United States Copyright Office
Library of Congress · 101 Independence Avenue SE · Washington, DC 20559-6000 · www.copyright.gov

September 26, 2013

Weil, Gotshal & Manges LLP
Attn: Randi W. Singer
767 Fifth Avenue
New York, NY 10153

Re: **990796310 -Bridal Ring Design**
181328408 -Fashion Earring Design
940226018 -Bridal Ring Design
181328307 -Fashion Earring Design
990832608 -Fashion Necklace Design
990831909 -Fashion Earring Design
990831505 -Fashion Necklace Design
990830907 -Fashion Earring Design
990830806 -Fashion Earring Design
531870107 -Fashion Ring Design

Correspondence IDs: 1-F9RN7B; 1-F9RN3D; 1-FGL2KG; 1-FGRMP7

Dear Ms. Singer:

The Review Board of the United States Copyright Office (the "Board") is in receipt of your second requests for reconsideration of the Registration Program's refusal to register the ten works entitled: *(1) 990796310 -Bridal Ring Design; (2) 181328408 -Fashion Earring Design; (3) 940226018 -Bridal Ring Design; (4) 181328307 -Fashion Earring Design; (5) 990832608 -Fashion Necklace Design; (6) 990831909 -Fashion Ring Design; (7) 990831505 -Fashion Necklace Design; (8) 990830907 -Fashion Earring Design; (9) 990830806 -Fashion Earring Design;* and *(10) 531870107 -Fashion Ring Design.* You submitted these requests on behalf of your client, Sterling Jewelers, Inc., on July 17, 2013. Administratively, your previous requests for reconsideration were addressed in separate letters. Because the issues associated with the ten works are similar, for purposes of second reconsideration, we will address all ten claims in this one letter.

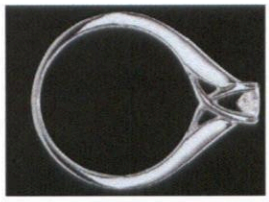
The Board has examined the application, the deposit copies, and all of the correspondence in these cases. After careful consideration of the arguments in your second requests for reconsideration, the Board affirms the Registration Program's denials of

I. DESCRIPTION OF THE WORKS

(1) 990796310 -Bridal Ring Design; (2) 181328408 -Fashion Earring Design; (3) 940226018 -Bridal Ring Design; (4) 181328307 -Fashion Earring Design; (5) 990832608 - Fashion Necklace Design; (6) 990831909 -Fashion Earring Design; (7) 990831505 - Fashion Necklace Design; (8) 990830907 -Fashion Earring Design; (9) 990830806 - Fashion Earring Design; and *(10) 531870107 -Fashion Ring Design* (the "Works") are a collection of jewelry designs. Below are individual descriptions of the Works.

(1) 990796310 -Bridal Ring Design

This work is an "engagement ring" design that includes: (1) a ring band inset with a channel of round-cut diamonds; and, (2) a round, center-cut diamond that protrudes from the ring band. The bottom ends of the ring's primary diamond setting extend and overlap where they join with the ring band. The below images are photographic reproductions of the work from the deposit materials:





(2) 181328408 -Fashion Earring Design

This work is a "dangle" earring design that includes a large, central diamond encircled by eight smaller diamonds arranged in a "flower" pattern. Each diamond has a milgrain pattern running along its edges. The below images are photographic reproductions of the work from the deposit materials:





(3) 940226018 -Bridal Ring Design

This work is an "engagement ring" design that includes a large, central diamond that is framed by two circle shapes. The circle shapes are pave' with diamonds. The ring's band is also pave' with diamonds, except for a small portion at its bottom. The below images are photographic reproductions of the work from the deposit materials:





(4) 181328307 -Fashion Earring Design

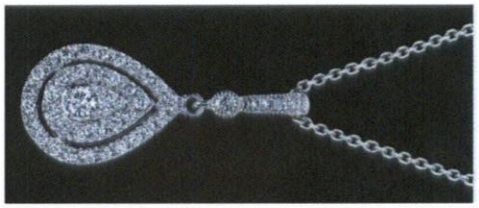
This work is an earring design that includes a large, central diamond encircled by eight smaller diamonds arranged in a "flower" pattern. Each diamond has a milgrain pattern running along its edges. The below images are photographic reproductions of the work from the deposit materials:





