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February 11, 1977

PATENT BRANCH, OGC
DHEW

FEB 15 1977

Dr. Donald S. Fredrickson
Director
Room 124
National Institutes of Health
Bethesda, Maryland 20014

Dear Dr. Fredrickson:

The Society of University Patent Administrators is a relatively new organization which has as its most important objective the advancement of ways and means by which university inventions and discoveries can be identified, developed and transferred into public use. Some of the aspects of inventions and patents in universities are covered in the enclosed copy of my testimony before Congressman Thornton's Subcommittee last fall.

In the area of university technology resulting from Government sponsored research in universities, the Department of Health, Education and Welfare has had the foresight to be first in recognizing the need for special arrangements which are exemplified by its Institutional Patent Agreement which has been a forerunner for similar agreements from other agencies. However, HEW's position has not been favorable with regard to the allowability of costs involved in applying for patents and licensing users, costs which must be incurred if the general intent of the Institutional Patent Agreements is to be fulfilled.

We would like to urge that the National Institutes of Health take a position that these costs be allowable when university indirect cost rates are computed. We estimate that the effect would be less than one-half a percentage point in a university indirect cost rate, a relatively small cost to provide an incentive for transferring inventions and discoveries from Government sponsored research into public use. We urge that the patent costs be prorated in the indirect cost rate over all organized research of a university, not just over Government research where the Government has title or a royalty free license to patents. We urge this for two reasons: first, it will facilitate a single university patent program rather than separate programs for government and non-government research; and second, prorating costs of a patent program over both non-government and government financed research provides a strong incentive for an efficient patent program, since the university will have to pay its fairly allocated share. All other university indirect cost functions are prorated in this way between Government sponsored and other university activities.

We believe that this matter of technology transfer to be inherently one of great concerns to NIH, the Congress and the public. We hope that we might meet with you in regard to the matters discussed in this letter and how technology transfers may be further enhanced through our joint efforts.

Sincerely yours,

Raymond J. Woodrow
President

RJW/dh

Enclosure

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