

SECRET

Inventions

9-9/39
OGC/B-8026
09C7-2022

DDP 107

MEMORANDUM FOR: Director of Central Intelligence

SUBJECT : Patent Secrecy Authority for CIA

This memorandum suggests action on the part of the DCI. Such requested action is contained in paragraph 4.

1. At the present time, the Agency has pending in the Patent Office four patent applications. They are the result of inventions arising out of the performance of contracts concerned with certain research and development work for the Technical Services Staff, DD/P. These applications have been classified "secret" and have been filed in accordance with the informal arrangements which this Office has established with a cleared contact in the Commissioner's Office. While these arrangements are serving the useful purpose of ensuring that the applications are processed within the Patent Office on a classified basis, they will not be adequate in the event the Commissioner should ultimately determine that a patent should be allowed. At that time, it will be necessary that the Agency remove its classification, so as to enable the patent to issue, or the Commissioner may determine that the application has been abandoned. This dilemma results from the fact that the Patent Office may not withhold a grant merely because an application is classified. Its authority to forestall the issuance of patents is restricted to those applications with respect to which it has issued secrecy orders. But, under present law, such orders may be issued only on behalf of certain specified agencies.

2. In accordance with the provisions of Section 181 of Chapter 17 of Title 35 of the United States Code, when notified by the chief officer of a defense agency that publication or disclosure of an invention by the grant of a patent would be detrimental to the national security, the Commissioner of Patents is required to issue an order that the invention be kept secret and to withhold the grant. Included within the term "defense agency" are the Atomic Energy Commission, the military departments of the Department of Defense, and such other department or agency as may be designated by the President. The Department of Justice was designated by

MORI/CDF Pages 1 thru 4, and page 7

OGC Has Reviewed

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Executive Order 10457, dated 27 May 1953. An order is directed to the patent applicant and his representatives and prohibits disclosure of any information regarding the invention under penalty of the application being determined abandoned or, in flagrant cases, criminal prosecution. Section 183 authorizes agencies to settle claims for damages sustained by an applicant resulting from the issuance of an order.

3. Agencies having secrecy order authority are authorized also to inspect patent applications containing subject matter the disclosure of which would be detrimental to the national security. The procedure is for the agencies to indicate their respective fields of interest, and for the Patent Office to advise them when applications related there-to are received. Thus, in addition to making it possible for the Agency to more adequately protect its present and future classified inventions, its being designated as a defense agency would also make available a new source of technological information.

4. Since the designation of defense agency, within the meaning of the patent laws, requires the issuance of a Presidential order, there is attached for your signature a letter to the Bureau of the Budget (Tab A), recommending such action on the part of the President, and attached thereto is a proposed Executive Order.

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LAWRENCE R. HOUGHTON
General Counsel

Attachment

25X1

CONCURRENCE:

Special Assistant to the
Director, for Planning

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Director of Logistics

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Director of Communications

Chief, Technical Services Staff

OGC/RJB:pkb

Distribution: Orig. & 1 - Addressee
1 - INVENTIONS-2
1 - RJB Chrono
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1 - ER
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1 - Comp.
1 - OL
1 - Commo
1 - TSS
1 - General Counsel

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Cheng
Invent. 2

EXECUTIVE ORDER

WHEREAS, Chapter 17 of Title 35 of the United States Code provides in part that whenever the publication or disclosure of any invention by the granting of a patent therefor might be detrimental to the national security, the invention may be kept secret and the granting of a patent withheld under the conditions and to the extent set out therein;

WHEREAS, Section 181 of said Chapter 17 provides, among other things, that the President may designate any department or agency of the Government as a defense agency for the purposes of said Chapter;

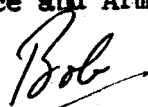
AND, WHEREAS, it appears that it would be in the interest of the national security to make the designation hereinafter described:

NOW, THEREFORE, by virtue of the authority vested in me by the above-mentioned provision of law, I hereby designate the Central Intelligence Agency as a defense agency of the United States for the purpose of said Chapter 17 of Title 35 of the United States Code.

