



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

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**Re: Second Request for Reconsideration for Refusal to Register 4imprint Logo
(SR # 1-10656371381; Correspondence ID: 1-52KFY4D)**

Dear Mr. Heino:

The Review Board of the United States Copyright Office (“Board”) has considered 4imprint, Inc.’s (“4imprint”) second request for reconsideration of the Registration Program’s refusal to register a two-dimensional artwork claim in the work titled “4imprint Logo” (“Work”). After reviewing the application, deposit copy, and relevant correspondence, along with the arguments in the second request for reconsideration, the Board affirms the Registration Program’s refusal of registration.

I. DESCRIPTION OF THE WORK

The Work is a two-dimensional artwork consisting of the number “4” in blue, followed by the word “imprint” in lowercase black letters, followed by a small blue circle. A curved blue arc shape (described by 4imprint as an “arcuate” shape) extends from the dot in the “i” to the right of the “t” in “imprint.” The Work is as follows:



II. ADMINISTRATIVE RECORD

On July 13, 2021, 4imprint filed an application to register a copyright claim in the Work. In a July 30, 2021 letter, a Copyright Office registration specialist refused to register the claim,

determining that it lacked the requisite creative authorship to support a copyright claim. Initial Letter Refusing Registration from U.S. Copyright Office to Joseph Heino at 1 (July 30, 2021).

On August 10, 2021, 4imprint requested that the Office reconsider its initial refusal to register the Work, arguing that “even with the subject matter so limited, this fanciful design, by itself, clearly meets the ‘extremely low’ level of creativity” set forth in *Feist Publ’ns v. Rural Tel. Serv. Co.*, 499 U.S. 340 (1991). Letter from Joseph Heino to U.S. Copyright Office at 3 (Aug. 10, 2021) (“First Request”). After reviewing the Work in light of the points raised in the First Request, the Office reevaluated the claims and again concluded that the Work could not be registered. Refusal of First Request for Reconsideration from U.S. Copyright Office to Joseph Heino (Dec. 10, 2021). The Office explained that the Work did not demonstrate sufficient creativity in the combination and arrangement of its component elements. *Id.* at 3.

In a letter dated March 9, 2022, 4imprint requested that, pursuant to 37 C.F.R. § 202.5(c), the Office reconsider for a second time its refusal to register the Work. Letter from Joseph Heino to U.S. Copyright Office (Mar. 9, 2022) (“Second Request”). 4imprint argued that because “the right-most portion of the arcuate element billows well above and beyond (and to the right of) the word element ‘imprint,’” the Work “clearly meets the ‘extremely low’ level of creativity under the *Feist* decision.” *Id.* at 7. Further, 4imprint notes that “[t]he Work is currently protected directly under the Lanham Act and indirectly under the Uniform Domain Name Dispute Resolution Policy.” *Id.* at 3.

III. DISCUSSION

After carefully examining the Work and considering the arguments made in the First and Second Requests, the Board finds that the Work does not contain the requisite creativity necessary to sustain a claim to copyright.

A work may be registered for copyright if it is an “original work[] of authorship fixed in any tangible medium of expression.” 17 U.S.C. § 102(a). In *Feist*, the Supreme Court explained that this requirement of originality contains two components: that it was independently created (rather than copied from another work) and sufficiently creative. 499 U.S. at 345. The necessary amount of creativity is “extremely low” and “even a slight amount will suffice.” *Id.* Though the requisite level of creativity is “not particularly stringent,” there nonetheless is “a narrow category of works in which the creative spark is utterly lacking or so trivial as to be virtually nonexistent.” *Id.* at 358–59. Works that do not meet this low threshold for creativity are not eligible for copyright. *Id.* at 359.

The Office’s regulations and practices implement the originality requirement set forth in the Copyright Act and described in the *Feist* decision. As set out in the Office’s regulations, copyright does not protect “[w]ords and short phrases such as names, titles, and slogans; familiar symbols or designs; [and] mere variations of typographic ornamentation, lettering or coloring.” 37 C.F.R. § 202.1(a). Accordingly, when a work only consists of unprotectable elements, it must combine or arrange those elements in a sufficiently creative way to meet the requirements of the statute. *See Satava v. Lowry*, 323 F.3d. 805, 811 (9th Cir. 2003) (stating that the combination of unprotectable elements is protected “only if those elements are numerous enough and their

selection and arrangement original enough that their combination constitutes an original work of authorship”).

Neither the Work’s individual elements nor the Work as a whole are sufficiently creative to be copyrightable. The individual elements of the Work, the number 4, the word “imprint,” a curved blue arc element, and a blue dot, are not copyrightable. First, individual words and numbers are not copyrightable. 37 C.F.R. § 202.1(a); U.S. COPYRIGHT OFFICE, COMPENDIUM OF U.S. COPYRIGHT OFFICE PRACTICES § 313.4(C) (3d ed. 2021) (“COMPENDIUM (THIRD)”) (“Words . . . such as names, titles, and slogans, are not copyrightable because they contain a *de minimis* amount of authorship.”); COMPENDIUM (THIRD) § 313.4(J) (numbers are not copyrightable). The blue dot and the curved blue arc elements are also not copyrightable individually because they are familiar symbols and shapes. *See* 37 C.F.R. § 202.1(a) (identifying familiar symbols and designs as not subject to copyright); COMPENDIUM (THIRD) § 906.1 (“The Copyright Act does not protect common geometric shapes . . . including . . . straight or curved lines . . .”). The variation in width of the arc across the shape does not make the Work sufficiently creative to be copyrightable. COMPENDIUM (THIRD) § 906.2 (“[T]he copyright law does not protect mere variations on a familiar symbol or design.”).

The Review Board has also considered the Work as a whole and similarly concludes that it is not sufficiently creative to be protectable by copyright. A mere simplistic arrangement of non-protectable elements does not demonstrate the level of creativity necessary to warrant protection. *Satava*, 323 F.3d at 811; *see also* COMPENDIUM (THIRD) § 905 (“In all cases, a visual art work must contain a sufficient amount of creative expression. Merely bringing together only a few standard forms or shapes with minor linear or spatial variations does not satisfy this requirement.”). Here, the elements of the Work are arranged in a simple, routine fashion: each letter in “imprint” is the same size and color. 4imprint’s representation of “imprint” and “4” in the same font is not creative enough to be copyrightable. *See* COMPENDIUM (THIRD) § 905. The curved arc and the dot placed above and to the right of “imprint” respectively does not alter this conclusion. *See id.* § 914.1 (“The Office typically refuses to register trademarks, logos, or labels that consist of only . . . [m]ere scripting or lettering, either with or without uncopyrightable ornamentation.”).

4imprint points out that “[t]he Work is currently protected directly under the Lanham Act,” but admits that such protection is not “reason. . . for extending protection to the Work under the Copyright Act of 1976.” Second Request at 3. The Board agrees that the availability of trademark protection for the Work is not relevant to whether the Work meets the requirements for copyright registration. *See* 37 C.F.R. § 202.10(b); COMPENDIUM (THIRD) § 914.1 (A visual art work that is used as a trademark, logo, or label may be registered only if it satisfies “the requisite qualifications for copyright.”). The applicability of the Uniform Domain Name Dispute Policy to the Work also is not relevant to the copyrightability analysis.

IV. CONCLUSION

For the reasons stated herein, the Review Board of the United States Copyright Office affirms the refusal to register the copyright claim in the Work. Pursuant to 37 C.F.R. § 202.5(g), this decision constitutes final agency action in this matter.



U.S. Copyright Office Review Board
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