvalleysoftwarelaw.com/does-your-customer-software-license-or-saas-agreement-leave-your-software-company-vulnerable-to-a-legal-dispute-over-implementation/>

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# **Could a Software Developer Whose Code is Used for Hacking be Convicted of a Crime?**

If you are a developer and you develop code that hackers then use to commit crimes, then you may be at risk for criminal prosecution. Could prosecution of developers for code used by hackers be a new trend in law enforcement? For more information on the risks to software developers, please check out this Silicon Valley Software Law Blog posting:

<http://www.siliconvalleysoftwarelaw.com/could-a-software-developer-whose-code-is-used-for-hacking-be-convicted-of-a-crime/>

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# **Service Level Agreements: What is a Service Level Agreement or “SLA” and When Do You Need One?**

If you are in the software industry, you probably have heard of a “service level agreement” or “SLA” but do you really understand what a service level agreement is or why you might need one? The Silicon Valley Software Law Blog addresses this

issue in the following blogpost:

<http://www.siliconvalleysoftwarelaw.com/service-level-agreements-what-is-a-service-level-agreement-or-sla-and-when-do-you-need-one/>

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## **Recent FTC Enforcement Actions Should Serve as a Warning to Software Industry Regarding Privacy Practices**

If your company is like most and you have given little or no thought to your company's privacy policy while also collecting data and looking for ways to monetize it, then you may want to rethink how you are operating in light of recent enforcement actions by the FTC in the user data space. The Silicon Valley Software Law Blog addressed these developments in the following blogpost:

<http://www.siliconvalleysoftwarelaw.com/recent-ftc-enforcement-actions-should-serve-as-warning-to-software-industry-about-privacy-practices/>

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# **Silicon Valley SaaS Attorney Kristie Prinz to Speak on “Negotiating Software-as-a- Services Contracts”**

Silicon Valley lawyer Kristie Prinz will be presenting a webinar on “Negotiating Software-as-a-Services Contracts” for Clear Law Institute on Monday, December 19, 2016 at 10 a.m. PST/1 p.m. EST.

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# **US Navy Responds to Copyright Infringement Suit Filed by Bitmanagement Software**

Bitmanagement Software GmbH has filed suit against the US Navy alleging willful copyright infringement of its 3D virtual reality software “BS Contact Geo” and demanding \$600 million in damages. The Silicon Valley Software Law Blog discussed this and the issues likely involved in the dispute in the following blogpost:

<http://www.siliconvalleysoftwarelaw.com/us-navy-responds-to-copyright-infringement-suit-filed-by-bitmanagement-software/>

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# Takeaways for Software Industry on the Cost of Data Breach

If you are a cloud service provider or a software provider who offers maintenance services to enterprise-level companies, then your company has likely had occasion to negotiate indemnification clauses related to data breaches. Moreover, your company has probably had to provide warranties around data security or employee bad acts that would provide some protections to your customers in the event of a data breach. But have you ever considered what the cost of a possible data breach might really be for your company? The Silicon Valley Software Law Blog addresses this issue in the following blogpost:

<http://www.siliconvalleysoftwarelaw.com/takeaways-for-software-industry-from-new-study-on-costs-of-data-breach/>

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## HP Launches New Digital Rights Management Software Controversy with Security Update Downloads

HP has set off a new DRM software controversy over printer cartridges with a recent security update to HP printers, which made third party printer cartridges no longer compatible with their printers. The Silicon Valley Software Law Blog explores

the controversy and suggests that new litigation over DRM software could be on the horizon in the following blogpost:

*Digital Rights Management Software and the Printer Hardware Business*

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Silicon Valley lawyer Kristie Prinz will be presenting a webinar on “Negotiating Software-as-a-Service Contracts” for Clear Law Institute on Monday, December 19, 2016 at 10 a.m. PST/1 p.m. EST.

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## **FTC Announces Order Against San Francisco Software Company**

The FTC has issued an order against a San Francisco software company for deceptive and misleading trade practices with respect to the distribution of the software product and with

respect to advertising and promotions related to the software product. The Silicon Valley Software Law Blog has provided a brief summary of the complaint and the order issued by the FTC in the following blogpost:

<http://www.siliconvalleysoftwarelaw.com/ftc-announces-approval-of-final-order-in-deceptive-app-case-against-vulcan>

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## **SaaS Lawyer Kristie Prinz to Speak at Upcoming Webinar on “Negotiating Software as a Service Contracts”**

SaaS Lawyer Kristie Prinz will be speaking on “Negotiating Software as a Service Contracts” at a webinar sponsored by Clear Law Institute, which will be held at 10 a.m. PST/1 p.m. EST on May 6, 2016. For more information on the webinar, please contact Clear Law Institute at <http://clearlawinstitute.com/>.

