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

September 19, 2025

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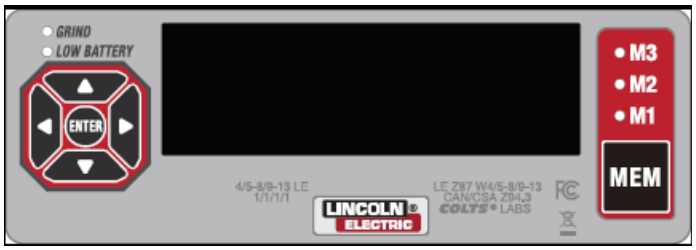
Re: Second Request for Reconsideration for Refusal to Register Auto-Darkening Filter User Interface (SR # 1-8985097381; Correspondence ID: 1-4SI85NX)

Dear Mr. Williams:

The Review Board of the United States Copyright Office ("Board") has considered Lincoln Global Inc.'s ("Lincoln Global") second request for reconsideration of the Registration Program's refusal to register the work titled "Auto-Darkening Filter User Interface" ("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 two-dimensional artwork that is rectangular in shape with rounded corners. Within the middle of this rectangle is a smaller black rectangle. Below the black rectangle is the "Lincoln Electric" logo with text on each side, including the Federal Communication Commission's ("FCC") logo and Waste Electrical and Electronic Equipment ("WEEE") symbol. A graphic appearing as a four-point directional controller is featured on the left, with the word "ENTER" in the middle of the graphic. Above this graphic is text indicating "GRIND" and "LOW BATTERY," set off with white dots. On the right of the Work is an elongated rectangular box with three additional lines of text that read "M3," "M2" and "M1," which are also set off with white dots. At the bottom of this rectangular box is a square containing the text "MEM." The work predominantly features red, black, and grey coloring. The Work is as follows:



II. ADMINISTRATIVE RECORD

On July 2, 2020, Lincoln Global filed an application to register a copyright claim in the Work. In a September 17, 2020 letter, a Copyright Office registration specialist refused to register the claim, determining that the Work lacked the original authorship necessary to support a copyright claim. Initial Letter Refusing Registration from U.S. Copyright Office to Kevin Dunn (Sept. 17, 2020).

On December 1, 2020, Lincoln Global requested that the Office reconsider its initial refusal to register the Work, arguing that it "contains at least the minimal level of creativity to warrant protection as a compilation" as evidenced by the "highly stylized and ornamental configuration" of the directional keys, which includes "unique geometric shapes" and Lincoln Global's "distinctive red-and-black color scheme." Letter from Thomas Williams to U.S. Copyright Office at 3 (Dec. 1, 2020) ("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 Williams (May 4, 2021). The Office explained that neither the individual elements of the Work, including common shapes, words, symbols and "mere coloration," nor the "garden-variety configuration" of its "few," unoriginal component elements, embodied sufficient creativity to support a claim in copyright. *Id.* at 3.

In a letter dated July 19, 2021, Lincoln Global 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 Williams to U.S. Copyright Office (July 19, 2021) ("Second Request"). Lincoln Global argued that the constituent elements of the Work are "expressive and creative," specifically citing the "contoured shapes" of the navigational keys that provide "an aesthetically pleasing three-dimensional look-and-feel." *Id.* at 3. In addition, Lincoln Global highlighted the "creative choice" to use its "signature red-and-black color scheme as borders for the navigation keys." *Id.* Finally, Lincoln Global argued that the Work is copyrightable as a graphical user interface ("GUI")[1] because it "does not merely display basic geometric shapes" but rather "incorporates creative design elements into its two-dimensional display." *Id.* at 2. *See also id.* at 3–4 (citing cases addressing copyright protection for GUIs).

III. DISCUSSION

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

As an initial matter, Lincoln Global refers to the Work as a GUI, but it appears that Lincoln Global is actually seeking to register a two-dimensional drawing depicting the design of a physical control panel, which is a useful article that functions as a user interface for its welding equipment.[2] *See* 17 U.S.C. § 101; U.S. COPYRIGHT OFFICE, COMPENDIUM OF U.S. COPYRIGHT

[1] A GUI is typically an audiovisual work that permits a user to interact with an electronic device. *See, e.g.*, *Apple Computer, Inc. v. Microsoft Corp.*, 35 F.3d 1435, 1445 (9th Cir. 1994).
[2] In both requests for consideration, Lincoln Global refers to the Work as a GUI. First Request at 2 ("Applicant

OFFICE PRACTICES § 924.1 (3d ed. 2021) ("COMPENDIUM (THIRD)") (noting that useful articles have an inherent useful function that is "objectively observable or perceivable from the appearance of the item"). When the Office registers a drawing depicting a useful article, "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 two-dimensional artwork registration does not extend copyright protection to the useful article represented in the work. *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).