SENDER WILL CHECK CLASSIFICATION TOP AND BOTTOM			
	UNCLASSIFIED	CONFIDENTIAL	SECRET
CENTRAL INTELLIGENCE AGENCY OFFICIAL ROUTING SLIP			
TO	NAME AND ADDRESS	INITIALS	DATE
1	SA/P/DCI		
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	ACTION	DIRECT REPLY	PREPARE REPLY
	APPROVAL	DISPATCH	RECOMMENDATION
	COMMENT	FILE	RETURN
	CONCURRENCE	INFORMATION	SIGNATURE
<p>Remarks: Dick: In the past we have obtained patent secrecy orders through the cooperation of either Department of Justice or one of the Services. Increased patent activity from TSS indicated it would be timely for CIA to have its own patent secrecy order authority. To initiate this we have the attached memorandum and letter to the Bureau of the Budget requesting issuance of an executive order. In this file we have not discussed a more sensitive patent of special interest to you or potential problems coming out of AQUATONE and related projects. Because of your special interest, however, (over</p>			
FOLD HERE TO RETURN TO SENDER			
FROM: NAME, ADDRESS AND PHONE NO.			DATE
General Counsel 221 East			12/3/57
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I am asking for your concurrence (on memorandum) in this proposal.

LRHouston

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CENTRAL INTELLIGENCE AGENCY OFFICIAL ROUTING SLIP			
TO	NAME AND ADDRESS	INITIALS	DATE
1	Mr. Houston		
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ACTION	DIRECT REPLY	PREPARE REPLY	
APPROVAL	DISPATCH	RECOMMENDATION	
COMMENT	FILE	RETURN	
CONCURRENCE	INFORMATION	SIGNATURE	
<p>Remarks:</p> <p style="margin-left: 40px;">Over to you. When this goes forward to Bu. Budget, would you so advise me? I will then alert both Justice and Army JAG.</p> <div style="text-align: right; margin-right: 100px;">  </div> <p style="margin-left: 40px;">Mr. Houston: Note - if we want to know when this goes to Budget we should ask that it be returned to us and then fwd to Budget through Comptroller.</p> <p style="text-align: right; margin-right: 100px;">STAT</p> <p style="text-align: center; margin-top: 20px;">J.</p>			
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FROM: NAME, ADDRESS AND PHONE NO.			DATE
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SENDER WILL CHECK CLASSIFICATION TOP AND BOTTOM
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**CENTRAL INTELLIGENCE AGENCY
 OFFICIAL ROUTING SLIP**

TO	NAME AND ADDRESS	INITIALS	DATE
1	General Counsel		
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<input type="checkbox"/> ACTION	<input type="checkbox"/> DIRECT REPLY	<input type="checkbox"/> PREPARE REPLY
<input type="checkbox"/> APPROVAL	<input type="checkbox"/> DISPATCH	<input type="checkbox"/> RECOMMENDATION
<input type="checkbox"/> COMMENT	<input type="checkbox"/> FILE	<input type="checkbox"/> RETURN
<input type="checkbox"/> CONCURRENCE	<input type="checkbox"/> INFORMATION	<input type="checkbox"/> SIGNATURE

Remarks:

Your copies.

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FROM: NAME, ADDRESS AND PHONE NO.	DATE
OGC 247 Curie Hall	11/21
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MEMORANDUM FOR: THE DIRECTOR

The attached memorandum recommends that we request an executive order designating CIA as a defense agency for the purpose of obtaining secrecy orders on patents which this Agency determines should not be published. In the past, arrangements with other "defense agencies" have sufficed, but an increased number of sensitive developments by this Agency make it desirable that CIA be authorized to take direct action.

Recommend signature of the attached letter to the Bureau of the Budget for this purpose.

3 December 1957
(DATE)

LAWRENCE R. HOUSTON
General Counsel

FORM NO. 101 REPLACES FORM 10-101
1 AUG 54 WHICH MAY BE USED.

(47)

FILE

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[Redacted]

Meeting 30 June of AEC
and Army
re their objection to CIA
designated "Defense Agency"

Present:
L R H

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[Redacted]

RT13

[Redacted]

AEC Patent Council
obj. Patents in AEC

STAT