

MINORITY MEMORANDUM

November 4, 1941

Remitter: Maréchal and Hoe (16107)

Title: "Dick Dunkel's Basketball Forecast--Schedule and Game Forecast for Week Ending Jan. 12, 1939."

Question: Whether further correspondence should be entered into concerning an antedated notice of copyright.

The work in question is material that was obviously intended for syndication, and which has been held in abeyance pending a decision of the mandamus actions brought against the Register of Copyrights. The character of the work is actually that of a basketball forecast governing the coast-to-coast games to be played in 1939.

Following the decision of Circuit Court of Appeals, applicant's attorneys on Sept. 13, 1941, wrote requesting reconsideration of their client's claim and the issuance of a certificate. The matter was referred to the Revisory Board, which in view of the court decision referred the application to the Examining Section for entry.

The Examining Section then discovered a variance in the year date of publication between the application and the notice. The application gave January 3, 1939 as the date, whereas the notice of copyright bore a 1936 year date. Upon the matter again being brought to the attention of the Board, Mrs. Brady and Mr. Pforzheimer would have the Office write to the applicant requesting an explanation of the variance in date.

In the view of Mr. MacCarteney no purpose would be served in further delaying registration of this claim. The registration is going to be made, since the only possible result of the antedated notice is the loss of three years copyright protection. To him it seems obvious that the year date in the notice is a typographical error, since the forecast is stated to be for the week ending January 12, 1939, in accordance with the year date of publication in the application. Actually the forecast would seem to be of absolutely no value at this time, and applicant would seem to be applying for registration on grounds of principle only. To delay further in issuing the certificate because of the technical informality presented would serve only to cause irritation to the applicant and a belief on his part that the Office was endeavoring to the utmost to postpone complying with the decision of the court.

Obviously a mistake in the year date appearing in the copyright notice since this work consists of a current basketball schedule. Register as applied for using date of publication in application. W. H. Wise 11/6/41

R. S. MacCarteney  
Acting Chairman of the Revisory Board



Under date of October 20, applicant requested a reimbursement for \$8 due to the fact that these booklets should have been classified as "books" instead of "commercial prints." The fact is that the works are books rather than commercial prints, since they are simply instruction leaflets "used in addition to the operating instructions prepared for the Servel Gas Refrigerator." They are not used in connection with the sale or advertising of an article of merchandise. The Board is of the opinion that the KK registrations should be cancelled if possible, and the fees refunded, as applicant desires. Registrations would then be in order under the proper classification of "book."

9. Marechal and Noe. (16107)--Class A. "Dick Dunkel's Basketball Forecast--Schedule and Game Forecast for Week Ending Jan. 12, 1939." This matter has twice been before the Board (Sept. 24, 1941 and Oct. 30, 1941). The first time the Board upheld the Examiner in rejecting the work since it seemed obviously to be intended for syndication, and in the form deposited, according to the Office view, could not be considered as published. Following the recent decision of the Circuit Court of Appeals in the 20th Century-Fox v. C. L. Bouvé case, the matter again came before the Board for reconsideration, looking to passage of the application. As a routine matter the Board recommended entry. The Examining Section subsequently discovered a variance in the date of publication, the notice reading, "Copyright 1936 by R. C. Dunkel," whereas the application gave January 3, 1939 as the date of publication. The Board divides on whether this variance should be explained, Mrs. Brady and Mr. Pforzheimer requesting correspondence. Mr. MacCarteney is for entry as applied for without further ado, since the only possible effect in antedating the notice is the loss of three years copyright protection, and since the work itself has a 1939 basketball schedule it seems immaterial whether three or twenty years are lost. Appeal. *See memo book*

*NOTICE OF ©*



MINUTES OF THE REVISORY BOARD  
COPYRIGHT OFFICE  
NOVEMBER 5, 1941

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The Revisory Board met at 2:30 P.M. and adjourned at 3:35 P.M. Those present were Mr. MacCarteney, Mrs. Brady and Mr. Lasica, with Mrs. Rafter sitting as a voting member for one corrective entry.

Total time consumed, 65 minutes.  
Unanimous decisions, 9

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Corrective entry:

Harper and Brothers. No. 62103, Class A. "Out of the People." The ad interim application submitted and recorded carries the correct date of publication; i.e., September 8, 1941. Since it is not believed that the incorrect date of publication given in line (6) of the A application for the American Edition affects the copyright, the Examiner is sustained in her recommendation that a corrective entry for the American Edition does not seem necessary.

Regular copyright business:

Biggs, Orvilla. No. 66321, Class E-2. "It's Shining Thru." Applicant inquires whether selling photo copies of a work is considered publication. The Examiner interprets this statement as meaning publication has actually taken place, and the copy deposited bears no copyright notice. Accordingly she recommends rejection. The Board overrules the Examiner, believing that the applicant is merely asking the question and that there is no evidence that copies of the work have actually been distributed. Advise if publication (explain) of photostat copies does take place with correct notice of copyright, registration as a published work can be had.

Bailey, Henry W. No. 58255, Class ? "Santee-Cooper Project, FWA Docket No. 4329, General Map of Project, Dwg. No. OON1-R2." There has been considerable correspondence with this applicant with respect to various aspects of his claim. The copies deposited were not identical, and authorship has not been established. The copies now on deposit bear a notice of copyright containing an advance year date of publication. The application gives the date of publication as December 21, 1940, whereas the notice of copyright includes the year 1941. Reject upon ground of publication with advance notice and close matter.

Moore, M. W. No. 69582, Class A. "Tucson Business and Professional Directory, 1941-1942." Application and notice of copyright on the copies give the title of the publication as the copyright claimant. Write and inquire only as to whether the title is a trade-name. Explain form of claim for "Doing business as." Send new application for possible use.



Prentice-Hall, Inc. Deposit Account, Class A-1. "Report Bulletin 57, October 31, 1941, National Defense and Government Contract." The title appearing on copies of this work is given as "Prentice-Hall National Defense and Government Contract Report Bulletin 57." This is at variance with title in line (6) of the application reading: "Report No. 57 of the Prentice-Hall National Defense Service." Request new application giving title in agreement with the title on the copies.

Cooper, Edward W. W.R. 37595, Class A-1. "Transcript of Stenographic Report of the Testimony taken on behalf of the Plaintiff in the Matter in the United States District Court for the District of New Jersey, in which Quemos Theatre Co., Inc., a Corporation, is Plaintiff and Warner Bros. Pictures, Inc. and others are Defendants." This work appears to be a literal transcription of Court testimony, the only additional material being an index to exhibits. Question basis of claim in this work, and also publication. Return faulty check but hold copies pending reply of applicant.

Prindeville, C.A. No. 61368, Class A-1. "Chapters in Religion, Books I and II." As originally received in this Office, Vol. II of this two-volume work did not bear a notice of copyright. Applicant was informed that registration could only be made for Vol. I in view of the fact that publication had apparently taken place with only Vol. I bearing the notice. Applicant replied that only a very few copies were so distributed of Vol. II lacking the notice. The Office then requested an explanation as to the extent of distribution. Applicant stated fourteen copies were distributed without notice, but that stickers with copyright notice stamped thereon were supplied to all holders of these books. In view of this explanation as to the limited distribution of copies without notice on Vol. II, and in further view that copyright stickers have been supplied to the owners, the Board recommends that both volumes be entered, applying stickers to deposit copies. Advise applicant accordingly. The authority of this action would seem to stem from Section (20) of the Copyright Act.

Wilson, Wilbur D. No. 70368, Class A. "Copywriter." The material deposited consists of a cardboard sheet with ruled lines containing numerous colored circles divided as to quarters and halves. A certain amount of text matter also appears on the card. Applicant files Form A-1 requesting registration of the work as a book under the title "Copywriter." The Examiner would reject, stating that the work is not subject matter of copyright and that it is obviously used in connection with a machine. The Revisory Board recommends, however, that a letter be written to the applicant first requesting information as to the purpose and use of this work to enable the Office to make a full examination. The Board would then also inquire as to the completeness of the copies deposited.

Munger, William P. No. 70684, Class A-1 (?) "Historical Atlas of New York State, Publ. Oct. 24, 1941." The material deposited is an atlas of New York State containing many maps and a great deal of supplementary text matter. There is a notice of copyright on the title-page reading: "Edited and copyright by William P. Munger, Rochester, New York." The Examiner would reject this claim upon the ground that the material deposited is not a map but a book, and that therefore the notice of copyright on the title-page is insufficient in that it lacks the year date of publication. The Board observes, however, that there is a supplementary notice on the back of the title-page which does contain a year date of publication, and further that each page of the book bears an acceptable notice of copyright. In view of these facts the Board overrules the Examiner in holding that entry should be made. Request that application be filed upon Form A-1, classifying the work as a book, and warn as to the statutory provisions of the notice.



MINUTES OF THE REVISORY BOARD  
COPYRIGHT OFFICE  
November 6, 1941

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The Revisory Board met at 2:30 P.M. and adjourned at 3:35 P.M. Those present were: Mr. MacCarteney, Mrs. Brady and Mr. Pforzheimer, with Mrs. Rafter sitting as a voting member for one case of corrective entry.

Total time consumed, 1 hr. 5 mins.  
Unanimous decisions, 13

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Corrective entry:

1. Gary, Mrs. Jean Gilbreath (No Fee)--(E unp. 271621). "Victory Code Song." Applicant states that registration was made for this unpublished musical composition with her middle name incorrectly written. The Board sustains the Examiner in holding that no corrective entry is permissible in the circumstances, since the informality is confined to a mere change in the middle name of one of the composers. If publication later takes place the change can then be made.

Usual business:

2. Callahan, Edith D. (No Fee)--Class E. "It Took You To Do It." Registration was made for this musical composition based upon an arrangement by one of the co-claimants. The present writer and other co-claimant now wishes to nullify this registration and register her own "original" version. Advise writer she should file a copy of her original version, together with an application on Form E-2, giving after the title "Original version," and the registration fee of \$1.00. The registration already of record, however, cannot be cancelled.

3. Loudon, Henry A., Advertising (No Fee)--Class ?. "The Country Store" (envelope) & "The Country Store" (folder). Deposit is an announcement folder, announcing the opening of a store and advertising the sale of various articles of merchandise, together with a pictorial envelope in which the announcement is enclosed. The announcement folder would be registrable as a commercial print, since it advertises various articles of merchandise. Request KK application form. Envelope is not a commercial label since no article of merchandise is contained in the envelope but merely an advertisement thereof. The envelope therefore would be registrable as a straight K. Request deposit of suitable applications and registration fees.

4. Exhibit Supply Co. (71331)--"Blind Dates"(2 groups) & "Army and Navy." This material consists of a large number of greeting cards of more or less dubious import. Examiner sustained in rejecting those cards that bear an



advanced year date in the notice of copyright. Examiner also sustained in requesting registration under Class K for another group of cards. The Examiner is overruled, however, in her contention that a third group is obscene. Do not raise question of obscenity in so far as these cards are concerned. Return to Examiner for further examination as to other possible informalities.

5. Wilburn, E. M. (68827)--Class ?. "Thrift Calendar for 1942." The deposit is a so-called "Thrift Calendar," which applicant states is an entirely new and original key to the days of the week in any month. In the opinion of the Board the work presents no ~~registrable~~ <sup>copyrightable</sup> proposition on its face, and therefore registration does not seem permissible. Advise applicant, however, that if the work is hereafter published with explanatory text, as the applicant indicates it may be, then the work may be registrable as a "book." Reject.

6. Mason, Fenwick & Lawrence (Deposit Acct.)--Class I. "Pitt Four Unit Apartment House." The copies of this work presently submitted for registration are said to represent "two sets of the original plans," which were published on April 28, 1939. The copies, however, bear statements of 1940 revisions. Write again, requesting copies of the original 1939 publication. The copies now in the Office bearing statement of 1940 revision are obviously not copies as published in 1939.

7. Keys, Chas. W. (63783--refunded)--Class ?. "Keys Indian Store--Out Wickenburg Way." Applicant has submitted a pictorial card, the picture on which he states is also reproduced on a letterhead. In a previous letter the applicant mentioned he wanted a trade-mark protection, and the application for registration in this Office accordingly was filed without action. It now appears that the work in question is not a trade-mark. Advise applicant if publication has not yet taken place, a correct notice of copyright may be added to all copies; then when work is published registration may be applied for in the Copyright Office under the classification of "print."

8. Hollender, Chas. (71117)--Class ?. "What Can We Do For the U.S.A." The work deposited consists of a series of twenty-three unpublished drawings, together with three pages of typewritten text divided into twenty sections each section referring to a particular drawing. Applicant has filed an application on Form D-2 for this material, classifying it as a dramatic composition. It is obviously not a dramatic composition, nor is it a lecture as the Examiner suggests. In the view of the Board the work is simply an unpublished "book." Applicant should be advised that the individual drawings could be registered separately in unpublished form, but that the work as a whole would only be registrable as a book following publication with the copyright notice. Refund at this time.

