

Approved \_\_\_\_\_

3-27-90

Date

MINUTES OF THE SENATE COMMITTEE ON ECONOMIC DEVELOPMENT

The meeting was called to order by Senator Dave Kerr at \_\_\_\_\_  
Chairperson

8:00 a.m./~~p.m.~~ on March 21, 1990 in room 123-S of the Capitol.

All members were present except:  
Senator Francisco

Committee staff present:  
Bill Edds, Revisor of Statutes' Office  
Lynne Holt, Kansas Legislative Research Dept.  
Sue Pettet, Secretary to the Committee

Conferees appearing before the committee:  
Rep. Bob Mead  
Clyde Engert, Director, Intellectual Property Program, KTEC  
Art Weiss, Attorney General's Office  
Bill Berry, Dir. of Manhattan Area Vo-Tech School  
Steve Jack, Job Training Coordinator, Ks. Dept. of Commerce  
Ferman Marsh, Ks. Dept. of Education

Chairman Kerr called the meeting to order and announced a hearing on H.B. 2792 which is regulation of invention development services, and S.B. 698, enacting the Kansas existing industry training act.

Rep. Bob Mead testified. (Att. 1) He stated that there is currently no regulation in Kansas which protects inventors from unscrupulous companies advertising patent protection and invention promotion. H.B. 2792 would impose regulations on invention promoters who develop or offer to develop or promote an invention. The bill contains certain disclosure requirements for invention promoters, specifications, bond and record maintenance requirements, penalties for violations of the act, and conditions for preserving confidentiality.

Clyde Engert testified. (Att. 2) He stated that he supported the bill, but felt the \$100,000 surety bond should be changed. The amount is excessive. The main problem of inventors is their inability to market their product because of limited start-up funds.

Art Weiss, of the Attorney General's office testified. He stated that the Attorney General's office is in favor of any bill that will aid consumers. There are, however, some problems with the bill in its present form. As it presently reads, the Attorney General's office would probably have to hire another attorney to handle the complaints, and there would also be no subpoena power, thus greatly hindering ability to investigate. He requested the bill receive further study.

Chairman Kerr recommended that Rep. Mead, Art Weiss, and the Revisor's Office further study the problems of this bill and make a recommendation to the committee the following week.

Attachment 3 is testimony submitted by Gerald G. Udell, Dir., Center for Business Research and Development.  
Attachment 4 is fiscal note for H.B. 2792.

CONTINUATION SHEET

MINUTES OF THE Senate COMMITTEE ON Economic Development,  
room 123-S, Statehouse, at 8:00 a.m./p.m. on March 21, 1990.

SENATE BILL 698

Dr. Charles Krider was unable to attend but submitted Attachment 5 for testimony.

Bill Berry, Dir. of Manhattan Area Vocational Technical School testified. (Att. 6) He stated that S.B. 698 would enable vocational technical schools and community colleges to work more closely with existing area businesses. The state funds that would be available to vo-tech schools and community colleges under this bill would be specifically for an "existing industry training program" and would allow the schools to provide training assistance to existing Kansas businesses. Since 75% of the work force for the year 2000 has already graduated from high school, retraining will be extremely important.

Steve Jack, Job Training Coordinator, Ks. Dept. of Commerce testified. (Att. 7). He stated that the Kansas Industrial Training (KIT) and Kansas Industrial Retraining (KIR) programs are two programs that are models of cooperation and coordination among state agencies interested in education/industry linkage. The Department is concerned that the bill contains no language outlining coordination among state agencies. He stated that the Dept. of Commerce conceptually concurs with the intent of programs linking education and industry, but remain neutral regarding S.B. 698 because it is not provided for in the Governor's budget.

Ferman Marsh, Ks. Dept. of Education testified. He stated that he felt that S.B. 698 would require more businesses become partners with schools in providing the needed training.

Attachment 8 is testimony submitted by Connie Hubbel, Chairman of the State Board of Education.

Attachment 9 is testimony submitted by Norman D. Wilks, Labor Relations Specialist, Ks. Assoc. of School Boards.

Attachment 10 is testimony submitted by Clayton Williamson, President, Ks. Assoc. of Inventors.

Senator Winter made a motion to accept the minutes of the March 13th 14th & 15th meeting. Senator Karr seconded. Motion carried.

Meeting adjourned.





TESTIMONY ON H.B. 2792

TO: Senate Committee on Economic Development

FROM: Representative Bob Mead

There is currently no regulation in Kansas which protects inventors from unscrupulous companies advertising patent protection and invention promotion. The President of the Kansas Association of Inventors claimed to have received over 3,000 contacts in the past 16 months and none of them reported favorable dealings with an invention marketing company. The way these companies operate is that they provide a toll free number that an individual can call and request a free information packet. A few days later, they call to ask when the inventor will send his or her idea or invention. Then they call to say that they like the idea and ask the inventor if he or she wants a market study and a patent search. This can cost from \$150 to \$1,000. The inventor probably does not have a patent at this juncture. The companies take advantage of this fact by sending the idea to various companies. After this has been accomplished, these invention development companies have fulfilled their obligation to the inventor. Given that the industry success for invention marketing companies is only one in every 3,000 inventions submitted, the vast majority of inventors have paid these companies and will never see any return on the fees paid. Moreover, the inventor no longer has legal possession of his or her idea since he or she probably has no patent.

H.B. 2792 would impose regulations on invention promoters who develop or promote or offer to develop or promote an invention of a customer in order that such invention may be patented, licensed or sold for manufacture or manufactured in large quantities. The bill excludes from those regulations certain invention promoters set forth in Section 1 (e) of the bill. The bill contains disclosure requirements for invention promoters, specifications for invention promotion services, bond and record maintenance requirements, penalties for violations of the act, and conditions for preserving confidentiality.

With respect to the bonding requirement, each invention promoter shall maintain a bond issued by a surety company authorized to do business in the state. Instead of furnishing a bond, the invention developer may pay a cash deposit to the office of the Secretary of State.

According to the Division of Budget, the fiscal impact to the Secretary of State could be absorbed within the agency's budget provided that the number of bonds or cash deposits filed with the Secretary of State's office are fewer than 50.



KANSAS  
TECHNOLOGY  
ENTERPRISE  
CORPORATION

TESTIMONY GIVEN TO SENATE COMMITTEE

HB 2792

March 21, 1990

Clyde Engert, Director, Intellectual Property Program  
Kansas Technology Enterprise Corporation

On February 13, 1990 I testified on this bill in the House of Representatives and some of my recommendations are reflected in the bill as it now reads. This bill is needed and when it becomes law it will provide inventors with help they have long needed. There is however, one item in the bill that I feel should be changed. This change is in reference to the \$100,000 surety bond. Since my testimony on February 13, I have investigated the practical implication of this and have talked with several insurance companies. My conclusion is that a \$100,000 surety bond is excessive and there also needs to be a requirement to go through the judicial system and secure a judgement before going after the bonding company.

