JAN'79

DHEW R & D IN LIMBO

Mystery Surrounds Former Licensing Head



Norman J. Latker

Editorial

Norman Latker, up to December 13, 1978, had been working as a patent attorney for the U.S. Government for the entire 22 years of his professional career and for the last 10 years, at least, he was instrumental for licensing all patents and know-how of the Department of Health, Education & Welfare (DHEW) — the results of the many billions of dollars spent each year in the Institutes of Health and indirectly in the 70 odd institutions, e.g., Johns Hopkins University, California Institute of Technology, Northwestern University, etc., supported by grants from the various agencies of the huge DHEW.

So successful was he in this last position that some 100 inventions were licensed to 70 companies in the U.S. and in such countries as Germany, France, Japan, etc., whereas in the many years prior to 1968, nothing was ever licensed.

Because of his success he was made chairman of a U.S. Government inter-agency group, the "Ad Hoc Committee on University Patent Policy," to study licensing, resulting in other agencies such as Agriculture, National Bureau of Standards, etc., following the example set by DHEW.

The then President of the U.S.A., Gerald Ford, in fact sent him a very congratulatory letter during his term of office which is reproduced here.

THE WHITE HOUSE
WASHINGTON

March 2, 1975

Dear Mr. Latker:

Dr. Betsy Ancker-Johnson has called my attention to the important service which you rendered in connection with the Senate-Executive Branch negotiations which led to the passage of the Federal Nonnuclear Energy Research and Development Act of 1974.

It is a tribute to your skill and resourcefulness in the drafting of the Patent Policy Section of this legislation that it was accepted almost unanimously, and without the alteration of a single word, by both houses of the Congress. You improved upon the original Senate language so that I was able to sign this measure into law without fear of abridging the research and development effort upon which our energy future depends. I congratulate you for this accomplishment.

Although my schedule precluded the convening of a formal signing ceremony, I am pleased, nevertheless, to forward the enclosed presidential pen which I was unable to present to you personally. Please accept it as a tangible reminder of my appreciation.

With warm regards,

Gerald R. Ford

Mr. Norman J. Latker
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Room 5A03, Westwood Building
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It was with considerable surprise that we recently learned that Mr. Latker had been summarily dismissed, with no reasons being given in his notice of dismissal letter — a copy of this is also reproduced here. We talked to Mr. Latker and found that he is not clear as to the why and wherefore and so we contacted the DHEW and finally reached an official spokesman — Mr. John Blamphin, who at first declined to discuss the reasons but when challenged said that they could not give them to us, but "a response is being developed." It seemed unusual. Either there were reasons, or not, or possibly they were seeking to find a nice way to say something otherwise unpalatable, to one or other of the parties involved.

Again, on our further insistence three reasons were given which may or may not be complete. These were read by Mr. Blamphin from a detailed report he promised to send us — but which has not been received as of press time:

1. Mr. Latker used Government postage to send out releases to holders of Institutional Patent Agreements with the DHEW.
2. Mr. Latker advised a group of University grantees who are believed to be preparing a suit against DHEW.
3. Mr. Latker was lobbying Congress, and such a position should not have been taken by a Government employee.

As to No. 1 — Dr. Dvorkovitz & Associates is on the mailing list referred to — along with about 70 U.S. University Administrators. We have been receiving such releases since 1968 and can see no difference in what we received at any time — unless of course there was a basic change in policy recently that we did not know about.

As to No. 2 — The universities which include the most famous names in U.S. Education are as much part of America as, and in fact predate, DHEW. As far as we have been able to determine, they are not preparing a suit against DHEW but are only involved in trying to explain their position on a certain matter — "Peer Review" — which they feel would threaten the benefits so far obtained from the official DHEW Patent Policy that, so far, has been changed. In a telephone conversation where one of our reporters questioned Mr. Latker on this particular subject, Mr. Latker said, "I did nothing more than state the official DHEW policy on 'Peer Review' to the concerned and affected institutions who asked about the DHEW position. This is based on an official policy going back to DHEW then General Counsel, William Howard Taft, IV, on this question and which was never changed by the DHEW Counsel's Office or any appropriate official of DHEW."

As to No. 3 — We understand from the office of Senator Robert Dole, who was the Congressional contact involved, that Mr. Norman Latker did nothing different from 1000 other DHEW employees and any such reason to dismiss Mr. Latker should involve the dismissal on the same day of the other 1000 DHEW executives.

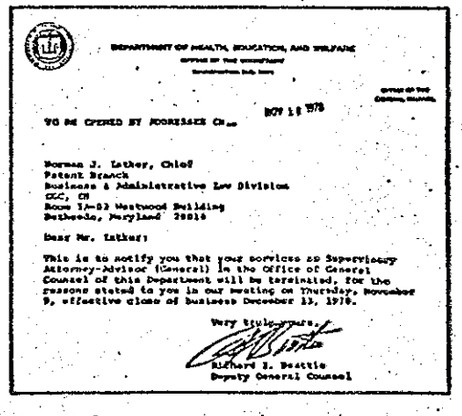
We have just had access to Mr. Latker's personnel file and find that DHEW has now inserted an official reason for his dismissal. We quote the reason in its entirety: "Services no longer required."

We are aware of Mr. Califano's crusade against smoking, and whether or not he is successful in his efforts will have relatively little impact on America, as compared to the damage that this arbitrary dismissal of Mr. Latker will do to America. If you subscribe to the domino theory then this action could result in all the research money spent by DHEW and all other Government Agencies such as Defense, Energy, etc., to be completely wasted — with absolutely no practical results. At the very least it will mean that lifesaving drugs and diagnostics, prosthetic devices that will allow the handicapped to live a successful life, etc., will not be produced or used and that eventually some of the world's great medical researchers will become disillusioned and leave both their profession and the great Institutes of Health that up to now are the envy of the world and should be the pride and joy of the American people.

We think this matter is of interest to any scientist or engineer working in a U.S. Government Institute or working on one of the many grants given to the Universities and Industries of America. Probably this accounts for over 60% of all the research done in the USA.

Today, we hear constantly about a drastic drop in inventions and innovations and committees are formed daily, and editorials written daily, in an attempt to find the reason and to find a solution.

Actions like this taken by DHEW under Mr. Califano's direction seem to us a sufficient cause for this drop in itself — inventions and innovations must be nursed and not smothered or strangled by removing the incentive — the satisfaction an inventor always has to see his brainchild brought to fruition. Because of the importance of this subject we will continue our investigative reports and hope in the next issue of UNIT to give a more complete story. We would welcome any letters for, or against, and certainly, we would welcome letters or phone calls from anyone knowing more facts about this matter.



DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE
OFFICE OF THE SECRETARY
Washington, D.C. 20201

OFFICE OF THE GENERAL COUNSEL

DEC 13 1978

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Norman J. Latker, Chief
Patent Branch
Business & Administrative Law Division
GCC, OS
Room 5A-03 Westwood Building
Bethesda, Maryland 20016

Dear Mr. Latker:

This is to notify you that your services as Supervisory Attorney-Advisor (General) in the Office of General Counsel of this Department will be terminated, for the reasons stated to you in our meeting on Thursday, November 9, effective close of business December 13, 1978.

Very truly yours,

Richard D. Beattie
Deputy General Counsel

Sherry
I'm sure you haven't seen this, though you'll be interested.
Peter.