

376-119

ABSTRACT of Schmitt/Stevenson
S.1215, 96th Congress

Schmitt/Stephenson Bill Entitled "Science and Technology Research and Development Utilization Policy Act" filed in the 96th Congress, 1st Session, on May 22, 1979, and referred to the Commerce Committee.

Contractor Rights

The contractor has the option to acquire title to patents by agreeing to file a patent application except where:

(1) the services of the contractor are for the operation of a Government-owned research or production facility;

(2) retention of title is necessary because of the classified nature of the work being performed under the contract;

(3) because of the exceptional circumstances, retention of title by the Government is necessary to assure the adequate protection of the public health, safety, or welfare;

(4) in the case of a nonprofit organization, that such institution does not have a qualified technology transfer program as defined in section 103 of this Act; or

(5) the principal purpose of the contract is to develop or improve products, processes, or methods which will be required for use by Government regulations:

Provided, however, That the Federal agency may subsequently waive all or any part of the rights of the United States under this section to such invention.

March-In-Rights

Where the contractor has retained title, the Government shall have the right to:

(1) require the contractor to grant a nonexclusive, partially exclusive, or exclusive license to a responsible applicant or applicants, upon terms reasonable under the circumstances, or to require an assignment of title

to the Government if the agency determines such action is necessary because the contractor has not filed a patent application on the invention within a reasonable period of time or has not taken, or is not expected to take within a reasonable time, effective steps to achieve practical application of the invention; or

(2) require the contractor to grant a nonexclusive, partially exclusive, or exclusive license to a responsible applicant or applicants, upon terms reasonable under the circumstances, if the agency determines such action is necessary---

(i) to alleviate a serious threat to the public health, safety, or welfare needs which is not reasonably satisfied by the contractor or its licensees or otherwise required for the protection of national security;

(ii) to meet requirements for public use by Federal regulation which are not satisfied by the contractor or its licensees; or

(iii) because the exclusive rights of the invention held by the contractor have tended substantially to lessen competition or to result in undue market concentration in any section of the United States in any line of commerce to which the technology relates, or to create and maintain other situations inconsistent with the antitrust laws.

Background Rights

Nothing contained in this Act shall be construed to deprive the owner of any background patent or to such rights as the owner may have thereunder.

Federal Office

Establishment in the Department of Commerce of the "Federal Office of Science and Technology Research and Development Utilization" to coordinate, direct and review the implementation of the Act with respect to federally sponsored research and development.