(5) 990832608 -Fashion Necklace Design

This work is a necklace design that includes a teardrop-shaped pendant. The teardrop-shaped pendant is comprised of a large, central diamond surrounded by three rows that are pave' with smaller diamonds. The pendant is attached to a standard necklace chain by a diamond covered linking mechanism. The linking mechanism also appears to have a milgrain pattern running along its edges. The below image is a photographic reproduction of the work from the deposit materials:



(6) 990831909 -Fashion Earring Design

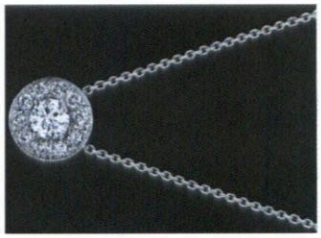
This work is an earring design that includes a large, central diamond encircled by eight smaller diamonds. The outer circle of diamonds has a milgrain pattern running along its edge. Weave-like metal work extends from the diamonds' settings and connects with the earring's post. The below images are photographic reproductions of the work from the deposit materials:





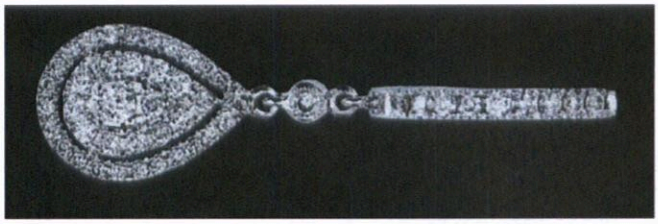
(7) 990831505 -Fashion Necklace Design

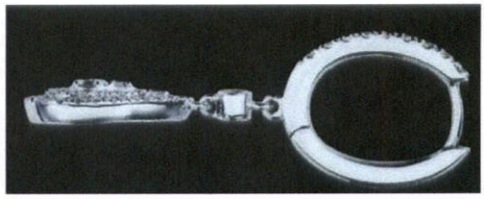
This work is a necklace design that includes a large, central diamond encircled by eight smaller diamonds and attached to a standard necklace chain. The outer circle of diamonds has a milgrain pattern running along its edge. The below images are photographic reproductions of the work from the deposit materials:



(8) 990830907 –Fashion Earring Design

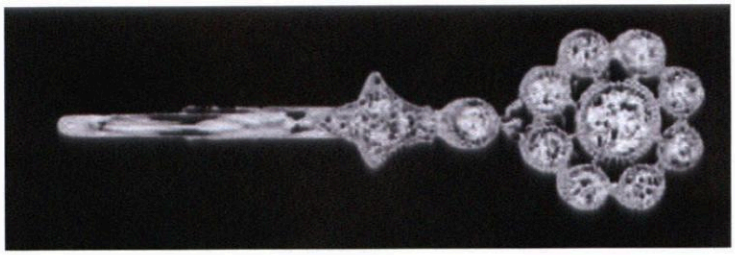
This work is an earring design that includes a circular "hoop" shape with a teardrop-shaped pendant dangling from it. The teardrop-shaped pendant is comprised of a large, central diamond surrounded by three rows that are pave' with smaller diamonds. The "hoop" has a channel of diamonds inset on its front-facing side. A small, circular diamond is set between the two links that join the pendant to the hoop. The below images are photographic reproductions of the work from the deposit materials:

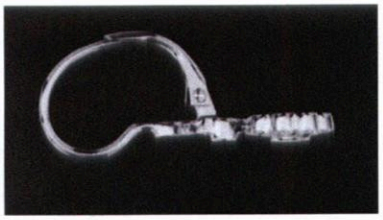




(9) 990830806 -Fashion Earring Design

This work is a "dangle" earring design that includes a large, central diamond encircled by eight smaller diamonds arranged in a "flower" pattern. Each diamond has a milgrain pattern running along its edges. Two small diamonds, one set within a metal circle and one set within a metal three-pointed star shape, appear where the "flower" design meets the earring clasp. The below images are photographic reproductions of the work from the deposit materials:





