The Register of Copyrights
of the
United States of America

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

(202) 707-8350

April 8, 1996

Dear Mr. Kusmiss:

I am responding to your request of September 13, 1995, for reconsideration of the Copyright Office's refusal to register a copyright claim in the work COLOR DESIGNS FOR COMBINATION LOCK. The Copyright Office Appeals Board carefully examined the work, and considered the arguments you provided in your previous correspondence. For the reasons given below, the Office must refuse to register a claim to copyright in the work.

The Appeals Board found that the collection of drawings depicting locks with colors denoting portions of the lock mechanism lacks the minimum amount of authorship that must be expressed in a work in order to support a copyright registration. The collection as a whole reflects the process of manifesting a formula or mathematical principle. Such a process or concept is not copyrightable subject matter. See 17 U.S.C. §102(b) (subject matter of copyright). You chose six colors and placed them on the points of a familiar design, a six pointed star. The various drawings simply move the colors around the star shape. Simple variations of standard shapes, designs, or colors may be aesthetically pleasing, but they do not form the basis for a claim to copyright protection. See 37 C.F.R. 202.1(a).

You refer to Greef Fabrics, Inc. v. Spectrum Fabrics Corp., 217 U.S.P.Q. 498 (S.D.N.Y. 1981) as support for your argument. Greef concerned infringement of copyright in a fabric design that contained more than the minimum quantity of different shapes, colors and designs that must be expressed in order to support a valid copyright claim. The Copyright Office Appeals Board examined the instant work, and was not able to find that the work COLOR DESIGNS FOR COMBINATION LOCK rises to the level of conceptually separable, original authorship required to support a copyright registration. See Kieselstein-Cord v. Accessories by Pearl, Inc., 632 F.2d 989 (1980) (discussion of when a pictorial, graphic, or sculptural feature can be identified separately from the utilitarian aspects of the article).

You also cite as support Soptra Fabrics Corp. v. Stafford Knitting Mills, Inc., 490 F.2d 1092 (2d Cir. 1974). This is another fabric design case in which the court considered whether or not there was substantial similarity between two fabric designs in an infringement case; the court did not rule on the copyrightability of the designs, although it did discuss the "minimal quantum of originality in the textile pattern field" for the Second Circuit.

In summary, upon reviewing the application and deposit for COLOR DESIGNS FOR COMBINATION LOCK, the Appeals Board was not able to detect original authorship which supports your claims to copyright protection. Therefore, the Copyright Office must again refuse

to register the work. The Appeals Board's decision as set forth in this letter constitutes final agency action.

Sincerely,

Marybeth Peters
Register of Copyrights

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Appeals Board Letter
April 8, 1996