



# PACA Pulse

WINTER 2014

PROFESSIONAL AEROSPACE CONTRACTORS ASSOCIATION OF NEW MEXICO

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## PACA Continues to Make a Big Difference in the Lives of College Students

*By Carol Yarnall, Education Committee Chair*

During the 2013-2014 school year, PACA endowed Scholarships allowed the three major New Mexico universities to award scholarships to five engineering students and one UNM Anderson School of Management student. PACA is honored and gratified to make a meaningful contribution to the lives of these fine young men and women. All scholarship recipients will be invited to join our monthly luncheon meetings so they can network and learn more about PACA.

This year's **Engineering Scholarship** recipients are:

**Joseph Graff**, *Sophomore, Aero Eng/ME and Applied Mathematics, New Mexico State University, Richard W. Davis PACA Endowed Scholarship*



Joseph was awarded a summer internship with Raytheon and White Sands Missile Range, received an interim secret security clearance, and participated in six sigma trainings and a systems integration training. He optimized processing of PAC-2 missiles while maintaining a focus on safety. Joseph was praised for his CAD skills (with Pro/Engineer) as well as his enthusiasm and work ethic. He is currently working as a math tutor specializing in Calculus I, II, and III and Differential Equations. Joseph was project leader in two University group projects – building a miniature airplane and modeling an antique meat grinder with CAD.

**Jordan D. Keeley**, *Junior, Electrical Engineering, New Mexico Tech, Bobby Haddock Memorial Endowment Scholarship*



Jordan has received the Boy Scouts of America Eagle Scout award, is certified by the National Safety Council for First Aid and CPR, and is a member of the Institute of Electrical and Electronics Engineers. This past summer he worked as a Team Leader for the Farmington Youth Conservation Corps where he managed 15 youth workers on a job site in planning, proposing, and managing a construction project. Jordan has also job-shadowed a petroleum engineer for Merrion Oil and Gas. He would like to intern with a PACA business this summer; anyone have a need for his services?

**University of New Mexico, College of Engineering, General Samuel C. Phillips Endowed Scholarship** recipients:



**Marie VanDerGeest**, a 2010 graduate of Sandia High School, will complete her bachelor's degree in civil engineering this May. As an undergraduate, she has been highly involved in extra-curricular activities, currently serving as the president of UNM's American Society of Civil Engineers and the treasurer of Chi Epsilon Honor Society. Over the past year, Marie has assisted several engineering professors with various research projects. "It is difficult to maintain good grades, hold a job, attend extra-curricular activities, and socialize all at the same time," she stated. "Receiving this scholarship has definitely lifted a burden from financial stresses. I can now focus on my studies and finish

my senior year strong, and for that I am really grateful to PACA." After graduation, Marie hopes to further her education by obtaining a master's degree in civil engineering with a focus on structures.

*continued on the following page*

## PACA Scholarships *continued*

**Melissa Hernandez**, a 2010 graduate of La Cueva High School, will obtain her B.S. degree in chemical engineering this coming May. Aside from her coursework, she also works as an undergraduate research assistant in Dr. Eva Chi's lab in the Center for Biomedical Engineering studying the cause of Alzheimer's disease. "I have always had a strong passion for the medical field

and I have been very lucky to have such great research experiences at UNM," she said. "Thanks to PACA, I will now be able to explore other research opportunities after graduation." Melissa plans on furthering her education by enrolling in graduate school to earn a Ph.D. in either chemical or biomedical engineering.

**Danny Adams** is a sophomore majoring in computer science and minoring in computer engineering. As a father of three delightful daughters and a veteran of the United States Air Force, Danny brings a lot of experience to the academic setting. His interests include STEM outreach, public speaking, and software development. "Because of PACA's financial contribution, I will be able to keep

my nose in the books a bit longer this semester," he stated. Danny is currently serving as the systems administrator for the School of Engineering.

### ***Masters in Management, PACA Hall of Fame Scholarship (2013-2014), UNM, Anderson School of Management***

This scholarship is awarded to individuals with a Bachelors Degree in Engineering or Science who want to study business management.

### ***Dominique Espet, BS, Civil Engineering, UNM***

A graduate of St. Pius X High School, Dominique earned a bachelor's degree in civil engineering in May 2012 and immediately joined CH2M HILL, a worldwide engineering company based in Englewood, Colorado, where she served as a student intern for four years. She works with the water and transportation business groups in

many different offices around the U.S., and is eager to further expand her skills and experience within the company.

