

1 SEPTEMBER 1998



Law

**INTELLECTUAL PROPERTY--PATENTS,
PATENT RELATED MATTERS, TRADEMARKS
AND COPYRIGHTS**

COMPLIANCE WITH THIS PUBLICATION IS MANDATORY

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This instruction implements Air Force Policy Directive 51-3, *Civil Litigation*, dated 26 March 1993, by providing guidance and procedures for developing and processing Air Force mission needs, operational requirements, and interests in patents, trademarks, copyrights, and related matters, including claims for compensation. It describes procedures to process an invention disclosure, determine the respective rights of the Government and a Government employee to his or her invention, and appeal an unfavorable decision; procedures relating to matters of copyright, trademark, and proprietary information; procedures in response to allegations of infringement of a patent or a copyright, and claims for compensation; and procedures relating to the negotiation of a patent license under a Government-owned invention pursuant to Section 207 of Title 35, United States Code.

SUMMARY OF REVISIONS

This document is substantially revised and must be completely reviewed.

The changes to this instruction were required in order to correctly reflect the delineation of duties after a reorganization of the responsibilities within the Air Force Intellectual Property organizations. After the reorganization, the Air Force General Counsel's office is responsible for overall coordination and control concerning intellectual property issues, as well as technology transfer. The Air Force Judge Advocate General is responsible for claims and litigation concerning intellectual property, and the Air Force Materiel Command is responsible for patent prosecution. The OPR for the instruction was changed from HQ USAF/JA to SAF/GCQ. Paragraphs 2 and 3 were rewritten. The change of responsibilities necessitated changes to paragraphs 1, 4, 5, 6, 8, 9, 11, 12 and 13. Paragraph 7 was rewritten to reflect significant changes to 37 CFR Part 501 and the restructuring of the Air Force Intellectual Property organizations.

1. Responsibilities.

1.1. The Office of the General Counsel is generally responsible for the direction, control and coordination of inventions, patents, copyrights, trademarks, and trade secrets. Further, the Office of the General Counsel is responsible for managing the legal aspects of the Air Force patent licensing program and is responsible for the legal aspects of implementing the Technology Transfer program. Within the Office of the General Counsel, SAF/GCQ advises and assists all Secretariat Offices, including program executive offices, and establishes Air Force policy on all legal issues concerning intellectual property and technology transfer; interfaces with other governmental agencies and/or branches of the Government on legal issues concerning the same; provides guidance and advice to the major command legal offices and the servicing legal offices concerning all intellectual property issues; and administers all patent license and assignment agreements including receiving and coordinating the dispersal of royalties or other payments.

1.2. The Judge Advocate General (TJAG) coordinates and controls all claims and infringement actions concerning all intellectual property, including patents and copyrights. The Air Force Legal Services Agency (AFLSA) is the organization responsible for the investigative handling and administrative determinations of all such intellectual property infringement claims and litigation, including appeals of determination of rights, for TJAG. The General Counsel will be notified of the initiation of all significant cases, and will be kept apprised of the status of such cases. The General Counsel, per SAFO 111.5, may elect to direct the litigation effort in significant cases.

1.3. The Staff Judge Advocate, Air Force Materiel Command (AFMC), and the servicing legal offices of AFMC are responsible for the patent prosecution function, including filing patent applications and obtaining and maintaining all patents for the Air Force, and for providing related legal services and advice to AFMC and certain other Air Force activities as specified in this instruction.

2. Infringement Claims and Litigation.

2.1. A patent or copyright owner who believes that his or her patent or copyright has been infringed by the Air Force, prior to filing suit against the United States in the United States Court of Federal Claims, may file an administrative claim before the Air Force pursuant to Title 10 United States Code, Section 2386 for compensation for any liability arising under Title 28 United States Code, Section 1498(a) or (b), Title 17 United States Code, Section 504, Title 35 United States Code, Section 183, or Title 22 United States Code, Section 2356.

