

Wiley Secures Federal Circuit Victory in Patent Infringement Suit

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Wiley has secured victory on behalf of AeroVironment, Inc. in a high-stakes patent infringement appeal concerning a NASA contract.

AeroVironment, Inc. is a defense technology leader that develops and deploys autonomous systems, precision strike systems, counter-UAS technologies, space-based platforms, directed energy systems, and cyber and electronic warfare capabilities.

Filed in 2020, the lawsuit alleged patent infringement stemming from AeroVironment's successful collaboration with NASA to develop the Mars Helicopter *Ingenuity*, the first aircraft to fly on another planet.

Affirming a 2023 summary judgment Wiley secured in favor of AeroVironment, the Federal Circuit held that 28 U.S.C. § 1498(a) granted AeroVironment complete immunity from liability for patent infringement in connection with its work on *Ingenuity*. Adopting the arguments Wiley made on behalf of AeroVironment, the Federal Circuit rejected the patent owner's attempt to exempt noncommercial educational and promotional activities from the scope of § 1498(a)'s protection.

The Wiley team representing AeroVironment was led by Scott A. Felder, partner in Wiley's Government Contracts and Intellectual Property practices. The Wiley team also included Intellectual Property partner Wesley E. Weeks and Government Contracts Practice co-chair Scott M. McCaleb. Wiley is a recognized leader in this area of the law and has represented the winning party in two of the most recent § 1498(a) cases to go to the Federal Circuit.

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