



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

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Re: Second Requests for Reconsideration of Refusals to Register Secessionist Mirror and Eaton Table Lamp (SR # 1-9349472444, 1-9348777439; Correspondence ID: 1-4UUI5FG, 1-4UUI5HH)

Dear Mr. Johnson:

The Review Board of the United States Copyright Office (“Board”) has considered Richard Johnson’s (“Johnson”) second requests for reconsideration of the Registration Program’s refusal to register three-dimensional artwork claims in the works titled “Eaton Table Lamp” (“the Lamp Work”) and “Secessionist Mirror” (“the Mirror Work”) (collectively, the “Works”). After reviewing the applications, deposit copies, and relevant correspondence, along with the arguments in the second requests for reconsideration, the Board affirms the Registration Program’s denial of registration.

I. DESCRIPTION OF THE WORKS

A. Eaton Table Lamp

The Lamp Work consists of a vertical hyperboloid column structure composed of three tiers: a lower tier of downward flaring flutes that end in a base with scalloped edges, a central tier of elongated tear-drop-shaped flutes, and an upward flaring tier of rounded ridges emerging from three raised horizontal circular bands.¹ The Lamp Work is as follows:



¹ In the deposit images, which only show one side of the Lamp Work, there are five fully visible lower tier flutes, four visible central tier flutes, and five visible upper tier ridges. The deposit images also show a lamp shade atop the sculpture. Because Johnson did not claim authorship in the shade in any correspondence, the Board does not consider the shade as part of the claim to the sculptural Lamp Work.

B. Secessionist Mirror

The Mirror Work consists of three concentric rectangles of black and gold bars or strips, dotted with gold spheres. The innermost rectangle features twelve gold spheres placed equidistantly around its perimeter. The central rectangle features four gold spheres equidistantly spaced on its left and right, and two gold spheres equidistantly spaced across its top and bottom. The outermost rectangle has five gold spheres equidistantly spaced on its right and left, and three gold spheres equidistantly spaced across its top and bottom. The Mirror Work is as follows:



II. ADMINISTRATIVE RECORD

On September 28, 2020, Johnson filed two applications to register copyright claims in the Works. In separate but substantially similar letters, Copyright Office registration specialists refused to register the claims, determining that the Works were useful articles that do not contain any separable, copyrightable authorship. Initial Letter Refusing Registration from U.S. Copyright Office to Aaron Johnson at 1 (Nov. 18, 2020); Initial Letter Refusing Registration from U.S. Copyright Office to Aaron Johnson (Nov. 19, 2020).

On February 18, 2021, Johnson requested that the Office reconsider its initial refusals to register the Works, arguing that the designs of the Works contain separable elements that are sufficiently original to warrant registration. Letter from Aaron Johnson re: Lamp Work to U.S. Copyright Office at 4 (Feb. 18, 2021) (The Lamp Work “contains a unique arrangement of individual elements, shapes and finishes, with the overall effect of a complex and unique sculpture resulting from the combination of a number of unique and ancient elements” and is “neither obvious, nor inevitable.”); Letter from Aaron Johnson re: Mirror Work to U.S. Copyright Office at 4–5 (Feb. 18, 2021) (Richard Johnson “purposefully selected the shapes, and carefully arranged and placed them to create an ‘unusual’ and unique work that, like the copyrightable design described in [section 906.1 of] the Compendium, ‘goes beyond the mere display of a few geometric shapes in a preordained or obvious arrangement.’”) (collectively, “First Requests”). After reviewing the Works in light of the points raised in the First Requests, the Office reevaluated the claims and again concluded that the Works could not be registered. Refusals of First Requests for Reconsideration from U.S. Copyright Office to Aaron Johnson (June 17, 2021). While the Office acknowledged that the Works each contain a separable design, it concluded that the Works do not satisfy the originality requirement. *Id.*