2.2. The Secretary has delegated authority to settle claims pertaining to intellectual property matters under the above cited authority (paragraph 2.1.) to TJAG. Such claims settlement authority may be redelegated for settlement amounts not exceeding \$100,000. As such, the Secretary has designated TJAG as the organization that represents the Air Force in all civil litigation, and that takes all actions necessary to protect the Air Force when its interests may be affected. The Intellectual Property Branch, Commercial Litigation Division, AFLSA/JACN-P, with the assistance of AFMC as requested, directs those activities pertaining to intellectual property law matters.

2.3. AFLSA/JACN-P, with assistance from AFMC as requested, will investigate each claim for patent or copyright infringement filed before the Air Force that complies with the requirements of Part 227, Subpart 227.70, *Infringement Claims, Licenses, and Assignments*, Defense Federal Acquisition Regulation Supplement (DFARS), for docketing a claim and take all necessary steps to settle administratively, deny, or otherwise dispose of the claim prior to suit against the United States.

2.4. Each Air Force activity must forward under cover letter directly to AFLSA/JACN-P each communication asserting or believed to assert a claim of patent or copyright infringement. Forward communications which:

2.4.1. Allege or assert that the manufacture, use or disposition of any article, material, or process by or for the Air Force involves the use of any invention or design, whether patented or unpatented.

2.4.2. Allege or assert that the Air Force has improperly copied, prepared a derivative work, distributed, performed, displayed, or transmitted any work of authorship owned by another.

2.4.3. Request, either expressly or implicitly, compensation because of use.

2.4.4. Offer to grant an assignment of a patent or copyright or a license for its use.

2.4.5. Request that alleged unauthorized use by or for the Government cease.

2.5. The Air Force activity must state all pertinent facts concerning the claim or allegation that are known, and provide AFLSA/JACN-P with all pertinent documentation.

3. Suits for Patent or Copyright Infringement--Employees. An employee may bring suit against the United States in the United States Court of Federal Claims under 28 U.S.C. §1498(a) or (b) for patent or copyright infringement, except where:

3.1. The employee was in a position to order, influence, or induce use of the invention or work of authorship by the Government.

3.2. The invention or work of authorship was related to the official functions of the employee; or

3.3. Government time, materials, or facilities were used in making the invention or preparing the work of authorship.

4. Employee Inventions.

4.1. The Staff Judge Advocate of AFMC has designated AFMC LO/JAZ, ESC/JAZ, HSC/JA, 377 ABW/JAN, and RL/JA (hereinafter referred to as servicing legal office patent counsel) to provide the necessary legal services to obtain and maintain patents on behalf of the Air Force. For Air Force activities which do not have a designated servicing legal office patent counsel, AFMC LO/JAZ will provide the necessary invention processing and patenting services. Each of the servicing legal office patent counsels may transfer the invention disclosure to any of the other servicing legal office patent counsels if technical expertise is not available at the servicing legal office patent counsel that received the invention disclosure.

4.2. The servicing legal office patent counsel for the employee's activity will process each employee invention for patenting or publication as a Statutory Invention Registration without cost to the employee, if the invention involves statutory subject matter within the context of Title 35 United States Code, Section 101 and receives a favorable technical evaluation and determination that the invention is within the Air Force mission. As a condition precedent to filing a patent application, the employee must agree to assign his or her entire right, title, and interest in and to the invention to the Government, or acquiesce in a decision on a determination of rights that an assignment is required.

4.3. The servicing legal office patent counsel will obtain an independent evaluation of each invention from the laboratory or other activity where the invention was made, or alternatively, from an activity

which has cognizance of the technology of the invention. The evaluation will be completed using AF Form 1981, **Invention Evaluation**. Based on the recommendation of the evaluator and taking into consideration the importance of the invention to the Air Force mission, its technology transfer potential, and its patentability, the servicing legal office patent counsel will determine whether it is in the best interests of the Air Force to file a patent application. The employee will be notified of the decision.

4.4. If the servicing legal office patent counsel does not intend to file a patent application on the invention, then pursuant to Title 15 United States Code, Section 3710d, the servicing legal office patent counsel, on behalf of the Air Force, shall allow the inventor/employee to obtain or retain title to the invention subject to the reservation by the Government of a nonexclusive, nontransferrable, irrevocable, paid-up license to practice the invention or have the invention practiced throughout the world by or on behalf of the Government.