9. Bell, Dorothy (70386)--Class E. "Can't You Come Back To Me." Examiner sustained in questioning whether publication has taken place in the form of the photostatic copies of this composition now in hand. Explain publication. With respect to the notice of copyright on the copies, however, the Board is of the opinion that it is not unacceptable inasmuch as all



of the prerequisite elements appear upon a single sheet, and the name of the claimant is the only name appearing anywhere upon the copy.

10. Keller-Crescent Co. (No Fee)--(KK-9192-9193). "Using Your Servel Electro-Thermal Refrigerator." This matter was before the Board on November 4, 1941, at which time the cancellation of the existing registrations upon the ground of improper classification was recommended, together with the refund of fees. Upon reconsideration, however, the Board reverses itself, in view of the fact that applicant himself submitted applications on October 2 in advance of subsequent inquiries as to the proper classification, applying for registration on KK applications. The subject matter would appear to be borderline, that is, it could be registered either as a "book" or as a "commercial print." Since applicant in the first instance elected to apply for registrations under the latter category, the registrations must be allowed to stand. In any event, it is now too late to make the refund requested since the registrations have been made and the fees covered into the United States Treasury.

11. Snow, C. A. & Co. (70591)--Class ?. "Here's a Toast to Florida Fun ..." The Examiner is sustained in her recommendation as to the work entitled "The Antonyms and Other Songs." The affidavit is faulty in that the title of the publication has been omitted. With regard to the second work constituting a "label," with the title "Here's a Toast to Florida Fun," the Board recommends that the application be submitted to the print and label Examiner for possible entry as a label.

12. Doubleday, Doran & Co., Inc. (Deposit Acct.)--Class A. "The Fighting Littles." This work is a publication in the form of a novel of what were separately published short stories in the magazine The Saturday Evening Post over a period of years from 1937 to 1940. Applicant has filed application upon Form A-6, claiming upon additions, revisions, changes for full length book version." Examiner overruled in requesting Form A-1. The Board recommends registration as applied for, providing the application is otherwise in order.

13. Bastian Blessing Co. (70162)--Class A. "Rego LP Gas Pocket Guide" in "LP-Gas Merchandising - October 1941." The material to be registered consists of several sheets intended to be cut out from pages of a periodical and inserted in a loose-leaf binder. Examiner feels that these may be reprints from a previously published booklet. In view of the explanatory remarks at the bottom of one of the pages, the Board sees no reason to raise this question of reprinting. It recommends entry as applied for providing the application on Form A-5 is otherwise in order. There seems to be a question as to the correct authorship, which may require correspondence.



MINUTES OF THE REVISORY BOARD  
COPYRIGHT OFFICE  
November 7, 1941

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The Revisory Board convened at 2:30 P.M. and adjourned at 3:45 P.M. Those present were: Mr. MacCarteney, Mrs. Brady and Mr. Lasica.

Total time consumed, 85 minutes.  
Unanimous decisions, 7  
Divided opinions, 1

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1. Scholastic Corp. No. 4598, Class B-1. "Junior Scholastic Vol. 4, Nos. 2 and 3." These issues of the periodical were passed for entry when originally received on January 18, 1940. Subsequently the Periodical Division discovered that the copies were incomplete and returned them to the Copyright Office with the request that complete copies be obtained. The Office wrote the copyright claimant requesting complete copies, but after much correspondence the Office is advised that additional copies are nowhere available. Since the registration has been completed, and the certificates issued, and additional copies are not available, it is recommended that the application be returned to the files and the matter closed.
2. National Association of Retail Druggists. Deposit Account. Class A-1. "The Druggist and The Food, Drug and Cosmetic Act." This publication bears a notice of copyright in the following form:

Published by  
The National Association of Retail Druggists  
John W. Dargavel, Executive Secretary  
205 West Wacker Drive, Chicago, Illinois  
Copyright 1941

The application is in the name of the "National Association of Retail Druggists." Accept notice as substantially complying with the provisions of the Act, but write warning letter.
3. Universal News and Broadcasting Company, Inc. No. 71216, Class B. "Economic and Financial Agency, Oct. 30, 1941." This work bears a notice of copyright reading: "Copyright 1941 by U.N.B. Inc." The full name of the copyright owner is "Universal News and Broadcasting Co., Inc." However full name appears nowhere upon the copies. Reject.
4. Clinton Davidson. No. 72313, Class A-1. "The Davidson Phonetic Alphabet." The work in question is, as the title implies, a phonetic alphabet. Registration was formerly denied upon the grounds that there was nothing registrable in the alphabet. Applicant requests reconsideration, but the Board sustains the Examiner. Applicant should be informed there is no copyright protection for a system or an idea.



5. Russell C. Roshon, No. WR 37585, Class A-1. "Special Delivery." The notice of copyright reading "Copyrighted 1941" appears at the upper right-hand corner of the first sheet. Directly across in the left-hand corner is the claimant's name contained in a pictorial heading. Since all three elements of the copyright notice appear upon the same page, and indeed in a direct line with each other, the Board deems it acceptable.
6. Edward Abbe Niles, No. 65530, Class E. "Blue Gummed Blues," "Careless Love," and two others. The applicant has deposited a number of songs that have been removed from a bound collection and submitted with individual applications for registration. The Office originally requested the deposit of two complete copies of the bound collection as published. The applicant's attorney now advises the Office that the course of action pursued by him was in accordance with instructions received from the Copyright Office with respect to a similar case in 1930. The question was propounded to the Office whether it would accept copies of sheets taken from a song-book, and the Office did accept such sheets and made the registrations. The songs now in question are by the well-known Negro composer, W. C. Handy, and the applicant's attorney states that he advised the claimant "at considerable trouble to get together two copies of the first edition of the books, and thereupon took them apart in order to make deposits in sheet form." In view of this act, and in further view of the fact that it is apparently impossible for applicant to obtain other complete copies, the original publication having been effected in 1926, the Board recommends that these song sheets in the form deposited be accepted in lieu of copies of the bound edition.
7. Oscar M. Beveridge. "No Fee." Class A-1. "Scrambles." The work in question is in the nature of a word-game in which the letters as printed must be "unscrambled" in order to determine the word indicated. Write that game as such is not copyrightable; however, this particular compilation of "scrambled" words may be registered as a book if published with copyright notice. Explain that the idea involved, of course, is not copyrightable, and that no monopoly could be secured in the type of such publication.
8. Jacob Alma Goodman. No. 61278, Class A-1. "Certificate of Membership." This work bears a printed notice of copyright reading: "System copyrighted by J. Alma Goodman, 1941." With regard to this item the Office wrote the applicant advising that there is no copyright in a system or plan, but that copyrightable text matter would be subject to copyright. The applicant now files copies of the publication from which the word "system" has been removed by inking the word out. The Examiner would advise the applicant that if copies of the work were published with a notice of copyright including the word "system" that no registration can now be obtained, since systems are not copyrightable. The Board divides upon this recommendation, Mr. MacCarteney and Mr. Lasica holding that the inclusion of the word "system" in the copyright notice should not preclude registration where there is essentially copyrightable text matter present, and Mrs. Brady sustaining the Examiner in her contention that the presence of the word "system" precludes registration if publication was effected in that form. Appeal.



MINUTES OF THE REVISORY BOARD  
COPYRIGHT OFFICE  
November 10, 1941

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The Revisory Board met at 2:45 P.M. and adjourned at 3:45 P.M. Those present were: Mr. MacCarteney, Mrs. Brady and Mr. Pforzheimer, with Mrs. Rafter sitting as a voting member on one corrective entry case.

Total time consumed, 1 hr.  
Unanimous decisions, 11  
Divided decisions, 1

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Corrective entry--

1. Saracini, Joe A. (No Fee)--Class E. "Angela." Applicant secured copyright registration for his unpublished song on October 27, 1941, under No. E unpub. 273843. He now wishes to have the name of his music collaborator added to the record. If this is to correct a mistake in composership then a corrective entry may be made. It is stated that the copy is identical with the former copy deposited. Explain procedure for corrective entry to applicant.

Usual business--

2. Katz Agency Inc., The (No Fee)--Class A. "Study of Duplication and Coverage of State and National Farm Papers - 1941-1942." The notice of copyright on this deposit appears on the lower central portion of the title page, and reads: "Prepared and Copyrighted by The Katz Agency, Inc." At the lower right hand corner appears the date, "Oct. 1941." This is separated from the notice by a horizontal listing of four publications that are apparently published by the Katz Agency. The notice of copyright is held acceptable, but a warning letter should be written advising applicant as to the preferable form of copyright notice.

3. Roberson, Walter (No Fee)--Class ?. "U. S. Army, Fort Jackson - Columbia, South Carolina." The deposit consists of a circular crayon drawing in various colors, including artistically arranged and colored text. The Examiner would reject upon the ground that the drawing is not a work of art. The Board is of the opinion, however, that it would be registrable as a drawing especially in view of the decision in the "America" drawing case. Request application and registration fee.

4. Lyon & Armour, Inc. (No Fee)--Class ?. "Application for Employment." The deposit consists of an application for employment blank. Reject as a blank form. The Board is of the opinion that there is not sufficient



text matter to justify registration of this work as a "book."

5. Real Estate Board of New York, Inc. (68989)--Class ?. "Lease Rider R 6/41." This work is a lease rider in the form of a narrow strip of paper embodying a new priorities clause to be attached to standard lease forms. The Examiner would have the lease itself deposited in addition to the rider. The Board, however, is of the opinion that the rider is published, i.e., distributed, separately, and there is no necessity for deposit of already published leases which at the time of publication had no connection with this rider. Inquire, however, as to an apparent variance in claim, the notice of copyright being in the name of the Real Estate Board of New York, Inc., while the application gives the claimant as The Real Estate Board of New York, Inc. Management Division.
6. Temple, Helen (35485)--Class E. "Our Song." The applicant applies for registration of an unpublished song which she states "is based on a tune, sung by Chevalier in a musical revue, which I carried out of France in my head--I am not sure how accurately." The Examiner would request an application on Form E-2 with a statement indicating it is based on the Chevalier tune. The Board, however, is of the opinion that applicant simply has no rights in the song of Chevalier which she admittedly has copied as nearly as possible from a musical revue to which she lays no claim. Reject.
7. Chajes, Julius (71811)--Class E. "Serenata D'Amore." The applicant, a refugee Austrian Jew, applies for the registration of a song of his composition which he states was published in Vienna in 1938 and copyrighted in the name of the publisher, IBIS-Verlag. The applicant left Austria before having seen a copy of the work in published form, and the only copy that he can submit to the Copyright Office is a proof bearing a notice of copyright in the name of the Austrian publisher. Write a careful letter inquiring as to the composer's former contractual relations with IBIS-Verlag in regard to securing American copyright. As the notice now stands copyright is in the name of IBIS-Verlag, with no presumption of the composer's ability to secure United States copyright. It might be suggested that since IBIS-Verlag is a foreign affiliation of ASCAP, which it is understood is handling these foreign publication situations, that applicant get in touch with the Society with a view to determining his possible rights.
8. Aronson, Naoum (58901)--Class G. "Beethoven. Bust." This matter was before the Board on Sept. 22, 1941, at which time the applicant was advised to file an application on Form G-1 for his sculpture, but was requested to affirm that the plaster copies deposited were those of the best edition. From his reply it appears that there has been no publication in the United States of this bust and that the original publication in Paris, France, of twenty years ago took place in the form of bronze statuettes. The Examiner is sustained in requesting an application giving the artist's place of domicile in the United States. The Board



overrules the Examiner, however, with respect to the deposit of copies. The date of publication to be given in the application must be as of the date of publication in France, and the deposit must be of bronze notwithstanding applicant apparently has none of the original lot. He can, however, manufacture in this country. The plaster models now in hand are not acceptable.

9. Busser & Harding (68496)--Class KK. "Play Ball, Sports Hall of Fame, Cards 49-72: Ellsworth T. Dahlgren & 23 others." This matter was before the Board on Oct. 23, 1941 and also on October 28, at which time the print and label Examiner was sustained on his memorandum, finding the cards consisting of pictorial prints of famous baseball players and their biographies to be registrable as commercial labels used in connection with the sale or advertising of a commodity, to wit, chewing gum. Applicant's attorneys protest this decision, holding that the cards are non-commercial prints. The Board sustains the Examiner again, however, in his contention that these works are commercial labels.

10. Worley, John, Co. (Deposit Acct.)--Class E. "Sing A Song of Summertime" and "Ma Man Is Marriage Minded." This matter was before the Board on October 8, 1941, with respect to the acceptability of the copyright notice. On the copies the name of the claimant, Helen Morrison Cruikshank, is separated from the copyright notice reading, "Copyright--All rights reserved August, 1941," by the symbol of "Kaleidoscope Music Publications." The Office wrote with respect to the claim, and in reply the printers reaffirmed that Helen Morrison Cruikshank is the sole owner of the copyright, but without going further. Since the remitter has failed to answer the Office letter with respect to the possibility of Helen Morrison Cruikshank doing business as Kaleidoscope Music Publications, write and inquire again.

