

OFFICE OF THE CHIEF SIGNAL OFFICER
DEPARTMENT OF THE ARMY
WASHINGTON, D.C.

3 August 1950

MEMORANDUM FOR: MAJOR JAMES R. MILLS, CHIEF, JAGO PATENTS DIVISION

SUBJECT: Signal Corps Clearance of Release of Technical
Information to Foreign Nationals

1. For several years, the Signal Corps has followed a policy of checking into the patent, copyright and proprietary aspects of technical information, before permitting such information to be released to the public (e.g., through the Office of Technical Services, Department of Commerce) or to foreign governments. This procedure has included writing to the contractor who supplied the particular information in question, to determine whether he had any objection to the proposed release. This procedure has been followed even where, by contract, we had obtained the right to use the information for any governmental purpose, since consulting the contractor in this way was considered to foster good public relations and to minimize the danger of jeopardizing the Government's licenses under the contractor's inventions.

2. Recently, we had the problem of working out a procedure to cover the release of Signal Corps technical information to CADO (Central Air Documents Office). As a result of this experience, the Signal Corps has adopted the following policy which is designed to make it possible to release information as quickly as possible, and yet with a minimum danger to patent, copyright or proprietary rights.

3. Where information has been obtained from a contractor with the right to use it for any Governmental purpose, and the proposed release is for a limited purpose, as to foreign governments or to military contractors for foreign governments, the information will be released with certain conditions attached. (These conditions are designed to safeguard the patent, copyright or proprietary rights involved in the information.) This release is to be made without first communicating with the contractor. We are now studying the practicability and advisability of notifying the contractor after the release has been made.

C O P Y

Memo for: Maj Mills, JAGO Patents Div.
Subj: SigC Clearance of Release of Tech Info to For. Govts.

4. Where the information is to be released to the public, the procedure referred to in paragraph 1 above is still being followed.

5. Inclosure 1 is a copy of a recent Signal Corps communication illustrating the new procedure covering releases to foreign industry, where such releases are sponsored by a foreign government.

6. Inclosure 2 is a list of several sources of policy statements pertinent to this subject.

LAWRENCE GLASSMAN
Patent Attorney
Legal Division
Office of the Chief Signal Officer

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DEPARTMENT OF THE ARMY

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YSIGLG-6-IG Release of Signal Corps Reports on Nickel-Cadmium
Batteries to Industry in CanadaChief, Engineering Control Legal Division, OCSigO 6 July 1950
Branch, E & T Division
ATTN: Mr. Paul A. Davis

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1. a. On 28 June 1950, Mr. Davis of your Division gave to Mr. Glassman of this Division, a copy of a letter dated 27 June 1950, to the latter Division, from Maj. D. Wesley Kells, Canadian Army Liaison Officer in the Office of the Chief Signal Officer. This letter asked for permission to release, to industry in Canada, certain listed Signal Corps reports on nickel-cadmium batteries, so that development work could be done on these batteries for the Canadian Government.

b. Mr. Davis asked whether Legal Division would have any objection to this release of the listed reports.

2. a. The list in Maj. Kells' letter does not indicate the contracts under which these reports were obtained by the Signal Corps. The provisions of each contract determine the rights of the Government concerning release of the technical information supplied under that contract. Therefore, the clearance given by this Division must be expressed in terms of the contracts involved.

b. The clearance given below applies to any reports obtained under the following three contracts with Nickel Cadmium Battery Co.:

W28-003-sc-1489
W36-039-sc-32271
W36-039-sc-38156

and to Thomas A. Edison, Inc., contract no. W36-039-sc-32137.

c. (1) This clearance is also based on the assumption that the contractors who supplied these reports have not placed, on any of them, a notice intended to restrict the Government's use or disposition of the reports. There should be no such restrictive notices on these reports.

(2) However, this point has been mentioned because, in Contract No. W28-003-sc-1489, the Nickel Cadmium Battery Co. made it clear that it would not furnish certain technical information necessary for the manufacture of nickel-cadmium batteries, unless it were not itself in a position to meet the Government's requirements for these batteries. Again, under the Thomas A. Edison, Inc., contract, the contractor has the right not to disclose certain technical information to the Government. Either of these companies may actually have furnished some of the information which it had the right to withhold and, in furnishing the information, may have done so subject to certain restrictions on the use or disposition of the information. It is doubtful, however, that this has happened.

Incl 1

C O P Y

SIGLG-6-LG

6 July 1950

SUBJECT: Release of Signal Corps Reports on Nickel-Cadmium Batteries to Industry in Canada

- (3) If restrictive notices imposed by the contractor appear on any of these reports, this Division should be consulted before the Canadian Government is authorized to release such a report to Canadian industry. (This comment does not apply, of course, to restrictive notices of the type described in Par. 11 of Department of the Army document DA-DCMI-48, August 1948. This type of notice is added by the Government.)