In August 2012, she began working towards an M.B.A. at UNM's Anderson School. In addition to work and school, Dominique somehow finds the time to volunteer for several engineering organizations. These include JuMP CH2M HILL, an organization within the company where she is in charge of organizing networking events for the young engineers in the Albuquerque office, and for UNM Young Professionals Group, an alumni association planning events to bolster engineering students' involvement in the industry. •

## President's Corner

*by Eric Mechenbier*

In this, my last President's Corner, I simply want to thank everyone for a wonderful term. My, how the time flies!

At our January board meeting, we performed an extensive SWOT analysis to try to determine what PACA was doing right and what could be improved. But it wasn't until our January luncheon speaker fell through that we got the perfect chance to poll you, the membership. At press time, we're in the process of tabulating the results to determine how best to improve the organization.

We owe a huge debt of gratitude to **Erin Turcich** and her employer Aerotek for her administrative service to PACA. The organization has made great improvements due to Erin's contributions and we can't thank her enough. Some of you

will recognize Erin's replacement, **Cynnamon Spain**, from her assistance over the years with the BFI. Among her many other tasks, she'll be leading the project to get our LinkedIn group setup. Please take a moment to thank Erin as well as welcome Cynnamon.

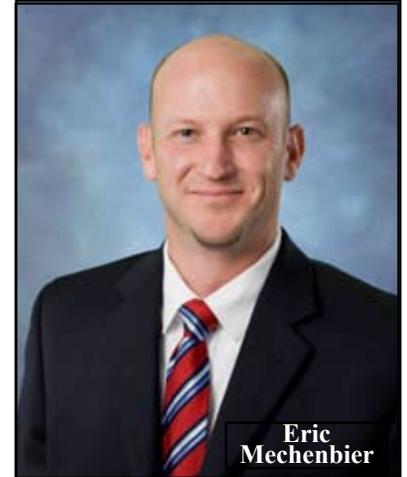
Once again we have completed another process of securing nominations for the board, and as in previous years it proved to be a challenge. We ask that the next time we're recruiting candidates you please consider serving on the board. It is an excellent resume-builder as well as a rewarding experience, both professionally and personally. The rest of the board is wonderfully supportive and helpful, so don't hesitate even if you don't have board experience. There is also an opening for PACA Treasurer next year. Please let us know if you are interested in serving in this or another position or know of others who might be.

Finally, best of luck to **Andy Dobrot**, your incoming PACA President! He has excellent ideas and will be very good for the organization. I hope you'll give him all the support he deserves; he certainly has mine.

### ***Don't forget:***

- We now have a distribution list to make it easier to contact the PACA Board of Directors: [board@pacanm.org](mailto:board@pacanm.org). Please feel free to utilize it to address any suggestions or questions you may have.
- We've added a new sponsorship level: the Premier Small Business Sponsorship at \$1,000. See Dar Johnson for additional details on the benefits to your small business for sponsoring PACA.

Thanks for reading and for this growth opportunity! •



# Legal Insights: Patent Rights in Government Contracts — Electing to Obtain Patent Rights

By Samantha Updegraff

This is the second part of a two-part article that examines patent rights in government contracts. The first part of this article published in the last issue of the PACA Pulse addressed the basic legal structure of these patent rights. Here, the second part discusses the procedures for electing patent rights in a government contract.

The government obtains certain “use rights” in inventions made by the contractor during the performance of work under the government contract. The rights that the government assumes depends on the nature and timing of the contractor’s disclosure of the invention.

To retain its patent rights, the contractor must first **disclose** a subject invention to the contracting government agency, then **elect** to obtain title to the subject invention by notifying the government agency in writing, and finally must **file** an initial patent application on the subject invention. The disclosure, election, and filing all have time limits.

## Electing to Obtain Rights for Small Businesses and Non-Profits

For small businesses, firms, and non-profits, FAR 52.227-11 (short form) applies. This FAR does not apply to contracts with NASA, DOE and DOD. NASA and DOE contract clauses provide for ownership rights as opposed to use rights. DOD patent clauses are DFARS 252.227-7038.

**Disclose:** The contractor must disclose, in writing, the “subject invention” to a contracting officer **within two months** after the inventor discloses the invention to contractor personnel responsible for patent matter.

**Elect:** After the contractor discloses the subject invention, the contractor may elect to obtain title to the invention. To elect title, the contractor must notify the federal agency **within two years** of disclosure.

**File:** The contractor must then file its initial patent application on an elected invention **within one year after election** or, earlier if an earlier date is necessary because of a possible statutory deadline, such as a publication date, sale, or public use.

