



Should I Copyright My Drawings? Why or Why Not.

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Introduction

Since the passage of the Architectural Works Copyright Protection Act (AWCPA) fifteen years ago, architectural works have received exclusive copyright protection under U.S. copyright laws. The passage of this legislation was a great advancement in the battle to protect architectural innovation. However, for an architect to take full advantage of the protections and benefits offered by U.S. copyright laws, he or she must register each and every architectural work in a timely manner.

This article will first provide a brief description of the scope of coverage offered by the AWCPA. Next week, I will discuss the steps of protection that every architectural works author should take. Specifically, it will stress how timely copyright registration is an important step towards obtaining full copyright benefits. Finally, it will conclude by laying out the necessary steps towards registering an architectural work with the U.S. Copyright Office.

Architectural Works Copyright Protection Act and its Scope of Protection

In 1976, Congress enacted the Copyright Act. This law aims to protect “original works of authorship fixed in any tangible medium of expression.” Section 102 of the Act lists a number of categories which it considers to be protected works of authorship. Prior to 1990, architectural works were not listed as a specifically protected category. However, most courts protected architectural design drawings and plans under the “pictorial, graphic, and sculptural works” subsection. Unfortunately, courts limited the scope of this copyright protection to apply only to the drawings or plans themselves, and not necessarily the design depicted in the drawing or plan. Thus, a building could have been copied as long as the person copying the building did not use the original drawings of the original building. The justification asserted in the refusal to grant copyright protection to architectural designs was the belief that architecture primarily served a utilitarian function, rather than a creative function.

In 1990, however, Congress passed the Architectural Works Copyright Protection Act (AWCPA) to defeat court precedent which held that a building design was not protected by the Copyright Act, by adding “architectural works” as an expressly protected work of authorship. An architectural work has been defined as “the design of a building as embodied in any tangible medium of expression, including a building, architectural plans, or drawings.” It is meant to include the “overall form” and “arrangement and composition of spaces and elements in the design,” but does not extend to “individual standard features,” such as windows, doors, and other utilitarian-like structural elements. Additionally, copyright protection will only extend to the design of a building, which encompasses those types of structures which are habitable by humans. Thus, structures such as “bridges, cloverleaves, dams, walkways, tents, recreational vehicles, mobile homes, and boats,” are not within the scope of protection. The AWCPA will only apply to building designs and plans that were created on or after December 1, 1990, and any architectural works that, on that date, were “unconstructed and embodied in unpublished plans or drawings.”

Copyrighting your drawings can provide protection for your work.

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