

## FLC Washington DC Office

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FLC Far West & Mid Continent Regional Meeting  
“DC Update”

Monterey, CA  
August 30, 2011

## Overview

- **Congressional Actions**
- **Administration Actions**
- **Judicial Actions**



## Congressional Actions (Select Actions of 112<sup>th</sup>)

### ■ [America COMPETES Reauthorization](#)

#### DOC Economic Competitiveness Study

Among the many issues to be covered in this study is “[T]he effectiveness of the Federal Government and Federally funded research and development centers in supporting and promoting technology commercialization and technology transfer.”

### ■ [House S&T Oversight Plan](#)

#### Technology Transfer and SBIR

“The Committee will seek recommendations for continued improvements in the technology transfer incentives built into law by the [Bayh-Dole and Stevenson-Wydler acts](#) and the [Small Business Innovation Research program](#).”

### ■ **Tech Transfer Caucus**

Initial briefing and FLC interactions

## Congressional Actions (Miscellaneous)

### **Patent Reform**

- Passed House and Senate ([Senate action in Sept\\*\\*](#))
  - USPTO Fee Diversion
  - Both have first-to-file

### **SBIR**

- Through September 30, 2011; P.L. 112-17 (S. 1082)

### **FY 2012 Budget ([Budget Control Act of 2011](#))**

- House passed many appropriations bills  
Senate has passed none yet
  - R&D not hit “too” hard overall (depending on agency);
    - DHS, USDA, DOE-applied hit hard
    - DOD not too bad – big hit last year
    - NIH numbers not out yet – initial input not positive

## Administration Actions

(Preparing FY 2013 Budget Request)

### [OMB Memo to Agency Heads](#) (August 17)

“... Once it was clear a bipartisan agreement could not yet be reached, the President signed into law a down payment toward this goal [deficit reduction]: the Budget Control Act of 2011. This legislation set ceilings on total discretionary spending and a target of \$2.4 trillion in total deficit reduction over the next decade.

.... Your overall agency request for 2013 should be **at least 5 percent below your 2011 enacted discretionary appropriation**. ... [and] should also identify additional discretionary funding reductions that would bring your request to a level that is **at least 10 percent below your 2011 enacted discretionary appropriation**.”

## DOC/STPI Report

### [Technology Transfer and Commercialization Landscape of the Federal Laboratories](#), April 2011 (posted July)

#### **Nine Factors Affecting Federal Tech Transfer**

#### **Metrics Discussion**

“...[I]t is not clear that the metrics currently collected (in the interagency summary report to the President and Congress on technology transfer at the federal laboratories) meet the needs of all ... stakeholders.”

“Most laboratory ORTA personnel could not provide a clear definition of what success means to their laboratory. Without this definition, laboratories are unable to measure whether they are accomplishing their goals.”

“Data on technology transfer activities, outputs, and outcomes are not readily available at the laboratory level ...”

**\*\*Follow-on by White House Working Group on Innovation and Entrepreneurship**

## Federal T2 Summary Report

(FY 2009, Department of Commerce, Issued March 2011)

[Federal Laboratory Technology Transfer, Fiscal Year 2009, Summary Report to the President and Congress](#)



|                                 | FY 2005 | FY 2006 | FY 2007 | FY 2008 | FY 2009 |
|---------------------------------|---------|---------|---------|---------|---------|
| CRADAs, total active in FY      | 5,947   | 7,268   | 7,326   | 6,923   | 7,733   |
| New inventions disclosed in FY  | 4,771   | 5,193   | 4,486   | 4,365   | 4,425   |
| Patent applications filed in FY | 1,745   | 1,912   | 1,825   | 1,938   | 2,080   |
| Patents issued in FY            | 1,012   | 1,284   | 1,405   | 1,272   | 1,494   |
| Licenses, total active in FY    | 9,577   | 10,186  | 10,352  | 11,098  | 11,913  |
| New, executed in FY             | 1,824   | 1,495   | 1,463   | 1,377   | 1,250   |
| Income from licenses, (\$M)     | \$144.9 | \$138.7 | \$149.9 | \$170.9 | \$154.3 |

**\*\*Also includes multiple examples of downstream outcomes for all agencies (reporting since 2001)**

## Recent Court Decisions

**Stanford v. Roche:** (SC) Concerned IP ownership of federal/industry-sponsored and university-conducted research

**Affirmed** the CAFC decision to dismiss the Stanford suit.

**Assoc. for Molecular Pathology v. Myriad Genetics:** (CAFC)  
Concerned with patentability of DNA

**Reversed** the lower court decision holding Myriad's claims directed to isolated DNA and screening potential cancer therapeutics via changes in cell growth rates were invalid.

**CyberSource Corp. v. Retail Decisions, Inc.:** (CAFC) Concerned with business methods/software patents (using *Bilski*)

**Affirmed** a lower court decision that the patent is invalid – stating neither the method nor the computer readable medium (the two claims) qualify as patentable subject matter under 35 U.S.C. § 101 as interpreted by *Bilski v. Kappos*, 130 S. Ct. 3218 (2010).

## Selected Current Issues (Miscellaneous)

### The Economic Contribution of the Department of Navy Technology Transfer Program

Economic impact of 103 agreements with Navy labs; 2005-2009

#### Select Findings:

- Responsible for 670 civilian jobs (direct) and ~ 2,600 (indirect)
- Compensation for these jobs averaged over \$79,000 per year
- Tax receipts (federal, state and local) on the economic activity driven by these agreements totaled \$60 million
- Two-thirds of agreement partners agreements had < 100 employees
- Estimated direct economic output associated with these agreements totaled \$200 million (with an add'l \$345 million in indirect activity)

**\*\* Need More of These Types Studies!**

## 2012 FLC National Meeting (Pittsburgh, PA; April 30 – May 3, 2012)



advancing federal research and technology

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