



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

March 13, 2026

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400 West Maple Road, Suite 350
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Re: Second Request for Reconsideration of Refusal to Register Spooky Scary Sunday (SR # 1-12302199661; Correspondence ID: 1-615EWED)

Dear Mr. Bradley:

The Review Board of the United States Copyright Office (“Board”) has considered CoryXKenshin LLC’s second request for reconsideration of the Registration Program’s refusal to register a two-dimensional artwork claim in the work titled “Spooky Scary Sunday” (“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 consists of four elements: (1) a black rectangle; (2) white, stylized words that read “Spooky Scary Sunday” stacked on top of one another all beginning with the same letter “S”; (3) a silhouette of two crossed white samurai swords forming an “X” after the word “Scary”; and (4) an 8-layer rainbow graphic. The black rectangle serves as the background for the entire work. The rainbow graphic tilts diagonally across the upper portion of the black background and the white, stylized text tilts diagonally at the same pitch across the lower portion of the black background. The crossed samurai swords graphic is placed at the end of the word “Scary.”

The Work is as follows:



II. ADMINISTRATIVE RECORD

On March 6, 2023, CoryXKenshin filed an application to register a copyright claim in the Work. In a March 7, 2023 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 John Carlson at 1 (Mar. 7, 2023).

On June 7, 2023, CoryXKenshin requested that the Office reconsider its initial refusal to register the Work, arguing that the Work is sufficiently original because the “unique rainbow,” play on words, coloring, and juxtaposition of elements with differing connotations, “meets the modicum of creativity standard.” Letter from Timothy Bradley to U.S. Copyright Office at 2–3 (June 7, 2023) (“First Request”). Additionally, CoryXKenshin argued that the Work is more creative than three works previously registered by the Office and concluded that the Work should therefore likewise be registrable. *Id.* at 3.

After reviewing and evaluating the First Request, the Office again concluded that the Work could not be registered because each of its “components are minor variations of lettering, coloring, and familiar symbols and designs,” and “[t]he bringing together of such few components in such a basic arrangement and combination does not constitute an original work of authorship.” Refusal of First Request for Reconsideration from U.S. Copyright Office to John Carlson at 3–4 (Oct. 25, 2023). The Office also dismissed CoryXKenshin’s arguments regarding the juxtaposition of elements with different connotations, given that “the symbolic meaning, impression of the work, or the work’s look and feel is irrelevant to this determination.” *Id.* at 4 (citing U.S. COPYRIGHT OFFICE, COMPENDIUM OF U.S. COPYRIGHT OFFICE PRACTICES §§ 310.3, 310.4 (3d ed. 2021) (“COMPENDIUM (THIRD)”). Finally, regarding the prior registrations cited by CoryXKenshin, the Office stated that it “does not compare works that have gone through the registration process.” *Id.* (citing COMPENDIUM (THIRD) § 309.1).

In a letter dated January 25, 2024, CoryXKenshin 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 Timothy Bradley to U.S. Copyright Office (Jan. 25, 2024) (“Second Request”). In the Second Request, CoryXKenshin reiterated arguments from the First Request while adding that the rainbow element is “not a traditional or standard rainbow design” because it includes an “extra teal layer,” its layers are not uniform in length, and “the layers are in a very tight arc compared to a standard rainbow, which makes the rainbow closely resemble a bullseye.” *Id.* at 2. Additionally, CoryXKenshin argued that the combination elements in the Work—that is, the rainbow, text, and samurai swords—“meets the modicum of creativity standard.” *Id.* at 3. In support, CoryXKenshin cited to *Reader’s Digest Ass’n v. Conservative Digest, Inc.*, contending that the magazine cover in that case is “far less creative than [the] Work,” and yet was found to be protectable. *Id.* (citing 821 F.2d 800, 806 (D.C. Cir.1987)).

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 contain the creativity necessary to sustain a claim to copyright.

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). 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.* 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” and that “garden-variety,” “obvious,” or “practically inevitable” works lack the necessary “creative spark required by the Copyright Act.” *Id.* at 362–63.

