

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 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 bookend; simply request  
2nd copy as published. Sustained, W.H.W. 11-25-41

  
M. C. BRADY