INTELLECTUAL PROPERTY

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ARCHITECTURAL WORKS AND INTELLECTUAL PROPERTY LAWS IN NIGERIA[1]

Introduction

Architecture occupies a unique intersection between creative expression and functional design, embodying both artistic innovation and utilitarian purpose. In Nigeria, the legal recognition and protection of architectural works have become increasingly pertinent amid rapid urbanization, technological advancement, and growing investments in real estate and infrastructure. Architectural works, by their nature, transcend mere physical structures; they represent intellectual creations that merge aesthetic conception with technical precision.

This article provides a review of the legal framework governing the protection of architectural works in Nigeria, with particular emphasis on copyright law, trademark law, and patent and design legislation. It examines the scope of protection afforded architectural creations, the extent of ownership rights and moral rights of architects, and the limitations and exceptions that arise in practical contexts such as reconstruction and public use.

Definition of Architectural Works

An architectural work is defined as the design of a building as embodied in a tangible medium of expression, including the building itself, architectural plans and/or drawings.[2] It can be further defined as the buildings or structure or any model of a building or structure, its

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2 US Legal, "Exploring Architectural Works: Legal Definitions and Implications" available at <https://legal-resources.uslegalforms.com/a/architectural-work> accessed on October 24, 2025.

appendant elements, durable objects of the synthesis of such works with other arts as well as durable interior decorations of a building.[3]

The practice of creating architectural works is usually employed to fulfill both functional, artistic, aesthetic and utilitarian needs. Architectural works are also considered as works of art which encompasses the overall shape, arrangement and composition of space and elements within a building design. Architectural works are usually created to fulfill the specifications of an individual or group and it involves the use of the creative ideas and experience of the architects expressed through a tangible medium.

However, it must be noted that standard features used in construction generally cannot be classified as architectural work. The characteristics of an architectural work that distinguishes it from general construction or other structural projects are:

a) the use and communication of unique creative and artistic skills, ideas and experience in a form such as drawings, floor plans, 3D models, blueprints, tailored to the design of a building for construction.

b) the suitability of the work to specifications requested and for use by human beings in general, as well as its adaptability to particular human activities.

c) the stability and permanence of the work's construction.[4]

Architectural Works and Copyright Law

Architectural works are generally regarded as artistic, creative drawings and designs made as a result of the unique creative skill and intellect of the author/owner. Hence, it is eligible to be protected through copyright. The *Copyright Act*[5] categorises architectural works under the broader branch of artistic works. This is based on the reasoning that architectural works are considered to be creative artistic expressions of drawings and pictorial designs of buildings made by the owner. Architectural designs are protected by copyright, when achieved through exercise of the designer's creative skill and judgement rather than through simple mechanical application of knowledge and experience. Section 108 of the *Copyright Act* defines an *artistic work* to include "*works of architecture in the form of building models*". In practice, this means that an architect's drawings, plans, or physical models of a building are protected as creative expressions under copyright law.

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3 Law Insider, "Architectural Works Definition" available at <https://www.lawinsider.com/dictionary/architectural-works> accessed on October 24, 2025.

4 James S. Ackerman and Peter Collins, "Architecture" (*Britannica*, September 24, 2025) available at <https://www.britannica.com/topic/architecture> accessed October 24, 2025).

5 Section 10(3) *Copyright Act*, 2022.

However, it must be highlighted that architectural works must fulfil and conform to the requirements set out in section 2(2) of the *Copyright Act*, in order for it to be regarded as eligible for copyright protection.[6] These requirements are that:[7]

a) sufficient efforts must have been expended in the work to give it an original character

b) *the work has been fixed in a definite medium of expression now known or later to be developed from which it can be perceived, reproduced and otherwise communicated either directly or indirectly with the aid of a machine or design*.