With regard to such two-dimensional depictions, however, the Office will register these works only "if they contain a sufficient amount of original pictorial or graphic material." COMPENDIUM (THIRD) § 922. In this context, the term "original" consists of two components: independent creation (*i.e.*, not copied from another work) and sufficient creativity. *See Feist Publ'ns, Inc. v. Rural Tel. Serv. Co.*, 499 U.S. 340, 345 (1991). 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." *Id.* at 363.

The Office's regulations implement the longstanding requirement of originality set forth in the Copyright Act. *See, e.g.*, 37 C.F.R. § 202.1(a) (prohibiting registration of "words and short phrases such as names, titles, and slogans; familiar symbols or designs; [and] mere variations of typographic ornamentation, lettering or coloring"); *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"). In its regulations and *Compendium of U.S. Copyright Office Practices*, the Office has explained that copyright does not protect common geometric shapes or familiar designs. *See id.* § 202.1(a); COMPENDIUM (THIRD) § 906.1 (noting that common geometric shapes such as lines, triangles, and trapezoids are not protectable). Likewise, copyright does not protect "a system for matching pairs and sets of colors" or "mere variations in coloring." COMPENDIUM (THIRD) § 313.4(K); 37 C.F.R. § 202.1(a).

At the same time, some combinations of common or standard design elements may contain sufficient creativity to support a copyright claim. *See Feist*, 499 U.S. at 358 (noting that 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

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seeks registration of the particular applied-for visual expression of its GUI."); Second Request at 1 ("Applicant's applied-for work, the Auto-Darkening User Interface, is a creative form of a graphic user interface. . . ."). Notwithstanding whether the Work is used as a GUI, Lincoln Global's registration application is for a "2-D artwork, technical drawing" and the submitted deposit appears to be a two-dimensional graphical rendering of the physical control panel that Lincoln Global uses for its welding equipment. *See* Baker's Gas, *Lincoln Electric Viking 3350 Updated Review K3034-4 vs K3034-5*, YOUTUBE (Dec. 31, 2024), https://www.youtube.com/watch?v=EwvGBxP89Ro&t=212s (depicting nearly identical control panel); *VikingTM 3350 ADV Series Professional Auto-Darkening Welding Helmets*, LINCOLN ELECTRIC (June 2025), https://ch-delivery.lincolnelectric.com/api/public/content/bfa67b11963d4e6da3a81cbe6e221a02 (referring to the navigational keys as "large, moisture and abrasion resistant push buttons").

selection, coordination, or arrangement is done in such a way as 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).

While the Office may register a work that consists merely of geometric shapes, for such a work to be registrable, the "author's use of those shapes [must] result[] in a work that, as a whole, is sufficiently creative." COMPENDIUM (THIRD) § 906.1. *Cf. Hoberman Designs, Inc. v. Glo works Imports, Inc.*, No. 14-cv-6743, 2015 WL 10015261, at *4 (C.D. Cal. 2015) (holding that the work's use of common "geometric shapes like squares, triangles, and trapezoids . . . [did] not preclude copyright protection"). To demonstrate the required modicum of creativity, however, a work consisting of common geometric shapes 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." COMPENDIUM (THIRD) § 906.1. *See id.* § 313.4(J) (stating that a work consisting of uncopyrightable elements can only be registered if it "as a whole contains a sufficient amount of creative expression").

Applying these legal standards, the Board finds that the individual elements of the Work and the Work as a whole fail to demonstrate sufficient creativity. With respect to the individual elements of the Work, which consist of rectangles, squares, trapezoids, circles, and an octagon, copyright law does not protect common geometric shapes or familiar designs. *See* 37 C.F.R. § 202.1(a); COMPENDIUM (THIRD) § 906.1. The contours on the navigational keys described by Lincoln Global are merely slight variations of these unprotectable shapes. *See* COMPENDIUM (THIRD) § 906.2 ("[C]opyright law does not protect mere variations on a familiar symbol or design, either in two- or three-dimensional form."). Likewise, words, short phrases, symbols, and mere coloration are not subject to copyright protection. 37 C.F.R. § 202.1(a); COMPENDIUM (THIRD) § 313.4(J) ("Familiar symbols and designs are not copyrightable"); COMPENDIUM (THIRD) § 313.4(K) (noting that copyright does not protect "a system for matching pairs and sets of colors"). Thus, the text, including Lincoln Global's preexisting logo, and color scheme, chosen to reflect Lincoln Global's branding, are not protectable. Similarly, the third-party, preexisting FCC logo and WEEE symbol are not protectable.

