

Section of Public Contract Law
750 North Lake Shore Drive
Chicago, Illinois 60611-4497

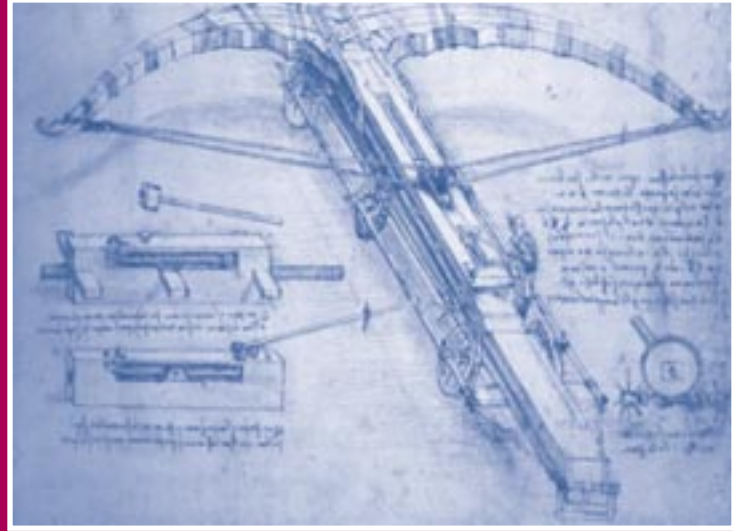
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DATED MATTER



*American Bar Association
Section of Public Contract Law*



Intellectual Property: Balancing Government and Contractor Interests

November 6-7, 2003

*Hotel InterContinental
New Orleans, Louisiana*

From the commercialization of the Internet to the introduction of innovative, gene-based therapies, our society is increasingly dependent on technology to advance our quality of life. As the Government has become more reliant in recent years on **commercial technology** to transform delivery of goods and services, the treatment of **Intellectual Property (IP) rights**—*i.e.*, who owns the technology? who may use the technology and under what circumstances, etc.—has risen to the forefront of government contracts negotiations.

At the heart of these negotiations is a **tension** between the Government's desire to **exploit technology** to the maximum extent and the contractor's desire to protect its IP against **disclosure to competitors**. Unfortunately, the rules governing IP rights in public contracts are arcane and complex. Yet understanding how these rules apply in a given situation is essential to **effective negotiation**.

This program will address the **practical application of IP law** in a variety of contexts, including the basics of IP negotiations in **federal procurements**, IP considerations at the **state and local** level, and the unique challenges for IP presented by acquisitions involving **Homeland Security**. The program also will evaluate IP negotiations from a third dimension—the perspective of the **subcontractor**—in addition to the issues between the Government and prime contractor.

- ◆ **IP Basics in Federal Government Contracts:** Learn ten practical lessons for negotiating IP rights with the Federal Government. You've been awarded a Federal Government contract, now what? How does the Federal Government approach the negotiation of IP rights?
- ◆ **State and Local IP Interests:** How are IP rights being negotiated at the State and Local level? Who are the IP resources at the State and Local level? Consider proven strategies for success in State IP procurements.
- ◆ **IP Challenges in Homeland Security:** What unique IP issues are presented by DHS procurements? How does the SAFETY Act impact treatment of IP rights? How are IP rights defined in non-contract vehicles?
- ◆ **IP Lessons in a Three Dimensional World:** What are the subcontractor's IP rights? How do they influence the interests of the prime contractor and Government?

Whether you are unfamiliar with IP issues in government contracts, or you are looking to polish your IP negotiation skills, this program will suit your needs. Join us in New Orleans for a day-long program with experienced practitioners who will address the **“real-world,” practical issues** in IP rights negotiation.

PROGRAM

Thursday, November 6, 2003

5:30 p.m. to 7:30 p.m.

