AUTM® NEWSLETTER

Newsletter of the Association of University Technology Managers™
April 1998

On Becoming President ...

by Karen Hersey, Massachusetts Institute of Technology

There's no doubt that everyone who undertakes the presidency of AUTM has thought, as I've spent some time doing lately, what can I do in the year ahead to make a difference?

All incoming presidents are blessed by having the privilege of serving an organization that has gained the highest reputation for integrity and success through the hard work of its very dedicated membership. We are able to broadcast, proudly, AUTM's accomplishments in education, professional training, scholarly publishing, data collection, and advocacy all supporting academic technology transfer because you in the membership made it happen. AUTM is truly the sum of its parts. I, and the members of the new and old Boards, applaud you for that.

At this year's Annual Meeting in San Antonio, much of what we heard and talked about among ourselves is where AUTM and our membership may be headed in the next millennium. I would like to spend just a few minutes talking about what I'd like to do in the next 12 months . . . before handing my blue ribbon to Lou Berneman, who will take over a year from now in San Diego.

As a part of AUTM and its predecessor, SUPA, I've seen almost a decade and a half of enormous growth. In 1984 the membership came from perhaps 60 institutions (on a good day). In 1998, our members represent 250 institutions throughout the U.S. and Canada. But, there are more out there who are not a part of us. I worry that there are smaller institutions tucked away with relatively small research budgets who feel AUTM is the big leagues and they don't belong here. Well, they do, and I have issued a challenge to the four regional Vice Presidents to work hard over the next year to get people from these emerging research institutions to become a part of this exceptional organization. If we use part of the AUTM endowment funds to make it possible for some of those institutions to send people to Basic Licensing and Tools, they are funds well-spent. If each Region can mentor memberships from just 6 new institutions, we would have 24 new organizations that will have figures ready for Dan Massing's survey for the year 2000. What a way to start a new millennium!

As we know from the visibility that the international members have gained in the San Antonio meeting (actually sponsoring workshops!), our international counterparts are making themselves heard. International outreach has been of enormous interest to me for a long time (living on a coast may have something to do with that). I am delighted to see that Jon Sandelin, VP Membership, has jumped out in front in organizing the international members, with Mark Crowell appointed to serve as Chair for International Members. Jon and Mark, together with the international members will develop and begin to implement a plan over the next year so that by 1999 we will have worked out the best way for AUTM to serve its international constituency.

The need for AUTM to put together a strategy for developing AUTM's leaders is also something that's become evident over the years. As in any profession (if I can use that word), good people come in and they go out, on to other things. Identifying future leaders in an organization as dynamic as AUTM is a challenge, but it is also necessary if we are to provide able leadership for this organization as it continues its rapid growth. With the help of the Past Presidents under Teri Willey and the Regional Vice Presidents, we hope to arrive at an action plan that will encourage greater participation in AUTM activities for those interested in leadership. This will be a central goal at the Board's strategic planning session as we share the Arizona summer sun with the Western Region in Tucson this July.

Other new directions that will become visible this year are already in the works. You will continue to see an advanced curriculum emphasis showing up in the Annual Meeting, Advanced Topics and in the regional Summer Meetings, ably coached and mentored this year by Lita Nelsen and Fran Meyer.

You already know that the Affiliate Members will be officially represented on the Board, beginning with Linda Kawano who will serve as Affiliate Member Delegate until appropriate by-laws changes are voted by the Membership to establish a new officer position.

The Basic Licensing and Tools courses will leave Washington, D.C. and go on the road to Kansas City this fall.

And, organizationally,

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AUTM will have greater financial accountability. Penny Dalziel, together with an outside auditing firm, is busy implementing a new financial management plan for us that should serve us well in the new millennium.

Last thoughts . . . . let me convey to you once more my great enthusiasm for the job ahead. I urge you to participate in any way you'd like to. And, I want to make sure you know that any comments/suggestions, whatever you would like to share with any of us who represent you on the Board, will be appreciatively received. This is your organization.

It's going to be a great year!■

A Bill to Promote Technology Transfer from University to Industry in Japan

by Koji Nishio, Research Institute, Mitsui Knowledge Industry Co., Ltd.

