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WISCONSIN ALUMNI RESEARCH FOUNDATION

March 18, 1983

Mr. Roger G. Ditzel
Patent Administrator
University of California Systemwide
Administration
2490 Channing Way
Berkeley, California 94720

Dear Roger:

The materials received from Milt regarding the extension of an exclusive license to Bristol-Myers was interesting. It seems to me that one of the best arguments that could have been made on behalf of Bristol-Myers was that their sales of Cisplatin did not permit them to recover their expenditures in getting the product to the market. If in fact they have not recovered that development expenditure I believe it would be a strong argument in support of an extension of the exclusive license.

Absent the argument that Bristol-Myers has not recovered its expenditures at the very least the generic drug houses requesting a nonexclusive license should be required to duplicate the efforts which Bristol-Myers intends to pursue in developing the market for Cisplatin further. Without a development requirement attached to and made a part of any nonexclusive license to a generic drug house they are obviously getting a cheap ride into the marketplace. Of course, a right of termination should attach to any failure to perform in accordance with any development protocol which is a part of the license agreement. Further on this point, I believe the commitment by such houses should be the equivalent of what Bristol-Myers intends to expend in its further development efforts, assuming there is a written record of that intended development.

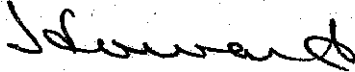
A still further alternative, but equitable approach, would be to require those generic houses requesting and obtaining a license to reimburse Bristol-Myers for a reasonable portion of the expenditures Bristol-Myers has already made to bring the Cisplatin product to the market.

It seems to me that the above approaches could be offered as alternatives to those drug houses seeking a nonexclusive license. Undoubtedly the dollar commitments in all cases would be hotly contested. Failing to get agreement from the drug houses that they will either (1) commit to an equivalent development program or (2) to reimburse Bristol-Myers for part of its development expenses, the exclusive license to Bristol-Myers should be continued. I do question whether it should be continued for a period of seven years. However, another three to five year commitment to Bristol-Myers for exclusivity would not seem to be out of line.

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I would appreciate your reaction to the above suggestions.

Very truly yours,



Howard W. Bremer
Patent Counsel

HWB:rw

cc--Mr. Goldberg
Patents, Copyrights and Rights in Data Committee