

decisions: patent lawyers, tax experts, certain economists and business professors could all make useful contributions to the committee decisions.

2. *The President of the university should appoint administrative members.*

The university counsel and someone whose duties are primarily the administration of research funds should be included. The latter may be the provost (or a member of his staff) or director of the office of research.

3. *Students should participate in the committee's deliberations.*

The graduate student organizations should be asked to send one student who is a degree candidate in one of the science department or in engineering. The undergraduate student organization should send one student. Student representation is important because students are themselves inventors, and are as affected by patent policy as faculty are. In addition, graduate students are salaried employees on the research grants and contracts that science faculty obtain, and are essential labor in the production of faculty publications that enable faculty to obtain outside research support. Students therefore have an equitable interest in the patenting activities of the faculty. Finally, students are a source of good ideas. Committees benefit from their advice. The restriction of student representation to the science and engineering departments, instead of including the medical school, is on practical grounds. First, a committee which is too big is unwieldy and does not get its work done. Second, students who are candidates for the M.D. degree, unlike candidates for the Ph.D. degree, are primarily engaged in course and clinical work rather than independent research. Post-doctoral fellows in the science departments, who are theoretically drawn from the most promising of the newly minted Ph.D. degree recipients, would be a valuable resource. Nevertheless, they are not included in the committee structure because they are transient (usual appointments are for one-year terms) and would not be able to provide any continuity of service.

4. *The committee will decide questions of policy and review records of inventions.*

The committee's responsibilities will include: (1) review of patentable subject matter; (2) review of the relationship between the university and the patent management firm; (3) review of licensing agreements; (4) identifying the source of funding which produced inventions; (5) identifying which inventions are in the field of medicine and health; and (6) allocation of proceeds.

Members of the committee will also be asked to assist in establishing priority in the conception of the basic idea of the inventor. To accomplish

this, faculty will have to keep time records of when their research initiated and conducted. Patent management firm representatives will have the responsibility of advising faculty on keeping these laboratory notebooks on the progress of their research.<sup>93</sup> One member of the committee who understands the invention in question should review and sign the laboratory notebook of the inventor. If no member of the committee is qualified to do so, a committee member will serve as a witness. The review and signature by a colleague who is competent to do so

### III. CONFLICT OF INTEREST

#### A. DECISIONS ON CONFLICT OF INTEREST WHICH ARE REQUIRED BY THE COURSE OF PATENTING ARE OUTSIDE THE SPHERE OF RESPONSIBILITY OF THE PATENT COMMITTEE.

##### 1. *General university policy will govern relationships between faculty and interests outside the university.*

Full-time employment at the university requires a full-time commitment to the university's program of instruction and research. This commitment conflicts with outside activity that (1) exceeds a limited amount of time; or that (2) influences the university's or individual member's relationship with outside interests in a way that leads to personal gain for anyone at the university. These principles are broad and affect everyone at the university, and are not patent issues. They have come to be associated with the patenting of university inventions and discoveries because so much attention has been given to the field of genetic engineering, in which there is a high commercial emphasis on research results, and in which some aggressive faculty speculation in commercial enterprises has yielded enormous profits.

A few dramatic examples will illustrate the extent of the problem. Stanford University, where the tradition of university involvement with genetic engineering is relatively long, has established the Integrated Systems, which is supported by about twenty electronics companies in the neighboring area, Silicon Valley.

Stanford is also the home of individual faculty entrepreneurs. Djerassi, it is reported, returns most of his earnings to the university. Stanley Cohen of Stanford and Herbert Boyer of the University of California (Berkeley), who developed the technique of gene splicing, established their own commercial company, Genentech, with their own funds and those of the university. The University of California's relationship with Genentech stirred an inquiry by the California legislature into potential conflict of interest problems resulting from

<sup>93</sup> The importance of these notebooks, as well as their authentication by the inventor and a witness who are not co-workers is stressed by COMM. ON GOV'T REL., NAT'L ASS'N OF CO-OP. BUS. OFFICERS, PATENTS AS COLLEGES AND UNIVERSITIES, GUIDELINES FOR THE UNIVERSITY PATENT POLICIES AND PROGRAMS 19, 26 (1978).