



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

March 3, 2026

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**Re: Second Requests for Reconsideration of Refusals to Register K-454 Memoirs Stately Widespread bathroom sink faucet with Deco lever handles, K-6227 Karbon Articulating two-hole deck-mount kitchen sink faucet, K-6228 Karbon Articulating two-hole wall-mount kitchen sink faucet, K-6274 Karbon Articulating deck-mount bathroom sink faucet (SR # 1-11485257799, 1-11478045274, 1-11478103907, 1-11478111543; Correspondence ID: 1-5AEG5XX, 1-5OE4FXB, 1-5OE0PRR, 1-5OE4FZB)**

Dear Mr. McGrady,

The Review Board of the United States Copyright Office (“Board”) has considered Kohler Co.’s (“Kohler”) second requests for reconsideration of the Registration Program’s refusals to register sculptural claims in the following works: (1) “K-454 Memoirs Stately Widespread bathroom sink faucet with Deco lever handles,” (2) “K-6227 Karbon Articulating two-hole deck-mount kitchen sink faucet,” (3) “K-6228 Karbon Articulating two-hole wall-mount kitchen sink faucet,” (4) “K-6274 Karbon Articulating deck-mount bathroom sink faucet” (together, the “Works”). The Board has considered these four requests for reconsideration together in this letter because they all involve useful articles, were submitted by the same claimant, contain similar arguments, and some of the Works share common elements. After reviewing individually each of the applications, deposit copies, and relevant correspondence, along with arguments raised in the second requests for reconsideration, the Board affirms the Registration Program’s refusals of registration for the Works.

## **I. DESCRIPTIONS OF THE WORKS**

### ***i. K-454 Memoirs Stately Widespread bathroom sink faucet with Deco lever handles***

K-454 Memoirs Stately Widespread bathroom sink faucet with Deco lever handles (“K-454”) was submitted as a sculptural work claim. K-454 is a three-part sink faucet composed of a spout with a lift (pull) rod and two lever handles finished in polished chrome. Each handle part features a square base supporting a pyramidal shape that attaches to a tapered rectangular handle by a circular element. The faucet part is a rectangular spout that curves into a tapered four-sided base and a tapered rectangular lift rod. The deposit copy images of K-454 are shown below:



***ii. K-6227 Karbon Articulating two-hole deck-mount kitchen sink faucet***

K-6227 Karbon Articulating two-hole deck-mount kitchen sink faucet (“K-6227”) was submitted as a sculptural work claim. K-6227 is a two-part water faucet with a separate joystick valve. The main faucet is composed of four tubes, connected by three hinges and two hexagonal rings, anchored to a circular base. The valve is a cylinder with a circular base. The anchor tube, hinges, rings, and valve are finished in polished chrome, while the remaining tubes feature a silver pattern of spiraled indentations. The deposit copy images of K-6227 are shown below:



***iii. K-6228 Karbon Articulating two-hole wall-mount kitchen sink faucet***

K-6228 Karbon Articulating two-hole wall-mount kitchen sink faucet (“K-6228”) was submitted as a sculptural work claim. K-6228 is a two-part water faucet with a separate joystick valve. The main faucet is four tubes, connected by three hinges and two hexagonal rings, anchored by a circular mount. The valve is a cylinder with a circular base. The anchor tube, mounts, hinges, rings, and valve are finished in polished chrome, while the other tubes feature a silver pattern of spiraled indentations. The deposit copy images of K-6228 are shown below:



*iv. K-6274 Karbon Articulating deck-mount bathroom sink faucet*

K-6274 Karbon Articulating deck-mount bathroom sink faucet (“K-6274”) was submitted as a sculptural work claim. K-6274 is a three-part sink faucet composed of a spout and two lever handles. The handles, anchor tube of the spout, and spout hinges feature identical flat finishes,<sup>1</sup> while the black surface of the two remaining spout tubes feature a pattern of spiraled indentations. The deposit copy images of K-6274 are shown below:



**II. ADMINISTRATIVE RECORD**

On June 30, 2022, and July 4, 2022, Kohler filed four separate applications to register copyright claims in the Works described above. In separate letters for each work, Copyright Office registration specialists refused to register the claims, concluding that the Works are useful articles that “do not contain any separable, copyrightable authorship needed to sustain a claim to copyright.”<sup>2</sup>

In substantively identical letters dated October 10, 2022 and October 24, 2022, Kohler requested that the Office reconsider its initial refusal to register the Works.<sup>3</sup> After reviewing the Works in light of the points raised in the First Requests, the Office reevaluated the claims again and found that the Works are useful articles that do not contain any separable copyrightable features. The Office held that the design of the elements in each work are all utilitarian aspects

