



Copyright Review Board  
United States Copyright Office · 101 Independence Avenue SE · Washington, DC 20559-6000

April 21, 2023

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**Re: Second Request for Reconsideration for Refusal to Register Chia Logo  
(SR # 1-10493680171; Correspondence ID: 1-53KTACJ)**

Dear Ms. Killian,

The Review Board of the United States Copyright Office (“Board”) has considered Chia Network, Inc.’s (“Chia”) second request for reconsideration of the Registration Program’s refusal to register a two-dimensional artwork claim in the work titled “Chia Logo” (“Work”). After reviewing the application, deposit copy, and relevant correspondence, along with the arguments in the second request for reconsideration, the Board affirms the Registration Program’s refusal of registration.

## **I. DESCRIPTION OF THE WORK**

The Work is a two-dimensional artwork consisting of the word “chia” in green with the outline of a leaf between the first two letters.

The Work is as follows:



## **II. ADMINISTRATIVE RECORD**

On May 26, 2021, Chia filed an application to register a copyright claim in the Work. In a June 28, 2021 letter, a Copyright Office registration specialist refused to register the claim, explaining that “it lacks the authorship necessary to support a copyright claim.” Initial Letter Refusing Registration from U.S. Copyright Office to Belle Borovik at 1 (June 28, 2021).

On September 28, 2021, Chia requested that the Office reconsider its initial refusal to register the Work, arguing that the Work is “designed in such a way as to communicate an expression of artistic style unique to Claimant.” Letter from Meghan C. Killian to U.S. Copyright Office at 3 (Sept. 28, 2022) (“First Request”). Chia elaborates that “[c]laimant chose the green color and thick-bubble-like font of the word ‘chia.’” *Id.* Further, Chia explains that “claimant chose where to place the chia leaf (i.e. in the open space of the letter ‘c’ as opposed to any of the other four letters comprising the word ‘chia’) and to use the white background to create the image of the leaf in the negative space of the letter ‘c’ with only the stem appearing in green.” *Id.* After reviewing the Work in light of the points raised in the First Request, the Office reevaluated the claims and again concluded that the Work could not be registered. Refusal of First Request for Reconsideration from U.S. Copyright Office to Meghan Killian (Jan. 11, 2022). The Office explained that the Work did not demonstrate sufficient creativity in the combination and arrangement of its component elements. *Id.* at 3.

In a letter dated April 11, 2022, Chia requested that, pursuant to 37 C.F.R. § 202.5(c), the Office reconsider for a second time its refusal to register the Work. Letter from Meghan C. Killian to U.S. Copyright Office (Apr. 11, 2022) (“Second Request”). Chia argued that the Work exceeds the minimal level of creativity required for copyright registration because “the placement of the leaf (i.e. using the space of the letter ‘c’) was a creative choice in order to use the white background to create the image of the white leaf in the negative space of the letter ‘c’ with a green diagonal oblong shape creating the appearance of a stem.” *Id.* at 4. Chia further argued the Work is copyrightable because “[t]he leaf in the Artwork also is depicted with smooth and round edges whereas an actual chia leaf has sharp serrated edges.” *Id.* Throughout the Second Request, Chia argued that refusing copyright protection to the Work is inconsistent with the Office’s past decisions regarding works that similarly combine “simple shapes, designs, and word elements.” *Id.* at 7.

### III. DISCUSSION

After carefully examining the Work and considering the arguments made in the First and Second Requests, the Board finds that the Work does not contain the requisite creativity necessary to sustain a claim to copyright.

A work may be registered for copyright if it is an “original work[] of authorship fixed in any tangible medium of expression.” 17 U.S.C. § 102(a). In the copyright context, the term “original” consists of two components: independent creation and sufficient creativity. *See Feist Publ’ns v. Rural Tel. Serv. Co.*, 499 U.S. 340, 345 (1991). The Supreme Court explained that works need only “some minimal degree of creativity” to qualify for copyright protection. *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 further 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 346, 359.

The Office’s regulations and practices implement the requirement of originality set forth in the Copyright Act and described in the *Feist* decision. As set out in the Office’s regulations, copyright does not protect “[w]ords and short phrases such as names, titles, slogans; familiar

symbols or designs; [and] mere variations of typographic ornamentation, lettering, or coloring.” 37 C.F.R. § 202.1(a). Accordingly, when a work only consists of unprotectable elements, it must combine or arrange those elements in a sufficiently creative way to meet the requirements of the statute. *See Satava v. Lowry*, 323 F.3d 805, 811 (9th Cir. 2003) (stating that the combination of unprotectable elements is protected “only if those elements are numerous enough and their selection and arrangement original enough that their combination constitutes an original work of authorship.”).

