



United States Copyright Office

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

October 30, 2017

Steven D. Weyhing
General Counsel
Paramount Coffee Company
5133 W. Grand River
Lansing, MI 48906

**Re: Refusal to Register Joe Unleaded, Joe Tall Dark and Handsome, and Wake Up Joe;
Correspondence ID: 1-1B3II3H; SR #1-2291437816; #1-2228632981; #1-2291437779**

Dear Mr. Weyhing:

In light of the United States District Court for the Western District of Michigan's decision in *Paramount Coffee Co. v. United States Copyright Office*,¹ the Review Board of the United States Copyright Office ("Board") has reviewed Paramount Coffee Company's ("Paramount's") request to register text claims in the works titled "Joe Unleaded," "Joe Tall Dark and Handsome," and "Wake Up Joe" ("Works"). The Works consist of bags used for packaging coffee, containing lettering, QR codes, barcodes, and various colored boxes. The Works are depicted below.



The Board initially refused registration because Paramount did not assert any copyright claim in the text elements of the Works; rather, Paramount had asserted only two-dimensional artwork claims. Consequently, the Office and the Board limited review to the two-dimensional artwork elements, even though Paramount subsequently explained in its requests for

¹ No. 1:16-cv-1074 (W.D. Mich. July 11, 2017) ("Opinion").

reconsideration that it sought review of the text elements' meaning as well. Letter from Review Board to Steven Weyhing, Aug. 23, 2016, at 4. The reason for this was that Paramount's application "was neither unclear nor contradicted by the deposit materials," and registration specialists "do not contact each applicant to make sure that all possible authorship contained in a work has been claimed on a registration application;" rather, "it is up to the applicant to 'identify all of the copyrightable authorship that the applicant intends to register.'" *Id.* (citing COMPENDIUM OF U.S. COPYRIGHT OFFICE PRACTICES § 618.8(G) (3d ed. 2014)). The Office had an established administrative practice not to permit amendment after a request for reconsideration, and urged Paramount to file a new application for text claims in the Works if that is what Paramount sought to register. *Id.*

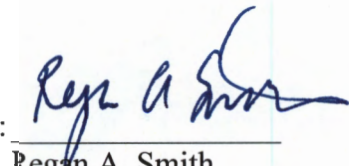
Subsequent to the Opinion, in the new version of the Compendium revised and released on September 29, 2017, the Office adopted a new practice whereby "the Office will [still] not consider any type of authorship that was not expressly claimed in the application when the claim was refused," but "may allow an applicant to amend the application during a first or second appeal if the failure to include this information was the result of an honest omission or mistake." COMPENDIUM OF U.S. COPYRIGHT OFFICE PRACTICES § 1708.5 (3d ed. 2017). In light of the Opinion's remand of this case to the Copyright Office, the Board gives Paramount the benefit of this new policy. Because it was made clear through correspondence that Paramount intended to include claims for text in its applications for registration of the Works, and only omitted such claims due to an honest omission, the Office will permit Paramount to add these claims.

Thus, the Review Board of the United States Copyright Office reverses the Office's refusal to consider the copyright claims in the Works with respect to their textual elements, and refers this matter to the Office of Registration Policy and Practice to review the claims in text.

Please note that the Office's decision will not relate to the two-dimensional artwork elements in the Works, which the Board already deemed insufficiently creative, a conclusion with which the court agreed. *See* Opinion at 6.

No response to this letter is needed.

BY:



Regan A. Smith
Copyright Office Review Board