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Draft

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OG

Subject: Patent Administration Study

We have carefully reviewed subject study and have the following comments. The ~~following~~ below Items are discussed first as they bear on our comments:

1. Item A — Chapter 1-901 — "Department Patent Activities" of the DHEW Organization Manual, sets out the responsibilities assigned to the Assistant Secretary for Health, General Counsel's Office, operating agencies and Department Patent Board. This item would appear to require revision of your comment on page 6 (and suggested elsewhere) that "there are no clear guidelines for assigning patent responsibilities".

2. Item B sets out the Patent Branch's responsibilities in greater detail than shown on pages 14 and 15 of the study. The report does not discuss the staff requirements necessary to service many of the responsibilities listed in this item. Further, a substantial portion of the study is devoted to the single responsibility of processing the approximately 40 annual "greater rights determinations" received by the Department. Though important and sensitive processing these requests occupied in past years less than 50 per cent of the time of one paralegal and a small increment of the Branch Chief's time. Monitoring

upon the complexity of facts, early involvement of an attorney may be required. As processing continues more attorney time is required but paralegal assistance is still a necessity. IN short, processing of most cases involve a number of interfaces between attorney and paralegal which would be most difficult if the study's recommendation to divide the staff were implemented. Further, I understand that this type of organization was attempted on three occasions between 1959 and 1969. Finally requiring the present consolidated staff (which is consistent with other public or private patent organizations).

4. Item D sets out comparative statistics (on invention reporting processing, disposition and promotion) for fiscal year 1975 for the major research and development agencies of the Executive Branch. With the exception of the Number of attorneys per agency all the statistics were derived from the "Report on Government Patent Policy, Federal Council for Science and Technology, 1976". Similar statistics are available for any year from 1965 to 1977. We believe that the attorney staffing indicated in line 2 of item D is revealing when compared to the budgets and the productivity of other agencies to that of the