Practicum: Establishing a Corporate IP Licensing Program

Government contractors have been developing products, technology, and software since we can remember. The **technology transfer** movement of the early 1980s gave the contractor the express right to **title in intellectual property** developed with government funds. Finding themselves sitting on a **gold mine of IP**, government contractors are contemplating ways to benefit.

Organizations are faced with strategic decisions regarding the investment necessary to protect their IP by obtaining **patents** and **trademarks** and registering their **copyrights** domestically and throughout the world; to set up **uniform licensing policies and procedures**; and to **enforce** their rights in IP. Each organization may find different approaches best for its strategic goals. Our speakers will talk about their experiences at The Boeing Company and Lockheed Martin Corporation in making these decisions and implementing them.

Holly Emrick Svetz, *Panel Moderator*
Morrison & Foerster LLP
McLean, VA

- ◆ Identifying and Protecting Dormant IP
- ◆ Setting up an IP Business Unit
- ◆ Establishing Licensing Standards
- ◆ Making the IP Business Unit a Profit Center

William C. Anderson
Counsel, Intellectual Property Business
The Boeing Company
Irvine, CA

Patrick M. Hogan
Vice President-Associate General Counsel
Lockheed Martin Corporation
Bethesda, MD

A nominal fee of \$40 will be charged to help defray additional program costs for audio-visual, CLE, written materials, and refreshments.

PROGRAM

Friday, November 7, 2003

7:45 a.m. to 8:15 a.m.

Registration

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

Welcome

Michael W. Mutek, *Co-Chair*
Annual and Quarterly Programs Committee
Raytheon Intelligence and Information Systems
Garland, TX

Lynda Troutman O'Sullivan, *Co-Chair*
Annual and Quarterly Programs Committee
Miller & Chevalier Chartered
Washington, DC

John S. Pachter, *Co-Chair*
Annual and Quarterly Programs Committee
Smith, Pachter, McWhorter & Allen, P.L.C.
Vienna, VA

Introduction—Fall Program Co-Chairs

William J. Crowley
Piper Rudnick LLP
Washington, DC

Helaine G. (Lannie) Elderkin
Computer Sciences Corporation
Falls Church, VA

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

Basics of Negotiating Intellectual Property Rights in Federal Government Contracts

Matthew S. Simchak, *Panel Moderator*
Wiley, Rein & Fielding LLP
Washington, DC

PROGRAM

- ◆ Protecting, Preserving and Defending Data Rights After Contract Award – The Contractor View
- ◆ Negotiating with the U.S. Department of Energy and the Department of Defense
- ◆ Protecting Rights in Technical Data and Computer Software; The Ten Practical Rules

W. Jay DeVecchio
Miller & Chevalier Chartered
Washington, DC

Daniel F. Doogan
General Motors Corporation
Detroit, MI

Richard M. Gray
Department of the Air Force
Office of the General Counsel
Washington, DC

Richard C. Johnson
Smith, Pachter, McWhorter & Allen, P.L.C.
Vienna, VA

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

Break

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

State and Local IP Interests

Robert S. Metzger, *Panel Moderator*
Gibson, Dunn & Crutcher, LLP
Los Angeles, CA and Washington, DC

- ◆ State IP Reform Efforts
- ◆ Lessons in Negotiating State IP Provisions
- ◆ Who Knows IP at the State and Local Level?
- ◆ Strategies for IP Compromises in State Procurements

Kevin F. Hartley
Microsoft Corporation
Washington, DC

PROGRAM

Robert K. Huffman

Miller & Chevalier Chartered
Washington, DC

Joshua Petty

Accenture
Chicago, IL

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

Luncheon

Presiding:

Hubert J. Bell, Jr., *Chair*

Section of Public Contract Law
Smith, Currie & Hancock, LLP
Atlanta, GA

Speaker:

Gregory D. Rothwell

Chief Procurement Officer
U.S. Department of Homeland Security
Washington, DC

1:45 p.m. to 3:30 p.m.