(10) 531870107 -Fashion Ring Design

This work is a ring design that includes a large, central diamond encircled by eight smaller diamonds arranged in a "flower" pattern. Each diamond has a milgrain pattern running along its edges. The ring's band is pave' with diamonds, except for a small portion at its bottom. The below image is a photographic reproduction of the work from the deposit materials:



II. ADMINISTRATIVE RECORD

In September and October of 2012, the United States Copyright Office (the "Office") issued letters notifying Sterling Jewelers, Inc. (the "Applicant") that it had refused registration of the above mentioned Works. *Letters from Registration Specialist Guy Messier to Randi Singer* (September 26, 2012); *Letter from Registration Specialist Wilbur King to Randi Singer* (October 2, 2012). In its letters, the Office stated that it could not register the Works because they lack the authorship necessary to support a copyright claim. *Id.*

In four letters dated December 21, 2012, you requested that, pursuant to 37 C.F.R. § 202.5(b), the Office reconsider its initial refusals to register the Works. *Letters from Randi Singer to Copyright RAC Division* (December 21, 2012) ("First Requests"). Upon reviewing the Works in light of the points raised in your letters, the Office concluded that the Works "do not contain a sufficient amount of original and creative or sculptural authorship in either the treatment or arrangement of their elements" and again refused registration. *Letters from Attorney-Advisor Stephanie Mason to Randi Singer* (April 19, 2013).

Finally, in four letters dated July 17, 2013, you requested that, pursuant to 37 C.F.R. § 202.5(c), the Office reconsider for a second time its refusals to register the Works. *Letters from Randi Singer to Copyright R&P Division* (July 17, 2013) ("Second Requests"). In arguing that the Office improperly refused registration, you claim the Works include at least the minimum amount of creativity required to support registration under the standard for originality set forth in *Feist Publications v. Rural Telephone Service Co*, 499 U.S. 340 (1991). *Second Requests* at *passim*. In support of this argument, you claim that the Works' author's careful selection and arrangement of the Works' constituent elements possess a sufficient amount of creative authorship to warrant registration under the Copyright Act. *Id.*

In addition to *Feist*, your argument references several cases in support of the general principle that, to be sufficiently creative to warrant copyright protection, a work need only possess a "modicum of creativity." *Id.* You also reference several cases demonstrating that jewelry designs comprised of otherwise unprotectable elements are acceptable for copyright protection if the selection and arrangement of their elements satisfies the requisite level of creative authorship. *Id.*

III. DECISION

A. *The Legal Framework*

All copyrightable works must qualify as "original works of authorship fixed in any tangible medium of expression." 17 U.S.C. § 102(a). As used with respect to copyright, the term "original" consists of two components: independent creation and sufficient creativity. *See Feist*, 499 U.S. at 345. First, the work must have been independently created by the author, *i.e.*, not copied from another work. *Id.* Second, the work must possess sufficient creativity. *Id.* While only a modicum of creativity is necessary to establish the requisite level, the Supreme Court has ruled that some works (such as the telephone directory at issue in *Feist*) fail to meet this threshold. *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 nonexistent." *Id.* at 359.

The Office's regulations implement the long-standing requirements of originality and creativity set forth in the law and, subsequently, the *Feist* decision. *See* 37 C.F.R. § 202.1(a) (prohibiting registration of "[w]ords and short phrases such as names, titles, slogans; familiar symbols or designs; [and] mere variations of typographic ornamentation, lettering, or coloring"); *see also* 37 C.F.R. § 202.10(a) (stating "[i]n order to be acceptable as a pictorial, graphic, or sculptural work, the work must embody some creative authorship in its delineation or form").

Case law recognizes instances in which jewelry has enjoyed copyright protection for "the artistic combination and integration" of constituent elements that, considered alone, are unoriginal. *See Yurman Design, Inc. v. PAJ, Inc.*, 262 F.3d 101 (2nd Cir. 2001). However, as noted, the mere simplistic arrangement of non-protectable elements does not automatically establish the level of creativity necessary to warrant protection. *See Feist,* 499 U.S. at 358 (finding the Copyright Act "implies that some ways [of selecting, coordinating, or arranging uncopyrightable material] will trigger copyright, but that others will not"). Ultimately, the determination of copyrightability in the combination of standard design elements rests on whether the selection, coordination, or arrangement is done in such a way as to result in copyrightable authorship. *Id.*; *see also Atari Games Corp. v. Oman*, 888 F.2d 878 (D. D.C. 1989).

