

## Intellectual Property Dispute

Written by Nick Sanders

Wednesday, 16 August 2017 00:00

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We noted in passing that Advanced Aerospace Technologies, Inc. (AATI) [had settled](#) its dispute with Insitu and The Boeing Company and the US government over allegations that its patented technology had been infringed upon. AATI received \$12.5 million in the settlement.

The settlement marks a long and contentious litigation history, going back to 2012. A key turning point occurred in early 2016, when Chief Judge Braden reviewed documents alleged to be attorney-client privileged, and [ruled](#) that many of the documents were not, in fact, privileged—and thus subject to discovery. Another litigation milestone occurred in November, 2016, when Chief Judge Braden [denied](#) a late Government Motion to Dismiss. In that latter decision, Chief Judge Braden provided a lengthy recital of the history of the dispute, as well as an appendix detailing “relevant statutory and regulatory provisions” that would seem to be a good resource for those hoping to deal with intellectual property matters within a government contracting environment.

We are not attorneys, nor are we any kind of intellectual property experts. That said, as we understand the decisions, AATI filed its patents, then received a government contract that required use of the patented technology. To summarize the dispute, we'll just quote from Chief Judge Braden's decision, omitting all internal citations.

On October 23, 25, and 27, 2000, AATI demonstrated a recovery system having a propeller guard mounted with a latching mechanism for the Coast Guard. Although the Recovery Contract required ten demonstrations, the Coast Guard decided to cease demonstrations, because several UAVs were severely damaged during the demonstrations. Thereafter, a Coast Guard Commander prepared a draft report evaluating the demonstrations and provided it to Mr. McDonnell. This report did not reference ownership of, or licensing rights to, the propeller guard mounted with a latching mechanism that was demonstrated by AATI to the Coast Guard. More than fifteen years later, on March 29, 2016, a Contracting Officer for the Naval Surface Warfare Center Dahlgren Division ('NSWCDD') sent a letter to AATI demanding title to the 'inventions disclosed in AATI's PCT/US/2009 Application; U.S. Patent Nos. 6,874,729; 7,097,137; 8,517,306; 8,167,242; 8,567,718; and 8,864,069; and U.S. Patent Application Serial No. 14/518,348,' pursuant to 35 U.S.C. § 2025 and Federal Acquisition Regulation § 52.227-11.

(The CO demand occurred years after AATI filed a claim asserting that Insitu and Boeing had infringed on its patents, with the government's authorization and consent.)

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So it took five years and an unknown amount of legal fees, but AATI and the defendants reached an acceptable settlement. We do not know where the \$12.5 million settlement payment will come from. The government could pay it. Boeing could pay it. Boeing could pay it and be reimbursed by the government. We don't know. But we know that AATI is \$12.5 million richer than it was, before its patents were infringed upon.