**Reporting Requirements:** The contractor is required to submit, on request, periodic reports on the utilization of a subject invention or on efforts at obtaining such utilization that are being made by contractor or its licensees or assignees. See 48 CFR 52.227-11(h). These reports will be requested no more than once a year.

## Electing to Obtain Rights for Large Businesses

For large businesses 48 CFR 52.227-12 (long form) applies. This is very similar to the requirements for small businesses and

non-profits. However, some of the timing deadlines differ.

**Disclose:** The contractor must disclose a subject invention to the applicable agency **within two months** after the inventor discloses the invention to contractor personnel responsible for patent matter **or within six months** after the contractor became aware that a subject invention had been made, whichever occurs first.

**Elect:** The contractor must then elect in writing whether or not to retain title by notifying the agency **within eight months of disclosure**, as to those countries (including the U.S.) in which recipient will retain title.

**File:** The contractor then must file its initial patent application on the elected invention **within one year after election** or, if earlier, if an earlier date is necessary because of a statutory deadline, such as a prior publication, on sale, or public use.

**Reporting Requirements:** In addition to the disclosure, election and filing requirements, large business contractors must file continuing reports. FAR 52.227-12 specifically requires large business contractors to file (a) interim reports every 12 months from the date of the contract listing subject inventions have been disclosed 48 CFR 52.227-12(7)(i); (b) a final report, within three months after completion of the contracted work, listing all subject inventions or stating that there were no such inventions, and listing all subcontracts at any tier containing a patent rights clause or stating that there were not such subcontracts, see 48 CFR 52.227-12(7)(ii); and (c) periodic reports on the utilization of a subject invention or on efforts at obtaining such utilization that are being made by the contractor or its licensees or assignees. See 48 CFR 52.227-12(h).

Again, the disclosure, election and filing requirements give a contractor patent rights to its subject inventions. The contractor may exploit all patent rights as it sees fit, subject to the government use license. The contractor may also authorize or license third parties to use the patent.

## Contractor Does Not Disclose

If the contractor fails to disclose the subject invention and if the government acts within 60 days after learning of the contractor’s failure to disclose, the contractor loses all rights in the subject invention and receives no license. Thus, the contractor must disclose ALL subject inventions. When in doubt whether a potential invention is patentable, disclose it.

## Contractor Does Not Elect

If a contractor elects not to retain title, the contractor shall convey to the federal agency, upon written request, title to any subject invention. If a contractor fails to elect the subject



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## Legal Insights *continued*

invention within the deadline, the government may request title within 60 days after learning of the contractor's failure to elect within the specified time. The contractor will still retain a nonexclusive royalty-free license under the patent.

### Contractor Does Not File

The government may obtain title if the contractor fails to file its initial patent application (can be a provisional application) in the U.S. within one year after its election or fails to file for a utility application or foreign patents within 10 months of an initial U.S. provisional application. The government may also obtain title if the contractor decides not to continue the prosecution of any application or to pay the maintenance fees or defend a patent on a subject invention.

### March-in Rights (48 CFR 27.302(f))

When the contractor acquires title, the government can require the contractor to license, or if the contractor refuses, the agency has the right to grant other entities licenses if the contractor fails to take adequate steps for practical application. This right to grant licenses to others may include a competitor of the contractor.

### Contractor Strategies

The FAR clause allocates patent rights between the government and the contractor. The contractor must have an appropriate employment agreement in place that states that any invention invented by an employee in the course of employment is owned by the contractor and not by the inventor/employee. A Contractor should require that its employees disclose promptly in writing each subject invention in order for the Contractor to comply with disclosure provisions and to execute all necessary paperwork required by FAR.

It is important to have a procedure in place for disclosing subject inventions to the Government agency. Contractors can use standardized forms DD Form 882 Report of Inventions and Subcontracts for DOD contracts or a form patterned after Form 882. The Contractor must have a process for regular reporting on subject inventions required by the FAR patent rights clauses. Establishing a method for deciding whether to elect to file patents on any subject inventions or whether to keep the invention a trade secret is also important. This decision requires an analysis of potential commercial marketplace, the ease of reverse engineering, and the contractor's willingness and ability to police and enforce patent rights.

### Consult a Knowledgeable Attorney

The FARs can be complicated and nuanced, especially when it comes to patent rights. Contractors (and even their general counsel) should consult an attorney well-versed in patent rights to guide them through the patent-related FARs. •

Samantha is a registered patent attorney in the Albuquerque office of Lewis Roca Rothgerber LLP. She practices all aspects of intellectual property law.

