

Stay ahead of the curve

SoftSummit 2007

**Keys To Negotiating
Great Contracts
With Software Suppliers**

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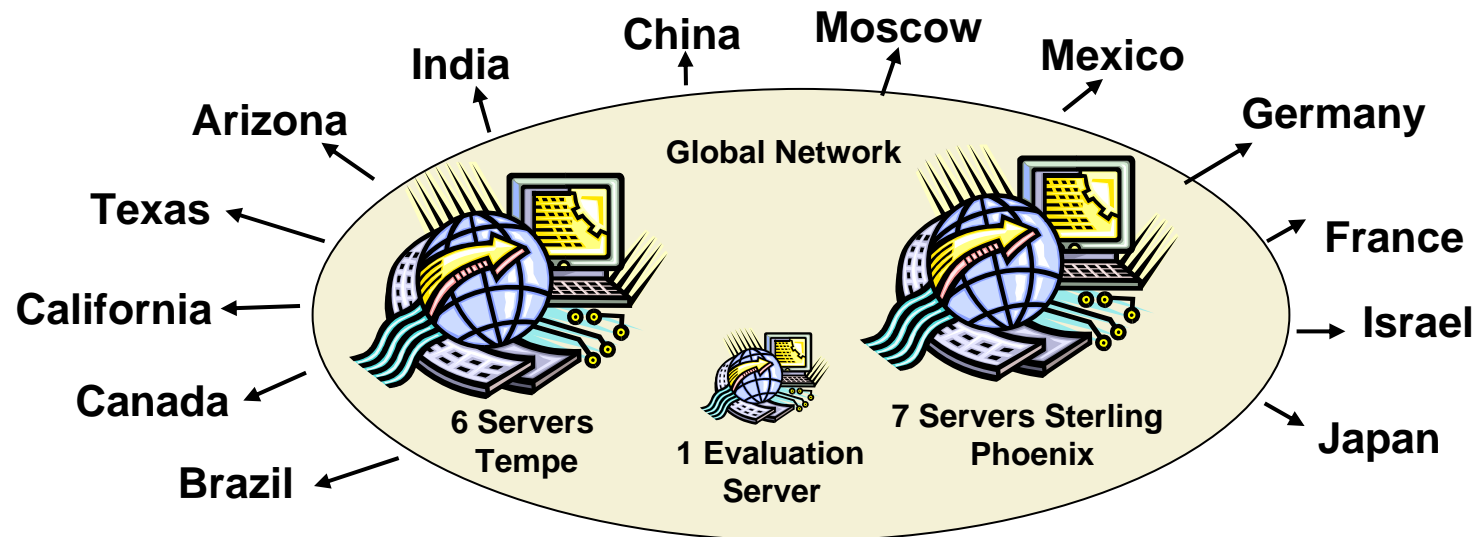
Background

- In 1998, Motorola's Semiconductor Products Sector formed the Comprehensive Asset Software Management function (CSAM). The vision was to reduce costs and provide a common tool set to all semiconductor design engineers worldwide.
- In 2000, CSAM was expanded to support the entire corporation. All Electronic Design Automation (EDA) tools Motorola wide were placed under CSAM management.
- In 2004, Motorola divested its Semiconductor Products Sector to form Freescale Semiconductor (FSL), a new and independent corporation. With \$5.7B in sales, Freescale was the 2nd largest tech offering in 2004 behind Google.
- On December 1st of 2006, Freescale was acquired by the private equity firm Blackstone Group for \$17.6 Billion in cash
- Today, CSAM Freescale is responsible for EDA software vendor management. We support over 5000 engineers, 900 plus software tools from more than 40 vendors. This software is enabled by 118 FLEXIm vendor daemons and powered by Flexner Manager and host of internally developed license management tools

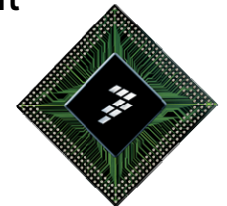


Background

Freescale shares a common pool of EDA software licenses between all design centers worldwide. Enabled by FLEXIm licensing, 13 primary license servers are located at the Phoenix AZ and Tempe AZ Compute centers.



As manager of CSAM, my responsibilities include leading a team of eight that includes license administrators, application developers, and business analysts. I am also a member of the EDA Software negotiation team and have been involved with software contract negotiations since 1996.





