



THE ROCKEFELLER UNIVERSITY

1230 YORK AVENUE · NEW YORK, NEW YORK 10021

OFFICE OF THE PRESIDENT

December 19, 1977

The Honorable Gaylord Nelson
221 Russell
Senate Office Building
Washington, D. C. 20510

Dear Senator Nelson:

I have just learned of the hearings to be held on December 19 through 21, 1977, with regard to the work of the Government Patent Policy Committee and related matters pertaining to the treatment of inventions developed with the aid of federal research support.

While I cannot speak with respect to federally sponsored research at industrial laboratories, I would like to share with you some thoughts with respect to work at universities, based on my responsibilities for the management of inventions and patents at The Rockefeller University. My experience here indicates the Federal Government already has at hand a nearly ideal model for dealing with inventions made at universities and similar non-profit laboratories. This model is the Department of Health, Education and Welfare's Institutional Patent Agreement (IPA) program. The Rockefeller University has entered into an IPA with DHEW.

The IPA, while making the presumption that rights to any inventions made with federal sponsorship are the property of the institutional contractor or grantee, makes specific provisions not only for non-exclusive royalty-free license to the government for its own uses, but also for the government to assert its own underlying right of ownership in the invention should that be deemed, on a case by case basis, to be in the public interest. Great flexibility in licensing is permitted.

The presumption of institutional ownership is soundly based. Firstly, it recognizes that by providing wide latitude, and the ability to grant exclusive licenses, it thereby speeds bringing to market and public use useful inventions requiring substantial developmental investment. The typical university invention is a concept usually very far from being a product ready for sale. In the pharmaceutical area, for example, extensive testing and development costs would make risking taking up new products most unattractive to potential manufacturers, absent the protection of some reasonable period of exclusivity. In this sense, the emotionally appealing dedication to public use is in fact equivalent to dedication to disuse or at least to very substantial delay.

Further, the IPA recognizes the genuine "jointness" of university-based inventions. Inventions are not "bought" full-blown by the presence of research

sponsorship from any source. They are the result of a subtle combination of sponsorship with the expertise and experience of the investigators at institutions involved. The use of massive institutional facilities already in place is often essential. In many cases, inventions occur as by-products of a sponsored research program. This is particularly true for basic scientific work, where inventions with respect to instrumentation may emerge as spin-offs along the way.

^{Royalty}
~~Conventional~~ fees are a few percent of sales. This is much less than exorbitant levy on the consumer. In the case of university-owned patents, these royalties flow back into the support of the institutions and of the research enterprise itself. In this way our financially hard-pressed universities' viability is improved and their own ability to sustain further research programs enhanced, lessening dependence on federal aid.

I hope that the Monopoly Sub-committee will take these significant factors with respect to university-performed sponsored research into specific account in its deliberations.

Sincerely,

Albert Gold
Vice President

✓bcc: Mr. Norman J. Latker, DHEW