To be clear, the mere simplistic arrangement of unprotectable elements does not automatically establish the level of creativity necessary to warrant protection. For example, the Eighth Circuit upheld the Copyright Office's refusal to register a simple logo consisting of four angled lines which formed an arrow and the word "Arrows" in a cursive script below the arrow. *See John Muller & Co., Inc. v. NY Arrows Soccer Team, Inc. et. al.*, 802 F.2d 989 (8th Cir. 1986). Likewise, the Ninth Circuit held that a glass sculpture of a jellyfish that consisted of elements including clear glass, an oblong shroud, bright colors, proportion, vertical orientation, and the stereotypical jellyfish form did not merit copyright protection. *See Satava v. Lowry*, 323 F.3d 805, 811 (9th Cir. 2003). The court's language in *Satava* is particularly instructional:

> [i]t is true, of course, that a combination of unprotectable elements may qualify for copyright protection. But it is not true that *any* combination of unprotectable elements automatically qualifies for copyright protection. Our case law suggests, and we hold today, that a combination of unprotectable elements is eligible for copyright protection only if those elements are numerous enough and their selection and arrangement original enough that their combination constitutes an original work of authorship.

Id. (internal citations omitted) (emphasis in original).

Finally, Copyright Office Registration Specialists (and the Board, as well) do not make aesthetic judgments in evaluating the copyrightability of particular works. They are not influenced by the attractiveness of a design, the espoused intentions of the author, the design's uniqueness, its visual effect or appearance, its symbolism, the time and effort it took to create, or its commercial success in the marketplace. *See* 17 U.S.C. § 102(b); *see also Bleistein v. Donaldson*, 188 U.S. 239 (1903). The fact that a work consists of a unique or distinctive shape or style for purposes of aesthetic appeal does not automatically mean that the work, as a whole, constitutes a copyrightable "work of art."

B. *Analysis of the Works*

After carefully examining the Works, and applying the legal standards discussed above, the Board finds that all ten Works fail to satisfy the requirement of creative authorship. Below, we list each work and explain why we have concluded that it is not sufficiently creative to warrant registration.

(1) 990796310 -Bridal Ring Design

First, the Board finds that none of the work's constituent elements, considered individually, are sufficiently creative to warrant protection. The work is an engagement ring design that is comprised of the following individual elements: (1) a standard ring band; (2) diamonds of various shapes and sizes; and, (3) two curved metal pieces that extend from the bottoms of the main diamond's setting. Pursuant to 37 C.F.R. § 202.1(a), ordinary ring bands, gemstones, and basic, curved metal pieces are all public domain symbols, shapes or designs that are ineligible for copyright protection. *See* 37 C.F.R. § 202.1(a) (prohibiting the registration of "familiar symbols or designs"). Accordingly, we conclude the work's constituent elements do not qualify for registration under the Copyright Act.

Second, the Board finds that the work, considered as a whole, fails to meet the creativity threshold set forth in *Feist*. 499 U.S. at 359. As explained, the Board accepts the principle that jewelry designs comprised of combinations of unprotectable elements may be eligible for copyright registration. However, in order to be accepted, such combinations must contain some distinguishable variation in the selection, coordination, or arrangement of their elements that is not so obvious or minor that the "creative spark is utterly lacking or so trivial as to be nonexistent." *Id.*; *see also Atari Games,* 888 F.2d at 883 (finding a work should be viewed in its entirety, with individual noncopyrightable elements judged not separately, but in their overall interrelatedness within the work as a whole). Viewed as a whole, the work consists of the simple arrangement of unprotectable shapes and gemstones on an unprotectable ring band. This basic variation of the traditional "engagement ring" configuration is, at best, *de minimis*, and fails to meet the threshold for copyrightable authorship. *Feist,* 499 U.S. at 359; *see also Atari Games,* 888 F.2d at 883. Accordingly, we conclude that the work, as a whole, lacks the requisite "creative spark" necessary for registration. *Feist,* 499 U.S. at 359; *Satava*, 323 F.3d at 811.

