



United States Copyright Office

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June 06, 2023

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

Correspondence ID: 1-5T5320R
Original Corresp. ID: 1-5IVDL1X

RE: *Théâtre D'opéra Spatial*; SR 1-11743923581

Dear Tamara Pester Schklar:

This is in response to your January 24, 2023 correspondence requesting reconsideration of the U.S. Copyright Office's (the "Office") refusal to register a copyright claim in the work titled *Théâtre D'opéra Spatial* (the "Work"). You made this request on behalf of the copyright claimant, Jason M. Allen.

As you explained in your correspondence, the Work was created using written prompts that were provided to the artificial intelligence ("AI") technology Midjourney. *Request for Reconsideration* at 6. Mr. Allen made some modifications to this image through the use of the photo and design program Photoshop. Then the modified image was upscaled through the use of the artificial intelligence technology Gigapixel AI.

We reviewed the Work in light of the points raised in your correspondence. We agree that the modifications Mr. Allen made with Photoshop constitute human authorship, and that these modifications contain a sufficient amount of derivative human authorship to qualify for copyright protection. However, the initial image generated by Midjourney and the upscaling performed by Gigapixel AI lack the human authorship that is essential for copyright protection.

As the examiner explained, the Office could register this work if Mr. Allen limited the claim to the derivative authorship that he created with Photoshop and excluded the non-human authorship that was produced by Midjourney and Gigapixel AI. Because Mr. Allen asserted a claim to copyright in the entire work and declined to exclude this non-human authorship, the Office must affirm the refusal.

I. Administrative Record

On September 21, 2022, the Office received an application from you on behalf of your client, Jason M. Allen, to register a "2-D artwork" titled *Théâtre D'opéra Spatial*.



The Work Submitted for Registration

The application identified Jason M. Allen as sole author of the Work and made no mention of the artificial intelligence program Midjourney or Gigapixel AI. The application's New Material Included and Material Excluded fields were left blank, meaning the claim in 2-D artwork was unlimited and extended to the entire Work that was submitted for registration.

Shortly after receiving the application, the Office became aware that *Théâtre D'opéra Spatial* was created using Midjourney based on media reporting about the work. *See, e.g., Sara Kuta, Art Made with Artificial Intelligence Wins at State Fair*, SMITHSONIAN MAGAZINE, available at <https://www.smithsonianmag.com/smart-news/artificial-intelligence-art-wins-colorado-state-fair-180980703/> (cited in *Correspondence from U.S. Copyright Office to Tamara Pester* (Sept. 28, 2022)). The Copyright Office may take administrative notice of facts or matters that are known by the Office or the general public, and may use that knowledge to question an application that appears to contain or be based upon inaccurate or erroneous information. *U.S. Copyright Office, Compendium of U.S. Copyright Office Practices* § 602.4(C) (3d ed. 2021).

On September 28, 2022, the examiner assigned to the case asked you to provide details about how the named author used Midjourney during the course of creating the Work. On September 30, you replied to this email and described Mr. Allen's creative process, which included entering a series of prompts into Midjourney to produce a two-dimensional graphical output. You explained that, after Midjourney produced several drafts in response to these prompts, Mr. Allen decided to "upscale" one of these images using one or more of the Midjourney program's upscaling tools.¹ He then used Adobe's Photoshop program to "edit" the upscaled image. Finally, you explained that Mr. Allen used another photo program to further enhance the image and render it into the version submitted for registration.

¹ *Upscalers*, MIDJOURNEY, <https://docs.midjourney.com/docs/upscalers>. Unless stated otherwise, all websites were last visited on June 6, 2023.

On October 4, the examiner wrote to you and asked that you submit a copy of the AI output generated by Midjourney prior to any editing that Mr. Allen may have done with any other image editing program. The examiner then asked you to describe the changes made to the AI output in Photoshop and to identify the program used to generate the final image that was submitted for registration.

On October 6, you uploaded a copy of the AI output generated by Midjourney in a file designated “original panel from Midjourney.png.”