IP Challenges in Homeland Security

Holly Emrick Svetz, *Panel Moderator*

Morrison & Foerster LLP
Tysons Corner, VA

- ◆ Technologies Standards and Interoperability
- ◆ Protection of IP and SAFETY Act Indemnification
- ◆ OT Authority in DHS Procurements
- ◆ IP Rights in CRADAs and Government-Funded Programs

Paul A. Gottlieb

Department of Energy
Washington, DC

Ian T. Graham

Jenner & Block, LLC
Washington, DC

PROGRAM

John T. Jones

General Dynamics Decision Systems, Inc.
Scottsdale, AZ

Diane M. Sidebottom

Department of Homeland Security
Washington, DC

3:30 p.m. to 3:45 p.m.

Break

3:45 p.m. to 5:30 p.m.

**IP Lessons In A Three Dimensional World:
Point/Counterpoint**

Michael W. Sales, *Facilitator*

Hughes Electronics Corporation
El Segundo, CA

Richard M. Gray

Department of the Air Force
Office of the General Counsel
Washington, DC

Frank W. Kenniasty

Harris Corporation
Melbourne, FL

Glenn H. Lenzen, Jr.

Raytheon Company
Lexington, MA

5:45 p.m. to 7:45p.m.

Cocktail Reception

SECTION COUNCIL MEETING

On **Saturday, November 8, from 8:30 a.m. to 12:00 noon**, at the Hotel InterContinental, the Council of the Section of Public Contract Law will meet in **open** session to discuss issues of current importance to government contracts practitioners. All members and registrants for the Friday program are welcome.

Please complete and return the Registration Application if you will attend the Saturday Council Meeting.

CLE CREDIT

Accreditation has been requested for this program from every state (including California and Pennsylvania) with mandatory continuing legal education (MCLE) requirements for lawyers. Please be aware that each state has its own rules and regulations, including its definition of "CLE." Attorneys seeking to obtain MCLE credit in Pennsylvania are required to pay state accreditation 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 credit hours granted by each state, you may call 312-988-6217, starting 2 to 3 weeks before the program.

CANCELLATION POLICY

The registration fee includes all scheduled coffee breaks, program luncheon, Friday cocktail reception and a bound manual of speakers' written presentations.

Requests for refund must be made in writing and received in the Section of Public Contract Law's office on or before October 31, 2003. **Refund requests received after October 21 will be reduced by a \$25 administrative fee.** Substitutions may be made at any time.

If you complete a registration form and fax it to the Section office, the transaction is considered a firm commitment, and you will be expected to pay the registration fee even if circumstances prevent you from attending the conference.

NO refunds will be made after October 31, 2003.

HOTEL INFORMATION

Located at 444 St. Charles Avenue—just three blocks from the French Quarter—the Hotel InterContinental New Orleans combines an ideal location, Southern charm, and first-class hospitality. Overlooking the historic St. Charles Streetcar line—with a stop right in front—the hotel is also within walking distance of scores of major attractions. Jackson Square and the French Market in the Vieux Carre are a short stroll away. Also nearby are the Aquarium of the Americas, the Riverwalk, Marketplace, and D-Day Museum.

The hotel is 18 miles from the international airport. It is approximately a 30-minute ride by taxi at a cost of about \$28. The approximate cost of the 40-minute trip by shuttle bus is \$10 each way.

Room rates at the InterContinental are \$175 single and \$195 double plus 12% tax and \$2 occupancy tax per room per night. A limited number of rooms are available at the government rate of \$89, single or double. The recently renovated guest rooms reflect Southern tradition while featuring the latest amenities, including: three telephones, voice mail, Internet ports, televisions with global channels, in-room safe, iron and ironing board. Guests also enjoy luxurious bathrobes, marble baths, minibars, complimentary in-room coffee, and use of the hotel's complimentary rooftop health club and outdoor swimming pool.