In order for the owner of the architectural work to acquire copyright protection against possible infringement from individuals, the work must adequately fulfill these requirements as well as incorporating original creative elements and designs not regarded as general construction features or structures. Copyright law protects original architectural works, including drawings, floor plans, and completed structures, provided they demonstrate creativity.[8] In the case of ***Ifeanyi Okoye & Anor v. Prompt & Quality Services & Anor***,[9] the court held that architectural works are eligible for copyright protection provided the work is original and fixated in a medium of expression.

Copyright protection of architectural work vests exclusive rights on the author over use of the architectural designs by other people. The architects are granted the exclusive rights to reproduce, distribute, and publicly display their works. These rights allow architects to control the use of their designs and to benefit economically from their creations.[10] The *Copyright Act*[11] grants the architects the rights over reproduction of the work in material form, publication of the work, inclusion of the architectural work in a cinematograph film, and any form of adaptation of the architectural work. The creator of an architectural work enjoys copyright protection for their lifetime plus 70 years after death.[12]

The owner of the architectural work also gains moral rights over the work, in particular that the authorship of the work be indicated in connection with any acts such as production,

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6 Section 2(2).

7 Sandra Eke, and Others, "A Review of the Nigerian Copyright Act 2022", available at < https://spaajibade.com/a-review-of-the-nigerian-copyright-act-2022/ > accessed on October 24, 2025

8 Abiola Akinola, "Navigating Copyright Law in a Modern Architectural Design" (*Architects Registration Council of Nigeria*, 2025) available at < https://arconigeria.gov.ng/navigating-copyright-law-in-modern-architectural-design/#:~:text=The%20Copyright%20Act%202022%20reflects,include%20architectural%20designs%20and%20plans> accessed on October 24, 2025.

9 (2003-2007) 5 I.P.L.R 117.

10 Chaman Law Firm, "The Untold Power of Intellectual Property in Real Estate; Protecting Architectural Designs and Plans" available at <https://chamanlawfirm.com/ip-real-estate-development-the-role-of/> accessed on October 24, 2025.

11 Section 6(1)(b) *Copyright Act*, 2022.

12 Section 19(1)(a).

reproduction, adaptation or making the work available to the public in a commercial sense. In the case of ***Maurice Ukaoha v. Broad-based Mortgage Finance Limited & Anor***,[13] the defendants had advertised the architectural models of the plaintiff in the newspaper without the permission of the plaintiff/architect and attributed authorship of the model to a different party who had not produced the model. The courts held that the acts of the defendants in publicly exhibiting and publishing the model, while also ascribing authorship to a third party, without the consent, authorisation or license of plaintiff constituted a violent infringement of the plaintiff's honour and reputation as owner and author of the model.

Additionally, section 10(2) of the *Copyright Act* states that: *"the protection of a three-dimensional work of artistic craftsmanship shall not extend to its functional aspects*." This provision of the Act implies that copyright protects creativity, not functionality. Where an individual creates a work that is both artistic and useful (a chair, a lamp, a building, a bridge, etc.), the copyright protection solely applies to the **artistic or decorative** elements of the work, and not the **practical or functional** part that establishes a useful purpose or a function.

Section 37(6) of the Act expressly bars any remedy requiring an infringing building to be demolished. The courts may award damages or injunctions in a case of copyright infringement over a building constructed using the copyrighted architectural work without the permission of the author but not force demolition of already constructed property.[14]

Implications of Section 10(3) of Copyright Act

Section 10(3) of the Copyright Act provides that:

> …copyright in a work of architecture shall also include the exclusive right to control the erection of any building, which reproduces the whole or substantial part of the work either in its original form or in any form recognizably derived from the original, but not the right to control the reconstruction in the same style as the original of a building to which the copyright relates.

This provision highlights the fact that the architectural models, drawings, blueprint, and 3D models are protected under copyright law but at the same time also establishes a specific limitation on the exclusive rights of authors of architectural works. While architectural designs and plans are protected under the Act as original works, section 10(3) clarifies that once a building has been lawfully constructed based on such a design, the architect's copyright does **not** extend to controlling or preventing the subsequent **reconstruction** or **rehabilitation** of that same structure/or building style.

