

Copyrightable?

## MINORITY MEMORANDUM

Sept. 20, 1940

Remitter: David Rosenwein (53017)

Title: Containers to be Used for Candy, Fruits, Nuts & Bon Bons.  
Figs. 1 - 5

Question: Registrability of deposit.

The deposit in question consists of five drawings of a regulation Army cap. Three of these drawings show the cap in profile; one is a front view; and one is a box-like container, shaped to fit into the cap. In the opinion of the undersigned, the original recommendation in this case should have been to register in Class G, unpublished, as drawing, upon the receipt of a deposit without text.

This opinion is based upon Rule 12 of Bulletin 15, quoted by Mr. Howell in a recent decision in a <sup>similar</sup> Revisory Board case. Rule 12 states that ". . . registration in the Copyright Office has been made to protect artistic drawings notwithstanding they may afterwards be utilized for articles of manufacture. Toys, games, dolls, advertising novelties, [etc.] are examples. The exclusive right to make and sell such articles should not be sought by copyright registration."

But there is nothing new or original--merely outline of an army hat. What he really wants is to secure exclusive right to make and use containers of this sort. I think we should reject with explanatory letter.--H.A.Howell 9/26/40.

*H. A. Howell*