In Japan, the Ministry of Education MOE and the Ministry of International Trade and Industry (MITI) are making efforts to win approval for a "Bill to Promote Technology Transfer from Universities to Industry" (tentative name) in the current session of the Diet.

The Japanese Government is pressing ahead with its Economic Structural Reform program, one element of which is to create a healthier environment for the creation of new industries. To create a healthier environment, improvements are needed in the following four areas: funding, human resources, technology, and advanced information telecommunications. To this end, a closer cooperation between industry and academic institutions must be adopted as a political issue. MOE and MITI are currently examining measures to effectively utilize the intellectual resources within universities, together with the potential and results of research and development, in order to create new industries, and to improve the level of technology in new and existing industries. It is hoped that this will also serve to further promote the Economic Structural Reforms.

Comparing the cooperation between industry and universities in the United States with that in Japan, we find a significantly wider level of collaboration in the U.S. This collaboration enables research results to be transferred from the universities to industry. Research capabilities can be utilized as a driving force to create new industries. Although universities in Japan have attracted a large amount of research resources, possess great potential to produce technological innovation, and are also increasingly expected to play a central role in the revitalization of regional society, they have as yet been unable to contribute to their full potential. For example, because most of the inventions made by researchers in national universities (where research resources are concentrated) belong to the researchers in principle, the patent rights to many inventions actually belong to the researchers as well (excluding some nationally-owned patent rights). University researchers are inexperienced in patent prosecution or do not have sufficient funds to pay for patent application costs. Many inventions, therefore, either have not been patented or have been transferred to companies at low cost. This certainly contributes less to society. Other inventions that are owned by the government are often not developed into practical applications because the procedures are too troublesome, or because they have not been approved for proprietary manufacturing rights, and are therefore seen as of little benefit to consumers.

To improve this situation and to promote better cooperation between industry and universities, it is necessary to build a system more like that found in the U.S.: one which enables the results of university research to be commercially manufactured through a more formal academic technology transfer program for the benefit of society. It is a system that allows the costs of research to be returned to universities, which, in turn, can be utilized again as research resources. To achieve this end, Japanese universities have begun cooperating in the establishment of a technology transfer company or technology licensing office. The government's assistance is required in the establishment of such an organization, particularly because of the financial difficulties that are faced during the setup period. On February 12, the above mentioned bill was therefore proposed to support the establishment of such a technology transfer company or technology licensing office as part of the industry-university cooperation infrastructure, whose aim is to promote effective transfer of new technology from the universities to industry.

Key points of the bill are the following:

(1) To provide financial backing for a technology transfer company or technology licensing office that will handle the registration of research results as legal patents and facilitate transfer of technology to industry; and,

(2) To provide financial support for small-medium sized enterprises or start-up companies to commercialize university-developed technology through the TTC or the TLO.

Of course, there are still a number of complications to be resolved. For example, national universities are not legally regarded as personal entities and therefore cannot be designated as a patent holder; and, further, researchers in national universities are prohibited from participating in commercial ventures to commercialize their invention because of their legal status as government workers. However, the obstacles that prevent effective cooperation between industry and universities are being removed. Both industry and the universities have expressed their sincere intention to strengthen cooperation. This government bill is expected to make a significant contribution to the promotion of cooperation between industry and the universities. (e-mail: nisi@pc.mki.co.jp)■

Advanced Topics Meeting and Directors Forum

by Sandy Shotwell, Oregon Health Sciences University

The Naples Advanced Topics Meeting in December drew another capacity crowd and quickly became one of the most productively interactive (did someone say anarchy?) meetings in the proud history of the Advanced Topics meetings. Martha Luehrmann, Arun Pradhan and Jon Sandelin kicked off the meeting with a thought-provoking session on in-house development. We found that roughly one-fifth of the attendees spend money, beyond patent expenses, to add value before licensing. This money comes from licensing revenue, research park revenues, etc., and generally is spent based on a plan developed by all stakeholders. Like patent expenses, it comes back off the top of revenues in the case of a success. Amounts range from a few hundred or thousand dollars to Stanford's Sondius program, in which the university has invested about a million dollars. Stanford has developed a policy for (minimal) third party use of unique resources for a fee. Utah partners with the state to add value through consultants, technology innovation grants and state-funded centers of excellence. The group went through a SWOT (Strengths, Weaknesses, Opportunities, Threats) for the timely issue of universities moving down the development chain.