11. Kits, Inc. (72402)--Class ?. "The Flower Shop" and "Sticker Kit Circus." The material to be registered consists of two pictorial box tops for a child's toys. On the inside of each box top are printed directions for playing, together with other illustrations. The print and label Examiner is sustained in his recommendation that a single KK application should be filed for the work entitled "The Flower Shop," classifying it as a commercial label. Further, a single KK application should be filed for the "Sticker Kit Circus" in the name of John B. Gruelle, which name appears in the copyright notice upon the outside cover. Since, however, the directions on the inside of the cover bear a copyright notice in the name of Kits, Inc., which is different from the claim on the outside of the cover, a separate registration for the directions as a "book" would seem to be in order. The Board differs from the Examiner in this latter recommendation, seeing he would classify the directions as a second label.

12. Gousha, H. M., Co. (69418)--Class ?. "Braniff Airways Route Map." The deposit is an eleven page booklet constituting route maps of the Braniff Airways. Upon each page is a section of the extent of the airways,



and pages 6 and 7 comprise a full map of the extent of the airways with a copyright notice in the names of H. M. Gousha Company and Braniff Airways, Inc., which is in accordance with the claim in the application. Each of the sectional maps referred to likewise bears a notice of copyright, reading: "(C) the H. M. G. Co."

The Examiner would reject this publication as a single map, and she further states that there is no notice appropriate for a single book registration. The Board divides in this case, Mr. MacCarteney and Mr. Pforzheimer holding that the full form of notice appearing in connection with what might be construed as a title page, together with the individual abbreviated notices on each sectional map, furnish sufficient compliance with the provisions of the Act in advising the public that the work is copyrighted and who the claimant is. Mrs. Brady, on the other hand, agrees with the Examiner, in that the only registration possible would be for the double page map with the Braniff Airways indicated in red, on which double page appears the full form of copyright notice. Appeal.

*Register as applied for under Class 7.  
W. H. Hise 11/7/41*



MINORITY MEMORANDUM

November 10, 1941

Remitter: Gousha, H. M. Co. (69418)

Title: "Braniff Airways Route Map"

Question: Registrability of this folder as one map.

The undersigned is in agreement with the Examiner with respect to this deposit. The Examiner's recommendation is that there is no notice appropriate for an A-1 registration but that a registration might be made in Class F for the double page map entitled "Commercial Airline Map of United States," which is found in the center of the booklet. On this page 6 is found the only content which meets the provision of the statute with respect to notice. Immediately under this map two separate texts appear, one, "Flight Map Explanation," has a book notice, "Copyright 1941 by The H. M. Gousha Company and Braniff Airways, Inc." The other article is entitled, "More Than A Quarter-Million Americans." These two writings are set apart from each other and from the map by distinct lines enclosing them and a substantial space surrounding them, giving the appearance of three separate articles on one page. However, as there is a full notice of copyright at the foot of this page, and as the names which appear in the notice are given in the application accompanying the deposit as claimants, it would seem possible to make a registration for the map upon this page if a new application were received in which the title "Commercial Airline Map of United States" was used to identify the map. "Braniff Airways Route Map," by which title this folder is identified could not be registered as there is no notice of copyright to cover the general contents, and the other separate route maps found on each page have defective notices inasmuch as the full name of the copyright owner is lacking, as they bear only the following notice, "(C) The H.M.G. Co.," obviously the initials of The H. M. Gousha Company, whose name is not found on these pages.

M. C. Brady

Register as applied for under Class F.

W. H. Wise 11/17/41.



MINUTES OF THE REVISORY BOARD  
COPYRIGHT OFFICE  
November 12, 1941

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The Revisory Board met at 2:30 P.M. and adjourned at 3:45 P.M. Those present were: Mr. MacCarteney, Mrs. Brady and Mr. Lasica, with Mrs. Rafter sitting as a voting member on one corrective entry case.

Total time consumed, 1 hr. 15 mins.  
Unanimous decisions, 7  
Divided decisions, 2

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Corrective entry--

1. Ilardo, Carl B. (No Fee)--Class E. "Keep 'em Flying." Applicant advises the Office that he has used his pen name as copyright owner in one of his recent applications and wishes to correct this, replacing his pen name with his full legal name. Permit applicant to apply for corrective entry if he so desires. Explain procedure.

Usual business--

2. Wobensmith, Z. T. 2nd (70005)--"Crimes." The Office first questioned this deposit as constituting the text of an address prepared for oral delivery. Applicant replied that the delivery of the text is extended over six sessions totalling about twelve hours in length. The Office then informed the applicant that such being the case the material deposited must be considered as six lectures, not one, and that each lecture would require a separate registration. Applicant replies, again contending that there are no natural lines of division in the material which would tend to suggest separation of the lecture into any specific number of parts. It is well established, however, with regard to the registration of lectures that each separate oral delivery is to be regarded as a separate lecture. The Examiner is sustained in her recommendation that registration can only be made for the parts of the material as rendered orally upon a single occasion, that is, each separate oral delivery must be registered as a separate lecture. (Class C).

3. European Statuary & Art Co. (No Fee)--Class G. "Statue of Jesus." Applicant inquires as to the form of deposit required in case of a piece of statuary five feet tall. He does not say whether or not this work has actually been published. Examiner is sustained in her recommendation to explain the uses of Forms G-1 and G-2. No notice is apparent on present reproduction.

4. Richman, Frank (72127)--Class ?. "The Color Guide" Nos. 1-24 and Nos. 24-48. Considerable correspondence has been had with this applicant in an effort to ascertain whether the material has actually been



published within the statutory meaning of the term, and if so whether copies of the best edition have been deposited. Applicant now files an application giving the date of publication as Sept. 8, 1941. Since the Office has carefully explained the meaning of publication, the Board recommends that the application be rejected, since the notice appearing on the copies deposited is insufficient, lacking the year date of publication and the claimant's name. Reject.

5. Cullom & Ghertner Co. (No Fee)--Class E. "His Wonderful Love--1st hymn." The deposit is a collection of nineteen musical compositions stapled together in a paper folder without a general title. A single copyright notice is printed at the top of the first composition entitled "His Wonderful Love." The Board recommends that in the absence of a collective title, either on the copies or on the application, that publication be questioned, first explaining its meaning as understood in the copyright law. Suggest that if this collection is published with a general title, applicant should apply for registration upon Form E with the deposit of copies of the best edition so published.

6. Industrial Directories, Inc. (72721)--Class A. "Plant-Production Directory - Vol. 1, No. 1 - First Edition 1941." The deposit bears a notice of copyright in the following form at the bottom of the title page--

|                                       |                            |
|---------------------------------------|----------------------------|
| "Published by                         |                            |
| INDUSTRIAL DIRECTORIES, INC.          |                            |
| 333 N. Michigan Ave., Chicago, U.S.A. |                            |
| New York                              | Cleveland                  |
| 205 E. 42nd Street                    | Leader Building            |
| Lloyd Simonson.....President          | A Conover-Mast Publication |
| Harvey Conover.....Vice-President     | Also Publishers of         |
| B. P. Mast.....Secretary              | MILL & FACTORY             |
| Hartley W. Barclay.....Treasurer      | PURCHASING                 |

PRICE \$10.00 per COPY  
to other than those included in established circulation.  
Copyright 1941"

This notice is held acceptable since the copyright owner as given in the application is Industrial Directories, Inc. Enter, but write warning letter.

7. Smith, John Jacob (68011)--Class A. "One-Ness"--Lessons One & Two and 2 others. This matter was before the Board previously on October 23, 1941, at which time publication of the work in the form deposited was questioned. It was also pointed out that the notice of copyright appeared only on one section of the material deposited, and was not evident either upon the title page or the page immediately following. From applicant's response it would appear that the material as published was



stapled together with the one section bearing a notice of copyright, sandwiched in between the sections which have no notice. Inasmuch as this material was so bound together and published as a unit with the notice of copyright not appearing upon the title page or the page immediately following, Examiner is sustained in her recommendation that it would appear advisable to reject the whole unit as containing a misplaced notice of copyright.

8. Brooks, W. J. (72912)--Class K. "Declaration of Independence." The deposit consists of a single sheet on which is printed The Declaration of Independence. At the top of the sheet is a pictorial illustration consisting of Bunker Hill Monument, the American flag, and the Statue of Liberty, against a background of blue sky and clouds. At the bottom of the sheet is more pictorial matter, consisting of a print of George Washington, the "Signing of the Declaration of Independence, 1776", and a picture of President Roosevelt. These illustrations are also against a background of sky and clouds. An application filed upon Form K gives the title of the work as "Declaration of Independence." The Board divides on the matter of registration, Mr. Lasica and Mrs. Brady wishing to write and ask for a definite limitation of title. Mr. MacCarteney on the other hand feels that since application has been filed upon Form K the classification itself limits the copyrightable contents to pictorial matter, and as for the title, "Declaration of Independence" is the title of the print deposited for registration, and no further limitation is necessary. Appeal. "TITLE"

9. Cockle Printing Co. (72245)--Class A. "History of the Lamar or Lemar Family in America." The title page of this publication bears the title in large print at the top of the page. In the middle of the page is a statement of authorship in smaller type, reading: "By Harold Dihel LeMar, Omaha, Nebraska." At the bottom of the page in smaller print is the publishers imprint, reading: "Published by Cockle Printing Company, Omaha, Nebraska, Copyright, 1941." The application gives the claimant as the author, H. D. LeMar. The Board divides upon the question of whether registration should be made as applied for. Mr. MacCarteney and Mrs. Brady would first write inquiring as to the apparent variance in claim, since the notice of copyright is directly in connection with the name of the publisher, being separated from the author's name by half a page. Mr. Lasica on the other hand would enter as applied for, his contention being that since the name of the copyright claimant according to the application appears upon the same page as the copyright notice, reading "Copyright 1941," that there has been sufficient compliance with the provisions of the statute. Appeal.



MINORITY MEMORANDUM

November 12, 1941

Remitter: Brooks, W. J. (72912)

Title: "Declaration of Independence."

Question: Whether there must be a limitation of title in the case of a work consisting of text in the public domain and copy-rightable pictorial matter, such limitation to refer only to the copyrightable pictorial matter.

The work in question is a rectangular sheet in the center of which is printed The Declaration of Independence. Above the text is a pictorial print consisting of a representation of Bunker Hill Monument and the American flag and the Statue of Liberty, against a background of blue sky with clouds. Beneath the text matter is another print, picturing George Washington, the "Signing of the Declaration of Independence, 1776," and Franklin D. Roosevelt. These pictures are also against a background of sky and clouds. The title of the entire work is "Declaration of Independence," and this title is artistically inscribed with a background of color and is outlined in red curving lines. The application itself has been filed on Form K, classifying the work as a "print or pictorial illustration." Mr. MacCarteney feels primarily that inasmuch as applicant has filed his application on Form K no limitation as to subject matter need be made since applicant himself has done that by choosing the classification he did. What is being registered is an artistic print with the only possible claim extending to the pictorial matter. This is further evidenced by the use of the symbol (C) in the copyright notice, the use of the symbol being applicable only to Classes F to K. The title of the work appears on the copy as "Declaration of Independence." Inasmuch as the application is for a print or pictorial illustration, Mr. MacCarteney feels that no further limitation in the application is necessary, since the classification chosen, the title, and the copyright notice all speak for the subject matter made the present basis of claim. "Declaration of Independence" is the title of the work, and it may be so recorded.

The other members of the Board, Mrs. Brady and Mr. Lasica, contend that the title as given in the application<sup>P</sup> too general, and that the Office should write requesting a limitation of title.

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E. S. MacCarteney  
Acting Chairman Revisory Board

Enter as applied for.

C. L. Bouvé Nov. 14, 1941



CLB:mf

the print entitled "Declaration of Independence".

To: Advisory Board

November 11, 1911

1. The title "Declaration of Independence", although to an American it immediately brings to mind the well known historical document, is a title which any person is free to use. I know of no right existing in the Register of Copyright, to dictate to an individual the title by which he should describe his work. Of course if it is obvious from a comparison of the title given on the application and on the work itself that they conflict, then this can be properly brought to the attention of the applicant for the purpose of avoiding the inconsistency.

2. The Copyright Office letter of October 22 refers to a previous letter received from the applicant and is written in response thereto. This letter of the 22nd shows that together with the previous letter of the applicant the work involved was enclosed and with respect to such work the applicant was informed by the Office to make an application on Form K; and furthermore in the Copyright Office letter of October 22 the applicant was informed that:

"The Copyright notice consisting of the letter "C" in a circle, accompanied by the year date of publication and the name of the claimant is sufficient for registration of prints or pictorial illustrations."

