

Section of Public Contract Law
321 North Clark Street
Chicago, Illinois 60654

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DATED MATTER

Make your hotel reservations now.
The Seaport Hotel will release
our room block on Wednesday,
October 20, 2010, at 5:00 p.m. CDT.



Section of
Public Contract Law

The Federal Circuit Bar Association
BENCH & BAR

Intellectual Property in Government Agreements —

A stylized illustration of a city skyline with various buildings in shades of blue, white, and red. A large red house shape is overlaid on the buildings, with a red flag on top. The text 'What You Didn't Learn in Kindergarten' is written in white inside the house shape.

**What You
Didn't Learn
in
Kindergarten**

November 11-12, 2010

**Seaport Hotel
Boston, Massachusetts**

PROGRAM OVERVIEW

We all recall that many of the lessons we learned in Kindergarten dealt with two issues: (i) what's "MINE" and (ii) when to "SHARE." It is appropriate that here in Boston—a key technology and intellectual center of our nation—that this program addresses the sometimes counterintuitive approach in federal laws and regulations when allocating intellectual property rights between the federal government and private parties under government agreements.

Changes in federal government administrations and the issues of the day are creating changes in established laws and regulations and different approaches to implementation of existing regimes. The changing state of private financial markets and federal budget levels often influence private parties' goals and behavior.

Hear from the experts representing government, industry and private practice who spend their days explaining "MINE" and "SHARE" in terms we all can understand.

- **Government Rights in Technical Data and Patents: Are the Playground Rules Changing?:** Learn about developments and changes in the **laws and regulations regarding government rights** in technical data and patents. Is there an increasing demand for IP **deliverables required by federal contracts**? If so, why? In which direction is the pendulum swinging?
- **Software in the Sandbox:** Are **commercial software rights** and restricted rights different **under the regulations**? Can **open source software work in a FAR, FAR world**?
- **ABCs of Grants and Contracts Merging Under ARRA:** Private parties familiar with contracts are getting grants and vice versa under ARRA. Do the **different regulatory regimes** make a difference? Certain federal agencies are spending a lot of ARRA funds—what **special twists do these agencies' regulations and policies** have that affect intellectual property?
- **IP Disputes—What's "MINE"?: Data rights challenges under the regulations** are on the rise. How do they really work? How are damages calculated in contract disputes vs. infringement actions? Hear case law and procedure updates on intellectual property disputes affecting patents, technical data, and software.

This program aids those with a basic understanding of intellectual property and government agreements.

Attorneys, contracting and technology transfer personnel, program managers, proposal writers, and others should benefit from the playground tools provided here.

PROGRAM OVERVIEW

Join us on November 11 from 4:30 p.m. to 6:00 p.m. for an optional Practicum on **data rights assertions**, followed by a hosted Reception at a local firm. Schedule your arrival and departure to allow your attendance at any or all of the other events planned on the days before and after this program.

Register today and network with other procurement professionals in Boston, a city of historic and scientific significance, on November 11-13.

PROGRAM SPONSORS

The Section gratefully acknowledges the very generous support from the following Fall Program Sponsors:

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OTHER PLANNED EVENTS

Thursday, November 11, 2010

4:30 p.m. to 6:00 p.m.

Optional Practicum—Data Rights Assertions for Beginners

This practical session will explain the theory and rationale for the data rights assertion table. The government has recently begun to scrutinize these tables included in proposals—often rejecting them. **Counsel in all roles in government contracts will benefit from understanding what is being asked and how to respond.**

- What intellectual property should be included?
- What should not be included?
- How does this fit in the overall proposal?
- When can you and should you update the assertions?

Mary Shallman

The Boeing Company
Seal Beach, CA

Holly Emrick Svetz

Womble Carlyle Sandridge & Rice PLLC
Tysons Corner, VA

6:00 p.m. to 7:30 p.m.

Meet and Greet Reception hosted by Seyfarth Shaw in their offices at World Trade Center East, Two Seaport Lane, Suite 300

The Section gratefully acknowledges the generosity of Seyfarth Shaw LLP for hosting this Reception for program speakers and meeting attendees in their offices, located immediately next to the Seaport Hotel.

Saturday, November 13, 2010

8:30 a.m. to 12:00 noon

Section Council Meeting

The Council of the Section of Public Contract Law will meet in open session where a number of action and informational items will open the window on legislation, regulatory and other substantive issues of current interest and importance to government contracts practitioners. All members and registrants for the Friday program are welcome.

PROGRAM

Friday, November 12, 2010

7:30 a.m. to 8:15 a.m.

Registration

8:15 a.m. to 8:30 a.m.

Welcome and Introduction

Mary Shallman, *Program Co-Chair*

The Boeing Company
Seal Beach, CA

Holly Emrick Svetz, *Program Co-Chair*

Womble Carlyle Sandridge & Rice PLLC
Tysons Corner, VA

8:30 a.m. to 10:00 a.m.