Should a university combine the sponsored projects and licensing offices? While roughly half of the attendees worked in combined programs, most of us don't have a choice, but can get creative with the organizational structure we have. Nina Green suggests doing your due diligence - get invention disclosures before the start of a new sponsored project to create a clear record of what is prior university intellectual property. Lita Nelsen presented MIT's "Good Hygiene" procedure for checking for blocking background patents for sponsored research proposals. Robert Malster summarized three large research arrangements MIT has developed with Amgen, Merck and Ford.

Marv Guthrie lead a thoughtful session involving the group on AUTM's strategic planning. He pointed out that, while some members expressed surprise at AUTM '97 meetings to find the organization moving to a central role in policy on IP and the role of academics, in fact AUTM has its roots in the development and implementation of legislation - Bayh/Dole. We are not so much taking on a new role as returning to an old one when we work closely with policy makers.

In her Hot Topics session, Teri Willey listed myths that exist about university technology transfer and encouraged each of us to be able to address these myths when they come up in our realms. The group came up with four target groups for education: (1) AUTM members, (2) the federal government, (3) members of the academic community and (4) industry groups. We talked about the "stewardship" role TT plays, getting fair value for the contribution the university makes to technology development.

Nina Siegler, Bill Asher and Christopher Wright lead a very well-received session on equity issues relating to university licensing. Nina had conducted a survey that showed that about a quarter of the universities sampled have a policy precluding the inventor from sharing in the university equity piece if they have a significant equity stake in the company. The vast majority of universities still apparently have no formal policy on handling equity. Chris provided a rationale for the university's getting an antidilution clause, calling it the "chicken and egg" issue. In order to get funding, the new venture needs technology. So the money is not all in until the technology is in, meaning the university can reasonably expect antidilution until the first major money is in. Bill Asher reviewed the functions of the many documents that are created in the process of starting a new company. He encouraged paying special attention to how founders are treated, making sure they have "golden handcuffs" that encourage them to continue to participate actively. Another point - exercising rights in equity may give you a much more influential role in developing technology in the public interest than exercising rights through a license agreement.

Numerous insights came out of the session lead by Stephen Sammut on Affiliated Venture Funds. Josh Lerner presented a broad-based, historical perspective on venture capital activities. With respect to university-affiliated (or company-affiliated) funds, he presented three problems from which they often suffer: multiple objectives, unstable structures, and inadequate incentives. Howard Califano, Tom Churchwell and Jack Turner provided insights based on personal experience, and recommended small, tightly managed seed fund activities that can be used to add value (e.g., through proof of concept or business plan writing) to technologies that are used as the basis of a new company, or to get a better license deal. Call them "step-up" funds, or call it "de-risking" - they help with the return on investment. Also, start-ups with technology from more than one university seem to be happening with more frequency, and have the benefit of providing a stronger base for company success.

Peter Williams lead us through stories, with results both happy and sad, of licenses gone wrong. Some insights: Structure your default language based on other than bankruptcy, e.g., loan default. Use a collection agency to collect - caution: may precipitate bankruptcy! Require research payments in advance for three to six month periods. If you have to negotiate a note for repayment, negotiate a warrant at the same time, and keep it even if you get repayment. His general rule - get half the value of the debt in warrants for debt funding in an equity-backed company.

Kathy Ku lead the separate Director's Forum, a more intimate (both in size and discussion) meeting following the regular Advanced Topic meeting. Candid discussions between experienced directors characterized the Forum, which covered a broad base of issues directors face daily. One tip from Stanford - prevent losses by not taking on cases. Once you invest in them, it is hard to let go. An audience suggestion - "We were unable to fund your project because it was not above the cut-off." If a licensing office can show a record of success, has limited resources that must be applied to

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Regional Roundup

Central Region - James Severson, University of Minnesota

With the annual meeting still fresh in my mind, I'd like to offer my congratulations to everyone who helped to make it such a successful meeting. Meeting co-chairs Barry Rosenberg of Georgia Tech and Sally Hines of Stanford are the most easily identified for kudos, but committee members, moderators and speakers all deserve a sincere "well done". This meeting always revitalizes me, and this year represents a high water mark for AUTM. Overall, it reinforces with me what a terrific organization AUTM is, and that it deserves our continued support.

