

As new software tools continue to make it easy to place CAD files on the Web, many design firms are using Web sites as online galleries featuring project photographs and renderings to promote services. Some architects might be concerned, however, about making their work so widely available in a digital format, because most images placed on the Web can be downloaded with a right-click of the mouse. While copyright laws are intended to provide protection for original works, including works of architecture, the legal issues surrounding copyrights for design work can be incredibly complex when digital images and the Internet are added to the mix.

Although the legal issues regarding copyrights on the Web are rapidly evolving, many experts view existing law as inadequate protection for digitally transmitted works. According to April Major, director of operations for the Villanova Center for Information Law and Policy, "applying well-established legal doctrine to the National Information Infrastructure can be like forcing a square peg into a round hole."

Architectural works are covered

The Copyright Act of 1976 extended copyright protection to original work "fixed in any tangible medium of expression, now known or later developed, from which they can be perceived, reproduced, or otherwise communicated, either directly or with the aid of a machine or device." Architectural works were specifically included by the Judicial Improvement Act of 1990, which revised U.S. copyright law to bring it into compliance with international agreements. The work must be original, and it must be embodied in a tangible medium of expression, such as a building, plans, or drawings.

Original images, text, or other content available on the Internet is considered fixed in a "tangible medium" because it is stored on a computer hard drive. According to a recent article in the *New York Law Journal*, under existing copyright law "a work accessible via the Web or any other digital network is 'fixed' by virtue of its embodiment in computer code stored on a file server, from which the work can be perceived, reproduced, or communicated." Original architectural work displayed on the Internet would be protected under this interpretation.

What can an architect do?

Despite the seeming clarity of the legal language, architects should not assume that copyright law prevents all unauthorized third-party use of their copyrighted works. It can be argued that when you place a copyrighted work on the Web and allow it to be downloaded, the implication is that you are allowing third parties to create and own a copy of the work. Additionally, the "fair use" doctrine allows the use of copyrighted works without permission of the copyright owner under certain circumstances. Architectural copyrights are further complicated by the public nature of architecture. This issue was addressed by the Architectural Works Copyright Protection Act, which prevents copyright owners from limiting pictorial representations of buildings constructed in a public place.

To help secure copyright protection for work that is made available electronically, experts recommend attaching copyright management information and terms and conditions of use to digital information. In other words, a proper copyright notice can provide additional protection. Typically, this would contain three elements:

- 1) Copyright, Copr., or ©
- 2) The name of the copyright owner
- 3) The year of first publication of the work.

The notice should also include the phrase *All rights reserved*, which provides international protection under certain international intellectual-property conventions.

Consider also formal registration: For a \$20 application fee, architectural works can be registered with the U.S. Copyright Office provided the project meets the parameters defined in Section 102 of the copyright law. (See Form VA, Circular 41, available online from the U.S. Copyright Office, <http://lcweb.loc.gov/copyright/reg.html>) Additionally, the AIA owner-architect agreements specify that construction documents and copyright ownership are retained by the architect.

Several new legislative initiatives about online copyright issues are under consideration. Consult an attorney to assist with initial registrations and to review your firm's copyright procedures to ensure that your practices are up to date.

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