
***Project Business Management*¹**

David, Goliath, and Artificial Intelligence in Project Business

Oliver F. Lehmann

*"This is a message to all the Davids out there
to stand up for what you believe in."*
— Shaun Snider, guitarist ²



Summary

A common observation in project business is that organizations come together that are vastly different in size and in their ability to fight legal battles. This article addresses the side of the smaller player, and how it can avoid getting shattered in conflicts and finding itself as the losing party.

Things can become particularly crushing, when Goliath is a piece of artificial intelligence, a computer algorithm following an unknown set of rules.

¹Editor's note: This series of articles is by Oliver Lehmann, author of the book "[Project Business Management](#)" (ISBN 9781138197503), published by Auerbach / Taylor & Francis in 2018. See full author profile at the end of this article.

² (Thompson, 2018a)

Ruby Tuesday

“Ruby Tuesday” was a famous song by the British rock band “The Rolling Stones”, released in 1967. “Ruby Tuesdays” is also the name of an Australian rock band, which got sued in in July 2018 by a US-American fast food restaurant chain, name – you guess it – Ruby Tuesday, Inc. The Hamburger chain had about 540 locations, reportedly assets of USD929 Million and employed an expensive law office, while the rock band was reported to be “almost penniless”.³

The lawsuit alleged a copyright infringement by the rock band. It required them to hand over the band’s website URL, destroy merchandise, and pay a fee of USD2 million.⁴ Ten days later, the lawsuit was retracted by the fast food chain, which obviously found that it had no merits to further pursue its claims.

A similar story took place in 2009 in Germany. The outdoor cloth chain “Jack Wolfskin”, despite the name a German company, mandated their lawyers to send warnings (with attached cost note) to hobbyists, who had a small business selling home-made items over a web portal. The company’s complaint related to the use of what they considered their logo. It resembles an imprint of a wolf’s paw in mud or snow. It was registered as a trademark by the company in 1982, but similar paw symbols had been in use by many people over decades, not only in Germany. It was a popular signal for a sentimental and positive interest in animals, but the company said it felt obliged to go aggressively against everyone using it to “protect its brand”.



Figure 1: The company Jack Wolfskin is very proud of its paw (German: Tatze) logo. When they attack hobbyists, these feel rattled and the damage done to their little businesses is enormous.

The company’s attack campaign mainly targeted micro businesses, such as pensionists, who had a small additional income with handcrafted jewelry, clothing, and fashionable accessories.⁵ These businesses received injunctions with an invoice attached that was much higher than what many of these people had as yearly turnovers made from their small businesses.

There is a commonality in the two stories and many others, in which Individuals and small-scale businesses are struck by large organizations: People are shocked and rattled. Deeply rattled. The experience is frightening, and people feel helpless and devastated. They feel like

³ (Castrodale, 2018)

⁴ (Thompson, 2018b)

⁵ (Lischka, 2009)

biblical David, facing Goliath, the giant warrior may have felt, while commonly they don't have means to defend themselves and stand their ground. Most of them would never willingly harm anybody, but now find themselves seemingly on the wrong side of law with expensive invoices to pay and threats to punish them further.

David and Goliath in Project Business Management

In project business, similar situations occur. The organizations that come together to do projects in a contractual setting are often different in their sizes and in the legal options that they can call upon when needed. Some are wealthy and can afford effective legal representation, others have difficulties to survive the day and are easily pushed out of balance when things go wrong.

When the large party goes against the small one, the latter is often rattled and disconcerted.

The problem may be on the side of the small contractor, pushed by the large customer to deliver more than what was originally ordered, without regards of the consequences for the contractor. It may also happen in the opposite direction, when a small buying organization was promised by the large provider to be treated as a king once the contract has been concluded. Now, it finds itself as the customer standing at the end of a waiting line at a supermarket cash desk, feeling in every moment how small and insignificant one is for the big partner.

Things can become more painful, when project business is done over a country border, when the parties sit in different countries with diverse legal systems. Then, at least one of the parties has to act in a foreign legal environment, and what may be lawful at home may now be wrong in the specific business.