Plans for the Central Regional Meeting in Minneapolis on August 2 to 4 are nearing completion. Those of you who attended the annual meeting received a copy of the draft program. Please look for the final program when it is mailed later this spring, and make your plans to attend the Central Regional Meeting.

Volunteers are also needed to help with site management at the Central Regional Meeting and for planning for the 1999 meeting in Madison, Wisconsin. This is a great way to begin participating in AUTM activities. If you're interested, please contact me.

Regional vice presidents have been asked to serve on the Nominations Committee for the 1999 election of officers. While it may seem odd to discuss nominations and elections so soon after the annual meeting, it is necessary to start to think about elections now, so that a good slate of candidates can be nominated by the committee.

As Immediate Past President, Marv Guthrie will chair the committee. Positions open for election in 1999 are President Elect, Vice President Membership, Vice President Communications, Vice President Central Region, and Vice President Western Region. You can expect to hear more on this topic in this and future editions of the newsletter. If you are interested in a position, or if you wish to nominate a colleague, please let me know.

Western Region - Suzanne Quick, University of California

It was great to see so many new and seasoned members of the Western Region at the San Antonio Annual Meeting. Although our region is relatively small in numbers, we were well represented on the program and in many of the committee and other ancillary activities that took place during this record-breaking annual gathering. In addition, I am pleased to report that, in the coming year, five members of the Western Region (Trice Bryan, John Sandelin, Sandy Shotwell, Janna Tom and I) will serve on the AUTM Board.

Now that the Annual Meeting is behind us, it's time to look forward to the upcoming Western Regional Meeting scheduled for Tucson on July 25-28 at the Sheraton El Conquistador. Rita Manak of the University of Arizona is Program Chair and Bernd Weinberg of Research Corporation Technologies (RTC) is handling the site and activities arrangements. "New Frontiers from the *Old Pueblo*" has been selected as the meeting theme. Sessions will explore how external and internal influences are changing the scope of responsibility, operations and interactions of technology transfer offices with faculty, industry and the public. It is anticipated that this summer's Western regional, like last year's extremely successful Seattle meeting, will have a very relaxed ambiance that reminds us of the days when summer really was a time for slowing down. As Rita and Bernd finalize the plans for this exciting event, they will be carefully considering the input received from a large group that attended a planning committee luncheon for the Regional during the AUTM Annual Meeting.

I hope you'll take a few minutes right now to mark the dates of the Tucson meeting on your calendars. Also, I'd like to encourage all of you who are interested to take a more active role in AUTM. There are lots of opportunities for participation that are both very satisfying and help to strengthen AUTM and our profession. Please feel free to get in touch with me at any time with questions, suggestions or to volunteer. I can be reached by phone at (510) 748-6628 or by e-mail at Suzanne.Quick@UCOP.edu.

1999 AUTM Annual Meeting - SAN DIEGO, California March 4-7, 1999

Mark these dates in your calendar now for our San Diego Experience, the 1999 AUTM Annual Meeting. Our Meeting Theme is "Knowledge - The Driving Force of the Next Millenium".

You can help to make this our best meeting ever. If you have any suggestions for topics - workshop, educational track or special interest group sessions - or any thoughts on the meeting format, drop a note to Barry Rosenberg BY MAY 1. Barry can be contacted by fax at (404) 894-9728 or by email at barry.rosenberg@gtrc.gatech.edu.

Affiliates Corner

San Antonio AUTM Board Actions - Jon Sandelin, VP Membership: The AUTM Annual Meeting in San Antonio was well attended by Affiliate Members, providing an opportunity to meet other AUTM members and to attend a wide variety of workshops and plenary sessions. Planning is already underway for next years Annual Meeting in San Diego and we hope to see even greater participation of Affiliate Members. If you have ideas for workshops of specific interest to Affiliate Members, please let us know.

