

Jon Burd Discusses DOD Rule Aimed at Eliminating Counterfeit Electronic Parts

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Jon W. Burd, a partner in Wiley Rein's Government Contracts Practice, was quoted extensively in a *Law360* article published yesterday about the U.S. Department of Defense's (DOD) issuance of a final rule aimed at eliminating counterfeit electronic parts from its supply chain.

According to the article, the DOD rule puts the responsibility for weeding out counterfeit electronic parts on defense contractors and holds them liable for costs of replacing fake parts that make it into DOD weapons systems. Mr. Burd said that the rule defines counterfeit as an intentional misrepresentation of a part's authenticity. He said it would reduce liability for defective parts.

"The proposed rule could have unwittingly swept up authentic parts that may have been defective for one reason or another," Mr. Burd said. "Now, we don't run the risk that run-of-the-mill defects will be swept up in the definition of counterfeits."

"DOD's not trying to reinvent the wheel here; they're just trying to tighten up their supply chain," he said. "While there's no doubt that this is going to impose new burdens on the industry, at least DOD is allowing some flexibility in how contractors approach their new responsibilities."

"I'm surprised that they elected to move forward with a final rule rather than issuing an additional interim final rule with the possibility for additional comment, given the scope of the changes they made to the rule," Mr. Burd said. "These would have been the kinds of changes that would have lent themselves to additional industry comment."

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Practice Areas

Government Contracts

Mr. Burd also co-authored a Client Alert on the DOD's final rule on counterfeit electronic parts with Wiley Rein associate Craig Smith. To read the Client Alert, which was published yesterday, [click here](#).