Midjourney Output

You also described the changes Mr. Allen made to this AI output with the Adobe Photoshop program. For example, you explained that Mr. Allen removed what he considered to be “noticeable flaws” in the work (such as a crack on the floor next to the central subject’s feet or a dark blemish in the background’s sky) by erasing them with Photoshop. Mr. Allen then used Photoshop to recreate content in the empty spaces using “content aware tools, then using healing tools, blur and sharpening tools, as well as other brush tools and blending techniques.” *Correspondence from Tamara Pester to U.S. Copyright Office* (Oct. 6, 2022). Finally, Mr. Allen further upscaled the image using Gigapixel AI.

On October 14, 2022, the examiner explained that the graphical output generated by Midjourney and the upscaling performed by Gigapixel AI was not copyrightable, because the images did not contain sufficient human-created authorship. The examiner went on to explain that, after comparing the initial output generated by Midjourney to the final version of the Work submitted for registration, the Office determined that Mr. Allen added a sufficient amount of new creative authorship to the Midjourney-generated image to merit registration. The examiner explained that the submitted Work was derivative of the AI output, and that the copyright claim must be limited to the new, human-created, authorship.

The examiner explained that the AI output would need to be excluded from the copyright claim and asked the applicant to describe the new, non-AI, authorship present in the final version of the Work.

On October 25, 2022, you “decline[d] to limit Mr. Allen’s claim to augmentations to the image and exclude the entirety of the image which the author used Midjourney and Gigapixel A.I. to generate.” *Correspondence from Tamara Pester to U.S. Copyright Office* (Oct. 25, 2022). The examiner subsequently refused registration for the Work on December 13, 2022 because it did not contain a sufficient amount of human authorship to justify an unlimited registration in the entire work.

In correspondence received by the Copyright Office on January 24, 2023, you submitted a timely First Request for Reconsideration.

II. Legal Standards

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). The Supreme Court has explained that the term “original” in this context 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. *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.” *Id.* at 363. It found that there can be no copyright in a work in which “the creative spark is utterly lacking or so trivial as to be virtually nonexistent.” *Id.* at 359.

The Office will register a derivative work if the new authorship that the author contributed to the work contains a sufficient amount of original expression. Specifically, the derivative work must be independently created and the derivative authorship must possess more than a modicum of creativity. *See Waldman Publishing Corp. v. Landoll, Inc.*, 43 F.3d 775, 782 (2d Cir. 1994); *see also Compendium (Third)* §§ 311.2, 507.1. In other words, the amount of creativity required for a derivative work is the same as that required for a copyright in any other work. *Schrock v. Learning Curve Int’l, Inc.*, 586 F.3d 513 (7th Cir. 2009). “All that is needed to satisfy both the Constitution and the statute is that the ‘author’ contributed something more than a ‘merely trivial’ variation, something recognizably ‘his own.’” *Alfred Bell & Co. v. Catalda Fine Arts, Inc.*, 191 F.2d 99, 102-03 (2d Cir. 1951).

The Office will register an original work of authorship or a derivative work only if the work was created by a human being. Courts interpreting the phrase “works of authorship” have uniformly limited it to the creations of human authors. In *Burrow-Giles Lithographic Co. v. Sarony* the Supreme Court interpreted the scope of Congress’s constitutional power to provide “authors” with the exclusive right to their “writings.” 111 U.S. 53, 56 (1884). In that case, the defendant was accused of creating unauthorized copies of a photograph; in response, the defendant argued that expanding copyright protection to photographs was unconstitutional because the camera – rather than the photographer – created the work. *Id.* The Court disagreed and held that the Constitution’s Copyright Clause granted copyright protection to photographs “so far as they are representatives of original intellectual conceptions of the author.” *Id.* at 58. The Court went on to describe “authors” as human beings,

identifying them as a class of “persons” and a copyright as “the exclusive right of a man to the production of his own genius or intellect.” *Id.*²

The Office’s registration practices follow and reflect these court decisions. The Office collects its understanding of the law in the *Compendium of U.S. Copyright Office Practices (Third Edition)*, which provides standards for examining and registering copyrightable works. Following the cases described above, the Office has provided clear registration guidance requiring that works be the product of human authorship for at least half a century. *See, e.g., U.S. Copyright Office, Compendium of U.S. Copyright Office Practices* § 2.8.3(I)(a)(1)(b) (1st ed. 1973) (stating that only works that “owe their origin to a human agent” are eligible for registration). The current edition of the *Compendium* explains that “to qualify as a work of ‘authorship’ a work must be created by a human being,” and that the Office “will refuse to register a claim if it determines that a human being did not create the work.” *Compendium (Third)* § 313.2.

