

## MINORITY MEMORANDUM

PRINT

November 4, 1940


Remitter: Reproducta, Inc. (No. 69791)

Title: "Gloria in Excelsis Deo!"

Question: Are the copies of the work as deposited made up of several parts which are actually published separately and therefore require separate registrations?


The copies consist of two parts. The larger part is so cut and folded that when properly set up it becomes a model of the Stable at Bethlehem. The second portion is an insert which because of its flanges can be fastened to the interior of the Stable and consists of the Holy Family, that is, the Christ Child in the Crib, the Virgin Mary and St. Joseph. Two different deposits are made. In each case the Stable is the same. The deposits differ in that the inserts give the Holy Family in varied positions. The Stable and each of the inserts bear different publisher's identification numbers. Mr. De Wolf and Mrs. Brady are of the opinion that each of these parts are published separately and that the purchaser can then use whatever insert he desires with the model of the Stable. Mr. Smith, however, is of the belief (especially from his experience of the sale of similar items in Washington stores in past Christmas seasons) that these are not sold separately but only as a unit.

Mr. De Wolf and Mrs. Brady, therefore, request that separate K applications be filed for each of the items referred to above, that is, the Stable and each of the two inserts, making three K applications in all. Mr. Smith, however, sustains the examiner and requests application Form K for each of the <sup>2</sup>deposits with the title in each case given as suggested by the examiner.



L. C. Smith

Upon further consideration, Mr. Smith no longer holds the opinion he has indicated above, but instead is of the belief that the same reasoning which the Office entertains in connection with "devices" can be applied to the present deposits and therefore they should be rejected.



L. C. Smith

Examiner sustained. Request two forms K and explain that form H is for reproductions of an existing work of art)--H.A.Howell 11/8/40

## CLASSIFICATION

## MINORITY MEMORANDUM

November 4, 1940

Remitter: Schwartz &amp; Frohlich (No. 70318)

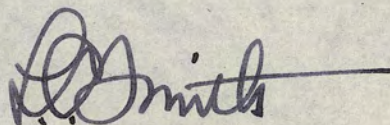
Title: "Angels Over Broadway" and "Howards of Virginia"

Question: Is the deposit subject to registration under Class A or Class KK.

The deposit in each instance consists of a single sheet folded so as to form a four page circular upon which can be found certain advertisements that can be used by the movie exhibitor in the newspaper to attract patrons to his theatre. Beneath each ad is the identifying number of the ad mat, in addition to the measurement of its size in columns and lines.

Mr. De Wolf and Mrs. Brady are of the opinion that this circular advertises articles of merchandise, consisting both of the advertising mat and the motion picture film, and that therefore, registration should be made under Class KK. Mr. Smith, however, maintains that the circular should be considered doing no more than "advertising" appropriate advertising matter which, as in the case of all intangible literary property, must be represented by some physical means. To hold otherwise would put a volume of Shakespeare in the category of one of Heinz' 57 varieties. The Print and Label Act, as any Federal Statute, should be more strictly construed.

Mr. De Wolf and Mrs. Brady request that KK applications be filed, while Mr. Smith accepts the applicant's choice of classification, namely, A-1 and suggests registration as applied for.



L. C. Smith

Accept applicant's choice of classification--H.A.Howell 11/15/40

BOOK  
(See "Classification")

## M E M O R A N D U M

November 4, 1940

Remitter: Schwartz and Frohlich (No. 70318)--Class A.

Title: "Angels Over Broadway" and "Howards of Virginia"

Question: Is the deposit subject to registration under Class A  
or Class KK.

Accept applicant's choice of classification--H.A.Howell 11/5/40  
(A)