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. *See, e.g., Runstadler Studios, Inc. v. MCM Ltd.*, 768 F. Supp. 1292, 1295 (N.D. Ill. 1991) (stating that “combinations of standard shapes may possess the requisite creativity necessary for copyright protection”). 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). 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 are 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”). Through its regulations and *Compendium of U.S. Copyright Office Practices*, the Office provides guidance that copyright does not protect familiar symbols or designs, nor does it protect mere variations on familiar symbols or designs. *Id.* § 202.1(a); COMPENDIUM (THIRD) § 906.2. 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). Finally, copyright does not protect “common geometric shapes.” COMPENDIUM (THIRD) § 906.1.

Applying the above framework to the Work, the Board finds that the Work’s individual elements and as a whole fail to demonstrate sufficient creativity for copyright protection. The Work consists of a combination of a common shape, a short phrase, and familiar designs that are not individually copyrightable. The black rectangle is an uncopyrightable geometric shape. *Id.* The words “Spooky Scary X Sunday” is a non-copyrightable short phrase. 37 C.F.R. § 202.1(a). The typeface with only mere variations in typographic ornamentation, such as the shared letter “S” and connected “y” and “d,” are not protectable. *Id.*; COMPENDIUM (THIRD) § 906.4. The crossed samurai swords design and rainbow design are likewise unprotectable familiar symbols

or designs. COMPENDIUM (THIRD) § 906.2. Despite the alterations to the “traditional or standard rainbow design,” Second Request at 2, the features described by CoryXKenshin—a teal layer and differentiations in the length of the rainbow’s layers—are mere variations of a common design and therefore unoriginal. *See* COMPENDIUM (THIRD) §§ 313.4(K) (“If the author . . . merely added, changed, or combined expected or familiar sets . . . of colors, the Office . . . may refuse to register the claim.”); 906.2 (“the copyright law does not protect mere variations on a familiar symbol or design”); 906.3 (“Merely . . . combining expected or familiar pairs or sets of colors is not copyrightable.”). Additionally, even assuming that the rainbow resembles a bullseye due to its tight arcs, a bullseye, like a rainbow, is an unprotectable familiar symbol, and CoryXKenshin’s use of a rainbow palette to render the quasi-bullseye is a mere variation on that common design. *Id.* §§ 313.4(J), 313.4(K), 906.2, 906.3.

Considering the Work as a whole, it does not contain enough creative expression to constitute an original work of authorship. *See Satava*, 323 F.3d at 811. The Work is composed of four uncopyrightable elements. 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.”). The placement of a short phrase under a rainbow is a stock, garden-variety arrangement of elements in logos and other two-dimensional works.¹ And adding the samurai sword “X” design among the simplistic rainbow and text elements does not infuse the Work with sufficient creativity. *See Satava*, 323 F.3d at 811. Accordingly, the Work’s combination of elements falls short of the creativity threshold for copyright protection.

As for CoryXKenshin’s argument that the Work is equally if not more creative than works found to be copyrightable in prior court and Board decisions, the Office generally does not compare works that have been previously issued 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.”). Rather, copyrightability decisions are “made on a case-by-case basis.” *Id.* Nonetheless, the Board has considered the authorities cited by CoryXKenshin, including the case in which a court found a magazine cover consisting of unprotectable elements to be copyrightable, and our conclusion that the Work is insufficiently creative remains unchanged. In that case, the court concluded that that the magazine cover contained a “distinctive arrangement and layout” of the elements that made the cover copyrightable. *Reader's Digest Ass'n v. Conservative Digest, Inc.*, 821 F.2d 800, 806 (D.C. Cir. 1987). Here, the Work combines only four otherwise uncopyrightable elements in a garden-variety arrangement.

¹ *See e.g.*, *Try to be a rainbow in someone's cloud. (Motivational Quote Vector Poster Design)*, SHUTTERSTOCK (June 16, 2016), <https://www.shutterstock.com/image-vector/try-be-rainbow-someones-cloud-motivational-437614270>; *beautiful modern inspirational quote with rainbow*, SHUTTERSTOCK (Oct. 3, 2017), <https://www.shutterstock.com/image-vector/beautiful-modern-inspirational-quote-rainbow-726906097>; *Boho rainbow with clouds and sunshine message*, SHUTTERSTOCK (June 18, 2025), <https://www.shutterstock.com/image-vector/boho-rainbow-clouds-sunshine-message-2642593535>.

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

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