The Register of Copyrights
of the
United States of America

Library of Congress
Department 17
Washington, D.C. 20540

December 7, 1995

(202) 707-8350

Dear Mr. Enders:

The Copyright Office is responding to your letter of June 28, 1995, on behalf of California Concept Studios, in which you appeal the Office's rejection of your first appeal regarding the refusal to register copyright claims in the works listed below. In your letter you indicated that you are not appealing the Office's refusal to register the CCS Brochure at this time.

After receiving your second appeal the Copyright Office Appeals Board reviewed the works you specified, and considered whether or not there is support for copyright registration for those works. The works subject to the second appeal are:

ITEM	BASIS OF CLAIM
CCS Body Panel	3-dimensional art
CCS Front Bumper	3-dimensional art
CCS Fender Flare	2 and 3-dimensional art
CCS Light Bar	3-dimensional art
CCS Truck Conversion Exterior	3-dimensional art

The Appeals Board finds the vehicle parts to be useful articles that are not protected by United States copyright law, 17 U.S.C. §101 et seq. Further, the parts are precluded from copyright protection because they do not contain even the minimal amount of conceptually separable pictorial, graphic, or sculptural authorship required to support copyright registration (see 17 U.S.C. §101, definition of "pictorial, graphic, and sculptural works"). The design elements added to some of the parts are basic symbols and shapes (see 37 CFR §202.1), which are not copyrightable as two or three dimensional pictorial, graphic or sculptural works.

In seeking protection for vehicle parts, you attempt to secure a form of protection that Congress has refused to enact. Since 1914, more than 75 design protection bills have been introduced in Congress, none of which has become law. This long history of Congressional rejection of design protection has been accorded substantial weight by courts in refusing to extend the copyright law into the domain of industrial designs. See, e.g., Custom Chrome, Inc. v. Ringer, 35 U.S.P.Q. 2d 1714 (D.D.C. 1995) (motorcycle parts not copyrightable without the requisite authorship); Eltra Corp. v. Ringer, 579

F.2d 294 (4th Cir. 1978) (if sole intrinsic function of article is its utility, the fact that article is attractively shaped will not qualify it as a work of art).

You claim that the design elements you submitted function as aesthetic additions to utilitarian works. This does not negate the fact that the shapes embedded in the functional parts listed above do not contain the original authorship required for copyright protection for artistic works. See Feist Publications, Inc. v. Rural Telephone Service Co. Inc., 499 U.S. 340 (1991).

In sum, because there are no elements in the above listed works which support your claims to copyright protection, the Copyright Office must again refuse to register the works. The Appeals Board's decision as set forth in this letter constitutes final agency action.

For the record, I note that following your first appeal of December 15, 1993, the Copyright Office re-examined the work CCS SQUIGGLE to determine whether or not the two-dimensional design contained the requisite original authorship to support a claim to copyright. Upon reconsideration, the Office determined that the work was copyrightable, and California Concept Studio's claim in CCS SQUIGGLE was registered. The certificate of registration has been sent to you.

Sincerely,

Marybeth Peters

Marybeth Peters
Register of Copyrights

Robert J. Enders
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October 20, 1995