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Vice President for Research
303/491-7194

Colorado State University
Fort Collins, Colorado
80523

May 30, 1978

Mr. William O. Burke
Chairman, University Patent Committee
Office of the Vice President for Research
University of Georgia
Athens, Georgia 30602

Dear Bill:

I would like to apologize for waiting until the last minute to respond to your letter of April 28, 1978, in which you requested information concerning the effects, if any, that institutional patent agreements have had on industrial support at CSU.

In response to your first question, there are apparently no obvious cases at CSU where commercial sponsorship was lost due to federal patent restrictions. I spoke with the director of sponsored research (Mr. James Brown), and the grants administrator responsible for commercial accounts and neither of them could cite instances where this had happened. Mr. Brown did mention that the University of Colorado was having difficulties in this regard and apparently had refused to accept a grant because of the patent clauses it contained. If you would be interested in contacting someone there about this matter, Mr. Brown suggested Dr. Milton Lipetz, University of Colorado, Boulder, Colorado 80302, (303) 492-7393.

Mr. Brown and the grants administrator did mention cases where commercial firms had questioned the patent clauses contained in subcontracts from CSU as required by a primary contract from the federal government. No subcontracts were refused in the long run, however, the subject has repeated itself.

From my own experience in dealing with industry on a licensing basis, title to inventions is obviously an important factor. CSU currently has institutional patent agreements with DHEW and NSF. Where inventions have resulted from their sponsorship, potential industrial licensees have been more willing to consider providing additional funding and/or reviewing the invention for licensing. We are currently negotiating the licensing of two inventions sponsored by NSF and have successfully patented and licensed a calf scours therapy which was developed with DHEW support. Most of the commercial firms I have had contact with are aware of the various patent clauses and IPA's currently used by federal agencies and title to inventions is one of the first questions raised when they are asked to review an invention from the university.

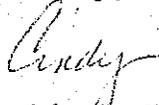
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Colorado State is very interested in the outcome of the debate over invention equity. Our strongest argument in favor of granting institutional patent agreements, as I am sure is common to all universities, is the large number of dollars required to bring an invention from the point where it is generally left at the university to where it can be successfully marketed, particularly in health-related fields. In addition to the calf scours therapy mentioned above, CSU licensed a vaccine for vibriosis disease in cattle to Norden Laboratories, Lincoln, Nebraska. The company had to spend very large amounts of money to prove efficacy of the vaccine and satisfy the many requirements of FDA before they had a product which could be marketed. In addition, they spent many additional dollars developing manufacturing and processing techniques to take the vaccine from the laboratory stage to an economical process production stage in the plant. In order to entice a company to spend large amounts of money in product development, they must be offered some sort of protection for their investment, i.e. exclusivity. It is necessary, therefore, that universities be given title to inventions and allowed to grant exclusive licenses in order that an invention has a chance to reach the marketplace.

The perpetuation of our patent and licensing program at CSU is totally dependent upon royalty income. Should government-wide IPA's be granted, our program could expand and become a more viable part of the university and provide additional benefits to faculty inventors by way of a greater division of royalty income for their benefit and for the benefit of their college affiliations.

As an additional note, the amount of commercial funding received through contracts and grants at CSU parallels the statistics you presented in your letter. I agree with your statement that an institutional patent agreement policy for all federal agencies is necessary before the amount of industrial research support will increase. If I may provide additional information to you or be of assistance please do not hesitate to contact me.

Sincerely,



Cynthia J. Hanson
Patent Officer

CJH/mn