

Media Advisory

Federal Circuit Court Hands Academic Inventors a Big Win –  
IP Advocate Founder Says Decision Affirms That Faculty Inventors,  
Not Universities, Own Their Inventions

*Dr. Renee Kaswan Available to Discuss Why Decision Will Help  
More University Inventions to Reach the Marketplace*

ATLANTA (Oct. 15, 2009) – A recent Federal Circuit Court decision confirms that universities do not automatically have the right to claim ownership of a faculty researcher’s federally funded invention. That’s a critical distinction that could protect faculty inventors and students nationwide from being forced by universities to sign away the rights to their life’s work, according to Dr. Renee Kaswan, inventor of the billion-dollar drug Restasis® and founder of the non-profit organization IPAdvocate.org.

*“The court’s ruling confirms that faculty inventors own the rights to their ideas and their creations, and that universities can no longer use the Bayh-Dole Act as a bulldozer to claim ownership away from the inventors themselves,” said Dr. Kaswan. “Inventors should be able to choose for themselves with whom to partner to bring an innovation to the marketplace and to the people who need it. Stanford’s policy is more inventor-friendly than most, but it’s the overarching principle of inventor ownership that wins in this case.”*

**WHO:** Dr. Renee Kaswan is founder of the non-profit organization, IP Advocate ([www.IPAdvocate.org](http://www.IPAdvocate.org)), inventor of the billion-dollar drug Restasis®, founder of Georgia Veterinary Specialists and former University of Georgia Veterinary Ophthalmology professor. Her patented treatment for chronic dry-eye remains the most profitable invention in UGA’s history and has been hailed as one of the “University Innovations that Changed the World” by the University of Virginia Patent Foundation. Dr. Kaswan was recognized by the University of Georgia as its “Inventor of the Year” in 1998 and received UGA’s Creative Research Medal in 1992.

**WHAT:** U.S. Court of Appeals for the Federal Circuit  
Board of Trustees of the Leland Stanford Junior University v. Roche  
Molecular Systems, Inc. The patents involved HIV test kits.  
Decision on September 30, 2009; opinion authored by Federal Circuit Judge  
Richard Linn. See the opinion here:  
<http://www.cafc.uscourts.gov/opinions/08-1509r.pdf>

The Court rejected Stanford's argument that one of the inventors' assignment of rights to another entity, Cetus, was voided by the university's rights to federally funded inventions under the Bayh-Dole Act. The court's ruling states: "Bayh-Dole does not automatically void ab initio [from the beginning] the inventors' rights in government-funded inventions."

**WHY:** Why this matters now: The 30<sup>th</sup> anniversary of the Bayh-Dole Act of 1980 is just around the corner, and it's time to correct the rampant misuse of the law to take IP ownership away from faculty inventors. As the Obama Administration and Congress push for patent reform, and as the country relies on innovation as an engine of economic recovery, the question of the ownership of ideas is crucial in moving those ideas forward from an inventor's mind to an entrepreneur's office to a consumer's bedside table as quickly as possible.

**WHEN:** Dr. Renee Kaswan is available immediately for media interviews.

**HOW:** To speak with Dr. Kaswan, contact:  
Ken Greenberg, Edge Communications, Inc.  
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For more background on Bayh-Dole, visit [www.IPAdvocate.org](http://www.IPAdvocate.org).

### **Background**

The federal Bayh-Dole Act of 1980 was designed to avoid government bureaucracy by permitting universities to retain title to innovations that resulted from publicly funded research performed by its faculty. While it requires that the university act as coordinator for inventions made with federal funds by its personnel, it does not require the university own this intellectual property or that it act as the sole means of commercializing it.

But most universities implement the Act by compelling faculty and students to disclose their inventions to the institution's Technology Transfer Office and *requiring* that they assign all patent applications to the university's exclusive ownership – effectively stripping an individual inventor's rights to his or her life's work.

Stanford's policy has been much more inventor-friendly than most. When the inventor in this case, Mark Holodniy, signed his Copyright and Patent Agreement upon joining Stanford in 1988, the university's administrative guide on intellectual property said: *"Unlike industry and many other universities, Stanford's invention rights policy allows all rights to remain with the inventor if possible."*

**About IP Advocate**

IP Advocate ([www.IPAdvocate.org](http://www.IPAdvocate.org)) is a non-profit organization that educates and empowers faculty researchers on patent rights and the process of commercialization – helping inventors protect their rights during the complex process of getting their invention from the lab to the people who need it. IP Advocate is a rich resource of information and best practices related to the commercialization of intellectual property. The organization was founded by Dr. Renee Kaswan, inventor of the billion-dollar drug Restasis® and a former research professor at the University of Georgia; and is led by executive director Rhaz Zeisler, a recognized international interactive media brand strategist, and former Walt Disney producer and IBM creative executive. IP Advocate is a 501(c) organization, based in Atlanta.

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