

Consideration of ICOC position on SB 771

Background:

On February 23, 2007, Senate Bill 771 was introduced by Senators Sheila James Kuehl and George Runner. The bill was assigned to the Senate Health Committee, where it will be heard on April 11, 2007, and the Senate Judiciary Committee.

SB 771 would add three new requirements for the ICOC to develop for its IP standards:

- Every recipient of a grant or loan award for research must provide 25 percent of the net licensing revenues it receives associated with any CIRM-funded patented invention beyond a reasonable revenue threshold that the ICOC establishes.
 - Net licensing revenue includes all forms of financial consideration from licensing and is defined as gross licensing revenues, less patent expenses and reasonable payments to inventors.
- Every recipient of a grant or loan award for research must grant exclusive licenses involving CIRM-funded patented inventions relevant to development of therapies, drugs, and diagnostics only to organizations that have plans which the CIRM determines will provide substantial access to the resultant therapies, drugs and diagnostics to uninsured Californians.
- The licensees must agree to provide to patients whose therapies, drugs, and diagnostics purchased in California with public funds, the therapies, drugs and diagnostics will be purchased at the federal Medicaid price.
- Any recipient of a grant or loan award for research that commercializes any product that it develops using CIRM funds must agree, as a condition of accepting the funds, to make royalty payments to the state equal to 2 to 5 percent of the revenues over the life of the product, depending on the level of funds provided and contribution of CIRM-funded patented inventions to the development of the product.

Recommendation:

Virtually all the content of this bill is being addressed in the CIRM intellectual property policy. Consequently, the Chair and the Vice Chair of the ICOC recommend that the ICOC approve a position to oppose enactment of SB 771 at this time, as it is premature.