

Mark Stevenson

*Technology Transfer and March-In at the National Institutes of Health: Introducing
Uncertainty into an Era of Private-Public Partnership*

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Abstract by Meredyth S. Cooper

The author examines the impact of march-in rights on technology transfer, which allow the federal government to assert patent rights to federally funded research innovations once the current patent holder has failed to use the technology in a timely manner.

Technology transfer encourages commercially useful technologies to enter the marketplace by allowing the federal government to transfer federally owned or originated technology to state and local governments and to private sectors in order to maximize the use of innovations resulting from federal government investments in research and development. The author argues that while the threat of march-in rights may help ensure accountability and efficient use of research results, the actual use of these rights may discourage future private entities from investing in federally funded government research projects. The author suggests employing non-patenting of National Institutes of Health inventions as an alternative to exercising march-in rights, whereby certain types of medical technologies would no longer be granted a patent or license, and simply be placed on the market, thus eliminating the need to exercise march-in rights. Other alternatives discussed, such as non- and limited-exclusive licenses, may stimulate competition among private industry and decrease the amount of time required to market and sell products. However, the author notes these options are not truly viable due to the large expense and time-consuming nature to create innovations that would likely negate any incentive for private companies to compete.