No suggestion was made to the claimant in the letter of October 22 that the title "Declaration of Independence" was inadequate. I have no fault to find with the letter of the 22nd.

3. The copyright notice attached to the material in question should be enough to announce to the public that copyright is claimed on the material as a "print" and not as a "book" - the only book features consisting of the words of the Declaration of Independence.

4. It is quite within the rights of any member of the public to perfect and copyright a pictorial print and entitle it "Declaration of Independence". As we know, a number of different paintings on the subject bear that title and no other. To my mind a refusal to register such work unless the title was changed would have no justification. That is what we are attempting to do in this case, simply because the words of the Declaration of Independence are incorporated in type between two purely pictorial portions of the material.

5. Enter as applied for.

P. S. The letter from the applicant, to which Copyright Office letter of October 22 refers, does not appear to be contained in this jacket.



MINUTES OF THE REVISORY BOARD  
COPYRIGHT OFFICE  
November 13, 1941

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The Revisory Board met at 2:35 P.M. and adjourned at 3:25 P.M.  
Those present were Mr. MacCarteney, Mrs. Brady and Mr. Pforzheimer.

Total time consumed, 50 minutes.  
Unanimous decisions, 5  
Divided opinions, 1

(Cases Nos. 7 and 8 finally reviewed)

1. Dryden Press, Inc. No. 71108. Class A. "Sonata de Primavera." Applicant has filed an application on Form A-1 for this work, but the Office requested on November 5th an application on Form A-2 in view of the fact that the work seemed originally to have been published in Spain in 1904. Applicant replied "The book was printed in Spain in 1904 and thus the book was never copyrighted in this country. I think therefore that our previous application on Form A-1 should be used." Request further information as to why applicant thinks he can file application on Form A-1, claiming protection for the work in its entirety. The work apparently was originally published in Spain in 1904; United States copyright presumably could only be based upon the new matter involved in this 1941 publication.
2. Look, Inc. Deposit Account. Class A-5. "How to Improve Your Badminton." The material deposited for registration consists of four pages of photographs in the November 4, 1941, issue of "Look" Magazine. The notice of copyright claiming upon the pictures only is inscribed at the bottom of the first and third pages. Examiner would reject upon the ground that a single registration cannot be made to cover a series of pictures in sequence. The Board is of the opinion, however, that a single registration for the material as a single contribution to a periodical may be made in Class A-5 upon receipt of a corrected application giving the author's name and citizenship in lines (3) and (4). This information is missing from the present application.
3. Lester Kohs. No Fee. Class M. "The Technique of Lithography." (In two reels). The notice of copyright on this motion picture consists of separate statements contained in a series of "frames" appearing without interruption at the beginning of the picture in the following order: "Directed and produced by Lester H. Kohs, Instructor, Christopher Columbus High School. Copyright 1940." Inasmuch as Lester H. Kohs is given as claimant on the application, the Examiner is sustained in her finding that the notice is acceptable. Request the deposit of required description and registration fee.



4. Raymond C. Lewis. No. 71266. Class E. "For One Look On the Savior's Face." The deposit as submitted is a single sheet on one side of which is printed the song in question, while the reverse side is blank. Examiner would question these copies as representing copies of the best edition. The Board overrules the Examiner inasmuch as this type of religious song is frequently published in the form of a single sheet as deposited.
5. Ernst Kaufmann, Inc. No. 72763. Class ? "Our Wedding Day," "In Remembrance of Your Confirmation," and "Memento and Certificate of Baptism." The works in question are booklets consisting of several pages of pictorial illustrations and text matter. The notice of copyright, however, is the abbreviated form, using the symbol "C" in a circle, and appears only upon the first inside page of each booklet. Advise applicant that the notice of copyright applies only to those prints upon which the notice appears, since the notice is not acceptable for a book notice. Moreover since the print bearing the notice of copyright on two of the booklets is identical, one registration will suffice for that print. Advise registration will be made for that print first published - "Memento and Certificate of Baptism." Separate registration may be made for the print entitled "Our Wedding Day."
6. George C. Surreck. No. 72103. Class G-2 and K. "Loyal Copperheads of America, Inc.," and "Smiling Copperhead." The material deposited consists of a proof of an illustration entitled "Loyal Copperheads of America," and also a folder on which the illustration is prominently displayed containing three pages of text. The question is one of adequacy of copyright notice.

On this the Board divides. The Examiner in rejecting the notice as lacking the name of the copyright claimant is sustained by Mrs. Brady. Mr. MacCarteney and Mr. Pforzheimer, however, believe that the notice is acceptable in that the name of the claimant does appear in juxtaposition to the notice on the pamphlet. They would advise the claimant that the pamphlet as a whole must be registered, since it bears a notice of copyright, in Class A-1 and that this registration would include the print which is an integral part of the publication. However if the claimant desires separate publication for the print, same may be had; the notice of copyright on the print being acceptable. Send Form A-1 and reject the G-2 application on the ground that the work is already published. Appeal. (See memo of November 13th under "Notice")

7. Jacob Alma Goodman. No. 61278. Class A-1. "Certificate of Membership." This matter was previously before the Board on November 7th, at which time the Board divided in its opinion. The majority held that the presence of the word "system" before the notice of copyright did not preclude registration. Mrs. Brady differed, holding that since systems were not copyrightable, the presence of the word with the copyright notice should prevent registration. Mrs. Brady, however, being unable to write a dissenting opinion within the required twenty-four hours because of other business, the majority view prevails.



8. Coogle Printing Company. No. 72245. Class A-1. "History of the Lemar or Lemar Family in America." This matter was before the Board on November 12th, at which time the Board divided with respect to the acceptability of the copyright notice. Mr. MacCarteney and Mrs. Brady would write to the applicant regarding an apparent variance in claim, whereas Mr. Lasica would enter in the name of the author as applied for, since the author's name appeared upon the page containing the notice. It subsequently appears that Mr. Lasica misunderstood the situation with respect to the majority opinion, and now joins with the majority view that the variance in claim should be questioned.



MINORITY MEMORANDUM

November 13, 1941

Remitter: Surrock, George C. (72103)

Title: "Loyal Copperheads of America, Inc., The Smiling Copperhead."

Question: Inclusion of the print in the protection of the pamphlet as suggested by Mr. MacCarteney and Mr. Pforzheimer.

The undersigned dissents from the opinion of Mr. MacCarteney and Mr. Pforzheimer with respect to the inclusion of the print for which application has been made in a claim to copyright in this booklet. The booklet as such has been published with a notice of copyright. There appears at the bottom of the cover the legend, "Copyright 1941" in close proximity to the name "Loyal Copperheads of America - George C. Surrock, President - Rev. George J. Kelly, Secretary-Treasurer." This Association or these individuals may own the copyright in the pamphlet, but the print appearing thereon, for which application has been made, is obviously published with a fatally defective notice, and a claim to copyright cannot therefore be recorded either as a separate print or as a part of the pamphlet. This print, accurately identified in the application by its title, "The Smiling Copperhead," is found at the head of the title page of the pamphlet, and has in close proximity to its lower right hand border "(C) 1941," and on toward the left of the border the initials "E. M. A." These are the initials of the author of the print, E. M. Albright, as given in the application filed on November 4. The full name E. M. Albright does not appear anywhere on the title page of the pamphlet or in the copy. It is the opinion of the undersigned therefore that this Office has no authority to suggest to the remitter that the protection of the print would be secured by the registration of the claim in the booklet, when the print itself as such is obviously in the public domain by the publication thereof with the fatally defective notice.

M. C. Brady

Advise claimant that pamphlet as a whole must be registered in Class A-1, which would include the print; however, if claimant desires separate registration for print, same can be made. Notice of copyright on print is acceptable. Send Form A-1 and reject C-2 application on ground that work is already published. W. H. Wise, 11-24-41.



MINUTES OF THE REVISORY BOARD  
COPYRIGHT OFFICE  
November 14, 1941

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The Revisory Board met at 2:40 P.M. and adjourned at 3:35 P.M. Those present were: Mr. MacCarteney, Mrs. Brady and Mr. Lasica. Mrs. Rafter attended the first part of the meeting in connection with the corrective entry.

Total time consumed, 55 minutes.  
Unanimous decisions 8

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Corrective entry:

1. Harper and Brothers. No. 62103. Class A. "Work Book in General Botany." This matter was before the Board on November 5th, at which time the Board sustained the Examiner in holding that a corrective entry was not necessary for a date of English publication incorrectly given in the "A" application of an American edition of an ad interim book. The correct date of English publication is of record following the filing of the ad interim application. The Board now reconsiders in view of the fact that applicant may wish to have the record entirely clear. He should be advised, therefore, that a corrective entry may be made if he so desires.

Regular copyright business:

2. Merle E. Braks. No. 72186. Class C. "Designing Conveyances Creating Successive Interests." The deposit consists of a twenty-eight page typescript, and applicant files an application on Form C classifying the work as a lecture. The word "lecture" appears on the title-page. The Examiner would reject, holding that the work in the form deposited is not a lecture but an unpublished book. The Board overrules the Examiner and recommends entry be made as applied for on Form C as a lecture. It is entirely possible to render this work orally and at one time.
3. Busser and Harding. No. 68496. "Play Ball," "Sports Hall of Fame," and many others. This matter was before the Board on November 10th, at which time the Examiner was sustained in his contention that the material in question constituted a series of commercial labels. Upon reconsideration, however, it is believed that while the Examiner is correct in requesting Class KK for the registrations, the works should be designated as commercial prints instead of commercial labels inasmuch as they are only inserts in the package and are not physically attached to the article of merchandise. In other words they do not label the article, but are merely used in connection with the sale or advertisement of the article.



4. De Wolfe Allen. No. 65433. Class E. "All Men Are Bachelors in the Moonlight!" Applicant has on different occasions informed the Office that no copies of this composition have been sold, nor was there any intention of distributing the song until the work was registered; now states "that the music had been originally published and therefore subject to distribution to the public in September 19, 1941." This date, September 19, 1941, was prior to the statement made that copies had not been distributed. The question primarily is one of copyright notice, since the copies first received in the Office did not bear a notice; copies were subsequently received with a pen-and-ink notice written upon them; and finally copies bearing a stamped notice were received. Request explanation as to the contradictory remarks as to publication--whether it took place, and with or without notice. Explain publication again.
5. George S. England. No Fee. Class A-1. "Ma-Jik Shadow Show." The Examiner would reject this work, which is in the nature of a "Cut-out" book, not only upon the ground that the notice of copyright is defective, but also for the reason that copies are in the nature of a game. The Board recommends rejection, but upon the ground of faulty notice. It does not appear that the work in question is a game.
6. Neuner Printing and Lithograph Company. No. 72904. Class A. "The History of the Oil Business of George F. and J. Paul Getty from 1903-1939." The notice of copyright appears on the back of the second leaf following the title-page. It precedes the dedication and also the table of contents. Two of the intervening pages are entirely blank. The Examiner would reject on the ground that the notice is misplaced. The Board, however, deems the notice acceptable, but recommends that a warning letter be written.
7. School Shop. No. 72381. Class B-1. "School Shop," Vol. 1, No. 2, November, 1941. The Examiner rejects the application upon the ground that the notice of copyright lacks a name. The notice reads: "Copyright 1941," and is buried in the block of text given over to publication data. On another part of the page the names of the editor, consulting editors and advertising manager appear. It also appears that the editor is given as the claimant in the application. Examiner sustained; this is a faulty notice. The name of the editor cannot be read into the notice.
8. Investographs, Inc. No. 72936. Class A-1 (?) "Investographs." (Charts with various titles.) This is loose-leaf material, the first page of which bears a full form of copyright notice. The second page substitutes the copyright symbol in place of the word "Copyright." The Examiner would request application on Form I-1 for the five sheets. The Board, however, recommends that entry be made as applied for as a book. These "Investographs" have consistently been registered in that classification.



MINUTES OF THE REVISORY BOARD  
COPYRIGHT OFFICE  
November 17, 1941

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The Revisory Board met at 2:40 P.M. and adjourned at 3:40 P.M. Those present were Mr. MacCarteney, Mrs. Brady and Mr. Pforzheimer. Mrs. Rafter sat as a voting member for one corrective entry.

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|----------------------|------------|
| Total time consumed, | 60 minutes |
| Unanimous decisions  | 10         |
| Divided opinions     | 1          |

Corrective entry:

1. G. R. Leonard and Company. W.R. 37552. Class ? "Supplement No. 3 to 19th Edition of Leonard's Guide for Universal Edition." What were thought to be duplicate entries were made for this work under Numbers AA-376683 and AA-380402. It subsequently transpired that the first entry carried an incorrect date of publication. The second entry therefore is to be regarded as a corrective entry. Request the return of certificate No. AA-376683. Write, explaining to claimant.

