

# Shaffer, Ramish and Hopkins in Law360: Fed. Circ. Percipient Gov't Contract Ruling Is Groundbreaking

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Haynes Boone Partner [Jonathan Shaffer](#), Counsel [Dan Ramish](#) and Senior Associate [Tara Hopkins](#) authored an article for *Law360* following a Federal Circuit decision in *Percipient.ai Inc. v. U.S.*

Read an excerpt below:

The U.S. Court of Appeals for the Federal Circuit's decision in *Percipient.ai Inc. v. U.S.* is garnering widespread attention for changing certain rules about who has standing to protest and what the jurisdictional boundaries are at the Court of Federal Claims.

The majority ruled that Percipient, a commercial provider of computer vision software, could protest the National Geospatial-Intelligence Agency's failure to comply with statutory preferences for commercial products and services. Percipient's protest was allowed to go forward even though the protester was not able to fulfill the entire prime contract requirement but was merely a prospective subcontractor.

Percipient is groundbreaking for establishing a new "interested party" standard for alleged violations of the statutory preference for commercial offerings. The majority also modified the standard for applying the task order protest bar under the Federal Acquisition Streamlining Act, limiting prior Federal Circuit holdings but potentially cutting off some protests that the Court of Federal Claims has to this point entertained under indefinite-delivery, indefinite-quantity contracts.

A spirited dissenting opinion argued that the majority misread the statutes and failed to follow controlling precedent that compels a contrary outcome. The dissent characterized this as a "very important government contract case," predicting it will "have an enormous impact on government procurements," and that subcontractors "will soon flood the Claims Court with § 1491(b)(1) protests."

The decision's effects may be limited to commercial product and commercial service suppliers, but it is significant in opening the door to protests by suppliers who previously would have lacked standing and court jurisdiction.

To read the full article in *Law360*, click [here](#).