3. a. This Division has no objection to the release to the Canadian Government of any reports furnished to the Signal Corps under any of the contracts mentioned in Par. 2b above, provided that no restrictive notices have been added by a contractor, and, provided also, that the Canadian Government is advised that the information may be released to Canadian industry only upon certain conditions.

b. These conditions are as follows:

- (1) The information in the reports is to be released for use in connection with Canadian military contracts or projects only.
- (2) The recipient is to be advised that the information is not, in whole or in part, to be published, or disclosed to anyone outside of the recipient's own organization, and that, in general, every reasonable effort is to be used to avoid jeopardizing any patent, copyright or other proprietary rights which may exist in the information.
- (3) The Canadian Government should be able, upon request of the United States Government, to state the name and address of the recipient, the date of the release, and the identification of the report or reports released.
- (4) The Canadian Government is to be responsible for any infringement of proprietary rights which may arise through use, in Canada, of any of the information: in the practising of any method or process; in the manufacture, use or disposition of any equipment; or in the dissemination or reproduction of this information; or in any other way. Such infringement is dependent upon Canadian proprietary rights (whether of the contractor who supplied the information or of some other owner of such rights) and upon Canadian law. The United States Government is unable, therefore, to state the legal difficulties which might exist in Canada in the use of the information.

FOR THE CHIEF, LEGAL DIVISION:

LAWRENCE GLASSMAN

Patent Attorney, Legal Division

Note:
 In a case involving release to
 Britishy, I added this statement here:
 "(These statements as to responsibility for infringement of proprietary
 rights are, of course, subject to change to make them conform with
 any arrangements negotiated under the provisions of Article VI of
 the Mutual Defense Assistance Agreement Between the United States of America
 and the United Kingdom of Great Britain and Northern Ireland," signed 27 January 1950)

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Army Special Regulations No. 700-95-1, dtd 18 May 1949, "Supplies and Equipment--General: Standardization of Materiel Among Armies Of the United States, United Kingdom, and Canada" (especially, Pars. 7 b, d and e).

Dept. of Army Registered Document DA-DCMI-48, August 1948, especially Par. 11.

"Mutual Defense Assistance Agreement Between the United States of America and the United Kingdom of Great Britain and Northern Island" dtd 27 January 1950.

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Incl 2

EXTRACT FROM:

Special Regulations)
No. 700-95-1)

DEPARTMENT OF THE ARMY
Washington 25, D. C., 18 May

SUPPLIES AND EQUIPMENT - GENERAL
STANDARDIZATION OF MATERIEL AMONG ARMIES OF THE
UNITED STATES, UNITED KINGDOM, AND CANADA

Section I
GENERAL

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7. Security provisions.--The following security provisions will apply:

a. Any information or correspondence relating to the administration or to the existence of the tripartite standardization effort will be classified RESTRICTED.

b. Information relating to specific weapons or items will be accorded the security classification assigned by the originating nation, and such information will not be passed on to nonparticipating nations without the prior approval of the nation in which the information originated.

c. Publicity will be avoided strictly.

d. Information and matériel exchange will be used for military purposes only and will not be released for commercial exploitation or public consumption.

e. Technical information and matériel received from any nation will not be used in such a manner as to jeopardize the right of an individual or concern of that nation to obtain patent protection.

f. For security purposes it will be assumed that liaison representatives are present for the purpose of being kept informed fully on matters relating to standardization with Canada.

g. Information relating to standardization will be transmitted between the countries concerned in accordance with existing regulations concerning means and security of transmission.

h. An exception is made to paragraph 26c(2), AR 380-5, to permit the use of domestic registered mail within the United Kingdom.

i. The release of classified information to the United Kingdom and Canada is governed by DA DCMI-48 with the exception that direct exchange of information relating to matériel and such items of research, development, and general technical procedures as are applicable to the operation of standardization which are not included in paragraph 10 is authorized.

Articles V and VI of the U.K.-U.S. agreement on Mutual Defense Assistance, effective 27 January 1950, are as follows:

Article V

"1. Each contracting Government will take such security measures as may be agreed in each case between the two contracting Governments in order to prevent the disclosure or compromise of any classified military articles, services, or information furnished by the other contracting Government pursuant to this Agreement.

"2. Each contracting Government will take appropriate measures consistent with security to keep the public informed of activities under this Agreement."

Article VI

"1. The two contracting Governments will negotiate appropriate arrangements between them respecting responsibility for claims for the use or infringement of inventions covered by patents or patent applications, trademarks, or copyrights, or other similar claims arising from the use of devices, processes, or technological information in connection with equipment, materials, or services furnished pursuant to this Agreement, or furnished in the interests of production undertaken by agreement between the two contracting Governments in implementation of the pledges of self-help and mutual aid contained in the North Atlantic Treaty."