I assure you that my interest and concern is for the inventor not to insulate or protect the insurance company. Our purpose in creating this bill is to drive out the scam invention promotion while encouraging legitimate business to give help to inventors. To do this requires a reasonable approach. From information I have received from insurance companies, it will be difficult for any company to secure a \$100,000 bond and almost impossible without the requirements to secure a judgement first. If we create a law where legitimate businesses are unable to meet the requirements to help inventors, we are shooting ourselves in the foot. It is my understanding the Kansas Auto dealers must post a \$15,000 surety bond and Missouri a \$25,000 bond and in both states a judgement through the legal system must be secured prior to coming after the bonding company. I also have been told that the state of Texas passed a bill several years ago requiring a \$100,00 surety bond for mobile home dealers

and the bill had to be recalled because no one could secure the bond because the mobile home business was adversely effected.

The only \$100,000 surety bonds I have been able to find in my limited investigation are to companies that issue private money orders where a lot of money is at stake. We will be doing the inventors an injustice if by passing a law we force them to go outside our state to get help.

In my job I meet many inventors and almost without exception their underlying problem is marketing. Until an invention is developed and available on the shelf for someone to buy, the struggle is not over. It is my belief that this bill as it now stands has a serious down side that we did not see before. I believe our desire to help has been excessive in this instance. The bill with this one exception solves some serious problems and deserves our whole hearted support.

**ITS STILL CAVEAT, INVENTOR**

**Gerald G. Udell, Ph.D.  
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Center for Business Research & Development  
and  
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## **IT'S STILL CAVEAT, INVENTOR**

Gerald G. Udell is Professor of Marketing and Director of the Center for Business Research and Development at Southwest Missouri State University. He has sales experience with the Colgate company, product planning/marketing management experience with General Electric and has been involved in several innovation based new ventures. He served as the Director of the Oregon Innovation Center, one of the first three such centers in the United States. He has published extensively in areas related to innovation and is a prior contributor to the Journal of Product Innovation Management.

## **IT'S STILL CAVEAT, INVENTOR**

Independent inventors are still major contributors to industrial innovation and an important source of new products for industry. However, they are more often abused than appreciated by the marketplace. This article describes the growing problem of ineffectual and perhaps fraudulent invention marketing and promotion in the United States and Canada. Although the firms promoting their services to inventors have added to their claimed services and increased their prices, there is no indication that the industry is any more effective in helping inventors to license their devices to industry than in the past when the FTC disclosed that only 6 of some 35,000 inventors had earned a profit of \$1 or more from dealing with an invention promotion firm.

## IT'S STILL CAVEAT, INVENTOR

### INTRODUCTION

In recent years the independent inventor has been all but ignored by public policy and corporate new product developers as a source of industrial innovation in the United States. Often regarded as eccentric and the technologically illiterate champion of the perpetual motion machine, inventors have not experienced the resurgence of respect enjoyed by the small business person.

To be sure, the majority of inventions generated by independent inventors are either re-inventions of the wheel, gimmickry, unworkable or otherwise of low commercial potential. Such is the nature of the industrial innovation process. Outside of the realm of incremental improvements, all contributors to industrial innovation face high odds. For example, of the 1600 discoveries and inventions submitted to the Wisconsin Alumni Research Foundation (WARF) by University of Wisconsin faculty, 65 were licensed to industry and 36 generated sufficient revenues to cover WARF's costs.<sup>1</sup>

However, like small business, independent inventors continue to have a noticeable, if not profound, effect on our lives. The literature credits such inventors for having given birth to as much as two-thirds of the major industrial innovations.<sup>2</sup> Recent innovations spawned by noncorporate inventors include robotics and the now ubiquitous running shoe.

Whatever the source, hidden among the numerous nonfeasible are the rare gems that make inventors of all types a valuable natural resource worthy of recognition and protection. Given the high cost of innovation in a corporate environment, the importance of the independent inventor is likely to continue if not increase.

In addition to being a potentially large source of new products for corporations, many of the noteworthy entrepreneurs of recent times started as independent inventors. For example, Bill Bowerman, inventor of the running shoe and founder of the Nike Corporation, started in his garage in Eugene, Oregon. Whatever the route new product development may take, one should not lose sight of the importance of providing an environment that supports and encourages creativity for all inventors.

### **THE INVENTION PROMOTION BUSINESS**

In the case of the independent inventor, such an environment is at best very inconsistent. Aside from a few programs at the federal and state levels, inventors are largely left to their own devices to thread their way through the innovation process.

Independent inventors have long been a favorite target for firms and individuals with questionable business practices. Allegations of unkept promises, misleading statements and advertising, phoney evaluations, the lack of results and claims of downright fraud have clouded the reputation of the invention promotion industry for years.<sup>3</sup>

This paper examines the practices of this industry and is based on a 15 year (1974-1989) study of firms offering various invention marketing services to independent inventors. Specifically excluded from the study were nonprofit organizations such as inventor groups, university based innovation centers, patent attorneys and agents, professional engineering firms and licensing specialists who work on a commission bases. Included were those firms which charge substantial fees for invention promotion services and who are generally subject to regulation in those states such as North Dakota, which have invention promotion laws.

The nature of this problem rules out any effort for anyone without subpoena power to gather data in a statistically reliable manner. Despite this an attempt to do so was made. However, all of the companies alleged to employ the questionable business practices described herein, did not respond to requests for information. Consequently, the data was obtained from inventor clients of such firms, inventor groups, patent attorneys, state and federal regulatory agencies and other relevant professionals.

The profile described below was subsequently reviewed by knowledgeable persons including patent attorneys, regulators, relevant professionals and by representatives of inventor organizations. Their responses indicate that the problem may be worse than pictured below.

#### **FEDERAL PROTECTION FOR INVENTORS**

During the early 1970's invention promotion firms operated in a manner reminiscent of the medicine man of nearly a century earlier. Their claims were blatant and the promises were grandiose. For example, at the time one invention promotion firm grandly promised success by advertising, "Want to make a million with your idea? Contact ...." During this period idea brokers operated without check and frequently with Better Business Bureau blessing.

Finally, in 1977, the Federal Trade Commission hauled the then largest invention promotion firm, the Raymond Lee Organization, into court alleging that the firm had violated Section 5 of the FTC Act.<sup>4</sup> The Government paraded witness after witness to establish its claim that the firm had in fact engaged in unfair and deceptive acts or practices.

In the Synopsis of Determinations it was declared to be an:

... unfair and deceptive act or practice for a seller of idea or invention promotion or development services to misrepresent directly or indirectly...

1 ...that potential purchasers will be provided with evaluations or appraisals of the patentability, merit, or marketability of ideas or inventions.

