

NJL

STANFORD UNIVERSITY

STANFORD, CALIFORNIA 94305

Area Code 415 497-3567

OFFICE OF
TECHNOLOGY LICENSING
ENCINA 6-930

March 20, 1978

Mr. Hale Champion
Deputy Secretary
Department of Health, Education and Welfare
330 Independence Avenue S.W.
Washington, D.C. 20201

PATENT BRANCH, OGC
DHEW

MAR 28 1978

Dear Hale:

I know that you are concerned about innovation of HEW funded research results for public use and benefit. Thus, I hope you do not mind my contacting you directly about this matter. Universities are becoming increasingly alarmed that HEW may be considering a change in its patent policies, which changes are feared will hinder the delivery of research results from the laboratory to the public. The Institutional Patent Agreement program of HEW clearly has been the most successful in government in enabling innovation. No other agency can point to such a record of success to the public as can HEW. Perhaps better mechanisms can be derived to deliver government funded research to the public, but until such mechanisms are established, the present institutional patent agreement system should not be dismantled.

It appears to those of us out in the provinces that the strong (but erroneous) stance of Senators Nelson and Long, Admiral Rickover, and the Anti-trust Division of Justice have backed the research agencies such as HEW not only into submission, but onto the politically more safe ground of supporting alternatives more acceptable to these opponents. Those who are concerned include every university to my knowledge that has made any effort at all to seek utilization of government funded research by industry. Let me explain the basis for this what-seems-to-be paranoia.

First, Secretary Califano's recent action of cancelling an exclusive license to a small Massachusetts company in favor of the market dominating company in that market has obvious potential for being devastating to our ability to encourage industry to invest risk capital to develop an embryonic invention of government funded research. Industry needs to have certainty in order to invest.

Second, I have heard from universities not holding institutional patent agreements that approvals of patent waiver

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requests have been virtually halted. As you know, universities have to rush to file patent applications to beat publication bars. Without reasonable assurance that waiver requests will be granted, that investment is imprudent to make. And of course when waivers are not granted, the historical record shows the chance of delivery to the public is reduced to minimal.

Third, HEW's silence on the Thornton Bill, H.R. 8596, is another signal.

Fourth, the recent letter we received from Dr. Frederickson (regarding the recombinant DNA patent) has several inferences that HEW is about to change its patent policy.

I don't know if this matter falls in your area of interest or responsibility, but if there is a possibility to chat with you about it either by telephone or during my attendance at a conference in Washington April 5, 6, and 7, it could be useful.

I hope things have been working out for you in Washington and hope you'll be coming back to California one day.

Best regards,

Niels J. Reimers
Manager, Technology Licensing

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bcc: Howard Bremer - WARF
Norman Latker - HEW

← *Niels*

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Occ. Patent Control

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(OS sent orig. to OGC to prepare reply)

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