Trustee's Meeting - Sheraton O'Hare - 7/17/79 - Tuesday

Present: Howard Bremer, Clark McCartney, Lary Gilbert, Mary Spores, Cynthia Hanson, Ralph Davis, Ray Snyder, Philip Thompson (in lieu of W. Fornell), William Burke, Ted Wildi

Absent: Earl Freise, Tom Martin, Will Fornell

The meeting started at 8:50.

Discussions were held on the following bills in Congress:

1. S.414 - Ben Gordon's and Ralph Nader opposition to bill as per attached memorandum.
2. Suggested LES revisions to FOIA ~~S.414 bill and reply letter from L. Gilbert~~
3. Allen C. Moore, Case Western Reserve University, proposed a national meeting labeled "Improving the University/Industry Interface", and solicited the help of Howard Bremer and other members of SUPA. It was the consensus of opinion that if Mr. Moore does decide to initiate proceedings to start such a seminar, SUPA would help. Good Idea.
4. Discussion was held on Research Foundations connected with Universities and the complications that they face. I.E. IRS problems - they can't act as a broker, can represent only their own University. In many cases they have exemption 501C3 and still pay taxes - per loopholes found by IRS.

4. L. Gilbert discussed the Chrysler v. Brown litigation - reverse FOIA. BNA article attached.
Consensus of all Trustees present to stamp the legend * on all proposals going to Washington.
Purdue is stamping all proposals with legend of their own.
Once a proposal is awarded, from that point on, you have a publication if you do not include the legend. The nature of the release, per court, will or will not denote publication. If you don't have legend at all, it's a publication like a thesis.
All Universities should use a legend of some kind. Most proposals contain some concept and may not be sufficient for anyone knowledgeable in the field to understand; but enough may be disclosed that one knowledgeable in the field willunderstand.
The PI may not find out that the proposal was issued until 9 - 10 months after proposal and then it would be too late and your'e out of the ballgame.
When in doubt, put legend on no matter what, to prevent disclsoure
No matter what kind of legend in stamped on proposal, per section 1905, government may still release.
Unless the PI or the department objects to the legend, stamp anyway, on all proposals except those that are non-scientific.
FOIA must get amended to prevent publication and until that time our only recourse is to stamp all proposals with legend with the hope that they will not be released.

This is a good seminar for Atlanta meeting - Larry Gilbert will prepare a position paper and mail to all SUPA members.
We can mail out something before the meeting to Whet their appetites and entice more people to the meeting. Many institutions do not understand the whole problem. Ms. Babcock can be invited to participate.

SUPA cannot take a position on the LES/FOIA until we find out where they are. Clark McCartney was commissioned to call LES and find out.
If Dole is derious, he can sponsor with endorsement from SUPA.
(Barry Commoner forming a new party to recycle all energy and solar energy).

C. McCartney on S1065 - Education grants from Industry to basic research = tax credit. Should SUPA make a comment. Jump on the band wagon and endorse this group (Danforth). Ray Snyder was commissioned to draft something through the U. of Mo.

Recommendation: Ray Snyder was authorized by the Board to draft a recommendation on S1065. (ask Ray for further clarification)

Kennedy bill S1074 - Promote innovation (ask Bremer) - SUPA cannot come out against Dole/Bayh portion and still come out with this.

Schmidt Bill - Kitty Morley for University limited to filing patent applications.

Gilbert - Another piece of legislation (Balair)(#)get copy from Bremer or Gilbert - Kastemeir involved -Decosini sponsor - want SUPA to take stand - APLA in favor.
It is too much to completely sponsor - we would have to take each piece of legislation and see what they recomment. You would have to be patent attorney and have some knowledge and we have no personnel (Single Court ~~Cost~~ of Patent Appeals)
More areas where we can be effective - should be interested but not involved.
If we expect other groups to support us, we must support them.
Simple letter to Kastmeier - in general we support notion.

2 other minor bills - Prescription Drug Patent Licensing Act - Rosenthal NY
Energy Technology Availability Act - Seiberling OHIO

Latker going back to DHEW - he won his case in court (will be offered plum in future)

Dole/Bayh - resolution from LES (get copy from Howard)
The bill is written as it is to get it through Congress.
Will take us back to Thornton bill and that did not get off the floor.
Thornton/Schmidt will bring out Long and Nelson again and Gordon/Nader groups.

