

MINORITY MEMORANDUM

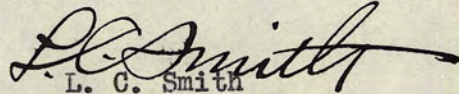
December 11, 1941

Remitter: Watson, Cole, Grindle & Watson (70062)

Title: "Elsie, Elmer and Beulah"

Question: Can copyright matter appearing upon the gameboard be registered if it does not form an integral part of the gameboard in the playing of the game?

The deposit consists of a gameboard. In the center of the gameboard is the picture of a barn and three separate pictures of the characters Elsie, Elmer and Beulah. In connection with the pictures of these characters there is a copyright notice. It appears directly under the picture "Beulah." Mrs. Brady and Mr. Lasica are of the opinion that the work is a gameboard and must be rejected on that basis. Mr. Smith, however, is of the opinion that the three pictures of Elsie, Elmer and Beulah can be considered distinct and separate from the board as such, especially in view of the fact that the copyright notice is particularly placed in proximity to these three pictures. Mr. Smith realizes that in the past we have thrown out gameboards of this nature, except in a few cases when Mr. Howell, then the Assistant Register of Copyrights, permitted them to pass. One in particular is the "Paul Revere" game. In view of the fact that the recent clarifying amendment to the "device" rule enabled the Office to take a more liberal view in connection with the registration of copyright claims to copyrightable matter appearing upon devices, Mr. Smith believes that the question of gameboards should now be reviewed with the same purpose in mind; that is, that if there is present upon the gameboard copyrightable matter which can be considered not essential to the playing of the game, then registration of the copyright claim should be made, especially when as in the present instance the copyright notice is directly in connection with such copyrightable matter. If this Office accepts the position of the minority member of the Board, an application should be filed giving after the title (similar in cases of devices) a disclaimer to the gameboard features of the work.


L. C. Smith

Acting Chairman of Revisory Board

Register upon application received December 9, 1941, in which claim of copyright is limited to pictures. Copyright notice is placed directly under pictures and not so as to be applicable to gameboard.

W.H. Wise 12/13/41