



January 2, 2008

To: Chair of Standing Committee, Grievance Committee
Care of: Chancellor Brady Deaton
From: Galen J. Suppes, Professor, J.C. Dowell Professorship
Subject: Filing of Grievance

I hereby initiate the filing of a grievance against the following UM System administrators: Michael F. Nichols, Phillip J. Hoskins, and Scott Uhlmann. The following information is provided per the Collected Rules and Regulations, Section 370.015.I.1:

Grounds for Grievance:

1. Violation of UM-MSMC Research Agreement and UM-MSMC License Agreement as pertaining to research of Dr. Suppes, including but not limited to:
 - a. Violation of clause to license technology within 90 days of disclosure.
 - b. Violation of clause to negotiate royalty other funding group.
 - c. Violation of clause on selection of patent attorney to handle patents.
2. Violation of Collected Rules & Regulations Section 100.020, including but not limited to:
 - a. Violation of clauses related to release and/or waiver of inventions back to inventors when UM does not pursue patent.
3. Violation of Academic Freedom including but not limited to:
 - a. Violations of the UM-MSMC agreement also constitute a violation of academic freedom whereby a lack of good faith to pursue resolution on issues of conflict have violated the ability of Dr. Suppes to freely pursue research funding.
4. Malpractice including but not limited to:
 - a. UM system attorneys practicing patent law without proper qualifications with resulting damages:
 - b. TMIR system employees practicing contract law without proper qualifications with resulting damages:
5. Violation of Collected Rules and Regulations on authority including but not limited to:
 - a. TMIR putting forth policies and attempting to enforce policies without proper authority and/or following procedures related to Faculty Input.
6. Violations of Collected Rules and Regulations related to honesty and integrity including but not limited to:
 - a. Purposely conveying the lack of full truth in regard to events to Robert Hall as related to a letter of December, 2007.

Basis of Evidence:

The evidence base includes the written contracts and email trails as well as testimony that demonstrate actions were in violation of contracts and/or Collected Rules and Regulations.

Perspective on Attempts to Resolution:

Multiple attempts have been made to resolve the issues over the past two years. The Vice Chancellor of Research (formerly Jim Coleman) generally and systematically refused to meet on the matter when such a meeting did not serve his immediate agenda. In the absence of such a meeting, decisions have been made in the absence of the full and accurate facts related to the issues of dispute. The administration refuses to meet and attempt to resolve.

I ask that the grievance against the 3 named individuals be handled by one committee and set of proceedings by the committee. All violations include a continuation of violation that has occurred within the past 6 months.

Grievance

Grievant Base Case
Suppes vs. TMIR
May, 2008

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Statement of Counts

Overview – The six counts of this grievance are directly and/or indirectly related to the mismanagement of the intellectual property (IP) submitted to MU per the Collected Rules and Regulations 100.020 on Patent and Plant Variety Regulations. TMIR (Office of Technology Management and Industrial Relations), TMIR’s MU-System level management, and the predecessor office to TMIR (Office of Technology & Special Projects) are the specific offices that handle (have handled) this IP and are collectively referred to as TMIR. The counts include:

- COUNT #1 on TMIR’s violation of the terms of the MSMC Research Agreement (**UEL-1**) as related to the handling of patentable IP developed as part of this research funding arrangement. Dr. Suppes is one of three inventors of the patent-pending technology and the principal investigator of the research effort.
- COUNT #2 is on TMIR’s violation of the Collect Rules based on TMIR refusing to release IP disclosed to TMIR for patent which TMIR chooses not to patent.
- COUNT #3 is on TMIR’s violation of academic freedom for forbidding faculty to publish in certain manners (patent publications) and for torpedoing attempts to fund a research program that TMIR was “holding hostage” as a negotiating tactic.
- COUNT #4 is on TMIR’s violation of the Collected Rules requirements for Faculty Input Authority when changing policies for handling IP resources.
- COUNT #5 is on TMIR’s violation of the Collected Rules on Personal Conduct when they distributed false facts about Dr. Suppes.
- COUNT #6 is on TMIR’s violation of the Collected Rules that require consideration of recommendations from the principal investigator when licensing technology.

The following sections provide narratives and presentations of evidence specific to each count.

Cited Evidence

Evidence is as cited in bold (e.g. **B04-03-18**) and includes materials from Appendix A and materials from Appendix B. The format for items cited in Appendix A is “UEL-#” where # is the number of the item in that appendix. The format for items cited in Appendix B is “Byy-mm-ddx” where y is year, m is month, d is day, and x is “”, “b”, “c”, or “d” indicating the first, second, third, or fourth document with that date.

COUNT #1

Violation of MSMC Research Agreement, Signed April 22, 2003, Renewed 2004, 2005.

Violation of MU-MSMC License Agreement, Enacted 9/19/07.

- a. Violation of Agreement, Negotiation of MU-MSMC License within 3 months of disclosure.**
- Violation of Agreement on spirit of negotiation of UM-MSMC within reasonable time.**
- b. Violation of Agreement clause to negotiate royalty with other funding group.**
- c. Violation of Agreement & License on use of MU-hired attorney to handle patents.**

Narrative

The MSMC Research Agreement was enacted on April 22, 2003, and established a research contract between the Missouri Soybean Merchandising Council (MSMC) and the laboratory of Dr. Suppes in the Department of Chemical Engineering, MU. The research program was highly productive and led to highly sought technology with two PCT (world) patent applications. The research team received three prominent awards, including the 2006 Presidential Green Chemistry Challenge Award—only one is given in the academic category each year during an award ceremony at the National Academy of Sciences Building, Washington, D.C.

The MSMC Research Agreement (**UEL-1**, 4/22/03) was signed by a MU representative, a MSMC representative, and Dr. Suppes. As such, this agreement is a 3-way agreement including certain restrictions and rights granted to Dr. Suppes. The restrictions include the option of MSMC to exclusively license the technology defined in the proposal at *lower-than-market-value royalties* going to the University Inventors. The rights include such things as requiring that the technology be licensed to MSMC in a timely basis, streamlined processes for handling situations where other entities simultaneously funded the research, and a procedure to make sure that the patent attorney properly represents the interests of the inventor (and MU).

Specific grievance issues resulting from TMIR's lack of diligence in performing its duties under this agreement include:

- Unreasonable delays in licensing from MU to MSMC created confusion as to what was actually invented under the terms of the MSMC Research Agreement (**UEL-1**) resulting in the inventors being forced to accept *lower-than-market-value* royalties for technology actually developed after the MSMC Research Agreement funding period. Delays in licensing also made it virtually impossible to find another industrial sponsor (Cargill) willing to continue to fund the research when MSMC ended funding at a reasonable level. Cargill lost interest in the project when Cargill discovered that the licensing rights were either not available or under perpetual dispute. Delays in licensing have also resulted in lost commercialization opportunities.
- By not following the “streamlined processes” for handling payments to third-party funding sources as described in the MSMC Research Agreement, TMIR created an environment of animosity that ultimately led to the total deterioration of relations between Dr. Suppes and the MSMC and between Dr. Suppes and Senegy. This breakdown led to loss of immediate research funding, significant attorney expenses, ultimate loss of the opportunity for long-term research/commercialization collaboration, and hundreds of wasted man-hours spent arguing over rights to the IP. This breakdown along with delays in licensing led to the loss of the ability to patent the technology in some countries.
- By not following through with due diligence in selecting a patent attorney to properly represent MU, TMIR caused the following: 1) contributed to the inventors being forced to accept *lower-*

than-market-value royalties for technology actually developed after the MSMC Research Agreement funding period, 2) has led to escalation of attorney costs to all parties including costs that will ultimately be deducted from royalties going to the inventors, and 3) compromised the value of the patent (extent to which the patent can be used to prevent others from commercializing the technology) when the MSMC attorney basically held “hostage” the performance of needed modifications until MSMC received what MSMC demanded.

What was expected was that when A) the technology was disclosed to TMIR and B) TMIR was informed that the MSMC was proceeding to patent the technology based on the MSMC Research Agreement; that TMIR would immediately proceed with what is outlined by the MSMC Research Agreement, including: 1) licensing the technology within 3 months, 2) overseeing the completion of any forms that were needed to complete the patent application and licensing, 3) negotiating with third parties on the amount of royalties to go to these third parties, and 4) participating in patent attorney selection to make sure the interests of MU and the inventors were properly represented.

What happened was that TMIR 1) basically ignored the issues for 20 months (3/18/04 - 11/11/05) until the first royalty check; 2) embarked on a bickering, posturing, and stonewalling (BPS) campaign for 22 months (11/1/05 through 9/19/07) until the MU-MSMC License Agreement was enacted; and 3) struggled to salvage a situation in which TMIR has lost negotiating power because of blunders in the MU-MSMC License Agreement.

Presentation of Evidence

Counts 1a and 1b violate paragraph 5 of the MSMC Research Agreement (**UEL-1**), an excerpt of which is provided here:

5. As the result of the filing of an invention disclosure, ownership of any patents, other proprietary intellectual property, plant varieties or copyrights resulting from the information, processes or inventions developed as a result of the research or investigation which is the subject matter of this agreement shall be owned by the University except as otherwise provided herein. However, University grants MSMC an option to elect an exclusive, to the extent possible, license under any such subject matter. Prior to actual funding under this agreement by MSMC, University will notify MSMC of any third party rights to a license or sublicense of any patent, other proprietary intellectual property, plant varieties, or copyrights arising out of the research or investigation. This right to an exclusive, to the extent possible, license shall be electable in the sole discretion of MSMC at any time, but no later than three (3) months after the receipt by MSMC of the University disclosure form from the University. With this license (Appendix B), MSMC agrees to pay to University twenty-five percent (25%), and to the Inventor eight and 33/100 percent (8.33%) (said percentage being in addition to that which University will pay Inventor under University policies) of the net revenues received by MSMC for projects for which MSMC is the only external funding source. For projects receiving funding from multiple external sources, MSMC agrees to pay to University in addition to the twenty-five percent (25%) mentioned above, such amount as to be equal to the percentages and amounts due to other funding sources on the project in accordance with the agreement between the University and such other funding sources, and

Count 1a is violation of the clause, “*The right to an exclusive, to the extent possible, license shall be electable in the sole discretion of MSMC at any time, but no later than three (3) months after the receipt by MSMC of the University disclosure form from the University.*” occurred when MU refused to make the license available to Cargill (9/13/07) after more 42 months had elapsed since full disclosure of the technology (3/18/04) and more than 21 months had elapsed since submission of a modified University disclosure form.

