



Computer technology, software and systems are vital to conducting business today. As businesses of all sizes - from Fortune 100 multinationals to medium and small businesses and individual entrepreneurs - increasingly rely on technology, software, apps and devices to compete in the marketplace, disputes involving development, licensing, implementation and outsourcing have become alarmingly widespread and frequent. While the chances of encountering cost overruns, delays or failures proportionately matches the project's magnitude and complexity, projects of all sizes carry risk at every stage. Vendors, implementation providers and end customers alike face significant challenges and difficult choices when technology and software disputes arise.

Our vast experience with both sides of technology and software disputes provides our team with insights and familiarity with the issues that often drive these conflicts. For example, while every software implementation failure has some unique characteristics, most involve misunderstandings and problems related to the sales cycle, timelines and budget, gap analysis/business processes, scope creep, configuration/customization, data conversion, testing, project governance/management, change management and user training. Our ability to diagnose these common problems allows us to assess quickly the strengths and weaknesses of the case and develop a legal strategy for achieving an optimal outcome.

**WHO WE ARE**

The Duane Morris Technology and Software Disputes Resolution team combines significant litigation and alternative dispute resolution experience with detailed, technical knowledge of complex business applications and systems to help clients - both technology companies and enterprise customers - strategically avoid costly disputes and resolve them efficiently. Team members include lawyers who have previous experience in programming and information systems roles, giving them insight and understanding of both sides in a dispute: the vendor/developer and the business client.

Duane Morris litigators and ADR professionals have extensive experience in evaluating, prosecuting and defending enterprise resource planning (ERP), business software and technology disputes from early case assessment through trial, verdict and, when necessary, appeal.

**WHO WE REPRESENT**

Duane Morris offers a depth of experience representing both sides of software and technology disputes. On the vendor side, we have represented some of the largest ERP vendors and consulting firms. On the customer side, we have represented Fortune 100 companies in claims brought against vendors and their implementation partners. We have also represented governmental agencies in claims against software vendors and integrators, as well as defended vendors and integrators in claims brought by public entities.

**EARLY CASE ASSESSMENT AND RESOLUTION**

With knowledge drawn from extensive experience in technology and software disputes, Duane Morris can provide clients with an early case assessment detailing the value of a case, settlement and litigation options, so clients can make informed decisions on next steps. In conducting the early case assessment, we leverage our proprietary, systematic approach to estimating the cost of litigation, Dispute Navigation Analytics (DNA<sup>SM</sup>). The early case assessment offers clients meaningful cost/benefit analysis to manage risk and control costs more effectively.



Early Case Assessment and Resolution	Alternative Dispute Resolution	Litigation
<ul style="list-style-type: none"> <li>▶ Internal Investigation of Legal and Factual Issues</li> <li>▶ SWOT Analysis</li> <li>▶ 30-, 60-, 90-Day Case Assessment</li> <li>▶ Negotiated Resolution</li> <li>▶ Dispute Navigation Analytics Cost Estimator</li> </ul>	<ul style="list-style-type: none"> <li>▶ Confidential Arbitration</li> <li>▶ Confidential Mediation</li> <li>▶ Early Neutral Evaluation Facilitated by Expert</li> </ul>	<ul style="list-style-type: none"> <li>▶ Experience in Jury and Bench Trials and Appeals</li> <li>▶ Experienced Team of Technologists and Litigators</li> </ul>

## ALTERNATIVE DISPUTE RESOLUTION

Costly trials are not the only solution to a dispute. Duane Morris regularly represents clients in confidential mediations and arbitrations before the AAA, JAMS and CPR, as well as in international arbitrations. Our practitioners frequently serve as arbitrators and mediators in complex technology and software disputes, and our team includes special masters to the federal and state courts. This combination of skills and experience allows our team to design creative solutions for early dispute resolution and consider alternate resolution mechanisms that support our client's goals while avoiding acrimonious litigation and help preserve industry relationships.

### LITIGATION

If litigation cannot be avoided, Duane Morris has extensive experience in technology and software disputes across the country, both in federal and state court, including "bet the company" lawsuits.

The Duane Morris Technology and Software Disputes Resolution team offers comprehensive litigation and ADR experience in a wide range of industries, combined with deep understanding of the technical and implementation issues that lead to conflict, to help clients manage and minimize the risks of doing business in an increasingly technology-based and software-driven economy.

## OFFICE LOCATIONS & REACH



### UNITED STATES

Atlanta  
Austin  
Baltimore  
Boca Raton  
Boston  
Cherry Hill  
Chicago  
Dallas  
Fort Worth  
Houston  
Lake Tahoe  
Las Vegas

Los Angeles  
Miami  
New York  
Newark  
Philadelphia  
Pittsburgh  
San Diego  
San Francisco  
Silicon Valley  
Washington, D.C.  
Wilmington

### INTERNATIONAL

Hanoi  
Ho Chi Minh City  
London  
Myanmar  
Shanghai  
Singapore

> Also satellite offices, including Bangor and Portland, Maine; and Seattle, Washington

> Alliances in Mexico

> Leadership position with international network of independent law firms

## EXAMPLES OF OUR WORK

- ▶ *Lockheed Martin v. MTA Capital Construction Co. and Metropolitan Transportation Authority* (S.D.N.Y.) - Trial counsel for Lockheed Martin in a contractual dispute arising from an agreement between the parties for the design, development and installation of an integrated electronic security system for New York City's public transportation system, with damages estimated at more than \$130 million.
- ▶ *California State Controller's Office v. SAP America* - Trial counsel to SAP America in a case brought by the California State Controller's Office regarding the implementation of a SAP payroll system for state employees, with damages alleged at more than \$300 million.
- ▶ *DeLuca Homes et al. v. SAP America et al.* - Trial counsel for SAP America defending a lawsuit brought by a customer of SAP regarding an implementation of SAP software. The customer sought damages in excess of \$18 million on its fraud and breach of contract claims. After a three-week trial involving 15 witnesses, a jury returned a defense verdict in favor of SAP. The Pennsylvania Superior Court affirmed on appeal.
- ▶ *Commonwealth of Pennsylvania v. IBM (pending)* - Currently representing the Commonwealth of Pennsylvania, Department of Labor and Industry in a breach of contract and fraud case against International Business Machines Corp. over a failed enterprise software system implementation.
- ▶ *Columbus IT Partner v. Wenner Bread Products* (E.D.N.Y.) - Trial counsel to an international food manufacturer in a contract dispute with an IT vendor regarding a failed implementation of software.
- ▶ *Factory Mutual Insurance Co. v. SunGard Sherwood Systems* (S.D.N.Y.) - Represented the plaintiff insurance company in software failure litigation and achieved a settlement that our client found favorable.

### FOR MORE INFORMATION, PLEASE CONTACT:

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