4 ...the scope, nature or quality of the services performed to introduce or promote ideas or inventions to industry.

5 ... (the firm) has special access to manufacturers or has been retained to locate new product ideas unless such is a fact.

7 ... to fail to disclose ... all significant fees or charges....

8 ... the background, qualifications, or experience or expertise of a seller or provider of services.

9 ... to induce through misleading or deceptive representations the purchase of services that have little or no inherent value, or to provide services that grossly exceed the value of the services actually provided. It is also an unfair or deceptive act or practice to retain money from the sale of such services.

The firm was ordered to cease and desist from directly or indirectly misrepresenting, "... the nature or value of ... (its') service or program ... the earnings potential ... (or that) any person, firm, organization, government agency, or official has endorsed ... unless such is a fact." The firm was also ordered to use a disclosure statement containing the following:

We do not evaluate the potential of your idea or tell you whether it can be patented or marketed; In (date) we sold our complete service to (total number) customers. Of these, (number) received more money from our services than they paid us; In addition to the money you pay us, you may have to pay attorney's fees, Patent Office fees, and other charges in connection with our program. Ask us for complete price information.

Saddled with these restrictions and requirements, the company went out of business, but not before it managed to glean perhaps as much as \$35-50 million from hopeful inventors.

In addition to the fact that they had been convicted of violating Federal Law, the organization apparently accomplished very little. Only 6 of the more than 35,000 clients that retained the company to market their inventions ever made a profit of \$1 or more.<sup>5</sup> Their passing was mourned by few. The hope was that the



FTC had sent a very clear message to the marketplace, and that inventors could look forward to better and less hazardous days ahead.

### **ITS STILL CAVEAT, INVENTOR**

Unfortunately, that hope has not materialized. It's still caveat, Inventor. In fact, perhaps even more so. The ante is up as "fees" have increased substantially. The prices charged by invention firms have increased from \$800-\$1,500 of the early to middle 1970's to \$12,000 and more in 1989;<sup>6</sup> with the highest fee cited during this investigation being in excess of \$57,000.

Using the FTC estimate as a base, the author contacted a number of persons previously interviewed during the course of this study and asked them for their estimate of the current level of invention promotion activity. All respondents agreed that the level of activity has increased and that fees charged are considerably higher than in the 1970's. Estimates of the current size of the invention promotion business ranged from \$400 million to over \$800 million annually. There is no way of validating these estimates. However, the respondents were all persons knowledgeable in the area.

Resources that are invested with such firms cannot be put to more productive work elsewhere. The presence of such firms therefore drains investment capital or seed money away from productive uses where it is most critical—at the early stages of the innovation process.

Another problem is that the approach used by invention promotion firms has become much more sophisticated. Gone are the blatant claims mentioned earlier. They have been replaced with carefully worded statements like, "very few inventions ever make it." Unlike their predecessors, the new breed of invention promoter typically no longer promises the moon.

Like their predecessors, they appear to continue to fail to deliver it.

According to the Minnesota attorney general, one inventor service firm had 9,184 inventor clients, of which 14 had by 1984 made a profit of \$1 or more.<sup>7</sup> Another such firm in 1984 alone charged inventors fees of \$1.4 million, while its licensing fees for the 7 years of its operation totaled only \$150.<sup>8</sup>

The level of claimed "services" provided by invention promoters has expanded. In addition to invention promotion, patent searches and patent application services, some firms provide invention evaluation and marketing research assistance. There are numerous legitimate firms and individuals which offer those services. Hence, one must be careful not to generalize. Indeed, the number of businesses offering value for each dollar received by far outweigh those who do not. The purpose here is not to give those who serve inventors a "black eye."

However, those who engage in questionable acts and practices do cast a shadow over the entire industry. More importantly, they have a negative effect upon the rate of innovation. In addition to diverting investment capital, invention promoters discourage many inventors who then withdraw from the innovation process. Others, wary of being ill served, and trusting no one, attempt to enter the marketplace on their own and fail. In many cases their mistakes could have been avoided with proper advice.

A 1978 survey of its clients by the Oregon Innovation Center indicated that these operators have been very effective in persuading independent inventors to use their "services." Of the 130 clients responding to a survey of their experiences with idea brokers:

59 (45.2%) had contacted an idea broker.

64 (49.2%) were aware of them but had not made contact.

7 (5.6%) were unaware of them.

Of those (59) who had contacted idea brokers:

28 (47.5%) had used their services.

31 (52.5%) did not use their services.

Thus, of the total number of clients responding to the survey, 21.5% had used their services.<sup>9</sup> Given the increase in the sophistication of the promotions aimed at inventors it seems reasonable to conclude that these firms may be even more successful today.

#### **CURRENT INVENTION PROMOTION ABUSES**

Since the FTC decision the author has conducted a longitudinal study of the invention promotion business and its practices. During the last ten years interviews were conducted with over 300 independent inventors who had been contacted by an invention promotion business. Of these, slightly over 100 had utilized the services of such a firm. In half of the cases some sort of a tangible in the form of a evaluation report, patent search, or marketing study was available for analysis. There were no instances of a successful licensing arrangement or even a corporate inquiry generated by an invention marketing firm reported by the respondents.

Before proceeding further, a caveat is in order. The study also uncovered information about legitimate consultants and technology transfer specialists serving inventors. Included in this group were university-based groups, several nonprofit groups and a variety of for-profit enterprises. Their existence and contributions are hereby recognized. However, these firms and groups typically do not employ the questionable practices associated with so-called invention brokers.

Among the practices that seem to set the two groups apart are the following:

1. Pursuit of questionable patents, even when patent searches indicate that prior art exists.
2. Invention marketing efforts which consist of poorly prepared brochures which are mass mailed to corporations.
3. Evaluations giving glowing reports and exaggerated claims of market potential even when the chances of any market success are exceedingly remote.
4. Market research reports which are filled with non-relevant or useless information. Much of this information is gleaned from the inventor. There is typically very little in the way of defensible research.

Each of these practices is worthy of closer examination.

#### **INADEQUATE AND MISLEADING INVENTION EVALUATION**

Some idea brokers offer invention evaluation services which it is alleged are intended to assist inventors to determining the worth of their invention. In some instances the promotional copy examined during the study appeared to be patterned after that of the National Science Foundation-funded Oregon Innovation Center and its private sector successor, the Innovation Institute. The promotional copy examined typically talked tough evaluation. However, all attempts to determine how tough failed. That is, with the cooperation of inventors firms offering evaluation services were asked to supply information about the percentage of inventions receiving passing evaluations. The only response received to this question was, "We can't tell you this because it would violate our clients confidentially." In most instances the request was simply ignored.