III. Discussion

The Office must consider the impact of Mr. Allen’s use of artificial intelligence technology in its copyrightability analysis. The Office’s understanding of Midjourney and Gigapixel AI – the artificial intelligence services Mr. Allen used to create the Work – is based on the applicant’s correspondence with the Office and the Office’s own knowledge and the services’ public documentation, of which the Office takes administrative notice.

A. Midjourney

Midjourney is an artificial intelligence technology capable of generating images in response to text provided by a user. Users operate Midjourney through “prompts,” which are text commands entered into the system. As Midjourney explains, prompts must start with the text “/imagine” and contain text describing what Midjourney should generate.³ Users also have the option to include (1) a URL of one or more images to influence the generated output, or (2) parameters directing Midjourney to generate an image in a particular aspect ratio or providing other functional directions.⁴

After a user provides Midjourney with a prompt, the technology will generate four images that are displayed in a grid. If the user selects the buttons underneath the grid, Midjourney will “upscale” or provide a higher-resolution version of an image, create new variations of an image, or generate four new images.

² Similarly, appellate courts have found that copyright does not extend to works that are the product of divine spiritual beings or monkeys. *See Urantia Found. v. Kristen Maaherra*, 114 F.3d 955, 957–59 (9th Cir. 1997) (holding that “some element of human creativity must have occurred in order for the Book to be copyrightable” because “it is not creations of divine beings that the copyright laws were intended to protect”); *see also Naruto v. Slater*, 888 F.3d 418, 426 (9th Cir. 2018), *decided on other grounds* (explaining that a monkey cannot register a copyright in photographs it captured with a camera because the Copyright Act refers to an author’s “children,” “widow,” “grandchildren,” and “widower,” – terms that “all imply humanity and necessarily exclude animals.”).

³ *See Quick Start*, MIDJOURNEY, <https://docs.midjourney.com/docs/quick-start>; *see also Prompts*, MIDJOURNEY, <https://docs.midjourney.com/docs/prompts>.

⁴ For a list of parameters, *see Parameter List*, MIDJOURNEY, <https://docs.midjourney.com/docs/parameter-list>.

Midjourney, by its own description, does not interpret prompts as specific instructions to create a particular expressive result. Because Midjourney “does not understand grammar, sentence structure, or words like humans,” it instead converts words and phrases “into smaller pieces, called tokens, that can be compared to its training data and then used to generate an image.” *Prompts*, MIDJOURNEY, <https://docs.midjourney.com/docs/prompts>. Generation involves Midjourney starting with “a field of visual noise, like television static, [used] as a starting point to generate the initial image grids” and then using an algorithm to refine that static into human-recognizable images. *Seeds*, MIDJOURNEY, <https://docs.midjourney.com/docs/seeds>.

B. Application of Copyright Law to the Midjourney Output

Based on the record before it, the Office concludes that the image generated by Midjourney that formed the initial basis for this Work is not an original work of authorship protected by copyright. *See Compendium (Third)* § 313.2 (explaining that “the Office will not register works produced by a machine or mere mechanical process that operates randomly or automatically without any creative input or intervention from a human author”). Though Mr. Allen claims to have guided or directed the structure and content of the image, the process described in the Request for Reconsideration and in earlier correspondence with the Office makes clear that it was Midjourney—not Mr. Allen—that produced this image.

Your Request for Reconsideration does not explain Mr. Allen’s creative process in detail, but you contend that he “used written prompts to instruct the AI tool with respect to lighting, arrangement of the objects, and selecting and arranging accessories and details displayed in the Work, and thereby produce the Work as an expression of the idea in Mr. Allen’s head.” *Request for Reconsideration* at 6.