Regular copyright business:

2. Times-Journal Publishing Company. No. 70296. Class A-1. "Enid, Oklahoma; Kremlin, Oklahoma, Telephone Directory, September, 1941," and two others. Affidavits were originally received which lacked the signature and seal of the notary. These were returned and the seal and signature were appended. The Examiner would now require new affidavits on the ground that amended affidavits are not acceptable. The Board overrules the Examiner, however, believing that there is no need for questioning the fact that the affiant actually did appear before the notary on the specific date given in the affidavit. Enter, using the original affidavits.
3. Jack Lord. No. 73550. Class A. "Where to Sin in San Francisco, 1st Edition, 1939." The Examiner would reject this work, holding it to be obscene. The Board overrules the Examiner. The question of obscenity should not be raised. Enter if application is in order.
4. Sydney A. Zucker. No. 63899. Class A. "Use of the Transposition Table." This work was previously denied registration on the ground that it had apparently been first published with a misplaced notice of copyright. Applicant now informs the Office, however, that all outstanding copies of the work were called in and have been replaced with copies bearing the copyright notice on the first page. The Examiner would enter immediately on the basis of this explanation. The Board, however, is of the opinion that the Office should first inquire as to the extent of the original distribution with faulty notice, since if publication did take place the subsequent correction of the notice through the recall of copies would not revive the copyright, which would be automatically forfeited by such publication.







10. Naoum Aronson. No. 58901. Class ? "Beethoven Bust." This matter was previously before the Board on September 22nd and November 10th, the question being the acceptability of the copies deposited and also the acceptability of the application filed. It appears that the sculpture was originally published in bronze in Paris some sixteen years ago. Applicant cannot now obtain copies of the original bronzes, but has now deposited two copies which are a simulacrum of bronze. The Examiner would not accept these copies in substitution for the actual bronze busts. The Board overrules the Examiner in this respect, holding them at least to be representative of the best edition published at the time the registration was applied for. The Board supports the Examiner in requesting the filing of an amended application, giving the date of publication abroad, the place of publication abroad and the present place of domicile of the sculptor.

11. Richard G. Appel. No. 73552. Class E-3. "Jesu, Joy of Man's Desiring," (score and parts). The material deposited consists of two bound books, one for the full score and the other containing the individual parts of this arrangement of the great Bach Chorale. The method of reproduction of this work seems to have been accomplished by some photostatic process, but the title-page of each volume bears the statement, "Prepared by R. G. Appel and published by Oliver Ditson Company, Philadelphia," and upon the orchestral score the following appears: "Orchestra Score and Parts to be had on Rental from R. G. Appel." Applicant has filed two E-2 applications, one for the score and one for the parts, classifying them as unpublished works.

The Board divides on this question of publication. Mr. MacCarteney and Mr. Pforzheimer sustain the Examiner as to the necessity for only a single registration covering score and parts. They consider, however, that the work is published, and that a single application should be filed upon Form E-1 together with one additional copy of the score and parts. Mrs. Brady, on the other hand, is of the opinion that the deposits apparently are not published copies. If they are published by "rental," deposit of separate--not bound--parts will be required. She supports her position in a separate memorandum.] Appeal.

See M.P. 1020



MINUTES OF THE REVISORY BOARD  
COPYRIGHT OFFICE  
November 17, 1941

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The Revisory Board met at 2:30 P.M. and adjourned at 3:30 P.M.  
Those present were: Mr. MacCarteney, Mrs. Brady and Mr. Lasica.

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Total time consumed, 1 hr.  
Unanimous decisions, 8

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1. Cockle Printing Company (72245)--Class A. "History of the Lemar or Lemar Family History." This matter was before the Board on November 11, upon a question of an apparent variance in claim, the notice of copyright having been printed in connection with the name of the publisher, while the author whose name appeared on the same page was the claimant given in the application. Upon reconsideration the notice taken in connection with the application is deemed sufficient. Enter as applied for and ignore the accompanying booklet which apparently was not intended for copyright registration.
2. Smith, John Jacob (68011)--Class A. "Lessons in Oneness" - First Four Copies of 26 Lesson Correspondence Course. This matter was before the Board on November 12, at which time the Examiner was sustained in her recommendation to reject the entire deposit, although a notice of copyright was printed on the third section of a group of four sections held together by means of staples. Upon reconsideration it is believed that the one section which does bear a notice may be registered separately upon receipt of an application identifying that section. A single registration for the entire group is not in order since either there was no unit distribution, or if there was the notice was misplaced for the work as a whole, appearing only on the third section.
3. Canutt, (Mrs.) Pearl Edith Flavin (No Fee)--Class ?. "Handy Man" - Typewriter Eraser Shield. The deposit is in the nature of an unpublished typewriter eraser shield, intended to be slipped under the carbon sheet before erasing. Examiner sustained, in that the article itself is an article of utility and as such is not copyrightable. Suggest, however, that the four line verse appearing on the article could be copyrighted if it were printed and published bearing notice of copyright.
4. Betts, John F. (65853)--Class A. "Scale Trading." This matter was previously before the Board on October 21, at which time the Board recommended acceptance of the application in view of the applicant's statement that publication in the statutory sense had not taken place with a faulty



notice. The applicant now, however, sends in a third set of copies giving the date of issue as of September, at which time the copies bore a defective notice and the date of publication as September 12, 1941, at which time it is understood publication had not taken place there having been only the distribution of a few copies to selected friends. Write applicant that date of publication on application should be the date on which copies bearing corrected notice were distributed, and use the second set of copies received for the registration. Explain action of the Copyright Office to the applicant.

5. International Statistical Bureau, Inc. (Deposit Acct.)--Class A. "Safeguarding Management's Rights in Labor Relations." The Examiner would reject this application, holding that the notice of copyright is not in connection with the name of the claimant as appearing on the title page. The Board overrules the Examiner, holding the notice acceptable. Point out, however, that the work does not appear to be a periodical and suggest an application on Form A-1.

6. Gorin, Henry Jerome (74305)--Class A. "Used Car Analyzer Explanation and Procedure." The work in question is a folder opening out into a single sheet. The name of the claimant appears upon the first page, whereas the notice, reading "Copyright U. S. A. 1941," is at the bottom of the last page. The Examiner would reject, but the Board overrules the Examiner, holding that when the sheet is opened out the notice of copyright and the name of the claimant are in sufficient juxtaposition. Examiner is sustained with respect to the "Used Car Analyzer Board" accompanying the printed explanation. The board is not deemed subject matter of copyright. Reject.

7. Yankee, Inc. (Deposit Acct.)--Class B. "American Cookery" - Nov. 1941. The notice of copyright, in which the word "Copyright" and the year date of publication, 1941," are somewhat separated from the name of the claimant, is considered by the Board to be acceptable. Enter, but write warning letter.

8. Crawford, F. M. (69867)--Class A. "Your Hardware Cinderella Goes to Town." Applicant advises the Office that copies of this photostatic book were distributed to all branches and agents of the company. This the Board feels is sufficient distribution to constitute publication. Enter if application is in order.



MINUTES OF THE REVISORY BOARD  
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November 19, 1941

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The Revisory Board convened at 2:45 and adjourned at 3:40 P.M. Those present were: Mr. MacCarteney, Mrs. Brady and Mr. Pforzheimer.

Total time consumed, 55 minutes  
Unanimous opinions 9  
Divided opinions 1

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1. Benziger Brothers, Inc. No. 74462. Class A. "Breviarium Romanum." The work deposited is a new edition of the Roman Breviary. Question basis of claim. What new authorship is involved here? Do not question variance in authorship as Examiner suggests. The statement on the outside slip giving "Edited by American liturgists" does not indicate authorship separate from the proprietor, Benziger Bros., Inc.
2. Frank W. McKenzie, No. 61934. Class A. "The Wheel O' Life." The notice of copyright on this work is in the name of the "Wheel O' Life Company," whereas the application gives Frank W. McKenzie as claimant. This variance was written about and the Office now receives a letter from Mr. McKenzie stating that he is doing business with a partner under the name of "Wheel O' Life Company." However he claims the sole copyright in the publication. The Board recommends that since the Wheel O' Life Company is a partnership, that a letter be written suggesting registration in the name thereof and in accordance with the copyright notice on the copies. Such a letter would explain assignment, and applicant should be advised that the matter of ultimate disposal of rights is a matter of agreement between the partners.
3. Joseph G. Foster. No. 74790. Class A. "Everybody's Entertainer." This work was originally rejected upon the ground that the notice of copyright was defective, lacking the name of the copyright owner and the year date of publication. Applicant now informs the Office that no copies of the work bearing defective notice of copyright were ever distributed or placed on sale, and he files new copies with a stamped notice of copyright containing all of the three elements. The Board sustains the Examiner in accepting this explanation, but would request a new application giving the correct date of publication with the full notice of copyright.
4. May Rose Starr. No. 70196. Class E. "Good News in Sacred Melody, No. 3." This matter was before the Board on October 31, 1941, at which time the Examiner was sustained in requesting separate registrations for each of the inclusive songs in this collection of music published with separate notice of copyright, in view of the divergence of authorship and composership expressed on the songs. Applicant's reply permits the Office to request the filing of a single new application on Form E, amending line (3) to read, "Composer and compiler," and line (6) to include Claudia E. Starr as co-author of the words. The Examiner is again sustained in requesting a separate application for the song entitled "Jesus is Everything to Me" in the name of Claudia E. Starr, since the notice for that song is in the name of Claudia E. Starr.



5. J. M. McCaughan. No. 20708. Class J-1. "St. Louis Stereo Atlas of Surgical Technic." The deposit consists of twelve rolls of films showing certain surgical techniques. These rolls are initially sold in handsome wooden boxes with a projector; the whole work, including the box, being a very expensive article of sale. The Office previously advised applicant that he would have to deposit the boxes and projectors as well as the films. To this he objected, declaring that the cost would outweigh the value of the copyright. The Examiner would insist that the deposit be made in accordance with Sections 12 and 13 of the Act. The Board, however, is of the opinion that what applicant is interested in are his films and it is not to be considered that as additional films are published each one would be sold with a box and projector. Permit applicant, therefore, to deposit the films alone in accordance with standard Office practice of permitting the deposit of stereopticon views without demanding the deposit of the projector.
6. Seed Filter and Manufacturing Co., Inc. No. 73917. Class ? (No title) The deposits are illustrations on cardboard and according to applicant's letter "are affixed to a box and the figures swing in and out of the openings." It appears upon examination that in all probability the article to which the illustration is fastened is a weathervane. As such it would not be subject to copyright protection but would be protectible, if at all, under the design patent laws. So inform applicant.
7. Albert Fournier. No Fee. Class K. "Sous le Signe de la Croix," and one other. Applicant, who is a patent attorney in Montreal, Canada, files proofs of two different designs. One is entitled "Emblème de la Paix" and is a pictorial work to be printed from photo-engraving. The other work is both textual and pictorial and explains a particular system entitled "The P.B.L. System." With respect to "Emblème de la Paix," since it is to be reproduced by a photo-engraving process it would have to be manufactured in this country under the provisions of Section 15 of the Act. The "P.B.L. System," since it contains considerable textual matter, may be registrable under the ad interim provisions as a book if the specified time limit has not expired. Explain ad interim procedure and also lack of protection afforded systems as such.
8. American Social Hygiene Association. No. 74358. Class A. "Calling All Women." The name of the copyright claimant, "The American Social Hygiene Association," appears directly above the notice of copyright, reading "Copyright 1941." It is not understood why the Examiner recommended rejection upon the ground of defective notice, since all the elements are together. In any event the Examiner is overruled. Enter as applied for provided application is in order.
9. Gantner & Mattern Company. No. 74701. Class KK. "Gantner of California." This label bears a notice of copyright as follows: "© 1941, G. & M. Co." The claimant's full name, Gantner and Mattern Company, appears nowhere on the label. However the statement "Gantner of California" is prominently displayed in several places, and applicant advises that the company is



known throughout the trade under this name, and that this name has also been registered with the Post Office Department. Such being the case, the Examiner is sustained in accepting the notice, but the Board recommends the filing of a new application giving the form of claim in line (1) as "Gantner & Mattern Co., using trade-name of 'Gantner of California.'"

10. Lynn W. Hendricks. No. 72996. Class G-1. "Ain't Dat Hebbin." The work in question is a light sculpture of a Negro man standing on a book, hands extended forward. The Board divides on the question as to whether applicant should be asked if this object is to be used as a bookend. Mr. MacCarteney and Mr. Pforzheimer hold that there is no necessity to go into this question, since the work as deposited is, upon its face, an artistic sculpture and would be clearly registered as a published work of art as applied for. Mrs. Brady, on the other hand, upholds the Examiner in questioning the work as a bookend. The second recommendation of the Examiner; namely the request for an additional copy of the finished work if it is registrable, is unanimously agreed upon by the Board. Appeal. (See "Work of Art" 11-19-41)



MINORITY MEMORANDUM

November 19, 1941

Remitter: Hendricks, Lynn W. (72996)

Title: "Ain't Dat Hebbin."

