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

June 5, 2026

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Re: Second Request for Reconsideration of Refusal to Register 3,000,000 MIL WIL LOGO (SR # 1-12187612061; Correspondence ID: 1-612YW9D)

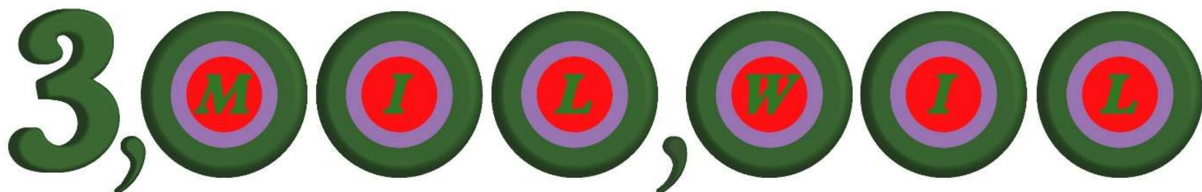
Dear Mr. Foster:

The Review Board of the United States Copyright Office ("Board") has considered Xavier C. Williams's ("Williams") second request for reconsideration of the Registration Program's refusal to register a two-dimensional artwork claim in the work titled "3,000,000 MIL WIL 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 denial of registration.

I. DESCRIPTION OF THE WORK

The Work is a graphic logo consisting of the number "3,000,000" with each zero containing one letter from the term "MILWIL." The numbers and the commas are green and shaded around the outside. The zeros have two concentric inner circles: a lavender circle and a red circle.

The Work is as follows:



II. ADMINISTRATIVE RECORD

On January 31, 2023, Williams filed an application to register a copyright claim in the Work. In a March 21, 2023 letter, a Copyright Office registration specialist refused to register the claim, determining that "the combination of common elements and the arrangement of the letters inside the numbers does not meet the minimum amount of creative authorship required to

sustain a copyright registration." Initial Letter Refusing Registration from U.S. Copyright Office to Thomas Foster at 1 (Mar. 21, 2023).

On May 28, 2023, Williams requested that the Office reconsider its initial refusal to register the Work, arguing that the combination of design elements is sufficiently creative to warrant registration. Letter from Thomas Foster to U.S. Copyright Office at 4 (May 28, 2023) ("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 Thomas Foster (Oct. 24, 2023). The Office explained that the Work failed to meet the threshold for copyright protection because "there are no elements or features embodied in this design, either alone or in combination, upon which a copyright registration is possible." *Id.* at 5.

In a letter dated January 24, 2024, Williams 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 Thomas Foster to U.S. Copyright Office (Jan. 24, 2024) ("Second Request"). Williams argued that the Work's specific design choices, such as the colors, shadowing, and three-dimensional effects, "contribute to an overall original composition that goes beyond mere variations of standard [typographic and geometric] elements." *Id.* at 2–3. Additionally, Williams asserted that the selection and juxtaposition of "army green with dark lavender purple [sic][,] . . . bright red," and "bright green" add dimensionality and depth to the Work. *Id.* at 3–4. These choices, in Williams's view, demonstrate a "strategic" and "inventive use" of color theory and a "sophisticated understanding" of artistic expression and visuals that is sufficiently original to qualify for copyright protection. *Id.* To further support its argument that the shadowing and three-dimensional effects make the work sufficiently creative, Williams compared the Work to belt buckles that the Second Circuit deemed eligible for copyright protection. *Id.* at 4–5 (citing *Kieselstein-Cord v. Accessories by Pearl, Inc.*, 632 F.2d 989 (2d Cir. 1980)). Lastly, Williams asserted that the three-dimensional illusion and how it affects public perception of the Work were "conscious, creative decisions that display an original authorship of sufficient degree to merit copyright protection." *Id.* at 5–6.

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 creativity necessary to sustain a copyright claim.