While corresponding with the examiner assigned to the case, you provided a more detailed explanation of how Mr. Allen used Midjourney. You said he entered text prompts that specified “the overall subject of the piece” and “the type of scene” he wanted to produce. *Correspondence from Tamara Pester to U.S. Copyright Office* (Sept. 30, 2022). “At this point, the main bulk of the image’s concept [was] established.” *Id.* He then entered prompts that described the “genre and category” for the image, “the tone of the piece,” “a description of how lifelike [Mr. Allen] wanted the piece to appear,” “how colors were used,” and “what style/era the artwork should depict.” *Id.* You said this phase of the process involved “numerous revisions and text prompts **at least 624 times** to arrive at the initial version of the image” produced by Midjourney. *Id.* (emphasis in original).

The process by which Midjourney produces an image is not the same as that of a human artist. As noted above, the initial prompt from a user generates different images based on Midjourney’s training data. Mr. Allen’s prompts provided general directions to elicit output from the AI technology. The prompts described the general subject, genre, category, style, and tone of the image, specified the colors he wanted to see, and how realistic he wanted the image to be. But Mr. Allen had no control over how the artificial intelligence tool analyzed, interpreted, or responded to these prompts. Nor did he exercise any control over the actual creation, development, or execution of the image that Midjourney rendered on his screen. Simply put, the resulting image was the output of the artificial intelligence technology, and your correspondence does not identify any specific creative authorship in this image that can be attributed to Mr. Allen.

As the Supreme Court has explained, the “author” of a copyrighted work is the person “who has actually formed the picture,” *Sarony*, 111 U.S. at 61. A person who provides text prompts to Midjourney does not “actually form” the images that are generated by the machine. Instead, Midjourney begins the image generation process with a field of visual “noise,” which is refined based on tokens created from user prompts that relate to Midjourney’s training database. The information that is included in the user’s prompts may influence the generated image, but the prompt text does not dictate a specific result. *See Prompts*, MIDJOURNEY, <https://docs.midjourney.com/docs/prompts> (explaining that short text prompts cause “each word [to have] a more powerful influence” and that images included in a prompt may “influence the style and content of the finished result”). Because of the significant distance between what a user may ask Midjourney to create and the visual material Midjourney actually produces, Midjourney users do not have sufficient control over the resulting images to be considered the author of the AI’s output.

This lack of control makes Midjourney different for copyright purposes than other tools used by artists. *See Request for Reconsideration* at 6 (arguing that the process of using Midjourney is equivalent to using other tools such as the photographer’s camera). When a photographer uses a camera, they take specific steps to control the image, such as selecting the specific subjects that will be included in the frame; choosing the lens, focus, filter, and other settings that will be used to capture the image; deciding how to stage the image in terms of framing, angle, lighting, among other factors; and potentially making additional changes and adding derivative authorship during the editing process. As a result, the resulting image reflects the artist’s “own original mental conception, to which [they] gave visible form.” *Sarony*, 111 U.S. at 60 (explaining that the photographer’s creative choices made the photograph “the product of [his] intellectual invention”). While users of Midjourney may offer directional text prompts that can be translated by the AI into visual art, they do not have a comparable degree of control over the creation of the initial images or any final images that the technology may generate in response to those prompts.

The Office does not question the fact that Mr. Allen expended significant time and effort sifting through hundreds of images that were produced by Midjourney. But that effort does not make him the “author” of those images under copyright law. The Supreme Court has rejected the argument that “sweat of the brow” can be a basis for copyright protection in otherwise unprotectable material. *Feist*, 499 U.S. at 352-54 (noting that “originality, not ‘sweat of the brow,’ is the touchstone of copyright protection.”) The Office “will not consider the amount of time, effort, or expense required to create the work” because they “have no bearing on whether a work possesses the minimum creative spark required by the Copyright Act and the Constitution.” *Compendium (Third)* § 310.7.

