

SUBJECT: Applications for Patent of Albert W. Small

TO: AD/RD
 FROM: DD/COMSEC
 General Counsel
 DCS/P-0

FROM: AD/PROD

9 July 56

COMMENT NO. 2
Ext 662/ob

1. It is, of course, a source of additional risk to successful operations in PROD for the detailed patent applications of Mr. Small to proceed and to eventuate in patents, especially since the USSR is known to be acquiring copies of patents as a standard procedure. Mr. Small's claims, as you point out, go well beyond the information contained on Hagelin 386569.

2. On the other hand, it seems unfair that Mr. Small should be penalized by the granting of Hagelin 386569. Furthermore, the existence in general NATO use of the AFSAM 7 in itself represents a substantial risk to precisely the principles covered in Mr. Small's application.

3. The weight of argument seems to favor the release of Mr. Small's two applications. The General Counsel might, however, care to address himself to the following question:

a. If the Small applications are released, what will be the effect on Hagelin 386569?

b. If the Small applications are released, will our agreement with Mr. Small necessarily require reassignment to Mr. Small?

c. Does the agreement with Mr. Small place him in a position to make commercial use of his patents at once, or is the "free license" exclusive?

d. If the Small applications are held in their present status, does Mr. Small thereby acquire a legal claim for reimbursement against the U.S. Government?

4. It is nearly hopeless to try to carve out unclassified portions of the Small application without rewriting them in their entirety. As a matter of fact, the only unclassified portions would seem to be those claims in conflict with Hagelin 386569, and these are unclassified only because prior public disclosure has been made by Hagelin.

5. In short, while PROD would be made markedly unhappy by the release of the Small patents, there seems to be good reason to release them. If the answer to 3.d. above is "no," PROD prefers that the applications be held in secrecy. Alternatively, Mr. Small might be able to select those portions of his claims which are in conflict with Hagelin 386569 and are therefore unclassified, and to submit these claims for consideration for release. Mr. Small is fully knowledgeable about classification matters and is completely familiar with his own claims; he would therefore seem to be in the ideal position to make such a division.

A. SINKOV
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 Production

cc: R/D
 3 Incls: n/c

Declassified and approved for release by NSA on 06-17-2014 pursuant to E.O. 13526