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October 26, 1983

The Honorable Charles McC. Mathias, Jr.
United States Senate
SR-387A, Russell Senate Office Building
Washington, D.C. 20510

Dear Mac:

Next week, I intend to introduce the "Uniform Patent Procedures Act of 1983." This legislation is designed to encourage the commercialization of inventions created pursuant to research and development work sponsored by the federal government under grant or contract; as such, it is a direct response to the challenge posed to America's economic future by foreign technological competition.

As we are all painfully aware, the lead that the United States has enjoyed over the past thirty years in technological innovation is under increasing jeopardy as our international competitors develop expertise in the research and development skills essential to the creation of new, high-tech industries. The last ten years, in particular, have witnessed a steady erosion of our competitive position in a number of important fields of endeavor, including automobile manufacturing, electronics, and steel production. While we recognize that competition is healthy and to be desired, we must nevertheless ensure that our government's policies encourage -- not discourage -- the development and marketing of inventions made by American entrepreneurs.

We have heard a lot of talk about the need for an "industrial policy." To date, most of this talk has centered on proposals that I believe are unworkable at worst and highly speculative, at best -- such as the creation of an "industrial planning board" that would direct government assistance to "winning" industries. Yet, there are concrete, program-specific measures that can be taken now that we know will enhance America's industrial competitiveness. One of those measures -- embodied in the bill I will introduce -- would be to bring the patent procurement policies of federal agencies that sponsor research and development work into conformity with the principles of Public Law 96-517 (The Dole/Bayh University and Small Business Patent

Procedures Act of 1980). This landmark legislation reformed agency patent procurement procedures that apply to research and development contracts with universities and small businesses in order to make possible greater commercialization of the breakthrough inventions that often result from such arrangements. Prior to the passage of the Dole/Bayh bill of 1980, university invention disclosures had shown a steady decline. Now, such disclosures are up, university and industry collaboration is at an all time high, and many new technologies (such as the recent advances in gene engineering) are creating new opportunities for economic advancement while improving the quality of life.

What the 1980 law accomplished for universities and small businesses, this new legislation would accomplish for all contractors with the government, regardless of size. It would end, once and for all, the frustrating bureaucratic maze which has hindered the retention of patent discoveries by the private sector and thereby inhibited the commercialization of those discoveries. With the government now funding approximately seventy percent of the basic research done in the United States, we can no longer tolerate the abysmally low rate of commercialization that accompanies federal ownership of new inventions. For example: compared to a licensing rate of 33% for university developed inventions, the government has licensed less than 4% of inventions owned by it to the private sector for commercial use. This is primarily because of chaotic and inefficient agency patent procurement policies that strangle innovation with red tape.

My bill would eliminate this waste by allowing all contractors clear ownership of the inventions they make under government research and development contracts and grants, while protecting the legitimate rights of the agencies to use the discoveries royalty free. In this way, it would encourage the private marketing of new discoveries and thus stimulate innovation. Of course, the agencies would have the power to require delivery of title to patents to the government where special circumstances indicate that such action is in the public interest.

This legislation is the end result of a twenty-five year effort to develop a uniform, concise government patent policy. It would replace the agency-by-agency approach which prevails today with one, simple procurement policy that would emphasize private development of new inventions wherever feasible. Rather than attempting to create yet another bureaucracy directing industry, in which politics rather than economics would inevitably be the predominate concern, we should let the private enterprise system do what it does best -- produce new products and jobs that the public wants and needs. That is what this bill would do.

I would urge you to join with me in supporting this important industrial initiative. Please contact me, or Doug Comer of my staff at 224-1674, if you would like to be listed as an original cosponsor.

Sincerely yours,

BOB DOLE
United States Senate

Enclosures:
Summary of Bill
Sectional Analysis
Text of Legislation