C. Adobe Photoshop

During the initial examination of the work, you indicated that Mr. Allen used Adobe Photoshop to edit the image that was produced by Midjourney, such as erasing certain elements of the AI-produced image and recreating content in its place. *Correspondence from Tamara Pester to U.S. Copyright Office* (Oct. 6, 2022). A copy of the AI output generated by Midjourney is reproduced below alongside the copy submitted for registration:



Midjourney AI Output



Work Submitted for Registration

D. Application of Copyright Law to the Adobe Photoshop Modifications

A work containing AI-generated material may contain sufficient human authorship to support a copyright claim. For example, a children’s book author may write a story and then select and arrange distinct AI-generated images to go along with the text. If the combination of human-authored text and machine-generated images is sufficiently creative, then the resulting compilation may constitute “an original work of authorship.” 17 U.S.C. § 101 (definition of “compilation”). Or an artist may modify material generated by AI technology to such a degree that the modifications meet the standard for copyright protection. In these cases, copyright will only protect the human-authored aspects of the work, which are “independent of and do not affect” the copyright status of the AI-generated material itself. *Compendium (Third)* § 507.1; 17 U.S.C. § 101 (definition of “derivative work”).

The Office agrees that the modifications Mr. Allen made with Adobe Photoshop were the result of human authorship and they contain a sufficient amount of original authorship to be registered as a derivative work. Because this work contains an appreciable amount of AI-generated material, the applicant must comply with the requirements of Section 409(9) of the Copyright Act. Specifically, the statute states that the “application for copyright registration . . . shall include . . . in the case of a compilation or derivative work, an identification of any preexisting work or works that it is based on or incorporates, and a brief, general statement of the additional material covered by the copyright claim being registered.” 17 U.S.C. § 409(9). Identifying the new or revised material the author has contributed to a work and any material that cannot be claimed “is essential to defining the claim that is being registered” and “ensures that the public record will be accurate.” *Compendium (Third)* § 621.1.

By their very nature, derivative works contain two distinct forms of authorship: (i) “The authorship in the preexisting work(s) that has been recast, transformed, or adapted within the derivative work,” and (ii) “[t]he new authorship involved in recasting, transforming, or adapting the preexisting work(s).” *Compendium* § 507.1. The statute expressly states that the copyright in a derivative work “extends only to the material contributed by the author of such work, as distinguished from the preexisting material employed in the work.” 17 U.S.C. §103(b). “[T]he material contributed by the author of such work” plainly refers to the new authorship that the derivative author contributed to the new work. *Id.* Thus, an application to register a derivative work must be limited to the new authorship that the derivative author contributed to that work – rather than the authorship from the preexisting work that may have been incorporated into the derivative work. *See id.*; *see also Compendium* § 311.2.

As noted above, the Office offered to amend your application to limit the claim to the human-authored elements shown in the deposit and to exclude the AI-generated components of the Work. You declined that offer, stating that “the correct scope of copyrightable authorship that Mr. Allen [created] is the entire image submitted to the Copyright Office.” *Correspondence from Tamara Pester to U.S. Copyright Office* (Oct. 25, 2022). Likewise, your Request for Reconsideration does not distinguish between the human-authored and AI-generated elements of the Work.

By attempting to register the entire work, the application asserts a claim to copyright in non-human authorship that does not constitute copyrightable subject matter. The Office also finds that the application was not submitted in proper form, because it does not limit the claim to Mr. Allen’s derivative human authorship or exclude the preexisting AI-generated material from the claim as required by 17 U.S.C. § 409(9). For these reasons, the Office cannot register the claim as submitted. 17 U.S.C. § 410(b) (“In any case in which the Register of Copyrights determines that, in accordance with the provisions of this title, the material deposited does not constitute copyrightable subject matter or that the claim is invalid for any other reason, the Register shall refuse registration and shall notify the applicant in writing of the reasons for such refusal.”)

E. Gigapixel AI

Gigapixel AI is an image upscaling tool that uses artificial intelligence to increase image resolution and size. Upscaling programs generally assess the existing pixels and other information present in the image being upscaled and then use an algorithm to sharpen or enhance that data. Gigapixel AI uses artificial intelligence to fill in missing data or detail in order to create a higher resolution image. It is “trained” on sample images to “learn” how to imitate photorealistic detail, and it fills in any gaps or imperfections in the image based on what it has learned from viewing thousands of other images.⁵

Users of Gigapixel AI may select the size of the image they want to produce based on pixels per centimeter or inch, or by magnification level of the original image, such as “4x” or “6x.” The program also allows users to choose one of several preset options for the “AI Model” used to process the image. The AI Models are each intended for different types of images such as artwork, photographs, very low-resolution images, or images such as cityscapes or landscapes. The user is able to make additional refinements to the overall image in a few additional categories, such as noise suppression, removing blurriness, or fixing compression.

