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April 5, 1988

Mr. Norm Latker
University Science, Engineering
Technology, Inc.
8000 West Park Drive
McLean, Virginia 22102

Dear Norm:

Your San Diego speech was terrific. I hope the audience appreciated hearing it as much as I did reading it.

I like very much how you begin your discussion of technology transfer with the philosophical underpinnings of the Constitution. It is pointless to talk about transferring technology unless one can identify the nature of the property right being transferred and the owner of that property right. I find now, in practice, that the public sector owners are still not very clear about the concept of property and ownership.

I disagree somewhat with your second point, that employees are unable to negotiate fairly over the value of future inventions. Certainly any estimate of future "inventing capacity" is going to be crude, but if we believe inventors are unable to negotiate over future inventions, then how can we ask the federal laboratories to assign away, in advance, rights to future inventions? In both cases the inventor or the laboratory calculates that the right to income today is worth the loss of rights to future inventions. I have never believed that we were somehow cheating the laboratories out of their inventions by asking them to assign away in advance their rights, and I think the same principal applies to inventors. It is not unfair to ask employees to assign rights to inventions to their employers; it may, however, be foolish to provide no further incentive to inventors, in the form of royalties or some other direct reward, especially for inflexible employers like the federal government and universities.

You make the point about start-up companies understanding the need to take care of their inventors, and I believe this argues against a general requirement of royalty sharing for the private sector. I would hate to see royalty sharing take the place of more generous stock sharing and stock option plans, which seem commonplace in high tech companies.

Otherwise, your analysis of the effects of Bayh-Dole on universities is convincing, and I like your discussion of the need to respond to "serendipitous results." You obviously have written a fine introduction to an article about technology transfer. I have not yet given up hope that we will write it.

I have enclosed an article about technology transfer that I wrote for our in-house newsletter. For some reason the editor changed the word "patents" to "patent technology," perhaps in an effort to create new jargon, but otherwise I am happy with it. This is the nuts-and-bolts stuff, in contrast to your philosophical speech.

I have also enclosed a firm brochure, to help you decide to hire us to do all your West Coast licensing work. We just added an office in Los Angeles, and the lawyers there tell me they have ties to the patent licensing offices at U.S.C. and U.C.L.A.

I hope USET is doing well.

Sincerely,

Cassie

Cassie Phillips

CP/sjl
Enclosures

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