Office Memorandum  
UNITED STATES GOVERNMENT

TO: Mr. William F. Friedman, AFSA-OOT  
FROM: Mr. Henry B. Stauffer, AFSA-03A5  
DATE: 2 October 1950  
SUBJECT: Hebern Infringement Claim

In order to bring your copy of the report relative to the subject claim into conformity with the revised draft, it is suggested that:

a. Page 3 of the report should be cancelled, and Inclosure 1 substituted therefor;
b. Page 13 of the report should be cancelled, and Inclosure 2 substituted therefor;
c. Page 14 of the report should be cancelled, and Inclosure 3 substituted therefor;
and
d. Exhibit B of the report should be amended to include the patent to RYMTOWTT-PRINCE, United States, 17 November 1890, 15 March 1892, 470,871.

Declassified and approved for release by NSA on 09-13-2013 pursuant to E.O. 13526

3 Incls
1. New pg 3
2. New pg 12

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the stepping of the armature is shown and code machina which
o. items 17 through 22 are directed to mean for controlling

interaction, and are processed not to be interchanged

interaction, which is shown to be at least item 6 and 7, 

interaction and function of the two are identical, and the results read

interaction in essentially different from that of the silicon, but the

interaction of a cryogenically sensitive. The interaction is decreased in Herpton,

interaction are directed to a mechanism to experience the

interaction, and 6 and 7 are prohibited interchanged by a single machine;

interaction, that the change of the group are not interchanged

in an associated interacation or extraction device, and it is

needs for cryogenically sensitive. Any of the equipment come

power of rotor movement according by those which is not

finally resolved, the code which is a code lower speed is advanced one

each code wheel have made not less than half nor more than a

each in a somewhat different manner, i.e., D by specifying that

additional which are processed, still others (99 and 41 through 40)
k. Claims 56 and 57 are directed specifically to a structure wherein the cryptographic rotors are "oscillated" as a group to provide a stepwise displacement of one or more of the rotors. These claims clearly are not infringed as in none of the machines of Exhibit 4 are the rotors moved out of their normal axis; and

l. Claim 61 is infringed by the SIGABA, CCM, SIGBRAT, and SIGROD. The claim is apparently invalid for functionality, however, and is anticipated by several patents, an example being A. P. Cryptograph (French), 548,093.

6. To recapitulate briefly, this study has indicated that but two of the patents identified in the Hebern claim are pertinent to Army cryptographic machines, these being (Hebern) Nos. 1,683,072, and 1,861,997. These two patents contain several claims appearing to be infringed by one or more military machines; but all infringed claims are reasonably met by prior patents, and additional defenses of functionality and double patenting are available as to some of them. Still further anticipatory material could probably be found by investigation of the early work of the manufacturers of the so-called Enigma in Germany, there being reason to believe that anticipating devices were, in fact, in existence and known to the public more than two years prior to the filing dates of the applications for the patents in question.
7. Contracts covering involved machines have been studied. Most of such contracts contained so-called save-harmless indemnity clauses, but, with one exception, these clauses relieved the contractors of liability whenever their work was based on definite Government specifications, and this was the usual case. The exception is Contract #2124-M-16897, for the SIGFOI procurement, and this contract contained no such relief from liability. The contractor was notified of the claim and has already offered assistance in the matter.

8. A list of the most significant patents considered in connection with the Hebern claim is appended, Exhibit B.