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UNIVERSITY OF MARYLAND
AT BALTIMORE

OFFICE OF THE PRESIDENT

July 10, 1997

Harold Varmus, M.D.
Director
National Institutes of Health
Building 1, Room 126
Bethesda, MD 20862

Dear Dr. Varmus:

It has come to my attention that CellPro, Inc. has petitioned the NIH to exercise "march-in-rights" under the Bayh-Dole Act in a case involving patents awarded to Johns Hopkins University for stem cell transplantation technology. I urge you to reject and deny CellPro's request.

The "march-in-rights" provision of the Bayh-Dole Act was written to deal with situations in which a university failed to take steps to license its inventions, or when its licensee had made no reasonable effort to develop the inventions into useful products. It is my understanding that Johns Hopkins University has licensed the technology, and that an authorized licensee, Baxter Healthcare, has developed an effective product that is pending approval by the Food and Drug Administration. Since Johns Hopkins University has proposed to the court that CellPro be allowed to continue selling the technology under dispute until the Baxter system or another licensed alternative is available, CellPro's request appears to be unnecessary, inappropriate, and a misuse of a provision that is designed to protect the public's interest.

The Bayh-Dole act has produced a dramatic change in university innovation and licensing as evidenced from the five-year survey report produced by the Association of University Technology Managers (AUTM). Income derived from university licenses has been invested in further research to fuel the U.S. innovative process, and the economy has benefitted by the addition of 180,000 jobs each year. Granting CellPro's petition could jeopardize the system of university technology licensing that spawned the biotechnology revolution.

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520 West Lombard Street
Baltimore, Maryland 21201-1627
410 328 7004 / 410 328 5483 FAX

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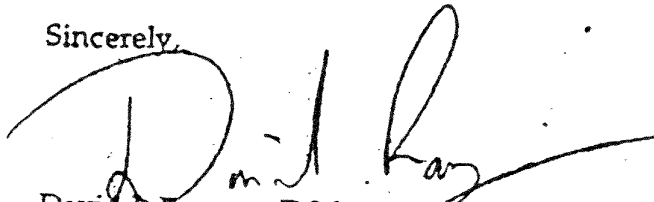
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Encouragement of commercialization of federally funded research is the fundamental principle underlying the Bayh-Dole Act, by creating incentives for university-industry partnerships that result in important products and services reaching the public more quickly than ever before. It does so by relying on the protection afforded by the patent system, and by assuring the investment by an exclusive licensee will be protected. In the case involving CellPro and Johns Hopkins University, we are assured by Johns Hopkins that no one will be denied access to the stem cell transplantation technology.

Should the Department of Health and Human Services move to a formal "march-in" procedure, I share the concerns of others that it would have a chilling effect on future university-industry partnerships, threaten the continued success of the Bayh-Dole Act, and potentially limit the public's access to other new discoveries. I urge you to reject the petition.

Thank you for your consideration of this matter.

Sincerely,



David J. Ramsay, D.M., D.Phil.
President