You may reserve your accommodations by calling the hotel directly at 504-525-5566 or toll free at 800-445-6563, referring to the **ABA Section of Public Contract Law 2003 Fall Meeting**, and guaranteeing your reservation by credit card or deposit check. Rooms will be available for check-in after 4:00 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 within 72 hours of the scheduled day of arrival to avoid a one-night cancellation charge.**

Make your reservations NOW. The hotel will release the room block on Thursday, October 16, 2003 at 5:00 p.m. (CST).

SPECIAL AIRLINE DISCOUNTS

You can fly to ABA meetings with **unbeatable airfares** on the following carriers by purchasing your ticket under the **ABA Discount Code** and using one of two options: **Percentage Discounts** or **Zone Fares**. Once your airfare has been determined, the percentage discount can then be applied to produce additional savings to you. By asking the agent to **compare** the percentage discounted fare with the carrier's **Zone Fares**, even greater savings may be achieved. **Zone Fares** are more flexible and user-friendly than non-refundable, restricted airfares. While **Zone Fare** rules and restrictions vary with each airline, most only require a 7-day advance purchase; do not require a Saturday night stay; are changeable and refundable and require only a 2-day minimum stay. **Zone Fares** may not always be lower than the percentage discounted fare, but it is a smart practice to always ask your travel reservationist if your trip is eligible for **Zone Fares**.

The ABA Discounted Meeting Airfares are available through your travel agent, directly from the airline or from the ABA travel agency, Tower Travel, at 800-921-9190.

- ◆ **American Airlines** **800-433-1790**
ABA Code: 15794
- ◆ **Delta Air Lines** **800-241-6760**
ABA Code: 189408A
- ◆ **US Airways** **877-874-7687**
ABA Code: 36632473

COMING ATTRACTIONS

FEBRUARY 26–28, 2004

**10th Annual Federal Procurement Institute
and Open Midyear Council Meeting**
LOEWS ANNAPOLIS HOTEL, ANNAPOLIS, MD

APRIL 29–MAY 1, 2004

**Spring Educational Program on “Privatization of
Federal, State and Local Government Services”
and Open Council Meeting**
5TH AVENUE SUITES HOTEL, PORTLAND, OR

AUGUST 6–9, 2004

**Annual Educational Programs and Open Council
Meeting**
HYATT REGENCY, ATLANTA, GA

NOVEMBER 4–6, 2004

Fall Educational Program and Open Council Meeting
EMBASSY SUITES NAPA VALLEY, NAPA, CA

REGISTRATION APPLICATION

Send directly to:
Marilyn M. Neforas
American Bar Association
750 North Lake Shore Drive
Chicago, Illinois 60611-4497
312-988-5596—Fax: 312-988-5688

Please register the following person for the *Public Contract Law (PCL) Section* program on **Intellectual Property: Balancing Government and Contractor Interests** on Friday, November 7, 2003, at the Hotel InterContinental in New Orleans, Louisiana.

Registration Fee:

- \$240 PCL Section Member or Associate
- \$195 Government Employee PCL Section Member
- \$215 Other Government Employee
- \$295 ABA Member, PCL Non-Member
- \$320 Non-ABA Member

and/or

- \$40 Thursday, November 6, Practicum
- Free Friday, November 7, Cocktail Reception
- Free Saturday, November 8, Council Meeting

**For reservations postmarked or faxed after October 31, 2003,
and for walk-in registrants, add \$25 to each fee category.**

Name _____
(please print or type)

ABA Member No. _____

Firm/Agency/Company _____

Address _____

City, State, Zip _____

Telephone Number _____

Fax Number _____

Email _____

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

Card Number: _____

Exp. Date: _____

Signature: _____

Please note: Information provided on this registration form will be published in an attendee roster that will be distributed to meeting attendees.

- Please do not list my name and contact information in the registration roster.**
- Please do not list my e-mail address in the registration roster.**
- 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