Association of American Universities

MEETING ON PATENT POLICY
January 19, 1978
Old Executive Office Building, 11:00 a.m.

ATTENDING FOR THE GOVERNMENT: Robert Malson, Assistant Director for Civil Rights and Justice for the Domestic Policy Staff; Richard Hartke, OSTP.

ATTENDING FOR HIGHER EDUCATION: Presidents Robert L. Sproull, Arthur G. Hansen, C. Peter MaGrath, Frank J. Hereford; Milton Goldberg, COGR; Sheldon Steinbach, ACE; Howard Bremmer, University of Wisconsin; Newton Cattell, AAU.

By March 1, 1978, Mr. Malson will have a paper for the President that evaluates the following policy options:

1. retain the current status which includes 22 different patent policies in the various federal agencies
2. support the Thornton bill which would, in effect, vest patent rights with the contractor
3. retain title-in-the-government or defer determination until discoveries are made

Mr. Malson believes that unless there is a significant problem with the status quo, there should be no change. Mr. Hartke reported that most federal agencies support the Thornton legislation.

The following points were made by the higher education representatives:

1. The issue of technology transfer is the primary concern. Royalties generated are incidental to discoveries and are used to support the university research effort.

2. Title-in-government results in no technology transfer. It is not a zero sum game: "if the contractors cannot issue licenses, the federal government will" ; the record shows that if the contractors do not do it, no one will.

3. Higher education would rather retain existing federal policies than vest patent rights in the government or establish a policy of deferred determination.

4. Beneficiaries of a title-in-government policy will be foreign governments and/or foreign companies.

5. Patent policy is an issue that does not divide higher education; there is unanimous support for a policy that vests title with the contractor.

6. Higher education, in addition to federal patent policy, is concerned about the implications of the Freedom of Information Act, Government in the Sunshine Act and the Federal Advisory Committee Act for the intellectual property rights of university researchers.

The higher education position was summarized as preference for the Thornton bill, opposition to title-in-government and, finally, a preference for the status quo over a title policy.

The federal representatives requested a paper that would outline the position of higher education on patent rights. The paper should include reasons for higher education support of title-in-the-contractor policy. The paper should include a discussion of national defense issues, as they pertain to patent policy and, finally, the paper should address disclosure required under FOIA and other federal legislation.

cc: Dr. Thomas A. Bartlett
Dr. John C. Crowley
Mr. Robert Durkee
Mr. Jerold Roschwalb