This implies that the owner of a building constructed from a copyrighted architectural design retains the legal right to repair, renovate, or entirely rebuild the structure, even if such actions

[13] (1997 – 2003) 4 I.P.L.R 48.
[14] Section 37(6) *Copyright Act*, 2022.

involve reproducing the original design in whole or in part. This reconstruction may occur without obtaining further permission from the original architect or copyright holder. For instance, in the event that a building constructed based on an architectural design is destroyed by a fire or natural disaster such as an earthquake, the building owner is not required to obtain additional permission to reconstruct or reproduce the same structure using the previously employed architectural plans. This recognizes the building owner's right to restore the original building without infringing upon the architect's copyright.

The rationale behind this provision lies in balancing the rights of architects with the practical interests of building owners. While the law protects the intellectual creation (i.e., the design or blueprint), it recognizes that the physical building—once constructed—belongs to the owner who paid for the drawings and the construction of the building. Therefore, the copyright owner/author cannot interfere with the building owner's rights to maintain or rebuild the structure, especially where such actions are necessary due to deterioration, damage, or changing functional needs.

However, it is important to note that this exception applies only to the same building. It does not grant the right to replicate the design for new, separate constructions elsewhere.[15] The replication of an architectural design for new buildings without authorization would still constitute an infringement of the architect's copyright. In the case of ***Blair v. Osborne & Tomkins***,[16] the plaintiff, an architect had been commissioned to prepare an architectural plan for the owners of a plot of land. The owners paid the architect's fees and thereafter transferred the land, accompanying documents, including the architectural drawings for the land to the defendants. The house was built on the sold plot of land using the architectural design. In the action for copyright infringement by the architect, the court held that,

> …when the owner of a building plot employs an architect to prepare plans for a house on site, the architect impliedly promises that in return for his fee, he will give license to the owner to use the plans for the building on that site, if the owner should sell the site, the implied license extends so as to avail the purchaser for only that building site only as well.

This is also reiterated in section 20(1)(q) of the *Copyright Act* which states:

> The rights conferred in respect of a work under sections 9-13 of this Act, do not include the right to control any of the acts specified in those sections by way of fair dealing for purposes such as —use of an artistic work in the form of a

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15 Abiola Akinola, "Navigating Copyright Law in a Modern Architectural Design" (*Architects Registration Council of Nigeria*, 2025) available at < https://arconigeria.gov.ng/navigating-copyright-law-in-modern-architectural-design/#:~:text=The%20Copyright%20Act%202022%20reflects,include%20architectural%20designs%20and%20plans> accessed on October 24, 2025.

16 (1990 – 1997) 3 I.P.L.R.

building model or a drawing or plan of a building for the purposes of reconstructing the building.

However, none of these provisions permit building from a copyrighted design without permission of the author or infringement of architectural works.

In practice, it is advisable for architects to register or file a notification of their works with the Nigerian Copyright Commission (NCC) to create a public record of such works. Since registration is not required for protection under local and international treaties, this simply provides *prima facie* evidence of ownership. Architectural works are classified as artistic works under the law, thus rights accruing to owners of artistic works applies to architectural works.

Architectural Works Under the Patent and Designs Act

Section 1 of the *Patent and Designs Act* provides the requirements and the characteristics of works that are patentable. It provides that an invention is only patentable if it[17];

a) is new (i.e., not part of the state of the art),

b) involves an inventive step (i.e., not obvious to a person skilled in the art), and

c) is capable of industrial application (i.e., can be manufactured or used in any kind of industry).[18]

