



Copyright Review Board

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

July 17, 2026

Anil George, Esq.
NBA Properties, Inc.
Olympic Tower – 645 Fifth Avenue
New York, NY 10022

**Re: Second Request for Reconsideration of Refusal to Register NBA All-Star Banner and Striped 5-Point Star (SR # 1-11727998683;
Correspondence ID: 1-5RUFBOA)**

Dear Mr. George:

The Review Board of the United States Copyright Office (“Board”) has considered NBA 2K League, LLC’s (“NBA 2K League”) second request for reconsideration of the Registration Program’s refusal to register a two-dimensional artwork claim in the work titled “NBA All-Star Banner and Striped 5-Point Star” (“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 the letters “NBA” and “L” in blue stacked on top of the words “ALL” and “STAR” in gray, all superimposed over a red, white, and blue image of a five-pointed star outlined in gray.¹ The red, white, and blue star is primarily half-blue, half-red, and its points are formed by triangular and/or quadrilateral shapes that converge at each star point. A small, gray five-pointed star is between the words “ALL” and “STAR.”

¹ While considering this second request for reconsideration, the Board corresponded with NBA 2K League to ascertain whether the deposit copy submitted with the application was complete and depicted the Work in “exact first-publication form,” as required by regulation. 37 C.F.R. § 202.20(b)(2)(iii)(B) (“A ‘complete’ electronically filed work is one which is embodied in a digital file which contains: . . . the complete work as published, including metadata and authorship for which registration is not sought. Publication in an electronic only format requires submission of the digital file(s) in exact first-publication form and content.”). NBA 2K League responded by sending a complete copy of the Work, which primarily contains similar elements to, but nonetheless differs from, the copy that was originally submitted. In some cases, the Office may allow an applicant to amend the application during a first or second appeal if the failure to include this information was the result of an honest omission or mistake, U.S. COPYRIGHT OFFICE, COMPENDIUM OF U.S. COPYRIGHT OFFICE PRACTICES § 1708.5 (3d ed. 2021), but there is nothing indicating that was the case here. Accordingly, although failure to submit a complete deposit copy can be grounds for refusing registration, *id.* § 1702, the Board instead considers the Work as depicted in the deposit copy submitted with the application, while noting that it is unlikely that the minor differences in expression embodied in the complete copy would meaningfully affect our analysis.

The Work is as follows:



II. ADMINISTRATIVE RECORD

On May 15, 2023, NBA 2K League filed an application to register a copyright claim in the Work. In an October 17, 2022 letter, a Copyright Office registration specialist refused to register the claim, determining that the Work lacks the creative authorship necessary to support a copyright claim. Initial Letter Refusing Registration from U.S. Copyright Office to Anil George at 1 (Oct. 17, 2023).

On January 17, 2023, NBA 2K League requested that the Office reconsider its initial refusal to register the Work, arguing that it is a “unique identifier of a well-known annual event featuring professional basketball players, and while it might contain elements considered ‘common’ or ‘ordinary’, [sic] those elements are combined in such a way as to be considered an independent creation of original authorship.” Letter from Anil George to U.S. Copyright Office at 3 (Jan. 17, 2023) (“First Request”). Further, NBA 2K League asserted that the Office has previously registered “designs with similar levels of authorship, and sharing similar elements” and should therefore register the Work. *Id.* at 3.

After reviewing the Work in light of the points raised in the First Request, the Office reevaluated the claim and again concluded that the Work could not be registered because its individual components are uncopyrightable standard designs, geometric shapes, and words or short phrases, and the arrangement of those unprotectable elements does not rise to the level of creativity necessary for registration. Refusal of First Request for Reconsideration from U.S. Copyright Office to Anil George at 3–4 (May 15, 2023) (“Second Refusal”). The Office also dismissed NBA 2K League’s arguments comparing the Work to previously registered works, pointing out that the Office’s past decisions to register other works have no precedential value. *Id.* at 4 (citing COMPENDIUM (THIRD) § 309.3).

