

STATEMENT OF CONSIDERATIONS

ADVANCE WAIVER OF PATENT RIGHTS TO GENSCAPE INC. UNDER ITS SUBCONTRACT WITH THE UNIVERSITY OF LOUISVILLE DOE COOPERATIVE AGREEMENT NO. DE-FC26-06NT42795 FOR "WIRELESS SENSOR NETWORK FOR ELECTRIC TRANSMISSION LINE MONITORING"; CH-1386; W(A)-06-029

Genscape has petitioned for an advanced waiver of domestic and foreign patent rights to inventions conceived or first actually reduced to practice under DOE Cooperative Agreement No. DE-FC26-06NT42795. This advanced waiver is intended to apply to all subject inventions of Genscape's employees.

As brought out in its waiver petition, Genscape will improve its monitoring system for real time data collection of electric power transmission lines.

As indicated in its response to Question 3 in its waiver petition, the total value of this agreement is expected to be about \$1,409,496.00 with Genscape's cost share of \$459,496.00 approximately 33% of the total cost. The performance period for this agreement is expected to be from September 1, 2006 to August 31, 2007.

In response to Question 7 of the waiver petition, Genscape has invested more than \$10 million dollars to develop its current technology.

As brought out in Question 5, Genscape is the originator and only supplier of real time power plant output and transmission information to support decision making for power marketers, regulators, utilities, distributors and other energy market participants.

This advance waiver of the Government's rights in inventions is subject to the usual advance patent waiver conditions. Those terms include the usual Government license, march-in rights, and preference for U.S. industry provisions set out in 35 U.S.C. 202-204. The advance patent waiver also includes a U.S. Competitiveness clause, (paragraph t), which requires that products embodying any waived invention or produced through the use of any waived invention be manufactured substantially in the United States unless the participant can show to the satisfaction of DOE that it is not commercially feasible to do so. The Contractor further agrees to make the

above condition binding on any assignee or licensee or any entity otherwise acquiring rights to any waived invention, including subsequent assignees or licensees. Should the Contractor or other such entity receiving rights in any waived inventions undergo a change in ownership amounting to a controlling interest, then the waiver, assignment, license, or other transfer of rights in the waived invention is suspended until approved in writing by DOE.

The grant of this waiver is not expected to have any adverse effects on competition or market concentration. In response to Question 10, granting of this waiver will provide Genscape with the incentive to promote the development and commercialization of inventions made under this contract.

Considering the foregoing, and in view of the statutory objectives to be attained and the factors to be considered, it has been determined that this advance waiver of patent rights will best serve the interest of the United States and the general public. Subject to Genscape providing approximately 33% cost sharing, in aggregate over the term of this, and subsequent phases of the agreement, it is recommended that the waiver be granted.


Mark Dvorscak
Deputy Chief Counsel
Intellectual Property Law Division

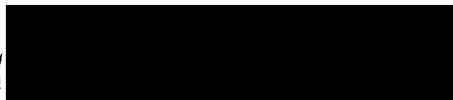
Date: July 25, 2007


Joy Alwan
Patent Attorney
Intellectual Property Law Division

Date: 24 July 07

Based on the foregoing Statement of Considerations, it is determined that the interest of the United States and the general public will be best served by a waiver of the United States and foreign rights as set forth therein, and therefore the waiver is granted.

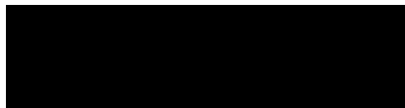
CONCURRENCE:



Patricia A. Hoffman
Deputy Director, R&D
Office of Electricity Delivery &
Energy Reliability
OE 10/FORS

Date: 7/25/07

APPROVAL:



Paul A. Gottlieb
Assistant General Counsel for Technology
Transfer and Intellectual Property, GC-62

Date: 7-26-07

(t) U. S. COMPETITIVENESS

The Contractor agrees that any products embodying any waived invention or produced through the use of any waived invention will be manufactured substantially in the United States unless the Contractor can show to the satisfaction of the DOE that it is not commercially feasible to do so. In the event the DOE agrees to foreign manufacture, there will be a requirement that the Government's support of the technology be recognized in some appropriate manner, e.g., recoupment of the Government's investment, etc. The Contractor agrees that it will not license, assign or otherwise transfer any waived invention to any entity unless that entity agrees to these same requirements. Should the Contractor or other such entity receiving rights in the invention undergo a change in ownership amounting to a controlling interest, then the waiver, assignment, license, or other transfer of rights in the waived invention is suspended until approved in writing by the DOE.

WAIVER ACTION - ABSTRACT

W(A)-06-029 (CH-1386)

REQUESTOR

Genscape Inc.
Cooperative Agreement
No. DE-FC26-06NT42795

CONTRACT SCOPE OF WORK

Wireless Sensor Network for Electric
Transmission Line Monitoring

RATIONALE FOR DECISION

33% cost sharing

DISPOSITION