**10 Keys To Negotiating GREAT Contracts
with Software Suppliers**

#1 Have a Well Defined Team



Extended Negotiation Team

- Finance
- Senior Management

Core Negotiation Team Functional Areas

- Supply Management
- Legal
- Engineering/Technical
- License Administration

Negotiation Team Skills

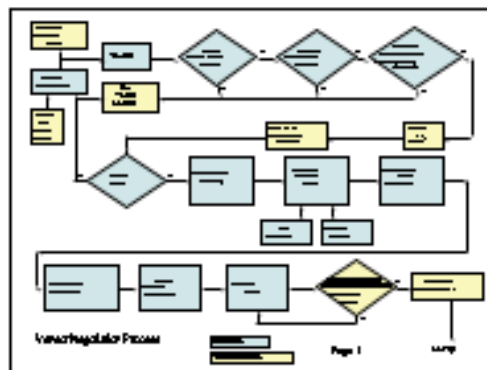
- A Strong Negotiator
- A Good Cop, a Bad Cop
- Technical Expert
- Software Licensing Expert
- Contract Writer
- A Legal Expert

#2 Have a Well Defined Process

- Map every step of the process
- Follow the process religiously
- Check off each process step as they are completed

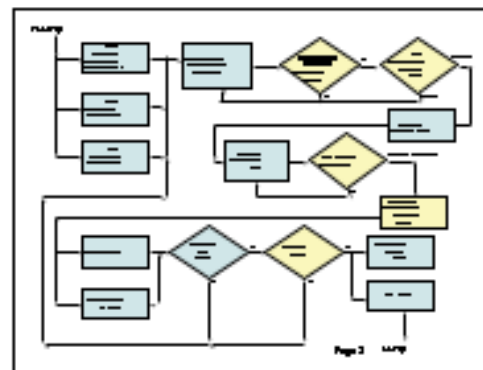
Don't forget the obvious! It's the little things that make a difference

Keep Finance & Senior Management Updated



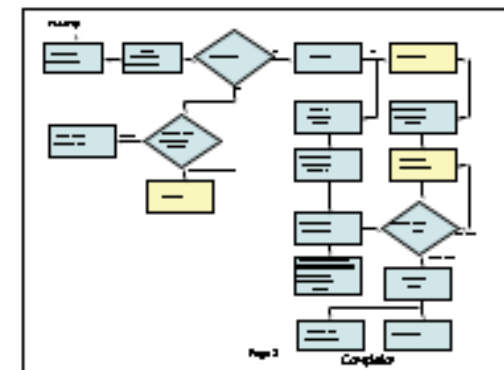
1

Make Sure the Contract Gets Signed by Both Parties



2

Follow The Req Through to PO

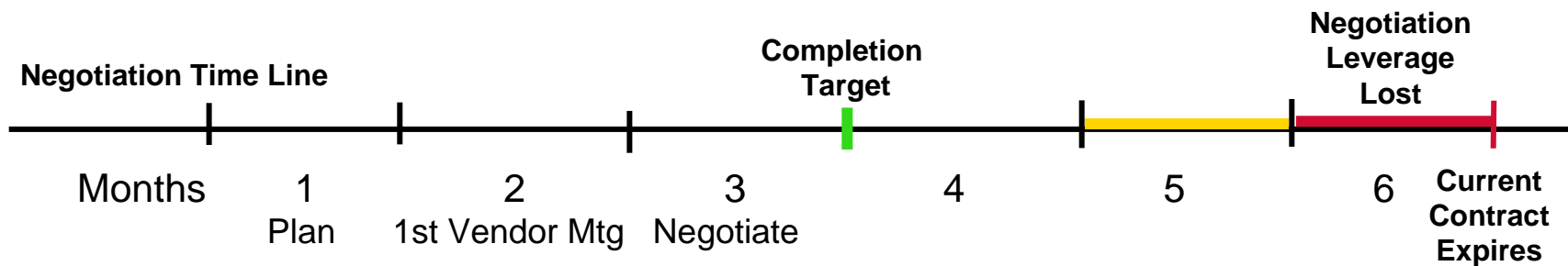


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#3 Start the Planning Process and Enter into Negotiations Early



