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April 27, 1978

Mr. Newton O. Cattell
Association of American Universities
Suite 730
One DuPont Circle
Washington, D.C. 20036

PATENT BRANCH, OGC
DHEW

MAY 2 1978

Subject: Patent Policy

Dear Mr. Cattell:

Enclosed is a copy of the questionnaire which was included with your memorandums of April 4, 1978. I believe the wording of some of the questions is going to give you misleading answers. Please note the qualification notes that I made on the questionnaire. Patents, in most of our licenses, are a smaller part of the value transferred. Only chemical patents really seem capable of withstanding the determined infringer.

I had visits April 5 and 6 with David Blumenthal of Senator Kennedy's staff, Barry Leshowitz of Senator Dole's office, and Gerald Sturges of Senator Nelson's staff. Each mentioned the current "populist" attitude in Washington--that whether our position was right or wrong, it would not be politically popular and difficult to "sell." On careful study of the issue, Mr. Leshowitz is convinced that a Thornton-type policy is in the best interest of the country and has obtained Senator Dole's support. Mr. Blumenthal and Mr. Sturges were more noncommittal. I sense Mr. Sturges relishes the adversarial role and, even if eventually convinced IPA's for universities are needed for innovation, will hang on enough disincentivizing bureaucratic strings (such as a limitation of the amount of royalties) that we would have a hollow victory. Clearly, without potential for the big revenue producing invention, not only would the fun be taken out of licensing to industry, but it would not be economically justifiable for a university to bother with a licensing office.

The issue is new to Mr. Blumenthal, and I think it would be worthwhile if someone from Harvard, MIT, or perhaps Mass. General (or all together) could meet

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with him to provide a greater understanding of the issue. When Mr. Blumenthal was advised universities might prepare a Thornton-type bill for universities and small business to Mr. Kennedy for introduction via Massachusetts universities, he asked that he be kept informed.

Senator Dole appears to be a willing co-sponsor with Senator Kennedy.

It does seem more appropriate that the bill be introduced in Senator Kennedy's committee (rather than Nelson's), but I understood from Mr. Sturges that he plans to hold hearings in June and apparently considers legislation in this area appropriate for Senator Nelson's committee. It would be desirable if our Massachusetts contingent could prevail on Senator Kennedy before June to sponsor our bill. Howard Bremer, President of SUPA, may contact Tom Jones at MIT, Henry Meadows at Harvard, and Lamont Havers at Mass. General, who are all aware of the issues, to see if they will ask Senator Kennedy to introduce the bill, perhaps coordinating the matter through Mike Blumenthal.

Two individuals in the Licensing Executives Society who are conversant with government patent policy matters and are based in Washington, D.C., are Marc Finnegan and Eugene Bernard. Their telephone numbers are indicated below. If they could be convinced to do so, I think they might be useful to bring along for any meetings on the Hill as effective spokesmen, from the industry point of view, of a "Thornton-type" government patent policy.

Very truly yours,

Niels J. Reimers
Manager, Technology Licensing

cc: Milton Goldberg (COGR)
Howard Bremer (WARF)
Robert Freelen (Stanford)

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