However, the results of evaluations reviewed indicated that the firms involved functioned much differently. All of the evaluation reports examined were highly favorable. In contrast, only one invention out of some sixty inventions re-evaluated by the author using the PIES IV format received a passing score.<sup>10</sup> Typical of the evaluations examined was the case of the inventor who, after reading that, "only a very few ideas make it" paid over \$200 for an initial evaluation.

Apparently he was one of the "few," for he received a glowing report stating, "we like your invention" and an urgent follow-up call suggesting that he "fly to their regional office so that they could discuss the next step" (at an additional cost of \$3,000-\$5,000). There is nothing inherently wrong with this approach. However, in this case there is. The inventor's idea was to build a frame embodying two small jet engines that would clamp on to the top of the family car permitting the driver to blast off and fly over traffic.

The "evaluation" in the preceding example was based on nonspecific criteria. That is, the evaluation report, like many others examined, did not contain any specific reasons for accepting the idea. In those instances where specific criteria are mentioned they tended to be limited to fairly superficial technical revisions (in terms of production feasibility or perpetual motion), or unlikely events such as having a name identical to a product already in the market. Everything else is offered to the marketplace. When these criteria were applied to the inventions in question, not one failed to meet them. Even a competent technical review will eliminate only a few of the inventions of the type normally submitted to invention promotion firms. Although considerably more high tech oriented than the typical idea broker, about 85 percent of the inventions submitted to the Oregon Innovation Center and its successor, the Innovation Institute, have been nontechnical in nature. Only a small fraction failed because of lack of production feasibility, and surprisingly few were perpetual motion machines. While some were inefficient and others would not work, they would not be classed as perpetual motion. Furthermore, inventors on the cutting edge of their technologies are not likely to seek help from these sources. Hence, the risk of screening out the typical invention borders on the minuscule. Such superficial evaluations are, at best, misleading.

More recently some firms have taken the position that they do not prescreen inventions, i.e., all inventors are welcome. One such firm states flatly "there are too many variables to consider." This is nonsense. The marketplace will consider them. Any firm alleging to provide professional services cannot duck the issue of commercial feasibility. To do so is about as professional as a patent attorney who routinely fails to perform a patent search. Either strategy—superficial or no evaluation—gives rise to an interesting possibility. Namely, are such practices, when used by a firm alleging to have professional expertise, a misleading act or practice as defined by the FTC Act?

#### **INADEQUATE MARKETING RESEARCH**

While marketing research can play a very important role in the innovation process, some of the work performed for independent inventors is virtually worthless. For example, the "inventor" of a colored embossed paper clip received a very substantial report about the market for his invention. The bulk of the report—about three-fourths was devoted to standardized double digit SIC code information about the office paper processing industry, IBM, and Xerox. The few pages devoted to the idea extolled its "superior paper holding qualities" and the "convenience of color-coded paper clips." At no point did the report mention that both colored and embossed paper clips were readily available in the marketplace and had been so for some time. The report then recommended the further development and marketing of the invention. In this instance the research was inadequate, and the advice incorrect. Even a cursory glance at the market place would have revealed the presence of prior art, which being in the public domain, would dim the prospect of technology transfer.

This does not appear to be an isolated case. In 1980, at the request of state officials in Oregon and Washington, the Oregon Innovation Center analyzed six so-



called "market potential studies" compiled by a West Coast firm.<sup>11</sup> Since these "studies" are similar to others sent to the Center by inventors from elsewhere in the United States, they provide a useful picture of this approach to bilking, if not defrauding, independent inventors.

In the cases studied by the Center in the late 1970's the average fee was approximately \$3,000. However, by the end of the study in 1989, the fees had, as reported earlier, increased even more for very similar services. Inventors are getting less in the sense that all of reports studied gave highly favorable evaluations and urged the inventor to pursue further development, which in the opinion of the Center, was not warranted in any of the cases.

The "reports" averaged about 80 pages in length. Most of the material—about three fourths—was computerized double digit SIC code information, much of which is easily collected at a public library or found in basic small business or marketing texts. The data appeared to have been canned and to have been called up for any product falling into that double digit SIC code. Much of this information was viewed by the Center to be worthless in that it did not contribute to an understanding for the particular potential products under "study."

The pattern of the remaining pages was nearly identical and can be summarized as follows:

#### **Product Definition**

Promotional material was very elementary and contributed little in the way of description and definition. As a sales aid, the material was impotent and the claims were frequently unrealistic or unsupported. Cost estimates were based on vague and questionable assumptions. In most cases no selling price was projected.

#### **Market Evaluation**

Some information in the reports studied was canned, non-relevant,

instructional material on a junior high level. The material was too brief to have any instructional value and was inappropriate in a product analysis. The research was uniformly of doubtful value. All of the reports could have been written in a short period of time with no experience in marketing and with no research. There was no mention of the methodology utilized or the scope of the research effort. No attempt was made in any of the reports to assess the risk involved or to project a reasonable market size.

All of the research was alleged to have been done in a coastal Southern California city. It is interesting to note that one of the potential products analyzed was a recreational vehicle for use in snow country. As noted previously, the recommendations were not warranted and were dangerous in that they uniformly encouraged clients to invest relatively large sums of money on very skimpy evidence.

#### **Market Scope and Size**

Most of the material was generalized, irrelevant "puffery" that was in each case padded and failed to define markets specifically and relevantly. Market scope and size were ignored.

In brief, the reports were universally worthless in the judgment of the Center staff and the other marketing experts who reviewed them. The "reports" avoided the old excesses of idea brokers—indiscriminate patent filling and weak promotional efforts—but pursued a new, but still crooked path of bogus marketing research. The end result is still the same—no meaningful assistance for the inventor. Again, the possibility of Section 5 relevancy raises some interesting questions.

Subsequent to this analysis over twenty additional similar reports by other idea brokers have been reviewed. Although some firms had added additional

services such as patent searches and fees had increased substantially as reported earlier, the reports paralleled the earlier group in format, content and value.

#### **QUESTIONABLE PATENT ASSISTANCE**

While some firms appear to focus on providing marketing research reports, the practice of providing questionable patent assistance has not disappeared. One of the bits of conventional wisdom that has been passed down to inventors is that the first step towards commercializing an invention is to obtain patent protection although Donald J. Quigg, Commissioner of the U.S. Patent and Trademark Office has advised inventors to obtain a competent and legitimate commercial and/or technical evaluation before contacting the patent office.<sup>12</sup> However, the wisdom persists. As a result, many invention promotion firms have incorporated patent services in their mix of service offerings.

While there is nothing wrong per se with this practice, patent attorneys frequently complain of high fees, poorly done work, and inappropriately filed applications. A classic example is provided by a California "inventor" who paid an East Coast firm \$750 for a patent search of a very old and inactive art. The search revealed five patents of a pre-1925 vintage. The art in this case was simply a doll-clown face. In addition to being a very typical clown face, it was a virtual clone of a 1919 patent. In spite of the fact that the examiner advised that the idea presented nothing new and that "... favorable action ... (was) questionable," the firm recommended to the client that he retain them to, among other things, file a patent application. The intended client in this case was a retired couple living on Social Security. The proposed fee was \$6500.