At the AUTM Board meeting at San Antonio, the position description for the new Vice President - Affiliate Members was discussed at length. The Affiliate membership is made up of a wide range of interests and ensuring all areas are represented is important. Roughly half are people from "industry" but other areas include government, attorneys, licensing agents, accountants, finacial services people, and so on. We hope the newly formed subcommittees representing specific groups will provide a channel of communication. It is also important that the new V/P will represent the overall interest of AUTM, and not bring any specific interest of his/her employer to AUTM issues. A revised position description will be reviewed at the next Board meeting in July.

At the Affiliate Member Committee meeting, it was suggested that the theme of the new V/P be improving the interface between the interests of regular members and affiliate members. This seems to me to make good sense, but your thoughts would be helpful. Finally, it was decided that for the coming election, the normal procedures for selecting and electing the new V/P position will be followed. There will be an Affiliates Member representative on the nominating committee. There will be a call for nominees from the overall membership and candidates will be reviewed and interviewed, with the most highly qualified person placed on the ballot. The Affiliates Member Committee has been tasked with reviewing this procedure for future years, and to make recommendations on how to involve the Affiliate Members in the selection and election of their Vice president. For this year, Linda Kawano has been appointed as a Special Delegate to the Board and will be a full Board member until the new V/P - Affiliate Members is elected at the 1999 Annual Meeting in San Diego.

1998 Industry Affiliates Special Interest Group Meeting - Linda Kawano, Affiliate Members Special Delegate. The Industry Affiliates Special Interest Group (IA-SIG) meets once a year at the AUTM Annual Meeting and serves as an informal means to capture the interests, suggestions, comments, advice, and expertise of affiliate members. The goals of the SIG moderator are to encourage a lively, thought-provoking discussion and to convey the information gathered from the session to the AUTM membership and Board. Over the past three years IA-SIG attendees have provided meaningful suggestions to enhance the university/industry interface. (See the AUTM Home Page for a posting of the minutes of the 1996 IA-SIG).

The IA-SIG met at the 1998 AUTM Annual Meeting in San Antonio. Eighteen people made up the IA-SIG this year. Participants included individuals from the biotech, pharmaceutical, chemical, telecommunications, medical device, agricultural, and research products industries as well as from university licensing offices, patent law, and technology transfer and management firms. The participants of this year's SIG candidly discussed their perceptions of AUTM meetings and workshop sessions. Their comments and recommendations are reviewed below.

The IA-SIG participants encouraged AUTM meeting organizers to keep sessions well balanced by utilizing both university and industry representatives in workshops and educational track sessions that address university/industry interactions. Some affiliates have the perspective of a licensor as well as of a licensee: they not only license in outside technology but also license out technology developed by their company. Such affiliate members could, possibly in a workshop setting, provide interesting and practical advice for the development of license agreements from the industrial licensor's perspective. It was also recognized that there is a growing number of affiliate members who have "crossed cultures": they have held positions in corporate as well as academic settings. For this reason, they can serve as useful resources for workshops focused on strengthening the university/industry interface.

Many IA-SIG participants were concerned that some university technology transfer offices view industry as a whole as being difficult to work with and thus concluding and advising their colleagues that there exist certain standard ways to approach all companies and industries. The general response to this observation was that university/industry partnership sessions should be used to: (1) emphasize the common goal of both parties to move technology to the public and the marketplace, (2) address specifically how to accomplish this common goal in negotiations, licensing strategies, mutually agreeable language drafting, and agreement management and (3) should include diverse industrial representation, when possible.

The consensus among the IA-SIG was that more sessions need to be developed to present non-industrial members with the issues that companies and different industries face in developing products. An IA-SIG participant representing a company in the telecommunications industry noted that AUTM meetings tend to be heavily oriented towards the licensing of biomedical technologies despite the fact that, universities hold several technologies outside of these areas. As a result, the participant found that the licensing terms discussed in AUTM workshop sessions do not always take into account the frequently much shorter product life cycles and other aspects of licensing non-biomedical inventions. This participant would like to see more non-biomedical technology development and licensing issues addressed in future meeting programming.

