

PRINT

## MEMORANDUM

January 31, 1940

Remitter: Blackburn & Blackburn (61)--Class A?  
Copyright Owner: Russell E. Wellman

Title: "Safe Driver"

Question: Division of opinion as to whether material is subject matter of copyright.

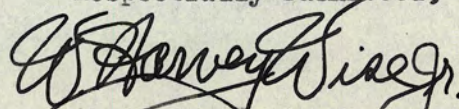
An application has been submitted in behalf of Russell E. Wellman for registration of a work entitled "Safe Driver." The copies consist of cards of the following dimensions:  $3\frac{1}{4}'' \times 5\frac{1}{4}''$ . Around the edge is a decorative border. In the center in large letters appear these words "Safe Driver." Directly beneath this in smaller type is the following statement:

This certifies that the owner of this  
Automobile has driven one year  
prior to date hereof without  
A traffic accident

This is followed by the copyright notice. This text matter in black letters is placed on a white background and is superimposed over the large green figures "1940". All in all an artistic effect is produced by this combination.

In the opinion of Mrs. Brady and Mr. Pierce the application should be rejected since there is no evidence of sufficient copyrightable elements to justify registration of a claim of copyright. Mr. Wise and Mr. Smith, on the other hand, take the position that there is some evidence of authorship. The combination of the text with the artistic element is believed evidence of authorship and sufficient to justify registration as applied for.

Respectfully submitted,

  
Chairman, Revisory Board

Suggest K as more suitable, since it is the artistic element that gives it value--H. A. Howell 2/10/40.



PUBLISHED

## MEMORANDUM

January 31, 1940

Remitter: Local Trademarks, Inc. (6331)--Class A.

Title: "Advertising Campaign for Florists 'Miss Flora' Series" Vol. 5

Question: Acceptability of deposit.

The applicant has submitted two copies of a work bearing the title "Advertising Campaign for Florists 'Miss Flora' Series Vol. 5." These copies consist of some four sheets stapled together with two cuts designed to advertise flowers. The cuts seem obviously intended for newspaper publication. This case seems very similar to the King Features material and because of this fact the Revisory Board is of the opinion that the application should be rejected. However, in view of the nature and importance of the subject matter, the decision of the Revisory Board is submitted to the Assistant Register for his approval or disapproval as he sees fit.

Respectfully submitted,

*W. Harvey Wise*  
Chairman, Revisory Board

"I think this is on all fours with "Cora Cow", etc.  
and recommend entry--H.A. Howell 2/10/40.



PUBLISHED

## MEMORANDUM

January 31, 1940

Copyright Owner: Facto Enterprises  
Remitter: Harold G. Manning (5177)--Class A.

Title: "Instructions for Playing Facto"

Question: Division of opinion as to whether publication has taken place.

Application has been filed in behalf of Facto Enterprises, for registration of a work entitled "Instructions for Playing Facto." The copies filed consist of typewritten sheets of instructions and two cards bearing the title "Facto, the Nation's Newest Game of Skill." The Office conducted correspondence to question whether publication had taken place in the form of the copies filed. The applicant has filed a letter on January 19 that the "Instructions for Playing Facto" was actually published in typewritten form by distributing copies of the same to the public at Station WBRY." In addition to this the fact of publication is supported by two affidavits.

In the opinion of Mr. Wise registration should be made as applied for. It is difficult to see upon what basis the Office can conduct further correspondence continuing to question applicant's statement of publication. In connection with the statement of the publication applicant indicates that some distribution of copies was made at the broadcasting station to members of the public there assembled to hear broadcasts. Mrs. Brady, Mr. Smith, and Mr. Pierce, on the other hand, take the position that the applicant has not shown that actually copies have been made available to the public by distribution, sale, etc. They feel, therefore, that the application should be rejected as an unpublished book.

Respectfully submitted,

*Robert H. Wise Jr.*  
Chairman, Revisory Board

Register--H. A. Howell. "He files two affidavits that the material was actually published by distributing copies to the public."



PERIODICAL

## MEMORANDUM

January 31, 1940

Remitter: Robert J. Lowry (77868)--Class B?

Title: "The Little Man, Vol. 1, No. 1"

Question: Division of opinion as to registrability of material as a periodical.

Upon examination of the copies they are found to consist of two boxes in which are a number of booklets. The contents of the box are listed on the back of the cover. There is also a statement to the effect that this is a quarterly publication and the subscription price is indicated. The notice of copyright is in an acceptable form.

