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Honorable Ray Thornton
Chairman, Subcommittee on Domestic
and International Scientific
Planning and Analysis
Committee on Science and Technology
U.S. House of Representatives
Washington, D.C. 20515

Dear Mr. Chairman:

In the course of my October 1st appearance before your Subcommittee, I submitted for the record certain statistical data on the number of U.S. patents issued to the Federal Government (as assignee) during fiscal years 1970-1975. These data were compiled from Federal agency reports to the Committee on Government Patent Policy (COGPP) of the Federal Council on Science and Technology (now replaced by the Committee on Intellectual Property and Information of the Federal Coordinating Council for Science, Engineering, and Technology).

On October 13, 1976, my Deputy Assistant Secretary for Product Standards, Dr. Howard I. Forman, submitted a letter to your Subcommittee with which he enclosed additional statistical data on the number of U.S. patents issued to the Federal Government (as assignee) during calendar years 1931-1975. These data were derived from Historical Statistics of the United States as published by the Bureau of the Census, Department of Commerce. The original source of these data was the Patent and Trademark Office.

A comparison of the data arising from these disparate sources (as shown below) reveals discrepancies which cannot be fully accounted for by variances between fiscal year and calendar year accounting.

Patents Issued to U.S. Government

Year	COGPP data (fiscal year)	PTO data (calendar year)
1970	1,814	1,726
1971	2,035	1,947
1972	2,192	1,644
1973	1,911	1,813
1974	2,102	1,579
1975	1,675	1,596

For purposes of resolving the discrepancies noted above, I arranged for an audit of all patents added to the Government's portfolio since January 1, 1974. This audit indicates that the figures compiled by my committee are essentially correct, and that the figures supplied to the Census Bureau by the Patent and Trademark Office are incorrect.

This matter has now been brought to the attention of the Patent Commissioner, and I am confident that appropriate steps will be taken to insure greater accuracy in the data supplied to Census in the future.

There exists one further point in respect to my testimony which I wish to clarify for the record. This concerns the question which you posed regarding the desirability of assigning all Government-owned patents to universities on some equitable basis. Upon reviewing the transcript of my response, I realize that I neglected to answer this question fully. Let me do so now.

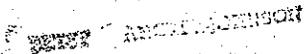
There are, it seems to me, three factors whose confluence explains why universities and other non-profits have outperformed the Federal Government by so wide a margin in bringing the fruits of their discoveries to the marketplace. The first factor is the ability and willingness of universities to license on an exclusive basis. The second factor is the existence within the university community of aggressive technology transfer organizations.

The third factor is the extensive communication which occurs between university inventors on the one hand, and licensees of university-generated technology on the other. In many cases this interaction takes the form of a consulting arrangement which, inter alia, leads to improvement or modifications that enhance the commercial potential of the transferred technology.

Individual examples of successful technology transfer are known to have occurred despite the absence of one (and in rare cases even two) of the factors mentioned above. Nevertheless, all three of these factors appear to play an important role in the overwhelming majority of successful transfers.

In the hypothetical case that you present (i.e., the assignment of all Government-owned patents to universities), the inventor of the patented technology would not be available to the university, and could not, therefore, participate actively. In the absence of this third factor (i.e., inventor participation), I find it difficult to believe that the assignment of Government-owned patents to universities would, of itself, significantly improve the rate at which these inventions are commercialized.

Sincerely,



Betsy Ancker-Johnson, Ph.D.