

**BEFORE THE PUBLIC EMPLOYEE RELATIONS BOARD  
OF THE STATE OF KANSAS**

PSU/KNEA, )  
 )  
       Petitioner, )  
 )  
vs. )  
 )  
Kansas Board of Regents/ )  
Pittsburgh State University, )  
 )  
       Respondents. )  
\_\_\_\_\_ )

PERB Case No. 75-CAE-23-1998  
Kansas Supreme Court Docket No. 91,305

**FINAL ORDER**

ON the 16<sup>th</sup> day of May 2007, in accordance with the Kansas Administrative Procedures Act, K.S.A. 77-501 et seq., the above-captioned matter came before the Public Employee Relations Board (hereafter "Board") for consideration of the Respondent's, the Kansas Board of Regents (hereafter "Regents"), *Petition for Review*, which seeks the Board's reversal of the Presiding Officer's *Initial Order on Remand*.

The Board on March 21, 2007 granted the Respondent's request for the Board's review of the *Initial Order on Remand*. The parties presented their arguments to the Board on May 16, 2007. The Board limited the arguments to the following two issues. First, does the *Initial Order On Remand* comport with the Kansas Supreme Court's directions as stated in *Pittsburg State University/Kansas National Education Association v. Kansas Board of Regents/Pittsburg State University*, 280 Kan. 408, 122 P.3d 336 (2005), and secondly, is the order both factually and legally correct.

After deliberating during an executive session, the Board reconvened the public meeting and voted 4 - 0 to adopt the *Initial Order on Remand* as its own. Board Member Burdett Loomis recused himself.

The Board finds that the *Initial Order on Remand* complies with the Kansas Supreme Court's directions "for additional findings regarding whether ownership of intellectual property is a condition of employment and whether the exception of K.S.A. 75-4330(a)(3) (public employer rights as defined in K.S.A. 75-4326) applies." 280 Kan. at 429, 122 P.3d 336 (2005). The Presiding Officer thoroughly explained the specific findings on these issues and replicating the order is not beneficial.

Upon examining the record, the Board finds that the Presiding Officer's findings of fact are based upon and supported by substantial competence evidence in the record and are not otherwise unreasonable, arbitrary or capricious. Further, the Board finds no errors in the application of law to the findings of fact.

Additionally, during the public session the Board on a member's motion voted 4 - 0 to receive the *Brief of Amicus Curiae* which the University of Kansas, Kansas State University, Wichita State University, Emporia State University, and Fort Hays State University filed with the Board.

The *Initial Order on Remand* becomes the final order of the Board pursuant to K.S.A. 77-530(b)(2) without further review or modification.

Final Order Entered on this 16<sup>th</sup> day of August, 2007.

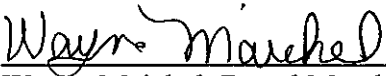
PUBLIC EMPLOYEE RELATIONS BOARD

By:



Ken Gorman, Board Chairperson

  
Sally O'Grady, Board Member

  
Wayne Maichel, Board Member

  
Keith Lawing, Board Member

#### Notice of Right to Seek Judicial Review

The foregoing journal entry is a final order of the Public Employee Relations Board pursuant to K.S.A. 77-527. This order is subject to review by the district court in accordance with the Act for Judicial Review and Civil Enforcement of State Agency Actions (K.S.A. 77-601 et seq.)

Unless a motion for reconsideration is filed pursuant to K.S.A. 77-529, a petition for judicial review must be filed with the appropriate district court within 30 days after the final order has been served upon the parties. Since this Final Order is being served upon the parties by mail, the parties are allowed a total of 33 days from the date on the certificate of mailing below to file their petition for judicial review in the appropriate district court. See K.S.A. 77-613(b) and (e).

Pursuant to K.S.A. 77-527(j), K.S.A. 77-613(e), and K.S.A. 77-615(a), any party seeking judicial review must serve a copy of its petition for judicial review upon the Public Employee Relations Board by serving its designated agent at the following address:

A.J. Kotich, Chief Counsel  
Kansas Department of Labor - Legal Services  
401 Topeka Blvd.  
Topeka, KS 66603-3182

#### CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the foregoing remand order was placed in the U.S. Mail this 16<sup>th</sup> day of August, 2007, to each of the following:

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