



United States Copyright Office

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December 23, 2019

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Workman Nydegger
60 East South Temple
Suite 1000
Salt Lake City, UT 84111

Re: Second Request for Reconsideration for Refusal to Register *Wilderness Survival Card*, Correspondence ID: 1-369LAE9; SR # 1-6315493041

Dear Mr. Johnson:

The Review Board of the United States Copyright Office (“Board”) has considered ReadyMan LLC’s (“ReadyMan’s”) second request for reconsideration of the Registration Program’s refusal to register a design claim in the work titled “Wilderness Survival Card” (“Work”), and finds that the logo is copyrightable and the card design is eligible for thin copyright protection.

The card design (“Card Design”) is a multi-tool pressed into a sheet that fits into a wallet or small tin. The individual tools snap off from the metal sheet and include an awl, tweezers, two sewing needles, three saw blades, four snare locks, five arrows, and nine fishhooks.¹ The Card Design is as follows:



¹ *Wilderness Survival Card 2.0*, READYMAN, https://www.readyman.com/products/readyman-wilderness-survival-card?_pos=1&_sid=78abb8e99&_ss=r.

The Card Design also includes a logo that includes a shield, tools, and the letters RM (“Logo”). The Logo is impressed on several of the card design’s individual tools, and is as follows:



ReadyMan specifically identified the Logo as a copyrightable element of the Card Design.

After due consideration, the Board finds that the Logo satisfies the Copyright Act’s standard for copyrightability. It is a creative rendering of a shield with tool shapes that incorporates a number of elements, including the depiction of different tools and a shield. This design thus has the spark of creativity needed for copyright protection.

The Card Design also is copyrightable, but its protection is thin. The Card Design is a useful article with utilitarian tools, something ReadyMan does not dispute. There is, however, separable authorship that barely displays the requisite spark of creativity. Specifically, while the tools are not copyrightable, the exact placement of them on the card, along with the Logo, is creative. *See, e.g., Harper House, Inc. v. Thomas Nelson, Inc.*, 889 F.2d 197, 205 (9th Cir. 1989) (finding that a personal time organizer was copyrightable because the unprotectable components were selected and arranged in a creative way, even though “utilitarian elements of the design such as the binder, pockets, ruler, and blank or ruled paper are . . . excluded from protection,” and noting that the organizer “warrant[ed] only extremely limited copyright protection.”); U.S. COPYRIGHT OFFICE, COMPENDIUM OF U.S. COPYRIGHT OFFICE PRACTICES § 313.2 (3D ED. 2014) (explaining that the Copyright Office may register “authorship involved in organizing or moving the order, position, or placement of material . . . within [a] compilation as a whole,” but would not register arrangements that are “mechanical or routine,” “standard or symmetrical,” “dictated by law,” or so commonplace “to be expected as a matter of course” or “practically inevitable.”). The Board cautions, however, that, while the Card Design is copyrightable, its copyright is extremely thin.

Works with a thin copyright “reflect only scant creativity.” 4 Melville B. Nimmer & David Nimmer, NIMMER ON COPYRIGHT § 13.03 (2017). As one court noted, “[s]cantiness may exist because the work is composed of elements in the public domain, and it is only the organization of those elements that is protectable.” *Well-Made Toy Manufacturing Corp. v. Goffa Int’l Corp.*, 210 F. Supp. 2d 147, 163 (E.D.N.Y. 2002). Thus, the Board’s decision relates only to the Card Design’s specific design, *i.e.*, this specific arrangement of tools comprising the pressed metal sheet, and does not extend to the individual elements (aside from the Logo) or to

any variations thereof. It is the Board's opinion that Ready Man thus possesses only a thin copyright that protects against only virtually identical copying. *See Satava v. Lowry*, 323 F.3d 805, 812 (9th Cir. 2003).

The Board now refers this matter to the Registration Policy and Practice division for registration of the Work, provided that all other application requirements are satisfied.

No response to this letter is needed.



U.S. Copyright Office Review Board

Karyn A. Temple, Register of Copyrights and
Director, U.S. Copyright Office

Regan A. Smith, General Counsel and
Associate Register of Copyrights

Catherine Zaller Rowland, Associate Register of
Copyrights and Director, Public Information and
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