



March 20, 2026

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Re: Second Request for Reconsideration of Refusal to Register Artistic features of Canyon Boot v1 and 9 Other Unpublished Works (SR # 1-8921225931; Correspondence ID: 1-4QEGDF5)

Dear Mr. Diamond:

The Review Board of the United States Copyright Office (“Board”) has considered Urban Outfitters Wholesale, Inc.’s (“Urban Outfitters”) second request for reconsideration of the Registration Program’s refusal to register three-dimensional artwork claims in the works entitled “Artistic features of Canyon boot v1 and 9 Other Unpublished Works” (“Works”). After reviewing the application, deposit copies, 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 WORKS

Urban Outfitters submitted a claim for ten unpublished three-dimensional artworks. The Works each consist of a different combination of decorative features found on one of three different boot styles: the “Canyon” boot, the “Montage” boot, and the “Wesley CL” boot. Representative images of each design are provided below the description of each work, with full deposit images available in the Appendix.

A. Artistic features of Canyon boot v1

“Artistic features of Canyon boot v1” consists of a light brown leather loop with decorative stitching in a shield shape featuring a central horizontal stitch and three equidistantly spaced nails on the back of the heel in a horizontal row.



B. Artistic features of Canyon boot v2

“Artistic features of Canyon boot v2” consists of a light brown leather loop with decorative stitching in a shield shape featuring a central horizontal stitch; three equidistantly spaced nails on the back of the heel in a horizontal row; and two sets of three nail heads placed on the outer rim of each side of the sole.



C. Artistic features of Canyon boot v3

“Artistic features of Canyon boot v3” consists of a light brown leather loop with decorative stitching in a shield shape with central horizontal stitch; three equidistantly spaced nails on the back of the heel in a horizontal row; and embossed phrase “WE THE FREE” with two sets of three dots on the bottom of the sole.



D. Artistic features of Montage boot v1

“Artistic features of Montage boot v1” consists of two tan leather loops with decorative stitching in a shield shape featuring a central horizontal stitch and three equidistantly spaced nails on the back of the heel in a horizontal row.



E. Artistic features of Montage boot v2

“Artistic features of Montage boot v2” consists of two tan leather loops with decorative stitching in a shield shape featuring a central horizontal stitch; three equidistantly spaced nails on the back of the heel in a horizontal row; and tan seams running down the middle side of each boot shaft.



F. Artistic features of Montage boot v3

“Artistic features of Montage boot v3” consists of two tan leather loops with decorative stitching in a shield shape featuring a central horizontal stitch; three equidistantly spaced nails on

the back of the heel in a horizontal row; tan seams running down the middle side of each boot shaft; and two sets of three nail heads placed on the outer rim of each side of the sole.



G. Artistic features of Montage boot v4

“Artistic features of Montage boot v4” consists of two tan leather loops with decorative stitching in a shield shape with central horizontal stitch; three equidistantly spaced nails on the back of the heel in a horizontal row; and embossed phrase “WE THE FREE” with two sets of three dots on the bottom of the sole.



H. Artistic features of Wesley CL boot v1

“Artistic features of Wesley CL boot v1” consists of two chestnut leather loops with decorative stitching in a shield shape featuring a central horizontal stitch and three equidistantly spaced nails on the back of the heel in a horizontal row.



I. Artistic features of Wesley CL boot v2

“Artistic features of Wesley CL boot v2” consists of two chestnut leather loops with decorative stitching in a shield shape featuring a central horizontal stitch; three equidistantly spaced nails on the back of the heel in a horizontal row; coffee and lemon colored pattern in cowhide; and embossed phrase “WE THE FREE” with two sets of three dots on the bottom of the sole.



J. Artistic features of Wesley CL boot v3

“Artistic features of Wesley CL boot v3” consists of two chestnut leather loops with decorative stitching in a shield shape featuring a central horizontal stitch; three equidistantly spaced nails on the back of the heel in a horizontal row; coffee and lemon colored pattern in cowhide; and two sets of three nail heads placed on the outer rim of each side of the sole.