Dr. Suppes puts forth the following:

- The preparation and submission (by Dr. Suppes and Attorney Dan Cleveland) of the provisional patent in March of 2004 (see **B04-03-18**) was fully enabling of the technology of the MU-MSMC License and fully met the spirit of the MSMC Research Agreement. It was the responsibility of TMIR to follow through on any other formalities (e.g. requiring the proper form, contacting MSMC to initiate the license) as needed for MU to complete the license.
- IBID (the same goes) for the December 2, 2005 modified disclosure form submitted simultaneously to TMIR and MSMC (see **B05-12-02**).
- The failure of TMIR to license culminated in non-reparable damage to the research program of Dr. Suppes when Cargill identified that Cargill had wasted their time visiting the lab of Dr. Suppes on September, 13, 2007. During this visit TMIR was unable to provide licensing options because TMIR was still in the midst of 21 months of essentially constant bickering, posturing, and stonewalling (BPS).

The following paragraphs document where Dr. Suppes performed: 1) repeated full disclosure to MSMC, 2) repeated full disclosure to MU, and 3) repeated full disclosure of how IP rights were jointly owned by MU, RA (Renewable Alternatives, LLC), and MSMC.

Disclosures to the MSMC were made in full on the following dates and forms as well as through multiple verbal communications:

- **B04-03-18** Email on Patent Filing with **B04-03-18b** Patent Disclosure Attachment;
- **B05-03-11c** Email Notifying Filing of US Non-Provisional Patent with **B05-03-11d** Patent Disclosure Attachment;
- **B05-10-25** Email Provisional Patent Filing with **B05-10-25b** Patent Disclosure Attachment;
- **B05-10-27c** Email on US Provisional Patent Filing with **B05-10-27d** Patent Disclosure Attachment;
- **B05-12-02** Email Disclosure Comprehensive on UMC form with **B05-12-02b** Disclosure Comprehensive on UMC16c form.

Full disclosure was also made to the MSMC during the annual reports on 2/04, 2/05, and 2/06. Each of these disclosures separately met, in spirit, the disclosure requirements to MSMC. MSMC was able to and did file patents based on these disclosures.

On disclosure to MU, the definitive disclosure was documented **B04-03-18b** submitted electronically per email **B04-03-18** on March 18, 2004 which included the following message:

*“Hi Terry, Wayne,
I do not have the time to do the disclosure.
The Missouri Soybean Merchandising Counsel is proceeding with the patent per their agreement.
This "Provisional Application" will allow Dr. Sutterlin to present at his ACS meeting in 2 weeks.”*

This email was sent to both Terry Nixon and Wayne McDaniel who were the two TMIR personnel handling IP from the college of engineering. In view of the MSMC already deciding to patent and that the content was already in the form of a patent application, the actual disclosure document was considered an unnecessary formality (evidence suggests that this was

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the perception of all, Dr. Suppes, Wayne McDaniel, and Terry Nixon). Neither Wayne McDaniel nor Terry Nixon objected to skipping this formality.

While the March 18, 2004 email disclosure was complete, adequate, and definitive; a continuous stream of at least 29 communications categorized as: 1) Updates on Patent Applications, 2) Disclosure Documents, and 3) Licensing/Commercialization updates includes the following:

<u>Updates on Patent Applications</u>		<u>Disclosure Documents</u> ¹	<u>Commercialization / Licensing</u>	
B04-03-18	B05-10-07	B04-03-18b	B05-01-10	B05-10-03b
B04-04-16	B05-10-25	B05-03-11d	B05-01-10b	B05-10-07b
B05-03-11	B05-10-27	B05-10-27b	B05-01-11	B05-11-01
B05-03-11b	B05-10-27c	B05-10-27d	B05-01-11b	B05-11-11
B05-03-11c	B05-12-02	B05-12-02b	B05-01-13	B05-11-16
			B05-01-13b	B05-11-16b
			B05-10-03	B05-11-17

Each was sent to (or copied to) Terry Nixon and/or Wayne McDaniel who were the TMIR/OTSP contact. Each of these disclosures separately met (in spirit or to the letter of the law) the disclosure requirements to TMIR.

It is also clear that Wayne McDaniel assumed that the MSMC Research Agreement terms were enacted from the start per the following email (**B05-11-16**):

*Galen,
I brought this up with my boss yesterday, and we are collecting documentation of the grant funding that has gone toward supporting this work. The grant documents will dictate how the royalty will be split between MRDF and the University. And then the University rules and regs will determine how it gets split once it is received here. Are you proposing some split other than that called for in the patent policy?
Wayne²*

On Clarification of Patent and Ownership Rights, in addition to the full disclosure of technology and licensing intent, the following communications firmly document communications by Dr. Suppes indicating that MSMC, RA, and MU each have rights to the technology:

1. **B04-03-22** Email to Attorney Dan Cleveland Indicating MSMC Rights Based on MSMC Research Agreement including the following communication: *The UMC contract includes provisions related to "development" of technology. While it was invented prior to MSMC funding, it was and is being developed based on MSMC funds.*
2. Proposal to MSMC of **UEL-2** (11/04) containing the following text:
 13. **Licensing Rights:** Licensing rights are covered in an agreement between UMC and the MSMC with rights guaranteed to the NSF-STTR partner, Renewable Alternatives, LLC.
3. Proposal to MSMC of **UEL-3** (11/05) containing the following text:
 14. **Licensing Rights:** An agreement is in place on this technology that includes MSMC, Renewable Alternatives, LLC, and UMC.
4. **B05-03-30** Email (Victor) Witnessing Discussions of IP on PG Technology in which Victor (scientist with P&G) reiterates a description of the technology he heard in a previous teleconference, including: *Renewable Alternatives, MSMC and the Univ. of Missouri*

¹ The U.S. patent and trademark office provides a generic definition of a disclosure document, see **B08-05-12**.

² Wayne was not aware of the RA-MRDF agreement at this time. It is likely that Wayne had the MRDF and MSMC confused. The distinction between the two entities continues to be confusing.

each owns 1/3 of the glycerol to propylene glycol technology. However, MSMC has ultimate negotiating power for this technology.

5. **B05-01-13** Email Recommendation on Licensing of Technology include a communication of: 2. *The license should include payment of royalties to the MSMC-UMC-RA collaboration on this project.*
6. **B05-12-02** Email Disclosure Comprehensive on UMC16c form including a communication of *Wayne – The attached disclosure represents the agree-upon (Dr. Dasari and myself) distribution of the University’s policy of sharing at least 1/3rd of the royalties with the inventors. Please note that Dr. W. R. Sutterlin is an inventor; however, his involvement from the start (through the NSF-STTR) was as a company (Renewable Alternatives, LLC) representative. Due to the fact that the company’s IP is its greatest asset, Renewable Alternatives, LLC is taking the stand on this issue that (per his contract) the IP generated by Dr. Sutterlin remains entirely within Renewable Alternatives, LLC, unless otherwise arranged on a project-by-project basis. Dr. W. R. Sutterlin is a part-owner in Renewable Alternatives, LLC, and so, he will in fact receive rewards representative of revenue generated as a direct or indirect result of the IP.*

The position of Dr. Suppes is that it was the responsibility of TMIR to immediately follow up with licensing based on any of the cited 29 communications to TMIR, and specifically communication **B04-03-18**. A violation of the MSMC Research Agreement (**UEL-1**) occurred when TMIR failed to license the technology to MSMC within 3 months...in view of...the unwillingness of TMIR to make the technology available for license to Cargill on September 13, 2007 (which was more than 42 months after the initial disclosure).

Count 1b is violation of the clause, *“For projects receiving funding from multiple external sources, MSMC agrees to pay.....in accordance with the agreement between the University and such other funding sources,”* Per **UEL-14** (RA-MU Allocation of Rights Agreement) the following paragraph defines the “percentages and amounts due to other funding sources” (in this case, the amount due to RA):

(1) Any revenues resulting from the practice, licensing, or exploitation of Project Intellectual Property shall be allocated between UNIVERSITY and the SBC as follows:

	<u>SBC</u> <u>Percent</u>	<u>UNIVERSITY</u> <u>Percent</u>
Revenues	80	20

(2) Expenses and other liabilities associated with the development and marketing of any product, process, or other innovation or invention shall be allocated as follows: SBC will be responsible for 100 percent and UNIVERSITY will be responsible for 0 percent.

Hence, MU agreed to pay SBC (small business concern, in this case RA) \$80 in royalty for every \$20 in royalty received by MU. TMIR excluded this payment in the license (**UEL-6**), which is a clear violation of this agreement.

More importantly, MU never even approached RA about negotiation of a percent royalty per this clause. Rather, MU participated in BPS and conspiracy to basically take all IP rights away from

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RA. From the moment MU entered into discussions on this matter, MU set forth a tone of hostility and all relations (RA-MU-MSMC-Senergy) began to deteriorate.

More specifically, TMIR (Mike Nichols) refused to negotiate a 3-way agreement that could have resolved hostility and preserved cooperation and collaboration. This action of TMIR was a violation of the letter and the spirit of the MSMC Research Agreement. TMIR also refused to give Dr. Suppes a copy of the MU-MSMC License Agreement (**UEL-6**) short of a Sunshine Law request (**B07-11-21**). Dr. Suppes needed to know the specifics of the MU-MSMC License Agreement in order to identify which areas of his research program were available for development with other companies (like Cargill). The manner in which Mike Nichols and Phil Hoskins refused to let Dr. Suppes know the licensing details of technology developed in his laboratory was inexcusable.

