

## The Astronaut Inventor's Best Friend, 35 USC §105



For more than 100 years, aviation and aerospace companies have been at the forefront of American and global innovation. The internet is a truly powerful and amazing tool for communication and commerce. It is the very reason you're able to read this niche-among-niches blog! But a lot of the reality of this modern information age could not be realized without aviation and aerospace companies straining and breaking the bonds of the "possible." Without next day air package delivery, Amazon.com wouldn't be able to compete as effectively with traditional brick-and-mortar retailers. Modern communications and media companies, especially

television providers simply could not exist or compete without constellations of satellites transmitting their signals around the globe. The United States is by-and-large the innovation center of the world with respect to these modern aerospace technologies and the US has a robust system in place to protect the rights of inventors and encourage innovation, but those laws are territorial. So are space-related inventions and their creators stripped of protection once they enter space? US inventors of items designed for use in space can rest easy knowing that their patent rights still exist, even in outer space, because of a unique US law, 35 USC §105.

The United States is unique in that it has a law that directly addresses the general applicability of its patent laws on objects in outer space. 35 USC §105 "Inventions in outer space" was enacted in 1990 to clarify that US patent law applies to "any invention made, used or sold in outer space on a space object...under the jurisdiction or control of the United States." For the purposes of this law, anything that happens on spacecraft under the jurisdiction or control of the United States is treated like it happens on US soil. That means, among other things, that the patent laws fully apply, unless the exceptions to the law (shown below in the full text of the law) apply.

This law does not "apply to "any process, machine, article of manufacture, or composition of matter, an embodiment of which was launched prior to the date of enactment of this Act." 104 Stat. 2864. But for new objects, like the upcoming Falcon 9 COTS Demo Flight 2, patented items aboard the rocket retain their protections! And infringement can, in theory, occur on the Falcon 9 and its Dragon capsule payload, even in space.



**Andrew Rush**

Patent Agent, PCT Law Group  
Cell: (904) 806-4548  
arush@pctlg.com  
*website:* pctlg.com  
*blog:* IPinSpace.com

[35 U.S.C. 105 Inventions in outer space.](#)

(a) Any invention made, used, or sold in outer space on a space object or component thereof under the jurisdiction or control of the United States shall be considered to be made, used or sold within the United States for the purposes of this title, except with respect to any space object or component thereof that is specifically identified and otherwise provided for by an international agreement to which the United States is a party, or with respect to any space object or component thereof that is carried on the registry of a foreign state in accordance with the Convention on Registration of Objects Launched into Outer Space.

(b) Any invention made, used, or sold in outer space on a space object or component thereof that is carried on the registry of a foreign state in accordance with the Convention on Registration of Objects Launched into Outer Space, shall be considered to be made, used, or sold within the United States for the purposes of this title if specifically so agreed in an international agreement between the United States and the state of registry.

Happy creating!