F. Application of Copyright Law to the Gigapixel AI Enhancements

You stated that Mr. Allen used Gigapixel AI “to enhance the details and the resolution” of the image “in order to make the file suitable for reproduction on physical media.” *Correspondence from Tamara Pester to U.S. Copyright Office* (Oct. 6, 2022). The process described in your Request for Reconsideration and prior correspondence does not exhibit the requisite human creativity needed to support a claim to copyright.

You said Mr. Allen accomplished this result by selecting “a sequence of settings to adjust the upscaling process.” *Id.* On the administrative record before the Office, we do not find the upscaling

⁵ See TOPAZ LABS – GIGAPIXEL AI, <https://www.topazlabs.com/gigapixel-ai>.

changes to be sufficiently creative to support a claim in copyright. Merely adjusting the available settings within Gigapixel AI to automatically enhance the resolution of the AI-generated image does not result in copyrightable authorship.

While digital editing claims are considered on a case-by-case basis, the Office generally will refuse all claims where the author merely improved the source work's quality or resolution without adding appreciable new authorship that was not present in the original. *Compendium (Third)* § 909.3(A). Even if the changes made by Gigapixel AI were human-authored, the Office finds that these types of changes – such as noise suppression, removing blurriness, or fixing compression – to be minimal image editing that is not copyrightable.

G. Policy Arguments

In your Request for Reconsideration, you make a number of policy arguments in support of registration. You argue that allowing registration of AI-generated output would promote the underlying purposes of copyright law by allowing “more people into the creative space . . . with the same creative ideas but who were not blessed with innate traditional artistic abilities.” *Request for Reconsideration* at 9.

The Office's registration decision does not mean that technological tools – including AI and other tools – cannot be used as part of the creative process. Authors have long used computerized tools to create new works of authorship or to recast, transform, or adapt preexisting works into new forms of derivative authorship. In this case, Mr. Allen used Adobe Photoshop to adapt the preexisting AI-generated image. Specifically, it appears that the details of objects around and through the portal that have been added to the Midjourney-generated image are sufficient to be registered as a derivative work (assuming these details were the result of human authorship). However, you previously declined to limit the claim to such human authorship. We must therefore affirm the refusal of the entire claim.

In support of registration, you argue that the examiner's determination that Mr. Allen is not the author of the Midjourney image was “the result of a value judgment as to the aesthetic value or artistic merit of the work.” *Request for Reconsideration* at 8. You additionally argue that the examiner improperly considered factors specifically precluded by the *Compendium*, such as the author's inspiration, intent, or design process; or the expense to the author, or time and effort expended to create the work. *Id.* at 6-8 (citing *Compendium (Third)* §§ 310.2, 310.5, and 310.6).

By inquiring about the use of artificial intelligence during the examination process and requiring AI-generated output to be excluded from the application, the Office is not making any judgment – aesthetic or otherwise – about AI, the users of AI, or the output generated by AI. The Office is responsible for determining if “the material deposited constitutes copyrightable subject matter” and if “the other legal and formal requirements of [the Copyright Act] have been met.” 17 U.S.C. § 410. In making this determination, the Office may consider the author's creative process to determine the extent to which a human being exercised creative control over the work's expression and “actually formed” the traditional elements of authorship. *Sarony*, 111 U.S. at 61. In this case, the Office finds that the image produced by Midjourney and the enhancements made by Gigapixel AI do not satisfy this requirement.

IV. Conclusion

For the foregoing reasons, the Office affirms the examiner's decision to refuse registration for *Théâtre D'opéra Spatial*.

This letter is for your information only; no response is necessary.

Sincerely,



Frank Muller

Attorney-Advisor for Registration Policy & Practice
Office of Registration Policy & Practice | U.S. Copyright Office
101 Independence Ave, SE, Washington, DC 20559-6222

Enclosures:

Reply Sheet



United States Copyright Office

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* 1 - 5 T 5 3 2 0 R *

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>
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