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Architectural Drawings are Entitled to Copyright Protection

Intellectual Property Client Alert

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The Court of Appeals for the Second Circuit, in *Scholz Design Inc. v. Sard Custom Homes LLC*, recently affirmed that architectural drawings are protectable by copyrights.

Prior to 1990, under the Copyright Act, architectural drawings were protected from copying as “pictorial” or “graphic” works like paintings or photographs. Protection was available for architectural drawings, but not for completed buildings resulting from the architectural drawings. In 1990, Congress passed the Architectural Works Copyright Protection Act of 1990 (AWCPA), which amended the Copyright Act to provide protection for “architectural works,” i.e., completed buildings.

In the present case, Sard Custom Homes made exact copies of copyrighted drawings depicting homes. The drawings were created prior to the implementation of the AWCPA. Scholz sued claiming copyright infringement. Sard Custom Homes responded by arguing that the drawings were not entitled to copyright protection because they predated the AWCPA, and that the AWCPA provided protection only for completed buildings.

A lower court held that due to the enactment of the AWCPA, only actual buildings could now be copyrighted. Protection for architectural drawings would only exist if the drawings enabled someone to build an actual building to qualify for protection under the AWCPA.

Therefore, the Second Circuit has confirmed that extension of copyright protection to buildings under the AWCPA did not negatively impact protection for the underlying architectural drawings. Regardless of the protection for architectural works under the AWCPA, the architectural drawings are protected under the Copyright Act. It is advisable, therefore, to ensure that all necessary rights are accounted for prior to using any architectural drawings.

A copy of the *Scholz Design* decision can be found [here](#).

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