Question: Rejection of the deposit as a book end.

The undersigned agrees with the Examiner in her recommendation that the deposit under consideration is a book end, and as such is subject matter for design patent protection as an article of manufacture, utilitarian in purpose. See Code of Federal Regulations of Copyright Office, Section 201.4, paragraph (7)--

"Works of art and models or designs for works of art. This term includes all works belonging fairly to the so-called fine arts. (Paintings, drawings, and sculpture.)

The protection of productions of the industrial arts utilitarian in purpose and character even if artistically made or ornamented depends upon action under the patent law..."

See also the decisions of the Register of Copyrights in the following cases--

1. Title: Huntsman and Hounds; book ends. Applied for in Class G-1. Cash No. 33046 - June 23, 1937.
2. Trophy stand for placing a sport figure. Cash No. 32380 - June 21, 1937.
3. Vazah, Inc. Display models. Rejected as published works of art - Sept. 1939.

These decisions have never been overruled by subsequent action in identical cases.

The deposit which is under consideration is a painted plaster figure of a man standing upon a large book, with heavy metal clasps (all made of plaster). The figure of the man is an amusing caricature with an abnormally long bald head, large nose and protuberant lips. The figure has also disproportionately large feet and hands. The hands are outstretched and palms outspread, forming an excellently balanced prop for holding books. The primary purpose of the work ~~is~~ to serve as a book end is obvious, and it is the opinion of the undersigned that it must be rejected as an article of manufacture, utilitarian in purpose as set forth in the Code of Federal Regulations above.

Do not question work as bookends; simply request  
2nd copy as published. Sustained, W.H.W. 11-25-41

M. C. BRADY



MINUTES OF THE REVISORY BOARD  
COPYRIGHT OFFICE  
November 21, 1941

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The Revisory Board met at 2:35 P.M. and adjourned at 3:05 P.M.  
Those present were Mr. MacCarteney, Mrs. Brady and Mr. Lasica.

Total time consumed, 30 min.  
Unanimous decisions, 6

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1. Delmer Augustus Lang. No. 74117. Class A-1. "Catalog UJ-40 and Catalog UJ-41." The notice of copyright in this case is separated from the claimant's name (according to the application) by a space of some four inches. Above the notice, in a block, appears the name "Universal Joint Service Inc." The Examiner holds that the notice lacks the name of the copyright owner. Since, however, the name of the claimant appears upon the same page as the notice, it will be accepted.
2. Redbark Products Corp. No. 74278. Class A. "Redbark Insulation." This deposit consists of a single sheet folded three times. At the bottom of the second column there is the statement, "Manufactured by Redbark Products Corporation." On the other side of the sheet is the copyright notice reading "Copyright 1941." This notice may be accepted, since the Redbark Products Corporation is the only name anywhere on the copy, and is the copyright claimant according to the application. Moreover, reference is made to Redbark products in a statement directly above the copyright notice. Write warning letter.
3. California Biological Service. No. 29863. Class J-1. "Nickel Ore, Gold Ore, Copper Ore, Nickel Silver Ore, Lead Zinc Ore, etc." It has not been established that these photographs were actually published with notice of copyright. Since the claimant now wishes to withdraw this application, he may do so. It is not necessary to correspond further with reference to the possibility of publication. Refund.
4. Crane Company. No. 68679. Class ? "Little Boy Washing His Neck." This work is a pictorial illustration illustrating a small boy engaged in his ablutions before a washbowl. The Examiner is questioning publication, since copies have been printed for the use of the claimant's salesmen. The Senior Law Officer, however, remembers having seen this print in published magazines. Inasmuch as the applicant, the Crane Company, is the well-known plumbing fixture manufacturing concern, refer to Print and Label Examiner for possible registration as KK.
5. Zugelter and Zugelter. Deposit Account. Class A-1. "Receipt Book." This matter was before the Board on October 25th, at which time the application was rejected upon the ground that the material was essentially a blank book and bore a notice of copyright on each one of the



inclusive blank forms. Applicant in reply submits new copies on which the copyright notice has been placed only on the page of text, which applicant claims is definitely copyrightable. Rejected because of advance year date in the notice of copyright. The application gives the date of publication as June 2, 1940, whereas the year date of the stamped notice is 1941.

6. Cromwell, Greist & Warden. No Fee. Class Mfg. "Railway Assemblies - Unit of Railway Equip. - Miniature RR." Applicant files an application on Form G for what is described as "Railway Assemblies." The copyright material includes model reproductions of units of railway equipment in miniature with extraneous material deleted and other details emphasized. The deposit is a small plastic object, apparently representing some item of railway equipment. Definitely it is not a work of art as applied for, and to that extent the Examiner is sustained. However, before rejecting as the Examiner recommends, the Board is of the opinion that inquiry should be made of applicant as to the nature of the work and its purpose. The possibility exists that upon an acceptable explanation the material might be registered as a plastic work of a scientific or technical character. The Copyright Office Rules provide for the registration of "models illustrating scientific or technical works." This work might be such a model.

**Addition to Minutes:**

Richard G. Appel. No. 73552. Class E-3. "Jesu, Joy of Man's Desiring." (Score and parts). This matter was before the Board on November 17th, at which time the Board divided upon the question as to whether the copies deposited were published, Mr. MacCarteney and Mr. Pforzheimer holding that registration should be applied for as a published work, while Mrs. Brady took the opposite view that the copies deposited were not published. On November 21st the minority memorandum having not been written the twenty-four hour rule was invoked, with the result that the majority opinion is to prevail in this case.



MINUTES OF THE REVISORY BOARD  
COPYRIGHT OFFICE  
November 24, 1941

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The Revisory Board met at 2:35 P.M. and adjourned at 3:35 P.M. Those present were Mr. MacCarteney, Mrs. Brady and Mr. Pforzheimer. Mrs. Rafter sat as a voting member in the case of one corrective entry.

Total time consumed, 60 min.  
Unanimous decisions 8  
Divided opinions 1

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Corrective entry:

1. Charles Panuska. Number ? Class E "Down Lovers Lane." Applicant wishes to rectify a mistake made in the composership. Advise applicant that a corrective entry may be made provided all parties agree thereto. A statement must be submitted by the incorrectly designated composer. New application, copy and fee also required.

Regular copyright business:

2. J. P. Mandl. W.R. 37613. Class ? "Purity Calculator (for sugar manufacturing)." This work was originally rejected upon the ground that it was used as a part of a device. Applicant's attorney in requesting reconsideration advises that "It is not intended to be used with any other mechanical device," and that "it is published in the actual form in which it is deposited." The Examiner would reject again, but the Board feels that first a letter should be written requesting further specific information as to distribution of copies in the form deposited, which appears to be photo-static, and asking the meaning of the statement regarding non-use "with any other mechanical device."
3. United States Office of Civilian Defense. No fee. Class ? "Health." This work is a print involving a simulacrum of the shield of the United States with the word "Health" so written as to constitute the red stripes on the shield. The application, however, is made by the United States Office of Civilian Defense, which is apparently a government agency. Advise applicant that work is apparently a publication of the United States government, and as such would not be registrable under Section 7 of the Act.
4. Toledo Scale Company. No. 73666. Class ? "Percent Moisture." The deposit is a sheet on which is printed a section of a scale entitled "Percent Moisture." Applicant files application on Form G-2, which is obviously incorrect. The Examiner is sustained in her recommendation that the printed copies are doubtful as representing an unpublished drawing, and that if the work is used as part of a scale it would not be registrable, since it would constitute part of a mechanical device. The Board overrules the Examiner in her further suggestion that Form I-2 should be filed if protection is required prior to publication. The Board does not feel that registration as an unpublished drawing should be suggested since the work is apparently intended for use in connection with a device. Refund at this time.



5. Owen-Fields, Inc. No. 74634. Class A-5. "We'll Be Here Tomorrow to Back Up What We Say and Do Today." In Denver Post, 8-24-41. Applicant submits certain materials constituting several reprints of advertising material and also a proof of an advertisement which apparently has not been published. The Examiner holds that the material is not subject matter of copyright. The Board overrules the Examiner to the extent that if the one proof has not yet been published it would be registrable as a commercial print following publication with notice. Refer to Print and Label Examiner for possible action under that category.
6. Eugene J. Portugal. No. 75007. Class I-2. "Avigo Set No. 1." (Avigation protractor parallel rulers containing navigational scales.) The deposit is a blue-print consisting of a drawing showing a complete set of tools for plotting any problem in dead reckoning avigation. Below the drawing appears text matter setting forth the advantages of the particular instrument and the specifications. The Examiner is overruled in that portion of the recommendation stating that two I-2 applications will be necessary. What has been presented is a single drawing consisting of six parts. Only a single registration for this drawing would seem necessary. Applicant should be advised, however, to submit one copy of the actual drawing minus the text matter, which is not copyrightable in unpublished form. Ask for I-2 application giving description as "Drawing of 'Avigo Set No. 1'" explaining also the procedure for registration of a book.
7. F. Stanley Yates. No. 70586. Class A-1. "Your Trip and Mine." (Vol. 2) In this case a limited number of copies bearing a notice of copyright in the name of the author was sold. Subsequently the remaining copies of the edition were broken down, re-assembled with new copyright matter, and are to be published with a notice of copyright in the name of the "Continental News Service." The Examiner suggests that the original publication took place with a notice of copyright in the name of one not entitled thereto. This does not seem established, however, from the correspondence, and in addition it was the author who has the primary right of copyright who published the material in his name. The Board recommends that registration may be made for the work as deposited as a limited edition, and that the applicant should be advised with respect to the recording of an assignment to the "Continental News Service," and the subsequent registration of the revised edition in the name of that service. Send Form A-2 for the forthcoming revised edition.
8. Merrill M. Blackburn. No. 74760. Class A-1. "Street Tree Survey." The Examiner is sustained in pointing out a variance in the initial of the author and the claimant between the application and the copies. The Board, however, would also question publication in the form deposited, noting the non-consecutive pagination and the general temporary appearance of the copies, the sheets of which have merely been stapled together with a blank sheet of paper forming the cover.
9. Willard B. King. No. 73501. Class ? "The Strangest Humane Story Ever Told." The applicant personally appeared at the Copyright Office and filed an application classifying his work as a lecture, and it is so designated on the copy. The Examiner would reject, holding the work to be simply an unpublished book registrable only on Form A-1 after publication with notice. The opinion of the Board is divided, Mr. MacCarteney and Mr. Pforzheimer holding that registration should be made as applied for since the work is called an "oral lecture" on the copy. It could be so rendered orally and applicant insists that it is intended to be given by word of mouth. Mrs. Brady, on the other hand, agrees with the Examiner in holding that the work is an unpublished book. Appeal.

SEE "CLASSIFICATION"



## MINORITY MEMORANDUM

November 24, 1941

Remitter: King, Willard B. (73501)

Title: "The Strangest Humane Story Ever Told"

Question: Classification in Class C - as lecture, sermon, or address for oral delivery.

The undersigned is in agreement with the Examiner in the rejection of this deposit which is applied for as an "Oral Lecture," but is the personal history of the author; a narrative which would be classifiable as a "book" - copyrightable only by publication with notice.

There are 46 pages of this writing, "The Strangest Humane Story Ever Told," which bears evidence of being a personal history of the author and claimant.

The first six pages of this writing are devoted to a quotation from the 12th Chapter of the Apocalypse, foretelling the birth of the Saviour. This lengthy quotation is preceded by a short paragraph pointing out that the author "is the subject of an interpretation placed on this twelfth chapter of Revelation." After this lengthy quotation, there are 32 pages of the author's own text, narrating his experience in an institution presumably for the insane, and setting forth his theories on the proper treatment of mental diseases. This dissertation carries us to page 37, where the author reverts to the prophecy in Revelation, and points out that he himself may be the subject of that prophecy. These paragraphs are concluded by another quotation, "Truth crushed to the earth will rise again" etc. The complete quatrain is quoted and is followed by two lines of X marks, thus:

XXXXXXXXXXXXXXXXXX  
XXXXXXXXXXXXXXXXXX

and these marks precede a remarkable transition into what appears to be a radio program, introduced by this sentence: "The song which you have just heard is from the English opera "Dido" ... There follows a two page recital of the story of Dido and a three page description of "the unique guessing contest which is designed to emphasize the need for improvement in treating native mental conditions."

Such a deposit could not in the opinion of the undersigned be intended for oral delivery. It is too lengthy and too discursive. There is also very little reason to think that it could be selected for publication, but it could of course be reproduced and published by the author himself if he is determined to circulate it in some way.

Accept work as lecture in Class C. Sustained.

