Navigating the Legal Challenges and Opportunities of Space Data Businesses

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Disclaimer:
The information in this document and that is about to be provided is for your personal edification, and we are not your attorneys. If you have a specific question concerning a legal issue, you should consult qualified counsel, after forming an attorney client relationship.
Know Your Business

• Define your business discriminators
• Appraise any technology enablers
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Hypothetical: CubeSat R&D Services
Principles

• Ownership is absolute
  • Creator owns unless assigns by contract

• Licenses can include a range of rights and are negotiable
  • Use, Modify, Derive
  • Resell or Transfer
  • Geographic Limitations
  • Royalties
  • Quantities

"No, it's MY data!"
Government Funds Have A Price

• Unlimited Rights if data or software produced, furnished or acquired
  • Not “ownership” but really close
• Must Protect Your Existing Data and Software even in Proposals
• Consider carefully if accept, may try to negotiate
Applicable Laws

• Commercial World
  • Defend Trade Secrets Act
  • Uniform Trade Secrets Act State Laws
  • America Invents Act

• Government World
  • Patents: Bayh-Dole Act implemented in FAR Part 27.3
  • Data and Software: Trade Secrets Act, 18 USC §1905, as implemented in FAR Subpart 27.4 (Civilian) and DFARS Subpart 227.71 (Data Rights) and 227.72 (Computer Software)
Tech Leverage/protection

• Don't inadvertently give away your IP
  • Consultants, Copyright, work product
  • >1 year ago disclosures, offers for sale
  • Maintain Proprietary Data (trade secret)
    • NDAs
    • Employee Confidentiality & IP Agreements

• Negotiate for what matters
  • Data Rights, Software Rights (as discussed)
  • IP licenses
  • Patent Rights
Trade Secret vs. Patent

• Reverse Engineer? Duration? Risk Profile?

Trade Secret

Patent
• Reverse Engineer? Duration? Risk Profile?

• Our example: CubeSat r&d services
Questions & Answers

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Thank you!