



United States Copyright Office

Library of Congress • 101 Independence Avenue SE • Washington DC 20559-6000 • www.copyright.gov

December 13, 2022

Tamara S. Pester, LLC
Attn: Tamara Pester
PO Box 6601
Denver, CO 80206
United States

Correspondence ID: 1-5IVDL1X

RE: Theatre D'opera Spatial

Dear Tamara Pester:

We have decided that we cannot register this copyright claim because the deposit does not contain any human authorship; instead, the deposit contains only material that your client solicited from an artificial intelligence art-generator. In fact, your client only provided prompts, instructions, or directions to the AI, but you have not deposited this human-generated material. Instead, all of the pictorial and graphic content within the deposit is attributable to the AI - - your client did not paint, sketch, color, or otherwise fix any of the deposit. We understand that there was much back-forth interaction between your client and the AI, but such prompts, directions, or instructions might be either in the nature of ideas, concepts, or methods (most likely), or in the nature of a fixed literary work (*arguendo*), but we do not have to decide this given that you have not deposited whatever your client clearly did contribute. As for your position that the deposit fixes arguably both your client's and the AI's contributions, still you did not deposit a work that fixes only the client's alleged authorship; instead, the deposits fix alleged and inextricably merged, inseparable contributions from both parties. As for your position that your client is responsible for the AI's results, in our view this does not define human author and authorship as we understand it. Only human authorship should be deposited and claimed, and you have not done this. In our view, human authorship is a Constitutional and statutory requirement of respectively the Progress Clause and 17 USC 102(a). We have embodied this requirement in section 313 of our [Compendium Third of Copyright Office Practices](#).

Accordingly, we have closed this file as a refusal-to-register.

Sincerely,

A handwritten signature in black ink, appearing to read 'A. Pester', written in a cursive style.

Examiner Mander
U.S. Copyright Office
Office of Registration Policy and Practice
Visual Arts Division

Enclosures:
Reply Sheet



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* 1 - 5 I V D L 1 X *

Use this sheet if you request reconsideration

How to request reconsideration:

- Send your written explanation *of why the claim should be registered or why it was improperly refused*.
- Be sure to include the Correspondence ID Number (listed under the bar code above) on the first page of your Request.
- Indicate whether you are requesting a “First Reconsideration” or “Second Reconsideration.”
- **Submit your request ONLINE:** We strongly recommend sending all requests for reconsideration via email following these steps:

EMAIL YOUR REQUEST (BUT NOT THE REQUIRED FEE) to:

reconsideration@copyright.gov.

- The subject line should say “First Reconsideration” or “Second Reconsideration”
- Once your email request is received, you will be contacted with instructions on how to submit the required fee.
- Failure to send your request for reconsideration to the above email address will result in a delayed response.

IMPORTANT NOTE: Your request and the required fee must be received no later than three months after a refusal is issued.

• **Alternatively, you may submit your request VIA MAIL:**

- **IMPORTANT NOTE:** Your request must be postmarked (via the U.S. Postal Service) or dispatched (via commercial carrier, courier, or messenger) no later than three months after a refusal is issued.
- Enclose the required fee.
- Address your request to:

FIRST RECONSIDERATION *or* SECOND RECONSIDERATION

U.S. Copyright Office

MCA Division

P.O. Box 71380

Washington, DC 20024-1380

First Request for Reconsideration (\$350.00 per application): The Registration Program Office considers the first request. If it upholds the refusal, you may submit a second request.

Second Request for Reconsideration (\$700.00 per application): The Copyright Office Review Board considers the second request. The Board consists of the Register of Copyrights and the General Counsel (or their respective designees), and a third member appointed by the Register. The Board's decision constitutes final agency action.

Notification of decision: The Copyright Office will send all notifications of its decisions by email to the email address provided in the record and/or in the request for reconsideration. If no email address is provided, the Office will send its decision via mail.

RECONSIDERATION FEES:

First Request \$350 per application

Second Request \$700 per application

READ MORE:

- U.S. Copyright Office Administrative Appeals:
<https://copyright.gov/comp3/chap1700/ch1700-administrative-appeals.pdf>
- U.S. Copyright Office Fees:
<https://copyright.gov/circs/circ04.pdf>
- Copyright Basics:
<https://copyright.gov/circs/circ01.pdf>
- Copyright Registration:
<https://copyright.gov/circs/circ02.pdf>