

PRINT

M E M O R A N D U M

August 28, 1940

Remitter: Anson W. Thompson Co. (54160)--Class K

Title: "Oklahoma Conoco Travel Club" and "Washington Conoco Travel Club"

Question: Whether material is classifiable as prints or labels used for an article of merchandise.

The opinion of the Revisory Board has been requested in the case of Anson W. Thompson Company as to whether registration should be made under Class KK as a print or label used for an article of merchandise.

1. "Washington Conoco Travel Club." This work consists of a print showing a red apple with the legend across the bottom "Washington." At the top of the picture is a triangle, (the point of which touches the picture of the apple) in which appears the statement "Travel Club Conoco."

2. "Oklahoma Conoco Travel Club." This is a picture showing wheat fields, oil wells, and logs (indicating the lumber industry). At the bottom of the picture in large white letters on a red background is the word "Oklahoma". At the top of the picture is a triangle, (the tip of which intersects the picture) bearing the words "Travel Club Conoco."

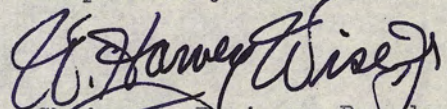
In the opinion of the Revisory Board these works should be registered under Class K as prints or pictorial illustrations. It is not believed that they come under Class KK, print or label used for an article of merchandise, merely because they contain the word Conoco used in connection with the triangle which may be a registered trade mark of the Conoco Company. There is nothing whatsoever to connect these pictures with gasoline and oil sold by the company. The only reference is to Travel Clubs--one in Washington and one in Oklahoma--which are probably clubs sponsored by the Conoco Company, but not necessarily so. It should be noted that the material is not submitted by the Conoco Company but by an advertising poster company. Furthermore, these are believed covered by the

"practices" outlined in the Copyright Office circular under item numbered 7. Registration, D: "No print or label can be registered unless it properly belongs to an article of manufacture..."

In further support of the action of the Board reference is made to the case of Ex Parte Pennzoil (see Bulletin 21, page 247). It is recognized that this decision is based on rule 30 of the Patent Office which is no longer in effect, but it does show the practice of the Patent Office, which, it is understood, is to be substantially followed in this Office.

The notice of copyright in both cases is adequate. It consists of the letter "C" in a circle accompanied by the initials AWT Co. On the back appears the full name Anson W. Thompson Co. The notice meets the requirements of Section 18 of the Copyright Act.

Respectfully submitted,


Chairman, Revisory Board

o.k.--H.A.Howell. 8/30/40.

NOTICE

MEMORANDUM

August 28, 1940

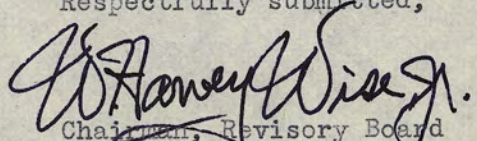
Remitter: Norman W. Tolle and Associates (36732)--Class B

Title: "Flypaper" Vol. 1, No. 4.

Question: Division of opinion as to adequacy of copyright notice.

The notice of copyright appears on the first page of the periodical. Under the title "Flypaper", which is in light colored letters on a brown background, is the statement "published and copyrighted by Speer Flying Service." "Published and copyrighted by" are in small type and are in blue letters on the brown background. The brown background extends some two inches from the top of the page, beneath which is the usual white background with text in blue letters. The name of the copyright owner, Speer Flying Service, is immediately beneath "published and copyrighted by" and the letters are partially on the brown background and partially on the white background. An inch to the left of Speer Flying Service, on the line below, is the statement Vol. 1, No. 1 - July, 1940. The question presented is whether 1940 is sufficiently closely associated to the statement "published and copyrighted by Speer Flying Service" to constitute an adequate copyright notice. As stated the year 1940 is within one inch of the other elements of the notice.

In the opinion of Mr. Wise the elements of the notice are sufficiently closely associated to justify registration. The applicant should be cautioned that in the future the elements of the notice should be more closely associated *by inserting year date* ~~the following form: "Copyright 1940 by Speer Flying Service."~~ *immediately* Mrs. Brady, Mr. Smith, and Mr. Pierce, on the other hand, take *up the copyright* the position that the notice is inadequate in that the year date is omitted from the copyright notice. In their opinion 1940 was not intended to be a part of the copyright notice, serving merely as a part of the issue and volume number and accordingly they feel that the application must be rejected.

Respectfully submitted,

 Chairman, Revisory Board

Register but write--This is a very exceptional case.--H.A.Howell 8/29/40.