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<sup>1</sup> Kohler deposited identifying material for two versions of the K-6274, one with a brushed nickel finish, the other, polished chrome. Regardless of which version Kohler is seeking copyright protection for, the Board’s analysis and conclusion for K-6274 is the same. Because the Board concludes that neither work exhibits sufficient creativity to receive copyright protection and affirms refusal of registration on that basis, we do not consider whether the application complies with the requirements for registering multiple works. U.S. COPYRIGHT OFFICE, COMPENDIUM OF U.S. COPYRIGHT OFFICE PRACTICES § 511 (3d ed. 2021) (“COMPENDIUM (THIRD)”) (“As a general rule, a registration covers one individual work, and an applicant should prepare a separate application, filing fee, and deposit for each work that is submitted for registration.”).

<sup>2</sup> Initial Letter Refusing Registration of K-454 from U.S. Copyright Office to Richard Gaum (July 27, 2022); Initial Letter Refusing Registration of K-6227, K-6228, and K-6274 from U.S. Copyright Office to Richard Gaum (July 25, 2022).

<sup>3</sup> Letter from Eric Gaum re: K-454 to U.S. Copyright Office (Oct. 24, 2022); Letter from Eric Gaum re: K-6227, K-6228, and K-6274 to U.S. Copyright Office (Oct. 10, 2022) (collectively, the “Karbon First Requests”).

of the faucets, rather than decorative elements.<sup>4</sup> The Office continued that, even if it were to find certain aspects of the Works to be separable, they do not exhibit the creativity necessary to support a claim in copyright.

On June 19, 2023 and July 19, 2023, Kohler requested that, pursuant to 37 C.F.R. § 202.5(c), the Office reconsider for a second time its refusals to register the Works.<sup>5</sup> It argues that the Works are celebrated artworks, which only happen to have a function. K-454 Second Request at 1–3; Karbon Second Requests at 2–5. Kohler also contends that because applied art is not a disfavored category, the faucets are entitled to protection. K-454 Second Request at 3; Karbon Second Requests at 3–5. Kohler further argues that the Office misapplied *Star Athletica, L.L.C. v. Varsity Brands, Inc.*, 580 U.S. 405, 424 (2017), to exclude its Works from copyright eligibility. K-454 Second Request at 3–4; Karbon Second Requests at 6–7. The Board responds to each of these arguments below.

### III. DISCUSSION

After carefully examining the Works and considering the arguments made in the First and Second Requests, the Board concludes that the Works are useful articles and that, although some of the Works contain separable elements, these elements do not contain the requisite creativity necessary for copyright registration.

#### A. Copyrightability of Useful Articles

Because the Works are sink faucets, they are “useful articles” under the Copyright Act and must be analyzed as such. *See* 17 U.S.C. § 101; COMPENDIUM (THIRD) § 924.1 (citing “[h]ousehold fixtures, such as bathtubs and sinks” as examples of useful articles). The 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”). Useful articles may receive copyright protection “only if, and only to the extent that,” they incorporate pictorial, graphic, or sculptural features that can be identified separately from, and are capable of existing independently of, the utilitarian aspects of the article. *Id.* (definition of “pictorial, graphic, and sculptural works”). The Board must therefore apply the test articulated by the Supreme Court in *Star Athletica*, to determine whether the work includes features that “(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

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<sup>4</sup> Refusal of First Request for Reconsideration re: K-454 from U.S. Copyright Office to Richard Gaum (Apr. 26, 2023); Refusal of First Request for Reconsideration re: K-6227 from U.S. Copyright Office to Richard Gaum (Mar. 17, 2023); Refusal of First Request for Reconsideration re: K-6228 from U.S. Copyright Office to Richard Gaum (Mar. 17, 2023); Refusal of First Request for Reconsideration re: K-6274 from U.S. Copyright Office to Richard Gaum (Mar. 17, 2023).

<sup>5</sup> Kohler’s second requests for reconsideration were made in four separate letters. One letter addressed the refusal of registration for K-454. *See* Letter re: K-454 from Paul McGrady to U.S. Copyright Office (July 19, 2023) (“K-454 Second Request”). The other three letters, concerning the three Works in Kohler’s “Karbon” line of faucets, were essentially identical. *See* Letter re: K-6227 from Paul McGrady to U.S. Copyright Office (June 19, 2023); Letter re: K-6228 from Paul McGrady to U.S. Copyright Office (June 19, 2023); Letter re: K-6274 from Paul McGrady to U.S. Copyright Office (June 19, 2023) (collectively, the “Karbon Second Requests”).