In this instance, the company represented itself as having expertise, upon which it proposed that the client rely. Again, the relevancy of Section 5 is an interesting possibility. That is, if a firm holds itself out as providing patent

assistance, is it not a potential unfair or deceptive act or practice to propose to file an application in cases such as the one outlined above?

In addition, inventors are now solicited for disclosure document submission services at a cost of \$2-300. Disclosure documents can easily be filed by any inventor by following the very simple instructions contained in a single paragraph in a publication supplied at no cost by the Patent Office. There are no forms to be filled out or detailed procedures to follow in making a disclosure to the Patent Office. The total cost of the do-it-yourself approach is \$6 plus postage.<sup>13</sup>

Another new service is copyright searches for fees of \$6-700. Typically such copyright searches would not be relevant for inventors since they involve copyrighted materials. According to Page Miller, a copyright information specialist at the U.S. Copyright Office, that office will perform searches upon request at the rate of \$10 per hour. Most searches take from two minutes to a couple of hours.<sup>14</sup>

#### **IMPOTENT INVENTION PROMOTION**

For a brief season invention promotion seemed to take a back seat. However, invention marketing, or invention submission, as it is sometimes called, is now back in vogue, but with a few changes. First, charges are up considerably. As noted earlier, during the past few years the fees charged inventors have increased eight to ten-fold and perhaps more. Second, some firms appear to be attempting to "market" their client's inventions. In one instance, the company routinely mails out copies of product-related advertisements with its promotional literature. In some cases, the ads are typed and contain rather crude hand drawings. Others are adequate. However, in the materials examined to date, there has been no reference to sales efforts or sales levels. One cannot help but wonder if the major marketing effort is to other inventors.

However, the basic service offered by invention promotion firms is still the promotion of new product ideas and inventions to third parties. Most inventors—perhaps as high as 90 percent—have little or not entrepreneurial aspiration. Most of this group, including many technically sophisticated inventors, has had little experience in licensing. A high level of felt need coupled with a lack of knowledge has made many inventors into easy targets for those who propret to understand the process.

Virtually all of the invention offerings and promotional efforts of invention promotion firms examined during the course of this study followed the same pattern. First, the invention offerings or prospectuses consisted of a basic description of the device, perhaps a drawing or picture or two, and some promotional language which typically over promotes the market for and/or advantages of the invention. Unfounded claims and the lack of any empirical research or testing was a near norm.

During the course of this study information concerning the marketing efforts of invention marketing firms was difficult to obtain. Examination of promotional literature and telephone interviews with representatives of such firms yielded only vague information. However, interviews with patent attorneys and corporate technology licensing executives produced a consistent picture.

Although some firms attend a variety of technology fairs, most marketing appears to be done through the mail. Product offerings or descriptions, along with a form letter, are mailed to the president, new product manager or R&D manager. That is, the mail was typically addressed to a position, rather than the individual person in that position. Throughout the study it was alleged that mailing lists are drawn from such basic sources of information as "Moody's" and "Standard and Poors"—sources readily available to inventors.

All of the corporate licensing executives interviewed during the study described these promotional efforts as weak and ineffectual. The overwhelming majority of licensing executives interviewed either instructed their secretaries to throw away any new product submittals or did so as soon as they realized the submission was from an invention promotion firm.

Some invention promotion firms charge fees for specific services rendered, such as \$8,500 for developing a product portfolio or \$3,600 for identifying approximately 40 prospects and mailing form letter solicitations to them. Others list a variety of services which may be performed in exchange for an agreed upon fee. As noted below, in some cases, there is no guarantee that these services will be performed.

Some firms tout their membership in legitimate business and professional organizations, (which anyone with the membership fee can join), and their attendance at technology transfer fairs. While both are reasonable things to do, neither validates the honesty, competency, nor effectiveness of the firm. These proofs come from performance. None of the material examined thus far has contained any reference to output or any form of disclosure that would aid an inventor in making an informed decision. This includes material sent to inventors in states which now regulate the invention promotion industry and require that disclosure statements be furnished to inventors.<sup>15</sup>

From a marketing perspective, the approach used by most invention promotion firms is not compatible with the attitudes and buying behavior of most technology licensing agents. That is, invention promotion firms tend to treat new product ideas/inventions as convenience goods to be mass merchandized. Consequently, they use impersonal selling techniques and intensive market



coverage by broadcasting their offerings to firms whose product lines are only remotely related to the idea or device being promoted.

In contrast, buyers of new technology tend to treat outside new product ideas as shopping goods. As a result, buyers expect sellers to employ selective distribution techniques, personal selling and to be very knowledgeable about their firm, its product line and needs. Applying the logic of Bucklin's application of the classification of goods concept to this situation, there is an obvious mismatch.<sup>16</sup> That is, the channel(s) used by invention promotion firms to distribute inventions and new product ideas frequently does not line up with the channels used by potential corporate buyers. Correcting this problem is the responsibility of the seller. The failure to do so gives support to the claim that many invention promotion firms are more interested in collecting fees than in licensing technology.

None of these practices are illegal. However, again Section 5 of the FTC Act appears to be relevant. Even if a firm makes no misrepresentations as to the chances for success, the offering of a service which has demonstrated through long term usage to have little or no chance of success without disclosing that fact, many constitute an unfair or deceptive act or practice.

The contracts utilized by at least some firms do not differ materially from those used by the earlier generation of invention promoters. Still present is language such as:

To secure the services and conditions furnished by the company, as outlined in the agreement, the Inventor agrees to pay the sum of ... in advance to the company it is specifically understood that the company is not required to provide any of the services enumerated ...

Although the right hand does not give, in this case the left hand takes away, permitting the firm to collect its fee, but obligating it to do little or nothing on its client's behalf.

Objectionable as such terms may be, the primary objection to the marketing efforts of the invention promoter may well be that even if these firms did make a sincere effort, the overwhelming majority of their offerings may be so seriously deficient in terms of commercial feasibility that the net result would not be much different.

### **CONCLUSION**

Invention promoters are back—this time with an expanded list of claimed services and more professional appearing promotions, but with no greater evidence of impact. The allegations of fraud, incompetence and ineffectiveness directed at invention promotions are significant in their own right. However, the most serious problem with the current practices of invention promotion firms may well be the potential for negative impact on the rate of industrial innovation in the United States and Canada. First, resources spent unproductively on invention promotion services can not be invested elsewhere. Second, inventors tend to become discouraged and withdraw from the innovation process after recognizing their trust and investment with an invention promoter may have been misplaced. Finally, uncertainty over who is legitimate and effective causes some inventors not to seek needed assistance and keeps others from even trying. Thus far, the FTC hasn't renewed the battle, and the Justice Department has not chosen to pursue those who use questionable business practices.. Some of the states have acted, but in most states inventors are still fair game. Until such time that state action spreads or the Federal Government acts, it's still caveat, Inventor.