(2) 181328408 -Fashion Earring Design

This work is a "dangle" earring design that is comprised of the following individual elements: (1) one large diamond; (2) eight small diamonds; (3) milgrain edging; and, (4) a standard lever-back earring clasp. Pursuant to 37 C.F.R. § 202.1(a), gemstones, ordinary milgrain patterns and standard lever-back clasps are all public domain symbols, shapes or designs that are ineligible for copyright protection. *See id.* Thus, we find that none of the work's constituent elements, considered individually, are sufficiently creative to warrant protection.

We further find that the work, considered as a whole, fails to meet the creativity threshold set forth in *Feist*. 499 U.S at 359. As a whole, the work consists of a standard earring design with a central diamond encircled by eight smaller diamonds arranged in a common "flower" pattern attached to it. This ordinary configuration is, at best, *de minimis*, and fails to meet the threshold for copyrightable authorship. *Feist,* 499 U.S. at 359; *see also Atari Games,* 888 F.2d at 883. Thus, we conclude that the work, as a whole, lacks the requisite "creative spark" necessary for registration. *Feist,* 499 U.S. at 359; *Satava*, 323 F.3d at 811.

(3) 940226018 -Bridal Ring Design

This work is an engagement ring design that is comprised of the following individual elements: (1) one large diamond; (2) other diamonds of various shapes and sizes; (3) two circle shapes; and, (4) a standard ring band. Pursuant to 37 C.F.R. § 202.1(a), gemstones, simple circle shapes and standard ring bands are all public domain symbols, shapes or designs that are ineligible for copyright protection. *See id.* Thus, we find that none of the work's constituent elements, considered individually, are sufficiently creative to warrant protection.

We further find that the work, considered as a whole, fails to meet the creativity threshold set forth in *Feist*. 499 U.S. at 359. As a whole, the work consists of a standard ring design with a central diamond encircled by two metal circles that are pave' with diamonds. This ordinary configuration is, at best, *de minimis*, and fails to meet the threshold for copyrightable authorship. *Feist,* 499 U.S. at 359; *see also Atari Games,* 888 F.2d at 883. The simple decision to make most of the ring's band pave' with diamonds is not sufficiently creative to qualify the work for copyright protection. Thus, we conclude that the work, as a whole, lacks the requisite "creative spark" necessary for registration. *Feist,* 499 U.S. at 359; *Satava*, 323 F.3d at 811.

(4) 181328307 -Fashion Earring Design

This work is a standard earring design that is comprised of the following individual elements: (1) one large diamond; (2) eight small diamonds; (3) milgrain edging; (4) a

standard earring post; and, (5) a standard earring back. Pursuant to 37 C.F.R. § 202.1(a), gemstones, ordinary milgrain patterns and standard earring posts and backs are all public domain symbols, shapes or designs that are ineligible for copyright protection. *See id.* Thus, we find that none of the work's constituent elements, considered individually, are sufficiently creative to warrant protection.

We further find that the work, considered as a whole, fails to meet the creativity threshold set forth in *Feist*. 499 U.S. at 359. As a whole, the work consists of a standard earring design with a central diamond encircled by eight smaller diamonds arranged in a common "flower" pattern attached to it. This ordinary configuration is, at best, *de minimis*, and fails to meet the threshold for copyrightable authorship. *Feist,* 499 U.S. at 359; *see also Atari Games,* 888 F.2d at 883. Thus, we conclude that the work, as a whole, lacks the requisite "creative spark" necessary for registration. *Feist,* 499 U.S. at 359; *Satava*, 323 F.3d at 811.

(5) 990832608 -Fashion Necklace Design

This work is a necklace design that is comprised of the following individual elements: (1) one large diamond; (2) several smaller diamonds of varying shape and size; (3) a pendant comprised of three teardrop-shaped metal rows; (4) a common necklace chain; (5) a hoop-shaped mechanism that links the pendant to the necklace chain; and (6) the milgrain pattern that appears on the edge of the linking mechanism. Pursuant to 37 C.F.R. § 202.1(a), gemstones, simple teardrop shapes, simple hoop shapes, and standard necklace chains are all public domain symbols, shapes or designs that are ineligible for copyright protection. *See id.* Thus, we find that none of the work's constituent elements, considered individually, are sufficiently creative to warrant protection.