It should be noted that RA was and is prepared to take 20% of the gross royalties rather than the 80:20 split. THE POINT IS that multiple agreements existed which, in the end, were not fully compatible. The logical course of action was for RA-MSMC-MU to enter into negotiations to resolved issues of disparity and to identify a path forward. More specifically, the MSMC Research Agreement specifically indicated that it was the obligation of MU to make this negotiation happen. Mike Nichols blatantly refused to perform this negotiation and thereby violated the MSMC Research Agreement obligations to Dr. Suppes.

Count 1c is violation of paragraph 5 of the MU-MSMC License Agreement (**UEL-6**), an excerpt of which is provided here:

VII. DOMESTIC AND FOREIGN PATENT FILING AND MAINTENANCE

(1) LICENSEE shall reimburse UNIVERSITY for all expenses UNIVERSITY has incurred for the preparation, filing, prosecution and maintenance of U.S. Patent Rights and shall reimburse UNIVERSITY for all such future expenses as a separate payment apart from any royalties or other revenues owed UNIVERSITY. Late payment of these invoices shall be subject to interest charges of one and one-half percent (1 ½%) per month. UNIVERSITY shall be solely responsible for the preparation, filing, prosecution and maintenance of any and all U.S. patent applications and U.S. patents included in Patent Rights, provided, however, the UNIVERSITY shall first consult with LICENSEE as to the preparation, filing, prosecution, and maintenance of such patent applications and patents and shall furnish to LICENSEE copies of documents relevant to any such preparation, filing, prosecution, or maintenance. If requested by LICENSEE, UNIVERSITY will not unreasonably and without good cause withhold its consent for LICENSEE to itself carry out the preparation, filing and prosecuting of patent applications, with the attorney selected by LICENSEE, provided LICENSEE first obtains UNIVERSITY approval. The LICENSEE shall consult with UNIVERSITY as to the preparation, filing, prosecution, and maintenance of such patent applications and patents and shall furnish to UNIVERSITY copies of documents relevant to any such preparation, filing, prosecution, or maintenance. If University does unreasonably and without good cause withhold consent, it shall be responsible for the cost of preparation, filing and prosecution of patent applications.

In view of the more than one dozen patents filed by the MSMC/MRDF since March of 2004, it is clear that the MSMC did not get approval to use their attorney per the clause “*with the attorney selected by LICENSEE, provided LICENSEE first obtains UNIVERSITY approval.*”—the MU-MSMC License Agreement (**UEL-6**) was only signed on September 19, 2007. More importantly, the lack of patent competence by TMIR representation and the handling of the

patent by a MSMC attorney have tremendously compromised the ability of TMIR to protect the interests of the research program of Dr. Suppes.

Also, Attorney Dan Cleveland (MSMC attorney) has not taken needed actions in patent prosecution because of the conflict of interest between him representing MSMC and him representing the technology. These conflicts include but are not limited to: 1) refusal to modify claims in a manner that will expand to the needed protection, and 2) expanding the IP claims of MSMC to include all aspects of the patent application even though some important aspects are clearly outside the work scope of the MU-MSMC proposals and research agreements (**UEL-1**, **UEL-2**, and **UEL-3**).

By neither filing the patents with their attorney nor giving permission to MSMC to use an MSMC attorney, TMIR allowed the MU-MSMC License Agreement to be violated with great loss to Dr. Suppes including the destruction of research program prospects on gas phase conversion of sorbitol to propylene glycol. While the MU-MSMC License Agreement was not signed until 2007, the terms of the agreement were defined by the MSMC Research Agreement which was in effect since 2003.

In Summary TMIR was grossly negligent of their duties per the **UEL-1** MSMC Research Agreement. Serious interest in the technology was exhibited by TMIR only after they found out royalties were being paid (**B05-11-17**). When TMIR became interested, they still failed to follow through on obligations and only pursued means to maximize royalty to TMIR. Rather than facing up to their neglect, they have pursued a process of misrepresenting the situation to upper management and systematic BPS. TMIR is guilty of Counts 1a, 1b, and 1c.

Remedy Sought:

Remedy – The grievance committee will report to the Chancellor that a violation has occurred per the count. The Grievance Committee is to report to the Chancellor that TMIR (Hoskins, Nichols, Uhlmann) is in violation of the UM-MSMC Research Agreement and License Agreement. The Grievance Committee is to inform the Chancellor that TMIR has acted in an irresponsible manner by not following agreements in lieu of BPS (bickering, posturing, and stonewalling). The Grievance Committee is to inform the Chancellor that TMIR has caused unnecessary damage to the research program of Dr. Suppes due to their BPS.

Evidence for Collection & List of Witnesses

See Count #6.

COUNT # 2

Violation of Collected Rules & Regulations Section 100.020, including but not limited to: Section 100.020E.2.i - "...the President shall within a reasonable time seek other means of obtaining a patent or release the rights of the Invention to the employee-inventor."

Count 2 violates Collected Rules and Regulations Section 100.020E.2.i (UEL-7), an excerpt of which is provided here:

- i. In the event the report of the Invention or Plant Variety is submitted to an entity organization for marketing of patent rights with which the Curators have approved a continuing contract and that entity advises that it is not to the best interests of the University to seek a patent thereon, the President shall within a reasonable time seek other means of obtaining a patent or release the rights of the Invention to the employee-inventor.

Narrative

Overview – This count is on the purported mismanagement of disclosures by TMIR. It is specifically on TMIR's recently-practiced policy of not releasing patents after they decide not to patent the disclosed technology. Three bad things occur as a result of TMIR refusing to release technology they choose not to patent:

1. Faculty/Inventors are systematically denied the benefits of patent application (money, publication, possible research support). In some cases these benefits can be great.
2. Our community is denied the benefits of the commercialization of technology that could occur if these disclosures were released. A primary factor that drives technology out of the laboratory and into use by the local community is an "incentive" for a person or company to make commercialization happen—when TMIR refuses to release the technology that they elect not to patent, no person or company has the incentive to develop that technology.
3. TMIR management no longer has as strong a motivation to thoroughly evaluate disclosed technology. When TMIR management must release technology that they do not patent, they stand to "lose face" if that technology makes someone rich, and the prospect of "losing face" is a good incentive to do a thorough job of evaluating the disclosed technology.

What is expected is that faculty would fully disclose the technology and importance of a technology to TMIR. Then, TMIR would evaluate that technology in a timely manner and either patent the technology or release it back to the inventor. This process is expected to be accompanied by a prompt filing of a provisional patent application if deemed necessary by the inventor, and any release needs to be prior to the loss of patent priority/protection³ (with time for the inventor to salvage the priority/protection). Due to deadlines associated with patent applications, TMIR should have a process for faculty to file provisional patent applications with essentially zero delay (within a week of disclosure). Assuming that a provisional patent is

³ The priority of a provisional patent application is lost after 12 months if a non-provisional application is not filed. Priority of a non-provisional patent application is lost if the fees are not paid or if it is not allowed—this is now typically 24 to 48 months after the non-provisional patent application.

allowed without TMIR hindrance, the decision to file a non-provisional patent or to release should be made no less than 11 months after the provisional patent has been filed.

What happened was that in 1999, TMIR stopped releasing any technology back to inventors (for all practical purposes). One or two administrators have systematically placed a higher priority on them “saving face” than on the loss of benefits to faculty/community. Specifically in the case of Dr. Suppes, dozens of disclosures have been submitted. Requests for release have been made multiple times for those disclosures that have not been patented. None have been released. The ability to file patent has been lost on some of these disclosures. Others have been without action for over four years.

Presentation of Evidence

Several years back, TMIR put in place an internal organization for marketing patent rights. Clearly, the lack of filing a patent by this group indicates their recommendation that it is not in the interests of the University to seek patent. One of multiple requests for release of technology that TMIR elected not to patent is attached (**B06-12-04**) including the request of:

*Hi Wayne,
On your letters of 11/28, you indicated that I should contact you to receive release of any rights claimed by MU on my inventions. I hereby request release of the below and all others that MU chooses not to patent:
03UMC032
04UMC052
04UMC066
06UMC0335*

For these disclosures a reasonable time has elapsed (2 to 5 years), requests for release have been made, and TMIR refused to release the technology. Instead, a “Request for Waiver” form was returned to Dr. Suppes in response to Dr. Suppes’s request that the technology be released. The decision by TMIR to cease releasing of disclosed technology dates back to 1999.

In 1999, certain members of UM administration decided to stop releasing inventions (as reported by faculty through invention disclosures) back to inventors for those instances when these UM administrators decided not to proceed with patent. This history is documented by the following data straight from TMIR:

<u>TIME PERIOD</u>	<u>INVENTIONS RELEASED TO INVENTORS</u>
2000-2007*:	7
1990-1999:	128
1980-1989:	168
1971-1979:	147

*(through mid-2007)

<u>TIME PERIOD</u>	<u>INVENTIONS RELEASED TO INVENTORS</u>
2006/7*:	0 / 0
2004/5:	2 / 1
2002/3	0 / 1
2000/1	3 / 0
1999:	7
1998	17:
1997:	17

For all practical purposes, when Tom Sharp took over this position as director of TMIR he refused to release the patent rights. One could speculate that Tom Sharp did not want to take the risk that an employee would make money on released IP and make TMIR “look bad” for releasing the technology—rather than taking the risk of “looking bad for having made a poor choice”, TMIR decided to violate the rights of employee-after-employee who had the right to

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have the invention/IP released if patent was not pursued by MU. These disclosures are now simply sheets of paper in some office without any entity having the incentive to commercialize the technology—this cheats the faculty and the community for which jobs could otherwise be created. TMIR is clearly violating Section 100.020E.2.i of the Collected Rules and Regulations.

