

McNees

Software & Technology Licensing

The utilization of software is a necessary part of running any business. From enterprise systems to mobile apps, most organizations source software from multiple vendors. Much of that software is now hosted by the vendor (or a third party) and is delivered to the user over the internet as a service.

Your reliance on software and services provided by vendors comes with risk. There is the obvious risk that the software will fail and impact the operation of your business, but other risks are less obvious. Organizations trust vendors with the safety and security of their data, they rely on software vendors to seamlessly integrate and implement complex software systems, they expect vendors to provide assistance when the business goes through a merger or acquisition, they expect the vendor to assist with upgrades, they believe they own and can upgrade the software they had developed, and they anticipate the vendor will defend them if the software creates liability for the business. Businesses are often shocked to learn that agreements with their vendors do not obligate the vendors to provide the kind of assistance needed to address these and other critical issues. In many cases, vendor agreements are not reviewed by anyone that is thinking about the possible risks. Your business will face an uphill battle if your signed agreement does not require the vendor to take the actions you need it to take. The result can be lost productivity, lost data, brand damage from leaks of sensitive data, costly litigation and other damages.

Specific services we offer:

- Review and negotiation of software and cloud service agreements, including warranties, indemnifications, limits of liability, confidentiality and data security terms.
- Service level agreements.
- Software escrow agreements.
- Coordination of the transition of software and services during a merger or acquisition (transition services).
- Privacy and data security advice and audits.
- Integration of open source software.
- License/vendor disputes.

The attorneys at McNees Wallace and Nurick LLC can help you avoid these kinds of problems. We regularly assist our clients with the review and negotiation of software license, development, implementation and services agreements. We take the time to explain the implications of the agreement, spot risk points and negotiate more favorable terms for our clients. Not only are we able to negotiate more favorable terms for our clients, but by working through the issues presented with a new software implementation, our clients are able to think more deeply about how to anticipate and reduce risks like software failure and data loss or exposure.

For software vendors, we can provide a full range of services including modernizing contract documents and advice on licensing or service models. Other vendor-focused services include software ownership issues, contractor agreements, reseller agreements, joint venture structuring, development agreements and intellectual property protection.

Working in conjunction with our Privacy and Data Security group, we can advise your business on how to navigate the increasingly high-stakes practice of collecting, transmitting and storing sensitive data.



www.McNeesLaw.com

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McNeese Software & Technology Licensing Attorneys



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Brian practices in the Intellectual Property, Privacy & Data Security and Food & Beverage Industry practice groups with a focus on trademark and copyright protection, software and technology services contracts, franchising, food labeling, internet law and other issues related to the protection and licensing of intellectual property. He advises both vendors and users on the legal issues surrounding the use of software and technology including SaaS/PaaS agreements, data privacy/security and the drafting and negotiation of software and technology services agreements. Brian has assisted clients in resolving software licensing disputes and disputes over failed software implementations. He has also assisted organizations with the transition of software and service agreements during a merger, acquisition or divestiture. Brian assists clients in managing their internet presence including website development and hosting agreements, website terms of use, privacy policies, domain name acquisition and disputes, and social media issues. Outside of his software and technology practice, Brian works with a number of food industry organizations and has particular focus assisting craft breweries, wineries and craft liquor distilleries with trademark protection, development of branding strategies as well as liquor license permitting. His trademark and copyright practice includes resolving disputes through negotiated co-existence and licensing agreements as well as representing clients in trademark cancellation/opposition proceedings and in litigation. Brian also handles product labeling, advertising, and regulatory compliance for clients in the human food and pet food industry.



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Louis is Chair of the Firm's International Law Practice Group and a member of the Firm's Corporate & Tax and Intellectual Property Groups. He has practiced law involving international business since 1984. Louis advises foreign investors on establishing U.S. operations and assists U.S. clients in penetrating foreign markets through direct investment and foreign representation. He regularly assists clients with the complex issues involved in international supply and distribution chains, establishing foreign offices and manufacturing facilities, foreign joint ventures, overseas construction and engineering projects, international project and export finance, and the protection and licensing of U.S. technology and intellectual property. Regarding regulatory matters, Louis has counseled clients on U.S. export controls, including the Export Administration Regulations (EAR), the International Traffic in Arms Regulations (ITAR), and the sanctions regulations administered by the Office of Foreign Assets Control (OFAC).



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Kathy practices in the Corporate & Tax, Mergers & Acquisitions, Food & Beverage, Securities and International Law Groups. She concentrates her practice in corporate and business law, including mergers and acquisitions, entity formation, corporate finance, joint ventures, sales and distribution, and commercial matters for clients ranging in size from family-owned businesses to publicly traded companies. Kathy's practice also includes the formation and counseling of nonprofit corporations. Formerly in-house with a Fortune 500 company, a significant amount of Kathy's practice involves providing external support for in-house legal departments and serving as general legal counsel for companies who do not have in-house counsel.



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Mike represents publicly held and privately held businesses, as well as early-stage technology companies and investors who acquire interests in such companies. He regularly counsels companies on compliance with federal securities laws, including exemptions from the registration provisions of such laws. He represents many early-stage life sciences and other technology companies. Mike's practice covers a wide variety of corporate and securities law issues, including venture capital financing and other capital formation transactions for investors and for companies. He also handles mergers and acquisitions, divestitures, restructurings, and contests for corporate control. Mike also represents health care companies, life sciences and other technology companies, including early-stage and emerging growth businesses involved in the commercialization of intellectual property. He regularly counsels companies involved in the licensing and transfer of technology from and to universities and other institutional entities. He regularly works with management teams in coping with the challenges of managing rapid growth following an investment by a venture capital fund or other third party investor.