Thus, patents are designed to protect technical inventions, processes, methods, or products that is capable of industrial application. Architectural works, by contrast, are primarily artistic and creative expressions of designs, encompassing the aesthetic appearance, form, and layout of a building or structure. While architecture may incorporate some form of functional elements, the architectural design itself; its shape, style, ornamentation, and visual appearance is regarded as creative expressions rather than technical inventions. They are merely drawings, building models, blueprints and artistic works which do not demonstrate technical character or capability of industrial application. Therefore, in consonance with the provisions of the *Patents and Designs Act*, architectural works are not patentable.[19]

Alternatively, apart from copyright, architectural features can sometimes be protected as industrial (registered) designs under the *Patents and Designs Act*.[20] Where the architectural design involves distinctive industrial features intended for multiplication by industrial process,

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17 Sandra Eke and Franklin Okoro, "Qualification Rights of an Inventor Under Patent Laws In Nigeria" available at < https://spaajibade.com/qualification-and-rights-of-an-inventor-under-patent-laws-in-nigeria/>accessed on November 10, 2025.

18 Section 1 *Patents and Designs Act* CAP P2 LFN, 2004.

19 Section 1(2).

20 Section 2(6) *Copyright Act*, 2022.

protection may be sought under the design registration provisions of the *Patents and Designs Act*.

Section 12 of the Act provides:

> Any combination of lines or colours or both, and any three-dimensional form, whether or not associated with colours, is an industrial design, if it is intended by the creator to be used as a model or pattern to be multiplied by industrial process and is not intended solely to obtain a technical result.

In consonance with the *Patent & Designs Act*, the *Copyright Act* explicitly states that an artistic work is ineligible for copyright if it was intended by the author to be used as an industrial design. Thus, an architect who conceives a design for mass application (e.g., a modular building component for production or replication) would seek protection under the *Patents & Designs Act* rather than the *Copyright Act*.

In practice, most architectural works rely on copyright rather than design registration, since building constructions are usually one-off projects. However, elements like decorative panels, façade motifs or even model buildings can be protected as designs if registered as such.

Architectural Works and the Trade Marks Act

Section 67 of the *Trade Marks Act* defines a trademark as:

> …a mark used or proposed to be used in relation to goods for the purpose of indicating, or so as to indicate, a connection in the course of trade between the goods and some person having the right either as proprietor or as registered user to use the mark.

The fundamental purpose of a trademark is commercial source identification. It is used to inform consumers that a product or service originates from a specific trader, thereby preventing confusion in the marketplace.[21]

Architectural works are not trademarkable as they are not marks or symbols used in commerce to identify or distinguish the source of goods or services. Architectural works embody artistic aspects of a building project, which lie outside the conceptual boundaries of trademark protection. The logo, symbol or brand name associated with the owner or the architectural work can be trademarked. However, the architectural work itself cannot be trademarked.[22]

Conclusion

The protection of architectural works under Nigerian law affirms the recognition of architecture as a form of intellectual creation deserving of legal and moral safeguarding. Through the

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21 Maryam Abdulsalam, "Registration of Trademarks and Its Benefits" available at <https://spaajibade.com/registration-of-trademark-and-its-benefits/> accessed on November 10, 2025.

22 Section 67 *Trade Marks Act* CAP T13 LFN*, 2004.*

framework established by the *Copyright Act*, architects are granted exclusive rights over the reproduction, adaptation, and communication of their original designs, thereby reinforcing the value of creativity and authorship in the built environment. This protection not only preserves the integrity of architectural expression but also promotes innovation, professionalism, and respect for intellectual effort within the construction and design industry.

However, the effective realization of these objectives depends on a consistent understanding and application of copyright principles among practitioners, clients, and regulatory institutions. There is a need for continuous sensitization on the scope of rights accorded to architects and the exceptions that apply, particularly in contexts such as public interest use and post-disaster reconstruction. Strengthening awareness, compliance, and enforcement mechanisms will ensure that the legal protection of architectural works in Nigeria continues to support both the economic interests of creators and the broader goal of cultural and infrastructural development.

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