4.5. The servicing legal office patent counsel shall provide SAF/GCQ a periodic summary report of activities under this paragraph including the information on any issued patents which have been assigned to the United States of America, as represented by the Secretary of the Air Force, or in which the Government has retained a royalty-free, non-exclusive license for government purposes.

5. Protection of Invention Rights. Each employee is responsible for keeping an accurate record regarding his or her research, development, or other activity. All records should be signed and dated by at least two competent witnesses who shall attest that they read and understood the description of the invention, its function, and the method of using it. If the invention previously was actually reduced to practice and operated, the witnesses should state not only did they understand the invention, but that they saw the invention work successfully on a specific date. Witnessed documents should be safeguarded to serve as proof of either or both conception and reduction to practice.

6. Recording and Submitting Inventions.

6.1. Each employee must disclose in writing all inventions made during the period of his or her employment. Employees should document inventions by completing AF Form 1279, **Disclosure and Record of Invention**, and supplement the form with documentation, such as sketches, prints, drawings or other illustration to provide a full and complete statement regarding the invention.

6.2. Each employee shall indicate his or her intent to assign his or her entire right, title, and interest in and to the invention to the Government by completing the "Certification of Inventor(s)" section of AF Form 1279. If the employee does not agree to assign his or her entire right, title and interest in and to the invention to the Government, then the procedures set forth in paragraph 7. of this AFI must be followed.

6.3. Each employee will forward AF Form 1279 and all supplemental documentation describing an invention to the servicing legal office patent counsel for the employee's installation.

6.4. An AF Form 1279 describing an employee invention may not be duplicated, used, or disclosed, in whole or in part, for any purpose other than technical and security review, invention evaluation and patent prosecution, unless prior permission is obtained from the employee, or the servicing legal office patent counsel.

6.5. An employee must notify the servicing legal office patent counsel of every pending patent application and any patent maturing from an application in his or her name relating to inventions made during Government employment filed through channels other than those of the Air Force.

7. Determination of Rights.

7.1. An employee who does not agree to assign his or her entire right, title and interest in and to an invention to the Government must complete AF Form 1280, **Invention Rights Questionnaire**, and provide information necessary to permit a determination of the respective rights of the Government and the employee in the invention. The employee will submit the AF Form 1280 together with his or her job description, which was in effect at the time the invention was made, to the servicing legal office patent counsel.

7.2. The servicing legal office patent counsel will prepare and forward to SAF/GCQ a written recommendation with reasons supporting the respective rights of the Government and the employee in any invention disclosed in AF Form 1279 resulting from research, development, or other activity. The recommendation will be based upon statements in AF Form 1280, any other information the employee is required to submit, and the employee's job description.

7.3. SAF/GCQ, in accordance with the criteria of Executive Order 10096, *Providing for a Uniform Patent Policy for Government with Respect to Inventions Made by Government Employees and for the Administration of Such Policy*, dated 23 January 1950, as amended by Executive Order 10930, *Abolishing the Government Patents Board and Providing for the Performance of Its Functions*, dated 28 March 1961, and its implementing regulation, Title 37, *Code of Federal Regulations*, Part 501, *Uniform Patent Policy for Rights in Inventions Made by Government Employees*, will review the recommendation of the servicing legal office patent counsel and render a determination that either:

7.3.1. The Government shall obtain, except as herein otherwise provided, the entire right, title, and interest in and to the invention made by the employee;

7.3.2. The employee shall retain the entire right, title, and interest in and to the invention, subject to the reservation by the Government of a nonexclusive, irrevocable, royalty-free license in the invention with the power to grant licenses for all governmental purposes; or

7.3.3. The employee shall retain the entire right, title, and interest in and to the invention, subject to law.

7.4. An employee may submit evidence to establish that any one or more of the conditions of 37 C.F.R. Part 501 are absent, and the Government may establish that equitable considerations justify the requirement that the invention and any patent to issue on the invention should be assigned to it.

