



Architectural Plans and Buildings

Plans

Under both the 1956 and 1988 Copyright Acts, architectural drawings fall within the definition of artistic works, and are afforded protection as with other artistic works. Under the 1911 Copyright Act, architectural sketches and plans were regarded as literary works (this definition includes maps, charts and plans), and afforded protection as such, however the following is applicable to both. Copying of architectural plans in the form of another plan or sketch without the authorisation of the copyright owner will constitute infringement.

Where a plan is copied in the form of a building (that is the making of a three dimensional representation of a two-dimensional work), each case must be considered individually to establish the basis for an infringement claim.

It has been held that where an architect's plans show the elevation of a proposed building, and a building is constructed incorporating that elevation, and it is clear from comparing the elevation and the building that one is a representation of the other, the building will be a "reproduction in a material form" and, if unauthorised, an infringement.

However, if an architect's plans show floor plans or elevations which, when compared to the building, are not clearly the same or could only be shown to be so by dissecting and measuring the building, an infringement will not have occurred.

Buildings

Buildings themselves have been generally regarded as artistic works. Under early legislation that a building had to show some artistic character or design (e.g. a work by Le Corbusier) to benefit from copyright protection. It is no longer required that a building needs to possess any 'fine arts' attribute in order to qualify, but it is only original features that would be protected and not functional ones, so the protection extends only to those characteristics rather than methods or processes of construction.

In the UK copyright in a building is not infringed by:

- i) making a graphic work representing it
- ii) making a photograph or film of it
- iii) broadcasting or including in a cable programme service a visual image of it

The copyright in a building may be infringed by making another building which incorporates those artistic characteristics which are afforded protection or copying the building as a whole. Copyright is infringed by something, which, to the eye, is a copy of the original. It is difficult to show infringement in simple buildings, and common features such as a number of doors and windows cannot be protected. It is suggested though that if an ordinary building were slavishly copied to the smallest detail that an infringement claim may well be possible.

The content of this fact sheet is of benefit interest only and is not an exhaustive explanation of rights of architectural plans and buildings. This fact sheet is not intended to apply to specific circumstances. The contents of this fact sheet 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.

First Owner Of Copyright

The architect who draws the plans will be first owner of copyright in those plans and the building created from them unless there is agreement to the contrary or employment provisions apply. Builders do not become copyright owners by virtue of building unless they draw their own plans, deviate dramatically from the architects plans to the extent of creating a substantially different building, or do not refer to plans at all.

The Paternity Right (Buildings created after 1.8.89)

The architect has the right to be identified on a building, or if a series of buildings on the first constructed. The architect also has the right to be identified on graphic works or photographs representing the building issued to the public. This right needs to be asserted (see Fact Sheet 2)

The Right Of Integrity

Subject to any waivers of licences that may have been granted, architectural plans as artistic works also attract a moral right protection for the creator to object to a derogatory treatment if that treatment is published commercially or exhibited in public or included in the broadcast or cable programme or is included

in a film which is shown in public or issued to the public. In the case of a work of architecture in the form of a model for a building or a sculpture or a work of artistic craftsmanship, the right of integrity only applies only applies to the issuing to the public of a graphic work or photograph which depicts the derogatory treatment of the work.

The right does not apply to a work of architecture in the form of a building, however where the creator of such a building is identified as such and the building is subject to a derogatory treatment, the creator has the right to require that the identification be removed.

Ownership Of Plans

The prima facie rule is that architectural plans become the property of the client. However, this only applies to the sheets of paper and the pencil and ink marks thereon, it does not grant copyright ownership to the client. There may be an implied licence, if not an express license to use the plans, but the scope will be determined on the pre-use facts.

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 fact sheet 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.

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