Government Rights in Technical Data and Patents: Are the Playground Rules Changing?

- More government rights
- More data delivered

Fernand A. Lavalley, *Moderator*

DLA Piper LLP (US)
Washington, DC

William (Bill) C. Anderson

Chief Intellectual Property Counsel
United Launch Alliance
Centennial, CO

Kirsten M. Koepsel

Director, Legal Affairs and Tax
Aerospace Industries Association
Washington, DC

George O. Winborne (not confirmed)

Patent Attorney
U. S. Army Aviation & Missile Command, LCMC
Redstone Arsenal, AL

10:00 a.m. to 10:15 a.m.

Networking Break

10:15 a.m. to 11:45 a.m.

Software in the Sandbox

- Open source
- Commercial software

PROGRAM

David J. Ridders, *Moderator*

Senior IP Counsel
Raytheon Company, Integrated Defense Systems
Tewksbury, MA

Vicki E. Allums

Associate General Counsel for Intellectual Property
Defense Information Systems Agency (DISA)
Department of Defense
Arlington, VA

Sanjay Beri

Womble Carlyle Sandridge & Rice PLLC
Tysons Corner, VA

Clark Martin

Assistant General Counsel
iRobot Corporation
Bedford, MA

12:00 noon to 1:30 p.m.

Program Luncheon

Presiding:

Donald G. Featherstun, *Chair*

Section of Public Contract Law
Seyfarth Shaw LLP
San Francisco, CA

Speaker:

Paul R. Michel

Chief Judge, Retired
U.S. Court of Appeals for the Federal Circuit
Washington, DC

1:45 p.m. to 3:15 p.m.

ABCs of Grants and Contracts Merge under ARRA

- Patents
- Technical data
- DOE—ARPA-E
- Recovery Act grants outside of DOE—ARPA-E
- Overview of Recovery Act grants

James G. McEwen, *Moderator*

Stein McEwen LLP
Washington, DC

PROGRAM

Geoff Cooper

Environmental Protection Agency
Washington, DC

John Lucas

Department of Energy—ARPA-E
Washington, DC

Richard W. Oehler

Perkins Coie LLP
Seattle, WA

3:15 p.m. to 3:30 p.m.

Networking Break

3:30 p.m. to 5:00 p.m.

IP Disputes—What's Mine?

- Data rights challenges—on the increase
- Case review—patent and copyright infringement; trade secret issues
- Case review—data rights claims
- Calculating damages in BCA actions alleging the misuse of IP

Judge Allan H. Goodman, *Moderator*

Civilian Board of Contract Appeals
Washington, DC

Edward M. Bushard

Pratt & Whitney
East Hartford, CT

Scott A. Felder

Wiley Rein LLP
Washington, DC

Alan I. Kalb

Intellectual Property Branch
U.S. Army Research Laboratory (U.S. Army RDECOM)
Adelphi, MD

5:00 p.m. to 7:00 p.m.

Section Reception

CAN'T ATTEND IN PERSON?

If circumstances prevent you from attending this program in person, this Virtual Meeting is the next best thing to being there.

This live video presentation features customized curriculum for new and experienced attorneys. This three-program series is the most prudent and economical way to gain up to 4.5 hours of CLE credit in one day.

Register for the entire series or view additional information on each program at:

<http://www.abacle.org/programs/pcs>

COMING ATTRACTIONS

MARCH 3–5, 2011

17th Annual Federal Procurement Institute and Open Midyear Council Meeting

LOEWS ANNAPOLIS HOTEL, ANNAPOLIS, MD

MAY 13–14, 2011

6th Annual State and Local Procurement Symposium and Open Spring Council Meeting

SHERATON GRAND SACRAMENTO, SACRAMENTO, CA

AUGUST 5–8, 2011

Annual Educational Programs and Open Council Meeting

SHERATON CENTRE, TORONTO, ONTARIO, CANADA

NOVEMBER 4–5, 2011

Fall Program and Open Council Meeting

HOTEL ALBUQUERQUE, ALBUQUERQUE, NEW MEXICO

CANCELLATION POLICY

Requests for refund must be made in writing and received in the Section of Public Contract Law's office on or before November 5, 2010. **Refund requests received after October 19 will be reduced by a \$25.00 administrative fee.** Substitutions may be made at any time.

A registration submitted online or by mail, fax, or PDF to the Section office is considered a firm commitment. If you do not cancel by the designated deadline date for refund, you will be expected to pay the registration fee even if circumstances prevent you from attending the program.

NO REFUNDS WILL BE MADE AFTER NOVEMBER 5, 2010.

