RESUME

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RICHARD BENDER

LEGAL / CONTRACT RELATED EXPERIENCES

1970 – IBM (as Staff Programmer)

Assist patent attorneys on patent submission for Code Based Testing algorithms.

1974 – IBM (as Advisory Programmer)

Assist attorneys on contract wording for Software Engineering Consulting engagements.
Issue: Minimize IBM's liability exposure.

1976 - Crocker National Bank (as Vice President of Applications Development)

Issue: On joining the Bank it was found that the contracts with vendors developing software for the bank were poorly defined, especially in the areas of test completion criteria, stability of staff, and defining measurable checkpoints.
Resolution: Provided counsel with the needed revisions for the standard agreements. Re-negotiated the existing contracts, resulting in a better business and working relationship with the vendors.

1978 to 1981 - Bank of America (as consultant)

Various contract reviews over definition of "Implemented", rights in data, clarity of roles and responsibilities, completeness of contract from a business / technical perspective.

Negotiated resale agreement for selling "Cause and Effect Graphing Analysis Routine" testing software.

Wrote the initial version of the "Software Contract Guidelines".

1981 to 1984 – BancOhio (as consultant)

Rewrote the "Software Contract Guidelines", retaining rights in data.

Various contract reviews.

1984 Children As The Peacemakers (as Vice President and board member)

Define business requirements for licensing agreements, assisted by Lucas Film licensing experts.

1984 to 1985 - Rainier National Bank (as consultant)

Various contract reviews focusing on definition of "implemented" and field support responsiveness. Also identified software contract ambiguities.

1987 - United States Air Force - Strategic Air Command (as consultant)

Define clauses for the RFI / RFP / Contract re-definition of "implemented" and other quality related topics for a major redevelopment project.

1988 – Flexlink (as consultant)

Identify all required clauses, from a business and technical perspective, for a resale agreement.

1988 to 1990 - Pacific Bell (as consultant)

Various contract reviews focusing on definition of "implemented". Also identified software contract ambiguities.

1989 - Sterling Software (as President of Bender & Associates)

Negotiated resale agreement for Sterling to distribute SoftTest - did not finalize due to changes at Sterling.

1991 – Symantec (as consultant)

Wrote position paper on "Software Liability"

1991 - Tetra Tech Data Systems v. California Department of Corrections (as expert witness)

Expert witness in testing for the state (Burger & Flaherty).
Issue: Was the system "implemented".
Resolution: Out of court settlement in our client's favor after vendor presented with our initial analysis of what we would look for in the vendor's testing.

1991 – Intel (as consultant)

Various contract reviews related to verifying that the delivered software was properly implemented and ensuring that the contracts were unambiguous.

Defined the clauses for rights in data, verification of implementation, and progress payments for a test tool development contract.

1991 – AutoTester (as President of Bender & Associates)

Entered into resale agreement to resell AutoTester.

1992 – Sybase (as consultant)

Quality Process Assessment including topics of quality related contract clauses and software liability.

1992 - QAI Software Testing Conference (as consultant)

Keynote speaker on "Software Liability"

1992 to 1993 - Scan Graphics v. Scorpion Technologies (as expert witness) – tried before a jury.

Expert witness in code analysis for Scan Graphics (Hoge, Fenton, Jones & Appel)
Issue: Were the various versions of the Scorpion code substantially the same as the Scan Graphics code.
Resolution: Jury found in favor of Scan Graphics and awarded more than Scan Graphics had asked for.
Post Resolution: Evaluated the value of various software assets granted by Scorpion Technologies to Scan Graphics as partial payment of the award.

1993 - EDS / Texas Department of Health and Human Services (as consultant)

Jointly bid a project which had very specific clauses in the RFP regarding the definition of "implemented".
The final clauses were developed using our wording.

1993 - American Bar Association (as consultant)

Guest speaker at the national convention
Topic: Software Liability

1993 - TDS Health Care Systems (as consultant)

Quality Process Assessment including topics of quality related contract clauses and software liability.

1994 to 1995 Arizona Supreme Court (as consultant)

Review contracts for ambiguities, completeness, reasonableness from a business and technical perspective.

1994 - American Bar Association (as consultant)

Guest speaker at the national convention
Topic: Ambiguities in Contracts, Laws, and Regulations

1994 – Battelle (as consultant)

Address required contract clauses in a software package acquisition contract.

1994 to 1995 – Xerox (as consultant)

Quality Process Assessment including topics of quality related contract clauses and software liability.

Contract review for reasonableness of termination clauses associated with the quality of the software package being acquired by Xerox.

1995 - Loral WDS (as consultant)

Quality Process Assessment including topics of quality related contract clauses and software liability.

1995 - XYPRO V. Wells Fargo Bank (as expert witness) – tried before a judge

Expert witness on testing for Wells Fargo (Crosby, Heafey, Roach & May)
Issue: Was the system ever implemented by XYPRO
Resolution: Judge found in favor of Wells Fargo that the system was not fully implemented due to the residual defects in the system after "delivery".

1995 – Nextel (as consultant)

Review various development contracts for ambiguity, completeness, and reasonableness.
Intent: To assist Nextel in creating model contracts for future efforts.

1995 - American Bar Association (as consultant)

Guest speaker at the national conference
Topic: Ambiguities in Contracts, Laws, and Regulations

1995-1998 – Medisoft V. Spectra (as expert witness) – arbitration case

Expert witness on the terms of the contract from a business perspective, the
contract's clarity, and on software testing. (Hoge, Fenton, Jones & Appel)
Issues: Was the contract inherently fair. Who had what rights in data. Were the
terms and conditions unambiguous. Was the system ever implemented to the
degree that it was fit for use.
Resolution: Parties settled out of court, in a sealed agreement, when Spectra was
acquired.

1999 – Negotiated terms and conditions of the merger of Bender & Associates with
Technology Builders, Inc. (as President of Bender & Associates)

1999 – TBI (as Senior Vice President)
Review TBI's standard contracts and contracts proposed by clients for services
and products.

2001 - Central Illinois Light Company V SCT (as expert witness)

Evaluate the explicit and implied scope of the software contract and the quality of
the testing performed by the vendor.
Resolution: settled out of court in our client's favor

2002 – Negotiated the terms and conditions of the buy back of Bender & Associates
assets after TBI was acquired by StarBase, Inc. (as President of Bender &
Associates)

2003-2004 – Tilbury v. Open Text (as expert witness) – arbitration case

Expert witness for Tilbury on the quality of the software and the terms of the
contract from a business and technical perspective. (Gowling Lafleur Henderson
LLP)
Issues: What was the quality of the software, as measured against industry
standards, delivered by Tilbury to Open Text at the time of the sale of ownership
of the software. How should various inconsistencies in the wording of the
contract be interpreted.
Resolution: The Arbiter ruled in favor of Tilbury

2002 – Ongoing – Bender RBT Inc. (as President)

- Negotiate various distribution agreements for our products and services.
- Negotiate OEM agreement for our product.
- Negotiate various license agreements with customers of our products.
- Negotiate various contracts with clients for our services.
- Negotiate various contracts with sub-contractors for their services in assisting Bender RBT on projects with our clients.