The Register of Copyrights
of the
United States of America

[redacted]y of Congress
Department 17
Washington, D.C. 20540

April 8, 1996

(202) 707-8350

Dear Mr. Kachigian:

I write on behalf of the Copyright Office Appeals Board regarding your letter of December 27, 1995, which was the second request for reconsideration of the Office's refusal to register your client Michael Joseph, Inc.'s jewelry design titled TULIP DESIGN. The Appeals Board found examination of the ring that you arranged to deliver to the Office most helpful. Upon careful review of the application, original deposit material, correspondence between you and the Office, and the actual three-dimensional copy of TULIP DESIGN, the Appeals Board was able to discern the minimal amount of original authorship required in a work to support a copyright registration. The Copyright Office will, therefore, register the TULIP DESIGN jewelry design, and will forward the certificate of registration for this work of visual art to you as soon as possible.

The appearance of the work in the photographs originally deposited with the application gave the appearance of simple circular design shapes, which are familiar symbols and designs that are in the public domain, and are not copyrightable according to 37 C.F.R. §202.1. There did not appear to be additional, perceivable authorship in TULIP DESIGN that rose to the minimum level of original authorship the Office must detect in order to register a work. Courts have recognized that works must have at least a minimum level of original authorship to support a legal claim to copyright protection. See, e.g., Feist Publications, Inc. v. Rural Telephone Service Co., 499 U.S. 340 (1991).

However, as noted above, upon examination of the three-dimensional design, the Copyright Office Appeals Board was able to discern copyrightable authorship in TULIP DESIGN. An examination of the ring showed a grain-like design on the band of the ring

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coupled with a raised sculptural element in a tulip-like design which supports a two-circle petal presentation. This authorship supports a claim, and the work will be registered.

Sincerely yours,

Marybeth Peters
Register of Copyrights

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