CLE CREDIT

Accreditation has been requested for this program from every state (including CA and PA) with mandatory continuing legal education (MCLE) requirements for lawyers. Please be aware that each state has its own rules and regulations, including its own definition of "CLE." Attorneys seeking to obtain credit in Pennsylvania must pay fees directly to the PACLE. Please be prepared to remit payment to the PACLE (\$2 per credit hour or any portion thereof) after the program. Certificates of attendance will be available at the conclusion of the program for both attendees and speakers. If you have questions about the number of CLE credit hours granted by each state, you may call 800-285-2221 starting 2 to 3 weeks before the program.

SPECIAL AIRLINE DISCOUNTS

Discounted airfares are available from ABA Orbitz for Business including ABA negotiated discounts on American and United. To book online, go to www.abanet.org/travel, click under the Orbitz for Business logo at the top of the page, then click on the appropriate link in the Self Paid Travel box. For assistance with online or offline reservations, call toll free 1-877-222-4185.

Discounts can also be obtained directly from the carrier. American: Call 800-433-1790 code **A1210SS**; United: Call 800-521-4041 code **578IG**.

HOTEL INFORMATION

Overlooking the Boston skyline and waterfront, the Seaport Hotel is located at 1 Seaport Lane. The hotel's location provides swift access to the airport, downtown, and landmarks of one of America's most dynamic cities. Minutes away are Faneuil Hall's historic charm, the Institute for Contemporary Art, the North End's quaint tree-lined streets, and much, much more.

Conveniently located 3 miles from Boston Logan Airport, the Seaport Hotel offers: complimentary internet access in sleeping rooms and complimentary wireless internet access throughout the hotel; large handcrafted work desk; in-wall safe large enough for laptops; luxury bedding and bath amenities; in-room Keurig coffee maker; and complimentary *Wall Street Journal* or *USA Today*.

The Business Center at the Seaport Hotel has everything you need for all your Boston travel. The Seaport's complimentary, twenty-four-hour business center offers: 24/7 self-service access with a guest room key; Flyte system—real-time flight status and boarding pass printing; and complimentary E-Guest computers with internet access.

Room rates at the Seaport Hotel are \$192, single/double, plus 14.45% tax per room per night. Because this rate is actually lower than the government rate, there is no separate block of government rate rooms. This \$192 room rate includes a \$3 per day resort fee that covers all hotel staff gratuities, so no on-site tipping is required for bell staff, housekeeping, or wait staff! The Wave Fitness Center, complimentary to hotel guests, features steam rooms and indoor pool, and the latest cardio and strength equipment including a full arsenal of free weights.

You may reserve your accommodations by calling the hotel directly at 617-385-4000 or 877-732-7678 and referring to the **ABA Public Contract Law 2010 Fall Meeting**, and guaranteeing your reservation by credit card or deposit check. Rooms will be available for check-in after 3:00 p.m. with a check-out time of 12:00 noon. Early arrivals or late departures will be booked on an availability basis. **Individuals with guaranteed reservations must cancel their reservations 24 hours prior to the scheduled day of arrival to avoid a one-night cancellation charge.**

Make your reservations NOW. The hotel will release the room block on Wednesday, October 20, 2010, at 5:00 p.m. (CDT).

REGISTRATION APPLICATION

Send directly to:

Marilyn M. Neforas, American Bar Association
321 North Clark Street, M/S 19.1, Chicago, Illinois 60654
312-988-5596 — Fax: 312-988-6033
neforasm@staff.abanet.org

Register online at: <http://www.abanet.org/contract/admin/programs/2010fall.html>

Please register the following person for the *Public Contract Law (PCL) Section* program on **Intellectual Property in Government Agreements—What You Didn't Learn in Kindergarten** on Friday, November 12, 2010, at the Seaport Hotel, Boston, Massachusetts.

1 Registration Fee:

- \$240 PCL or IPL Section or FCBA Member or Associate
- \$195 Government Employee: PCL or IPL Section or FCBA
- \$215 Other Government Employee
- \$295 ABA Member, PCL/IPL Non-Member
- \$350 Non-ABA Member

2 Other Events:

- \$40 Thursday, November 11, Practicum
- Free Thursday, November 11, Meet and Greet Reception
- Free Friday, November 12, Cocktail Reception
- Free Saturday, November 13, Council Meeting

For reservations postmarked or faxed after November 5, 2010, and for walk-in registrants, add \$25 to each fee category.

- 3 Name _____
(please print legibly or type)
- ABA Member No. _____
- Firm/Agency/Company _____
- _____
- Address _____
- City, State, Zip _____
- Telephone Number _____
- Fax Number _____
- Email _____
- Name of guest _____

4 Payment Method:

- Enclosed is my check, made payable to the **American Bar Association/PCL**, for \$_____.
- Government purchase/training order enclosed.
- Charge \$_____ to my Credit Card:
 - AmEx MasterCard Visa

Card Number: _____

Exp. Date: _____

Signature: _____

- 5 Please send me information on becoming a member or associate of the:
- American Bar Association
 - Public Contract Law Section
 - I am an attorney I am not an attorney