E.H.Wise 11/27/41

M. C. BRADY

Also see previous entry for same type of material.



MINUTES OF THE REVISORY BOARD  
COPYRIGHT OFFICE  
November 25, 1941

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The Revisory Board met at 2:35 and adjourned at 3:25 P.M. Those present were Mr. MacCarteney, Mrs. Brady and Mr. Lasica.

Total time consumed, 50 min.  
Unanimous decisions 8  
Divided opinions 1

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1. John Pfeifer, No. 74810. Class Mfg. "Design for a Victory Pin." The deposit consists of a small drawing of a design for a so-called "Victory" pin. The Examiner would reject on the ground that designs for articles of manufacture are not registrable. The Board overrules the Examiner, holding that the drawing may be copyrighted as such notwithstanding its future embodiment in a design for an article of manufacture. Send Form G-2 and explain, pointing out, however, that the pin or emblem would be subject to protection only by means of a design patent.
2. Thomas G. Boman. No. 75333. Class A-1. "I'll Make This Gas Buggy Do 'Til We Mop Up Hitler & Crew." Applicant files application upon Form A-1 for this printed automobile sticker containing the following couplet: "I'll Make This Gas Buggy Do 'Til We Mop Up Hitler & Crew." The Board holds that this is sufficient text to justify registration as applied for. Enter.
3. Philip Laskowsky. No. 75111. Class E-2. "Farblondzete Kinder." The Examiner would question the formation of the author's first initial on the copy. Since, however, according to the application the same character is used in connection with the author's first name, which is spelled out in its entirety as "Isidore," it is not thought necessary to write, since the initial on the copy is obviously only a badly made letter "i." Accept and do not write.
4. School Shop. No. WR 37621. Class B-1. "School Shop, Vol. 1, No. 1, Oct. 1941." This notice of copyright, consisting of the word "Copyright" and its abbreviation "Copr.," somewhat separated from the names of the editorial staff, including the name of the editor, Lawrence W. Prakken, who is the claimant in the application, is considered acceptable. Enter.
5. National Board of the Y.W.C.A. of the U.S.A. No. 74582. Class A-1. "Told in All Tongues." Applicant files an application on Form D-1, classifying this work as a published dramatic composition. In the absence, however, of dramatic action as evidenced from the work itself the Board sustains the Examiner in requesting an application on Form A-1, classifying the work as a book.



6. Hospital Service Plan Commission. No. WR 37620. Class A. "Experience of Blue Cross Hospital Service Plans." This work has twice been denied registration upon the ground that the notice of copyright was defective in that it lacked the name of the owner and the year date as component parts thereof. Applicant now points out that the name of the claimant appears on the same page as the word "Copyright," though separated by an amount of text matter, while the date on which the foreword was written appears under said foreword on the opposite page. The Revisory Board sustains the Examiner in again rejecting the application. The component parts of the notice are scattered over two pages, and moreover the only name appearing upon the page bearing the word "Copyright" is not the full name of the claimant, but refers only to the Commission. The claimant's full name in this case is "Hospital Service Plan Commission of the American Hospital Association." Reject again, explaining exactly why such action is taken.
7. Infantry Journal, Inc. No. 74385. Class A-2. "60 mm Mortar Handbook." This work has been classified for registration by the applicant as a book now first published by filing application Form A-1. The Examiner would require Form A-2 to be substituted in view of the fact that the material here presented has been taken from other publications. The Board disagrees with the Examiner, holding that the work in question is a compilation and rearrangement which would properly be classified as a new book under its own title. Register as applied for.
8. Dr. Jowit Laboratories. No. 29967. Class KK. "Bottom Whipping vs. Surface Whipping." This matter was referred to the Revisory Board by the Print and Label Examiner following an appeal by the applicant for reconsideration of the action of the Office in requesting applications for the subject matter to be filed on Form KK. The Board sustains the Examiner in his recommendation that these publications are obviously used in connection with the sale or advertisement of an article of merchandise; to wit, an egg or cream beater known as "The One-Hand Witwhip." Request applications on Form KK and an additional registration fee of \$16.00.
9. Paul A. Schmitt Music Company. No. 74017. Class E. "American Flag Parade," and "Down On the Farm." These two works are published instructions for the staging of so-called band pageants, together with cued and annotated conductor's scores of the music to be performed. Applicant had filed applications upon Form E, one for each work. The Examiner recommends two registrations for the subject matter in each publication-- Form E-1 for the conductor's score of the music, inasmuch as the music is an arrangement of old works, and Form A-1 for the pageant itself. The Board divides upon this matter, Mr. MacCarteney holding that a single registration for each publication would be all that is necessary in view of the provisions of Section 3 of the Act and also since the text matter is directly connected with the performance of the music; Mrs. Brady and Mr. Lasica, on the other hand, feel bound by the Assistant Register's memorandum to Mr. MacCarteney dated April 30, 1941, in connection with certain of the Art Publication Society applications which consisted of biographical text and music, the memorandum instructing that separate applications be called for--one for the text and one for the music.  
Appeal.

See "Classification"  
11-25-41



MINORITY MEMORANDUM

M.P. 1024

November 26, 1941

Remitter: Paul A. Schmitt Music Company, No. 74017, Class E.

Title: "American Flag Parade," and "Down on the Farm."

Question: Whether one or two registrations must be made in the case of a publication such as a pageant consisting of copyrightable text and music, the text being in the nature of instructions for performing the pageant together with some indicated dialogue and other directions.

In this case Mrs. Brady and Mr. Lasicca, constituting the majority opinion, feel called upon to support the Examiner in her recommendation that two registrations are necessary for each publication in view of the Assistant Register's memorandum of April 30, 1941, issued in connection with certain of the applications of the Art Publication Society for registration of subject matter consisting of copyrightable text and music. They point out paragraph (3) of that memorandum reading as follows:

"A work consisting of copyrightable text and copyrightable music, each bearing its own notice of copyright, is subject to two registrations--one as a book and one as a musical composition."

Mr. MacCartoney is of the opinion that the relevant facts are somewhat different as regards the publications now in question. These works are so-called band pageants with the text and music constituting complimentary parts of a single work. Without the "instructions for staging" the pageant as conceived by the author could not be presented. Moreover while the music in each publication bears a separate notice of copyright, the main copyright notice appears on the title-page and refers to the publication as a whole. Under Section 3 of the Act, copyright secured in a published work protects all the copyrightable component parts. The undersigned is of the opinion that since the text and the music making up these publications are interdependent one upon the other, that each publication should be considered a unit work and registered as such. He suggests that a single application on Form A-1 for each of the two publications, classifying them as books, in view of the diverse subject matter; i.e., directions for performance and the music, be requested to replace the single E applications filed by the applicant himself.

Respectfully submitted

Sustained in part--Suggest separate  
E1 if desired. W.H.W. 11-26-41.

Acting Chairman, Revisory Board



MINUTES OF THE REVISORY BOARD  
COPYRIGHT OFFICE  
November 26, 1941

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The Revisory Board met at 2:40 P.M. and adjourned at 3:45 P.M. Those present were Mr. MacCarteney, Mrs. Brady and Mr. Pforzheimer. Mrs. Rafter sat as a voting member for one corrective entry.

Total time consumed, 65 minutes  
Unanimous decisions, 10

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Corrective entry:

1. Boosey & Hawkes, Inc. Deposit Account. Class E-1. "Welsh Rhapsody." Where the citizenship of a composer has been recorded incorrectly a corrective entry may be made. Advise applicant to return original certificate together with a new application and copies.

Regular copyright business:

2. Daniel Grossman. No. 73187. Class K. "Mourners' Prayer." The deposit is a post card having on one side a pictorial illustration and on the other the following text matter: "Yahrzeit begins the evening before, when the Yahrzeit candle is to be lighted. Evening Services begin at      P.M." Separating the text from the space provided for the name and address is a full copyright notice. Held: The text, taken in connection with the print, is sufficient to support a registration under the classification of "book."
3. Reformed Church in America, Board of Publication. No. 75161. Class A-1. "Advent Candles, A Ceremony for Christmas Family Devotions." The name of the copyright owner of this publication according to the application is the "Board of Publication, Reformed Church in America." Held: That where the notice of copyright contains only the first half of the claimant's name; i.e., "Board of Publication," with reference nowhere being made to "Reformed Church in America," that the notice is insufficient, since the particular "Board of Publication" could not be identified. Examiner is sustained. Reject.
4. Audio Productions, Inc. No. 75270. Class M-2. "Machine Operations of the Vertical Turret Lathe." Application is made in behalf of the United States Office of Education, which is a branch of the Federal Government. Applicant should be advised as to the provisions of Section (7) and inquiry should be made as to the basis of the claim in a work which is sponsored by a branch of the Federal Government.
5. National Office Supply Co. No. 75298. Class A-1. "How Do You Do? Haven of Health." This work is a card made up of text and two pictorial illustrations. The notice of copyright uses the symbol "C" in a circle instead



of the word "Copyright," and accordingly registration cannot be made as a book, under which classification the applicant applied. Inasmuch, however, as the notice is in direct connection with the print entitled "Haven of Health," which is at the bottom of the card, registration may be applied for covering the print if application is filed on Form K, provided of course the print has not previously been copyrighted.

6. Helen Black. No. 75864. Class ? "Remote," (from the Russian play "Delyokoye.") The original author of this work, who is deceased, was of Russia, with which country the United States has no copyright relations. Applicant further explains that the English translation herewith presented was done in the Soviet Union, and that the translator was unknown. Held: That no right accrues to the agent of an author who cannot claim copyright in this country. The only possible registration would be one based upon the English translation giving the translator as author, and this is possible only if he also is not of Russia.
7. M. W. Moore. No. 69582. Class A. "Tucson Business and Professional Directory, 1941-1942." This matter was before the Board on November 5th, at which time the question before the Board was whether the name "The Tucson Business and Professional Directory," given as the claimant in the application and in the notice of copyright, constituted a legal entity capable of holding copyright. Applicant now advises the Office that such a name is a legal entity, that it has been duly registered under the laws of the State of Arizona, and that he is sole owner of the publication. Held: That a new application should be filed giving the form of claim in line (1) as "Tucson Business and Professional Directory, (M. W. Moore, sole owner)."
8. Bobbs-Merrill Co. No Fee. Class A-4. "Mr. Bunting at War." Where an English publication antedates the publication of the definitive American edition by any time however brief, ad interim registration should be applied for. Applicant should not be advised, as Examiner would have it, that ad interim registration in such case is unnecessary.
9. Owen-Fields, Inc. No. 74634. Class A-5. "We'll Be Here Tomorrow to Back Up What We Say and Do Today." (In "Denver Post," Aug. 24, 1941.) The Print and Label Examiner in this case advises that a lengthy slogan which forms an integral part of a published commercial print, and also of a somewhat different and apparently unpublished print, is not registrable. There are certain other aspects in the matter of this registration which, however, are not relevant to the point at issue. The Examiner is sustained in his recommendation on all points except for the flat statement that "slogans are not copyrightable." This should be qualified to read "slogans are not generally copyrightable." The copyright of the expression constituting the slogan in this case, however, seems to have been forfeited by publication without notice.



10. Roswell C. Pickett. No. 67304. Class "Device." "The Computogram Makes Mathematics Easy." Published 10-9-41. This matter was before the Board on October 18, 1941, at which time it was felt that the Examiner should be sustained in her recommendation for rejection because the use of a straight-edged ruler would be necessary in obtaining the desired information to be gleaned from the three relative scales making up the "Computogram." In requesting reconsideration of the action of the Office in denying registration for this work, applicant points out that a similar work entitled "The Ink Estimator" was accepted by the Office and a claim of copyright for it duly registered in 1940. Mr. MacCarteney and Mrs. Brady had no hesitation in accepting the "Computogram" as a compilation of information, including drawings and text matter, that merits registration under the classification of "book." Mr. Pforzheimer, who with Mr. Smith and Mr. Lasica made up the original Board sitting on the matter, likewise agrees to the registration, but chiefly because of the registration granted for "The Ink Estimator," the similar type of work referred to above. The Board recommends requesting an application on Form A-1, classifying the work for registration as a "book."



MINUTES OF THE REVISORY BOARD  
COPYRIGHT OFFICE  
November 27, 1941

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The Revisory Board met at 2:35 P.M. and adjourned at 2:55 P.M.  
Those present were Mr. MacCarteney, Mrs. Brady and Mr. Lasica.