7.5. SAF/GCQ will provide the employee with a signed and dated statement of its determination and reasons therefor and a copy of Title 37, *Code of Federal Regulations*, Part 501 and will preserve and make the determination rights available for purposes of appeal. If the determination is made pursuant to 37 C.F.R. Subpart 501.6(a)(2), SAF/GCQ may impose on the employee any one or all of the following conditions or any other conditions that may be necessary in a particular case:

7.5.1. That a patent application be filed in the United States and/or abroad, if SAF/GCQ has determined that the Government has or may need to practice the invention;

7.5.2. That the invention not be assigned to any foreign-owned or controlled corporation without the written permission of SAF/GCQ; and

7.5.3. That any assignment or license of rights to use or sell the invention in the United States shall contain a requirement that any products embodying the invention or produced through the use of the invention be substantially manufactured in the United States.

NOTE:

SAF/GCQ shall notify the employee of any conditions imposed in its determination.

7.6. Throughout the entire Determination of Rights process, including an appeal, a controversy over the respective rights of the Government and of the employee shall not unnecessarily delay the filing of a patent application by the Air Force to avoid the loss of patent rights. In cases coming within the scope of 37 C.F.R. Subpart 501.6(a)(2), the filing of a patent application shall be contingent upon the consent of the employee.

7.7. Where the servicing legal office patent counsel office has filed a patent application in the United States, the servicing legal office patent counsel will, within 8 months from the filing date of the U.S. application, determine if any foreign patent applications should also be filed. If the servicing legal office patent counsel chooses not to file an application in any foreign country, the employee may request rights in that country, subject to the conditions stated in paragraph 7.5. that may be imposed by SAF/GCQ. Alternatively, SAF/GCQ or the servicing legal office patent counsel may permit the employee to retain foreign rights by including, in any assignment to the Government of an unclassified U.S. patent application on the invention, an option for the Government to acquire title in any foreign country within 8 months from the filing date of the U.S. application.

7.8. The employee may appeal the determination of rights by filing two copies of a notice of appeal with the Under Secretary of Commerce for Technology (hereinafter Under Secretary of Commerce) within 30 days (or within a longer period of time granted by the Under Secretary of Commerce for good cause shown in writing) after receiving notice of the determination by SAF/GCQ. The address of the Under Secretary of Commerce for Technology is listed in **Attachment 1** of this AFI.

7.9. AFLSA/JACN serves as the liaison with the Under Secretary of Commerce in the event the employee appeals the determination of rights. As such, AFLSA/JACN shall represent the Air Force in any such appeal and shall file any required documents on behalf of the Air Force.

7.10. Any appeal of a Determination of Rights shall be pursued in accordance with regulations prescribed by the Department of Commerce. See 37 C.F.R. Part 501.

8. Contractor and Independent Inventions.

8.1. The receiving office will forward each invention disclosure, all patent applications, and patents filed by contractors for which there is an expression of intention to discontinue prosecution or to stop payment of maintenance fees, and each unsolicited invention disclosure submitted by an independent inventor, to the servicing legal office patent counsel.

8.2. The following materials should be sent to the servicing legal office patent counsel within 15 days of receipt:

8.2.1. The invention disclosure, patent application, or patent.

8.2.2. An AF Form 1981, **Invention Evaluation**, completed by the project officer for the contract or other technical person, as deemed appropriate, indicating the security classification, technical evaluation, and relevance of the invention to the Air Force mission.

8.2.3. The contractor's written statement electing not to retain title to the invention, or in the case of an independent inventor, the correspondence offering the invention to the Government.

8.3. The servicing legal office patent counsel will determine whether it is in the best interests of the Air Force to acquire title from the contractor of a non-elected invention, to acquire title or other interest in an independent invention, to make a patentability search, to file a patent application, to continue prosecution of a patent application, to pay maintenance fees, or to take other action with respect to an invention. The submitter and the receiving office will be notified by the servicing legal office patent counsel of the disposition of the invention.

8.4. The servicing legal office patent counsel will provide SAF/GCQ a periodic report summarizing any significant actions taken with respect to contractor or independent inventions.

