



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

November 24, 2023

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**Re: Second Request for Reconsideration for Refusal to Register Double G Logo
(SR # 1-11294332218; Correspondence ID: 1-5KJCSDP)**

Dear Mr. Hoisington:

The Review Board of the United States Copyright Office (“Board”) has considered Greygods, LLC’s (“Greygods”) second request for reconsideration of the Registration Program’s refusal to register a two-dimensional artwork claim in the work titled “Double G 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 two-dimensional artwork consisting of two capital “G” letters mirrored and partially intertwined. The left mirrored “G” is black, and the right “G” is white with a black outline.

The Work is as follows:



II. ADMINISTRATIVE RECORD

On May 10, 2022, Greygods filed an application to register a copyright claim in the Work. On June 7, 2022, a Copyright Office registration specialist refused to register the claim, determining that it lacked the creative authorship necessary to support a copyright claim. Initial Letter Refusing Registration from U.S. Copyright Office to Michael Hoisington at 1 (June 7, 2022).

On September 12, 2022, Greygods requested that the Office reconsider its initial refusal to register the Work, arguing that “the varied elements incorporated in the design” satisfy the “minimal creativity standard” for copyrightability established in *Feist Publications, Inc. v. Rural Telephone Service Co., Inc.*, 499 U.S. 340 (1991). Letter from Michael Hoisington to U.S. Copyright Office at 1, 3 (Sept. 12, 2022) (“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 “does not contain a sufficient amount of creativity to warrant registration.” Refusal of First Request for Reconsideration from U.S. Copyright Office to Michael Hoisington at 2 (Jan. 13, 2023).

In a letter dated April 11, 2023, Greygods 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 Michael Hoisington to U.S. Copyright Office (Apr. 11, 2023) (“Second Request”). In its request, Greygods asserted that the Work “meets the minimal standard” for creativity, noting that the Work “is the result of numerous and detailed decisions . . . as to its proportion, form, contour, configuration, and artistic meaning.” *Id.* at 2. Specifically, Greygods pointed out eight different creative elements in the Work: (1) “[i]ncorporat[ing] culture elements prevalent in the Lowrider Culture (imitating elements of Lowrider font style),” (2) “[m]odified font style with artistic shaped cut-outs in each G,” (3) “[i]nterlocking cross-over letters symbolizing unity,” (4) “[u]se of reverse G letter,” (5) “[s]lightly angled letters to [the] left and right,” (6) “[a]ngle of overlap,” (7) “[c]ontrasting colors emulating yin/yang/opposing forces in harmony,” and (8) “[e]mulat[ing] a seal or stamp.” *Id.* at 3. Additionally, Greygods asserted that the “selection and combinations of the individual elements displays sufficient creativity to meet the statutory requirements for copyright protection.” *Id.* at 4.

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 meet the threshold for creativity necessary to satisfy the statutory requirements for copyright protection.

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*, 499 U.S. at 345. First, the work must have been independently created by the author, *i.e.*, not copied from another work. *Id.*¹ 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.” *Id.* at 363. It further found that there can be no copyright in a work in which “the creative spark is utterly lacking or so trivial as to be virtually nonexistent.” *Id.* at 359.

¹ The Office does not question the Work’s independent creation. *See* Refusal of First Request for Reconsideration from U.S. Copyright Office to Michael Hoisington at 2 (Jan. 13, 2023).

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 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”). A determination of copyrightability in the combination of standard design elements depends on whether the 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). A mere simplistic arrangement of non-protectable elements does not demonstrate the level of creativity necessary to warrant protection. *See Satava v. Lowry*, 323 F.3d 805, 811 (9th Cir. 2003) (“[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.”).

The Office’s regulations implement the longstanding requirement of originality set forth in the Copyright Act. *See, e.g.*, 37 C.F.R. § 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”). Further, the regulations prohibit registration of “mere variations of typographic ornamentation, lettering or coloring.” *See id.* § 202.1(a); *see also* U.S. COPYRIGHT OFFICE, COMPENDIUM OF U.S. COPYRIGHT OFFICE PRACTICES § 313.3(D) (3d ed. 2021) (“COMPENDIUM (THIRD)”) (stating that lettering and “mere variations of typographic ornamentation” are not copyrightable).

Applying these legal standards, neither the individual elements nor the Work as whole are sufficiently creative to be copyrightable. Of the eight elements that Greygods identifies in the Work, none are individually protectable. The “Lowrider font style” and the “modified font style with artistic shape cut-outs in each G” are unprotectable variations on typefaces and coloration. *See* 37 C.F.R. § 202.1(a). Also, the font style used in the Work, like most typography, is a common building block for creative expression; thus, providing exclusive rights in this element would contravene copyright’s purpose of promoting future innovation and creativity. *See* U.S. CONST. art. I, § 8, cl. 8. Other elements in the Work, including the “[i]nterlocking cross-over letters,” “[u]se of reverse G letter,” “[s]lightly angled letters,” and “[a]ngle of overlap,” are likewise unprotectable variations on typeface and typographic ornamentation. *See* COMPENDIUM (THIRD) § 313.3(D) (stating that a typeface or variations on typographic ornamentation or lettering are not copyrightable, “regardless of whether the typeface is commonly used or truly unique”); *id.* § 906.4 (noting “fanciful lettering and calligraphy, or other forms of typeface” are typically not protectable “regardless of how novel and creative the shape and form of the typeface characters may be”). Even granting that the Work “[e]mulates a seal or stamp,” it remains uncopyrightable typeface with black-and-white coloration, a common contrasting combination. *See id.* § 313.4(K) (noting that the Office may refuse registration if an author “merely . . . combined expected or familiar sets or pairs of colors” such as “using color as a simple form of typographic ornamentation”); *id.* § 906.3. Additionally, the symbolic meaning of the interlocking letters and the “contrasting colors emulating yin/yang/opposing forces in harmony” are irrelevant to the creativity analysis. *See id.* § 310.3 (noting that “[t]he symbolic meaning or impression of a work is irrelevant” to determining creativity under *Feist*); *id.* § 310.5 (noting that the “Office will not consider the author’s inspiration for the work, creative intent, or

intended meaning”); *see also id.* § 313.4(J) (noting that familiar symbols and designs such as the yin yang symbol are not copyrightable).

The Work’s combination of these unprotectable elements is also not sufficiently creative to receive copyright protection. Although some combinations of common design elements can exhibit sufficient creativity when arranged in a particular fashion, not every combination will meet this threshold. *See Feist*, 499 U.S. at 358–59; *Satava*, 323 F.3d at 811. For example, in *Coach*, a court affirmed the Copyright Office’s refusal to register a design consisting of two linked “C” shapes arranged in a mirrored relationship. *See* 386 F. Supp. 2d at 498–99. Similarly, here, the Work consists entirely of two intertwined, mirrored G’s—almost the exact arrangement of elements that was denied copyright protection in *Coach*. In addition, the “mirror-symmetry” arrangement of the two G’s is a common design choice, particularly for logos.² In sum, the Work’s unprotectable individual elements are combined and arranged in a common and simplistic way that does not meet the minimum threshold of creativity necessary to make the Work as a whole eligible for copyright protection.

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
Suzanne V. Wilson, General Counsel and
Associate Register of Copyrights
Maria Strong, Associate Register of Copyrights and
Director of Policy and International Affairs
Mark T. Gray, Assistant General Counsel

² *See, e.g., 30 symmetrical logos to inspire you*, CANVA, <https://www.canva.com/learn/symmetrical-logos/> (noting numerous prominent logos that exhibit mirror-symmetry) (last visited Nov. 21, 2023).