II. ADMINISTRATIVE RECORD

On June 14, 2020, Urban Outfitters filed an application to register copyright claims in the Works. In a letter dated August 7, 2020, a Copyright Office registration specialist refused to register the claims, determining that the Works were useful articles that do not contain any separable, copyrightable authorship needed to sustain a claim to copyright. Initial Letter Refusing Registration from U.S. Copyright Office to Rachel Fertig (Aug. 7, 2020).

On November 6, 2020, Urban Outfitters requested that the Office reconsider its initial refusal to register the Works, arguing that, although the Works are useful articles, they possess separable, two- and three-dimensional “Decorative Features.” Letter from Rachel Fertig to U.S. Copyright Office at 7–9 (Nov. 6, 2020) (“First Request”). After reviewing the Works in light of the points raised in the First Request, the Office reevaluated the claim and again concluded that the Works could not be registered. Refusal of First Request for Reconsideration from U.S. Copyright Office to Rachel Fertig (Mar. 26, 2021). While the Office acknowledged that the Works contain separable design features, it concluded that those features were insufficiently creative enough to satisfy the originality requirement. *Id.* at 4–7. Specifically, the Office concluded that the separable features were “common shapes and familiar designs” and words and short phrases that were not protectable either individually or in combination as a whole. *Id.* at 4.

In a letter dated June 28, 2021, Urban Outfitters requested that, pursuant to 37 C.F.R. § 202.5(c), the Office reconsider for a second time its refusal to register the Works. *See* Letter from Rachel Fertig to U.S. Copyright Office (June 28, 2021) (“Second Request”). In the Second Request, Urban Outfitters reiterated earlier arguments, asserting that “the Decorative Features can easily be imagined apart from the Boot, and once separated, . . . merely portray a two or three-dimensional design . . . and do not replicate the Boot’s intrinsic functionality.” *Id.* at 5. Moreover, Urban Outfitters argued that the Works’ overall “combination of two and/or three-dimensional Decorative Features as a whole—(composed of combination of geometric shapes (circles, stitches, tapered loops), contrasting textures (leather and metal), short phrases, and arbitrary patterns of nail heads)—contain more than sufficient creativity to merit registration.” *Id.* at 10.

III. DISCUSSION

After carefully examining the Works and considering the arguments made in the First and Second Requests, the Board concludes that the Works do not contain the creativity necessary to sustain a claim to copyright.

Urban Outfitters' boots are, by its own admission, useful articles. *See id.* at 5. The Copyright Act defines useful articles as those “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 (definition of “useful article”). Indeed, “[f]ootwear” is a common example of a useful article due to its intrinsic utilitarian function. U.S. COPYRIGHT OFFICE, COMPENDIUM OF U.S. COPYRIGHT OFFICE PRACTICES § 924.1 (3d ed. 2021) (“COMPENDIUM (THIRD)”). Because the Works are “useful articles” under the Act, they must be analyzed as such.

Useful articles may receive copyright protection “only if, and only to the extent that,” their design “incorporates pictorial, graphic, or sculptural features that can be identified separately from, and are capable of existing independently of, the utilitarian aspects of the article.” 17 U.S.C. § 101 (definition of “pictorial, graphic, and sculptural works”). The Supreme Court in *Star Athletica L.L.C. v. Varsity Brands, Inc.* derived a test from this provision; it held that “a feature incorporated into the design of a useful article is eligible for copyright protection only if the feature (1) can be perceived as a two- or three-dimensional work of art separate from the useful article and (2) would qualify as a protectable pictorial, graphic, or sculptural work—either on its own or fixed in some other tangible medium of expression—if it were imagined separately from the useful article into which it is incorporated.” 580 U.S. 405, 409 (2017). In considering the first requirement, separate identification, “the decisionmaker need only be able to look at the useful article and spot some two- or three-dimensional element that appears to have pictorial, graphic, or sculptural qualities.” *Id.* at 414. In considering the second requirement, independent existence, the decisionmaker must determine if the separately identified features have “the capacity to exist apart from the utilitarian aspects of the article”; “[i]n other words, the feature must be able to exist as its own pictorial, graphic, or sculptural work as defined in § 101 once it is imagined apart from the useful article.” *Id.*

With this framework in mind, the two- or three- dimensional decorative features identified by Urban Outfitters—namely, the various patterns of stitching and nail heads, embossed phrase “WE THE FREE” with two sets of three dots, contrasting seam, and coffee- and lemon-colored pattern in cowhide—have pictorial, graphic, or sculptural qualities. *See, e.g.,* COMPENDIUM (THIRD) § 924.3(A)–(D). The leather loops, or pull tabs, are not separable because they have an intrinsic utilitarian purpose. *See Star Athletica*, 580 U.S. at 415 (recognizing that a design feature cannot “be a useful article” in and of itself or “[a]n article that is normally a part of a useful article”).¹ Thus, having satisfied the first part of the *Star Athletica* test, the remaining issue is whether these features are protectable as original works of authorship if imagined separately from the utilitarian aspects of the boots.