9. Awards.

9.1. Pursuant to AFI 38-401, an invention award will be paid to each inventor when a patent application is filed, and a patent award will be paid to each inventor when Letters Patent is issued, a Statutory Invention Registration is published, or when a notice of allowability has been received for a patent application which is under a secrecy order.

9.2. A cash award under this paragraph is in addition to the pay and allowances of the recipient. The acceptance of any such award shall constitute 1) an agreement by the recipient that the use by the United States of any idea, method, or device for which the award is made may not be the basis of a claim against the United States by the recipient, his/her heirs, or assigns, or by any person whose claim is alleged to be derived through the recipient; and 2) a warranty by the recipient that he/she has not at the time of acceptance transferred, assigned, or otherwise divested himself/herself of legal or equitable title in any property right residing in the idea, method, or device for which the award is made. (Title 5 United States Code, Section 4502(c) and Title 10 United States Code, Section 1124).

10. Copyrights.

10.1. Each Government officer, agent, and employee acting within the scope of his or her official duties should:

10.1.1. Honor private copyrights and acknowledge the owner's copyrighted material, if it is used in Air Force publications or other officially released material.

10.1.2. Avoid the unauthorized use of copyrighted material where possible except when permission has been obtained by the copyright owner as hereinafter provided.

10.2. Each Air Force activity may seek permission in the form of a license or release to make limited use of copyrighted material without charge. Ordinarily, no need for special formality is required to obtain permission to use copyrighted material free of charge, although requesters should observe the following checklist in requesting permission. The request should:

10.2.1. Be for no greater rights than are actually needed.

10.2.2. Identify fully the material for which permission to use is requested.

10.2.3. Explain the proposed use and state the conditions of use, so that the copyright proprietor or agent need only give affirmative consent to the proposed use.

10.2.4. Be submitted in duplicate to the copyright proprietor so that the proprietor may retain one copy and return the other copy signed to evidence assent to the request.

10.2.5. Include a self-addressed return envelope.

10.3. When requesting permission to use copyrighted material without cost, Air Force personnel should not require signature by more than one corporate officer, an impression of the corporate seal or certificate, a warranty regarding title, or more than one copy of the signed permission or license.

10.4. Any Air Force activity that requires a paid license, assignment and/or release for copying, distributing, performing, preparing derivative works, or transmitting any copyrighted work of authorship, which is not related to any Government procurement contract, shall process any such requirement through the activity's local contracting office. Any such license, assignment and/or release, totaling less than \$2,500, must be coordinated with a servicing legal office, preferably the servicing legal office patent counsel, and any such license, assignment, and/or release, totaling over \$2,500, must be coordinated with SAF/GCQ.

10.5. A copy of each license, assignment or release purchased by the Air Force, or any permission (license) obtained without charge, shall be forwarded to SAF/GCQ.

10.6. Inquiries or problems concerning copyrights arising in AFMC activities should be referred to the servicing legal office patent counsel. All other Air Force activities should seek advice or counsel on copyright related issues from SAF/GCQ.

11. Trademarks.

11.1. When appropriate, the Air Force may file an application to obtain a Federal trademark registration covering goods or services. The Air Force may also obtain registration under the laws of most states for goods or services which do not qualify for Federal registration. The servicing legal office patent counsel with the concurrence of SAF/GCQ will determine which marks the Air Force will register.

11.2. Each Government officer, agent, and employee acting within the scope of his or her official duties should:

11.2.1. Honor private trademark rights and acknowledge the trademark owner's mark, if it is used in an Air Force catalog, correspondence, contract, or publication.

11.2.2. Avoid use of a trademark where possible in all Air Force supply catalogs and contracts.

12. Information Marked as Proprietary and Non-Disclosure Agreements.

12.1. Any information that has been marked as proprietary and/or that may have been submitted to the Air Force in confidence must only be used for the intended purpose and must not be publicly disclosed.

12.2. All inquiries or problems relating to the handling of information marked as proprietary or requests to sign non-disclosure agreements should be referred to the servicing legal office.

