✗ In response to my letter of February 1, 1980 to Dr. Frank Press.

THE WHITE HOUSE

WASHINGTON

February 6, 1980

Dear Mr. Bremer:

Thank you for your letter concerning President Carter's Domestic Policy Review of Industrial Innovation. The interest and support of you and your Society are most welcome.

In his Message to the Congress, President Carter said with respect to government patent policy:

> For over thirty years the Federal agencies supporting research and development in industry and universities have had conflicting policies governing the disposition of pertinent rights resulting from that work. This confusion has seriously inhibited the use of those patents in industry. To remove that confusion and encourage the use of those patents I will support uniform government patent legislation. That legislation will provide exclusive licenses to contractors in specific fields of use that they agree to commercialize and will permit the government to license firms in other fields. If the license fails to commercialize the invention, the government will retain the right to recapture those rights. I will also support the retention of patent ownership by small businesses and universities, the prime thrust of legislation now in Congress, in recognition of their special place in our society.

You are correct in understanding that the last sentence of the President's statement refers to the University and Small Business Patent Procedures Act, S. 414 and its companion bill H.R. 2414. "The prime thrust" of that legislation is embodied in draft legislation--the Government Patent Policy Act of 1980.

The Administration bill provides for the automatic acquisition of title to contract inventions by educational institutions and small businesses. Other contractors would receive an essentially automatic exclusive license in self-selected fields of use they agree to commercialize. Both types of contractors' exclusive commercial rights would be subject to certain minimum government rights, e.g., a nonexclusive, royalty-free, worldwide license to practice or have practiced the invention on behalf of the Government, and to various march-in rights, e.g., for non-commercialization, to protect the national security, or to cure violations of the antitrust laws.

We believe that it is important to deal with the issue of government patent policy as a whole. While educational institutions and small businesses play important roles in the industrial innovation process and in government contracting, the fact remains that most government contracting is done by others. Consequently, comprehensive legislation is needed to overcome the disincentives imposed by the present maze of agency patent policies to contractor participation in government research and development work and to the commercial development of contract inventions.

Once the Administration bill has been introduced, we intend to work with the Congress and other interested parties to enact the best possible legislation. I hope and expect that you and your Society will be active participants in this processs.

Sincerely,

Al Stern

Al Stern
Associate Director
Domestic Policy Staff

Mr. Howard W. Bremer
President
Society of University Patent
Administrators
614 North Walnut Street
Madison, WI 53705