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December 18, 1978

Mr. Ky P. Ewing, Jr.
Deputy Assistant Attorney General
Department of Justice
10th and Constitution Avenue NW
Room 3109
Washington, D.C. 20530

Dear Mr. Ewing:

You may recall meeting with Howard Bremer and myself in October on the subject of the role of the Antitrust Division of the Department of Justice in connection with government patent policy. Your comments about government patent policy (from a November 9 address), as reported in the BNA Patent, Trademark and Copyright Journal of November 23, 1978, reminded me of the attached letter to Griffin Bell to which you intended to respond.

In the Justice Department study of government patent policy, it may be instructive to look at three other issues (than the four already identified):

1. The so-called "dead hand" issue. As a patent has to be enforced to derive its monopolistic value, when the government holds title, will government administrator "x" know, or care about, an infringement of patent #24,651 of the approximate 29,000 patents held by the government? (While in theory an administrative solution can be structured, in a practical sense, without the inventor or market position, the government may indeed be left with that "dead hand.")
2. Government research agency competition with the private sector. For example, has "control" of proprietary rights by DOE and "in-house" DOE research in energy technology inhibited or aided innovation, increased or aided innovation, increased or decreased industrial concentration?
3. Foreign use of taxpayer funded technology. Does the title in government policy result in greater advantage to foreign, particularly Japanese, companies than U.S. companies?

*Copy to RV Allen
Dept of Justice
1/4/79*

Mr. Ky P. Ewing, Jr.
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2.

I share your desire to advance the debate in substantive consideration of government patent policy and appreciate the opportunity for open dialogue on the issue.

Very truly yours,



Niels J. Reimers
Manager, Technology Licensing

Enclosure

cc: Howard Bremer, President - SUPA, w/enc. ←
Eugene Bernard, Chairman - LES
Law and Government Relations Committee, w/enc.

NJR:sh