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November 20, 1987

Commissioner of Patents and Trademarks
Box 4
Washington, DC 20231

Attention Mr. Stanley D. Schlosser

Dear Mr. Schlosser:

I am writing for the Office of Technology Licensing at Stanford University in support of the proposed rules on deposit of Biological Materials for Patent Purposes (Federal Register/Vol. 52, No. 174/September 9, 1987). The rules would clarify the requirements and procedures for depositing biological materials. They are detailed and practical, allowing patent applicants sufficient flexibility in terms of time and location of deposit to comply with both the spirit and the letter of the law. This will reduce the uncertainty that existed prior to the proposed rules, and should therefore reduce the amount of resources expended in overcoming inadvertent errors.

We particularly support the specific WIPO report recommendations on which you seek comment. While other parties should be able to test the invention, the patent system will fail in its goal of encouraging inventors to make public their inventions if the requirements allow competitors access to valuable biological material without limiting its use. The requirements not to pass on the material, to use it only for experimental purposes concerning the invention, and not to export the material are minimal restrictions that both allow experimental use of the patented invention, and protect patent holders against those who would unfairly profit from the required deposit.

To strengthen the WIPO recommendations, the patentee should be notified of the names of the parties requesting access to the deposit, with assurance that they have agreed to comply with the restrictions on its use. In addition, we recommend a change to the proposed rules to provide that the requestor of a biological material be required, upon request, to give a full accounting to the patent owner of their use of the biological material.

In summary, I feel that the proposed rules will serve a valuable role in clarifying requirements for deposit of biological material for patent purposes.

Sincerely,

Niels Reimers
Director

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