In two letters dated September 17, 2021, Johnson requested that, pursuant to 37 C.F.R. § 202.5(c), the Office reconsider for a second time its refusals to register the Works. *See* Letter

from Aaron Johnson re: Lamp Work to U.S. Copyright Office (Sep. 17, 2021) (“Lamp Second Request”); Letter from Aaron Johnson re: Mirror Work to U.S. Copyright Office (Sep. 17, 2021) (“Mirror Second Request”) (collectively, “Second Requests”). Johnson reiterated arguments that the Lamp Work is sufficiently creative and exhibits “creative choices that should not be discounted by the Copyright Office [because they] far exceed the ‘modicum of creativity’ required for copyright protection.” Lamp Second Request at 4–5. Specifically, Johnson asserted that the design’s ridges are arranged in a non-symmetrical “contrasting form,” and “split between different sections of the work with the bottom third of the work having different ridges and vaults than the top two thirds,” such that the design is “neither symmetrical, obvious, or common.” *Id.* at 4. Johnson added that “[t]he elements’ particular arrangement (including the contrasting arrangement of the ridges, the size of the ridges and vaults, and the location of where each vault and ridge end [] flare) were chosen with a great deal of purpose and creativity to form the unique and beautiful work of the Eaton Table Lamp.” *Id.* at 5. Johnson also argued that the design elements of the Mirror Work are sufficiently creative because they “consist[] of a unique arrangement of black and gold panels, lines, and circles, connected and arranged in a unique and beautiful arrangement, with a number of additional flourishes and details that bring out the beauty of the work.” Mirror Second Request at 2, 4.² Johnson further asserted that the configuration of the Mirror Work’s elements is not “garden-variety” because he’s “found no other work with similar panels, lines, and spheres, nor any other work with those elements arranged in such a unique and beautiful arrangement.” *Id.* at 4.

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 that contain separable elements, but these elements do not contain the requisite creativity necessary to sustain copyright claims.

Because the Works are a lamp and a mirror, they are useful articles under the Copyright Act and must be analyzed as such. *See* 17 U.S.C. § 101; U.S. COPYRIGHT OFFICE, COMPENDIUM OF U.S. COPYRIGHT OFFICE PRACTICES § 924.1 (3d ed. 2021) (“COMPENDIUM (THIRD)”) (listing lamps and other household items that have “an intrinsic utilitarian function” 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.

² In addition to the design elements that Johnson describes (*e.g.*, black and gold panels), the Mirror Work surrounds a central mirror as well as several smaller rectangular mirrored panels. *See* Mirror Second Request at 1 (describing the work as a “three-dimensional sculpture (configured as a border around a mirror)”; Mirror First Request at 2 (“Secessionist Mirror features three concentric rectangular shapes, each one larger than the next. Each rectangular shape is made up of dark rectangular sections, surrounded by a gold color, with spheres at regular intervals between and connecting the sections. The rectangular shapes do not have any mirrored properties of their own, but support and frame the central mirrored section along with individual smaller mirrors between the rectangular sections.”). Johnson does not appear to claim any of the mirrors as sculptural elements in the Mirror Work. *See* Mirror Second Request at 2 (describing the work without reference to the smaller mirror panels: “The panels and elements are comprised of dark sections, surrounded by a gold color, with spheres at off-putting intervals between and connecting the sections”); Mirror First Request at 3 (“As a general rule, mirror borders are designs that are particularly well suited for meeting the separability test, as they do not contain any mirrored element themselves, but instead merely have the mirrored element placed in the middle.”). Accordingly, the Board does not consider the mirrors in its copyrightability analysis.

§ 101 (defining “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.* (defining “pictorial, graphic, and sculptural works”). The Board must therefore apply the test articulated by the Supreme Court in *Star Athletica, L.L.C. v. Varsity Brands, Inc.* 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 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).

To warrant registration, the separable features must be “original works of authorship.” 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). First, the work must have been independently created by the author, *i.e.*, not copied from another work. *Id.* Second, the work must possess sufficient creativity. *Id.* 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 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 (D.C. Cir. 1989); *Coach, Inc. v. Peters*, 386 F. Supp. 2d 495, 496 (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.”)

