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DEPARTMENT OF COMMERCE
UNITED STATES PATENT OFFICE
WASHINGTON

Paper No. 7

All communications respecting this application should give the serial number, date of filing, and name of the applicant

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

Commissioner of Patents.

Applicant William F. Friedman

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

Ser. No. 682,096
Filed July 25, 1933
For Cryptographic System

Responsive to amendment filed April 3, 1934.

Hebern discloses mechanism for displacing the code wheels, and this mechanism is in effect a cipher-key transmitter. Applicant discloses a different form of transmitter, distinguished from the reference in mode of operation, and the claims should set out the distinctive structural details whereby the new result is achieved. Claims 1 to 4 are deemed fully met by the reference and are accordingly rejected.

If the keying element is necessary to the functioning of the rest of the device, it cannot be said to be independent thereof. The fact that the tape can be replaced does not render it thus independent, as any part of the apparatus may be replaced. Claims 6 to 10 and 18 are accordingly again rejected for inaccuracy.

These claims are further rejected as indefinite in the inferential inclusion of the tape as an element of the machine. Structure should be directly recited. If the tape is directly included as a machine part, the claims would be subject to rejection on the ground of aggregation, or a s an old combination of machine and tape.

In re Hawley, 1906 C. D. 576
Ex parte Franklin, 1875 C. D. 116.

Claims 11 and 13 recite merely a catalogue of elements without indicating their corelation and are rejected as being indefinite.

Claims 11 to 16 are rejected on Heburn who shows mechanism for effecting adjustment of the commutators; the use of an arbitrary phrase to designate such mechanism does not distinguish the claims from the reference. Claims distinguished from a reference by indefinite and functional limitations are not patentable.

Ex parte Mc Culley, 382 O. G. 3.

Claim 17 is rejected as indefinite in the inferential inclusion of the "connections", line 4, it not being directly stated that the keyboard and signalling elements are interconnected. Claims 18 to 25 are similarly rejected.

Claim 18 is rejected as indefinite in the concluding clause, which recites the tape inferentially. Similarly for claim 20.

The ciphering characters do not exist as separate entities, but are formed in the paper tape. Claim 21 is rejected as inaccurate in including the key as a tangible element and claims 22, 23, 24 and 25 are similarly rejected. If the tape is included these claims will be subject to rejection under In re Hawley and Ex parte Franklin, supra.

Claims 26 to 34 are rejected for reasons of record. A patentable art or process is independent of any particular mechanism. It has been directly held that a method of devising code messages is unpatentable as an art.

Berardini v. Tocci, 190 Fed. Rep. 329.

The term "cryptograph" is used in specification and claims to designate the machine. This inaccuracy should be corrected.

Claim 5 appears otherwise allowable.

Examiner.