In an attempt to create the impression that they following Section 100.020E.2.i, TMIR has created what they refer to as “Waiver Requests” (**UEL-12** and **UEL-13**). The Waiver requests are not releases. The waiver requests are one-sided licenses that demand outrageous conditions. A College of Engineering committee has prepared a statement of Faculty Input (after the fact) on the waiver form (**UEL-12**) as provided (**B07-03-08, B07-03-08b**). The conditions are insultingly outrageous including 3X the going rate for royalties and requirement for insurance policies. In many areas of technology (like commodity chemicals) commercial viability is simply not possible with these unreasonable conditions.

Remedy Sought:

Remedy – The grievance committee will report to the Chancellor that a violation has occurred per the count. Within 30 days of the Chancellor receiving this Grievance Committee report, TMIR is to send a message to all inventors who have filed disclosures at UM within the past decade, where the disclosure has neither been patented or released, wherein the letter states that the inventor is entitled to release within the following constraints: 1) TMIR has had the disclosure for more than 11 months and 2) TMIR has been provided sufficient detail for a reasonable patent filing for at least 30 days. TMIR is also to put closure on all disclosure documents that have been on file for more than 11 months and for which an active patent application is not in place—this disclosure is to be in writing with signature concurrence by the inventor. A Faculty Council committee will oversee this closure process.

Evidence for Collection & List of Witnesses

See Count #6.

COUNT # 3

Violation of Collected Rules and Regulations, Section 310.010.A on Academic Freedom and Economic Security of Academic Staff.

Two types of violation in academic freedom have been performed.

- a. **In one case, the lack of performance of duty on licensing technology and clarifying ownership issues has resulted in restriction of what can be researched based on restricting the ability to acquire funding.**
- b. **In the other case, the ability to publish in a highly and uniquely reputable manner has been restricted.**

Narrative

Overview – Building upon the issues of COUNT #2 (TMIR not releasing non-patented disclosures) and COUNT #1a, this count is based upon two principals:

1. A patent is a unique and valuable publication; and when TMIR does not allow an inventor to obtain a patent, TMIR is infringing upon the Academic Freedom of the inventor. TMIR is also infringing upon the inventor's U.S. Constitutional rights of freedom of press. In this case the ability of Dr. Suppes to obtain a patent publication of certain technologies has been lost due to TMIR.
2. When TMIR willingly ties up licensing rights (per BPS on licensing to MSMC) on a technology (for 42 months), and a third party (Cargill) cannot be adequately pursued to fund the research (because the license rights are uncertain), TMIR is violating the Academic Freedom of the Inventor by not allowing the inventor to pursue corporate funding under reasonable conditions. In this case, the actions of Mike Nichols became malicious when he torpedoed contact after contract designed to bring financial relief to the research program of Dr. Suppes. In this case, substantial and important areas of the research program of Dr. Suppes have been non-reparably annihilated.

It should be noted that in February of 2006, the MSMC refused to continue funding the research on conversion of glycerol to propylene glycol at a reasonable level, including refusing MSMC research budget moneys into the project. As a result of this, it was critical and important that MU quickly define the technology as it was developed when MSMC funding ended (7/06) and then clarify license options to allow Dr. Suppes to pursue funding from other sources.

What is expected is as follows:

1. By virtue of "academic freedom" and "freedom of press", a University inventor must be able to pursue a patent publication on any topic. It could be by having MU obtain patent, it could be by MU releasing a disclosure with the inventor filing for patent, or it could be by another means. No administrator in TMIR or at MU should be in a position to deny a faculty member the right to pursue a patent publication.
2. TMIR needs to recognize that their actions and/or inactions can greatly impair the ability of a researcher to obtain research funding. If for no other reason than not to violate a faculty's "academic freedom" to pursue research funding, TMIR needs to be committed to resolving licensing disputes in a timely manner. Also, standard language in contracts needs to become "standardized" without months of bickering to get contract language that has been allowed in previous contracts time-and-time-again.

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The use of multiple template agreements (e.g. one for a government agency, one for a private company, one for a nonprofit group) would provide this.

What happened was as follows:

1. TMIR has trumped the University inventor's right to obtain a patent publication in favor of policies that make it easy for TMIR to make sure that inventors do not "steal" university IP and in favor of policies designed to "save face" of TMIR management (by not releasing inventions).
2. TMIR and MU System attorneys commonly use bickering, posturing, and stonewalling (BPS) on topics of dispute. MU is often the "big bully" on the block, and "big bullies" can gain much in negotiation through use of BPS tactics. This is done with a total to substantial disregard on the impact BPS has on the research program of the University inventor. In the case of contract negotiations for moneys from RA to MSMC, evidence indicates that Mike Nichols sabotaged the flow of these moneys with malicious intent.

Presentation of Evidence

Section 310.010.A on Academic Freedom and Economic Security of Academic Staff is stated hereafter:

2. Academic freedom is essential to these purposes and applies to both teaching and research. Freedom in research is fundamental to the advancement of truth. Academic freedom in its teaching aspect is fundamental to the protection of the rights of the faculty member in teaching and of the student in learning. It carries with it duties correlative with rights. The following sections are indicative of these rights and duties.
 - a. Faculty members are entitled to freedom in research and in the publication of the results (qualified insofar as necessary in the case of sponsored research), subject to the adequate performance of their other academic duties.

Count 3b is on the violation of the right to publish with freedom as to where to publish.

A patent is both a legal document and a publication. The patent publication is unique—no other type of publication undergoes the scrutiny that a patent undergoes to verify that the underlying value of the publication based on criteria of: novel, non-obvious, and useful. In many engineering circles, patents are recognized as valuable accomplishments that are different and unique from other accomplishments. By example, former Associate Dean of the MU College of Engineering, Dr. Manring, had approximately 10 plaques representing 10 different patents on his office wall. Dr. Manring did not exhibit other types of publications in this manner. This indicates that at least Dr. Manring places a high value on patent publication.

To prevent an employee to pursue a patent publication is a violation of academic freedom and freedom of the press. As exhibited by **B06-09-26**, Phil Hoskins commanded Dr. Suppes not to file for patent and thereby violated Dr. Suppes's Academic Freedom as well as the U.S. Constitutional Rights (freedom of press) of Dr. Suppes.

These actions of Phil Hoskins also violate the Spirit of MU's Collected Rules and Regulations—the Spirit of MU's Collected Rules and Regulations is for TMIR to either patent the IP or release to the inventor in a timely manner.

Count 3a The BPS approach of Mike Nichols and Phil Hoskins can often be effective toward the single issue of getting the other party or parties to give into otherwise unreasonable conditions. This tactic is commonly used by MU attorneys.

The problem is that life is rarely single issue—it is much more complex. In the BPS approach, Mike Nichols and Phil Hoskins have violated the right of Dr. Suppes to reasonably pursue funding from other sources for research. In particular, Cargill visited the laboratory of Dr. Suppes with the specific purpose of possibly funding research on gas phase sugar conversion technology. This visit was more than for 41 and 21 months after the filing of the first disclosure (**B04-03-18b**) and the comprehensive disclosure on form UMC16c (**B05-12-02b**) that initiated the clock for TMIR to license the technology is 3 months. The proper and timely licensing of the technology would have clarified issues at three months and would have allowed Dr. Suppes to clearly define technology available for Cargill to fund and potentially license.

Through the approach of BPS, and specifically for not resolving disputes in a timely basis, TMIR violated the academic freedom of Dr. Suppes to reasonably pursue research funding from other sources. In this same time period, Mike Nichols directly or indirectly torpedoed five attempts by Dr. Suppes to support his research in this area over a 15-month timeframe. In addition, TMIR management has repeatedly refused to meet to discuss the issues and has repeatedly refused to set up meetings with MSMC-MU-RA to resolve issues. The torpedoes of Mike Nichols successfully sank the research program of Dr. Suppes in this area in 2007. Mike Nichols and Phil Hoskins violated the academic freedom of Galen Suppes.

Presented now is evidence that indicates the manner in which Mike Nichols torpedoed research agreement after research agreement. The four funding opportunities torpedoed by Mike Nichols were:

- Torpedo 1 - **MSMC Center** - Dale Ludwig of the MSMC had invited Dr. Suppes (based on request of Dr. Suppes) to present a funding proposal in August of 2006 before the MSMC Board for a center with funding directly linked and proportional to the net royalty generation of the glycerol-to-PG technology. This would be a perpetual funding arrangement with prospects greater than any previous center at MU. After speaking with Mike Nichols in July of 2006, Dale revoked this offer—never again to have Dr. Suppes present before the MSMC for funding.
- Torpedo 2 - **\$30k in RA Flow-through from Senergy** – RA had \$30k in research funding for the laboratory of Dr. Suppes and entered into negotiations with MU on this funding at the end of summer, 2006 (**B06-09-01, B06-11-14, B06-11-21**). This \$30k was to be followed by an additional \$30k (flow-through from Senergy through RA). Based on a request from TMIR/Mike Nichols (to Dean Thompson), MU put a hold on any research contracts with RA (**B06-12-05**). This was after months of negotiation/requests and after the TMIR/OSPA stopped another research grant from RA by demanding outrageous conditions that would never be agreed to by a company where the respective product development was critical to the company's business plan (**B06-09-08, B06-09-08b**).
- Torpedo 3 - **\$60k and Senergy Research Arm Center (millions)** – After failure of the attempt to flow funding through RA, Senergy made a direct attempt to fund research in the laboratory of Dr. Suppes. Mike Nichols Engaged in BPS for over three Months (**B06-12-07, B07-03-15**), demanding outrageous terms (**B07-03-15**) and ultimately wearing out any intent for Senergy to enter into a direct contract with MU. During this time Mike

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Nichols systematically rejected commonly used language used in other MU contracts. At this point, the \$30k had already been expended. In the end, the money was deposited directly into a research account of Dr. Suppes. Only after this (and months of BPS) did Mike Nichols provide a contract with reasonable terms. The terms could have been put into the contract from “day one” based on contract language in common use (see UEL-1), but Mike Nichols unilaterally refused to do that.

