

Copyright Claims in Architectural Works

An original design of a building created in any tangible medium of expression, including a constructed building or architectural plans, models, or drawings, is subject to copyright protection as an “architectural work” under section 102 of the Copyright Act (title 17 of the *United States Code*), as amended on December 1, 1990. Protection extends to the overall form as well as the arrangement and composition of spaces and elements in the design but does not include individual standard features or design elements that are functionally required.

The term “building” means structures that are habitable by humans and intended to be both permanent and stationary, such as houses and office buildings and other permanent and stationary structures designed for human occupancy, including, but not limited to, churches, museums, gazebos, and garden pavilions.

Eligible Building Designs

The following building designs can be considered for registration:

- Designs created on or after December 1, 1990
- Designs that were created in unpublished plans or drawings but not constructed as of December 1, 1990, but were constructed before January 1, 2003

NOTE: “Creation” is the first-ever tangible fixation or embodiment of a design, whether in plans, drawings, models, or a constructed building. “Publication” occurs when underlying plans, drawings, or other copies of the building design are distributed or made available to the public by sale or other transfer of ownership or by rental, lease, or lending. Construction of a building does not constitute publication for purposes of registration, unless multiple copies are constructed.

Ineligible Building Designs

The following building designs cannot be registered:

- Designs that were constructed, or whose plans or drawings were published, before December 1, 1990
- Designs that were unconstructed and created in unpublished plans or drawings on December 1, 1990, and were not constructed on or before December 31, 2002
- Structures other than buildings, such as bridges, cloverleaves, dams, walkways, tents, recreational vehicles, mobile homes, and boats

- Standard configurations of spaces and individual standard features, such as windows, doors, and other staple building components, as well as functional elements whose design or placement is dictated by utilitarian concerns

Term of Protection

Protection for an architectural work created as a work made for hire on or after December 1, 1990, lasts for 95 years from the date of publication of the work or for 120 years from the date of creation of the work, whichever term is less. A work made for hire is one prepared by an employee within the scope of his or her employment, such as an architect employed by a firm.

Protection for an architectural work created on or after December 1, 1990, by an individual (not as a work made for hire) lasts for the life of the author plus 70 years.

If a building was not constructed but did exist in unpublished plans or drawings on December 1, 1990, then protection terminated on December 31, 2002, if the building was not constructed by that date. If the building was constructed by that date, then the same terms of protection described above apply for works made for hire and works by individual author(s).

Registration Procedures

An application for copyright registration contains three essential elements: a completed application form, a non-refundable filing fee, and a nonreturnable deposit—that is, a copy or copies of the work being registered and “deposited” with the Copyright Office.

There are two ways to apply for copyright registration. Online registration through the electronic Copyright Office (eCO) is the preferred way to register basic claims for literary works; visual arts works; performing arts works, including motion pictures; sound recordings; and single serials. Advantages of online filing include a lower filing fee; the fastest processing time; online status tracking; secure payment by credit or debit card, electronic check, or Copyright Office deposit account; and the ability to upload certain categories of deposits directly into eCO as electronic files. To access eCO, go to the Copyright Office website and click on *electronic Copyright Office*.

You can also apply using paper forms. Form VA (visual arts works) and Form CON (continuation sheet for paper applications) apply to architectural works. To access fill-in versions of these forms, go to the Copyright Office website and click on *Forms*. Complete the form(s) on your personal

computer, print them out, and mail them with a check or money order and a deposit. Blank forms can also be printed out and completed by hand or requested by postal mail (limit two copies of any one form by mail).

NOTE: Copyright Office fees are subject to change. For current fees, check the Copyright Office website at www.copyright.gov, write the Copyright Office, or call (202) 707-3000.

Additional Registration Requirements

All applications for copyright registration must include a completed application form, a nonrefundable filing fee, and a nonreturnable deposit. For architectural works, it is important to be aware of the following additional requirements.