¹ Even if the Board were to consider any of the individual features to be separable, they would not possess the requisite creativity to be eligible for protection as simple variations on common geometric shapes. *See* 37 C.F.R. § 202.1(a); COMPENDIUM (THIRD) § 906.1.

To be registrable, a useful article's separable features must be "original works of authorship." 17 U.S.C. § 102(a). The Supreme Court's test for originality requires that the works are independently created and contain "some minimal degree of creativity." *Feist Publ'ns, Inc. v. Rural Tel. Serv. Co.*, 499 U.S. 340, 345 (1991). While only a modicum of creativity is necessary, some works fail to meet even this low threshold. *Id.* The Court has 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." *Id.* at 363. 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; however, not every combination or arrangement will be sufficient to meet this test. *See id.* 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"). For example, expressions that are "standard, stock, or common to a particular subject matter or medium are not protectable." *See, e.g., Satava v. Lowry*, 323 F.3d 805, 810 (9th Cir. 2003). Moreover, a simplistic arrangement of non-protectable elements does not demonstrate the level of creativity necessary to warrant protection. *See id.* at 811 ("[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."). *See also* COMPENDIUM (THIRD) § 906.1 (stating that a two-dimensional design composed of unprotectable geometric shapes is protectable because it goes "beyond the mere display of a few geometric shapes in a preordained or obvious arrangement").

When imagined separately, the individual design elements found on one or more of the Canyon, Montage, and Wesley CL boots—namely, the stitching, groupings of circular nail heads, linear piping, cowhide pattern, and phrase "WE THE FREE"—do not meet the originality standard required for copyright and are therefore unregistrable. Specifically, the linear piping, circular nail heads, straight stitches in a shield shape, simple loops, and cowhide pattern² are uncopyrightable two- or three-dimensional common shapes or designs. *See* 37 C.F.R. § 202.1(a) (prohibiting registration of "familiar symbols or designs"); COMPENDIUM (THIRD) §§ 906.1 ("The Copyright Act does not protect common geometric shapes, either in two-dimensional or three-dimensional form. . . . including . . . straight or curved lines . . ."), 906.2 ("Familiar symbols and designs are not protected by the Copyright Act."). In addition, the lemon coloring of the cowhide does not alter the protectability of the cowhide element of the Wesley CL boot design, as "the copyright law does not protect mere variations on a familiar . . . design, either in two- or three-dimensional form." COMPENDIUM (THIRD) § 906.2. Moreover, "[m]erely adding or changing one or relatively few colors in a work . . . is not copyrightable." *Id.* § 906.3. Finally, the embossed "WE THE FREE" text found on the soles of all three boot designs is an unprotectable short phrase. *See* 37 C.F.R. § 202.1(a) (prohibiting registration of "short phrases such as . . . slogans"); COMPENDIUM (THIRD) § 313.4(C) ("Words and short phrases, such as names, titles, and slogans, are not copyrightable because they contain a *de minimis* amount of authorship.").

Urban Outfitters argues that the combination of decorative features in each of the Works makes them sufficiently creative. While a combination of unprotectable elements may qualify


² The Board notes that Urban Outfitters does not specify whether the base pattern of the cowhide is natural or manmade.

for copyright protection, this is only so where the elements are sufficiently numerous and their selection and arrangement sufficiently original. *See Satava*, 323 F.3d at 811. Here, the Works consist only of obvious and preordained configurations of unprotectable elements, most of which constitute stock or standard features within the boot industry, such as the juxtaposition of metal and leather elements,³ curved or linear nail head patterns on the boot heel or sole,⁴ side piping/seams at the center of each side of the boot shaft,⁵ and usage of cowhide on the body of the shoe.⁶ Given that the combination of these stock elements is commonplace for western-style boots, and each design’s selection and arrangement of a handful of unprotectable elements does not contain more than a *de minimis* amount of creative expression, the Works are not registrable. *See* COMPENDIUM (THIRD) §§ 312.2, 313.4(B).

