Draft

RE: PUBLIC PATENTS

The chances for the successful development of an invention under a public patent are extremely remote.

This point shouldn't have to be argued. It is the consensus of opinion of management people in industry who would have to invest in the development of the invention. The reason: tremendous investment would be required for

1. Research and development
2. Creating a market
3. Litigations
4. Quality control

Certainly no one can argue the validity of the private patent concept. This is the basic ingredient in our system of private enterprise. This has made the United States economically strong and why the United States public has more goods and a better standard of living than any other. This gives industry the incentive to invest "risk capital" to create new goods in the hope of making a profit on the money which it invests.

In a small way, the Foundation is proof of the validity of the private patent system. It has had an important part in making the University strong by licensing inventions and receiving monies for additional research. There have been many tributes to the Foundation's system of controlling products to the benefit of the public - to insure the protection of the public against unscrupulous promotions and inadequate products. It is generally recognized that there are goods on the market that would not have been on the market except for the Foundation. Thus, the Foundation has created new goods for a stronger economy for more research in the University.

Many people have the misconception that the patent monopoly is designed to work against the interest of the public. Actually this is a false concept because the private patent provides a control in the development of a new concept in the creation of new goods for the benefit of the public. Some of the reasons for this are: The private patent system with its provision for incentives provides greater insurance of the successful development of an invention:

1. To get lower cost product to the public
2. To insure quality control
3. To strengthen the industry to the creation of more goods or in the case of our own University-Foundation operation, to provide more monies for research in the University.

In my opinion, the University should not accept agreements of the kind that was entered into with the U.S. Steel Corporation on the concentrated milk because:

1. It is against the interest of the public for the above noted reasons

2. An industrial sponsor should not be allowed to dictate such terms to the University; that is, it should not be allowed to tell the University how it should dispose of the ideas which come out of the sponsored work.

3. Such a provision in all contracts would shut off the research monies for the University.

4. The University Administration may not have the right to require inventors to waive rights to the ideas which they conceive.

It is conceivable in the case of the concentrated milk process there might be some recovery from the decision which has been made. If the University would agree to a modified approach for handling the development, it might, with the Foundation's consent, advise industry that the Foundation has offered to assist the companies interested in the process by:

1. Giving technical advice on the development

2. Maintaining quality control over all operations to insure uniform quality and prevent unscrupulous operators from coming in and wrecking the market

3. Assisting in litigations with groups which will try to prevent free marketing of the concentrated milk

4. Helping create a market.

The Foundation will be willing to do all these things for a small fee, probably in the neighborhood of .2 to .3 cents per quart of milk if and when the process is perfected.