

Center for Community-Based Enterprise

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To: Ron Bloom, President's Auto Task Force
Van Jones, President's Special Advisor for Green Jobs
Ed Montgomery, President's Special Advisor for Auto Communities
Honorable: Carl Levin, Debbie Stabenow, Carolyn Cheeks Kilpatrick, John Conyers

From: Deborah Groban Olson, Executive Director, C2BE

Date: May 21, 2009

Re: **Requiring Chrysler and GM to Use or Lose Exclusive Rights to their Green Intellectual Property for Benefit of Community Trust**

This is an update on progress of the "Auto Green Jobs Patent Map" project described in my April 18 email to you. It includes proposals for actions to enhance use of the TARP process to generate green jobs and to increase the likelihood that the VEBAs will have the necessary cash to provide promised retiree health care benefits.

Facts:

- 1) A large portion of the green IP in the US is tied up in the auto companies that have taken TARP funds.¹
- 2) Access to and development of that IP could enable creation of a large number of green jobs.
- 3) The TARP companies have owned large amounts of green IP for many years without commercializing them, and have, in some instances (*Who Killed the Electric Car*), used this IP ownership to slow the pace of green auto technology development.
- 4) Through colleagues in a firm with extensive, current licensing experience in all industries, including OEM automotive, we know that:
 - a. Chrysler is doing nothing to commercialize the IP it is not currently using.
 - b. GM is unwilling to license out any of its green IP, and is only attempting to commercialize its non-green IP.
- 5) Fiat is purchasing 20% of Chrysler in exchange for its "technology", setting the precedent that auto technology/IP assets have value in these TARP negotiations.
- 6) However, it is unclear that Fiat's fuel-efficient engine technology is superior to that of US OEMs. For example, initial research conducted by Responsible Markets has found that over the last 12 years inventors at Ford, GM and Chrysler were granted 277 US patents for hybrid propulsion technology (Ford received 182 patents. GM received 88 and Chrysler received 7) while Fiat and its subsidiaries were granted a total 3 US patents.
- 7) The President has now raised the bar on fuel efficiency, making it more crucial than ever to utilize all our know-how to make green cars, transportation systems and anything else that might be created from those green patents (many have non-automotive uses).
- 8) US citizens now own (or shortly will own) large portions of the TARP companies.
- 9) The VEBAs have accepted stock assets for a large portion of the retiree health insurance. It is questionable whether the stock assets will be able to provide the necessary health insurance funds.
- 10) The President has just announced new CAFE standards at a time when the federal government has a significant ownership stake in the auto industry. This means the government has direct influence over IP which may make those standards easier to achieve, were it to finally be utilized.

¹ Half of all US patents for hybrid propulsion over the past 10 years have been granted to inventors living in Michigan. (Responsible Markets, 4/27/09). According to the *Clean Energy Patent Growth Index* (Victor Cardona, 2008), Michigan patent owners and inventors hold nearly 25% of all U.S. patents granted in clean energy fields to U.S. assignees since 2002, and more than two-thirds of the hybrid/electric vehicle patents (pp. 8 and 13). See also "Automotive Patent Assets Intelligence Report" PatentCafe 3/26/09

Conclusions and Proposed Action:

- 1) The IP in the TARP companies are assets that should be used to serve the needs of their owners, the US citizens and the VEBAs. The owners need:
 - a. green jobs;
 - b. environmentally friendly products and services, including but not limited to modes of transportation (Auto industry IP has many non-automotive uses.);
 - c. VEBA assets that can produce income.
- 2) The TARP companies should be required to demonstrate which patents they are currently using.
- 3) For all those they are not currently using, they should be given a deadline of 6 -12 months to start using them or to lose the exclusive right to their use. (This does not mean they lose their right to use, or to receive licensing income from the patent; just that they must open the IP for licensing.)
- 4) Thereafter, any patents they are not using should be licensed to a public trust for the purpose of commercialization within the US, and particularly in the Auto Communities, such as Detroit, Flint, Lansing, etc. The public trust could be the VEBAs or a separate entity.
- 5) The 501(c)(3) non-profit, Center for Community Based Enterprise (C2BE) proposes to create a public-private venture to aggressively manage the underutilized IP to expedite its commercialization by providing licensing opportunities among local entrepreneurs and the existing manufacturing base in Michigan. The venture's purpose will be to enable local talent, entrepreneurial and existing companies in Michigan to provide new products and services, thereby fostering job growth and business expansion.
- 6) By cataloguing and valuing available green IP and catalyzing its commercialization, the planned venture will facilitate job creation, help businesses reinvent the region's economy and stem the outflow of technology, expertise and capital.
- 7) This venture has four primary objectives. Each will provide greater public benefit than allowing these valuable assets to lie fallow. The objectives are:
 - a. Recruit a group of local engineering professionals and train them in IP evaluation so that they can serve as a resource for Michigan, both through this project and as individuals making their services available to businesses as employees or consultants.
 - b. Compile a library of valuable and available IP—especially green IP—with high potential value for starting or expanding businesses in Michigan, and an efficient system for getting it commercialized in Michigan.
 - c. Support the creation and expansion of businesses in Michigan through commercialization of the IP identified by the venture, and collaborative relationships between the companies we assist.
 - d. Help the federal Auto Task Force and the auto union VEBAs make the case for protecting the underutilized IP from sale, and for opening it to licensing if it is not used by its owners in a reasonable time frame.
- 8) C2BE is currently seeking funding from the Michigan Economic Development Corporation and the U.S. Economic Development Administration to manage the venture in the public interest. We have assembled a management team of experienced legal, technical and business executives, and are supported by a network of highly capable organizations.
 - a. The **Intellectual Property Insurance Services Corporation (IPisc)** specializes in evaluating patents' legal defensibility and financial value and has been insuring IP for 20 years. IPisc will train the venture's engineering professionals to apply IPisc's protocol for evaluating patents.
 - b. The **Engineering Society of Detroit (ESD)** has agreed to find appropriate local engineers.
 - c. C2BE has a working relationship with a firm that could assist them with IP commercialization. The firm has extensive licensing experience in all industries, including automotive.
 - d. **Ingenuity, US L3C (IUS)**, an innovation broker organized under Michigan's low-profit LLC law, is C2BE's sister organization, with a mission to create a resource cooperative and patient capital to support a network of local businesses. IUS brings legal and intellectual property resources, organizational, process and product development experience and skills, project planning and information technology skills.
 - e. This venture would add value to MEDC's current auto supplier diversification program that it runs in conjunction with the **Michigan Manufacturing Technology Center**.
- 9) C2BE is the only public-interest non-profit addressing this important, time-sensitive issue. One principal aspect of the entity is the collaborative and mutually supporting relationship we have and will continue to develop with regional companies to support the administrative, technical and legal needs of the businesses with which we work.