13. Licensing of Government-owned Inventions.

13.1. This paragraph describes the requirements, procedures, terms and conditions for licensing Government-owned patents and patent applications in the custody of the Air Force under the authority

found at 35 U.S.C. §207. Because the requirements for licensing inventions are different for inventions made under a Cooperative Research and Development Agreement (CRDA), the implementing Air Force instructions are found in a different Air Force instruction, namely AFI 61-303. Air Force personnel should be cognizant of the different requirements between these two instructions.

13.2. The Air Force may only grant a license, including a foreign license, if the applicant (or prospective licensee) has submitted a satisfactory plan for development or marketing of the invention, or both, in accordance with Subpart 404.7, Title 37 Code of Federal Regulations.

13.3. The Air Force may treat each plan under paragraph 13.2. as commercial and financial information obtained from a person and privileged and confidential, and not subject to disclosure under Title 5 United States Code, Section 552.

13.4. Each application for a license and all inquiries and communications regarding a license will be forwarded by the receiving office immediately to the servicing legal office patent counsel. The servicing legal office patent counsel will review the application, obtain any missing information, and forward the complete application and any advisory recommendation to SAF/GCQ.

13.5. SAF/GCQ will notify the servicing legal office patent counsel of its decision whether to approve or deny each application for an exclusive or partially exclusive license. In order to document this determination SAF/GCQ will either prepare a memorandum of the decision, based upon all arguments and evidence, or recommend to the servicing legal office patent counsel to include the bases for the determination in the license agreement. Any such determination documentation shall be consistent with Subpart 404.7, Title 37 Code of Federal Regulations.

13.6. Patent licenses will be negotiated on behalf of the laboratory, or other Air Force activity where the invention was made, by the servicing legal office patent counsel. Patent licenses shall be negotiated consistent with the Air Force model Patent License and guidelines for using the Air Force model Patent License. The model Patent License and its guidelines shall be distributed to Air Force activities by SAF/GCQ. In any case when the negotiation of a Patent License involves a substantial substantive modification to a provision of the model Patent License which is required by the guidelines to be used verbatim, concurrence for such modification shall be obtained from SAF/GCQ. Such concurrence should be requested prior to the signature by any party. After signature by the licensee(s), the license shall be forwarded to SAF/AQ, through SAF/GCQ, for review and signature. All licenses forwarded to SAF/AQ will have the concurrence of the laboratory or other Air Force activity commander, director or delegate. Licenses normally will contain a royalty provision or provide for some other form of consideration flowing to the Government, and all terms and conditions considered to be appropriate for the protection of the interests of the Federal Government and the public and not in conflict with law or regulation.

13.7. A party whose application for license has been denied or who has timely filed a written objection in response to the notice and can demonstrate to the satisfaction of the Air Force that it will be damaged by the action of the agency, or a licensee whose license has been modified or terminated, in whole or in part, may appeal any decision or determination concerning the grant, denial, interpretation, modification, or termination of a license to Office of the General Counsel. The appeal must be in writing and submitted within sixty days of the date the decision or determination to be appealed was mailed to the party.

13.8. The Secretary, or his or her designee, will execute each license negotiated in accordance with the provisions of 35 U.S.C. 207 *et seq* on behalf of the Air Force.

13.9. SAF/GCQ will retain all records relating to licenses negotiated under either Title 15 United States Code, Section 3710a(b)(2) or 35 U.S.C. §207.

13.10. SAF/GCQ will administer all patent licenses including receiving royalty or other fees, disbursing such fees, terminating or modifying the patent licenses as appropriate, and providing any written approvals on behalf of the Air Force, such as approving sublicensees and the like.

14. Transfer of Custody. The Air Force may enter into an agreement to transfer custody of any invention to another Government agency for purposes of administration, including the granting of licenses pursuant to this instruction. Such transfer of custody matters shall be the responsibility of SAF/GCQ.

15. Forms Prescribed. AF Form 1279, **Disclosure and Record of Invention**; AF Form 1280, **Invention Rights Questionnaire**; and AF Form 1981, **Invention Evaluation**.