Applying the above framework to the Works, the Board finds that the Works contain separable elements, but those elements do not contain sufficient creativity for registration.

A. The Lamp Work

The sculptural design of the Lamp Work is separable from the underlying lamp useful article. While the lamp device itself is inherently utilitarian, the sculpted outer façade of the lamp base exhibits three-dimensional design features—for instance, the recessed flutes, raised horizontal bands, curved ridges, and scalloped edges on the surface of the base—that can be

identified as “three-dimensional element[s] that appear[] to have pictorial, graphic, or sculptural qualities.” *Star Athletica*, 580 U.S. at 414.

Although these elements are separable, the design of the Lamp Work is insufficiently creative to sustain copyright protection. The fluting, ridges, and raised bands of the lamp are common designs, often consisting of basic shapes, that are not protectible by copyright. *See* 37 C.F.R. § 202.1(a) (prohibiting registration of “familiar symbols or designs”); COMPENDIUM (THIRD) §§ 906.1 (common geometric shapes not copyrightable), 906.2 (familiar symbols and designs or mere variations thereof not copyrightable). These elements are common and have long been used as decorative motifs on lamp bases, as well as other home décor items, and are standard, obvious designs.³ Additionally, a flaring top and bottom is a standard feature for lamp bases.⁴

Moreover, the combination of the unprotectable elements of the Lamp Work is not protectable. The Lamp Work does not contain numerous enough elements, nor original enough composition, to constitute an original work of authorship. *See Satava*, 323 F.3d at 811. Instead, the design exhibits a simple arrangement of the same three unprotectable elements repeated in a predictable radial manner around the outer circumference of the base, namely, (1) a bottom tier of flared flutes; (2) a central tier of elongated tear-drop-shaped flutes; and (3) an upper tier of basic ridges flaring from raised bands. This stacking of common elements repeated radially around a base’s circumference is a standard, predictable arrangement lamp base features.⁵ Thus, these elements are too few and their arrangement too standard for the Lamp Work to constitute an original work of authorship.

B. The Mirror Work

The Mirror Work’s gold and black concentric frames and gold spheres can be perceived separately from the utilitarian aspects of the mirror. *See Star Athletica*, 580 U.S. at 408. Both the gold spheres and concentric frame elements have sculptural qualities that exist independently from the utilitarian functions of the mirror. Thus, the Board focuses its analysis on whether the separable designs contain sufficient creativity for copyright protection.

The Mirror Work’s separable elements, both individually and as a whole, are insufficiently creative to garner copyright protection. The separable features consist solely of common geometric shapes—lines, rectangles, and spheres—which copyright law does not

³ *See, e.g., Fluted Spire Table Lamp*, LUMENS, <https://perma.cc/8XHH-DZ3L> (last visited Sep. 29, 2026); *Jeanne Fluted White Porcelain Dome Pendant Light*, CB2, <https://perma.cc/R2AH-MQ43> (last visited Sep. 29, 2026); *Idina Fluted Vase 32” Traditional Gold Glass Table Lamp*, LAMPS PLUS, <https://perma.cc/9PGW-7DB6> (last visited Sep. 29, 2026); *Strie Fluted Column Table Lamp*, LUMENS, <https://perma.cc/2U4X-S2NM> (last visited Sep. 29, 2026); *480 Dufrene*, NANCY CORZINE, <https://perma.cc/W6B3-CWPW> (last visited Sep. 29, 2026).

⁴ *See, e.g., Lampan*, IKEA, <https://perma.cc/RCM3-M3UR> (last visited Sep. 29, 2026); *Costello Metal Buffet Lamp*, WAYFAIR, <https://perma.cc/8L58-XSH9> (last visited Sep. 29, 2026); *Sikeston Metal USB Table Lamp*, WAYFAIR, <https://perma.cc/F5KL-RAFF> (last visited Sep. 29, 2026).

