



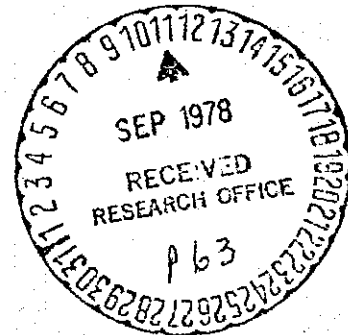
National Aeronautics and
Space Administration

Washington, D.C.
20546

Reply to Attn of:

SEP 6 1978

Mr. J. Ralph Shay
Assistant Dean of Research
Oregon State University
Corvallis, OR 97331



Dear Mr. Shay:

This is in response to your letter dated August 1, 1978, wherein you indicated a desire to enter into an Institutional Patent Agreement with NASA. While NASA is not basically opposed to the concept of institutional patent agreements, we cannot enter into such agreements because of specific statutory requirements, as discussed below.

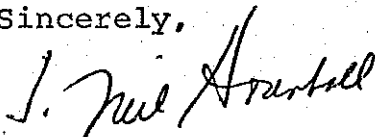
Section 305(a) of the Space Act (42 U.S.C. 245(a)) requires that NASA acquire title to inventions made in the performance of work under contract unless title is waived by the Administrator in conformity with the provisions of section 305(f) (42 U.S.C. 245(f)) (copies enclosed). This latter section, in turn, requires that waiver of title be pursuant to regulations prescribed by the Administrator, and that each proposal for waiver be based on findings of fact and recommendations of the Inventions and Contributions Board. (See NASA Patent Waiver Regulations 14 CFR 1245.1, copy enclosed, for the implementation of section 305(f)). An institutional patent agreement, on the other hand, would preclude the Inventions and Contributions Board from making such findings of fact and recommendations, and prevent the Administration from taking action with respect thereto, as required by statute.

It is also pointed out that the Federal Register announcement concerning "Negotiation of Institutional Patent Agreement" was an amendment to the Federal Procurement Regulations

(specifically §1-9.107-7), which regulation also makes exception for agencies governed by specific statutes (§1-9.107-1). Thus, while for the sake of Government-wide uniformity NASA has followed many of the provisions of section 1-9.107 of the Federal Procurement Regulations (see Excerpts from the NASA Procurement Regulations, enclosed), it is precluded from so doing regarding the recent amendment relating institutional patent agreements. On the other hand, where an institution does have an approved institutional patent agreement with another agency such fact will be a positive consideration for the Inventions and Contributions Board in making its findings of fact and recommendations to the Administrator.

Thank you for your interest in the NASA patent policy. If you desire any further discussion on this matter feel free to contact Mr. R. F. Kempf, Assistant General Counsel for Patent Matters (202/755-3932).

Sincerely,



S. Neil Hosenball
General Counsel

Enclosures