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6/25/84

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6 June 1945

Captain F. J. Jones  
Major Ralph Carlisle Smith  
Reduction to Practice

PUBLICLY RELEASABLE  
LANL Classification Group  
JUN 1 1945

In accordance with our recent conversations, I submit the following comments relative to the proposed reduction to practice of the "gadget".

It is a fundamental principal that an invention comprises two parts: a conception, and a reduction to practice. Until there has been a reduction to practice, the invention is not complete. The conception can be simultaneously a part thereof but there is no invention until there is an actual or constructive reduction to practice.

According to Sec 4886 Revised Statutes (U.S.C., title 35, Sec. 31.) knowledge and use of an invention in this country is of paramount importance. We are about to have (or we so hope) such knowledge and use of one of the greatest inventions of this century, and concomitantly a great number of complementary and supplementary inventions. It is quite probable that this combined reduction to practice will be the only one in this country for a considerable time. Any others are likely to take place in a foreign country -- in any event with witnesses not qualified to testify to the facts and probably not in a condition to do so. Undoubtedly the security regulations of that country would prohibit an adequate statement by any of said witnesses then living. It is therefore imperative that fully adequate steps be taken to protect the government's interest in this matter, by preparing a complete record of the reduction to practice of the above mentioned device and the auxiliary inventions by a qualified observer specifically assigned for that purpose.

The reduction to practice must be capable of proof -- not merely proof that a devastating explosion and other phenomena took place, but also proof of the physical assembly and appearance of the devices and mechanisms as well as of the steps of the processes involved in producing these new and unusual and "highly desirable" results.

One must be able to produce at least one competent witness who cannot be disqualified for interest. It is an elementary consideration in law that interest in a witness unfavorably colors his testimony, and if it does not totally disqualify him, at least it impeaches the testimony to the extent that strong corroboration is necessary to prove a case. In patent law this principle is carried to the extreme -- to the extent that no inventor can prove his own invention but that a disinterested person must be able to testify to the facts showing the completion of the invention. Hearsay testimony is not good enough either; or the piecing together of the testimony of several

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FINAL DETERMINATION  
UNCLASSIFIED  
L. M. Redman  
OCT 24, 1980  
Made in Jones  
6/25/84

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CLASSIFICATION CANCELLED  
Re: Memo dated 6/29/77  
By: Les Redman Tony Riven

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interested parties. Nor is it possible to depend on testimony that merely states circumstances which would require the invention to have existed at a certain earlier time, but which invention was not known or understood by the person who states the circumstances. (The usual misconception of satisfactory proof of invention comprises sending a sealed package containing the device through registered mail to someone who does not open the package but swears that it has been in his possession unaltered and unopened since the date of receipt -- this cannot prove invention.) The foregoing is given merely to show that at least one (and preferably more) of the persons proving an invention by testimony must not have an inventor's interest in the proof of the invention. He must be able to state as a fact that he observed the physical set-up and knows it to have been of a certain construction and/or composition, and that the invention was operated with certain results occurring, and that the records retained for evidence correspond to these results. Those proposing to be present at the coming test have in substantially all cases inventive interest in certain novel features of the subject matter of the test and their testimony might consequently be insufficient to prove the reduction to practice. In any event, the individuals efforts will be necessarily directed to the specific features of their assignment rather than to the complete reduction of the various inventions. A few people, unquestionably will be present for the sole purpose of observing the results but, as has been noted, such observations are inadequate in the absence of proof that the observers were also present at the assembly of the device and saw and understood the nature and construction thereof.

The Patent Group at this site has docketed several hundred cases, many of which will have their first and isolated reduction to practice in the proposed great test at Trinity. It is therefore believed to be the duty of at least one (and preferably two) members of the Office of the OSRD Patent Adviser (Captain Lavender, U.S.N.) to be present during the assembly of the gadget and its component parts and during the subsequent test to accumulate and relate the data required by said Patent Group to prove its docketed inventions. It is a natural desire of the undersigned to be a member of that party, but it is essential that some member or members be present to perform these duties for the protection of the U. S. Government.

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The foregoing is confirmed by directions recently received from Captain Robert A. Lavender in a letter dated 5 May 1945 which reads as follows:

"Information has been received that certain tests are going to be made in the future that will involve the actual reduction to practice of several inventions and discoveries that have come to your attention.

"I am sure that you fully appreciate the importance of the assembling of data from a patent point of view and I am sure that proper arrangements will be made for the taking and assembling of the data required."

*Ralph Carlisle Smith*  
RALPH CARLISLE SMITH,  
Major, CE

Copies to:  
Project Director ✓  
Captain R. A. Lavender

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Receipt Forms

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