We further find that the work, considered as a whole, fails to meet the creativity threshold set forth in *Feist*. 499 U.S. at 359. As a whole, the work consists of a standard necklace chain with a teardrop-shaped arrangement of diamonds dangling from it. This ordinary configuration is, at best, *de minimis*, and fails to meet the threshold for copyrightable authorship. *Feist,* 499 U.S. at 359; *see also Atari Games,* 888 F.2d at 883. The simple addition of a basic diamond laden linking mechanism with milgrain edging to this standard pendant necklace design is not sufficiently creative to qualify the work for copyright protection. Thus, we conclude that the work, as a whole, lacks the requisite "creative spark" necessary for registration. *Feist,* 499 U.S. at 359; *Satava*, 323 F.3d at 811.

(6) 990831909 -Fashion Earring Design

This work is a standard earring design that is comprised of the following individual elements: (1) one large diamond; (2) eight small diamonds; (3) milgrain edging; (4) a standard earring post; (5) a standard earring back; and, (6) weave-like metal work that extends from the diamonds' settings and connects with the earring's post. Pursuant to 37

C.F.R. § 202.1(a), gemstones, ordinary milgrain patterns, basic weave-like patterns and standard earring posts and backs are all public domain symbols, shapes or designs that are ineligible for copyright protection. *See id.* Thus, we find that none of the work's constituent elements, considered individually, are sufficiently creative to warrant protection.

We further find that the work, considered as a whole, fails to meet the creativity threshold set forth in *Feist*. 499 U.S. at 359. As a whole, the work consists of a standard earring design with a central diamond encircled by a row of eight smaller diamonds. This ordinary configuration is, at best, *de minimis*, and fails to meet the threshold for copyrightable authorship. *Feist,* 499 U.S. at 359; *see also Atari Games,* 888 F.2d at 883. The simple addition of milgrain edging and a basic weave-like metal work design to the portion of the earring that houses the diamond's settings is not sufficiently creative to qualify the work for copyright protection. Thus, we conclude that the work, as a whole, lacks the requisite "creative spark" necessary for registration. *Feist,* 499 U.S. at 359; *Satava*, 323 F.3d at 811.

(7) 990831505 -Fashion Necklace Design

This work is a standard necklace design that is comprised of the following individual elements: (1) one large diamond; (2) eight small diamonds; (3) milgrain edging; and, (4) a standard necklace chain. Pursuant to 37 C.F.R. § 202.1(a), gemstones, ordinary milgrain patterns, basic weave-like patterns and standard necklace chains are all public domain symbols, shapes or designs that are ineligible for copyright protection. *See id.* Thus, we find that none of the work's constituent elements, considered individually, are sufficiently creative to warrant protection.

We further find that the work, considered as a whole, fails to meet the creativity threshold set forth in *Feist*. 499 U.S. at 359. As a whole, the work consists of a standard necklace chain with large diamond encircled by a row of eight smaller diamonds hanging from it. This ordinary configuration is, at best, *de minimis*, and fails to meet the threshold for copyrightable authorship. *Feist,* 499 U.S. at 359; *see also Atari Games,* 888 F.2d at 883. Thus, we conclude that the work, as a whole, lacks the requisite "creative spark" necessary for registration. *Feist,* 499 U.S. at 359; *Satava*, 323 F.3d at 811.

(8) 990830907 –Fashion Earring Design

This work is a "dangle" earring design that is comprised of the following individual elements: (1) one large diamond; (2) several smaller diamonds of varying shape and size; (3) three teardrop-shaped metal rows; (4) a circular hoop shape with a built-in clasping mechanism. Pursuant to 37 C.F.R. § 202.1(a), gemstones, simple teardrop shapes, simple hoop shapes, and standard earring clasps are all public domain symbols, shapes or designs that are ineligible for copyright protection. *See id.* Thus, we find that none of the work's constituent elements, considered individually, are sufficiently creative to warrant protection.