The solution may sound simple on the first glance: Many organizations insist that the project business is done under their home jurisdiction, the one they are familiar with. Another aspect of international contracting comes with the selection of the place of court, commonly inside the chosen legal system. Organizations wish to have this place at their home place to make litigating the other party easier, but also to better defend against litigation.

When both parties insist on their home place of court and jurisdiction, no international project business would be possible, so one of the parties must give in. In most cases, it is the "David" in the business, the smaller and seemingly weaker party. This decision increases the imbalance between the parties.

Help for the "Davids"

There is good advice for all parties in project business, but some of it is particularly valuable for the "Davids" in the project business relationship.

1. During Contract Development, Consider Worst Cases

As a contractor, your income may depend on timely actions of the customer. Examples:

- You have finished work on a piece of machinery that sits now on your shop floor waiting for the customer to sign it off before it is getting dispatched. The sign-off triggers a major invoice to the customer. If the customer does not turn up, you cannot send the invoice and will have to wait longer for the money, while the machine blocks your shop floor so that the space cannot be used for other work.
- In a software roll-out project, you get paid a fixed amount for each country, in which the roll-out has been completed. You invested heavily in preparing the software for the rollout, but each of the customer's subsidiaries in the various countries tells you that it is not yet prepared for the implementation and requires you to delay your work into the next year.

In this example, it will take much more time to get the outlays for the initial software development back, and by the time, the software will be implemented, it may no more be up to date and additional work may then be required..

As a customer, achieving your business goals, also depends on the completed work of the contractor, that must come timely and without cutting corners to the buyers' disadvantage.

Clauses in the contract to address such situations can be a necessary protection of business interests from performance problems of the other party. In the machinery example above, the contractor may insist on a clause that, when it comes to the sign-off, the customer will be given 5 days, and that in case the time window is missed, the contractor is entitled to do the sign-off in the customer's name.

2. Documentation is Imperative

Lawsuits in project business are commonly won by the party with the better documentation. Lawsuits are also most successfully avoided when a party can show the other that its position is effectively supported by documentation.

During the project, documentation is often neglected. Pressure is high to work fast in the project, so that the "David" has no time to take care of paperwork necessary to prepare oneself for a situation when things turn sour. Documenting is generally not considered productive, and for the contractor, the work is rarely billable. Once the self-protective value of documentation has been understood, it can become a habit to ensure its completeness and timeliness.

3. Make Yourself Knowledgeable in the Foreign Legal System

When the decision has been made to act under a foreign and unfamiliar law system, it is important to understand its peculiarities. Differences to the system one is used from home can be huge.

The requirement on a project manager is not to become a legal expert. When it is needed, legal advice should be sought from the lawyers at home in and accustomed to the legal system.

The degree to which one should be familiar with the project's law environment is comparable to the degree one should know the traffic laws in another country, if one plans to drive a car there. One needs to be able to drive from one place to the other safely and without coming into conflict with traffic laws. In project business management, one must be able to make a big number of smaller and larger decisions every day without being able to ask for legal advice for each of them.

4. Ensure a Common Glossary

Many perceived David and Goliath situations are actually misunderstandings. An effective way to ensure a common understanding in a cross-corporate project is to have a shared glossary. Even the big organizations have that rarely, which allows the smaller party to make a recommendation.

As a basis, there is a glossary in the book Project Business Management that can be used and as needed expanded.⁶

5. Use 3rd Party Offerings to Resolve Conflicts

ADR, alternative dispute resolution, can be helpful to avoid litigation in cases that cannot be settled in negotiations.

The Project Business Foundation offers ADR as a service to help organizations by utilizing experts in mitigation and arbitration⁷. These services do not look at an organization's size and treat the Davids and the Goliaths identically, helping reconciling conflicts based on the merits of the parties and on their common interest to do a satisfying project together.

⁶ (Lehmann, 2018)

⁷ (Project Business Foundation, 2020)

6. Know the Other Party

The intention is not to have conflicts in the project but an atmosphere of trust and to jointly follow a “Mission Success First” ethos that places completing over competing and turns contract parties into project partners.