⁵ *See supra* note 1. *See also Flute Lamps*, ADAM NATHANIEL FURMAN, <https://perma.cc/N52K-4AU9> (last visited Sep. 29, 2026); *Ellie 36 inch 150.00 watt Antique Old Bronze Table Lamp Portable Light, Square*, STIFFEL, <https://perma.cc/8QH2-VNSF> (last visited Sep. 29, 2026); *Ellie 30 inch 150.00 watt Umbered Brass Buffet Lamp Portable Light*, STIFFEL, <https://perma.cc/UWT4-GS46> (last visited Sep. 29, 2026).

protect. 37 C.F.R. § 202.1(a); COMPENDIUM (THIRD) §§ 906.1, 906.2. As a whole, the Mirror Work does not exhibit the requisite creativity to receive copyright protection because it consists of only a few design elements arranged in a standard configuration. The two colors, gold and black, are a common combination used in mirror designs.⁶ The Mirror Work's shapes are common geometric rectangles and spheres, with no variation in sphere size and little variation in rectangle size. Moreover, these shapes are placed symmetrically with largely equidistant, predictable spacing, not unlike the uncopyrightable evenly spaced, two-toned polka-dot wrapping paper example provided in *Compendium*. COMPENDIUM (THIRD) § 906.1. Indeed, Johnson's own identifying material submitted with the application states: "This mirror represents the geometric repetitive designs which in varying forms dominate the Vienna Secessionist Movement." Deposit (SR # 1-9349472444) (Sep. 28, 2020). Finally, the use of concentric, rectangular mirror frames is a standard configuration in mirror adornment that is therefore obvious and predictable, as is the placement of spheres in an equidistant pattern around mirror frames.⁷ As such, the Mirror Work does not meet the originality standard for copyright protection.

Finally, while Johnson argues that the Works are unique and result from purposeful choice and arrangement, the originality analysis is not dictated by uniqueness and artistic judgment. COMPENDIUM (THIRD) §§ 310.1 ("[T]he fact that a work is new, innovative, or even unique does not necessarily mean that it contains a sufficient amount of creative expression to satisfy the originality requirement."), 310.6 ("When evaluating a work for copyrightable authorship, the U.S. Copyright Office will not consider the author's . . . artistic judgement.").

⁶ See, e.g., 38'' Black And Gold Framed Rectangular Wall Mirror, BED BATH & BEYOND, <https://perma.cc/R5HX-LM93> (last visited Sep. 29, 2026); Grace Feyock Sele 50 Inch Decorative Mirror, 1-800LIGHTING, <https://perma.cc/FQ6W-2EXY> (last visited Sep. 29, 2026).

⁷ See, e.g., Jamison Wall Mirror, PERIGOLD, <https://perma.cc/K9C2-NAWU> (last visited Sep. 29, 2026); Regina Andrew Plaza Gold Leaf 29'' x 41'' Wall Mirror, LAMPS PLUS, <https://perma.cc/K7GF-T9GM> (last visited Sep. 29, 2026); Metal Framed Decorative Mirror Rectangular Rustic Wall Mirror Farmhouse Hanging Mirror for Bathroom Living Room Bedroom Entryway, AMAZON, <https://perma.cc/48XQ-SSJ8> (last visited Sep. 29, 2026); Eile Square Mirror, WAYFAIR, <https://perma.cc/MP7Y-Q9HZ> (last visited Sep. 29, 2026); Arlette Mirror, SHERRILL CANET INTERIORS, <https://perma.cc/AG4W-HKCC> (last visited Sep. 29, 2026); FX15438 Elegant Gold Leaf Mirror - Handmade Beveled Design, ENGLISH ELM, <https://perma.cc/F9KU-P4HT> (last visited Sep. 29, 2026).

IV. CONCLUSION

For the reasons stated herein, the Board 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, Deputy General Counsel
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