Torpedo 4 – **Cargill Research Support with License Intent** - Two representatives from Cargill and a paid consultant visited Dr. Suppes’s lab on 9/13/07 (B07-09-06). When they met with Wayne McDaniel, rather than discussing how to license technology of interest to Cargill, the discussions were about the big mess of the licensing situation between MU and the MSMC. Requests for clarification of what could be licensed were unanswered (B07-09-17). Cargill’s interest was rapidly extinguished. This last manifestation was the fourth, and basically last, hope to get funding to the laboratory of Dr. Suppes on what was his most active and successful research topic 15 months earlier.

Torpedo 5 – The final and fatal torpedo to this research program of Dr. Suppes was delivered by Mike Nichols in the September 19, 2007 MU-MSMC License Agreement (UEL-6). In this agreement, Mike Nichols licensed the remaining areas of the sugar conversion technology (that were not already licensed to Senergy) in a manner that assured that MSMC would neither develop the technology nor pay for its patent.

Mike Nichols personally thwarted four different attempts to bring moneys into Dr. Suppes’s lab on the glycerol-to-PG and sugar-to-PG research over a 15-month period. In a fifth licensing maneuver Mike Nichols licensed the remaining technology in such a way so as to assure that it is neither commercialized nor funded as research. This occurred virtually, exactly as Mike Nichols and Phil Hoskins had threatened on September 15, 2006 (as they conveyed to Noah) when Mike Nichols cancelled that September 15th meeting. Mike Nichols cancelled this meeting after being informed that the question of Dr. Sutterlin’s IP being owned by RA would not be discussed (B06-09-12, B06-09-14). Mike Nichols and Phil Hoskins indicated that there would be essentially no more research contracts coming through RA because RA had not given up all rights to royalties from the glycerol-to-PG technology as demanded by Mike Nichols and Phil Hoskins (because RA had not given into the BPS tactics of Mike Nichols and Phil Hoskins). Evidence indicates that Mike Nichols and Phil Hoskins had pre-negotiated an agreement between MU and MSMC that would include RA giving up all rights to royalties. Evidence indicates that the September 15th meeting was a “setup” in which both MU and MSMC attorneys would be present and in which high-pressure tactics would be used to force RA to give up its rights.

Evidence substantiates the Mike Nichols and Phil Hoskins were holding the research program of Dr. Suppes hostage as a negotiating tactic to get what they wanted. Evidence indicates that they wanted RA to give up all rights to royalties even though: 1) U.S. patent law guaranteed RA rights since Dr. Sutterlin was an inventor, 2) the RA-MU Allocation of Rights Agreement (UEL-14) already defined royalties to go to RA, 3) the MSMC Research Agreement (UEL-1) had provisions for percentages of royalties to go to RA, 4) RA funded research at MU and provided in-kind effort that exceeded MSMC funding, and 5) the RA-MRDF License defined a reasonable royalty level. Mike Nichols properly conveyed his disposition to Dr. Sutterlin on this topic when he told Dr. Sutterlin that even if Dr. Sutterlin’s only MU appointment was 5% in the Art Department, MU still claimed rights to the technology (see affidavit testimony, B07-05-08). The position of Mike Nichols and Phil Hoskins will almost certainly never hold up in a court of law; however, that has not stopped them from BPS tactics that have caused incredible damage to Dr.

Suppes' career as a result of not surrendering to these BPS tactics. Dr. Suppes has offered and asked many times for MU to agree to outside arbitration and to then identify an amenable path forward—MU flatly refuses.

Dr. Suppes used his RIFF and reserve funds to keep his sugar conversion research program alive for about 12 months—spending approximately \$50k. Funding is essentially no longer being pursued due to lack of commercial interest due to the way the Mike Nichols licensed the technology to MSMC.

In the previous “torpedo 2” bullet, another research grant (**B06-09-08, B06-09-08b**) from RA was mentioned as pertinent. This other grant was an NSF-SBIR subcontract. The other grant was on a timeline as follows:

- July, 2006 – Research initiated and negotiation for research subcontract from RA to MU initiated.
- December 31, 2006 – End of research period.
- March, 2007 – Research contract was finally approved three months after the completing the project.

As part of the BPS tactic of Mike Nichols, he put forth non-negotiable agreement terms to RA on 9/8/06 (**B06-09-08, B06-09-08b**). The agreement included the following terms:

The University retains all ownership to any patents, copyrights, processes, inventions and other proprietary IP of any nature developed as a result of the research or investigation conducted under this Contract. The University hereby grants Sponsor a twelve (12) month option from the date of notice to Sponsor by University for a nonexclusive license for any resulting patents. Should Sponsor exercise such option within this twelve (12) month period, a reasonable and customary royalty rate will be negotiated together with the other terms and conditions of the nonexclusive license.

There are two showstopper/fatal flaws in this agreement that (essentially) no for-profit business would agree to. First, the “*University retains all ownership...research or investigation under this contract*” is a showstopper because patent law dictates that ownership belongs to the inventor (person who contributed concept). As part of the SBIR research, an idea could originate from Dr. Sutterlin with RA, and patent law would rightfully place ownership of that idea to RA. The proposed **B06-09-08b** agreement required that RA give up its rights otherwise guaranteed under U.S. patent law. The second showstopper aspect of this phrase is that all companies want and need a right to get an “exclusive” license and the language insisted upon by Mike Nichols only guaranteed a right to a “*non-exclusive*” license—this language/contract was referred to as “final”.

This BPS approach of Mike Nichols created great anxiety with Dr. Sutterlin and RA. After all, RA's NFS grant indicated that a \$30k subcontract would go to MU. Extensions in the NSF contract had to be requested for the mere purpose of negotiating the license with MU after the research had already been conducted. This BPS approach of MU/Mike Nichols was substantially the reason Dr. Sutterlin ultimately required that RA be separated from Dr. Suppes' ownership and would move to Alabama from its initial home here in Columbia, MO.

This “final” agreement forwarded by Mike Nichols is a textbook example of bickering, posturing, and stonewalling (BPS). During this same time period, in discussions with Dr. Sutterlin, Mike Nichols told Dr. Sutterlin that he (Mike Nichols) did not care if Dr. Sutterlin's

appointment was on 5% in the Art Department, MU claimed rights to everything he developed. This is a textbook example of posturing and sends many “wrong” messages to a valuable research sponsor and collaborator like Renewable Alternatives, LLC.

In subsequent negotiations of the “torpedo 3” agreement. Mike Nichols again refused to allow Senergy the right to obtain an “exclusive” license for research/technology that would be paid for by Senergy. In this case, Dr. Suppes suggested that the language “exclusive, to the extent possible” be used in the agreement. Dr. Manring indicated that Mike Nichols referred to this language as “absurd”. Please note the response of Dr. Suppes as follows (B07-03-15):

Galen:

This reference is helpful. We'll see what we can do.

Noah

-----Original Message-----

From: Suppes, Galen

Sent: Wednesday, March 14, 2007 6:00 PM

To: Manring, Noah D.; Gahl, John M.

Subject: "Extent Possible" language in contracts

Hi Noah, John,

I have heard that Mike Nichols has dismissed contract language of the sort “the right to pursue a patent or other protection with respect to such invention or patent variety and an exclusive, to the extent possible, license of the form...” I believe he characterized the “to the extent possible” phrase as absurd.

Please note at the top of page 3 of the attached contract....the verbatim use of the above phrase. Such phrasing is not only “not absurd”, it is good practice for a variety of foreseen reasons (such as DOE contracts that allow the DOE to retain rights for internal use) to unforeseen reasons such as an inventor who contributes in a capacity other than within the job scope of a university employee.

Noah—is this reference helpful? If you need other references of such language, I could pursue.

Thanks for standing up for what is right and fair!

Best Regards,

Galen J. Suppes

After this email, Mike Nichols finally allowed this commonly used language; however, a month of bickering was the cost. In earlier negotiations with Dr. Sutterlin, Mike Nichols told Dr. Sutterlin that if Dr. Sutterlin did not accept the Mike Nichol’s language in the agreement they were negotiating, that it would be two weeks before Mike Nichols considered to topic again. The request would go at the bottom of Mike Nichol’s stack of contracts under negotiation. Mike Nichols could have considered the requested revision on-the-spot during the conversation, but that would not have achieved the BPS Mike Nichols pursued. This statement by Mike Nichols and the above examples are definitive evidence of the BPS approach of Mike Nichols during negotiations and disputes.

Remedy Sought:

The same remedies as requested for Violation #1 are sought here only the report is to be written in terms that academic freedom were violated.

Evidence for Collection & List of Witnesses

See Count #6.

COUNT #4

Violation of Collected Rules & Regulations Section 310.10.3C3c,

c. Advisory Authority -- The UMC Faculty has advisory authority and responsibility with other persons or offices in matters such as:

- (1) Budget and resource allocation.**
- (2) Planning, including capital expenditures and physical facilities.**
- (3) Selection of departmental, divisional, campus, and university-level administrators.**
- (4) Determination of the campus standing committee structure.**
- (5) Development and implementation of general business procedures which facilitate academic program excellence.**
- (6) Use of facilities for program activities.**
- (7) Application of criteria affecting promotion, tenure and termination”**

Narrative

Overview – This count is on the failure of TMIR to obtain Faculty Input before and during the modification of forms that impact invention disclosure and invention release. These forms were modified and prepared in 2006 and 2007. In view of the willingness of TMIR to modify forms without Faculty Input, it is likely that TMIR has been performing this for years. In view of this, any forms that do not indicate approval by proper processes (such as including Faculty Input or Patent Committee prescription) are properly considered as forms as prescribed by TMIR but not necessarily as binding under the Collected Rules.

After the Patent Committee met and finally approved the form in May of 2007, the form (**UEL-113**) finally did properly indicate that it was “**Prescribed by Patent Committee, 5.17.07**”. This designation tells the faculty member that the form is the proper form and also indicates to any TMIR personnel (who is not familiar with the Collected Rules) that they need to get Patent Committee approval on any form modifications.