Additional future workshop sessions suggested by the IA-SIG included:

(1) A session directed to sponsored research contracts: how to anticipate and address future intellectual property and licensing issues, development of a workable agreement and a work scope that is acceptable to all parties, and how the university technology

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IP Rights of Non-Profit Associations

Database Legislation

AUTM Calendar

Association of University Technology Managers, Inc. *Version 4/20/98*

APRIL 1998	MAY 1998	JUNE 1998
30: 1997 AUTM Licensing Survey Forms Distributed	15: AUTM Newsletter Articles Due 15: AUTM Journal Articles Due	28-30: Eastern Region Meeting, Myrtle Beach Hilton, Myrtle Beach, SC 30: AUTM Newsletter Published
JULY 1998	**AUGUST 1998**	**SEPTEMBER 1998**
15-18: Canada Region Meeting, Banff Centre, Banff, Canada 24-25: AUTM Board & Strategic Planning Meeting, Tucson, AZ 26-28: WesternRegion Meeting, Sheraton El Conquistador, Tucson, AZ	2-4: Central Region Meeting, Marquette Hotel, Minneapolis, MN	13-16: Basic Licensing/TOOLS Courses, Holiday Inn Crowne Plaza, Kansas City, MO 30: AUTM Newsletter published
OCTOBER 1998	**NOVEMBER 1998**	**DECEMBER 1998**
25-28: NEW! Software Course, Hyatt Regency, Washington, DC	14: AUTM Board Meeting, Ritz Carlton, Phoenix, AZ 15-18: Advanced Topics in Licensing Course, Ritz Carlton, Phoenix, AZ 15: AUTM Newsletter Articles Due	31: AUTM Newsletter Published
JANUARY 1999	**FEBRUARY 1999**	**MARCH 1999**
	15: AUTM Newsletter Articles Due	3: AUTM Board Meeting, San Diego, CA 4-7: Annual Meeting, Marriott Hotel & Marina, San Diego, CA

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AUTM 1998 Calendar Detail

Version: 4/20/98 *Association of University Technology Managers, Inc.*

DATE	DESCRIPTION	CONTACT NAME AND NUMBER
5/15/98	AUTM Newsletter Articles Due ... submit to Todd Sherer, University of Oregon, 1238 University of Oregon, Eugene, OR 97403-1238	Todd Sherer Ph: 541-346-3176 Fx: 541-346-5215 sherert@oregon.uoregon.edu
5/15/98	AUTM Journal Articles Due ... submit to Trice Bryan, University of California at Irvine, 2450 Lunada Lane, Alamo, CA 94507	Beatrice Bryan Ph: 925-934-9626 Fx: 925-934-9707 bfbryan@uci.edu
6/28/98	Eastern Region Meeting ... program/registration information will be mailed shortly to all members of the Eastern Region. The information will also be posted to the AUTM web site.	Penny Dalziel Ph: 203-845-9015 Fx: 203-847-1304 autm@ix.netcom.com
7/15/98	Canadian Regional Meeting ... program/registration information is being mailed to all members of the Canadian Region and is posted on the AUTM web site.	Penny Dalziel Ph: 203-845-9015 Fx: 203-847-1304 autm@ix.netcom.com
7/26/98	Western Region Meeting ... program/registration information will be mailed to all members of the Western Region and will be posted on the AUTM web site.	Penny Dalziel Ph: 203-845-9015 Fx: 203-847-1304 autm@ix.netcom.com
8/2/98	Central Region Meeting ... program/registration information will be mailed to all members of the Central Region and will be posted on the AUTM web site.	Penny Dalziel Ph: 203-845-9015 Fx: 203-847-1304 autm@ix.netcom.com

Future Meetings:

2000 Annual Meeting ... February 24 - 27 ... Hyatt Regency, Atlanta, GA

AUTM, 49 East Avenue, Norwalk, CT 06851-3919
Ph: 203-845-9015 ● Fx: 203-847-1304 ● autm@ix.netcom.com
http://autm.rice.edu/autm

the contents." This of course, would bring back the "sweat of the brow" doctrine that the U.S. Supreme Court had rejected five years before.

