



Copyright Review Board  
United States Copyright Office · 101 Independence Avenue SE · Washington, DC 20559-6000

December 9, 2022

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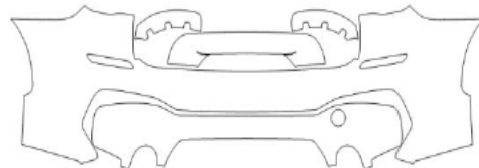
**Re: Second Request for Reconsideration for Refusal to Register Rear Bumper Kit for 2016-2018 BMW X1 Sport (SR # 1-7295185192; Correspondence ID: 1-3XLDTG9)**

Dear Ms. Gentner:

The Review Board of the United States Copyright Office (“Board”) has considered XPEL, Inc.’s (“Xpel”) second request for reconsideration of the Registration Program’s refusal to register a technical drawing claim in the work titled “Rear Bumper Kit for 2016-2018 BMW X1 Sport” (“Work”). After reviewing the application, deposit copy, and relevant correspondence, along with the arguments in the second request for reconsideration, the Board finds that the Work exhibits copyrightable authorship and may be registered.

The Work is a two-dimensional technical drawing, depicting the design of a protective film intended to fit over the rear bumper of certain sport utility vehicle models, specifically model years 2016–2018 for the BMW X1 Sport. The Work consists of five multi-lateral shapes arranged in a rectangular pattern. While the submitted deposit copy includes text to the left of the two-dimensional technical drawing, including dimensions and information related to the drawing, Xpel is not seeking to register the text included in the deposit and has explicitly disclaimed it. The Work is reproduced below from the submitted deposit copy:

XPEL Part Number: P2153AE  
Originally Created: 5/6/2016 1:55:57 PM  
  
Dimensions (W x L): 28.56" x 98.88"  
Rear Bumper Kit for:  
Applicable to: 2016-2018 BMW:X1:M Sport:  
Applicable to: 2016-2018 BMW:X1:M Sport Line:



Before turning to our analysis of the Work, we provide some background regarding the Office’s treatment of technical and scientific drawings. With regard to such drawings, including mechanical drawings, engineering diagrams, and similar works, “[t]he U.S. Copyright Office

will register these types of works if they contain a sufficient amount of original pictorial or graphic material.” U.S. COPYRIGHT OFFICE, COMPENDIUM OF U.S. COPYRIGHT OFFICE PRACTICES § 922 (3d ed. 2021) (“COMPENDIUM (THIRD)”); *see also* 17 U.S.C. § 102(a)(5) (“[c]opyright protections subsists . . . in original . . . pictorial, graphic, and sculptural works”). “When the Office registers a technical or scientific drawing, the registration covers only the drawing itself and does not ‘extend to any idea, procedure, process, system, method of operation, concept, principle, or discovery, regardless of the form in which it is described, explained, illustrated, or embodied in such work.’” COMPENDIUM (THIRD) § 922 (citing 17 U.S.C. § 102(b)).

Similarly, a technical drawing registration does not extend copyright protection to the useful article represented in the drawing. *See id.*; 17 U.S.C. § 113(b); *see also Gusler v. Fischer*, 580 F. Supp. 2d 309, 315 (S.D.N.Y. 2008) (finding that copyright in a drawing of a useful article does not prevent another’s manufacturing of the useful article). A useful article is “an article having an intrinsic utilitarian function that is not merely to portray the appearance of the article or to convey information.” 17 U.S.C. § 101. Copyright law does not protect the mechanical or utilitarian aspects of such works. COMPENDIUM (THIRD) § 906.10.<sup>1</sup> For example, if an applicant submitted “five drawings that show the same screw from different perspectives (e.g., top-down, bottom-up, left elevation, right elevation, and a close-up of the screw’s grooves)” without any information “concerning the measurements, specifications, or other information concerning the size, design, or material composition of the screw depicted therein,” the Office would register the claim. *Id.* § 922. The registration would “cover [] the drawings, but not the screw itself.” *Id.* Copyright protection would extend to any accompanying text only if the “[technical] drawing contained adequate descriptive or informational textual matter other than mere numbers, measurements, descriptive words and phrases, or the like.” *Id.*

After carefully examining the Work and applying the legal standard discussed above, the Board finds that the Work satisfies the level of original creativity necessary to sustain a claim of copyright. As a creative line drawing of the Rear Bumper Kit for 2016–2018 BMW X1 Sport, it can be protected as a technical drawing. *See, e.g., Oldcaste Precast, Inc. v. Granite Precasting & Concrete, Inc.*, No. C10-CV-322, 2011 WL 813759, at \*5, \*10 (W.D. Wash. Mar. 2, 2011) (“technical drawings . . . are copyrightable as expressions[] or unique iterations” of “specific objects”).

While the Work is entitled to registration, it is the Board’s opinion that the Work possesses only a “thin” copyright that protects against only virtual identical copying. *See Satava v. Lowry*, 323 F.3d 805, 812 (9th Cir. 2003). Works with a thin copyright “reflect only scant creativity.” 4 Melville B. Nimmer & David Nimmer, NIMMER ON COPYRIGHT § 13.03[4] (2022). As one court noted, “creativity . . . may be scant because the author has chosen to express an idea without much embellishment, so that the expression is nearly indistinguishable from the idea itself.” *Well-Made Toy Mfg. Corp. v. Goffa Int’l Corp.*, 210 F. Supp. 2d 147, 163 (E.D.N.Y. 2002), *aff’d sub nom. Well-Made Toy Mfg. Corp. v. Goffa Int’l Corp.*, 354 F.3d 112 (2d Cir. 2003). Here, because the level of creative expression is minimal, the Board finds that copyright

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<sup>1</sup> Copyright protection may extend to any pictorial, graphic, or sculptural authorship that can be identified separately from the utilitarian aspects of an object. *See* COMPENDIUM (THIRD) §§ 906.10; 924.

protection extends only to the Work as a whole (excluding the text), not isolated subparts or components of the Work.

For the reasons stated herein, the Review Board of the United States Copyright Office reverses the refusal to register the copyright claim in the Work. The Board now refers this matter to the Registration Policy and Practice division for registration of the Work, provided that all other application requirements are satisfied.



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**U.S. Copyright Office Review Board**

Suzanne V. Wilson, General Counsel and  
Associate Register of Copyrights

Maria Strong, Associate Register of Copyrights and  
Director of Policy and International Affairs

Jordana Rubel, Assistant General Counsel