In the opinion of Mr. Pierce and Mr. Smith separate registration should be made for the material which is in the box. The works therein, in their opinion, are really separate and distinct units requiring separate registration (if they bear an adequate notice). Mrs. Brady and Mr. Wise, on the other hand, take the position that registration is in order as a periodical. The work submitted contains a number of articles by different authors on various subjects. The fact that they are not bound together as a unit is not sufficient to justify rejection as a periodical. They are all included in the box and an index on the back of the cover clearly indicates the material which is included in this issue. Accordingly there seems to be no good reason for rejecting registration of this claim of copyright as a periodical.

Respectfully submitted,

*W. Henry King*  
Chairman, Revisory Board

Reject work as unit publication. Registration can be made for each separate pamphlet which has been published with the copyright notice--H.A.Howell.



MUSIC  
(See "Composer")

MEMORANDUM

January 31, 1940

Remitter: Frederick Harris Co. (72759)--Class E.

Title: "A Responsary"

Question: Division of opinion as to adequacy of statement  
re composer.

Enter as now applied for--order of Mr. Howell 2/15/40.



MP-411

OBSCENE?

MEMORANDUM

January 31, 1940

Remitter: Country Press, Inc. (4988)--Class A.

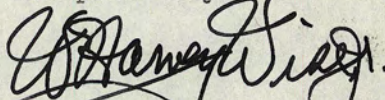
Title: "Whiz Bang Annual, 1940 Edition."

Question: Division of opinion as to whether material submitted is obscene.

A careful examination of the subject matter results in an honest division of opinion which necessitates reference to the Assistant Register of Copyrights.

In the opinion of Mr. Pierce registration should be made as applied for. He feels that there is nothing obscene sufficient to justify a rejection of the claim of copyright. Mr. Wise, Mr. Smith, and Mrs. Brady, on the other hand, feel that this application should be rejected, the case being on all fours with the Ninth Annual Edition of "Hoey" which the Office rejected as obscene. It is proposed to write the usual letter permitting the applicant to present a case in favor of registration, if he is able to do so.

Respectfully submitted,



Chairman, Revisory Board

Reject - obscene matter - write form letter in first instance. Order of Mr. Howell 2/6/40.



DRAWING

(See "Device")

MEMORANDUM

January 31, 1940

Remitter: Walter G. Bettis (390)--Class I?

Title: "Duplex Cheese Scale"

Question: Division of opinion as to whether registration may be made as a drawing complete in itself but which is used in connection with a device.

Enter as applied for--see main memo under "Device"





MP-411

DEVICE

MEMORANDUM

January 31, 1940

Remitter: Walter G. Bettis (390)--Class I?

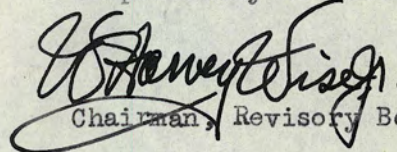
Title: "Duplex Cheese Scale."

Question: Division of opinion as to whether registration may be made for a drawing complete in itself but which is used in connection with a device.

Applicant has submitted for copyright registration two copies of his work entitled "Duplex Cheese Scale." The copies contain a number of scales and with figures thereon designed for use with a cheese cutting device.

In the opinion of Mrs. Brady and Mr. Pierce the application for this drawing should be rejected since the drawing is used in connection with the device. Mr. Wise and Mr. Smith, on the other hand, take the position that registration can be made for this work as applied for. It is complete in itself and does give information without its necessarily being acted upon by the machine. It is accordingly their opinion that the application for this work as a technical drawing should be registered as applied for.

Respectfully submitted,

  
Chairman, Revisory Board

Register as applied for "not part of the device"--H. A. Howell.



MP-411

Copyrightable?

MEMORANDUM

January 31, 1940

Remitter: Finnish Relief Fund, Inc. (3819)--Class ?

Title: "Enlist Today for the Relief of the Heroic Citizens of Brave Little Finland"

Question: Division of opinion as to subject matter of copyright.

The copies consist of a single page, at the top of which appears the facsimile of the Finnish flag, underneath of which is the following text matter:

ENLIST TODAY  
 for the Relief of the Heroic Citizens of  
 Brave Little Finland

Finnish Relief Fund, Inc.  
 Wade Stevenson, Chairman for  
 Buffalo and Erie County

Headquarters: 360 Delaware Avenue, Buffalo, New York, Telephone WA3371  
 Copyright, 1940 by Finnish Relief Fund, Inc....

Applicant has applied for registration as a periodical. The examiner takes the position that there is not sufficient copyrightable material to justify registration. She points out that there can be no copyright in the flag of Finland, and in her opinion there is inadequate text to justify registration. Mrs. Brady supports this position.