What is expected is that respective TMIR administrators would have requested Faculty Input prior to modifying the disclosure or waiver forms. The Faculty Input should have been recorded. Evidence of responsiveness to Faculty Input and/or the absence of responsiveness to Faculty Input should be accurately ascertainable based on the records of Faculty Input. Ultimately, the absence of responsiveness to Faculty Input should be ascertainable, and when there is a systematic lack of responsiveness to Faculty Input, the respective administrator should be held accountable up to and including a vote of no-confidence. **WITH RESPECT TO PROVISIONS ON FACULTY INPUT, THIS IS THE WAY FACULTY GOVERNANCE IS INTENDED TO WORK!** When administrators and/or TMIR systematically fail to obtain and document Faculty Input, they not only are violating the Collected Rules and Regulations, they are also attempting to avoid accountability for systematically being non-responsive to Faculty Input.

What happened was TMIR compromised the status of the invention disclosure form UMC16c as a “prescribed form” for invention disclosure by not pursuing Faculty Input, and TMIR has avoided the ramifications of this systematic disregard for Faculty Input. TMIR also prepared the invention waiver form without Faculty Input, and as a result has prepared a form with outrageous conditions that has basically never been used because no faculty will sign off on the conditions.\

Presentation of Evidence

IP is a resource of the University, and as such, administration (including the TMIR branch of administration) is required to get faculty advisory authority on matters related to the handling of IP. The following two forms impact the handling of IP:

- Disclosure Form UMC16c (**UEL-9, UEL-10, UEL-11**)
- Invention Waiver Form (**UEL-12, UEL-13**)

On January 4, 2007, the TMIR office released (**B07-01-04**) a new Invention Disclosure Form (**UEL-12**) with footnote 8.1.06 assumed to indicate that document was approved by TMIR on August 1, 2006. There was no Faculty Input provided on this document. At least one means of possible Faculty Input is the Patent Committee (see **UEL-7**) which has the authority to prescribe this form (and should have faculty representation). The patent committee neither met nor prescribed this form on any date near or prior to these dates (the Patent Committee had last met in about 1998—another aspect faculty governance/rights abolished by Tom Sharpe).

On April 17, 2007, the Patent Committee did meet and prescribed this form. However, based on the attached communication with the Chair of this committee (**B07-06-07**), the Patent Committee prescribed this new form without even having it in hand, and so, to date Faculty Input has neither been requested nor considered on this form. This hand-picked committee (Patent Committee) of John Gardner violated the integrity of MU procedures by approving documents without even checking the documents to see if these documents reasonably preserved faculty rights. This violation of the integrity of the system/process should not be taken lightly.

Invention waiver form **UEL-12** was provided for use by Wayne McDaniel to Dr. Suppes on 12/4/06 (**B06-12-04**) and appears to have been drafted on 11/9/06. Evidence dictates that TMIR has attempted to replace the “invention release policy” with an “invention waiver form”. Evidence suggests that the form was written by Scott Uhlmann without Faculty Input. It was implemented without Faculty Input. The form is and was an atrocity (see **B07-03-08b**). The method of its preparation and implementation was a violation of Collected Rules & Regulations Section 310.10.3C3c. The terms are outrageous.

As evidence of the lack of input in preparing the waiver forms and the lack of the use of the waiver forms see email communication **B08-05-13** in which Wayne McDaniel clarifies the earlier error of his communication on the forms. The confusion is due to the creation of forms without input (from faculty and from most of the staff) and due to the lack of use of the forms.

Remedy Sought:

Remedy – The grievance committee will report to the Chancellor that a violation has occurred per the count. The chancellor is to inform TMIR that the form they created is in violation of the Collected Rules and Regulations at UM.

Evidence for Collection & List of Witnesses

See Count #6.

COUNT #5

Violation of Collected Rules and Regulations, Section 330.010 on “The personal conduct at all times of any employees of the University shall be of such a nature as not to bring discredit upon the institution.”

Narrative

Overview – This count is on the distribution of false facts by Dr. Hall to several administrators about the actions of Dr. Suppes.

What is expected is that prior to distributing information that is potentially damaging to the reputation of Dr. Suppes, Dr. Hall should have performed due diligence in ascertaining the facts. This due diligence, at a minimum, should have included allowing Dr. Suppes to defend himself in a meeting with Dr. Suppes (as requested by Dr. Suppes).

What happened was Dr. Hall refused to meet on the subject and distributed false facts to several administrators that likely damaged the reputation of Dr. Suppes.

Presentation of Evidence

Collected Rules and Regulations, Section 330.010 is stated hereafter:

330.010 Personal Conduct of Employees

Bd. Regs. 1949.

- A. The personal conduct at all times of any employees of the University shall be of such a nature as not to bring discredit upon the institution. Conduct contrary to this policy will result in the termination of such employees' connection with the University.

Attached as evidence are **B07-12-18** and **B07-12-27**. These letters were distributed to Foster, Brian L. (Provost); Hoskins, Phillip J.; McDaniel, Wayne C.; Nichols, Michael F. (Research/Economic Dev); Deaton, Brady (Chancellor), and James Thompson (Dean). In attachment **B07-12-27**, Dr. Hall makes many false accusations as summarized in **B07-12-27b**.

The following documents the comments and inaccuracy (underlined) of these comments.

Dear Dr. Suppes:

Let me provide a very brief response to the questions posed in your communication of December 20th. A key problem is that you suggest that if your company Renewable Alternatives has some ownership interest in IP that you are then justified in selling UM interest in an invention, which in fact you are not. If IP is owned in whole or in part by UM, then UM needs to be a party to any sales or licensing agreement involving that technology. In a license agreement dated March 30, 2005, Renewable Alternatives licensed IP to the Mid-America Research and Development Foundation (MRDF) consisting of patent applications that were wholly owned by UM (because you were the only inventor) and patent applications that were jointly owned by UM and Renewable Alternatives (as you and Dr. Sutterlin were inventors). UM was not a party to this agreement, and you asserted in the agreement that you and/or Renewable Alternatives were the only owners of these technologies. There was in place an appropriate process for Renewable Alternatives to obtain a license to the UM rights to this invention, but Renewable Alternatives chose to ignore that process and license the Renewable Alternatives rights and the UM rights.

Then, this past summer, you apparently became involved in the negotiation of a research agreement with Senergy (the ultimate licensee of the above invention). UM put a temporary hold on this research contract until certain issues could be cleared up. However, in the meantime Senergy sent you or Renewable Alternatives a \$30,000 check, which they apparently understood to be a down payment on such research contract. The contract was in fact never signed, and Senergy now says that they asked you to return the check. Instead, you deposited this check in your MU account as an

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unrestricted gift. This gives the appearance of you negotiating a research contract on behalf of UM, and then accepting payment towards that contract on behalf of the University.

However, Senergy got no value for their money, because you deposited it as a gift with “no strings attached.” I regard this at a minimum as a patently unethical act.

You have asked in a separate email to meet with me (I infer to discuss your ongoing feud with MU’s Office of Technology Management & Industry Relations), and while I am always happy to discuss issues with faculty, I cannot see what might be accomplished by such a meeting. You have met previously on the same subject with Chancellor Deaton and corresponded freely with UM President Floyd. At this point, I simply ask that you abide by the UM Collected Rules and Regulations and work proactively with the technology transfer-related staff at both the campus and UM System.

Rob Hall

The memo was circulated to: Foster, Brian L. (Provost); Hoskins, Phillip J.; McDaniel, Wayne C.; Nichols, Michael F. (Research/Economic Dev); and Deaton, Brady (Chancellor). While most aspects of the memo were misleading, the underlined-bold statements are blatant lies propagated to cause disreputation of Dr. Suppes. Dr. Hall circulated inaccurate data on the actions of Dr. Suppes and refused to meet to clarify the facts. The distribution of such false accusations is a violation of the Collected Rules and Regulations, Section 330.010.

On the “patently unethical” statement, the facts portray a different story. Document **P06-12-21** is one of several documents that substantiates the research performed in Fall 2006 and January of 2007 for which Senergy attempted to provide Dr. Suppes with a \$60k grant. COUNT #3 documents Torpedo’s 2 and 3 which sank efforts to fund this research. The research started at the time RA first approached MU with the \$30k at the end of Summer, 2006. During the PBS tactics of Mike Nichols and Phil Hoskins the research had been completed and moneys spent. The following staff were assigned substantially in support of Senergy’s research based on a verbal agreement dating to July of 2006 when MSMC funds expired and Senergy’s support was to take over:

- Ali Tekeei, Research Specialist, 7/1/06-5/31/07
- Roger Chiu, PhD Candidate, 7/1/06-10/30/07
- Wei Yan, PhD Candidate, 12/24/06-5/31/08

After overhead is removed, the \$30k is about \$20k. Including corrections for tuition, supplies, and benefits, the \$30k would have covered the support for Ali and Roger for about 7/1/06-11/30/07. Senergy GOT MUCH MORE THAN they paid for.

The real question is: “What did Mike Nichols and Phil Hoskins expect to happen when they committed to the BPS strategy that blocked every attempt to get the \$30k as a Research Agreement to the Suppes lab over a 7-month period?”

The false impressions of Dr. Nichols, Dr. Hall, and Mr. Hoskins could have been easily cleared up, but they refused to meet to discuss the matter with Dr. Suppes. Their persistence in not meeting is suggestive that they did not want to clear up these issues because the truth would reveal the extreme extent to which they have mis-behaved in the past couple years.

Based on preliminary discussions, Dr. Hall and Mr. McDaniel cite the RA-MRDF License Agreement (**UEL-5**) as evidence that Dr. Suppes falsely represented The Curators of the University of Missouri and assigned property belonging to The Curators of the University of Missouri. I have requested interpretations from two separate attorneys (Ms. Force, Mr.