This article is intended for general information only and should not be construed as legal advice or opinion. Any questions concerning your legal rights or obligations in any particular circumstance should be directed to your lawyer.

## B-47 Arrives in Albuquerque

by *Bill Dettmer*

A Boeing B-47E has arrived in Albuquerque at the National Museum of Nuclear Science & History. It was transported in sections from Wright Field in Dayton, Ohio. This is the last B-47E that was not already on display in other museums.

The B-47 Stratojet served as a long range, six-engine, jet-powered strategic bomber designed to fly at high subsonic speeds and at high altitudes. Its mission was primarily to drop nuclear weapons, which makes it a great



addition to the Museum. The aircraft entered operations with the Strategic Air Command (SAC) in June 1951 and was retired in 1969 (versions other than the bombers flew until 1977). For many years it was the mainstay in SAC until it was replaced by the B-52.

The Museum's B-47 is in good but not perfect shape. It



still needs some work, such as additional painting and some restoration. Also, there are still some outstanding costs associated with the transfer and assembly of the aircraft. The Museum is seeking donations and financial support to complete the relocation and repainting of the B-47 and assistance with the repainting of its B-29 and B-52. For further information, contact Jim Walther at 505-245-2137.

Come see the aircraft at the Museum at 601 Eubank, Albuquerque. The Museum is open 9 am-5 pm daily. •

## Spread the News

If you know a potential member or anyone else who would like to receive the newsletter, please forward their e-mail address to [RoSaavedra@msn.com](mailto:RoSaavedra@msn.com).

This is your newsletter. If you would like to contribute an article, make announcements (promotion, job change, or a new product or service), please submit your newsletter contribution to the editor, Ross Crown, at [RCrown@LRLaw.com](mailto:RCrown@LRLaw.com) or call him at 764-5402.

Contributions are welcome! •

## Thank You Annual PACA Sponsors!

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## PACA Sponsorship Opportunities

Support to PACA in the form of sponsorships helps make the organization a success while promoting your business. The Board has recently added another sponsorship choice, the Premier Small Business sponsorship for \$1,000.

Please contact **Dar Johnson** if you have questions about sponsorships at **505-400-1639** or [d\\_r\\_johnson@comcast.net](mailto:d_r_johnson@comcast.net).

**ANNUAL SPONSORSHIPS of \$1,000 - \$7,500:** *One time each year* space is provided for a tabletop display at a membership luncheon and the opportunity for a five minute corporate overview presentation. The table will be either in the lobby or in the banquet room, depending on the size of the room. Also, depending on room arrangement and speaker presentation, special rules may apply per event.

#### **DIAMOND \$7,500**

- Sponsor level (Diamond) recognition on PACA website.
- Corporate logo on PACA signage at luncheons and events.
- Three registrations for the PACA annual Briefing for Industry.
- Recognition included in the quarterly newsletter, PACA Pulse.
- Advance electronic list of BFI attendees.
- Special reserved seating at BFI.
- Addition of company literature or giveaways in BFI Goody Bag.

#### **GOLD \$5,000**

- Sponsor level (Gold) recognition on PACA website.
- Corporate logo on PACA signage at luncheons and events.
- Two registrations for the PACA annual Briefing for Industry.
- Recognition included in the quarterly newsletter, PACA Pulse.
- Advance electronic list of conference attendees for the BFI.
- Addition of company literature or giveaways in BFI Goody Bag.

#### **SILVER \$3,000**

- Sponsor level (Silver) recognition on PACA website.
- Corporate logo on PACA signage at luncheons and events.
- Recognition included in the quarterly newsletter, PACA Pulse.
- One registration for the PACA annual Briefing for Industry.
- Special reserved seating at BFI.
- Advance electronic list of BFI attendees.
- Addition of company literature or giveaways in BFI Goody Bag.

#### **PREMIER SMALL BUSINESS \$1,000 (NEW!)**

*The requesting sponsor must demonstrate the company is classified as a small business.*

- Sponsor level (Premier Small Bus) recognition on PACA website.
- Corporate logo on PACA signage at luncheons and events.
- Recognition included in the quarterly newsletter, PACA Pulse.
- One registration for the PACA annual Briefing for Industry.
- Special reserved seating at BFI.
- Addition of company literature or giveaways in BFI Goody Bag.