SHEILA C. CHESTON
General Counsel

Attachment 1**GLOSSARY OF REFERENCES AND SUPPORTING INFORMATION*****References***

5 U.S.C. 552, Public information; agency rules, opinions, orders, records, and proceedings

5 U.S.C. 4502, General Provisions, Chapter 45, Incentive Awards

10 U.S.C. 1124, Cash awards for disclosures, suggestions, inventions, and scientific achievements

10 U.S.C. 2386, Copyrights, patents, designs, etc.; acquisition

15 U.S.C. 3710a, Cooperative research and development agreements

15 U.S.C. 3710d, Employee Activities

17 U.S.C. 504, Remedies for Infringement: Damages and profits

22 U.S.C. 2356, Patents and technical information

28 U.S.C. 1498(a) and (b), Patent and copyright cases

35 USC 101, Inventions Patentable

35 U.S.C. 183, Right to Compensation

35 U.S.C. 207, Domestic and foreign protection of federally owned inventions

35 U.S.C. 281, Remedy for infringement of patent

37 CFR Part 404 – Licensing of Government owned inventions

Title 37 CFR Part 501 -- Uniform Patent Policy For Rights In Inventions Made By Government Employees

DFARS Subpart 227.70--Infringement Claims, Licenses, And Assignments

DFARS Subpart 252.227—Patents, Data, And Copyrights Clauses

AFPD 51-3

AFI 38-401

AFI 61-303

Significant References**Patents**

35 USC 102 Conditions for patentability; novelty and loss of right to patent

35 USC 103 Conditions for patentability; non-obvious subject matter

35 USC 105 Inventions in outer space

35 USC 112. Specification

35 USC 271 Infringement of patent

35 USC 282 Presumption of validity; defenses

DoD Directive 2000.3 International Interchange of Patent Rights and Technical Information

Trademarks

15 USC 1051 Registration of trade-marks

15 USC 1052 Trade-marks registrable on the principal register; concurrent registration

15 USC 1114 Remedies; infringement; innocent infringement by printers and publisher

15 USC 1115 Registration on principal register as evidence of exclusive right to use mark; defenses

15 USC 1125 False designations of origin and false descriptions forbidden

15 USC 1127 Construction and definitions; intent of chapter

Copyrights

17 USC 101. Definitions

17 USC 102 Subject matter of copyright: In general

17 USC 103 Subject matter of copyright: Compilations and derivative works

17 USC 104 Subject matter of copyright: National origin

17 USC 104A Copyright in restored works

17 USC 105. Subject matter of copyright: United States Government works

17 USC 106 Exclusive rights in copyrighted works

17 USC 107 Limitations on exclusive rights: Fair use

17 USC 108 Limitations on exclusive rights: Reproduction by libraries and archives

17 USC 109 Limitations on exclusive rights: Effect of transfer of particular copy or phonorecord

17 USC 110 Limitations on exclusive rights: Exemption of certain performances and displays

17 USC 117 Limitation on exclusive rights: computer programs

17 USC 302 Duration of copyright: Works created on or after January 1, 1978

17 USC 501 Infringement of copyright

DoD Directive 5535.4, Copyrighted Sound and Video Recordings

DoD Directive 5535.7 License Agreements with Foreign Performing Rights Societies

Proprietary Information

18 USC 1905 Disclosure of confidential information

Mask Works

17 USC 901 Definitions

17 USC 902 Subject matter of protection

17 USC 904 Duration of protection

17 USC 905 Exclusive rights in mask works

17 USC 906 Limitation on exclusive rights: reverse engineering; first sale

17 USC 911 Civil actions

Technology Transfer--Generally

15 USC 3701 Findings

15 USC 3702 Purpose

15 USC 3703 Definitions

15 USC 3704b-2 Transfer of Federal scientific and technical information

15 USC 3710 Utilization of Federal technology

15 USC 3712 Personnel exchanges Department of Defense Directive

Department of Defense Instruction on Technology Transfer

Patent Licenses

35 USC 208. Regulations governing Federal licensing

35 USC 209. Restrictions on licensing of federally owned inventions

15 USC 3710a Cooperative research and development agreements

37 CFR 404.1 et seq

DoD Directive 5535.3 Licensing of Government-Owned Inventions by the Department of Defense

