

NEWS from IEEE-USA
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Supreme Court Upholds Inventors' Rights, Sends Congress Message on Patent Reform

WASHINGTON (7 June 2011) -- The U.S. Supreme Court's ruling Monday in *Stanford University v. Roche Molecular Systems* (No. 09-1159) reinforces the historical rights of inventors and sends a strong message to Congress about maintaining those rights.

The decision states that federal technology transfer laws "do not vest title to federally funded inventions in federal contractors or authorize contractors to unilaterally take title to such inventions." It affirms a federal appeals court ruling making Stanford and Roche co-owners of a patent for technology to detect HIV levels in a patient's blood.

IEEE-USA, the American Association of University Professors (AAUP) and IP Advocate joined with Roche in a February amicus curiae brief affirming the lower court's decision, arguing that the Constitution and the Patent Act of 1790 "grant patents solely to individuals." The brief further cited "the longstanding recognition by universities that faculty initially own their inventions and that written assignments are required to transfer title."

Chief Justice John Roberts, writing for the court's 7-2 majority opinion, sided with the rights of inventors. He noted that "[s]ince 1790, the patent law has operated on the premise that rights to an invention belong to the inventor." While acknowledging that much has changed in U.S. patent law in 220 years, he emphasized that "the basic idea that inventors have the right to patent their inventions has not."

The decision sends a strong message about inventors' rights to Congress, which is currently considering an overhaul of U.S. patent law that would shift the United States from its first-to-invent standard to a first-to-file system for securing patents. Fifty-two members of the House of Representatives have questioned the constitutionality of the America Invents Act on the grounds that the first-to-file system diverges from the Founder's original focus on protecting the rights of the first true inventor.

"The *Stanford v. Roche* ruling foretells trouble for the patent

reform bill," former IEEE-USA Intellectual Property Committee Chair Dan Fisher said. "Many of its supporters have argued that it is not a big change because the first 47 years of the U.S. patent system was based on a first-to-file system. The Supreme Court overruled this argument."

IEEE-USA, AAUP and IP Advocate amicus curiae brief:
<http://ieeeusa.org/policy/policy/2011/020111.pdf>.

Stanford v. Roche decision:
<http://www.supremecourt.gov/opinions/10pdf/09-1159.pdf>

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