Conflicts nevertheless happen. As shown in last year’s article “Healing Conflicts in Project Business”⁸, the main cause are diverse business interests, but also incompatible cultures and egos play a role.

Knowing the other party, its structures, people involved, its strengths and weak spots, can help not finding oneself at the losing side.

Artificial Intelligence

The Goliath in the story above was a larger company, a business partner with the resources to make every legal conflict an unacceptable risk. What, if it is an algorithm?

Artificial intelligence can be a blessing. It can be an additional team member with skills and capabilities that are beyond what humans can do. Often, however, it turns into the nightmare of an institutionalized and automated system of rumors. Rumors that are uncontrolled and uncontrollable. Rumors that follow their own dynamics, originally installed with good intentions in mind but outgrowing these intentions and evolving into decision schemes that have no accountability to anyone and are no more controllable.

When the algorithm in a vendor selection system scores your organization highly, you win the business. If not, you lose it. The algorithm develops its own model, in which the use of key words, standard phrases, and other inputs are amalgamated to a number, and this number decides the future of your company. You may be a capable vendor building rapport and trust with a prospective customer, understanding their needs and wants, and identifying project requirements from them.

Unfortunately, there is this algorithm, whose criteria for up- and downscoring you do not know. You may not be alone with that. It is likely that on the side of the prospect, no one understands it either, as it operates “under the hood” in its own environment. Its decisions are nevertheless binding for the employees of the prospect – setting up the system was took a lot of effort and now that it’s there, running it is still expensive. Often, these systems are also provided by contractors, and the promise to improve vendor selection is a strong argument for management.

What can you do when you find signals that the prospective project business partner, buyer or seller, is using artificial intelligence to develop and – later – do the project business?

⁸ (Lehmann, 2019)

There are still humans around. Talk with them what they observed how the system responded to words, phrases, events, etc. What makes the algorithm return positive or negative results?

Sometimes, it may be best to end the business relationship early. The element of unpredictability that such a system can bring into the relationship may be beyond what your organization can actually manage.

David in the biblical story could win with the sling against a human being. David would not have stood a chance against a computer program.

Conclusion

In the biblical story, David despite his youth and smaller body shape, wins the fight against Goliath, the giant warrior, with the simple weapons of a shepherd, with his fearlessness and with his skills in handling a sling shot. When we find ourselves in the role of a David in an emerging project business conflict, we should use our skills, but also seek help, to achieve the same.

In some cases, it may be best to end the business before it causes damage to the own organization.

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About the Author



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Oliver F. Lehmann, MSc, ACE, PMP, is a project management educator, author, consultant, and speaker. In addition, he is the President of the [Project Business Foundation](#), the home association for professionals and organizations involved in cross-corporate projects.

He studied Linguistics, Literature and History at the University of Stuttgart and Project Management at the University of Liverpool, UK, where he holds a Master of Science Degree. Oliver has trained thousands of project managers in Europe, USA and Asia in methodological project management with a focus on certification preparation. In addition, he is a visiting lecturer at the Technical University of Munich.

He has been a member and volunteer at PMI, the Project Management Institute, since 1998, and served as the President of the PMI Southern Germany Chapter from 2013 to 2018. Between 2004 and 2006, he contributed to PMI's *PM Network* magazine, for which he provided a monthly editorial on page 1 called "Launch", analyzing troubled projects around the world.

Oliver believes in three driving forces for personal improvement in project management: formal learning, experience and observations. He resides in Munich, Bavaria, Germany and can be contacted at oliver@oliverlehmann.com.

Oliver Lehmann is the author of the books:

- "[Situational Project Management: The Dynamics of Success and Failure](#)" (ISBN 9781498722612), published by Auerbach / Taylor & Francis in 2016
- "[Project Business Management](#)" (ISBN 9781138197503), published by Auerbach / Taylor & Francis in 2018.

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- <https://pmworldlibrary.net/authors/oliver-f-lehmann/>