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DEPARTMENT OF COMMERCE
UNITED STATES PATENT OFFICE
WASHINGTON

Paper No. 22

Please find below a communication from the EXAMINER in charge of this application.

Conway P. Coe
Commissioner of Patents.

11-8633

F.H.Vanderwerker & C.A.Rowe
c/o Chief of the Air Corps
Munitions Building
Washington, D. C.

Applicant: W.F.Friedman, et al.

Ser. No. 588,344
Filed Jan.23,1932
For Cryptographic System.

Responsive to amendment filed February 6, 1934.

Additional reference made of record:

Hebern, 1,683,072, Sept.4,1928, 35-13

Claims 3-17, 19-23, 25-32, 34-50 are in the case.

Page 6, lines 18 and 20, the drawings should be amended in Fig.2 to show the pins. Line 23, it is not clear how Fig.2 represents "permutations". All parts of the drawings should be numbered and described in structure and function. How the pins operate the levers is not clearly shown or described. Line 13, how the ratchet wheel of Fig.3 is related to the cipher wheel and how the ratchets are related to member 24, seemingly to break a contact at 40 should be explained since the ratchet teeth 23 appear to be merely set into a part of the cipher wheel. Fig. 3 shows parts adjacent 24 and 41 not numbered, nor described in detail. The structure of these parts appears to be different in Fig.1 from that in Fig.3. The drawings should be consistent. Line 28 and line 22, together indicate that Fig.5 shows the connections. Fig.6 alone actually shows them. The text should be amended as suggested by this criticism.

Page 8, line 12, the arrow does not seem to indicate the tendency of movement of wheel 52 due to movement of wheel 48. Line 21, operation of armature 41 and magnet 25 is not clear. Line 23, "methods" should be -means-.

Page 16, some verb introduced by "so long as" of line 6 appears to be required after "enciphered" of line 8.

Claim 35, line 5, should not "unequality" be -inequality-?

Claim 36, the significance of "unintelligible" is not seen. It seems to be immaterial whether any succession of letters on the ribbons spells a word in some language or other or not. "random" also appears lacking in significance. Apparently "arranged . . . . order" might be canceled without injury to the claim.

Claims 3-17, 19-23, 25-32, 38, 39 appear allowable. These claims are drawn to the article.

Claims 34, 35, 36, 37 are rejected as anticipated by Hebern in which the ciphering elements are considered as bearing the key.

Claims 35, 36, 37 are rejected as intangible and therefore failing to define the invention in key, line 6, Claims 36, 37 are further rejected as intangible in "sequence". A "sequence" cannot produce physical changes.

Claims 40-50 are rejected as unpatentable under the following decisions: Foreman, 1924 C.D. 47; "Patentable novelty can not be based on positive recitations of structural limitations therein".

Sweetland, 1922 C.D. 6. This decision is applicable although it relates to method claims in an application subsequent to a patent to the same inventor having claims to the article disclosed in the application. "The claims for the alleged method reviewed and held that they do not recite a patentable method but are for the obvious and intended use of the apparatus covered by the claims of

the patent". It is considered immaterial that the refused method claims appeared in a different and subsequent application in the refusal based on the words quoted.

These claims are also rejected on the ground that they do not recite steps by the following of which a physical change is wrought in a physical object. Decisions in support of this view are: Turner, 1894 C. D. 36 or Cochrane et al. v. Deener et al., 1877 C.D. 242.

This application has been transferred from Division 16 to Division 53 for examination in Class 35-13. It is regretted that action not in harmony with previous actions must be given.

Examiner.