

~~TOP SECRET SUEDE~~**DISPOSITION FORM**~~TOP SECRET SUEDE SECURITY INFORMATION~~

FILE NO.

SUBJECT

Release of Hagelin U.S. Patent Application 188,546

TO Chief of Staff (OOA)
THRU Chief, Office of
Operations (O2)FROM Chief, Office of Communi-
cation Security (O4)DATE **27 MAR 1952**
R.H. Shaw 6372/mt

COMMENT NO. 1

1. The inclosure recommends the rescission of the secrecy order on Mr. Boris HAGELIN's patent application.

2. The position of the Office of Communication Security was not set forth orally by Dr. SHAW as stated in paragraph 6 of the inclosure, but occurred in a Disposition Form Comment No. 3, dated 30 November 1951 and signed by Lt. Col. G. V. JOHNSON. This DF represented that no decision had been made as to whether the new principles would be incorporated in any U.S. military devices whatever.

3. The Chief, Office of Communication Security, is contemplating no further developments in the M-209 direction other than the AFSAM 36 and the DEM 21, neither of which includes the principles described in the application. He therefore is no longer concerned with maintaining a secrecy order on that application, and withdraws his request that the order be continued. The Chief, Office of Operations has now the primary interest in this development.

4. It appears, however, that the whole subject of the relationship of Mr. HAGELIN to the Government of the United States in general, and to the Armed Forces Security Agency in particular, should now be reviewed. Paragraph 8d(2) of the inclosure implies that the United States must defend itself against incurring Mr. HAGELIN's enmity in order to avoid cutting off a source of useful information. It is considered that the amount of useful information to be derived from Mr. HAGELIN should be reconsidered in the light of the damage to national prestige and to contractual relationships with other inventors which arises from the general knowledge that the United States is, or has been, Mr. HAGELIN's patron.

5. Consideration of the negotiating position of Mr. HAGELIN leads to the following conclusions:

- a. Mr. HAGELIN can market all his future developments commercially. In this event the United States can purchase copies of any of his machines in which they may be interested.
- b. Mr. HAGELIN can enter into private agreements with western nations. The result of this could conceivably be an improvement in the communication security of nations with whom the United States is associated in a common defense effort. (There is some indication that this situation already exists: the so-called "French modification" of the M-209, submitted by the Government of France as a proposed system for second- and third-level NATO use, is covered in the patent application in question; Mr. HAGELIN's son is well known as having been intimately concerned with the doings of the Paris

Declassified and approved for release by NSA on 06-10-2014 pursuant to E.O. 13526

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188,546

TO Chief of Staff (OOA)
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office of the Hagelin company.)

- c. Mr. HAGELIN can enter into private agreements with the Soviet bloc. It would seem, however, that the Soviets would be exceedingly cautious in dealing with an organization so well known as an American protegee. Moreover,

6. In short, the Chief, Office of Communication Security, withdraws his request that the secrecy order be continued, and requests that the relationship between the U. S. and Mr. HAGELIN be reexamined.

EO 3.3(h)(2)
PL 86-36/50 USC 3605

Inclosures - 2

- 1 - Memo for Chief of Staff from
Mr. Friedman, 19 Mar 52
2 - OCSigO ltr dated 7 March 52
w/1 Incl.

G. V. Johnson
G. V. JOHNSON
Lt. Col., Sig. Corps,
Assistant Chief, Office of
Communication Security

~~TOP SECRET SUEDE~~

19 March 1952

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MEMORANDUM FOR THE CHIEF OF STAFF:

SUBJECT: Release of Hagelin U.S. Patent Application 188,546

1. The subject application was filed in the U.S. Patent Office on 5 October 1950.

2. Almost a year after that date the application was placed under Secrecy Order (14 September 1951) at the request of AFSA; permission to file a cognate application in Sweden was refused at the same time.

3. In the meantime, however, applications were filed by Hagelin in ten other countries (Switzerland, France, Italy, Germany, Norway, Denmark, Holland, Belgium, Austria, and Japan, from 26 October 1950) to 5 Oct 51. Mr. Hagelin did not know, of course, until after 14 September 1951, (possibly not until after 5 October 1951) anything about the U.S. Secrecy Order.

4. In a postscript to a letter dated 6 October 1951 Hagelin wrote me as follows:

"P.S. I just got a secrecy order from the Patent Office in Washington re my application 188,546. I just dont know what to do about it, as I had already filed applications in a number of countries prior to the secrecy date Sept. 14."

OGA

5. Upon receipt of Mr. Hagelin's letter with the foregoing postscript, I took up the matter with interested offices in AFSA and requested their views as to recommending to the Commissioner of Patents that he release Hagelin's U.S. application from the secrecy order. In my opinion such a release was warranted (a) in view of the U.S. having been dilatory in placing the secrecy order, and (b) because in reality the "cat was out of the bag" the moment applications not under secrecy had been filed abroad.

6. However, AFSA-02 and AFSA-04 disagreed with my views. Mr. Rowlett, representing AFSA-02 stated:



And Mr. Shaw, representing AFSA-04, gave me orally his view that since there was a possibility that the U.S. might want to incorporate the features of Hagelin's application in its own M-209 machines, the application should be retained under the Secrecy Order.

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7. I can hardly concur in either of the foregoing views of the matter, because they appear to me to be completely unrealistic under the circumstances set forth above.

8. I recommend lifting the Secrecy Order because:

a. Non-secret applications have been filed by Hagelin in ten countries; therefore there is no longer any real secrecy concerning the features of the Hagelin application;

b. Machines embodying the new features covered in the application are now being built by Hagelin and will be ready for market in the beginning of 1953, according to a recent letter (30 January 1952) from Hagelin;

c. Even if the U.S. should decide later to incorporate Hagelin's ideas in the M-209 or an improved version of that machine, the idea of keeping secret the details of construction of a machine issued for forward-area usage in the tens of thousands seems to me to be highly unrealistic if not absurd.

d. If the U.S. should insist on keeping the Secrecy Order in effect, this could have two consequences:

- (1) Either Hagelin will be led to observe the U.S. Secrecy Order, in which case he must abandon his non-U.S. applications and the U.S. will then become liable to suit in the U.S. Court of Claims under the provisions of Public Law No. 256 effective 1 February 1952 (the recently amended and strengthened old Public Law No. 700), a situation which could lead to claims running into millions of dollars; or
- (2) Hagelin will abandon the U.S. application, losing all his potential rights in the U.S., in which case the U.S. gains nothing -- neither secrecy nor delay in Hagelin's marketing his new machine. The U.S. would gain only Hagelin's enmity, thus cutting off a source of useful information to us, and all to no good purpose.

William F. Friedman
WILLIAM F. FRIEDMAN
Consultant

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