Mr. Wise, Mr. Smith, and Mr. Pierce, on the other hand, feel that there is sufficient text matter to justify registration under Class A as a "book." It is admitted that the amount of the text is small. However, the work taken as a whole presents some evidence of authorship which it is believed is sufficient to justify registration of a claim to copyright.

Respectfully submitted,

*W. Harvey Wise Jr.*  
 Chairman, Revisory Board



MP-411

COMPOSER.

MEMORANDUM

January 31, 1940

Remitter: Frederick Harris Co. (72759)--Class E.

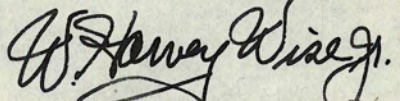
Title: "A Responsary"

Question: Division of opinion as to adequacy of statement re composer.

The application gives the name of the composer as Healey Willan, while the following statement appears on the first page of the copies "Arranged by Healey Willan." On the inside of the title-page appears another statement "Arranged by Healen Willan."

In the opinion of Mr. Wise, Mr. Smith, and Mr. Pierce registration should be made as applied for in accordance with the application giving the name of the composer as Healey Willan. Mrs. Brady, on the other hand, supports the examiner in taking the position that ~~as~~ Healey Willan is joint composer and arranger a new application should be requested with line (3) amended to read: "Arranger and Composer Healey Willan."

Respectfully submitted,



Chairman, Revisory Board

Enter as now applied for--order of Mr. Howell 2/15/40.



M 10-411

V 30015

MEMORANDUM

January 31, 1940

Remitter: H. J. Sanders (4737)--Class A.

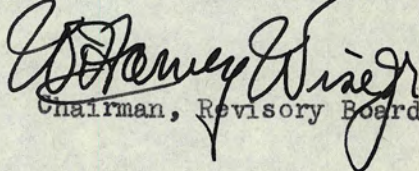
Title: "Walking the Dog"

Question: Division of opinion as to subject matter of copyright.

The copies filed are greeting folders, on the face of which under the title "Walking the Dog" is a print showing a dog with a child and an adult. On the copy also are found two other prints, one showing three dogs and another showing a child with a puppy, underneath of which is a small cloth sock. Above this is the inscription "Hi-ole Sock!" The notice of copyright is in the full form "Copyright 1939 by Jackson Publishing Co." and application is filed for registration as a "book."

In the opinion of Mr. Wise and Mr. Smith registration should be made as applied for as a "book." There are several prints and some text matter, which, it is believed, are sufficient to justify this registration. Mr. Pierce and Mrs. Brady, on the other hand, take the position that this is not subject matter of copyright, lacking ~~an~~ insufficient copyrightable material.

Respectfully submitted,

  
Chairman, Revisory Board

Enter--order of Mr. Howell.



BOOK

(see Published?)

M E M O R A N D U M

January 31, 1940

Remitter: Harold G. Manning (5177)--Class A.  
Copyright Owner: Facto Enterprises

Title: "Instructions for Playing Facto"

Question: Division of opinion as to whether publication has taken place.

Register--H. A. Howell See main memo under "Published"



Book

(See "OBSCENE")

MEMORANDUM

January 31, 1940  
February 1, 1940

Remitter: M. L. A. Publications (2524)--Class A.

Title: "Click's Cartoon Annual"

Question: Division of opinion as to whether material submitted  
is obscene.

Request application on form A1 and enter--order of Mr. Howell

See full memo under "Obscene?"





Book

(See "OBSCENE")

MEMORANDUM

January 31, 1940

Remitter: Country Press, Inc. (4988)--Class A.

Title: "Whiz Ban Annual, 1940 Edition."

Question: Division of opinion as to whether material submitted is obscene.

Reject - obscene matter - write form letter in first instance. Order of Mr. Howell 2/6/40.

(See full memo under "Obscene")



BOOK

(See "Published")

