

The Government Is My Customer, So Why Should I Care About IP?

The U.S. government is the largest sponsor of research and development in the world. Every year, the federal government issues billions of dollars in contracts, grants, and awards to develop new and innovative technology. In each case, awarding such funds is in the best interest of the government. In other words, the government sponsors technology development as a way to further its own interests.

This should come as no surprise. What is surprising, though, is that by statute, the ownership of these innovations resides with the creator of the IP, not the government. This is the opposite of what normally occurs in a similar commercial venture. When a commercial company engages another party to create innovative technology, the resulting IP resides with the company that pays the bills, not the company that does the work.

Yet companies often fail to take the necessary steps to protect these very innovations. But why? In a scenario where innovations are produced under a government contract and only have applicability to the government, protecting such intellectual property is usually not cost effective. The government retains broad rights to use such technology, and protecting IP offers little competitive advantage as there is really only one customer . . . or so many wrongly believe.

History has proven that the initial components of innovator products are often unrecognizable from their commercially successful counterparts. For example, the microwave oven was developed under government-sponsored research in RADAR technology and was first envisioned as a food sterilization machine for industrial purposes. It was the size of a small house. Similarly, the high tensile lines used to support parachutes for returning spacecraft later found their way into car tires. And Xbox and Wii game controllers, even car airbags, were based on accelerometer research sponsored by . . . you guessed it . . . the government. But it took years to finally realize commercial applications for this otherwise government specific technology.

Unfortunately, the rules for protecting IP do not allow a company to wait and seek protection when it realizes a product's potential. Any commercial company involved with innovation will realize that IP protection is an investment in the company's future. And like any investment, it has its own share of risk. But while the commercial applications of government-sponsored innovation are often complicated and unclear, the failure to protect that investment, which the government paid for and gave back to the innovator, is all too real.