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## DIVISION OF THE BUDGET

MIKE HAYDEN,  
Governor  
MICHAEL F. O'KEEFE  
Director of the Budget

Room 152-E  
State Capitol Building  
Topeka, Kansas 66612-1575  
(913) 296-2436

February 19, 1990

The Honorable Elizabeth Baker, Chairperson  
Committee on Economic Development  
House of Representatives  
Third Floor, Statehouse

Dear Representative Baker:

SUBJECT: Fiscal Note for HB 2792 by Representative Mead

In accordance with KSA 75-3715a, the following fiscal note concerning HB 2792 is respectfully submitted to your committee.

HB 2792 contains provisions which regulate invention development services. The bill defines a "contract for invention development services" as a contract by which an invention developer undertakes to develop or promote an invention, device or process for a customer.

The bill also defines "invention developer" as any person who develops or promotes an invention of a customer in order that the customer's invention may be patented, licensed, or sold for manufacture or manufactured in large quantities. Those persons excluded from the definition of an invention developer include a person licensed by the state or the United States to render advice concerning patents, or a partnership or corporation when all of its partners, stockholders or members are so licensed. Other persons who would be excluded are noted therein.

HB 2792 requires the invention developer to disclose, in the first oral communication with a customer, those things such as the fee to be charged, the services which the invention developer intends to provide, and whether the invention developer's services are limited to mailing notices to a list of potentially interested parties. In addition, HB 2792 sets forth those items which must be contained in a written agreement that the invention developer must present to a client. HB 2792 provides a clause that must be noted in every contract for invention development services. The clause informs the client of his or her rights under the agreement.


The Honorable Elizabeth Baker  
February 19, 1990  
Page Two

Every invention developer, under this act, shall maintain a bond issued by a surety company authorized to do business in the state. Instead of furnishing the bond, the invention developer may pay a cash deposit to the office of the Secretary of State. Each invention developer is also required to provide a quarterly report to the Secretary of State, with the list of names and addresses of customers within the state that have had successful transactions with the invention developer.

Violation of provisions contained in HB 2792 can result in the injured party being able to bring a civil action against the invention developer for three times the amount of actual damages sustained by such person, together with costs and disbursements, including reasonable attorney fees. HB 2792 contains a provision which specifies the method by which damages are to be calculated.

According to the Office of the Secretary of State, any costs due to clerical time, or use of storage facilities and equipment as a result of passage of HB 2792, could be absorbed within the agency's current budget. However, this is possible only if the number of bonds or cash deposits filed with the Secretary of State's Office are fewer than 50.

The Secretary of State's Office further notes that the costs could be further minimized if the bill is amended to provide for a reasonable filing fee associated with any action involving quarterly reports, bond payments or cash deposits submitted by an invention developer.

  
Michael F. O'Keefe  
Director of the Budget

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4-2

TESTIMONY ON SB 698  
KANSAS EXISTING INDUSTRY TRAINING ACT

presented to  
Senate Economic Development Committee  
March 21, 1990

presented by  
Dr. Charles Krider  
Professor, School of Business  
and  
Director of Business Research  
Institute for Public Policy and Business Research  
University of Kansas

prepared by  
Stacie Cooper  
Legislative Liaison

## INTRODUCTION

I am providing the following testimony in support of SB 698. This bill addresses the needs of Kansas firms to retrain their employees even if there is no expansion of employment occurring in the work place.

Kansas has recognized several strategic elements for economic development: human capital, infrastructure, capital markets, entrepreneurial environment, technology, quality of life and institutional responsiveness/capacity. Traditionally, Kansas has been strong in human capital and, consequently, this area has not received priority attention in the economic development initiatives passed by the legislature since 1986.

Training and retraining are vital parts of any effort to improve the state's human capital. A well trained work force makes the state more competitive by increasing productivity, allowing firms to lower costs of products, improve product quality, and increase sales.

## PROBLEM

Our research at the Institute for Public Policy and Business Research indicates that Kansas firms perceive (and expect in the future) a moderate to severe gap between the skills of newly hired employees and the skill levels required by the firms. Skill requirements are rising and will continue to do so. Current employees will need retraining to cope with the rapid technological changes occurring in the work place.

A shortage of traditional new workers (white males) will also require Kansas to retrain existing workers, and to bring non-traditional workers such as women and minorities into the work force in occupations requiring technical skills.

Adult education has become a critical issue as 75% of the work force has already graduated from the secondary education system. Those adults already in the work force and those seeking to enter will need to acquire or upgrade their academic and technical skills. The current education system faces serious challenges in meeting the training needs of adults who return in increasing numbers every year.

According to our recent study conducted at the Institute for Public Policy and Business Research entitled "Work Force Training: The Challenge for Kansas", less than half of the firms surveyed had used technical or vocational training within the last five years and reported that adequate training to meet their needs could not be found and that such training was too expensive. This suggests that customized training is needed.

Customized training is designed and tailored specifically to meet the needs of a particular client. Eighty-two percent of all the firms surveyed agreed that customized training is more cost effective than other forms of training. However, the overall level of promotion of such training by community colleges and area vocational technical schools is low. Sixty-five percent of community colleges and seventy percent of AVTS have never promoted customized training programs. These institutions, for the most part, do not have well organized mechanisms for marketing



customized training and many actually choose not to aggressively market them due to a lack of funding. These same institutions are willing to provide such training programs if the support exists. Similarly, there is a willingness on the part of business to participate in the development and improvement of training programs. Mechanisms to encourage meaningful participation need to be developed to facilitate business commitment and partnership in postsecondary technical education programs. State leadership and assistance are needed.

**SUPPORT FOR SB 698**

The proposed legislation addresses the needs of the current work force for retraining. As part of the state's cohesive economic development strategy, SB 698 targets existing industries and the retraining requirements of their workers. It neither competes with nor duplicates the efforts of KIT/KIR programs. The needs of many existing businesses are not being met as those firms do not qualify for KIT/KIR aid because they are not expanding by the required ten or more employees. This employment expansion requirement is especially prohibitive for many small businesses located in rural counties. To promote human capital investment by small and medium-sized firms (the backbone of the Kansas economy), these firms need access to external funding sources to help support training costs. Without this support, small and medium sized firms will not remain competitive.

While SB 698 encompasses a broad definition of training programs and also includes expanding businesses, the emphasis should be on customized training and existing industries.

