



# **Intellectual Property Issues & Scientific and Technical Information**



## ***STIP Meeting***

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# Agenda

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- How We Are Organized
- What We Do
- Current STI Intellectual Property Issues



# How We Are Organized

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- GC-62 (Paul Gottlieb) Assistant General Counsel for Technology Transfer and Intellectual Property– Establishes uniform patent and data policies and provides guidance
- Field Offices with Patent Counsel
  - ➔ Oak Ridge
  - ➔ Chicago
  - ➔ NETL
  - ➔ LBNL/SLAC
  - ➔ Albuquerque –NNSA Service Center



# Who We Are

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- ORNL
- Y-12 (NNSA)
- SRS
- PNNL
- TJNAF
- OSTI



# What We Do

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- Patents, Data, Copyrights and Licensing
- Technology Transfer
- Other Agreements
- Infringement
- STI Issues



# Patents, Copyrights and Licensing

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## ➤ Under Prime Contract with DOE:

- Contractor may elect rights to inventions and assert copyright in data and computer software
- Contractor may license rights
- Royalties generated stay at the Facility
- PFTT at ORNL and PNNL (49/51% royalty split)

## ➤ DOE also licenses inventions and copyrighted computer software:

10 CFR 781

- Long term commercial potential
- Government programs



# Technology Transfer

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- CRADAs [Cooperative Research and Development Agreements]
- WFOs [Work for Others] – Proprietary/Nonproprietary
- User Agreements – Proprietary/Nonproprietary
- Material Transfer Agreements
- Patent and Copyright Licenses



# Other Agreements

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- Cooperative Agreements, Grants and Subcontracts
  - ➔ Patent/Data Issues
  - ➔ Close Outs – Patent Clearance





# STI Issues

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- Electronic Notebook
- Open Source Software
- Dissemination Restrictions
- Homeland Security/OUO/Sensitive Data
- Other



# Electronic Notebook

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➤ Definition:

*“An electronic notebook is a system to create, store, retrieve, and share fully electronic records in ways that meet all legal, regulatory, technical and scientific requirements.”*

Source: [www.censa.org](http://www.censa.org)

[Collaborative Electronic Notebook Systems Association]



# Electronic Notebook

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- How used in DOE Complex:
  - ➔ Collaboratories - <http://collaboratory.emsl.pnl.gov/>
  - ➔ RSICC [Radiation Safety Information Computational Center]
  - ➔ ORNL, PNNL, LBNL developing E-notebook (V.1.12 released January 2003)
  - ➔ Allows for text input, graphics, instrument linkage
  
- DOE policy issued:
  - ➔ Security Features:
    - Authorized users
    - Deter alteration, deletion
    - Encryption
  - ➔ Long term retention/retrieval
  - ➔ Legal Standards (show date/ownership of invention, witnessing)



# Open Source Software

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## ➤ Definition

*“Open Source Software, as used in this clause, means computer software that is distributed under a license under which the user is granted the right to use, modify, prepare derivative works and distribute, in source code or other format, the software, in original or modified form and derivative works thereof, without having to make royalty payments.”*

*Source: proposed DOE contract clause*



# Open Source Software

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- Desired by certain DOE Programs – ASCI (NNSA); ASC (SC)
- Not considered Tech Transfer; no royalties; product liability
- Blanket permission may be obtained
- Posted on Web sites and sent to ESTC (with prior ECI review, etc.)
- New M&O and subcontract clauses proposed



# Open Source

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- Industry Standards: [www.opensource.org](http://www.opensource.org)
  - ➔ Free Redistribution
  - ➔ Source Code
  - ➔ Derived Works
  - ➔ Integrity of Authors Source Code
  - ➔ No discrimination against person or groups/Fields of endeavors
  - ➔ License must not be specific to a product



# Dissemination Restrictions

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- Statutory Restrictions - Competitive:
  - ➔ Patent Hold/Copyright/Proprietary
  - ➔ CRADA Protected Data
  - ➔ SBIR/STTR
  - ➔ EPACKT, Advance Battery Consortium
  
- Statutory Restrictions – Non-competitive:
  - ➔ Classified/UCNI
  - ➔ ECI
    - Dept of Commerce; Dept of State, NRC
    - DOE Regs
    - Recent Issue re RSICC
    - Not an IP issue, more related to Security
  
  - ➔ DHS; FBI; OUCO and “Sensitive Data” – overlap with Security and IP because of data issues



# Other Issues Related to STI

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## ➤ Linux Infringement Suit

- ➔ SCO has sent letters to 1500 companies including several DOE National Labs demanding royalty payment (ORNL, LLNL, LBNL, PNNL)
- ➔ DOJ has recommended that we not respond to letters; DOE is ascertaining scope of use

## ➤ Database Issues

- ➔ Databases are not protected under U.S. Copyright Law
- ➔ Legislation allowing civil lawsuits for “database misappropriation” recently sidelined by Congress
- ➔ DOE data regs specifically exempt “computer databases” from the definition of “computer software,” but is considered “technical data.” Any assertion of © requires DOE review







# Conclusion

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➤ Questions?

➤ Contacts:

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