We further find that the work, considered as a whole, fails to meet the creativity threshold set forth in *Feist*. 499 U.S. at 359. As a whole, the work consists of a standard, diamond laden, hoop earring design with a teardrop-shaped arrangement of diamonds dangling from it. This ordinary configuration is, at best, *de minimis*, and fails to meet the threshold for copyrightable authorship. *Feist,* 499 U.S. at 359; *see also Atari Games,* 888 F.2d at 883. The simple addition of a basic channel of diamonds and an unprotectable circle shape inset with a diamond to this standard earring design is not sufficiently creative to qualify the work for copyright protection. Thus, we conclude that the work, as a whole, lacks the requisite "creative spark" necessary for registration. *Feist,* 499 U.S. at 359; *Satava*, 323 F.3d at 811.

(9) 990830806 -Fashion Earring Design

This work is a "dangle" earring design that is comprised of the following individual elements: (1) one large diamond; (2) eight small diamonds; (3) milgrain edging; (4) a standard lever-back earring clasp; (5) a diamond set within a metal circle; and, (6) a diamond set within a simple, three-pointed star shape. Pursuant to 37 C.F.R. § 202.1(a), gemstones, ordinary milgrain patterns, simple circle shapes, simple star shapes, and standard lever-back clasps are all public domain symbols, shapes or designs that are ineligible for copyright protection. *See id.* Thus, we find that none of the work's constituent elements, considered individually, are sufficiently creative to warrant protection.

We further find that the work, considered as a whole, fails to meet the creativity threshold set forth in *Feist*. 499 U.S. at 359. As a whole, the work consists of a standard earring design with a central diamond encircled by eight smaller diamonds arranged in a common "flower" pattern attached to it. This ordinary configuration is, at best, *de minimis*, and fails to meet the threshold for copyrightable authorship. *Feist,* 499 U.S. at 359; *see also Atari Games,* 888 F.2d at 883. The simple addition of two unprotectable shapes, each inset with a diamond, to this standard earring design is not sufficiently creative to qualify the work for copyright protection. Thus, we conclude that the work, as a whole, lacks the requisite "creative spark" necessary for registration. *Feist,* 499 U.S. at 359; *Satava*, 323 F.3d at 811.

(10) 531870107 -Fashion Ring Design

This work is a ring design that is comprised of the following individual elements: (1) one large diamond; (2) eight small diamonds; (3) milgrain edging; and, (4) a common ring band. Pursuant to 37 C.F.R. § 202.1(a), gemstones, ordinary milgrain patterns, simple circle shapes, simple star shapes, and standard ring bands are all public domain symbols, shapes or designs that are ineligible for copyright protection. *See id.* Thus, we find that none of the work's constituent elements, considered individually, are sufficiently creative to warrant protection.

We further find that the work, considered as a whole, fails to meet the creativity threshold set forth in *Feist*. 499 U.S. at 359. As a whole, the work consists of a standard ring design with a central diamond encircled by eight smaller diamonds arranged in a common "flower" pattern attached to it. This ordinary configuration is, at best, *de minimis*, and fails to meet the threshold for copyrightable authorship. *Feist,* 499 U.S. at 359; *see also Atari Games,* 888 F.2d at 883. The simple decision to make most of the ring's band pave' with diamonds is not sufficiently creative to qualify the work for copyright protection. Thus, we conclude that the work, as a whole, lacks the requisite "creative spark" necessary for registration. *Feist,* 499 U.S. at 359; *Satava*, 323 F.3d at 811.

In sum, the Board finds that both the individual elements that comprise each of the ten Works, as well as the Applicant's selection, organization, and arrangement of those elements lack the sufficient level of creativity to make the Works eligible for registration under the Copyright Act.

IV. CONCLUSION

For the reasons stated herein, the Review Board of the United States Copyright Office affirms the refusals to register the works entitled: *(1) 990796310 -Bridal Ring Design; (2) 181328408 -Fashion Earring Design; (3) 940226018 -Bridal Ring Design; (4) 181328307 -Fashion Earring Design; (5) 990832608 -Fashion Necklace Design; (6) 990831909 -Fashion Earring Design; (7) 990831505 -Fashion Necklace Design; (8) 990830907 -Fashion Earring Design; (9) 990830806 -Fashion Earring Design;* and *(10) 531870107 -Fashion Ring Design.* This decision constitutes final agency action on this matter. 37 C.F.R. § 202.5(g).

Maria A. Pallante
Register of Copyrights

BY: _____
William J. Roberts, Jr.
Copyright Office Review Board