Total time consumed, 20 minutes  
Unanimous decisions 3

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1. S. S. Kresge Company. No. 76035. Class A. "Thrifty Gifts From Kresge's." The work in question is a print embodying a turning wheel feature which progressively brings to the attention of the reader appropriate Christmas gifts for various members of a family. The Examiner would reject upon the ground that the work in question is a device. It appears to the Board, however, that it is obviously a commercial print advertising Christmas goods, and it has been held that commercial prints are apart from the other works in their treatment as to a device angle. Refer to Print and Label Examiner for action under the classification "KK."
2. Harry Dexter Peck. No. 75842. Class A. "Instadate." (No. 1 Pocket Size, No. 2 Desk Size.) This work is a yearly diary or, as it is termed on the title-page, a "yearly reminder," the prominent feature of which is the visibility of three months' dates at a glance. This feature is occasioned by the elongation of the pages in sections to make the dates visible. Held: That in the absence of any text matter other than a brief statement on the title-page, the work is simply a blank book for which there is no provision in the copyright law. Reject.
3. Oxford University Press. No. 69967. Class A. "The Art of the Silversmith in Mexico, 1519-1936." The deposit consists of an English and a Spanish version of the same work. Applicant files two applications, one for the English and one for the Spanish version, giving the same author, Lawrence Anderson, in line (3) of each form. The Examiner would question whether Mr. Anderson was responsible for both works. It is the view of the Board, however, that there is no need to question the authorship in this case. The subject matter is the art of the silversmith in Mexico, a Spanish-speaking country, and the author could not have written the book had he not been a fluent Spanish linguist. The statement on page (13), which the Examiner called attention to in support of her recommendation, merely refers to the translation of the documents used. In the view of the Board, that would not affect the authorship. Enter as applied for.



MINUTES OF THE REVISORY BOARD  
COPYRIGHT OFFICE  
November 28, 1941

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The Revisory Board met at 2:30 P.M. and adjourned at 3:45 P.M.  
Those present were: Mr. MacCarteney, Mrs. Brady and Mr. Pforzheimer.

Total time consumed, 75 minutes.  
Unanimous decisions, 11.  
Divided opinions, 3.

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1. Fulton Brylawski. Deposit Account. Class A-1. "Mickey Mouse, Nov. 24 - Nov. 29, 1941." This material, intended for syndication, is of the type that has heretofore been held in abeyance pending the outcome of the mandamus action against the Register of Copyrights. The Examiner would question publication in the form deposited. In view of the decision in the Twentieth-Century Fox case, enter as applied for. Do not question publication.
2. Frederick Jugel Company. No. 61587. Class KK. "Monthly Review of Recorded Music, Sept. 1941." This publication regarding phonograph record releases is sold to various subscribers who in turn distribute it to their customers. The contents of each issue are the same, but the title heading and one advertisement on the back page differ with the particular re-distributors. Inasmuch as the advertisement of an article of merchandise; namely, a phonograph record, is only secondary to the essential characteristic of the publication as a regular periodical, registration may be made as a periodical. Each different work, however, (that is, different as to title heading and advertisement) would be the subject of a separate copyright and would require a separate registration. Applicant should also be advised as to what is the strictly correct position of the copyright notice.
3. RCA Manufacturing Company, Inc. No. 72713. Class KK. "RCA Victor Supplementary Information - No. 6 - 1941, No. 29." This work is in the nature of a supplementary information sheet to be sent to dealers and agents so that they in turn may be able to make the proper repairs to the instrument in question; namely the RCA Victor Radio-Phonograph. Registration as a commercial print had been suggested by the Office in view of the fact that articles of merchandise were referred to in the information sheet. In view of the applicant's statement (which is confirmed) that the former Assistant Register of Copyrights advised applicant that registration could be made as a book, and in further view of the fact that several registrations were so made, accept applicant's classification as Class A-1.



4. Mason & Porter. Deposit Account. Class A-1. "Parker Engineering Data Bulletin No. 36, Issue date May 15, 1940." No. R.4702. This work, a single replacement sheet issued in connection with the machinery parts of the Parker Appliance Company, was originally published together with a number of others simultaneously as a group on May 15, 1940. This particular sheet for some reason was not included in the deposit registered at that time. Enter now as applied for upon Form A-1. The facts of publication make it inadmissible to register the work as a commercial print, since it was not published alone.
5. Margaret J. Stevenson. No. 74612. Class A. "Primary Geography, Number One." Held: That the statement "Rearrangement is no basis for registration in the case of a book," which has been used in connection with the Examiner's recommendation, is not in conformance with the decisions of the Courts involving this point. There are undoubtedly cases where an arrangement or rearrangement of previously published text is not copyrightable, but the unqualified statement as a recommendation by a copyright Examiner is not to be made the basis of a categorical denial of copyrightability. See the case of Chautauqua School of Nursing vs. National School of Nursing, Bulletin 17, page 38. [3]
6. New England Conservatory of Music. No. 71775. Class A-2. "Syllabus of the Lectures in Musical History." Same as above.
7. Bobbs-Merrill Company. Deposit Account. Class A. "Richard Halliburton's Complete Book of Marvels." Same as above.
8. Frank Loeb. No. 75994. Class E. "A Playful Child's Schottische." Examiner sustained in affirming that it is now too late to obtain renewal registration for a work published in 1911. Examiner overruled, however, is stating that copies of a musical composition written in Braille are not acceptable for purposes of registration. Such copies are acceptable where the claim is a valid one. There is nothing in the copyright law which requires that sheet music deposited in this Office must be written in the conventional musical notation.
9. Ralph Kalish. No. 73398. Class A-1. "Line Guide R-W." This work, consisting of a small scrap of paper with the numerals 1-28 printed vertically along the length of the paper with certain other numbers appearing in the second column at premeditated intervals therealong, has three times been denied registration upon the ground that there was no proper subject matter for copyright. Notwithstanding applicant's further protest the Examiner is sustained in again rejecting the application. Applicant himself designates the work as a "gauge," which is a tool for use in itself.
10. Barry-Irwin Company. No. 71434. Class A-1. "Barry-Irwin's Fall and Winter Bargain Supplement, Tires-Auto Accessories-Radios." A notice



of copyright consisting of the word "Copyright" and the year date of publication with the name of the copyright owner appearing elsewhere prominently upon the same page is an acceptable notice. Enter.

11. S. T. Jones. (Samuel Thomas) No. 72675. Class A. "Poems." A book which has been printed and bound and distributed as gifts to members of a family and friends of the author is held to be a limited edition, and published within the copyright meaning of the term.
12. Jacobi & Jacobi. No. 75760. Class A. "Don't Just Ask for Orange Juice! Ask for Florange Juice." Division of opinion as to whether a sheet advertising the sale of a particular brand of orange juice, but which does not contain pictorial matter, may be registered as a commercial print. Appeal. }  
See "Classification" 11-28-41 }
13. McCann-Erickson, Inc. No. 75541. Class A-5. "Get a Load of Vemp". (In "The Cincinnati Enquirer, November 10, 1941.) Division of opinion as to whether an advertisement appearing in a newspaper, if proved to advertise an article of merchandise, may be registered as a commercial print in the absence of pictorial matter. The name of the apparent product in this case, namely, "Vemp," is distinctively printed and is the outstanding element of the advertisement. Appeal.
14. Lorenz Publishing Company. Deposit Account. Class E-1. "The Lord's Prayer." Division of opinion as to whether the setting of the Lord's Prayer to the familiar music of the Bach-Gounod "Ave Maria" could properly be termed an "adaptation" within the meaning of Section 6 of the Act and be registered as such. Appeal.



MINORITY MEMORANDUM

November 28, 1941.

Remitter: Jacobi & Jacobi. No. 75760. Class A.

Title: "Don't Just Ask For Orange Juice! Ask For Florange Juice."

Question: Whether a single sheet advertising a particular brand of orange juice, although lacking pictorial content, may be registered as a commercial print.

The sheet in question advertises the sale of "Florange Juice," a brand of Florida orange juice. The name "Florange Juice" is printed in heavy black block type across the center of the sheet. At the top in script writing is the adjuration "Don't Just Ask for Orange Juice!" Below, and above the name of the article and centrally spaced, are the words "Ask For" in a different type of print, while beneath the name of the article, again in script and placed to form a balanced composition, is the statement "Real Florida Orange Juice."

It is the opinion of the majority (Mrs. Brady and Mr. Pforzheimer), that in the absence of pictorial matter registration as a commercial print is precluded under the rules of the Copyright Office. The majority would accordingly deny registration for this work.

In dissenting, the minority would first point to the fact that the terms of Public Act No. 244, 76th Congress, nowhere include the provision that a print to be registrable as a commercial print must be pictorial. The language of the statute simply reads: "All prints and labels published in connection with the sale ~~and~~ advertisement of articles of merchandise." This Office has in the past accepted for registration under Class KK advertisements that were not pictorial except with respect to artistic writing. There is nothing particularly artistic about the writing used in connection with the advertisement at issue; it is the opinion of the minority, however, that taken as a whole the composition is well-balanced and is the result of at least an elementary artistic conception on the part of the compositor. It is not to be controverted that the work is a single sheet, that it is a print, and that it is used in connection with the sale or advertising of a particular article of merchandise; namely, "Florange Juice" or "Florange Oranges." Applicant applied for registration classifying it as a commercial print and has deposited the statutory fee for such registration. It is the view of the minority, therefore, that the absence of a printed picture should not of itself preclude registration for a print which is the result of at least an elementary sense of artistic arrangement and balanced composition, and the purpose of which is primarily to advertise the sale of an article of merchandise.

Respectfully submitted

Register as KK as applied for.

WHV, 12-5-41.

Acting Chairman, Revisory Board



MAJORITY MEMORANDUM

November 28, 1941

Remitter: Jacobi & Jacobi. No. 75760. Class A.

Title: "Don't Just Ask For Orange Juice! Ask For Florange Juice!"

Question: Whether a single sheet advertising a particular brand of orange juice, although lacking pictorial content, may be registered as a commercial print.

The work in question is a white sheet of paper some eighteen inches wide and seven inches high, upon which the following text appears:

"Don't just ask for Orange Juice!  
ask for  
FLORANGE JUICE  
Real Florida Orange Juice  
Buy FLORANGES from your Grocer or Marketman--  
Real Florida Oranges! Copyright 1941 Milton H. Siegel"

The first and fourth lines are in script, while the second, third and fifth lines are printed. The words "Florange Juice" composing line three are in heavy black letters two inches high. No pictorial matter appears in conjunction with this work. As the minority states, there is nothing particularly artistic about the writing.

It has been the practice of the Patent Office to reject commercial prints in the absence of any pictorial matter upon them. After a conference between the Register of Copyrights, Mr. Howell, Mr. DeWolf and Mr. Reed, held on September 16, 1940, a memorandum was prepared by Mr. DeWolf which was corrected by the Register of Copyrights. In this memorandum it is stated "several conclusions were reached as follows:

"A single sheet 'published in connection with the sale or advertising of articles of merchandise' and containing some artistic element in the shape of one or more pictures or of display type artistically arranged, either on the front or on the reverse, is a 'commercial print' even though folded one or more times."

Circular 46 of this Office, furthermore, defines the term 'print' as "an artistic work with or without accompanying text matter..."

In view of the fact that the work in question contains no pictorial matter nor "display type artistically arranged" the application for registration must be rejected in the opinion of the undersigned.



As recently as October 10, 1941, Mr. MacCarteney joined with Mr. Pforzheimer and Mr. Smith in rejecting a similar application for a work entitled "Antiseption," for which application had been made by a Chicago attorney. The similarity between the work entitled "Antiseption" and the work presently in question is so striking that there appears to be no reason for the practice of the Office to be changed in the instant case. As stated above, the present Chairman of the Revisory Board concurred in the October 10, 1941, decision on the identical point. If this Office reverses its procedure, as well as the former practice of the Patent Office in regard to commercial prints, it will mean the ultimate registration in this Office as a commercial print of virtually every advertisement which consists of a slogan or a handful of phrases thrown upon a page.

This is more clearly illustrated in the case of "Vemp," upon which the Revisory Board divided upon the same grounds as the division in the case of "Florange Juice." There registration was sought for a series of little advertisements which included the word "Vemp" in large letters on a slant, and merely consisted of such phrases as "What is Vemp?" or "Add zest to your life...get more Vemp!"

In view of the practice of this Office, as well as the implications of accepting mere advertising texts without either pictorial matter or display type artistically arranged, the undersigned feel that the applications for registration in the present cases must be rejected, as the works involved do not constitute commercial prints.

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Member of Revisory Board

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Member of Revisory Board

Register as HK as applied for. WHW, 12-5-41



P.S.:

Remitter: McCann-Erickson, Inc. No. 75541. Class A-5.

Title: "Get a Load of Vemp," in the "Cincinnati Enquirer,"  
No. 10, 1941. (8 others)

A ruling is also respectfully requested in the matter of the application of the above company for registration of certain advertisements in which the word "Vemp" appears distinctively written but where there is no actual pictorial content should it be determined that these advertisements are used in connection with the sale or advertising of an article of merchandise. The Revisory Board as divided in this memorandum feels that the case is similar to the one which is the object of this memorandum, and that the same point of policy is involved in both cases.