

Data Rights and Other Contractor IP Issues

Wiley's data rights attorneys help government contractors protect their intellectual property (IP) rights, including commercial software and technical data, under the unique rules and contract clauses that allocate rights in contractor intellectual property under government contracts, grants, and cooperative agreements. Our team draws from skilled practitioners in our Intellectual Property and Corporate practices, who have experience with high-profile and complex IP matters, from negotiating licenses and other technology transfer agreements to litigating intellectual property disputes.

Representative experience includes:

- Successfully represented large defense contractor in an appeal to the Federal Circuit regarding a contractor's ability to apply restrictive markings directed to third parties to their technical data deliverables. *See The Boeing Company v. Secretary of the Air Force*, 983 F.3d 1321 (Fed. Cir. 2020).
- Successfully obtained summary judgment that software development costs charged to a TIA constituted "private expense," permitting a contractor to assert that the resultant software was subject to restricted rights. *See The Boeing Company, ASBCA 60373, July 17, 2018.*
- Advising clients on the government's patent rights and computer software and technical data rights and providing strategies to help contractors maximize the protection of their IP rights when doing business with the federal government.
- Advising clients on IP matters related to acquiring and selling government contractors.
- Advising clients on compliance with Cooperative Research and Development Agreements (CRADAs), Technology Investment Agreements (TIAs), Other Transaction Agreements (OTAs), and Small Business Innovation Research (SBIR) and Small Business Technology Transfer (STTR) programs and awards.
- Representing contractors in connection with pre-challenge requests for information to validate contractor data rights assertions and formal Contracting Officer challenges under FAR 52.227-14, DFARS 252.227-7019, and DFARS 252.227-7037.
- Representing contractors in data rights Contract Disputes Act claims at the Boards of Contract Appeals, the U.S. Court of Federal Claims, and the U.S. Court of Appeals for the Federal Circuit.
- Representing government contractors in administrative claims for patent and copyright infringement, patent infringement suits under 28 U.S.C. § 1498(a), copyright infringement suits under 28 U.S.C. § 1498 (b), and related actions in U.S. District Courts and appeals to the Federal Circuit.

- Training contractor personnel on the unique Federal Acquisition Regulation (FAR), Defense Federal Acquisition Regulation Supplement (DFARS), and other supplemental agency regulations that relate to the treatment of intellectual property under government contracts, including how rights in patents, technical data, and computer software are determined and allocated, and how to spot “red flags” in solicitations and subcontract agreements.

Contact Us

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