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June 25, 1979

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Mr. William C. Gibb
Staff Assistant
Senate Committee on Science, Commerce and Transportation
United States Senate
5102 Dirksen Senate Office Building
Washington, D.C. 20510

Dear Mr. Gibb:

Thank you for meeting with our Patents, Copyrights and Rights in Data Subcommittee to discuss S-1215, Uniform Title Policy for Patents Arising From Government-funded Research and Development.

Our member institutions have reacted favorably and support the bill, but offer a few recommendations which they believe will improve it.

Section 103 Definitions

The definition of a "qualified technology transfer program" in Section 103(13) is drafted so that it is intended to include the five separate requirements listed. If the technology transfer program responds to the five criteria listed (with the revisions suggested below), the program should be considered to be qualified. The word "includes" leaves the requirement for a qualified program open-ended and susceptible to inclusion of a number of other qualifications, perhaps even an agency-by-agency determination of such qualifications. This could easily frustrate the desire for uniformity.

We recommend changing the word "procedures" in Section 103(13)(iii) and (iv) to "provisions" and in (v) delete the words "an active and effective promotional" and insert "a viable."

Section 201 Implementation and
Section 202 Agency Technology Utilization Program

Reservations were expressed about the provisions of Section 201 with all the indicated functions to be performed by the Secretary of Commerce. This along with

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the provisions of Section 202, relating to development and implementation of Technology Utilization Programs within each agency would likely result in building an unnecessary bureaucracy with all of its attendant paperwork and administrative problems. Notwithstanding the provisions of Sections 301(b), the provisions of Sections 201 and 202 may promote a greater tendency by an agency to except inventions under the provisions of Section 201(3) at the time of contracting, with a view of later utilizing Section 303 after an invention has been identified. It is our opinion that this could be construed to permit a case-by-case determination of patent title in each agency that establishes a technology transfer program. We know from experience that case-by-case determination procedures are unworkable.

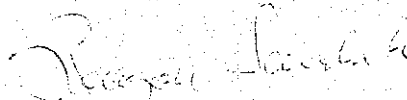
These sections should be either deleted or carefully circumscribed to prevent use not anticipated by the bill.

Section 301 Rights of the Government

We recommend that Section 301 state a positive presumption of title to the contractor and then list the exemptions.

We appreciate the opportunity of commenting on S-1215.

Sincerely,



Reagan Scurlock

cc: Patents, Copyrights and
Rights in Data Subcommittee