bcc: J.R. Pike
bcc: Berres, Bremer, Hines

263-2827

August 25, 1976

Mr. Norman J. Latker
Chief, Patent Branch
Office of the Secretary
U.S. Department of Health, Education
and Welfare
Washington, D.C. 20201

Dear Norm:

As a follow-up to our telephone conversation yesterday, I thought you might be interested in reading the enclosed reprint. While it is dated 1948, the general information is, of course, still current, and the commentary on the Steenbock litigation which appears on page 8 answers those questions you raised yesterday. I suspect that some of the confusion over the "process of nature" as the basis for invalidating the patent arises out of the two opinions from the Appeals Court. I read only the November 1944 one prior to discussing the subject on the telephone with you, but as you can see, the June 1943 opinion apparently differed in its logic if not its conclusion.

We will be sending our comments on the Institutional Patent Agreement draft proposed by the Interagency Procurement Policy Committee to Mr. Read as requested. I would mention to you, however, that the belief that the leniency in affording the possibility of two more years of exclusivity under the IPA is somewhat misplaced. As our recent correspondence with you on a specific subject matter indicated, we believe that in this day of difficult product registration and long development times, the two years is much more necessary in the overall span of the license exclusivity. The 5 and 8 would seem to suggest that the Government believes that development periods will average three years rather than the five, whereas in all probability they will average seven or longer, particularly in the drug industry.

Best regards.

Very truly yours,

MDW:es
Enclosure

Marvin D. Woerpel
Director of Licensing