

FLAG (U.S.)
(SEE "WORK OF ART")

M E M O R A N D U M

December 18, 1940

Remitter: Edmund Hewitt Nieukirk (80618)--Class ?

Title: "Our Flag of Freedom, Long May It Wave"

Question: Copyrightability of the United States Flag."

Enter--This is much out of the ordinary stereotyped representation
of the flag--H.A. Howell. 1/3/41.

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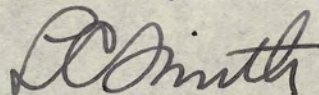
Title: "Our Flag of Freedom, Long May It Wave"

Question: Copyrightability of the United States Flag."

Mrs. Brady and Mr. Wise are of the opinion that the deposit represents nothing more than the pictorial illustration in conventional form of the United States flag, expressing no original artistic arrangement, and hence the application for the registration of the copyright claim should be rejected.

Mr. Smith believes that the print does consist of more than just the ordinary drawing of the United States flag devoid of any artistic element. Surely the applicant does not contend that he is getting any monopoly in the United States flag itself but only for the pictorial representation of it. If the applicant took a photograph of a United States flag flying in the breeze, there being no background except the plain blue sky, surely registration would be made for any copyright claim to such photograph. What difference is there then if an artist conveys the same picture in the form of a drawing as in the present instance. Mr. Smith holds that there is no court case or Office rule which denies copyright protection to any print when the subject matter of the work is the United States flag, and where the presentation of the flag is the result of original artistic effort.

Respectfully,



Member of Revisory Board

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