been filled by people who are in private industry—I should say mainly in medicine. Many of our people who are outstanding physicians, who teach in medical schools, certainly are competent to assist in this matter.

Senator NELSON. You certainly would not give this kind of group final authority; would you?

Dr. SCHIFRIN. No; but I would hope, sir, that their expertise would be recognized by the Patent Office in determining patentability; that these people serve as a rather influential body of experts.

Senator NELSON. And what is the next step in the event that this independent body that you would establish made a recommendation which they felt very strongly about but was not accepted by the Patent Office. Would you provide a mechanism then, which would allow the Government to go into court to challenge the patent?

Dr. SCHIFRIN. That is one alternative. I would consider that as feasible; yes. There is another alternative that is coordinated with that one.

I know we have wrestled with the problem of patent standards very often in our industry, and since the drug industry occupies a rather unique position in American industry, I would not be opposed to a unique patent law applying to drug patents, with clearly different and higher standards than are now provided by our general patent law. I think the drug industry warrants separate treatment.

Senator NELSON. If this is, as I believe, a serious problem, and it may very well be, would you not be reluctant to place the final arbitrary authority in a commission or committee such as you recommend, or even in the Patent Office itself? In other words, would you not think that if you had a commission and they made a recommendation that an item was not patentable and the Patent Office did not agree with that conclusion, that the legal arm of the Government, the Justice Department, ought to be able to move to test it? Or if the Patent Office did agree and the patentholder did not, they still ought to have a right to go to court?

In other words, should you not have as the final resort for both the Government and the company or companies involved the right to go to court?

All you are trying to suggest here is that the public interest be protected by establishing some agency with the authority to challenge the patentability of drugs and with the ultimate authority, in behalf of the public, to recommend to the Justice Department that the patent issuance be challenged in the courts?

Dr. SCHIFRIN. Ultimately; yes.

Senator NELSON. Go ahead.

Dr. SCHIFRIN. I have mentioned about the practices and the factors that have become a part of the industry's operation. Now let me describe how this design came into being, this product and market performance that I have reviewed now.

In the late 1940's and early 1950's the major drug firms became alarmed by vigorous price competition in the sale of drugs, most notably penicillin and streptomycin. They sought to insulate themselves from further price competition for these and other products through the device known as the "specialty" item—that is, finished