Patent Rights in Government Contracts

35 USC 200. Policy and objective

35 USC 201. Definitions

35 USC 203. March-in rights

35 USC 204. Preference for United States industry

35 USC 205. Confidentiality

35 USC 206. Uniform clauses and regulations

35 USC 210. Precedence of chapter

35 USC 211. Relationship to antitrust laws

35 USC 212. Disposition of rights in educational awards

37 CFR Part 401.1 et seq

FAR Part 27--Patents, Data, And Copyrights

FAR Subpart 52.227—Patents, Data, And Copyrights Clauses

Technical Data & Computer Software

FAR Subpart 27.4--Rights in Data and Copyrights

FAR Subpart 52.227--Patents, Data, And Copyrights Clauses

DFARS Subpart 227.4--Rights In Data And Copyrights

DFARS Subpart 227.6--Foreign License And Technical Assistance Agreements

DFARS Subpart 227.71--Rights In Technical Data

DFARS Subpart 227.72--Rights In Computer Software And Computer Software Documentation

Freedom of Information Act

5 U.S.C. 551. Definitions

Secretary of the Air Force Orders

SAFO 111.5

SAFO 350.4 (Rescinded)

Air Force Policy Directives

AFPD 61-3

Air Force Instructions

AFI 61-301

AFI 61-302

Terms

Cooperative Research and Development Agreement (CRDA)—An agreement between one or more Federal laboratories and one or more non-Federal parties, under which the Government, through its laboratories, provides personnel, services, facilities, equipment, intellectual property, or other resources with or without reimbursement (but not funds to non-Federal parties), and the non-Federal parties provide funds, personnel, services, facilities, equipment, intellectual property, or other resources toward the conduct of specified research or development efforts which are consistent with the missions of the laboratory, except that such term does not include a procurement contract or cooperative agreement, as those terms are used in Title 31, U.S.C., Sections 6303, 6304, and 6305.

Copyright—The exclusive right granted under Title 17, U.S.C., to the owner of an original work to reproduce and to distribute copies or phonorecords, to make derivative works, and to perform or display certain types of the works publicly.

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(i) has performed all of the mental or experimental work or a combination thereof necessary to accomplish his or her purpose so that he or she is able to clearly demonstrate to a person of ordinary skill in the art or science that his or her invention is operable and practicable, and (ii) has actually disclosed the invention fully and completely to others in some tangible form.

Patent—A grant issued by the Government, giving the owner the right to exclude all others from making, using, or selling the patented invention within the United States, its territories and possessions. The term "patent" includes utility, design, and plant patents.

Practical application—Referring to the licensing provisions of paragraph 13., "practical application" means to manufacture in the case of a composition or product, to practice in the case of a process or method, or to operate in the case of a machine or system; and in each case, under such conditions as to establish that the invention is being utilized and that its benefits are, to the extent permitted by law or Government regulations, available to the public on reasonable terms.

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SAF/GCQ—Office of the General Counsel (Acquisition), 1740 Air Force Pentagon, Room 4D980, Washington, DC 20330-1740. DSN 426-9036 or 426-9037 Commercial (703) 696-9036 or 9037, Fax Commercial (703) 697-3796 or Fax DSN 426-8579.

AFLSA/JACN-P—Air Force Legal Services Agency, Commercial Litigation Division, Intellectual Property Branch, 1501 Wilson Blvd., Suite 805, Arlington, VA 22209-2403, DSN 426-9034 or commercial (703) 696-9034, Fax DSN 426-8579.

AFMC LO/JAZ—Air Force Materiel Command Law Office, Directorate of Intellectual Property Law, 2240 B St, Rm 100, Wright-Patterson AFB, OH 45433-7109, Duty Phone/Fax (DSN) 785-2838/3733.

ESC/JAZ—Office of the Staff Judge Advocate, Electronics Systems Center, Intellectual Property Division, 40 Wright St, Bldg 1120, Hanscom AFB, MA 01731-2903, Duty Phone/Fax (DSN) 478-4075/4820.

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