A work may be registered if it qualifies as an "original work[] of authorship fixed in any tangible medium of expression." 17 U.S.C. § 102(a). In this context, the term "original" consists of two components: independent creation and sufficient creativity. *See Feist Publ'ns, Inc. v. Rural Tel. Serv. Co.*, 499 U.S. 340, 345 (1991). First, the work must have been independently created by the author, *i.e.*, not copied from another work. *Id.* Second, the work must possess sufficient creativity. *Id.* Only a modicum of creativity is necessary, but the Supreme Court has ruled that some works (such as the alphabetized telephone directory at issue in *Feist*) fail to meet even this low threshold. *Id.* The Court observed that "[a]s a constitutional matter, copyright protects only those constituent elements of a work that possess more than a *de minimis* quantum of creativity" and that "garden-variety," "obvious," or "practically inevitable"

selection, coordination, and arrangement lack the necessary "creative spark required by the Copyright Act." *Id.* at 362–64.

The Office's regulations and publications implement the longstanding requirement of originality set forth in the Copyright Act. They explain that copyright does not protect common geometric shapes or familiar designs. 37 C.F.R. § 202.1(a) (prohibiting registration of "[w]ords and short phrases such as names, titles, and slogans; familiar symbols or designs"); *id.* § 202.10(a) (stating "to be acceptable as a pictorial, graphic, or sculptural work, the work must embody some creative authorship in its delineation or form"); U.S. COPYRIGHT OFFICE, COMPENDIUM OF U.S. COPYRIGHT OFFICE PRACTICES § 906.1 (3d ed. 2021) ("COMPENDIUM (THIRD)") (noting that common geometric shapes are not protectable). Copyright likewise does not protect "words and short phrases," or "mere variations of typographic ornamentation, lettering or coloring" or "[t]ypeface as typeface." 37 C.F.R. § 202.1(a), (e); *see* COMPENDIUM (THIRD) § 313.4(D) ("Similarly, individual numbers, letters, . . . and short phrases consisting of such elements are not copyrightable, because they do not contain sufficient creative authorship."). Additionally, "individual alphabetic or numbering characters" are not copyrightable "regardless of how novel and creative the shape and form of the typeface characters may be." COMPENDIUM (THIRD) § 906.4 (explaining that "the mere use of text effects . . ., while potentially separable, is *de minimis* and not sufficient to support a registration").

At the same time, some combinations of common or standard design elements may contain sufficient creativity with respect to how they are juxtaposed or arranged to support a copyright claim. Nevertheless, not every combination or arrangement will be sufficient to meet this test. *See Feist*, 499 U.S. at 358 (finding the Copyright Act "implies that some 'ways' [of selecting, coordinating, or arranging uncopyrightable material] will trigger copyright, but that others will not"). A determination of copyrightability in the combination of standard design elements depends on whether the selection, coordination, and arrangement are sufficiently creative to result in copyrightable authorship. *Id.*; *see also Atari Games Corp. v. Oman*, 888 F.2d 878, 883 (D.C. Cir. 1989); *Coach, Inc. v. Peters*, 386 F. Supp. 2d 495, 498–99 (S.D.N.Y. 2005). As the Ninth Circuit has explained, "a combination of unprotectable elements is eligible for copyright protection only if those elements are numerous enough and their selection and arrangement original enough that their combination constitutes an original work of authorship." *Satava v. Lowry*, 323 F.3d 805, 811 (9th Cir. 2003).

Applying these legal standards, the Board finds that the Work's individual elements and the Work as a whole fails to demonstrate sufficient creativity for copyright protection. The Work consists of the number "3,000,000"; the letters "M," "I," "L," and "W" positioned to create the phrase "MIL WIL"; and red, lavender, and green circles. Each element is a common geometric shape or familiar symbol (*i.e.*, a letter, punctuation mark, or number) that is not protectable by copyright. *See* COMPENDIUM (THIRD) §§ 313.4(J), 906.1, 906.2. In limited cases, some typeface or typographic ornamentation may be registered where "[p]ictorial or graphic elements . . . are incorporated into uncopyrightable characters or used to represent an entire letter or number" or "[t]ypeface ornamentation . . . is separable from the typeface characters," but "the mere use of text effects . . . while potentially separable, is *de minimis* and not sufficient to support a registration." *Id.* § 906.4. Here, the shading around the numbers and commas is not a separable decoration or ornamentation. *See id.* § 313.4(J). Although the concentric circles

within the zeros may constitute separable typographic ornamentation, as common geometric shapes, these individual elements are not copyrightable. *See id.* §§ 906.1, 906.4.