Neither the Work’s individual elements nor the Work as a whole are sufficiently creative to be copyrightable. First, the individual elements of the Work are the word “chia” and the outline of a leaf between the first two letters, rendered in green without shading or gradation in color. These elements are not independently copyrightable. *See* 37 C.F.R. § 202.1(a); U.S. COPYRIGHT OFFICE, COMPENDIUM OF U.S. COPYRIGHT OFFICE PRACTICES §§ 906.1, 906.2 (3d ed. 2021) (“COMPENDIUM (THIRD)”); *see also John Muller & Co. v. N.Y. Arrows Soccer Team, Inc.*, 802 F.2d 989, 989–90 (8th Cir. 1986) (upholding refusal to register “logo consist[ing] of four angled lines which form an arrow and the word ‘Arrows’ in cursive script below the arrow”). A single word is not copyrightable. 37 C.F.R. § 202.1(a). The leaf is a very simple representation of a common nature symbol. Likewise, the “thick-bubble-like font” in which the word appears and the color green are not protectable elements. COMPENDIUM (THIRD) §§ 313.3(D), 906.3 (“mere variations of typographic ornamentation or lettering” and “mere coloration” are not copyrightable). Thus, the individual elements of the Work are not sufficiently creative to achieve copyrightability.

Second, the Work as a whole is not sufficiently creative to be copyrightable. Where a design combines uncopyrightable elements, it is protected only when the “elements are numerous enough and their selection and arrangement original enough that their combination constitutes an original work of authorship.” *Satava*, 323 F.3d at 811. Here, the individual elements of the Work are arranged in a simple, routine fashion: each letter in the word “chia” is the same size and color. Chia’s presentation of the word “chia,” in a single color, and ordinary font is not creative enough to be copyrightable. *See id.* The addition of the simple outline of a leaf superimposed on the “c” in “chia” does not alter this conclusion.

Chia suggests the Work is copyrightable because the leaf’s appearance deviates from a chia leaf found in nature, arguing that “the white, smooth-edged chia leaf depicted in the Artwork is a creative variation from the standard green serrated-edged chia leaf.” Second Request at 4. However, “familiar symbols or designs with minor linear or spatial variations” are not copyrightable. COMPENDIUM (THIRD) § 313.4(J). The difference between the leaf in the Work and a chia leaf found in nature is minimal and does not rise to the level of creativity required for copyrightability. Additionally, that the Work may have been “designed in such a way to depict growth, both in the sense of nature and monetary value” is not relevant to the question of whether the Work is sufficiently creative. Second Request at 3; COMPENDIUM (THIRD) § 310.3 (stating that “[t]he symbolic meaning or impression of a work is irrelevant” to determination of whether work is sufficiently creative). “[T]he Office will focus only on the actual appearance or sound of the work that has been submitted for registration, but will not consider any meaning or significance that the work may evoke.” COMPENDIUM (THIRD) § 310.3.

Finally, Chia cites six prior Board decisions that it believes support registration of the Work, arguing that “prior decisions must be treated as reliable guidance for registrants and the Office.” Second Request at 6–8. However, the Copyright Office’s registration decisions have “no precedential value and [are] not binding upon the Office when it examines any other application.” COMPENDIUM (THIRD) § 309.3. Copyrightability decisions are “made on a case-by-case basis” and the Board does not engage in comparisons between the Work and other works the Board has considered.<sup>1</sup> *Id.* In any event, each of the prior registrations Chia cited contain significantly more creativity than the Work, including stylized shading, and combining numerous elements that were not ordinary shapes.<sup>2</sup>

#### IV. CONCLUSION

For the reasons stated herein, the Review Board of the United States Copyright Office affirms the refusal to register the copyright claim in the Work. Pursuant to 37 C.F.R. § 202.5(g), this decision constitutes final agency action in this matter.



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**U.S. Copyright Office Review Board**  
Suzanne V. Wilson, General Counsel and  
Associate Register of Copyrights  
Maria Strong, Associate Register of Copyrights and  
Director of Policy and International Affairs  
Jordana Rubel, Assistant General Counsel

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<sup>1</sup> The Board disagrees with Chia’s assertion that “[t]o refuse registration of Claimant’s Artwork would be inconsistent with the guiding principles used in prior decisions by the Office.” Second Request at 6. All registration decisions made by the Office, including the Board’s, are based on governing law that is outlined in publicly available, objective criteria. *See, e.g.*, COMPENDIUM (THIRD) ch. 300 (providing overview of Copyright Office’s practices and procedures for evaluating copyrightable authorship); *id.* at ch. 900 (providing overview of Copyright Office’s practices and procedures for evaluating visual art works).

<sup>2</sup> U.S. Copyright Office Review Board, *Decision Reversing Refusal of Registration of Colorado Rapids Crest* (Mar. 30, 2020), <https://www.copyright.gov/rulings-filings/review-board/docs/colorado-rapids-crest.pdf>; U.S. Copyright Office Review Board, *Decision Reversing Refusal of Registration of Band of the Red Hand* (May 23, 2019), <https://www.copyright.gov/rulings-filings/review-board/docs/band-of-the-red-hand.pdf>.