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Sent to all 10 Georgia Congressmen

The University of Georgia / Office of the Vice President for Research / Boyd Graduate Studies Research Center  
Athens, Georgia 30602

May 22, 1979

(404) 542-3360

Honorable Jack T. Brinkley  
House of Representatives  
2412 Rayburn House Office Building  
Washington, D. C. 20515

Dear Congressman Brinkley:

This is to urgently request your support of H. R. 2414, the University and Small Business Patent Procedures Act, which was recently introduced by Congressmen Rodino, Edwards (Calif.) and AuCoin. An identical bill was introduced in the Senate (S. 414) by Senators Bayh and Dole, who have been joined by 26 Senators as cosponsors. Public hearings were held on S. 414 on May 16 and I understand further hearings will be held on June 6.

Passage of this legislation is extremely important to universities, the government and the public for several reasons:

1. The departments and agencies of the Federal Government have individual policies relating to the disposition of inventions which may be funded or partially funded by them. Organizations doing research for the agencies must bear the heavy cost of administering more than 20 different policies, a requirement which is particularly burdensome to universities and other non-profit organizations as well as to small businesses. Passage of this legislation will not only minimize such costs for those doing research for the government, it will also greatly reduce the cost of doing business within the government itself.
2. The patent policies of many federal agencies do not recognize the contributions of universities and other organizations in the funding of research and resulting innovations. Rarely does the Federal Government wholly fund a research project, and in many cases only small amounts of federal money are involved. Yet some agencies summarily demand assignment to them of rights to inventions touched by the federal dollar in any way. This legislation gives non-profits and small businesses the first option to rights in their inventions with limited exceptions, such as government march-in rights, a license to the government, recoupment of government investment in some cases and, in the case of non-profits, limits on the granting of assignments and length of exclusive licenses. The University and Small Business Patent Procedures Act is a fair solution to the question of university rights in inventions.
3. Those federal agencies which take title to patents "dedicate them to the public," licensing them to anyone able to understand the technology involved. Such action is in conflict with the patent system itself in that it destroys the protection of developmental capital which is almost always necessary to bring an innovation into public use (out of some 30,000 patents now held by the government, less than four percent are successfully licensed). American productivity and technology are not enhanced, our balance of payments are adversely affected when

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state-supported or subsidized foreign firms utilize such innovations. The American people are not properly served by the technology they have paid for. On the other hand, universities and small businesses are far more efficient in bringing new technology into public use and their competency in this area is steadily growing. The proposed legislation will bring about positive economic results.

4. Patent rights are critical to university and non-profit technology transfer programs. They are also vital to the development of inventions by small businesses. Large corporations usually do not rely on patent rights but rather on marketing power. The legislation does not deal with patent rights for larger businesses. It will increase competition by protecting developmental capital and markets developed by small businesses, and by preventing the shelving of innovations by those who can afford and want to do so to prevent competition with existing products.

5. The bill has provisions designed to encourage the development of inventions by U. S. firms so as to create jobs in the U. S.

6. Because a substantial proportion of medical research is done at universities and non-profits, and because of the importance of patent rights in pharmaceutical and related businesses, the bill is critical to the development of new drugs and medical devices and procedures.

7. The bill will make it more attractive for small business firms to compete for government R&D contracts since they will not be forced to lose rights to new inventions that may build on their existing capabilities.

8. Passage of this legislation will be a basic but extremely important step in reversing the decline of the innovative spirit in our country. The number of U. S. patents issued to U. S. inventors each year has steadily decreased since 1971, while the number of U. S. patents granted to foreigners has risen. There is little incentive to pursue patents which will languish their 17 years on governmental shelves.

H. R. 2414 deserves your careful consideration, cosponsorship, and support. Please do all you possibly can to see that it is passed as soon as possible. Also, please give me an opportunity to answer any questions you may have about it. My phone number is (404) 542-3360.

Sincerely,

*William O. Burke*

William O. Burke  
Chairman, University  
Patent Committee