Viewed as a whole, the selection and arrangement of the Work's unprotectable elements are also insufficiently creative to warrant copyright protection. The Work is composed of letters, numbers, and circles of different sizes placed concentrically within one another. For a work consisting of common geometric shapes to be copyrightable it generally must combine "multiple types of geometric shapes in a variety of sizes and colors, culminating in a creative design that goes beyond the mere display of a few geometric shapes in a preordained or obvious arrangement." *Id.* § 906.1. The linear arrangement of the numbers separated by commas every three digits is a common, unoriginal configuration; indeed, it is a standard format for organizing Arabic numerals. Concentric circles, even within the number zero, are also a common and unoriginal arrangement, particularly where the zero is itself rendered as a circle as is the case here. Placing a letter within a circle is likewise a common design choice, which makes the arrangement here at best simplistic, if not "entirely typical." *Id.* § 308.2; *see Feist*, 499 U.S. at 362; *see also Satava*, 323 F.3d at 811. Moreover, the Work's variations in color are insufficient to imbue the unprotectable arrangement of letters and numbers with the necessary modicum of creativity. COMPENDIUM (THIRD) §§ 313.4(K), 906.2. Overall, the Work's side-by-side arrangement of the elements to create the number 3,000,000 and a short word or phrase, "MIL WIL," is an obvious arrangement that combines uncopyrightable elements without the minimal creativity required for copyright. *Id.* § 313.4(J) ("[T]he Office cannot register a work consisting of a simple combination of a few familiar symbols or designs with minor linear or spatial variations . . . ."); *see also Feist*, 499 U.S. at 348.

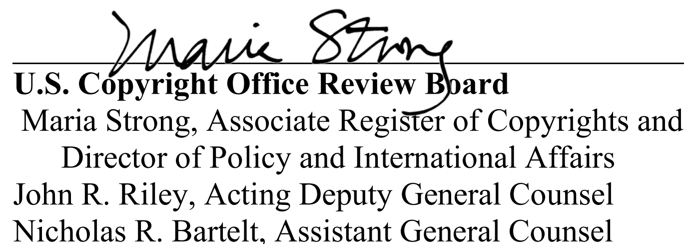
Williams makes several arguments regarding the Work's artistic value and "sophisticated" use of color theory. The Office, however, does not consider the aesthetic value, artistic merit, or the author's skill or artistic judgment in determining copyrightability. COMPENDIUM (THIRD) §§ 310.2, 310.6, 310.7; *see Bleistein v. Donaldson Lithographing Co.*, 188 U.S. 239, 251 (1903) ("It would be a dangerous undertaking for persons trained only to the law to constitute themselves final judges of the worth of pictorial illustrations, outside of the narrowest and most obvious limits."); *see also Star Athletica, L.L.C. v. Varsity Brands, Inc.*, 137 S. Ct. 1002, 1015 (2017) (declining to consider "the designer's artistic judgment," because it is not "grounded in the text of the statute"). Williams also argues that the shadowing and coloration transformed a "two-dimensional surface into something that suggests dimension and vitality." Second Request at 5. Any symbolic meaning or significance a work may evoke in defense of the Work's creativity does not factor into the copyrightability analysis. *See* COMPENDIUM (THIRD) § 310.3. The Office focuses solely on the actual appearance of the work that has been submitted for registration to determine whether it satisfies the originality requirement. *See id.*

Finally, Williams compares the use of three-dimensional effects in the Work to designs on the surface of belt buckles that the Second Circuit concluded had sufficient creativity for copyright. Second Request at 4–5 (citing *Kieselstein-Cord*, 632 F.2d 989). While the Board generally does not compare works and instead makes determinations of copyrightability on a "case-by-case basis," *see* COMPENDIUM (THIRD) § 309.3, we nonetheless observe that the Work is distinguishable from the belt buckle and does not contain the same creativity. In *Kieselstein-Cord*, the belt buckles were "solid sculptured designs . . . with rounded corners, a sculpted

surface, a rectangular cut-out at one end for the belt attachment, and several surface levels." 632 F.2d at 990. Here, the Work is two-dimensional, the shading is a mere variation of typeface, and the geometric shapes and familiar designs (*i.e.*, letters, punctuation, and numbers) are arranged in a linear, obvious arrangement. *See* COMPENDIUM (THIRD) § 308.2.

IV. CONCLUSION

For the reasons stated herein, the Board 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.



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