

November 18, 2014

The National Transportation Safety Board ("NTSB") today issued a decision affirming the jurisdiction of the FAA to regulate unmanned aerial vehicles. The NTSB found that the statutory definition of an "aircraft" included in the Federal Aviation Act applies to both manned and unmanned aerial vehicles. According to the NTSB, the "...plain language of the statute and regulatory definitions is clear: an 'aircraft' is any device used for flight in the air."

The case grew out of a flight by an unmanned aerial vehicle ("UAV") around the campus of the University of Virginia in the fall of 2011. The FAA filed an administrative enforcement action against the UAV's operator, Raphael Pirker, for careless and reckless operation of the UAV, fining him \$10,000. Mr. Pirker appealed the fine to the NTSB, and an Administrative Law Judge ("ALJ") within the NTSB found that the FAA did not have jurisdiction to pursue the sanction. In finding today for the FAA, the NTSB remanded Pirker's administrative appeal of the fine to the ALJ for a determination of whether the UAV was operated carelessly and recklessly.

The case affirms the jurisdiction of the FAA to issue rules and govern the integration of UAVs into the national airspace system. Currently, UAVs may only be flown by hobbyists for purely recreational reasons or by businesses that have obtained special FAA exemptions allowing commercial operations. To date, the FAA has issued only seven exemptions for commercial operations—all to movie production companies. Cooley represented the seven applicants who received these exemptions for commercial operations, and the firm is also representing a number of other parties that have sought exemptions for commercial operations in other economic sectors. Until the FAA acts on those waiver requests, only the seven movie companies may fly UAVs for commercial purposes in the continental United States.

This content is provided for general informational purposes only, and your access or use of the content does not create an attorney-client relationship between you or your organization and Cooley LLP, Cooley (UK) LLP, or any other affiliated practice or entity (collectively referred to as "Cooley"). By accessing this content, you agree that the information provided does not constitute legal or other professional advice. This content is not a substitute for obtaining legal advice from a qualified attorney licensed in your jurisdiction, and you should not act or refrain from acting based on this content. This content may be changed without notice. It is not guaranteed to be complete, correct or up to date, and it may not reflect the most current legal developments. Prior results do not guarantee a similar outcome. Do not send any confidential information to Cooley, as we do not have any duty to keep any information you provide to us confidential. When advising companies, our attorney-client relationship is with the company, not with any individual. This content may have been generated with the assistance of artificial intelligence (AI) in accordance with our AI Principles, may be considered Attorney Advertising and is subject to our [legal notices](#).

This information is a general description of the law; it is not intended to provide specific legal advice nor is it intended to create an attorney-client relationship with Cooley LLP. Before taking any action on this information you should seek professional counsel.

Copyright © 2023 Cooley LLP, 3175 Hanover Street, Palo Alto, CA 94304; Cooley (UK) LLP, 22 Bishopsgate, London, UK EC2N 4BQ. Permission is granted to make and redistribute, without charge, copies of this entire document provided that such copies are complete and unaltered and identify Cooley LLP as the author. All other rights reserved.