PROPOSED CHANGE

I recommend that two technical changes be made with regard to the language of SB 698. First, the word "expanding" should be omitted from line 22, page 1 and line 2, page 3. Second, line 36, page 1 should reference the Commissioner, rather than the Secretary, of Education.

SENATE COMMITTEE ON ECONOMIC DEVELOPMENT  
March 21, 1990

SB 698

My name is Bill Berry, and I am the Director of the Manhattan Area Vocational-Technical School. I served on the advisory committee for the recently completed study entitled Work Force Training: The Challenge for Kansas.

I am here today to speak in favor of SB 698.

My reasons for supporting this bill are as follows:

- 1) The primary purpose of area vocational-technical schools in Kansas is to train people for employment and/or upgrade. Kansas business and industry are the recipients of this product.
- 2) 75% of the work force for the year 2000 has already graduated from high school. Therefore, retraining will be the key.
- 3) Businesses with fewer than 100 employees, and the least able to afford training programs, will be the major contributor to new job opportunities by 2000. The 50/50 shared cost between participating business and the State would provide employee training for the small employer at 50% of the total cost.
- 4) The State funds that would be available to vo-tech schools and community colleges under SB 698 would be specifically for an "existing industry training program" and would

allow the schools to enter into agreements to provide training assistance to existing Kansas businesses within the institutions service area.

- 5) SB 698 (Existing Industry Training Program) would differ from KIT (Kansas Industrial Training program) in that SB 698 would not be limited to new and/or expanding businesses, and SB 698 does not specify the number of trainees.
- 6) SB 698 would surely encourage and enable vocational-technical schools and community colleges to work more closely with existing area businesses. This would be in providing employee training at 1/2 the total cost to the business owner.
- 7) The present State funding procedure for industry training from Kansas Area Vocational- Technical Schools, referred to as Postsecondary Aid, is not adequate to fund on-going, as well as customized training. Vo-tech schools are having to either secure local money for customized training or not provide it at all. SB 698 would help to alleviate the funding problem by providing a source of revenue that would be separate from, and in addition to, postsecondary aid.

Thank you for the opportunity to appear before you.

I support SB 698.

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TESTIMONY ON S.B. 698

by

Steven A. Jack  
Job Training Coordinator  
Kansas Department of Commerce

Senate Committee on Economic Development

March 21, 1990

The Kansas Department of Commerce strongly supports partnerships between education and business and industry. It is important that these relationships be strengthened and nurtured. The Kansas Industrial Training (KIT) and Kansas Industrial Retraining (KIR) programs are models of cooperation and coordination among state agencies interested in education/industry linkages. We, therefore, are very interested in any legislation that would create new programs designed to serve business and industry.

S.B. 698 would create the Kansas Existing Industry Training Program Act to be administered by the Kansas State Department of Education. While our agency is not the administering authority in S.B. 698, we appreciate this time to share a few thoughts on this bill and to clarify the roles of existing business training programs and the one proposed.

The Kansas Department of Commerce is concerned that the bill contains no language outlining coordination among state agencies. The KIT/KIR statute requires coordination among the Department of Commerce, the Department of Human Resources, the Board of Education, and the Board of Regents. In addition, the Departments of Commerce and Education currently have a memorandum of agreement specifying the responsibilities of each agency in the administration of the KIT and KIR programs. Coordination is the unique tool that creates a synergism from disparate programs and is essential for the success of any new initiative.

Because this proposed program is not in the Governor's budget, we are also interested in how the program may impact funding for KIT and KIR. Demand on KIT funds continues to increase, and this agency is concerned that sufficient funds are available to meet the needs of new and expanding industry in our state.

The attached chart comparing job training programs for business and industry in Kansas addresses the particular role and function of each program. Both KIT and KIR are administered by the Department of Commerce with the cooperation and funding assistance of the Department of Education. The program proposed in S.B. 698 would be administered by the Department of Education and would supplement the federally-funded Carl Perkins Short-Term Adult Training Program, also administered by the Department of Education. It is our understanding that S.B. 698 would functionally mirror the existing Carl Perkins program.

Several differences distinguishing the various programs are worth noting. While KIT and KIR primarily serve basic industries involved in manufacturing, distribution, or regional/national service, Carl Perkins is much broader in scope, serving a wide array of training needs from retail businesses to the health care industry.

The goal of the KIT program statutorily is job creation, as eligible industries include those that are adding new jobs. The KIR program assists existing employees of restructuring industries. The statutory goal of KIR is job retention through the upgrade of employee skills. Both Carl Perkins and S.B. 698 formally address the goals of job retention and the upgrading of skills. Job creation is an implied objective when training involves new employees. To avoid confusion of purpose between KIT and S.B. 698, we would suggest that the language in Section 2(a)(1) which refers to expanding industries be stricken. This would not preclude expanding firms from utilizing the program but would target existing firms whether they are expanding or not.

While KIT and KIR contract with individual companies, Carl Perkins and S.B. 698 have the flexibility to pool employees from several firms to form consortiums in order to address the similar training needs of small companies. Other differences between programs are detailed in the attachment.

The Kansas Department of Commerce conceptually concurs with the intent of programs linking education and industry. Our agency has, however, taken a neutral position on S.B. 698 at this time because it is not in the Governor's budget, the legislation did not originate with this agency, and, in its present form, it does not place additional responsibilities on the Department of Commerce.

COMPARISON OF KANSAS JOB TRAINING PROGRAMS

Allowable Costs

							INSTRUCTOR SALARIES	INSTRUCTOR TRAVEL	TRAINEE TRAVEL	TRAINING MATERIALS & SUPPLIES	PRODUCTION MATLS CONSUMED	TEMPORARY FACILITY LEASE	MINOR EQUIPMENT	UTILITY COSTS	CURRICULUM DEVELOPMENT
	TYPE OF USER	STATUS	PROGRAM GOAL	SINGLE FIRMS OR GROUPS OF COMPANIES	MINIMUM NUMBER OF TRAINEES	REQUIRED MATCH									
<b>KIT</b>	Basic Industries*	New or Expanding Industry (new jobs)	Job Creation	Single	10	0	X	X	X	X	X	X	X	X	X
<b>KIR</b>	Basic Industries*	Existing Industries (restructuring)	Job Retention and Upgrade	Single	10	100%	X	X	X	X	X	X	X	X	X
<b>CARL PERKINS SHORT-TERM ADULT</b>	All**	Existing Industry	Job Creation, Retention, and Upgrade	Both	1-10***	100%	X	X		X		X	X	X	X
<b>SB 698 (as proposed)</b>	All**	Existing Industry	Job Creation, Retention, and Upgrade	Both	1-10***	100%	X	X		X		X	X	X	X

\*Primarily manufacturing, distribution, and regional/national service firms.

\*\*Also includes retail businesses, banks, insurance companies, hospitals, nursing homes, professional associations, police and fire departments, unified school districts and other industries.

