The Register of Copyrights
of the
United States of America

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

(202) 707-8350

December 7, 1995

Dear Ms. Price:

The Copyright Office is responding to your letter of March 28, 1995, in which you appeal the Office's rejection (David Levy's letter of February 14, 1995) of the first appeal (Jeffrey D. Myers' letter of January 27, 1994) regarding the refusal to register Judy Pollock's work Many Lines Ranger Buckle Set. Following receipt of the second appeal the Copyright Office's Appeals Board met and carefully examined the buckle set and all previous correspondence regarding this application. The Board concluded that under current copyright law and the Office's current practices, the Many Lines Ranger Buckle Set does not contain the requisite original authorship to support registration of a claim to copyright in the work.

The Appeals Board considered all points raised in your letter. The Board is aware of the standards for copyrightability set forth in Mazer v. Stein, 347 U.S. 201 rehearing denied, 347 U.S. 949 (1954) (copyright protection extends only to that aspect of a useful article that is a separately identifiable work of art independent of the useful article) and Feist Publications, Inc. v. Rural Telephone Service Co., 111 S. Ct. 1282 (1991) (to be copyrightable a work must display a certain minimum degree of creativity).

The work at issue consists of fan-like lines on one portion of the buckle, and straight lines on the other portion of the buckle. The Board was not able to perceive more than de minimis variations of a common designs in the pieces of the set, and concluded that copyright registration could not be made for the work. The standard regarding familiar symbols and designs is found in 37 CFR §202.1(a). The Appeals Board did not find any copyrightable conceptually separable pictorial, graphic, or sculptural authorship which could form the basis of registration under 17 U.S.C. §§101 (definition of pictorial, graphic, and sculptural works) and 102 (subject matter of copyright). Even aesthetically pleasing designs may not be registered for copyright protection if the design lacks a minimum amount of original authorship. See SCQA Industries, Inc. v. Famolare, Inc., 192 U.S.P.Q. 216 (1976)(troughs, lines and waves on shoe sole do not constitute copyrightable work); Forstmann Woolen Co. v. J.W. Mays, Inc. 89 F. Supp. 964 (E.D.N.Y. 1950)(reproduction of standard fleur-de-lis could not support a copyright claim without additional original authorship).

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The design in question does not contain sufficient authorship to support copyright registration. See Feist Publications, Inc. v. Rural Telephone Service Co., 111 S. Ct. at 1287, 1295. The Copyright Office follows the policy set forth in Bleistein v. Donaldson Lithographing Co., 188 U.S. 239 (1903), which requires examination to be made on the basis of finding a certain modicum of original authorship, and not on a subjective determination of the quality of a work submitted.

Because there are no elements in the Many Lines Ranger Buckle Set which support your client's claim to copyright protection, the Copyright Office must again refuse to register the work. The Appeal Board's decision as set forth in this letter constitutes final agency action.

Sincerely,

Marybeth Peters
Register of Copyrights

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