



Sculptures And Works Of Artistic Craftsmanship On Public Display

Owners of copyright in sculptures and works of artistic craftsmanship will find their rights to control reproduction and distribution of those works in the UK are limited as a result of specific provisions in the 1988 Copyright, Designs and Patents Act where those works are either permanently situated in a public place or alternatively situated in premises open to the public.

The Act confirms that copyright in such works is not infringed by:

- (a) making a graphic work representing it (e.g. a drawing or painting);
- (b) making a photograph or film of it;
- (c) broadcasting or including in a cable programme service a visual image of it (e.g. any appearance of the work in a television programme).

Further, provided that the above graphic works, photographs, films, broadcasts or cable programmes have been made in these permitted circumstances there will be no infringement of copyright in the original sculpture or work of artistic craftsmanship if copies are then issued to the public, broadcast or included in any cable programme service.

It is stressed that this exemption provision does not extend to original paintings (including murals), drawings, engravings, or photographs which are exhibited in public places or in premises open to the public, but probably would apply to stained glass windows. In the case of works displayed in a “public place” the scope of the provisions is restricted by the requirement that the display is permanent. A public place would probably cover streets, parks and similar locations. However a public place could still be private land - such as a shopping mall and it is possible that an owner, granting a licence to enter such a place, could put on conditions - such as to taking photographs, but the copyright owner may not be able to complain. As to permanency, this would exclude temporary displays or, any relevant work which may be removed from time to time.

It is not clear that any degree of permanence is required where works are displayed in premises which are “open to the public”. Commentators appear divided on the point. “Open to the public” is presumably intended to cover premises to which the public do not have an automatic right of access but to which they are admitted at the licence of the person or body controlling those premises. Where the public’s admission is effectively licensed in this way, it may be a condition of admission that they refrain from copying the works. So, for example entry to an exhibition might be made conditional on members of the public refraining from photographing the works displayed.

The premises owner may be able to enforce this restriction, but not necessarily the copyright unless of the relevant works. Owners of copyright in sculptures or works of artistic craftsmanship should be aware that not all territories permit making graphic works or taking photographs of such works where they are displayed in public places or premises open to the public. As a consequence it may still be possible to restrain the distribution of copies of these works in certain territories.

The content of this fact sheet is of benefit interest only and is not an exhaustive explanation of copyright protection and remedies for infringement. This fact sheet is not intended to apply to specific circumstances. The contents of this factsheet should not therefore be regarded as constituting legal or other advice and should not be relied upon as such. In relation to any particular problem that you may have, you are advised to seek specific and specialist advice.