

# 52.227-3 Patent Indemnity.

As prescribed in 27.201-2(c)(1), insert the following clause:

Patent Indemnity (Apr 1984)

(a) The Contractor *shall* indemnify the Government and its officers, agents, and employees against liability, including costs, for infringement of any *United States* patent (except a patent issued upon an application that is now or *may* hereafter be withheld from issue pursuant to a Secrecy Order under 35 U.S.C. 181) arising out of the manufacture or delivery of *supplies*, the performance of services, or the *construction*, alteration, modification, or repair of real property (hereinafter referred to as "*construction work*") under this contract, or out of the use or disposal by or for the account of the Government of such *supplies* or *construction work*.

(b) This indemnity *shall* not apply unless the Contractor *shall* have been informed as soon as practicable by the Government of the suit or action alleging such infringement and *shall* have been given such opportunity as is afforded by applicable laws, rules, or regulations to participate in its defense. Further, this indemnity *shall* not apply to—

(1) An infringement resulting from compliance with specific written instructions of the *Contracting Officer* directing a change in the *supplies* to be delivered or in the materials or equipment to be used, or directing a manner of performance of the contract not normally used by the Contractor;

(2) An infringement resulting from addition to or change in *supplies* or *components* furnished or *construction work* performed that was made subsequent to delivery or performance; or

(3) A claimed infringement that is unreasonably settled without the consent of the Contractor, unless required by final decree of a court of competent jurisdiction.

(End of clause)

*Alternate I* (Apr 1984). As prescribed in 27.201-2 (c)(2), add the following paragraph (c) to the basic clause:

(c) This patent indemnification *shall* not apply to the following items:

\_\_\_\_\_ [Contracting Officer list and/or identify the items to be excluded from this indemnity.]

*Alternate II* (Apr 1984). As prescribed in 27.201-2 (c)(2), add the following paragraph (c) to the basic clause:

(c) This patent indemnification *shall* cover the following items:

\_\_\_\_\_ [List and/or identify the items to be included under this indemnity.]

*Alternate III* (Jun 2020). As prescribed in 27.201-2 (c)(3), add the following paragraph (c) to the basic clause:

( ) As to subcontracts at any tier for communication service, this clause *shall* apply only to individual

communication service authorizations over the *simplified acquisition threshold*, as defined in Federal Acquisition Regulation [2.101](#) on the date of subcontract award, issued under this contract and covering those communications services and facilities-

- (1) That are or have been sold or offered for sale by the Contractor to the public,
- (2) That can be provided over commercially available equipment, or
- (3) That involve relatively minor modifications.

**Parent topic:** [52.227 \[Reserved\]](#)