LES taking position and notifying Senator Bayh (LES is industry oriented)
We must support Dole/Bayh now - furthest along with most sponsors - will go thru as non-controversial legislation.
Get bill in final shape (S414)

Changes proposed - most controversial is payback. (get changes from Bremer)
P2-L- Title change patentability to patent rights in
P 8 - delete lines 19-20 - which is not itself engaged in (COGR recommends)
or does not hold a substantial interest.....
P 9 - Delete line 11 - add - as to other fields of use and the 1st commercial sale (COGR-Larry)
L. 3-4 should be 5 and 10 not 5 and 8 - too lete to change - might bring Nelson back into the act.
P 10 - put in new section f - another 2 = 1. no funding agreement with small business firm.....
2. the federal government shall not.....
P 13 - L 11 - add either after assignee
L 14 - add - or that under the circumstances domestic manufacturing is not commercially feasible - before period.
P 14 - L 1 - Uniform clause to same and regulation
after L 4 - implementing the provisions.....
L 5 - establishing to establish
P 17 - L 18 - add before period. provided that any such plan may be treated.....
(may or shall distinction)
P 23 - L 9-10 - adding more statues

P 9 - L 2 - add after contractor - to persons other than small business firms
(definition of small business firms is in $ volumn not in personnel)
delete section 208 2 and 4 (if there is any problem take it all out)
if there is a controversey, SUPA recomments to take out all of section 208.
(Bremer will call Joe Allen) this would knock out 90% of opposition
P 15 - L15 - delete - the departnent of commerce or to
L 17 - period after word invention and delete everything on that page.
Delete section 210 in its entirety - same recommendation as section 208.
Recommend section 211
Payback - COGR proposal
Section A - 204 - if a non-profit organization received 150,000 net earned
the U.S. gets.....
Allen says leave as is - revision by Jesse Laskin - 15% to government provided
does not exceed amount spent.....gross income.
Section B - 2 million changed to 4 million (Laskin)
change 1st patent to impvovement patent.
Allen - 4th - modifying Laskin - striking out calculations put in by COGR - cut off payback whenever it becomes a non-exclusive license - gross sales to stay the same.
400,000 change to 500,000 - wanted provision but $ figure negotiable. Keep 15% then put in funding cutoff - when any later subject invention that's licensed becomes non-exclusive.

Snyder suggestion - these funds can be set up for organizations to draw on to foster patent programs or activity.

Gilber t would like to see the 500,000 changed to 50,000 each year (cost of living provision).

~~Augh~~= Authorize Howard to look into.....(what) ask Howard.

Gilbert - should state not <u>gross income</u> but <u>royalty income</u>.
General consensus on payback section = 50,000 an year or 500,000 - whichever will sell better.
State to give preference to U. S. companies (will establish better repour with industry)

Shell Development agreement - get copy from Howard

Animosity between industryand academic institutions was generated from the Vietnam war when students picketed companies that made war goods.

Gilbert - DV started as Univ/Industry forum but has shifted - decrease in industries and increase in Nation level in foreign ~~compan~~ countries - the country pays for all of the innovation instead the company in the country - U.S. has notheing comparable Easier on nation basis - country underwirte c ost.

Gilbert - even if a booth does not generate license - should participate to make universities known - to sell universities to industry - can result in consulting and funding.

Drucker as speaker - not much chance per Gilbert - will speak gratis on certain instances - otherwise you must be <u>invited</u> to his office.

The only referral service for industry that SUPA can have is to send them the Address list) (directory) when requested.

~~Seminar~~-

Another good topic for a seminar at the Atlanta meeting is the interaction between universities and industry, how to talk to companies.

1. FOIA
2. Legend on proposals - examples
3. Industry/University relations

The fourth topic to consider is licensing - this is a topic that could be repeated every year. 1. confidential agreements 2. screening agreements 3. option agreement which could be part of screening agreement 4. license.
(some universities charge for each compound used by industry)

EPRI - AISI - Petroleum industry - these are 3 organizations which make patent problems for universities

FMI - have a consultant consulting with an outside company sign an agreement that if he is consulting he may retain title while consulting - make company subject to agreement consultant has with place of employment.