Separate Registration for Plans

A claim to copyright in an architectural work is distinct from a claim in technical drawings of the work. If registration is sought for both an architectural work and technical drawings of the work, separate applications and fees must be submitted.

Registration Limits

A single application can cover only a single architectural work, whether it is published or unpublished. A group of architectural works cannot be registered on a single application form. For works such as tract housing, a single work is one house model with all accompanying floor-plan options, elevations, and styles that are applicable to that particular model.

Deposit Requirement

The required nonreturnable deposit for an architectural work, whether or not the building has been constructed, is one complete copy of an architectural drawing or blueprint in visually perceptible form showing the overall form of the building and any interior arrangement of spaces and design elements in which copyright is claimed.

The deposit for a building that has been constructed must also include identifying material in the form of photographs that clearly disclose the architectural work being registered. The Office prefers 8"×10" good-quality photographs that clearly show several exterior and interior views. In addition, the Copyright Office prefers that the deposit disclose the name(s) of the architect(s) and draftsman(s) and the building site.

In cases where the claimant is seeking registration for both an architectural work and its technical drawings, the deposit of a single technical drawing will suffice for both claims if the applications are submitted together.

If the claimant is using eCO and the deposit is eligible for electronic uploading, the claimant can upload the same deposit for both applications. If the deposit is ineligible for electronic uploading and the deposit must be mailed, the claimant can select “submit deposit” for each claim, print the cover form for each claim, and attach both cover forms to the one deposit that will be mailed. If the claimant is filing on paper, the separate application forms for the architectural work and the same work’s technical drawing can be packaged with the deposit of a single drawing and mailed together with the appropriate filing fees.

The Copyright Office prefers the following in descending order of preference:

- 1 original format or best-quality form of reproduction, including offset or silk-screen printing
- 2 xerographic or photographic copies on good-quality paper
- 3 positive photostat or photodirect positive
- 4 blue-line copies (diaz or ozalid process)

Effective Date of Registration

When the Copyright Office issues a registration certificate, it assigns as the effective date of registration the date it received all required elements—an application, a nonrefundable filing fee, and a nonreturnable deposit—in acceptable form, regardless of how long it took to process the application and mail the certificate.

You do not have to receive your certificate before you publish or produce your work, nor do you need permission from the Copyright Office to place a copyright notice on your work. However, the Copyright Office must have acted on your application before you can file a suit for copyright infringement, and certain remedies, such as statutory damages and attorney’s fees, are available only for acts of infringement that occurred after the effective date of registration. If a published work was infringed before the effective

date of registration, those remedies may also be available if the effective date of registration is no later than 90 days after the first publication of the work.

The time the Copyright Office requires to process an application varies, depending on the amount of material the Office is receiving and the method of application. If you apply online for copyright registration, you will receive an email notification when your application is received. If you apply on a paper form, you will not receive an acknowledgment of your application, but you can expect a certificate of registration indicating that the work has been registered; a letter or a telephone call from the Copyright Office if further information is needed; or, if the application cannot be accepted, a letter explaining why it has been rejected.

The Copyright Office cannot honor requests to make certificates available for pickup or to send them by express mail. If you want to know the date that the Copyright Office receives your paper application or your deposit, use registered or certified mail and request a return receipt.

For Further Information

By Internet

Circulars, announcements, regulations, other related materials, and all copyright application forms are available from the Copyright Office website at www.copyright.gov.

By Telephone

For general information about copyright, call the Copyright Public Information Office at (202) 707-3000 or 1-877-476-0778 (toll free). Staff members are on duty from 8:30 AM to 5:00 PM, eastern time, Monday through Friday, except federal holidays. Recorded information is available 24 hours a day. If you know which application forms and circulars you want, call (202) 707-9100 or 1-877-476-0778 and leave a recorded message.

By Regular Mail

Write to:

*Library of Congress
Copyright Office—COPUBS
101 Independence Avenue SE
Washington, DC 20559-6304*

