

MINORITY MEMORANDUM

July 12, 1944

Remitter: Stanford University Press (MP-2299)

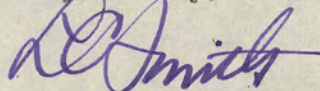
Title: "Thai-English Dictionary"

Question: "Does a work published in a foreign language abroad without U.S. notice fall into the public domain?"

The Majority is of the opinion that the work does not fall into the public domain and that regardless of the time which elapses until copies can be published with notice, the claimant is entitled to receive United States copyright when so published with notice.

The court cases do not all agree, it is true, but the Minority contends that if a work is published without copyright notice, it falls into the public domain. This comes more closely to the action taken under the patent law. If an invention is "published" anywhere throughout the world more than one year prior to the filing of the patent application, no patent can be obtained. Again, if the Office takes the position that a work published abroad in a foreign language without notice does not fall into the public domain, then anyone desirous of using a foreign work can never be guided by the rule that to determine if copyright exists is to merely look for the notice. It is difficult to take the position that such foreign published copies without notice do not find their way into the hands of the public in this country.

Respectfully,



Member, Revisory Board

P. S. It is to be noted that in the present case the author and publisher of the work ~~is~~^{was} an American citizen. Should not such an American citizen be obligated to first manufacture his book in this country and to publish it with the copyright notice if he is to secure valid copyright.

See Register's Memo to Revisory Board dated July 19, 1944.

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MEMORANDUM

REFERRING TO Thai-English Dictionary [MP-2299]

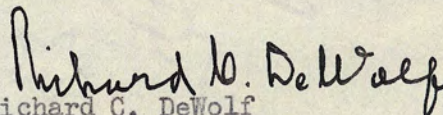
To the Revisory Board:

DATE July 19, 1944

The only question that I see in this case is that of publication in the United States without the copyright notice. Before we agree to register we should get the facts as to this. If there has been any distribution of copies to the public by sale or otherwise, then the work has doubtless fallen into the public domain and could not be copyrighted now.

As to the question whether the author is a citizen of the United States and thus obligated to print in the United States (a dictionary in English and another language is not regarded as within the exception to the manufacturing requirements), the proposed reprinting in the United States would take care of that, and hence no question would be raised in regard to it.

We have been a little too inclined in the past to assume that a book has not been published in the United States without the copyright notice merely because the inquirer states that it was first published in a foreign country. We should be careful about this and not offer to register unless we are reasonably certain that no publication, i.e., no distribution of copies, has taken place in the United States without the notice.



Richard C. DeWolf
Acting Register of Copyrights