4. Extend to all forms of intellectual property

S414 and H2414 ~~now~~ appear to deal solely with patents, while other forms of intellectual property are often involved in technology transfers such as copyright, trademark, and the knowhow/trade secrets embodied in, for example, a prototype instrument, computerized data base, bacterial cell line, etc. The status of such intellectual property rights (non-patent) is often ambiguous and not adequately treated for purposes of innovation in Rights in Data, Patent Rights, Government Property, or related clauses.

As with a patent, "what is available to all is incentive to none." For example, a computer program or data base of university research origin is rarely a "static" product (in terms of updating, maintaining), and rarely "exportable" (in useable form by the public). Some proprietary edge is necessary to encourage risk capital investment by industry in developing such research products.

To resolve any ambiguity in the ability of universities to transfer all necessary intellectual property rights (in addition to patent rights), addition of the following paragraph is suggested to Section 202 - Disposition of Rights:

"202(e)(g) - The Federal Agency shall modify all clauses of the funding agreement that may relate to rights in intellectual property pertaining to subject inventions, to allow title in all such intellectual property be retained

by the contractor for an elected subject invention.