

January 5, 1943

Remitter: Lions International  
Title: Blueprint on Membership

NOTICE

WORD "COPYRIGHT"

Question: Is an article consisting partly of text and partly of print or pictorial illustration registrable in Class K, although registration is not in order in Class A because one of the elements of the notice is the symbol ©.

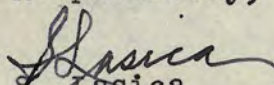
The majority members of the Board would reject this claim outright because of inadequate notice. The minority member, Mr. Lasica, agrees in so far as rejecting the application filed is concerned, but contends that in view of the nature of the deposit the Office should suggest Class K.

Application has been filed for registration as a book for an article (title supra) which is partly text and partly print or pictorial illustration, the pictorial element being equal if not predominant. The notice of copyright is not in statutory form prescribed for books, one of the elements being a ©. The application filed must therefore be rejected. However, the minority feels that this is a case where the Office would be justified in suggesting Class K. This has been done previously on numerous occasions. A newspaper contribution containing text with a print notice has been registered in Class K5. (See Board Memorandum of July 12, 1940, remitter Louise E. Wade, Inc.) A folder consisting of text and a map, with only a map notice, has been registered in Class F. (See Board Memorandum of November 10, 1941, remitter H. N. Gousha Co.) Only recently an analogous case came before the Board, and the Assistant Register of Copyrights ruled that "There is no objection to suggesting when writing to reject the application for the 'book' that registration for the 'print' may be made if desired." (See Board Memorandum of August 6, 1942, and R.C.D. ruling of August 11, 1942, remitter Merwin F. Ashley.) Moreover, the minority member recalls on numerous occasions a similar question having been presented to the Board, in which Class K was suggested in order to make registration. These decisions are difficult to locate because of the numerous items in the minutes. The opinions were unanimous.

It would seem under Section 3 that where a work consisting of material in several classes is registrable in one class, the copyright would protect all the copyrightable component parts. There are many cases of registration of greeting cards in Class K where text is present. In determining infringement, the courts have held that where copyrightable and uncopyrightable matter is separable the copyright in the copyrightable matter is valid. Assuming in this case that the copyright claim in the text is invalid because of an inadequate book notice, still, since there is an adequate print notice, copyright in the print would probably be held valid.

For these reasons the minority feels that in this case Class A-1 application should be rejected and Class K suggested to the applicant for his decision.

Respectfully,

  
S. Lasica

Member of Revisory Board