



Apr 07, 2020

Categories:

[Coronavirus Response](#)

[Team](#)

[Publications](#)

Authors:

[Constance R. Lindman](#)

Uncovering the Dual Source Provision

Over the last few weeks, businesses of all types have been pulling agreements out of (mostly virtual) drawers and focusing attention on the [force majeure clause](#). Original Equipment Manufacturers (OEMs) and other businesses that are concerned about maintaining component supply lines would do well to look for another clause that, like the force majeure clause, may have been included in supply contracts as a matter of course, but that has developed new importance since the COVID-19 pandemic took hold. A sort of contract [easter egg](#).

When triggered, dual source provisions allow a manufacturer to transfer intellectual property owned by one component supplier to a second, dual source, component supplier. Such provisions may be of little or no account where the manufacturer owns all of the intellectual property rights in the products. However, where the product has been customized for the manufacturer based on a design owned by the component supplier, a dual source provision can help keep the component supply lines open. The dual source clause allows the manufacturer to place orders with multiple suppliers when, absent the dual source clause, doing so could violate the first supplier's intellectual property rights.

Like any contract clause, dual source provisions are negotiated by the parties and vary widely. For example, the manufacturer may be entitled to invoke the dual source provision if the first supplier is unable to meet the manufacturer's supply requirements as to quantity, quality, or timeliness. Or the provision might allow the manufacturer to dual source at any time and for any reason subject to payment of a fixed royalty and/or meeting certain order quantity commitments.

If you've looked high and low for a dual source provision without avail, it may be possible to amend existing component supply agreements and to include such clauses in new supply agreements. If you've found a dual source clause, you may want to obtain advice on its effect and implementation. In any event, seek advice from experienced counsel who understand and can assist with intellectual property transfer clauses.

For more information, please contact [Connie Lindman](#), [Barry Visconte](#), [Beth Naylor](#) or any attorney in Frost Brown Todd's Intellectual Property Practice Group.

To provide guidance and support to clients as this global public-health crisis unfolds, Frost Brown Todd has created a [Coronavirus Response Team](#). Our attorneys are on hand to answer your questions and provide guidance on how to proactively prepare for and manage any coronavirus-related threats to your business operations and workforce.

© 2026 FBT Gibbons LLP. May be considered attorney advertising in some jurisdictions.