Gallaher), and both have confirmed that this contract does not present Dr. Suppes as representing The University of Missouri Curators. The proper interpretation of the contract terms is documented by **B07-08-28** and **B07-08-28b**.

Dr. Suppes clearly conveyed to MRDF/MSMC that the University has its own ownership rights and that MRDF/MSMC has rights to that IP based on the MSMC Research Agreement (**UEL-1**), including:

1. **B04-03-22** Email to Attorney Dan Cleveland Indicating MSMC Rights Based on MSMC Research Agreement including the following communication: *The UMC contract includes provisions related to "development" of technology. While it was invented prior to MSMC funding, it was and is being developed based on MSMC funds.*
2. Proposal to MSMC of **UEL-2** (11/04) containing the following text:
 13. **Licensing Rights:** Licensing rights are covered in an agreement between UMC and the MSMC with rights guaranteed to the NSF-STTR partner, Renewable Alternatives, LLC.
3. Proposal to MSMC of **UEL-3** (11/05) containing the following text:
 14. **Licensing Rights:** An agreement is in place on this technology that includes MSMC, Renewable Alternatives, LLC, and UMC.
4. **B05-03-30** Email (Victor) Witnessing Division of IP on PG Technology in which Victor (scientist with P&G) reiterates a description of the technology he heard in a previous teleconference, including: *Renewable Alternatives, MSMC and the Univ. of Missouri each owns 1/3 of the glycerol to propylene glycol technology. However, MSMC has ultimate negotiating power for this technology.*
5. **B05-01-13** Email Recommendation on Licensing of Technology include a communication of: *2. The license should include payment of royalties to the MSMC-UMC-RA collaboration on this project.*
6. **B05-12-02** Email Disclosure Comprehensive on UMC form including a communication of *Wayne – The attached disclosure represents the agree-upon (Dr. Dasari and myself) distribution of the University's policy of sharing at least 1/3rd of the royalties with the inventors. Please note that Dr. W. R. Sutterlin is an inventor; however, his involvement from the start (through the NSF-STTR) was as a company (Renewable Alternatives, LLC) representative. Due to the fact that the company's IP is its greatest asset, Renewable Alternatives, LLC is taking the stand on this issue that (per his contract) the IP generated by Dr. Sutterlin remains entirely within Renewable Alternatives, LLC, unless otherwise arranged on a project-by-project basis. Dr. W. R. Sutterlin is a part-owner in Renewable Alternatives, LLC, and so, he will in fact receive rewards representative of revenue generated as a direct or indirect result of the IP.*

One of the main reasons this grievance was filed was that Dr. Hall refused to meet on the matter to clear up his false facts as documented per my request (**B07-12-20**).

Remedy Sought:

The grievance committee will report to the Chancellor that a violation has occurred per the count. The grievance committee is to inform the Chancellor that there has been improper conduct on the part of TMIR in properly and accurately conveying information to the Vice Chancellor of Research and others who deal with the University.

Evidence for Collection & List of Witnesses

See Count #6.

COUNT #6

Violation of Collected Rules and Regulations 100.020.D.1.f hereby quoted:

“The patent rights and/or ... the President shall consider all relevant factors including, but not limited to the following: ...

(7) The recommendation of the principal investigator, the head of her/his department and her/his dean, or on campuses with no schools or colleges, the Provost. ...

(10) The extent to which the University reserves the right to use any patented or patentable products, materials, processes, or Plant Variety. ...”

Narrative

Overview – This count is in regard to the manner in which Mike Nichols and Phil Hoskins “blundered” the MU-MSMC License Agreement—giving the MSMC all technology that could qualify as a “continuation in part” from pending patents. This license includes technology developed after the MSMC Research Agreement lapsed and should not have been licensed to MSMC because MSMC has no intent of commercializing it. It also includes technology outside the scope of the proposed work. As a result of this, it is virtually impossible for Dr. Suppes to get another corporation interested in funding and commercializing these important technologies—this destroyed an entire research program in the laboratory of Dr. Suppes.

What is expected is that preserving/enhancing the research program that initially created a valuable technology should be of the highest priority to TMIR. TMIR should base licensing decisions substantially on this criterion. A good line of communication with the University inventor should be established and respected. Any license agreements should have been passed by the University Inventor for general input and specifically to identify any possible blunders in the contract language. In this case it is likely that Dr. Suppes would have identified the blunder prior to the signing of the MU-MSMC License Agreement.

What happened was through a process of BPS, Mike Nichols and Phil Hoskins substantially severed any lines of communication between Dr. Suppes and themselves in making licensing decisions. They not only made certain that Dr. Suppes did not see the license agreement during negotiation; they also did not inform Dr. Suppes of the stages of negotiation and were non-responsive to requests for such information. Mike Nichols and Phil Hoskins did, indeed, blunder the MU-MSMC License agreement to the devastation of the research program of Dr. Suppes. In the end, Dr. Suppes was required to file a Sunshine Law request to get a copy of the research agreement. Wayne McDaniel characterizes this major blunder as a “typo” and is not responsive to requests for accountability on the manner in which TMIR has devastated the research program of Dr. Suppes.

Presentation of Evidence

The Collected Rules and Regulations 100.020.D.1.f require consideration of input from the principal investigator when making licensing decisions. For the license MU-MSMC License Agreement (**UEL-6**), the input of the principal investigator (Dr. Suppes) was not considered. In fact, consideration of all input was trumped by the “blunder” made by Phil Hoskins and Mike Nichols when they did not limit the license to that technology detailed in the “Field” definition of

the UEL-6 MU-MSMC License Agreement. This agreement is also referred to in the “Torpedo 5” bullet of Violation #3.

The path illustrated by the following excerpt of UEL-6 illustrates that the MU-MSMC License ultimately licensed to MSMC all the technology of the patents and continuations-in-part:

(2) "Patent Rights" shall include all designated intellectual property as documented in Exhibit A specified by Serial Numbers or Patent Numbers and any continuations, divisionals, reissues, reexaminations and corresponding foreign patents throughout the world of those listed in Exhibit A.

(3) "Licensed Product" Any invention defined by or using any method defined by any pending or issued claim under Patent Rights.

II. LICENSE GRANT

(1) UNIVERSITY hereby grants and LICENSEE hereby accepts an exclusive, to the extent possible, license to manufacture or distribute, have manufactured or distributed, use and sell Licensed Products.

The diagram consists of three red circles containing the terms "Patent Rights", "Licensed Product", and "Licensed Products". Red arrows point from "Patent Rights" to "Licensed Product" and from "Licensed Product" to "Licensed Products".

The blunder of this contract was that the intent was to limit the license to the “Field” as defined in the following paragraph.

(6) "Field" shall mean propylene glycol and propylene glycol-based products that are produced from glycerin, including, without limitation, deicing, anti-icing, personal care, food, pharmaceutical, detergents, paint, heat transfer, automotive anti-freeze, tobacco and general industrial markets, and related methods including methods for the use or manufacture of the propylene glycol and propylene glycol-based products.

(a) 1,2 propylene glycol is also referred to as 1,2 propanediol. The Field above does not include production of 1,3 propanediol.

(b) Notwithstanding the generality of the definition of Field above, the Field does not include propylene glycol produced from C4 or higher sugars such as, but not limited to, sorbitol, fructose, glucose and sucrose, even if glycerin is produced as an intermediate in the manufacture of propylene glycol from C4 or higher sugars.

By not excluding C4 or higher sugars, Mike Nichols and Phil Hoskins have further devastated the research program of Dr. Suppes. It will be essentially impossible to find an industrial sponsor to advance the breakthroughs that the research group of Dr. Suppes attained in gas phase conversions of sorbitol to PG (through reserve funds spent by Dr. Suppes after MSMC funding ended) because MSMC now has all the rights to the technology even though they intend to neither commercialize the technology nor pay for the patents that cover the technology.

Inevitably, TMIR and MU administration operate in a manner so as not to hold their attorneys and senior administrators accountable for such blunders. No Collected Rule & Regulation provision was located to file a grievance for the blunder. No Collected Rule & Regulation provision was located to file a grievance for not being responsive to Faculty Input indicating that such a license would be devastating to the research program of Dr. Suppes. No Collected Rule & Regulation provision holds Dr. Nichols and Phil Hoskins accountable for creating such a

hostile environment where they ultimately did not seek input from Dr. Suppes on the contract (which could have detected the error prior to it creating the devastation). However, the fact that the “blunder” trumped consideration of all other factors is a violation of Collected Rules and Regulations 100.020.D.1.f.

The following are few examples of the incompetent actions taken by Phil Hoskins:

1. **UEL-6** MU-MSMC License Agreement as discussed above.
2. **B06-09- 26** in which Phil Hoskins tells Dr. Suppes to “please cease and desist from ... purporting to assign rights,” when at the same time Wayne McDaniel was asking Dr. Suppes to assign rights and powers of attorney to numerous inventions including applications not assigned to the Curators. A partial clarification was provided 16 months later (**B08-04-25, B08-04-25b**), but Wayne McDaniel continued to ask Dr. Suppes to assign rights and powers of attorney to inventions not assigned to the Curators.
3. In a mid-2006 meeting with Dr. Manring, Noah conveyed to Dr. Suppes that Phil Hoskins wanted to know how Dr. Sutterlin could be an inventor on behalf of RA when RA did not have a research lab. The response was obvious to those competent in patent law (and in plain site on the patent plaques of Dr. Manring’s walls. The response was that inventorship is based on concept and a large fraction of inventions are never actually reduced to practice. These type of inaccurate perceptions about patent law likely led to months of delays due to false impressions of the law by Mike Nichols and Phil Hoskins.

Remedy Sought:

The grievance committee will inform the Chancellor that a violation occurred and that precautions need to be taken to not let it happen again.

Additional Remedy Sought (For All Counts):

In view of the violations that have occurred and the propensity for reoccurrence, the Chancellor is to take meaningful measures to prevent the administration from repeating these violations. The measures that are taken are to be conveyed to Dr. Suppes, Chairman Gahl, and Dean Thompson.

