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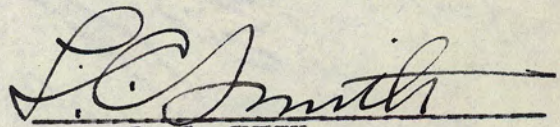
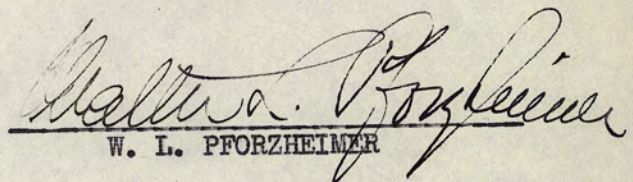
MAJORITY MEMORANDUM

Sept. 2, 1941

Remitter: Ben-Horim, Nahum (Rabbi) (56201)

Title: "The Star Spangled Banner; President Roosevelt's Call
to Nation to Defend Liberty, etc."Question: Is the deposit under consideration subject matter of
copyright?

The undersigned accept the description of the work given in the Minority Memorandum. They take issue, however, with the minority opinion, in that they contend that the arrangement of the matter upon the copy in color, with the well-balanced arrangement of the stars and bars, in addition to the print of President Roosevelt, is such that it can constitute material falling under the category of a "print." It must be admitted that the work is a "writing of an author," some of which appears to be original while other portions are in the public domain. Section 4 of the Act provides, "That the works for which copyright may be secured under this Act shall include all the writings of an author." It is the belief of the undersigned that the best classification to use is the one selected by the applicant, that is, Class K. The majority members of the Revisory Board do not agree with the minority in holding that the work "might be the subject matter of design patent."


L. C. SMITH
W. L. PFORZHEIMER

Resolve doubt in favor of applicant. Make registration under Class K on appropriate application--W.H.Wise, after consultation with Col. Bouvé.

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The deposit which is the subject of this memorandum is a square of silken material about eight and a half inches in size, and described by the applicant as a handkerchief. It is highly embellished with prints and text and presumably might be the subject matter of design patent protection as a new, original and ornamental design for an article of manufacture. It could not in the opinion of the undersigned be considered a work of authorship, as there are no original contents, only a well-balanced arrangement of two prints and two short texts which are taken from the public domain. To particularize. In the center of the upper half of this handkerchief two verses of "The Star Spangled Banner" are printed in a colorful blue ink. These verses are flanked on the left by a print of the flag of the United States, and on the right by a print of a familiar photograph of Franklin D. Roosevelt, thirty-second President, set in a frame of stars and laurel leaves and surmounted by a spread eagle. This upper half of the handkerchief is divided from the lower half by short lines of red, white and blue bars on each side, with a connecting line of four stars--a red, a blue, a red, and a blue star. The lower half of the handkerchief reproduces in the blue lettering four sentences from President Roosevelt's 4th of July address to the nation. Under this text is a single sentence: "\$130,000,000 Strong United We Stand." More red and blue stars and bars follow this sentence, and the statement: "Compliments of The United Fund For Refugee Children." There is a well-balanced arrangement of the several elements employed, and a striking effect achieved by the red and blue printing on the satiny surface of the deposit which makes a united design that ^{might} be considered pleasing to the eye. But as there is no original content in work, and nothing but an arrangement of material taken from the public domain, the undersigned would reject. There is too much text present to justify the majority suggestion, that registration as a "print" on pictorial illustration would be acceptable.

M. C. Brady
M. C. BRADY

PRINT

(See "Copyrightable")

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