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Accord Reached; man Would Take ory Management

IRNAL *Staff Reporter*
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Government, Inventors Will Keep Dividing Patents From Federal Work, Kennedy Says

By a WALL STREET JOURNAL *Staff Reporter*

WASHINGTON—President Kennedy issued guidelines to insure that patents arising from Government-sponsored projects continue to be divided between the inventors and the Government.

His memorandum aimed at bringing more uniformity to various agencies' policies is still interpreted as broad enough to leave them great discretion.

"He's clearly chosen the middle," one official said of the President. "He didn't take either side—those who say the Government should get all the patents on projects it has paid for, or those who say the inventor should get all of them."

The memorandum seeks to base the patent-ownership decision on which path would make the product or process more widely available. It rejects "a single presumption of ownership" as policy and declares the Government has "a responsibility to foster the fullest exploitation of the inventions for the public benefit."

The Government should be encouraged to take the patent where the "nature of the work to be undertaken or the Government's past investment in the field of work favors full public access to resulting inventions," the President said. The Government usually grants licenses, without requiring royalty payments, to companies seeking to make items covered by patents the Government holds.

But the statement recognizes that often a company will be much more willing to pour money into further development and marketing of a product if it holds a patent protecting it from competition, usually for 17 years.

Example: A Telephone Product

When the contractor has "an established nongovernmental commercial position and where there is greater likelihood that the invention would be worked and put into civilian use" than if it were widely available, the contractor should get exclusive commercial rights to it, the President said. A Government-sponsored invention in the telephone field, for instance, might well be used more rapidly if a telephone company received the patent than if it were made available by the Government for anyone to use, an official explained.

The new policy commits the Government to keep an eye on patents, arising out of work it had paid for, that are granted to the inventing company. Unless the company has taken "effective steps" within three years to bring the invention to the stage of "practical application" or has made it available to others on "reasonable" terms, the Government "shall have the right to require the granting of a license to an applicant on a non-exclusive royalty-free basis," the President said.

Without any time limit, the Government can also require such an inventing company to grant a free or "reasonable" license to another concern when the Government finds this necessary "to fulfill health needs," the memorandum said. This provision would presumably apply to the development of a drug under a Federal grant. Outside the health field, the President said, the Government shall have the same right when an invention "is required for public use by Governmental regulations," such as a transportation safety device.

Willingness to Comply a Factor

In some situations Government agencies trying to decide which company should be awarded a project contract should consider, with other factors, the companies' "willingness" to grant the Government principal or exclusive rights in resulting inventions," the President said. A contractor given principal rights to an invention should agree to provide the Government "at reasonable intervals" written reports on the commercial use made or intended.

When the Government is given the principal rights but doesn't want patents in foreign countries, the contractor may be given principal or exclusive rights abroad, the President said. In such instances, though, the Government should keep "at least a royalty-free license" for "Governmental purposes" and "on behalf of any foreign government" in accord with treaties.

Indicating the latest policy is still tentative, the President asked the Federal Council for Science and Technology, working with the Justice Department, to report at least annually on how the policy is working and suggest changes. The Federal Council is a White House-level committee with representatives from various agencies concerned with scientific matters.

Work on All Atom Subs Slowed by Flaws, New Safety Inspection Rules

Navy Cites Ultrasonic Testing of Parts; General Dynamics Says Announcement Was Expected

The Navy disclosed that completion of 31 atomic submarines—all those currently under sion has six Polaris submarines and three attack subs under construction.

Earlier this week, Vice Adm. Hyman G. Rickover, the Navy's top atomic expert, said, "We are holding up atomic submarines" because of substandard contractor performance. He also said inspection by private builders was below par. He didn't mention the quality of work being done at Naval shipyards.

Asked about Adm. Rickover's statement, the Navy said, "some delays are being encountered in the nuclear submarine construction program."

A significant part of the delay, the Navy said, is traceable to a new technique of inspecting submarine parts by ultrasonic means rather than the less exact method of using

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