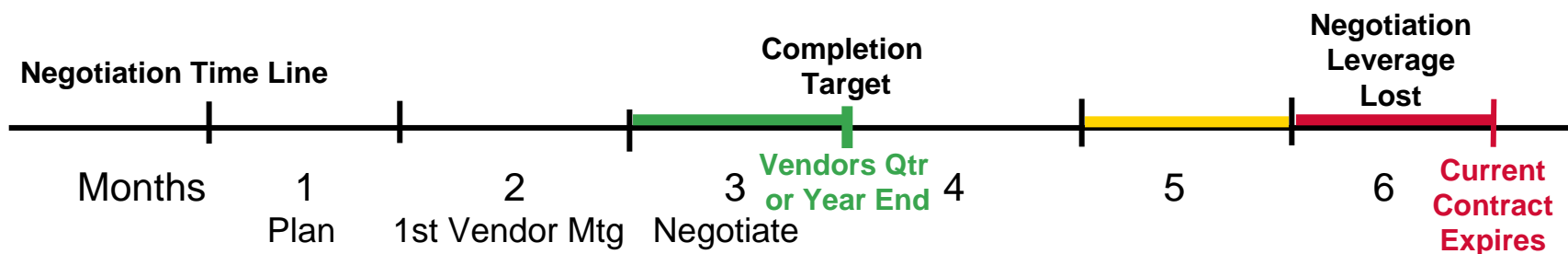
- Allow a 6 month negotiation window...
- ...but work for a 3 month completion
- Don't allow yourself to get backed into a corner



#4a Do your Homework. Understand your Vendor.

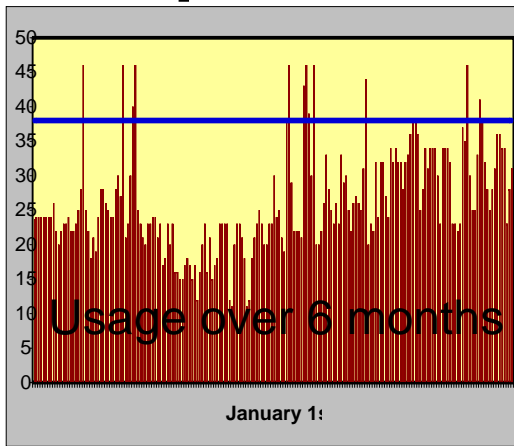


- When does their financial qtr and year end?
- How has their stock performed?
- What is Wall Street saying?
- Read their financial statement?
- What is important to the vendor:
 Market Share, Dollars, or Press Release?
- How is your account rep doing in the company?



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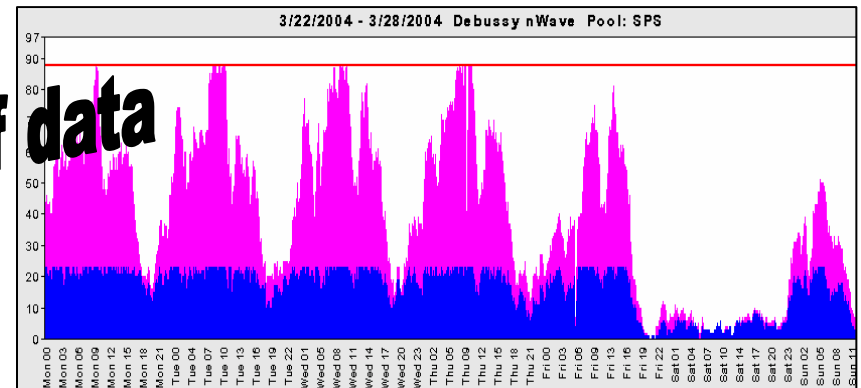
• #4b Do your Homework. Understand your Requirements.



- What is your current peak usage?
- What is your effective peak usage? (What do you really need)
- What is your usage trend?
- What is the future of this software in your company?
- What is the impact of “walking away”?
- What alternatives are available in the market?