Finally, Urban Outfitters compares the Works to works that the Board found to exhibit copyrightable authorship in prior decisions, asserting that the Works are at least as original as other works that the Office has previously registered. *See* Second Request at 9–12. The Office does not, however, compare works; rather, it makes determinations of copyrightability on a “case-by-case basis” and “[a] decision to register a particular work has no precedential value.” COMPENDIUM (THIRD) § 309.3. The Board’s prior decisions that Urban Outfitters cites therefore have no bearing on the Board’s determinations as to copyrightability of the Works.

IV. CONCLUSION

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



U.S. Copyright Office Review Board
Maria Strong, Associate Register of Copyrights and
Director of Policy and International Affairs
John R. Riley, Acting Deputy General Counsel
Nicholas Bartelt, Assistant General Counsel

³ *See, e.g., Women’s Beth Studded Western Ankle Boots*, MACYS, <https://www.macys.com/shop/product/gc-shoes-womens-beth-studded-western-ankle-boots?ID=19803090> (last visited Mar. 20, 2026); *Brayden Western Boot (Women)*, NORDSTROM, <https://www.nordstrom.com/s/free-people-brayden-western-boot-women/5720629> (last visited Mar. 20, 2026).

⁴ *See, e.g., Dingo Women’s Talkin Rodeo Western Boots - Snip Toe*, BOOT BARN, <https://www.dillards.com/p/dingo-talkin-rodeo-tall-studded-leather-western-boots/516770940> (last visited Mar. 20, 2026); *Lane Women’s Cossette Studded Western Boots - Snip Toe*, LANE, <https://www.bootbarn.com/lane-womens-cossette-studded-western-boots--snip-toe/2000360536.html> (last visited Mar. 20, 2026); *Giana Studded Western Boot*, NORDSTROM, <https://www.nordstrom.com/s/giana-studded-western-boot-women/8021069> (last visited Mar. 20, 2026); *Dixon Haircalf Western Boot*, ARIAT, https://www.ariat.com/10033882_192904496437.html (last visited Mar. 20, 2026).

⁵ *See, e.g., Circle G Women’s Studded Western Boots - Snip Toe*, BOOT BARN, <https://www.bootbarn.com/circle-g-womens-studded-western-boots---snip-toe/2000411706.html> (last visited Mar. 20, 2026); *The Marion*, TECOVAS, <https://www.tecovas.com/products/the-marion?color=driftwood-indigo-roughout> (last visited Mar. 20, 2026).

⁶ *See, e.g., Myra Bag Women’s Neutron Fashion Booties - Round Toe*, SHEPLERS, https://www.sheplers.com/myra-bag-womens-neutron-fashion-booties---round-toe/2000365791.html?dwvar_2000365791_color=944#start=9 (last visited Mar. 20, 2026); *Maryana Wild Genuine Calf Hair Boot (Women)*, NORDSTROM, <https://www.nordstrom.com/s/maryana-wild-genuine-calf-hair-boot-women/8518816> (last visited Mar. 20, 2026).

APPENDIX



ARTISTIC FEATURES OF CANYON BOOT V3



ARTISTIC FEATURES OF MONTAGE BOOT V1





ARTISTIC FEATURES OF MONTAGE BOOT V2





ARTISTIC FEATURES OF MONTAGE BOOT V3





ARTISTIC FEATURES OF MONTAGE BOOT V4





ARTISTIC FEATURES OF WESLEY CL BOOT V1





ARTISTIC FEATURES OF WESLEY CL BOOT V3

free people

SIDE TAB ON BOTH SIDES



INSIDE

NAILHEADS
DIAMETER:
3MM

CENTRE BACK
NOTE THERE ARE THREE NAILS HEAD
ALIGNED HORIZONTALLY



NAILHEADS
DIAMETER:
3MM

CENTRE BACK
NOTE THERE ARE THREE NAILS HEAD
ALIGNED HORIZONTALLY



INSIDE