M E M O R A N D U M

January 31, 1940

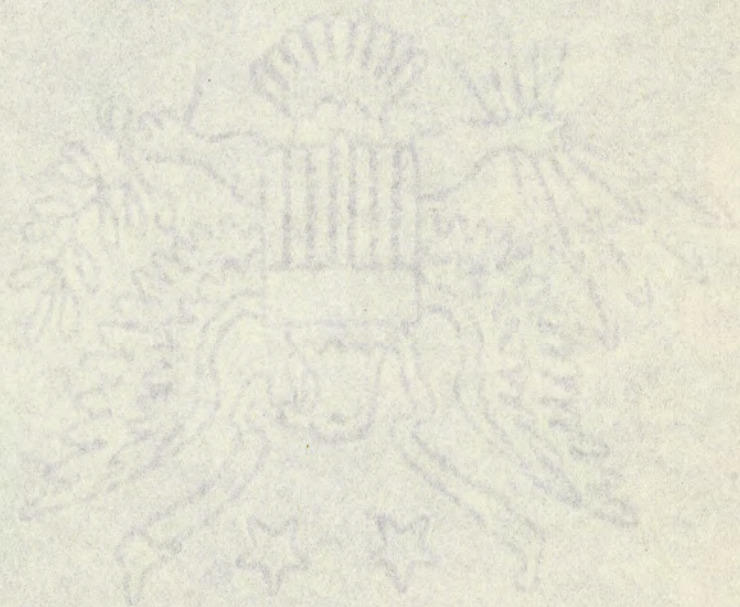
Remitter: Local Trademarks, Inc. (6331)--Class A.

Title: "Advertising Campaign for Florists 'Miss Flora' Series" Vol. 5

Question: Acceptability of deposit.

"I think this is on all fours with "Cora Cow", etc. and recommend entry--H.A. Howell 2/10/40.

See full memo under "Published"





MP-411

OBSCENE?

MEMORANDUM

Jan 31, 1940  
February 1, 1940

Remitter: M. L. A. Publications (2524)--Class A.

Title: Click's Cartoon Annual

Question: Division of opinion as to whether material submitted  
is obscene.

A careful examination of the subject matter results in an honest division of opinion which necessitates reference to the Assistant Register of Copyrights.

In the opinion of Mr. Wise, Mr. Smith, and Mr. Pierce there is nothing in here which will necessarily debauch the morals of the youth, and, accordingly, registration should be made under Class A as a "book." Mrs. Brady, on the other hand, takes the position that the material is obscene, having as its only purpose the degrading of human personalities.

Respectfully submitted,

*W. Howard Wing*  
Chairman, Revisory Board

Request application on form A1 and enter--order of Mr. Howell.



MP-411

NOTICE

MEMORANDUM

January 31, 1940

Remitter: Lefax, Inc. (4730)--Class B

Title: "Enginera, Vol. 40, No. 1, January, 1940."

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

Under the title on the first page is the following statement:

Published monthly at Ninth and Samson Streets by LEFAX (Inc.). Entered as second-class matter Jan. 14, 1916, at the Post Office at Philadelphia, Pa. under the act of March 3, 1879  
Title copyright 1928, this issue 1940.

In the opinion of Mrs. Brady this notice of copyright is fatally defective, lacking the name of the copyright owner, Lefax, Inc., as an integral part, and lacking the adequate year date. Mr. Wise, Mr. Pierce, and Mr. Smith, on the other hand, take the position that registration may be made in this case, but it is their feeling that correspondence should be conducted suggesting a better form of the notice in the future. It is to be noted that registration has been regularly made for this work without raising question as to the notice prior to this time.

||←

Respectfully submitted,

*W. H. Howell*  
Chairman, Revisory Board

Enter, but write--order of Mr. Howell. "This notice, in my opinion, is hardly adequate, but since entries have been made heretofore regularly without question apply the rule as to not taking by surprise. But write and put him straight and explain that it is not the Title but the contents that may be copyrighted."



NOTICE

## M E M O R A N D U M

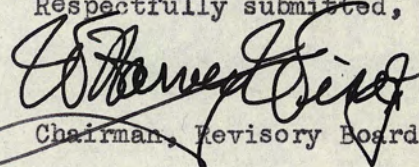
January 31, 1940

Remitter: Pennsylvania Statuary Co., Inc. (5563)--Class G.  
Title: "I Will Bless Every Place Where an Image of My Heart  
Shall be Exposed and Venerated."  
Question: Division of opinion as to adequacy of copyright  
notice.

Upon examination of the copies it is observed that the notice of copyright in the approved statutory form appears on the back of the objects.

It is explained by Mr. Smith, who is familiar with the use of such articles in the services of the Catholic Church that this notice would not be concealed in view of the use to which the article will be put. It is therefore, his opinion, and that of Mr. Pierce, that the copyright notice is sufficiently adequate to justify registration. Mrs. Brady, on the other hand, takes the position that the application should be rejected since the copyright notice appears on the back of the work.

Respectfully submitted,



Chairman, Revisory Board

"It is the rule of the Office, based upon the terms of Section 18 that in the case of a sculpture (work of art) published, the notice shall appear on the front or face of the object, but the name of the copyright owner may be, by the terms of the Act, placed in the back, etc. But give them a chance to defend, and check prior application."--order of Mr. Howell.