

MINORITY MEMORANDUM

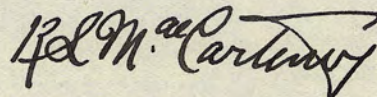
December 23, 1941

Remitter: Hamilton Manufacturing Co. (77783)

Title: "20 Punch Board Bond Dispensers"

Question: Whether a punch board to be used to stimulate the sale of bonds and containing a pictorial illustration can be registered as a print provided the claim is limited to the print and disclaims the gameboard features. The notice of copyright on the copies is a general one.

The majority of the Board feels that registration for the pictorial element in these punch boards may properly be had following the establishment of publication and the filing of applications limiting the claim. It is the undersigned's opinion, however, that the policy of the Copyright Office in denying registration to those works that are in the nature of gameboards must be adhered to in this case since the only exemption for such action, namely, the amended section 201.4 of the Code of Federal Regulations of Copyright Office is not applicable in this case (assuming devices and gameboards may be considered as analagous works). The exception to rejection provided for in that section is a work published with a copyright notice which does not purport to copyright the essentially uncopyrightable features, namely, the instrument or tool as such (here the gameboard). The notice of copyright on these punch boards, however, is placed squarely under the punch feature, thereby setting up a claim in the publication as a whole. The undersigned feels that this case is different from that of a print appearing as part of a gameboard which was recently accepted since in that case the notice of copyright was directly under the copyrightable print and was not in a position where the public would judge that a claim was being made for the gameboard as such. To accept these works for registration would be a further loosening of the rule announced by the Register of Copyrights and carried out in hundreds of instances subsequently that gameboards would not be accepted for registration in the Copyright Office.



R. S. MacCarteney

If correctly published works registrable in Class K as "prints" if applicant limits claim to prints and disclaims the gameboard features. Sustained---By order of Register. W. H. Wise, Jan. 2, 1942.