\*\*\*Ten trainees are typically recommended for a project, with some flexibility in the program to serve as few as 4 or 5 trainees. A single employee from a company could be eligible if several small companies pooled employees together to form a training consortium.

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# Kansas State Board of Education

Kansas State Education Building

120 East 10th Street Topeka, Kansas 66612-1103



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District 3

March 21, 1990

Everett L. Johnson  
District 10

TO: Senate Committee on Economic Development  
FROM: State Board of Education  
SUBJECT: 1990 Senate Bill 698

My name is Connie Hubbell, Chairman of the State Board of Education. I appreciate the opportunity to appear before this Committee on behalf of the State Board.

Senate Bill 698 provides an excellent opportunity for community colleges and area vocational schools/area vocational-technical schools to respond to the needs of business and industry. Statistics show that businesses in Kansas are in need of customized training. Currently, the community colleges and area schools do not have the fiscal resources available to meet these needs. For example, during the 1988-89 school year, the area schools exceeded their operating budgets by approximately \$3,300,000. The Wichita AVTS exceeded their operating budget by \$1,500,000. When an area school exceeds its operating budget, the money must be derived from the unified school district which governs the area school. In other words, the money is taken from regular education to meet the needs of business and industry.

There is also financial problems in the community colleges due to their limited tax base. For example, some community colleges have been requested to provide customized training outside their home county which has a direct impact on the property tax within the home county.

The State Board of Education supports the requirements of this bill for a 50 percent match by recipient businesses.

The community colleges and area vocational schools/area vocational-technical schools have made a concerted effort to provide customized training within the resources available. With the approval of Senate Bill 698, this type of training will become available to more businesses which should have a positive impact on the economic development of our state.



TESTIMONY ON SENATE BILL NO. 698  
BEFORE THE SENATE COMMITTEE ON ECONOMIC DEVELOPMENT

By

NORMAN D. WILKS, LABOR RELATIONS SPECIALIST  
Kansas Association of School Boards

March 21, 1990

Mr. Chairman and members of the Committee, the Kansas Association of School Boards, which represents 303 of 304 Unified School District Boards of Education and several community colleges and vocational-technical schools would like to express its support for S.B. 698.

We are supportive of the bill provided the funding continues to come from the Economic Development Initiative Fund and not from the State General Fund. The program as proposed will support measures to expand educational opportunities in areas necessary for continued employment.





Kansas Association of Inventors  
2015 Lakin • Great Bend, KS 67530 • (316) 792-1375

TESTIMONY

TO: Members of Senate Committee on Economic Development.

FROM: Clayton Williamson, President, Kansas Association of Inventors, Inc.

DATE: March 21, 1990

Honorable Chairperson Kerr, Members of Committee, and Staff.

Good Morning, I'm Clayton Williamson, President of the Kansas Association of Inventors, First, let me express apologies to you for not being able to appear before you in person on behalf of the members of our association and the citizens of Kansas. The Kansas Association of Inventors, Inc., is a Statewide not-for-profit inventor assistance organization consisting of inventors, innovative persons, attorneys, manufacturers, business people, government and civil service people, with close to 600 members throughout the United States and Canada. We are growing at the rate of 3 members each day.

I'll start with a brief background of my frustrations with Invention Marketing Companies, Invention Developers, or Invention Brokers. In September 1988, as president of the Kansas Association of Inventors, I was receiving enough complaints from citizens of Kansas that I began to wonder how I could help them. I decided the best approach may be a letter to the editor of the papers throughout the state. That first letter was published starting October 4th, 1988.

Within days I was married to the phone. I literally had hundreds of calls in the few weeks after publication of that letter. A few people were calling saying thanks, as they were then considering using one of these companies, but the large part were persons that had been ripped off. I contacted the Attorney General's Office to find out their policies and procedures we needed to follow to file a complaint. I do not have any feel as to the total number of complaints filed, but I know there were many.

After the Attorney General contacted the companies advising them of the complaints, my phone went on overtime again. This time it was calls from persons that had filed complaints and had been contacted by the invention brokers with offers to do more work on their projects, offers of partial refunds, extensions of the contract period and etc. Those persons that when contacted stuck by their guns and demanded a total refund were eventually granted a refund, but only after they sent the broker a copy of the letter. SENATE ECONOMIC DEVELOPMENT  
General withdrawing their complaint. 3-21-90 Att. 10

The January/February 1989 issue of the Inventors Digest published by Affiliated Inventors in Colorado Springs did a re-print of my letter sending it nationwide. This started another avalanche of letters and calls from throughout the nation. I was getting someone's attention, as this also prompted some unusual late night and early morning calls inquiring into the state of my health and did I intend to remain so.

I have published several letters addressing this subject since that first one. One was mailed to all papers in the nation with a 20,000 population or more. The latest is in the form of an interview with the Inventors Digest, January/February 1990 issue. As a result of these letters, I have received in excess of three thousand calls and letters from persons throughout the U.S. and Canada.

Many obstacles face the inventor that deals with one of these companies, just a few of these are:

1. The invention is evaluated at a board meeting, in house by persons of doubtful credibility.
2. For fees of between \$350 and \$800 these companies will indicate they are getting you patent protection, when in fact they are filing a disclosure document under the U.S. Patent & Trademarks Office Disclosure Document Program at a fee of several hundred dollars when in fact the fee for this service at the Patent Office is \$6. Thirty minutes will complete the average disclosure document. They will indicate this gives you protection when in fact, all this does is register the date of conception of the idea with the Patent Office.
3. After this service is performed, they ask for fees between \$3500 and \$10,000 to "try" to present the invention to market for you. I have found many of the companies to which they indicate they have submitted your invention to be pure fiction, no such company, and in some cases, not even a street in the town by the name given.
4. They often sell your contract to a finance company in an effort to cut themselves off through a third party from future litigation.
5. Phone calls to the company are not answered or returned.
6. Letters are not answered or acknowledged.
7. The person with which you were dealing is no longer with the company.

I have found the problems listed above to be widespread throughout the Invention Promotion Industry.

Several other States presently have legislation controlling Invention Marketing Companies operations. Minnesota and North Dakota both have legislation in effect, but not to the extent of the proposal before you. Others States have similar legislation pending. Those are Oklahoma, Nebraska and Missouri that I know of.

To protect the innovative citizens of Kansas we must give our Attorney General the tools with which to combat these fraudulent companies and retrieve monies for those persons exploited. This proposed bill has the strongest performance requirements and remedies and enforcement penalties I know to exist.

Of the 3000+ contacts I have had in the past 16 months, I have NOT HAD ONE PERSON TELL ME THEY HAD GOOD DEALINGS WITH AN INVENTION MARKETING COMPANY.

With this I shall conclude my testimony.