



IPO

INTELLECTUAL PROPERTY OWNERS, INC.

November 10, 1982

Dr. G.A. Keyworth II
Science Advisor to The President
Old Executive Office Building
17th Street and Pennsylvania
Avenue, N.W., Room 360
Washington, D.C. 20500

Dear Dr. Keyworth:

I enjoyed briefly chatting with you yesterday following your address to the Aero club. As I mentioned, our membership consisting of research intensive companies and universities is very appreciative of your efforts in the area of government patent policy and especially of your work on the Federal Acquisition Regulations now pending. We have been working with Dennis Barnes of the Senate Commerce Committee and Senator Laxalt's staff along with the Office of Productivity, Technology and Innovation to extend FAR to also cover ownership of data rights.

As you know, there has never been a uniform policy on the ownership of technical data or computer software. This is becoming increasingly important and unless a vehicle (such as FAR) is found to implement uniformity, will undoubtedly devolve into the sort of confusion now typifying patent policy. This is already happening.

The need for uniformity in patent and data rights policies also fits in with your theme of increased technology transfer from government supported research and closer collaboration between government, universities and industry. The recent statutory change in patent policies toward universities and small businesses is already bearing fruit. Patent disclosures to the National Institutes of Health from universities increased dramatically in 1981, the first increase in over 10 years! However, some agencies still insist on retaining ownership of the technical know-how or computer software that is just as important as the patent grant. NASA, for instance, takes computer programs from its contractors and tries to license them out to private industry. It has long been demonstrated that private industry is much more successful in licensing technologies than government. Additionally, the loss of such rights is very discouraging to the contractor.

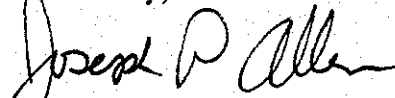
By allowing contractors to own patent and data rights while guaranteeing the government royalty-free usage, the agencies become a partner of innovation rather than a foe. This removes the fears that many innovative companies now

feel about becoming involved in government sponsored research and could result in a reduction of the federal bureaucracy overseeing case-by-case reviews to determine ownership. The Department of Energy, for example, has over 70 patent attorneys on its staff, the Navy has even more.

Finally, by allowing contractors to own patents and data the government will take a large step toward ending the loss of important technologies overseas which is a legitimate concern. Contractors, whether industrial or academic, will become much more selective over what types of information they publish and will screen the resulting data much more thoroughly than an agency possibly could. This approach also avoids the concerns universities feel towards attempts to control their publication rights. Many universities are making enormous strides in reconciling academic freedom with the protection of patent rights. The same kind of policy will be extended to all intellectual property if it is retained by the contractor because of the resulting incentive to protect valuable information that automatically results.

I am again enclosing a copy of the data rights amendment that Senator Schmitt had agreed to add to his government patent policy bill. Because of the limitations of the lame duck session it is extremely unlikely that this effort can succeed so FAR seems to be the next best vehicle. I am also enclosing an earlier paper on FAR that I prepared along with some information on Intellectual Property Owners. I would very much like to discuss FAR with you or your staff whenever convenient.

Sincerely,



Joseph P. Allen
Executive Director

JPA/arg
Enclosures/cc: Dr. D. Bruce Merrifield