F. STOUT, P.E. NEW PRODUCTS ⟹ LICENSED TECHNOLOGY

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PATENT OFFICE

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Norman J. Latker, Esq.
Cheif, Patent Branch
Department of Health, Education & Welfare
5A03 Westwood Building
Bethesda, Maryland 20014

PROPOSAL

Dear Norm:

Here's a proposal for HEW grants to (a) inventors and (b) university administrations which I believe, as I discussed with you, could result in a dramatic stimulation of technology transfer. Moreover, in the long run the program would be self-supporting to the Government if royalty-free licensing is imposed, which seems to me a reasonable quid-pro-quo.

I've rediscovered an ancient truth: It is easy to propose a scheme in broad outline, but quite another thing to work out the operational details. I expect this proposal raises as many questions as it purports to solve, and I trust you will allow for possible bureaucratic impossibilities which I may have incorporated through ignorance of such matters.

Paul Skidmore, Attorney for the University of Alabama, has made several useful suggestions. He is interested in the possibilities, and is personally acquainted with Secretary Mathews. You might find it interesting to talk with him; his number is 205-348-5490.

It would be distinctly a pleasure to talk with you again about the subject.

Yours truly,

Ferris

Ferris M. Stout

cc: P. Skidmore

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A PROPOSAL

For the Funding of Technology Transfer by the Department of Health, Education and Welfare.

A resource of great potential resides in technological inventions made at American universities. This resource is essentially untapped: Most university inventions lie fallow for lack of means to exploit their commercial potential. It is here proposed that the Department of HEW provide seed money in the form of grants to turn this potential into reality to the public benefit.

Two distinct kinds of grants are required. Since the incentive to market - to commercialize - an invention resides naturally in the inventor, it is the inventor to whom support and encouragement must be directed. Marketing technology requires initiative, just as does any form of selling. The inventor however must have the support of his administration in this endeavor; and such support costs money. University administrations therefore also require funds.

In practical terms here is how such a dual program might work:

University Grants

Funds to support the administrative machinery for handling inventions are made available to universities upon submission of an approvable patent program. It is important that the program be designed to serve the inventor. Too many such are, or appear to be, a legal threat to preempt his contribution. The university

grant is not intended to provide the university with sufficient funds to support an expert in the field of patent licensing, but rather to provide for prompt and efficient contact with such people. The objective is to build within the university a competence in handling inventions which will justify the confidence of academic inventors, both actual and potential. Yearly allocations somewhere in the neighborhood of $10,000 to $25,000 should suffice to make such competence a reality.

Inventor Grants

The objective of the HEW program as a whole should be to encourage and support the innovative point of view; and this is clearly best done by putting the money where the action is; by support of the inventor directly. Moreover, no one can foretell how many inventions will turn up in a given time period. This is another reason for a flexible regime in supporting inventors, rather than providing a budgeted yearly grant to the university in a block.

This is how Inventor Grants would work:

A hopeful inventor discloses his invention through the administrative process funded by the University Grant. That process produces evidence, or competent opinion, of the commercial validity of the invention. Usually patentability will also require to be established. With this supporting data, the project is submitted by the inventor to a review board within HEW with a request for support.

The board's evaluation should be based solely upon the strength of the supporting evidence and opinion, not upon its own judgement of the merits of the case; otherwise the board may find itself second guessing its grantees, and thereby inviting argument and ill will. If the board's decision is positive, funds are provided through the inventor's university for the exploitation of the specific project according to his university's established procedure. Regular

reports, perhaps quarterly, are made of progress and of future plans.

Costs of funding an individual project, based upon experience, should run on the average about $2,000 for patent prosecution, and perhaps the same for marketing efforts to the point of negotiations. Many projects will be found to be impractical early in the game, and will be terminated well before that much is committed. Some, of course, will cost considerably more.

Once the administrative machinery has been established, inventions are funded on a project basis.

Scope

The objective of the program is to stimulate, actually to activate, technology transfer for its own sake, to the benefit of the public. The broader the field from which inventions are selected, the greater will be encouragement of the inventive process, and the more the stimulation of the needed machinery through which the transfer is effected. Support therefore should not be limited to inventions which derive from government supported research, although at first thought such may appear logical.

Justification

Education is the process of transferring knowledge. One thoroughly valid mode of transferring knowledge is to make it possible for a commercial firm to provide a new product or process to the public. In fact, unless this step is completed (in cases of technology to which it applies), the public is deprived of the fruits of the research and education for which it has been paying.

On a practical level, it seems reasonable that government support of technology transfer should entitle the government to the royalty

free, non-exclusive license which has become established as government patent policy. In the course of time, the cost savings to the government from this program could reasonably be expected to compensate for the program's cost. Indeed, one valuable invention made available to the government, which without this program might never have been developed, could repay the program's cost many times over.

Precedents

Years ago, when government grants-in-aid for research were first contemplated, it was wisely decided that such grants should be made directly to the "principal investigator", through his university administration. This mode of research support contrasts with direct subsidy of institutions, a more traditional procedure still followed in Europe. The policy has nurtered a veritable explosion of research creativity in the last twenty years, the results of which have enriched the nation and the world.

The reason for this success resides in supporting those who are inherently disposed to use the support effectively - that is, the researchers themselves.

The same principle, applied to technology transfer, can be similarly effective.

There is no paucity of innovation among university researchers, nor is there a lack of appreciation for innovation in American industry. We live in a capitalistic system; we value entrepreneurs with courage and enterprise. Let us use the techniques we have found effective to connect the two. The results may be astounding.

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