Evidence for Collection

1. Record of Appointment by Account for Ali Tekeei, Roger Chiu, Bryan Sawyer, and Wei Yan for 2006 and 2007.
2. TMIR Statistics - Number of people who have submitted each version of the waiver forms.
3. TMIR Statistics – List of technologies commercialized based on technologies released from either version of the waiver form.
4. Copies of TMIR “official” copies of disclosures: 03UMC032, 04UMC052, 04UMC066, and 06UMC035.

List of Witnesses

1. Attorney Expert Witness (George Smith, not client attorney, agreed), 573-441-0080, Testify: typical legal interpretation of certain actions and language in Collected Rules.
2. Dr. Sutterlin (agreed), Email: rusty@renewablealternatives.com, 573-999-6230, Testify: Mike Nichols negotiation styles and \$30k of Senergy flow-through.
3. Noah Manring (not agreed/discussed), manringn@missouri.edu, 573-884-5484. Testify: on September, 2006 meeting that was cancelled.
4. Ali Tekeei (agreed), Email: tekeeia@missouri.edu, Testify: Senergy’s \$30k flow-through.

Summary of Accrued Damages

1. Lost Research Sponsors/Collaborations.
 - a. MSMC
 - b. Senergy
 - c. Cargill
2. Lost Opportunities for Major Research Centers with Perpetual Funding.
3. Disintegration of Renewable Alternatives, LLC. In May 2008 it is anticipated that RA will be split into two companies with Drs. Suppes and Sutterlin owning separate companies. In addition, RA will initiate a move of location from Missouri to Alabama over Memorial Day Weekend in May, 2008.
4. Inability to Continue Research on the Following Topics in Laboratory of Dr. Suppes.
 - a. Commercial support for conversion of glycerol to PG.
 - b. Optimization of process for conversion of glycerol to acetol.
 - c. Value-added products from acetol.
 - d. Conversion of sorbitol to propylene glycol as well as other value-added chemicals.
5. Attorney Expenses.
6. Hours of Wasted Time.
7. Lost Research Funds Due To Unreasonable Languages Demanded by Mike Nichols.
8. Lost ability to apply for patent in China.
9. Potential loss of all foreign applications from 2006 PCT application.
10. Lost value of 2005 patent application due to attorney not properly representing MU.

Mutual Definition of Terms

Agreement. A mutual understanding between two or more persons about their relative rights and manifestations of mutual assent by two or more persons. (definition 1, Blacks Law, 8th Edition)

Assignment. The act of transferring to another all or part of one's property, interest or rights. A transfer or making over to another of the whole of any property, real or personal, in possession or in action, or of any estate or right therein. *Black's Law Dictionary.*

Assignee. A person to whom an assignment is made; grantee. *Black's Law Dictionary.*

Disclosure. The act or process of making known something that was previously unknown; a revelation of facts. (Blacks Law, 8th Edition)

Disclosure Document Program. A U.S. Patent and Trademark Office program allowing an inventor to file a preliminary description of an invention and establish its date of conception before applying date for a patent. (Blacks Law, 8th Edition)

Claim. In patent law, a claim is an assertion of what the invention purports to accomplish, and claims of a patent define the invention and the extent of the grant; any feature of an invention not stated in the claim is beyond the scope of patent protection. *Black's Law Dictionary.*

Glycerol: Also called glycerin or glycerine. It is a chemical/sugar by-produce resulting from the conversion of soybean oil to biodiesel.

License. A written authority granted by the owner of a patent to another person empowering the latter to make or use the patented article for a limited period or in a limited territory. *Black's Law Dictionary.*

IP. Intellectual property.

Intellectual Property. A category of intangible rights protecting commercially valuable products of the human intellect. The category comprises primarily trademark, copyright, and patent rights but also includes trade-secret rights, publicity rights, moral rights and rights against unfair compensation. (Blacks Law, 8th Edition)

Inventor. One who invents or has invented. One who finds out or contrives some new thing; one who devised some new art, manufacture, mechanical appliance, or process; one who invents a patentable contrivance. *Black's Law Dictionary.*

MRDF. Mid-America Research and Development Foundation. Foundation set up by MSMC.

MSMC. Missouri Soybean Merchandising Council. Board elected by Missouri soybean farmers responsible for identifying uses of that portion of soybean check-off fees that stay in Missouri. This includes funding for University projects.

MU. The University of Missouri's Columbia campus.

Non-Provisional Patent Application. Term often used to refer to a Patent Application as defined below.

Patent. A grant of some privilege, property or authority made by the government or sovereign of a country to one or more individuals. *Black's Law Dictionary.*

Patent Application. A patent application is a request pending at a patent office for the grant of a patent for the invention described and claimed by that application. An application consists of a description of the invention (the *patent specification*), together with official forms and correspondence relating to the application. The term patent application is also used to refer to the process of applying for a patent, or to the patent specification itself. *Wikipedia.*

PCT Application. The Patent Cooperation Treaty (PCT) is an international patent law treaty, concluded in 1970. It provides a unified procedure for filing patent applications to protect inventions in each of its Contracting States (see Accession section below for current membership information). A patent application filed under the PCT is called an international application or PCT application. *Wikipedia.*

P&G. Procter & Gamble. A U.S. corporation.

PG. Propylene glycol. The product produced for sale using the technology licensed by the MU-MSMC License Agreement.

Provisional Patent. Under United States patent law, a provisional application for patent is a type of national application for patent filed in the United States Patent and Trademark Office (USPTO), but which does not mature into an issued patent unless further steps are taken by the applicant. Furthermore, because no examination of the patentability of the application in view of the prior art is performed, the USPTO fee for filing a provisional patent application is significantly lower than the fee required to file a standard non-provisional patent application. *Wikipedia.* A provisional patent application must be converted to a non-provisional patent application within 12 months or priority will be lost.

R.A. Abbreviation for Renewable Alternatives.

Release. The relinquishment or concession of a right, title, or claim. (definition 2, Blacks Law, 8th Edition)

Renewable Alternatives. Faculty spin-off company owned principally by Dr. Suppes. Full name is Renewable Alternatives, LLC.

CONFIDENTIAL

Royalty. Compensation for the use of property, usually copyrighted material or natural resources, expressed as a percentage of receipts from using the property or as an account per unit produced. A payment which is made to an author or composer by an assignee, licensee or copyright holder in respect of each copy of his work which is sold, or to an investor in respect of each article sold under the patent. *Black's Law Dictionary*.

SBIR. Small Business Innovation Research, typically referred to as an "SBIR grant" from the U.S. federal government.

STTR. Small Business Technology Transfer, similar to the SBIR except that a U.S. nonprofit research institution must play a key role.

Waiver. The voluntary relinquishment or Abandonment—express or implied—of a legal right or advantage. (Blacks Law, 8th Edition)

Suppes Extended Definition of Terms

BPS – Bickering, Posturing, and Stonewalling. Put forward as the prominent mode of operation of TMIR since TMIR discovered royalties were being paid on a technology and they did not have exclusive control on how the royalties were being distributed.

OTPA. Office of IP Administration, Defined - Office overseeing TMIR at MU system level, mid-2006 to present (estimated), Pertinent Employees: Scott Uhlmann (director)

OSPA. Office of Sponsored Programs Administration. This office processes proposals and research agreements.

OTSP. OFFICE OF TECHNOLOGY & SPECIAL PROJECTS, defined – Previous name for group performing TMIR duties. Through mid-2006 (estimated), Pertinent Employees: Wayne McDaniel, Terry Nixon, Tom Sharpe, Scott Uhlmann

PG. Propylene Glycol

Research Agreement. Agreement on a research activity.

Senergy. Company that licensed glycerol-to-PG technology from MRDF for purposes of commercializing the technology.

TMIR. Technology Management and Industrial Relations, defined – MU Campus Technology Transfer Office of OTPA, mid-2006 to present (estimated); Pertinent Employees: Wayne McDaniel

List of Frequently Referred-To People:

Attorney Dan Cleveland – Patent Attorney of MSMC handling all patent applications starting in 2004 on the glycerol-to-PG technology.

Jim Coleman – Vice Chancellor of Research through mid 2007. Director of OSPA.

John Gardner – Vice president overseeing OTPA from about March of 2006 through mid-2007.

Robert Hall – Interim director of TMIR and interim Vice Chancellor of Research, 2007 and 2008 as required.

Dale Ludwig – CEO of both MSMC and MRDF.

Wayne McDaniel – Technology licensing specialist with OTSP and then with TMIR. Responsible for MU engineering since mid-2006.

Mike Nichols – Director of TMIR from mid-2006 through mid-2007. In mid-2007 he transitioned to Vice President position.

Terry Nixon – Technology licensing specialist with OTSP through mid-2006.

Tom Sharpe – Director of OTSP through mid-2006.

Galen Suppes – aka Dr. Suppes. Professor of Chemical Engineering. Grievant in this case.

W. (Rusty) Sutterlin – CEO of Renewable Alternatives, LLC. Co-Inventor of glycerol-to-PG technology.

Appendix A – Uniform Evidence

- UEL-1:** MSMC Research Agreement (with Proposal)
- UEL-2:** First Extension (with Proposal)
- UEL-3:** Second Extension (with Proposal)
- UEL-4:** One-Month Extension
- UEL-5:** RA-MRDF License Agreement
- UEL-6:** MU-MSMC License Agreement
- UEL-7:** Collected Rules – Patent Policy
- UEL-8:** Collected Rules – MU Governance
- UEL-9:** Old Invention Disclosure Form
- UEL-10:** Revised Invention Disclosure Form
- UEL-11:** New Approved Invention Disclosure Form
- UEL-12:** Old Waiver
- UEL-13:** New Waiver
- UEL-14:** RA-MU Allocation of Rights Agreement
- UEL-15:** Collected Rules – Academic Freedom (300.010)
- UEL-16:** Collected Rules – Personal Conduct of Employees (330.010)