Get reprint of Gilbert sample consultant agreement. in file 7.20.79

There should be a workshop of different agreements repeated each year.

Larry Gilbert accepted the chairmanship of the Program Committee whch consists of W. Fornell and Philip Thompson.

Earl Freise again accepted chairmanship of the nominating committee.

Suggested luncheon speakers for the annual meeting - Betsy Anchor Johnson
Norman Latker

Copyrights should again be included in the annual meeting of SUPA concentrating on the "work for hire" clause and its definition. Perhaps get Mary Beth Peters or another person from Washington State (McCartney has name) as moderators.
(volunteers to assist in popyright program)

Workshops will again be concurrent. This time perhaps two at each time - members will be attending 2 workshops and missing 2 unless they attend half of one and half of the other.

T. Wildi has heen commissioned to write to the Western Canada Universities to make them aware of SUPA. Send letterheads. 7.20.79

(get marked-up version of S414 from Bremer - which will be sent to Senate and perhaps House.

W. Burke will call J. Wilson of Georgia Tech to help him handle the physical effects in Atlanta for the annual meeting.

After Larry Gilbert outlines the procedures of the meeting, he will decide if the meeting itself should be a breakfast meeting as in 1979 or continue to be a dinner meeting as previous years.
Cocktail party the night before + registration - a girl will be hired for the night before and the morning of the meeting to help the secretary-treasurer with the registration.

Gilbert will try to get Babcock (author of Chrysler paper) as a speaker.

Gilbert will try to get Custard to serve on panel.

Industry-University interface could be a preliminary to the Allen Moore-Case Western seminar which may be held in Cleveland.

On screening-confidentiality-consulting - a speaker must be found.

Gilbert - the evaluation of disclosures is a big area - in most cases universities run around with the disclosure to generate interest - one reason is to get industry to pay filing costs - this is self-defeating.
You've got to file on some things that are going to be losers - you play the numbers game - you have to take a chance.

McCartney - proposed that geographical lines for reagions covered by the Vice-Pres. be drawn. This would be helpful in terms of contact. They could also be sent to all the membership, so they have references for contact. ??Part of letterhead in future.

Vice Presidents have the authority to appoint assistant V.P. and Secretary for the region to keep all minutes of regional meetings with cc to secretary-treasurere.

Schmidt Bill S1215 - redefine quality Technology Transfer Program
Bremer/Marcy to talk for Universitimes.
UNIT gives article approving Dole/Bayh bill (Dv.)
Same kind of issues as in Dole/Bayh bill - only thing it does nthers do not - non-Univ. and not-for-profit.
Schmidt bill susceptible to same criticism as Thornton bill - questions to be asked should be made part of record on bill.
Davis has bad feeling about trying to support 2 bills and diversify our efforts.

Authorize Bremer - to support legislation that supports technology transfer, but cannot qualify on the details.
Anything we represent thru SUPA - we represent as individuals not representing our university.
The results of the vote taken to approve the revised by-laws regarding affiliated member and members-emeritus were 82 for and 4 against.

Snyder - suggested that an organization be formed which would include industry and anyone who is a SUPA member would automatically be included in that organization-for purposes of interacting with industry. Suggested a name of "Technology Transfer Society". Membership in SUPA includes membership in T-square society. Must be a member of SUPA. Anyone from Industry can come to our seminars (not annual meeting) by just paying meeting fee.
Get lists of industry names to invite to annual meeting - snyder will get list to me.

If you license a trademark you are considered a franchizor - Federal ruling.

Snyder was asked to draw up some ground rules for the T-square organization.

The public patents - public meetings - Bremer paper which was submitted to the Dole/Bayh bill can also be submitted for Schmidt hearings - generally
Approved by Board.

Stevenson Bill - Technology Transfer Centers - no replies received on opinions written by members - this is just more red tape

Send marked-up bill to Trustees and anyone else who asks for it.
Have to get Dole/Bayh bill in before Salt II and Energy Bill or undetermined delay.
Adjourned 4:00 PM