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PATENT BRANCH, OGC

SEP 16 1976

Mr. Philip G. Read, Director
Federal Procurement Regulations
General Services Administration
Federal Supply Service
Washington, D. C. 20406

Reference: Proposed amendment to FPR Subpart 1-9.1, Patents

Dear Sir:

Thank you for giving me the opportunity to comment on the proposed amendment.

I have a few comments but first I want to say that it takes a big step in an important direction. I fervently hope it is accepted by all agencies that support university and non-profit research and development because I believe it will go a long way toward introducing technology to the market place where consumers can benefit therefrom.

My comments pertain to the criteria set forth for the institution's technology transfer program. The wording in subparagraph (5) of 1-9.107-7(b) is quite satisfactory. To quote, the institution must have "an active and effective promotional program for the licensing and marketing of inventions." However, in other sections of the Revision and in the sample IPA, there are strong implications that the government has in mind certain currently existing patent management organizations. See for example the emphasis in Section X of the sample IPA on "organizations" rather than "capability." Indeed, the Report of the Interagency Patent Policy Committee went so far as to name two organizations.

There are disadvantages, as well as advantages, to the current nationally known patent management organizations. One prominent disadvantage is that they are self-serving, i.e., they seek patents that will bring them the most income and those that will have a short-term pay-off. There are many inventions which are useful to industry, and through industry useful to the consumer, in which the potential pay-off is below the interest threshold of these companies but is still economically valuable. One accusation that has been made is that they skim the cream off the top.

A further criticism is that they are too far from many universities to provide the personal touch that most inventors need. I would like to see universities encouraged to establish their own technology transfer function or to use local institutions (The University of North Carolina at Chapel Hill and North Carolina State University in Raleigh have arranged with the Research Triangle Institute to undertake their patent management activities). This

also creates the environment whereby a greater patent awareness can be brought to the university research staff. I am not encouraged by the results of the Patent Awareness program of the Research Corporation at the three universities I have observed. Inventors have a strong suspicion of the "traveling salesman" or the "big-city slicker." An effective local capability gets around these problems. I do agree that a demonstrated patent management or technology transfer capability must exist before an IPA is made. Therefore, universities starting their own program must accept case-by-case negotiations of inventions until they have demonstrated their capability or use an existing organization while they develop such capability.

In order to accomplish what I would like to see, I suggest that in Section X of the sample IPA the word "organization(s)" be changed to "agent(s)" including the section title. This should not cause confusion with the word "Agency" if agent is always modified by the words "patent management." In the present version, six of the eight times "organization(s)" is used it is so modified. It would cause no problem to properly modify the word "agent" the other two times it is used.

To make the Revision consistent with this suggestion, the words "patent management organization(s)" appearing elsewhere should be changed to read "patent management agent(s)":

Paragraph (I) of subsection (c) of 1-9.107-6 (Page 3)

Item 9/ of Notes for Completion of IPA (Page 18)

Paragraph (7) of the new section 1-9.109-7(a) (Page 20)

Further, the information requested in subparagraphs (9)(ii) through (9)(vi) of section 1-9.109-7(a) should be broken down by the patent management agent used. This will give the Agency an opportunity to evaluate the effectiveness of the current patent management agent in those cases where a change may have been made recently.

Gentlemen, I applaud your efforts and the results of those efforts. I look forward to seeing this policy widely used by government agencies. Thank you again for the opportunity to comment.

Sincerely,

Ralph L. Ely, Jr.

Ralph L. Ely, Jr., Director
Office of University Relations

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cc: Norman J. Latker