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. at 424.

To warrant registration, the separable features must be “original works of authorship.” 17 U.S.C. § 102(a). As the Supreme Court has explained, the statute requires that works contain “some minimal degree of creativity” to qualify for copyright protection. *See Feist Publ’ns, Inc. v. Rural Tel. Serv. Co.*, 499 U.S. 340, 345 (1991). Though only a “modicum” of creativity is necessary, copyright will not protect works in which “the creative spark is utterly lacking or so trivial as to be virtually nonexistent.” *Id.* at 346, 359. 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.

When considering useful articles, the Office must contemplate whether any separable features satisfy the *Feist* standard for originality. 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 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.”).

## B. Analysis of the Works

Applying the above framework to the Works, the Board finds that K-454 lacks separable, non-utilitarian features entitled to copyright protection as sculptural works and affirms refusal on that basis. For the remaining works—K-6227, K-6228, and K-6274—the Board finds that, while they may contain separable, non-utilitarian features, those features do not contain sufficient creativity to be protected under the Copyright Act.

### i. K-454



K-454 does not contain any separable features capable of existing independently from the utilitarian aspects of the work. The tapered bases, faucet handles, spout, and lift rod are typical components of a faucet and have intrinsic utilitarian purposes, which are to attach to a counter or a sink ledge, start and stop the flow of hot and cold water, and stop up a sink drain. None of these features can be perceived separately from the work’s overall utilitarian purpose, which requires each feature to form and operate the faucet.<sup>6</sup>

Contending that the Office misapplied *Star Athletica*, Kohler acknowledges that while “[t]he line between art and industrial design . . . is often difficult to draw,” K-454 “easily passes” the test. K-454 Second Request at 3–4 (quoting 580 U.S. at 409). Kohler asserts that the faucet as a whole is primarily a work of artistic design that also functions to deliver water. *Id.* at 2–4. In addition, Kohler contends that individual elements—for example, the “decorative handles” and “gently tapered obelisk[]” bases—are “clearly protectable” as the Office has registered other obelisks in the past. *Id.* at 4.

These arguments are unpersuasive and fail to apply the *Star Athletica* test. As an initial matter, Kohler’s arguments about the work’s artistic qualities do not refute that K-454 does not have any separable features capable of existing independently of the utilitarian aspects of the Work. *See Star Athletica*, 580 U.S. at 420 (stating that “some aspects of the original useful article” must be “left behind” once the artistic feature has been “conceptually removed” from that article); COMPENDIUM (THIRD) § 924.3 (“As a general rule, the Office will not consider the originality of the design when applying the first or second part of the separability test.”). The work’s artistic design represents the overall shape of K-454, which cannot be protected. *See Star Athletica*, 580 U.S. at 424 (stating that “our test does not render the shape, cut, and physical dimensions of the [useful article] eligible for copyright protection”); *Esquire, Inc. v. Ringer*, 591 F.2d 796, 800 (D.C. Cir. 1978) (holding that copyright protection is not available for the “overall shape or configuration of a utilitarian article, no matter how aesthetically pleasing that shape . . . may be”); H.R. REP. NO. 94-1476, at 55 (1976) (noting that copyright protection does “not cover the over-all configuration of the utilitarian article as such”); COMPENDIUM (THIRD) § 924.3(F) (“[C]opyright law does not protect the overall form, shape, or configuration of the useful article itself.”). Likewise, the work’s individual features, such as the handles and the handle bases, have intrinsic utilitarian purposes. *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”).<sup>7</sup>

Because K-454 does not contain any features that can be identified separately from, or that are capable of existing independently of, the utilitarian aspects of the work, it is not entitled to copyright protection.

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<sup>6</sup> *See Parts of a Sink*, THE HOME DEPOT, <https://www.homedepot.com/c/ab/parts-of-a-sink/9ba683603be9fa5395fab90182e385cf> (last visited Mar. 3, 2026); *Maintenance Tips: Different Parts of a Bathroom Faucet Explained*, VANITYART.COM (June 25, 2026), <https://vanityart.com/blogs/maintenance-tips/parts-of-faucet>.

<sup>7</sup> 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.

**ii. K-6227, K-6228, and K-6274**



As a threshold matter, the Board finds that K-6227, K-6228, and K-6274 each contain separable elements. The separable feature that can be perceived in K-6227 and K-6228 is the silver pattern of spiraled indentations on three articulating tubes. The separable feature that can be perceived in K-6274 is the black spiral pattern of incised lines on two articulating tubes. Kohler describes the patterns as “decorative.” *Karbon First Requests* at 2–4, 6. While these textured patterns may enhance the functionality of the faucets by making it easier for users to grip and manipulate the articulating tubes, a separable artistic feature may nevertheless be protectable “even if it makes that [useful] article more useful.” *Star Athletica*, 580 U.S. at 421.



