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DEPARTMENT OF COMMERCE
UNITED STATES PATENT OFFICE
WASHINGTON

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.

11-8623

Applicant: William F. Friedman

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

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Responsive to a mendment filed Dec. 5, 1934.

Claims 1-10, 12, 14-34 are the claims in the case.

Claims 11 and 13, having been canceled, cannot now be reconsidered a s requested.

Claims 1-10, 12, 14-25 appear allowable.

Claims 26 to 34 considered as method claims are rejected as unpatentable under In re Tallmadge, 37 App.D.C. 490. To constitute a new and useful art a process must be capable of producing a beneficial result without the aid of any particular mechanism for where a process is simply the function or operation of a machine, it is not an invention, but at most the result of one.

Cochrane et al. v. Deener et al., 1877 C.D. 212. "The patentability of a process is entirely independent of the instrumentalities employed and it is immaterial whether or not the machinery pointed out as suitable to perform the process be either new or patentable".

Sweetland, 1922 C.D. 6. The claims for the alleged method reviewed and Held that they do not recite a patentable method but are for the obvious and "intended function or use of the apparatus covered by the claims of the patent.

The pertinency of these decisions is thought obvious.

These claims are further rejected as failing to define clearly as will appear from detailed criticism of claim 26.

In line 1, "system" may mean "method" or apparatus, see dictionary under "system". Therefore, the claim down to "the method" in line 4 may be considered as setting forth apparatus. If so, the "method" of line 4 and following is improperly recited as a part of the system, i.e. apparatus. If, however, "system" means method the claim does not make sense since it in effect recites "In a method of doing something, the method of doing something else", since the "cryptographis system" of line 26 appears to be the old and well known cryptography of Hebern, for example, and the "method" of line 4 and following is applicant's method as performed by means of the part 5.

Examiner.