**SMALL BUSINESS SPONSORSHIP \$400:** Quarterly Luncheon (One sponsor per quarter for January, April, July, and October meetings and one for the December holiday party).

- Company logo on the PACA website.
- Booth at BFI.
- Two guests for the sponsored lunch.
- Corporate logo displayed on signage for the sponsored luncheon.
- Introduction as the luncheon sponsor and be allowed to present a five minute overview of company. Corporate brochures/tri-folds may be placed on the luncheon tables. A luncheon sponsor may not sponsor another luncheon for twelve months. •

## Upcoming Luncheon Speaker

■ **March 18 - Colonel Vincent Becklund, Commander, 58th Special Operations Wing, Kirtland Air Force Base**



The 58th Special Operations Wing trains mission-ready special operations, combat search and rescue, missile site support and UH-1N distinguished visitor aircrews for the U.S. Air Force. Col Becklund oversees the activities of approximately 2,000 Airmen, administering more than 113 training courses in 32 different crew positions to 2,300 students annually.

Col. Becklund was commissioned through the United States Air Force Academy in 1990, and earned his wings at Fort Rucker, Alabama in May 1991. As a career helicopter pilot, his assignments in rescue and special operations include participating in Operations Joint Endeavor, Desert Thunder, Enduring Freedom, Iraqi Freedom, and other contingencies. Col. Becklund has commanded at the squadron and group levels and is a command pilot with more than 2,600 hours.

He holds a B.S. from the U.S. Air Force Academy and a M.S. in Environmental Management from West Coast University (Los Angeles).

We meet the third Tuesday of each month at **Tanoan Country Club** (Rolling Hills entrance east of Eubank off Academy). Registration begins at 11:30 a.m. followed by lunch at noon. Members are admitted free and our guest fee is \$15.

To RSVP, register online at [www.pacanm.org](http://www.pacanm.org). Include your name, guest's name, and menu selection. Please RSVP by noon on the Thursday before the week of the meeting. •

## Welcome NEW MEMBERS!

**Alejandro Elias**, KETsystems

**Stephen Hottman**, Physical Science Laboratory

**Kenneth MacDonald**, Zelken Research, Inc.

**Robert Malins**,  
Eagle Summit Technology Associates

**Jennifer Meckler**, Iris Technologies  
Irvine, California

**Ed Risley**, Daniels Insurance, Inc.

**Manuel Sanchez**, Vic Myers Associates

**Ann Shubert**, Ball Aerospace & Technologies Corp.

**Ute Wallner**, TIGER Drylac  
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**Carol Welsch**, Orbital Sciences

**Patrick Zetterholm**, Zetterholm Consulting, LLC

## Enjoying Your PACA Membership?

*by Judy Ruiz, Membership chair*

No one understands the benefits of PACA membership better than our current members!

- Our “free” monthly networking luncheons feature informative speakers who almost always have direct connections to Kirtland Air Force Base. You also get to learn about industry news, legislative updates, and upcoming events of interest.
- PACA's low dues pool together to fund scholarships and STEM support for engineering students attending New Mexico universities.
- PACA's annual Briefing for Industry (BFI) brings together New Mexico's largest industry leaders for meaningful dialogs with government leaders. Members have the unique opportunity to meet contracting and strategic partners and network with government and industry leaders.
- PACA has member liaisons covering New Mexico legislation; the aerospace, defense and security industries; Spaceport America and the New Mexico Spaceport Authority; the Air Force Research Laboratory; and the Association of Commerce and Industry.
- Each quarter PACA publishes the PACA Pulse, a newsletter full of legal and industry insights.

### Not enough?

- Consider that the PACA membership fee pays for the monthly luncheon (a \$30 monthly savings over paying luncheon fees).
- And, PACA membership earns you a reduced registration fee at BFI.

**SO, the big question: are you talking up PACA membership with your industry colleagues and contacts? If not, they are missing out! Invite one or more to our next PACA luncheon.** Please contact me at 505-254-4329 if you have questions or comments. •

## PACA Membership Renewal is Due

PACA annual dues of \$150\* are due now. The fiscal year runs from April 1, 2014 to March 31, 2015. You should have received, or will soon, a “dues due” e-mail reminder from the PACA Treasurer. Mid-year applications will be pro-rated. You may pay your dues and apply on-line at [www.pacanm.org](http://www.pacanm.org).

For more information, contact Membership Chair **Judy Ruiz** at 254-4329 or [vp\\_mktgpr@kirklandcu.org](mailto:vp_mktgpr@kirklandcu.org).

\* Dues are subject to change.