The Board recognizes that although the individual components of a given work may not be copyrightable, these components may be protectable if selected or combined "in a distinctive manner indicating some ingenuity." *Atari Games Corp.*, 888 F.2d at 883. Viewed as a whole, however, the Board finds that the combination of the individual separable features, including their selection, arrangement, and coordination, is insufficiently creative to sustain copyright protection. The Work consists of a basic configuration: smaller common shapes nested within a larger shape, arranged primarily to enable functionality. This "garden-variety" layout lacks the creativity necessary for copyright protection. *See* COMPENDIUM (THIRD) § 308.2 ("A work that it is 'entirely typical,' 'garden-variety,' or 'devoid of even the slightest traces of creativity' does not satisfy the originality requirement" (quoting *Feist*, 499 U.S. at 362)); *id.* § 905 ("Merely

bringing together only a few standard forms or shapes with minor linear or spatial variations does not satisfy [the creativity] requirement.").

The Work consists of a handful of elements: red, white, and black directional arrows, which represent corresponding directional movement; white and red indicators, which appear to reflect the status of various features; grey lettering; preexisting logos; and a black rectangle. The selection, coordination, and arrangement of these elements do not amount to sufficient creative expression because the elements are common features of controllers arranged in a utilitarian format that seems to be dictated by functional considerations and constraints. *See Incredible Techs., Inc. v. Virtual Techs., Inc.*, 400 F.3d 1007, 1013 (7th Cir. 2005) (affirming that the layout of a control panel, which included directional arrows and instructional graphics, was not subject to copyright protection because practical, non-creative reasons governed selection and arrangement of the constituent elements). Registering a copyright that covers this simple arrangement would be tantamount to protecting the general spatial format and layout of a controller template, which is not copyrightable. *See* COMPENDIUM (THIRD) § 906.5.

Lincoln Global's reliance on select case law is unavailing. *See* Second Request at 2–4 (citing *Apple Computer, Inc. v. Microsoft Corp.*, 35 F.3d 1435 (9th Cir. 1994); *Real View, LLC v. 20-20 Techs., Inc.*, 683 F. Supp. 2d 147 (D. Mass. 2010); *M-I L.L.C. v. Q'Max Solutions, Inc.*, No. 18-cv-1099, 2020 WL 4549210 (S.D. Tex. Aug. 8, 2020)). First, the Office does not dispute that GUIs may be eligible for copyright protection. As noted above, however, the Work was identified as a two-dimensional artwork. Thus, Lincoln Global's arguments relying on *Apple Computer* regarding the protectability of audiovisual work GUIs do not hold special relevance to this application. *See* Second Request at 3–4 (citing *Apple Computer*, 35 F.3d at 1444–45).[3]

Second, the works at issue in the cases cited by Lincoln Global involved many more creative elements than those found in the Work. *See, e.g.*, *Real View, LLC*, 683 F. Supp. 2d at 157–58 ("[C]reators of [GUI] made numerous creative and expressive choices in developing the screen display and user interface. [They] selected certain functions to be represented by icons; certain icons to be represented in certain toolbars; certain toolbars to occupy certain spaces; and certain features to be housed in certain boxes stacked in a particular order."); *M-I L.L.C.*, 2020 WL 4549210, at *8 ("The court is not persuaded . . . that the arrangement and presentation of the data table, header bar, and vertical graphs on [a GUI] Snapshot are totally devoid of originality. At minimum, screenshots . . . demonstrate there is some variation in the arrangement, presentation, and coloring of those elements of the results screen that is left to the discretion of the program's author."). The limited number of elements present in the Work, whether considered individually or in combination, do not contain sufficient creativity to support a finding of copyrightability. *See Satava* 323 F.3d at 811; COMPENDIUM (THIRD) § 313.4(B).

[3] Evaluating the Work as a GUI, the copyrightability analysis of the Work's expressive elements, individually and in combination, would remain the same. *See Apple Computer*, 35 F.3d at 1445 ("[G]raphical user interface audiovisual works are subject to the same process of analytical dissection as are other works."). *See also* COMPENDIUM (THIRD) § 1509.1(F)(6) (outlining application requirements to register computer screen displays).

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
Maria Strong, Associate Register of Copyrights and
Director of Policy and International Affairs
John R. Riley, Acting Deputy General Counsel
Nicholas R. Bartelt, Assistant General Counsel