In a letter dated August 15, 2023, NBA 2K League requested that, pursuant to 37 C.F.R. § 202.5(c), the Office reconsider for a second time its refusal to register the Work. *See* Letter from Anil George to U.S. Copyright Office (Aug. 15, 2023) (“Second Request”). NBA 2K League’s Second Request mainly consisted of arguments made in the First Request. NBA 2K League explained that the Work “is a unique identifier of an annual event featuring the NBA’s identifying league colors of red, white and blue together with a star motif designed to evoke the league[’]s association with its famous ‘All-Star’ games.” *Id.* at 2. These elements, NBA 2K

League asserts, are “highly stylized” and their combination is sufficiently original to satisfy the standard for original authorship. *Id.* at 2.

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 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). 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 362–63.

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”). Through its regulations and the *Compendium of U.S. Copyright Office Practices*, the Office provides guidance that copyright does not protect common geometric shapes, familiar symbols or designs, or mere variations on these ubiquitous design elements. *Id.*; § 202.1(a); U.S. COPYRIGHT OFFICE, COMPENDIUM OF U.S. COPYRIGHT OFFICE PRACTICES §§ 906.1, 906.2 (3d ed. 2021) (“COMPENDIUM (THIRD)”). Copyright likewise does not protect “words and short phrases” or “mere variations of typographic ornamentation, lettering or coloring.” 37 C.F.R. § 202.1(a).

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, 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 are original enough that their combination constitutes an original work of authorship.” *Satava v. Lowry*, 323 F.3d 805, 811 (9th Cir. 2003).

Applying the above framework, the Board finds that the Work’s individual elements and the Work as a whole fail to demonstrate sufficient creativity for copyright protection. The Work consists of common shapes, letters and words, and familiar designs, which are not individually copyrightable. *See* 37 C.F.R. § 202.1(a), (e) (“[W]orks not subject to copyright [include] . . . [w]ords and short phrases such as names, titles, and slogans; familiar symbols or designs; mere

variations of typographic ornamentation, lettering or coloring; [and] . . . [t]ypeface as typeface.”); *see also* COMPENDIUM (THIRD) §§ 313.3(D), 313.4(C), (J), 906.1, 906.2, 906.3, 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 a limited number of uncopyrightable elements. *See Satava*, 323 F.3d at 811; COMPENDIUM (THIRD) § 905 (“In all cases, a visual art work must contain a sufficient amount of creative expression. Merely bringing together only a few standard forms or shapes . . . does not satisfy this requirement.”). Moreover, a symmetrical—red and blue color-blocked—star, over which centrally placed text is superimposed, is an obvious arrangement of common elements in logos and other two-dimensional works.² And, although the Work’s star design is partly comprised of a few different geometric shapes, it is nonetheless an unprotectable variation of a familiar star design wherein the component shapes are dictated by garden-variety symmetry, the outline of the star, and the centered text, rather than by creative choices. COMPENDIUM (THIRD) § 906.2 (“[T]he copyright law does not protect mere variations on a familiar symbol or design, either in two- or three-dimensional form”). Thus, the Work’s combination of elements does not exhibit the requisite level of creativity necessary for registration.

As for NBA 2K League’s argument that the Work is equally if not more creative than works found to be copyrightable in prior Board decisions, the Office generally does not compare works that have been previously issued or refused registration. *See id.* § 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.”). Rather, copyrightability decisions are “made on a case-by-case basis.” *Id.*

Finally, Applicant’s argument that the Work is a unique identifier of a well-known annual basketball event is likewise unpersuasive. Novelty and trademark protection are irrelevant to the determination of copyrightability. *See id.* §§ 310.1, 310.11; *see also* 37 C.F.R. § 202.10 (noting that availability of patent and trademark protection do not affect the registrability of a copyright claim in a work).

² *See, e.g.*, U.S. Trademark Application Serial No. 77103535 (filed Feb. 9, 2007); U.S. Trademark Application Serial No. 78404351 (filed Apr. 19, 2004); STARR GLOBAL STARR GLOBAL SERVICES, Registration No. 8,055,766; ALL STAR MASONRY INC., Registration No. 98,241,585. *See also* COMPENDIUM (THIRD) § 905 (“Merely bringing together only a few standard forms or shapes with minor linear or spatial variations does not satisfy [the creativity] requirement.”).

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.



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