

227.7005

(5) For the Defense Information Systems Agency—the Counsel;

(6) For the Defense Threat Reduction Agency—The General Counsel; and

(7) For the National Imagery and Mapping Agency—The Counsel.

(d) If a communication alleging patent infringement is received which does not meet the requirements set forth in paragraph (c) of this section, the sender shall be advised in writing—

(1) That his claim for infringement has not been satisfactorily presented, and

(2) Of the elements considered necessary to establish a claim.

(e) A communication making a proffer of a license in which no infringement is alleged shall not be considered as a claim for infringement.

[56 FR 36389, July 31, 1991, as amended at 56 FR 67216, Dec. 30, 1991; 61 FR 50454, Sept. 26, 1996; 62 FR 2613, Jan. 17, 1997; 64 FR 51076, Sept. 21, 1999]

227.7005 Indirect notice of patent infringement claims.

(a) A communication by a patent owner to a Department of Defense contractor alleging that the contractor has committed acts of infringement in performance of a Government contract shall not be considered a claim within the meaning of 227.7004 until it meets the requirements specified therein.

(b) Any Department receiving an allegation of patent infringement which meets the requirements of 227.7004 shall acknowledge the same and supply the other Departments (see 227.7004(c)) which may have an interest therein with a copy of such communication and the acknowledgement thereof.

(c) If a communication covering an infringement claim or notice which does not meet the requirements of 227.7004(a) is received from a contractor, the patent owner shall be advised in writing as covered by the instructions of 227.7004(d).

227.7006 Investigation and administrative disposition of claims.

An investigation and administrative determination (denial or settlement) of each claim shall be made in accordance with instructions and procedures estab-

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lished by each Department, subject to the following:

(a) When the procurement responsibility for the alleged infringing item or process is assigned to a single Department or only one Department is the purchaser of the alleged infringing item or process, and the funds of that Department only are to be charged in the settlement of the claim, that Department shall have the sole responsibility for the investigation and administrative determination of the claim and for the execution of any agreement in settlement of the claim. Where, however, funds of another Department are to be charged, in whole or in part, the approval of such Department shall be obtained as required by 208.7002. Any agreement in settlement of the claim, approved pursuant to 208.7002 shall be executed by each of the Departments concerned.

(b) When two or more Departments are the respective purchasers of alleged infringing items or processes and the funds of those Departments are to be charged in the settlement of the claim, the investigation and administrative determination shall be the responsibility of the Department having the predominant financial interest in the claim or of the Department or Departments as jointly agreed upon by the Departments concerned. The Department responsible for negotiation shall, throughout the negotiation, coordinate with the other Departments concerned and keep them advised of the status of the negotiation. Any agreement in the settlement of the claim shall be executed by each Department concerned.

227.7007 Notification and disclosure to claimants.

When a claim is denied, the Department responsible for the administrative determination of the claim shall so notify the claimant or his authorized representative and provide the claimant a reasonable rationale of the basis for denying the claim. Disclosure of information or the rationale referred to above shall be subject to applicable statutes, regulations, and directives pertaining to security, access to official records, and the rights of others.