Daemon	Feature	Pool	Peak	Used	Dates	nDates
verplex	conformal Lec	SPS	1	46	2004-06-24; 2004-04-20; 2004-04-13	4
verplex	conformal Lec	SPS	2	44	2004-05-14	1
verplex	conformal Lec	SPS	3	43	2004-04-19	1
verplex	conformal Lec	SPS	4	41	2004-06-29	1
verplex	conformal Lec	SPS	5	39	2004-04-21	1
verplex	conformal Lec	SPS	6	38	2004-04-12	4
verplex	conformal Lec	SPS	7	37	2004-06-22	1
verplex	conformal Lec	SPS	8	36	2004-07-07; 2004-07-06; 2004-06-04; 2004-06-01	4

Have Lots of data



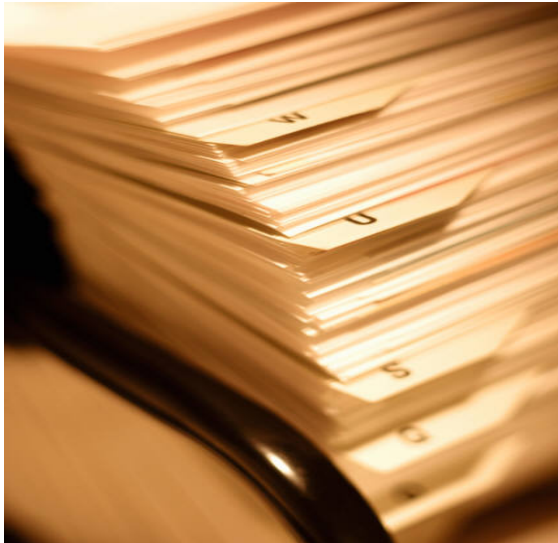
5 Limit the Vendors Access to the Negotiation Team



- If Vendors have access to the end users and senior management, they can sabotage the negotiations.

- Send of clear and united message to the vendors as to who the decision makers are. They must only engage with the negotiation team.

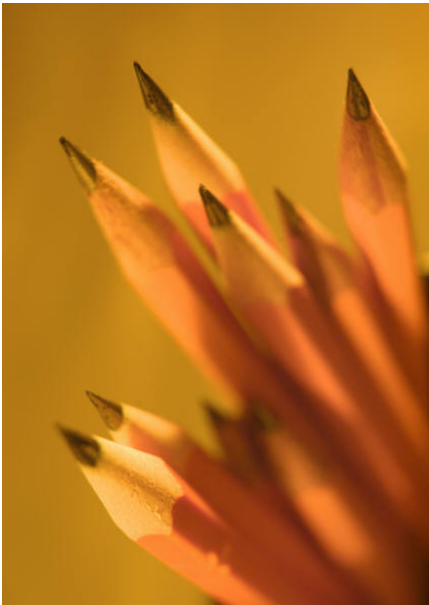
#6 Document Control



- Ensure change control is ALWAYS on
- Read the entire contract at every revision, not just the portions that should have changed
- Assign a content owner

Read the entire contract at every revision.

#7 Read the Contract: If it's not Written, It's not Enforceable



- Handshakes and Good Faith have no legal value
- Prior behavior does not guarantee future behavior
- Interpretations can change as the players change. Make sure contract language is crystal clear and would be equally clear to a third party, or a new account team.

#8 Items To Avoid



- Avoid using “Best Effort” language or any language with no obligation to accomplish a given goal other than diligence, reasonable, or good faith effort to perform

- Avoid Automatic Renewals: All renewals must require both parties agreement and prior written approval

- Avoid a Forum/Choice of Law. Select only a neutral forum

#9 Demand two-way Assignment and Acquisition Language



- Ensure all or part of the contract can be assigned should your company be acquired or divested in part or whole.
- Ensure your contract and rights remain intact should your software vendor be acquired or divested

We operate in a world of mergers and acquisitions

#10 Clear Definitions of Who Can Use, Where It Can Be Used, and Access to New Technology



Who Can Use

- Direct Employees onsite and offsite
- Contractors working for you company?
 - On Site and Off Site?
- Customers?
 - On Site and Off Site?

Where Can Software Be Used

- Local
- Regional
- Global

Access To New Technology

- New Products
- Acquired Products
- Updates to Current Products
- Replacement Products

Have a clear definition of what constitutes New Technology!

- 1) Have a well Defined Team
- 2) Have a well Defined Process
- 3) Start the Process Early
- 4) Do your Homework
- 5) Limit Vendor Access
- 6) Enforce Document Control
- 7) Read the Contract
- 8) Avoid “Best Effort”, “Automatic Renewals”
- 9) Demand Two-way Assignment Language
- 10) Clear Definition of Who Can Use



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Thank You

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