These separable features are not protectable, however, because they lack, individually or in combination, the requisite minimum degree of creativity required for copyright protection. As set out in the Office’s regulations and *Compendium of U.S. Copyright Office Practices*, copyright does not protect standard designs and common geometric shapes, in either two- or three-dimensional form. *See* 37 C.F.R. § 202.1(a) (prohibiting registration of “familiar symbols or designs”); COMPENDIUM (THIRD) § 906.1 (noting that common geometric shapes, such as straight or curved lines, circles, ovals, spheres, and triangles are not protectable). Thus, the oval indentations that create lines encircling the tubes on K-6227 and K-6228, and the incised lines that encircle the tubes on K-6274 features are unprotectable common shapes and designs. Nor is the two-tone coloring in K-6274 protectable as it constitutes “mere variations . . . [in] coloring.”

37 C.F.R. § 202.1(a); *see also* COMPENDIUM (THIRD) § 313.4(K) (copyright protect “a system for matching pairs and sets of colors”); COMPENDIUM (THIRD) § 906.3 (“Merely . . . combining expected or familiar pairs or sets of colors is not copyrightable.”).

The works’ combinations of the individual separable features, including their selection, arrangement, and combination, are also insufficiently creative to sustain copyright protection. While a combination of unprotectable elements may qualify for copyright protection, not every such combination automatically qualifies for copyright protection. *See Satava*, 323 F.3d at 811. Here, the spiral pattern—consisting of evenly spaced lines or indentations—is a common design arrangement that falls short of the requirements for copyright protection. *See* COMPENDIUM (THIRD) § 905 (“Merely bringing together only a few standard forms or shapes with minor linear or spatial variations does not satisfy this requirement.”).

Noting that “[t]he Office has consistently recognized that applied art is copyrightable,” Kohler cites a few examples of works that the Office has previously registered to assert that K-6227, K-6228, and K-6274 should likewise be registered. *See* Karbon Second Requests at 5–6. As an initial matter, the Office makes determinations of copyrightability on a case-by-case basis and does not compare the subject of an application to works for which it has previously granted or refused registration. *See* COMPENDIUM (THIRD) § 309.3 (“The fact that the U.S. Copyright Office registered a particular work does not necessarily mean that the Office will register similar types of works or works that fall within the same category.”). Still, while Kohler is correct that the Office registers “applied art,”<sup>8</sup> it only does so where the separable elements of a useful article’s design are original. *See id.* §§ 924, 924.5. Unlike the cited registrations, the separable features of these works are not sufficiently creative to be copyrightable.

Finally, an argument that Kohler makes repeatedly in its requests for reconsideration—that because K-6227, K-6228, and K-6274 have been “recognized by the artistic community and the consuming public as . . . sculptural work[s],” they must therefore be eligible for copyright protection—is misplaced. *See* Karbon Second Requests at 6–7. In support, Kohler cites to design awards bestowed on K-6227, K-6228, and K-6274 and publications praising the works’ “artistic” and “sculptural” qualities. *See id.* at 2–5. The Office, however, does not consider a work’s aesthetic value or artistic merit. *See* COMPENDIUM (THIRD) §§ 310.2, 924.5. The attractiveness of a design, its visual effect, or its commercial success in the marketplace are not factors in determining whether a design is copyrightable. *See Star Athletica*, 580 U.S. at 423 (“[A]sking whether some segment of the market would be interested in a given work threatens to prize popular art over other forms, or to substitute judicial aesthetic preferences for the policy choices embodied in the Copyright Act”); *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.”). Accordingly, the aesthetic judgments of others, like those of the Office, have no bearing on whether these works’ separable elements satisfy the standard for originality. As explained above, the few features that can be identified separately from and exist

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<sup>8</sup> The Supreme Court has defined “applied art” in one instance as “art employed in the decoration, design, or execution of useful objects, or those arts or crafts that have a primarily utilitarian function, or the designs and decorations used in these arts.” *Star Athletica*, 580 U.S. at 421 (citations omitted).

independently of K-6227, K-6228, and K-6274's utilitarian aspects do not demonstrate the requisite creativity to meet that standard.

#### IV. CONCLUSION

For the reasons stated herein, the Board affirms the refusals 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.

  
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**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