

MEMORANDUM

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE
OFFICE OF THE SECRETARY

TO : Lowell T. Harmison, Ph.D.
Science Advisor
Office of Health Policy, Research & Statistics

DATE: March 21, 1978

(f)

FROM : Patent Counsel, GCB

SUBJECT: Backlog of Cases in Mr. Feiner's Office

After the decision in the AS&E case, Mr. Feiner orally requested that cases being prepared by the Patent Branch for signature by the Assistant Secretary for Health be cleared through his office prior to submission after recommendation by the funding Institute. I advised that I was concerned that there be no extended delay in review of these cases, as they were an important part of the technology transfer process and required expeditious action if potential industrial collaborators and momentum were to be maintained. He indicated that they would be held in his office for no more than a few days. The Patent Branch complied and has sent all of the designated cases through Mr. Feiner's office for clearance.

Since August 16, 1977 the attached backlog of 25 inventions (6 included in one waiver petition) are now pending in Mr. Feiner's office. They range all the way from routine clearances to difficult collaborative relationships all recommended by the operating program. I have made a number of follow-ups on these cases and have been advised that the reviewer, Mr. Walker, has "problems" with them. I asked that cases be returned which involved problems, but they continue to be held.

In light of the draft report prepared by Mr. Walker on Department patent policy and the significant size of the backlog in his office, it seems that the patent program has reached an impasse which, left unresolved, will result in a deterioration of further submissions from the nonprofit sector and its potential collaborators. If the impasse is due to the Department evaluation of our patent policy, it would seem we owe some duty to advise appropriate parties. However, I would note that disposition of most of the cases are based on Government-wide regulations which cannot be unilaterally changed by the Department.


Norman J. Latker

Enclosure
cc: Dr. Leon Jacobs, OD/NIH