

Copyright

Copyright in respect of architecture, gives the author of the drawings economic rights, protecting the ownership of drawings and enabling control over the use of the drawings. The purpose of copyright law is to prevent others from exploiting such material without the permission of the original author of the work. Uses of copyright work require permission from the original author.

When is copyright effective?

Copyright protection is automatic under the Copyright, Designs and Patents Act 1988 for original architectural works. This is underlined by the changes to the Intellectual Property Act 2014. Dependent upon the type of design work and whether or not it warrants being a “registered design” as may apply to unique building components, 3D or systems, it is worth considering protecting designs under this legislation in addition to Copyright infringement. The following link gives comprehensive guidance to businesses in respect of ownership of design: <https://www.gov.uk/government/publications/changes-to-design-law-business-guidance>.

Copyright protection extends for the lifetime of the author and for a further period of 70 years from the end of the calendar year in which the author dies.

There are other forms of legislation that would protect creative work such as patents, design rights, trademarks etc.

Who owns copyright?

The ownership of the copyright in architectural works will reside with the author of the work, unless the work is created by an employee in the course of his employment, in which case the employer would own the copyright. The copyright may be assigned to another in writing. Another alternative is to issue a licence to use the architectural works.

Extent of copyright protection

Copyright protection extends to plans, designs, sketches, prints, diagrams, working drawings, final drawings, artistic presentations, notes and any building constructed therefrom.

Good practice

It is good practice and common commercial practice to take steps to protect one's copyright. The Institute publishes a Conditions of Engagement which can be downloaded from the CIAT website (ciat.org.uk), and this can be used to assist members in administering their contract with their clients. This includes a section on copyright, which endeavours to protect

the members' copyright whilst enabling your client to utilise the services as the member has intended.

It is also good practice to mark the document with the copyright symbol © followed by the date and your name and details as a warning not to copy the work, although this isn't legally necessary in the UK.

Members are well advised to insert a copyright clause on their drawings as a matter of routine, explaining that the copyright in the drawing remains vested in the Member. This would also be an opportunity to quote any non-sequiturs such as matters involving scaling the drawing, checking dimensions etc. dependent on the service provided.

Infringements

Copyright gives the author exclusive rights to copy and issue copies of the work. If any third party copies the work without the author's authority it is likely to amount to an infringement of copyright.

It should be understood that whilst all efforts should be made to protect your design from being copied on other sites, your client has in effect “purchased” the right to use the design for the particular project for which you have made an agreement.

Licence

The author may grant a licence to a third party to enable him to reproduce the work under the terms of an agreement. The Institute's Conditions of Engagement make provision for this.

Court actions

If a case of copyright infringements is proven, the court can apply the following measures:

- compensation awarded for loss of financial income from the work, usually measured by reference to what would have been a fair licence fee or an account of profits earned
- injunction to prevent any further breach of copyright
- order for materials breaching copyright to be delivered up/ destroyed

Sources of reference

<https://www.gov.uk/government/publications/changes-to-design-law-business-guidance>

www.hmso.gov.uk/acts/acts1988/Ukpga_19880048_en_1.htm to view the Copyright, Design and Patents Act 1988.

www.hmso.gov.uk/copyright/guidance/guidance_notes.htm
Guidance notes on copyright issued by Her Majesty's Stationery Office.

www.patent.gov.uk — UK Patent Office

www.intellectual-property.gov.uk — Intellectual Property information from government

www.copyrightservice.co.uk/copyright/p01_uk_copyright_law

Most of these sites also include other links, which may be helpful.

The RIBA offers its members the following guidance and has kindly given CIAT its permission to pass the information on to its members:

Copyright

The RIBA Planning Policy Group has consulted Marcus Harling and Briony Thomas of Burges Salmon Solicitors, who advise:

'There are no special rules relating to copyright on the Internet, and protection of drawings and other material is governed by ordinary copyright law.'

Remember that planning authorities have a statutory right to:

- copy and publish material in connection with any planning application
- make material relating to planning applications available for public inspection

Recommendations to architects

- Include a statement of permitted use on all drawings. For example, "This (plan/drawing) has been produced for (client) for the (project) and is submitted as part of planning application (application number/relating to site name) and is not intended for use by any other person or for any other purpose."
- Include the architect's name and logo on all drawings and make sure that all work carries a copyright statement, for example, "© (name of copyright owner [UK], date of creation)"
- Put a watermark through all drawings – this could be the architect's name or logo.
- Wherever possible, supply the drawings in electronic format and in a "read only" mode. This will mean that there is no scope for distortion of drawings through the scanning process and allows control over inclusion of watermarks, copyright statements etc.

Recommendations to Planning Authorities

- Include a statement on the website that copying/ downloading/use of drawings in any form will be an infringement of copyright
- Make access to all architectural drawings 'read only' (if possible).

Accuracy

The planning inspectorate intends to electronically transmit planning application drawings to its inspectors. On the question of potential inaccuracies caused by this Clive Newberry QC, planning barrister and member of the Planning Policy Group, advises:

There is a possibility that an inaccurately digitally formatted plan may result in a "substantial alteration". The "substantial alteration" test is based on whether the permission as granted represents a "substantial alteration" of what had been proposed by the application. (See: *Wheatcroft [Bernard] Ltd v Secretary of State for the Environment* [1982] JPL 37.)

Recommendations

1. The architect should state clearly on the plans that only the original drawings should be relied on.
2. Planning authorities posting plans on their websites should inform the public that:
 - plans are liable to distortion in transmission to the web
 - measurements scaled from plans cannot be guaranteed to be accurate
 - reliance must be placed on the originals, which are available for inspection
3. The planning inspectorate should publish a similar warning on plans on its website, and should give clear guidance to inspectors that only the original drawings submitted with an application or appeal should be the basis for a determination."

END

This copy revised and updated October 2014. It supersedes all previous versions of this document.

© CIAT 2014

Chartered Institute of Architectural Technologists

397 City Road, London EC1V 1NH

T: +44 (0)20 7278 2206

practice@ciat.org.uk

ciat.org.uk

Twitter: [@ciatechnologist](https://twitter.com/ciatechnologist)

Instagram: [@ciatechnologist](https://www.instagram.com/ciatechnologist)

Facebook: [ciatechnologist](https://www.facebook.com/ciatechnologist)