Current Activities

These initiatives have been followed by U.S. Congressional actions with the introduction of several bills that would broadly impact and expand the current U.S. laws for the protection of databases and the content of databases. In the previous Congress, HR 3531 "Database Investment and Intellectual Property Antipiracy Act of 1996" would have made it unlawful for the unauthorized extraction use or reuse of all or a substantial part of the contents of a protected database. And, to qualify as a database, it would have to result from an investment of resources in the collection, assembly, verification, organization or presentation of its contents. This is the "sweat of the brow" Supreme Court rejection reenacted and which was not passed by Congress.

In the current Congress, we have also seen various pieces of legislation supported by the major publishers of databases that will again, if enacted, eliminate, compromise and significantly restrict, for all practical purposes, our educational fair use. The unrevised version of HR 2652 that was discussed at the recent annual AUTM meeting would have created proprietary rights in compilations of scientific information, which are now in the public domain. Unauthorized extraction or use of this data or information could and would have harmed the market and therefore use of the data in the collections was not permitted. Educational fair use rights would be diminished and could only be used if its use would not "harm" the market and harming the market was undefined.

On March 18, 1998 the House Judiciary Committee marked-up and voted unanimously out of committee a greatly revised version of HR 2652. The revisions address many of the issues that universities have had troubles with in the earlier versions of the proposed database protection laws, including HR 2652. Unauthorized use is now not tied to the "sweat of the brow" doctrine but to the unauthorized use and its harm to the market. Some of the other changes made to HR 2652 bill are: a new definition of "Collection of Information," tying misuse of the data collections to harming the actual or potential market where potential market is defined, fair use is included, extraction or use of individual items of information is not considered a substantial part or use of the collection of information, and protection is not extended to computer programs. In addition, a major improvement in the revised HR 2652 allows the court, when the defendant is a nonprofit educational, scientific or research institution, to "reduce or remit entirely monetary relief...in any case in which a defendant believed and had reasonable grounds for believing that his or her conduct was permissible...." Finally, the bill now clearly states that Criminal penalties do not apply to an employee or agent of a nonprofit educational, scientific, or research institution, library, or archives acting within the scope of employment.

Universities, in general, find themselves on both sides of the discussion of expanding copyright protection to data. We are both the users of this data and also the creators of the data and databases. However, there is a general concurrence that as universities we have the potential of losing much more by having copyright protection extend to data contained within databases. However, there is also a general acceptance that there will be final database or as it is now identified collection of information legislation during this congressional term.

The revisions of HR 2652 make it easier for educational institutions to support or at least accept more easily protection of data. What should we as educational institutions consider now in light of the newly revised version of HR 2652? First, has your university examined the effect that the proposed copyright expansion would have on your researchers and students? If not, now is the time. Your university may be interested in working jointly with professional organizations i.e. AUTM, AAAS, NASULGC, AAU, American Library Association, and others to determine how best to address this proposed legislation. Members of AUTM, including the Committee on Government Affairs, are currently educating key legislative staff in the hopes that the modifications recently made to HR 2652 and the revisions that may still be needed will make this legislation more compatible with our academic use and missions. Congress should learn from us as to how the revised HR 2652 will impact our campuses and how the current bill can be improved. ◘

AUTM-LEGS Up and Running

As of February, AUTM's Legislation ListServ ("LEGS") is up and running. LEGS is a private forum for AUTM members to discuss current legislative proposals and provide input to the Government Affairs Committee and the AUTM Board for use in determining AUTM's positions on the issues.

All AUTM members are welcome to join LEGS. The goal is to involve a member from as many academic institutions and affiliate organizations as possible. To sign up, send an e-mail to amhammer-@uiuc.edu or harrison.charlotte@mgh.harvard.edu.

Many thanks to MIT for hosting LEGS, and specifically to Rick Cahaly for establishing and managing the list.

AUTM Communications

by Trice Bryan, University of California

As your new Vice President for Communications, I would like to give you a peek behind the scenes at various AUTM publications, as well as to share with you some of my plans for the next year. My responsibilities include the *AUTM Journal*, the AUTM

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First Ever Skills Survey

Of Note...

Submission of articles

Association of University Technology Managers
[illegible] East Avenue
Norwalk, CT [illegible]