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## **Should Your Software Company Be Concerned about Product**

# ADA Compliance?

If your software company is like most, it may have considered whether the office space it was leasing was compliant with the Americans with Disabilities Act (“ADA”) prior to signing the lease, but the idea that the products the company was selling might not be ADA compliant has never been contemplated by anyone. However, now may be a good time to give the issue some serious consideration, as the Silicon Valley Software Law Blog explains in the following blogpost:

## **Should Your Software Company Be Concerned about Product ADA Compliance?**

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## **Microsoft Launches New Constitutional Challenge Against Alleged Federal Government Searches of Customer Data in Cloud**

Microsoft has just launched a constitutional challenge against the federal government over its use of indefinite gag orders when the government subpoenas information from customer cloud account. The action was clearly timed to capitalize on public



sentiment against the government for its perceived intrusion on privacy rights in the recent action against Apple regarding the encryption of the San Bernardino terrorist smartphone. The Silicon Valley Software Law Blog further explores this development in the blogpost linked below:

<http://www.siliconvalleysoftwarelaw.com/microsoft-launches-new-constitutional-challenge-against-government-over-secret-data-requests>

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## **Third Party Successfully Unlocks Terrorist iPhone, ending Government Encryption Case Against Apple**

The U.S. Justice Department has announced that the third party who came forward and convinced the FBI that it could unlock the San Bernardino terrorist's encrypted iPhone successfully unlocked the encrypted iPhone, ending the standoff between Apple and the FBI. The Silicon Valley Software Law Blog addressed the developments in this fight between the U.S. Government and Apple in the following blogpost:

<http://www.siliconvalleysoftwarelaw.com/third-party-hacks-san-bernardino-terrorist-iphone-ending-standoff-between-apple-and-fbi>.

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# **Government Signals Possible Reversal of Course on Apple Litigation**

The Department of Justice signaled today that it may be rethinking moving forward with the Apple litigation over the iPhone encryption issue, canceling a hearing scheduled for tomorrow in order to explore a possible new method that had come to light for unlocking the terrorist iPhone that has sparked the dispute. The Silicon Valley Software Law Blog further explored today's developments in the following blogpost:

<http://www.siliconvalleysoftwarelaw.com/government-backtracks-in-dispute-against-apple-over-unlocking-terrorist-iphone>.

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# **Silicon Valley SaaS Lawyer Kristie Prinz to Speak at Upcoming Webinar on "Negotiating Software as a Service Contracts"**

Silicon Valley SaaS Lawyer Kristie Prinz will be speaking on "Negotiating Software as a Service Contracts" at a webinar

sponsored by Clear Law Institute at 10 a.m. PST/1 p.m. PST on May 6, 2016. To sign up to attend the program, please register at the Clear Law Institute Website at [www.clearlawinstitute.com](http://www.clearlawinstitute.com).

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## **The Encryption Debate: Will Government or Industry Win?**

When the Justice Department decided to wage a legal battle against Apple over encryption on the iPhone of one of San Bernardino terrorists, the government moved the encryption debate into the public arena and triggered a public debate over the issue. Now, it is reported that the government is considering launching a second case over the encryption issue against yet another company. Who will be the ultimate winner in this debate? The Silicon Valley Software Law Blog explores the issues in the following blogpost:

<http://www.siliconvalleysoftwarelaw.com/who-will-ultimately-win-in-the-fbis-standoff-with-the-software-industry>

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## **FTC Signals to Health Software Companies an**

# **Intention to Increase Scrutiny over Advertising Claims**

The FTC has just reached a settlement with Lumos Labs over claims that the company was deceptively advertising the health benefits of its Luminosity software program. The FTC's action over this issue should serve as a warning to the health software industry regarding how health software companies are advertising their products. The Silicon Valley Software Law Blog further addressed this matter in the following blog post:

<http://www.siliconvalleysoftwarelaw.com/lumos-labs-case-signals-to-health-software-industry-an-intention-by-the-ftc-to-police-advertising-claims>

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# **Acquisition International Recognizes Prinz Law for Software and SaaS Expertise**

Acquisition International recently recognized The Prinz Law Office as "Best for Software and SaaS Licensing" in the USA.

The link to the notice is attached below:

<http://www.acquisition-intl.com/2015-the-prinz-law-office>

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# Software Industry Considers Consequences of Supreme Court Decision on Patent Validity Defense to Claim of Induced Infringement

The U.S. Supreme Court has just issued an opinion in the *Commil vs. Cisco Systems* case, prompting members of the software industry to consider how the ruling will impact member software companies, as we further explored in our recent Silicon Valley Software Law Blog Posting:

<http://www.siliconvalleysoftwarelaw.com/silicon-valley-software-industry-considers-impact-of-supreme-court-decision-on-patent-invalidity-defense-to-claim-of-induced-infringement>

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# Senate Cybersecurity Bill May Increase Government Surveillance Pressures on

# Cloud Companies

Privacy groups have voiced concerns about the Senate Intelligence Committee's recent introduction of a cybersecurity bill, as was further explored by the firm in the following Silicon Valley Software Law Blog posting linked below:

<http://www.siliconvalleysoftwarelaw.com/new-senate-cybersecurity-bill-may-expand-government-surveillance-p pressures-on-cloud-companies>

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# Software Companies Consider Impact of FCC Decision on Net Neutrality

The Federal Communications Commission ("FCC") recently adopted rules on the issue of net neutrality. The Silicon Valley Software Law Blog looked at the recently decision and contemplated the impact in the link posted below:

<http://www.siliconvalleysoftwarelaw.com/fcc-decision-on-net-neutrality-what-does-this-mean-for-the-software-industry>

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# Distinguishing Between the Software License and the SaaS Contract

The Silicon Valley Software Law Blog looked at what the differences are between the software license and the SaaS contract models in a recent blog posting linked below:

<http://www.siliconvalleysoftwarelaw.com/software-licensing-vs-software-as-a-service-saas-the-importance-of-the-technology-model-to-contract-drafting>

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# Report Claims that Most Apps Fail to Protect Users' Privacy

Do most apps on the market fail in provider users' with basic privacy protections?

As the Silicon Valley Software Law Blog reported in a recent blog posting, a recent study suggests that this is in fact a common problem in the software industry, as further discussed in the link below:

<http://www.siliconvalleysoftwarelaw.com/report-reveals-that-the-majority-of-apps-on-market-ignore-privacy-concerns>

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# **California notifies App-based Ride Service Uber and Competitors that Service is Illegal**

The state of California has notified Uber, Lyft, and Sidecar that their services are illegal under California law, as further discussed by the Silicon Valley Software Law Blog in the post below:

<http://www.siliconvalleysoftwarelaw.com/california-notifies-app-based-ride-service-uber-and-competitors-that-service-is-illegal>

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# **Google Settles with FTC over In-App Purchases Made by Children**

The Federal Trade Commission has announced that Google has agreed to refund customers' unauthorized in-app purchases made by their children in the Google Play Store, as the Silicon Valley Software Law Blog discussed in its recent blog posting attached below:



<http://www.siliconvalleysoftwarelaw.com/ftc-settlement-with-google-to-require-refund-of-unauthorized-in-app-charges>

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## **\$163 Million Damage Award in Federal Case Against Scareware Software Company and Founders**

The U.S. District Court for the District of Maryland has awarded damages in excess of \$163 million in a FTC case against a “scareware” software company, Innovative Marketing, Inc. and its founders, as further discussed by the Silicon Valley Software Law Blog in the blog post link below:

<http://www.siliconvalleysoftwarelaw.com/federal-court-awards-163-million-judgment-against-scareware-software-company-in-ftc-case>

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## **FTC Proposing New Rules to Protect Children’s Online Privacy**

FTC has announced that it is proposing an amendment to the Children’s Online Privacy Protection Rule (“COPPA”). The Silicon Valley Software Law Blog discussed the proposed

changes as well as the pros and cons of potential implementation in its blog posting linked below:

<http://www.siliconvalleysoftwarelaw.com/ftc-proposing-new-rules-to-protect-childrens-online-privacy>

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## **President Obama Announces The Consumer Privacy Bill of Rights**

President Obama has announced the Consumer Privacy Bill of Rights initiative, as further discussed by the Silicon Valley Software Law Blog in the following blog post linked here:

<http://www.siliconvalleysoftwarelaw.com/president-obama-unveils-new-consumer-privacy-initiative-the-consumer-privacy-bill-of-rights>

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## **Apple Signals New Approach to Enforcing Royalty Policies on App Store**

Amazon, Google, and the Wall Street Journal have all now modified their applications on the Apple App Store in response to signals by Apple that it will be stepping up enforcement of its royalty policies, as was discussed by the

Silicon Valley IP Licensing Law Blog in its recent blog post:

<http://www.siliconvalleyiplicensinglaw.com/amazon-google-wall-street-journal-move-to-modify-applications-on-apple-app-store/>

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## **How to Protect Your Ideas Before the Launch of a Software Start-up**

How do you protect your ideas before you launch your novel software start-up? The Silicon Valley Software Law Blog explored this issue in the following blog post linked here:

<http://www.siliconvalleysoftwarelaw.com/tips-to-protecting-your-ideas-before-you-launch-your-software-start-up-company>

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## **Consider Alternatives to Equity When Launching Your Start-up's First Development**

# Project

If you are like many software start-ups, you probably think that equity is the only way to pay for your development work. However, this is not in fact the only option for a cash-strapped start-up, as the Silicon Valley Software Law Blog discussed in the blog post linked here:

<http://www.siliconvalleysoftwarelaw.com/equity-not-the-only-option-for-software-start-ups-hiring-first-developer>

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## Most Early-Stage Development Projects Overlook the Need to Procure a Copyright Assignment

If you are like most early stage software companies, you will complete your next development project without ever asking for or procuring a copyright assignment. The Silicon Valley Software Law Blog explored this issue in the blog post linked below:

<http://www.siliconvalleysoftwarelaw.com/copyright-assignments-overlooked-in-most-development-projects>