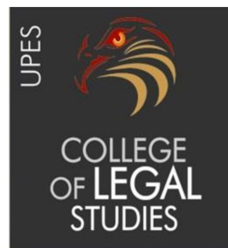
DUPLICATION OF VICTORIAN STRUCTURE BY CHINA AND IPR RELATED ISSUES

Yogendra Poswal

Submitted under the guidance of: Prof. Anuradha Nayak

This dissertation is submitted in partial fulfillment of the degree of B.A., LL.B. (Hons.)/B.B.A., LL.B. (Hons)



College of Legal Studies

University of Petroleum and Energy Studies

Dehradun

2015

CERTIFICATE

This is to certify that the research work entitled **"Duplication of Victorian Structure by China and Related IPR issues"** is the work done by Yogendra Poswal under my guidance and supervision for the partial fulfillment of the requirement of B.A., LL.B. (Hons.)/B.B.A., LL.B. (Hons)degreeat College of Legal Studies, University of Petroleum and Energy Studies, Dehradun.

Ms. Anuradha Nayak

(Mentor)

COLS

UPES

04-07-2015

DECLARATION

I declare that the dissertation entitled **"Duplication of Victorian Structure by China and Related IPR issues"** is the outcome of my own work conducted under the supervision of Dr./Prof.________________, at College of Legal Studies, University of Petroleum and Energy Studies, Dehradun.

I declare that the dissertation comprises only of my original work and due acknowledgement has been made in the text to all other material used.

Yogendra Poswal

Date:-04-07-2015

Acknowledgement

I would sincerely like to thank everybody who has helped me in the successful accomplishment of this project. I would like to thank Miss Anuradha Nayak for her guidance and support in completing the project and I would also like to thank all the relevant authorities of Authorities of UPES, who helped me to procure sufficient information for my research purpose.

I would like to convey my thanks towards my parents and family for their kind co-operation and encouragement which helped me in completing this project. My thanks and appreciation also goes to friends and seniors who helped me a lot.

Chapterization

1. Introduction
2. History of Copyright
3. Introduction of Copyright in the Light of US advancements
   3.1 The Copyright Act of 1790
4. Analyzing the Copyright Act of 1976 to Architectural Works
   4.1 Design Patent
   4.2 Protection of Plans
5 Copyright Claims in Architectural Works
   5.1 Eligible Building Designs
   5.2 Ineligible Building Designs
   5.3 Terms of Protection
   5.4 Registration Procedures
   5.5 Additional Registration Requirements
      5.5.1 Separate Registration of Plans
      5.5.2 Registration Limits
      5.5.3 Deposit Requirement
      5.5.4 Effective date of Registration
6 Who owns the right to the Copyright in the Architectural Plans?
7 History of the Victorian Architecture
   7.1 Gothic Revival
   7.2 Late Gothic Revival
8 Key components in the Victorian Style
   8.1 Acclaimed Cases
9 Copyright Protection of Architectural Plans, Drawings, and Designs
   9.1 Law of Patents
      9.1.1 Novelty
      9.1.2 Non-Obviousness
   9.2 Statutory Copyright Protection

10 Chinas Copycat Syndrome
10.1 Building design & IP Rights
10.2 Offering Courses of action and Contracts
10.3 Requirements
10.4 Architecture & Copyright Controversies
11 A Little history of the Thames town of China
12 The International IP Architecture: Multilateral, Regional,& Bilateral Rules
12.1 Multilateral Bargain
12.2 Global Standard
12.3 The World Intellectual Property Organization (WIPO)
13 Copycat Syndrome at an International Level
13.1 The Legacy of the Pharaohs
13.2 Contending rights-striking a party
13.3 The privilege to the honesty of a work
13.4 Fantastic encroachment of Good Rights
13.5 Motivation or Copyright in Infringement
14 Conclusion
15 Bibliography

Table of Cases

1. Eric Eldered, vs. John D. Ashcroft
2. Imperial Homes Corp vs. Lamont, 458 F 2nd 895
3. LLC vs. Galloway, 492 F3d 532 (4th Cir. 2007)

Abbreviation

IT- Information Technology

US- United States

SC- Supreme Court

USPTO- United States Patent and Trademark Office

IP- Intellectual Property

TRIPS- Trade Related Aspects of Intellectual Property

WTO- World Trade Organization

PCT- Patent Collaboration Treaty

USC- United State Code

IPA- Indian Patent Act

1. Introduction

Can the design of the architectural heritage be secured form the imitation? Architectural Heritage depicts the very culture of a country; it shows its art work, intellectuals, etc. of that country that made the architecture its heritage. There been many discussions that whether the structure of any architecture can be protected for imitation. WIPO also held many conventions regarding the protection of the Architectural Heritage which we will see in this dissertation. Many countries had made special provision for the purpose of securing their art of monuments and architectures.

Architects are the persons responsible to give the designs of the structures they are hired to make, their services includes drawings, designs, plans and/or models of buildings. Now it is important to notice that who rightfully owns the moral right and the legal right over that designs.

Prior to 1968, copyright in buildings and other structures subsisted only in "architectural works of art", which were defined as buildings or structures having artistic character or design. This protection was quite restricted, and led to many disputes regarding interpretation.

With the passing of the Act, copyright was found to subsist in a broader range of architectural works. By virtue of section 10, "artistic work" (to which copyright afforded) is defined to mean:

(a) a painting, sculpture, drawing (which is defined to include diagrams, maps, charts or plans), engraving or photograph, where the work is of artistic quality or not;

(b) a building or model of a building, whether the building or model is of artistic quality or not; or

(c) a work of artistic craftsmanship to which neither of the last two preceding paragraphs apply. [1]

---

[1]*Michael Bampton, Partne,* **Architects and Intellectual Property: Protecting Your Building Plans and Designs, Henry Davis York Lawyers, p.1-p.4**

"Perhaps the most significant advance in the modern science of law is the change from the analytical to the functional attitude."[2]

The aim of the author in this article was to discuss briefly that whether the right granted by any copyright act to any architect or designer would have dame value to the copyright granted to the authors, composers, etc. whether there is any dissimilarity between the rights of these two classes. So in this article the author Katz has discussed various aspects of the copyright protection in the field of architecture and design.
It is important to introduce this article in this dissertation because there is a need in this dissertation to understand that what it is the jurisprudential value of the copyright in the field of architecture and design. By discussing this article it would very beautifully demarcates the concept of common law copyright and statutory copyright.

Drone, a very eminent US writer has defined the concept of Copyright as follows[3]

“Copyright is the exclusive right of the owner to multiply and to dispose of copies of an intellectual production. It is the sole right to the copy or to copy it. The word is used indifferently to signify the **statutory and the common-law right** of the owner in a literary or musical composition or work of art. As there are essential differences between the two rights, one is sometimes called copyright after publication, or statutory copyright; and the other copyright before publication, or common-law copyright. Copyright is also used synonymously with literary property.”

---

[2] CARDOZO, THE NATURE OF THE JUDICIAL Process 66 (1921).

[3]EATON S. DRONE, A TREATISE ON THE LAW OF PROPERTY IN INTELLECTUAL PRODUCTION GREAT BRITAIN AND THE UNITED STATEs oo-roi (1879)

Now here the two concepts known as statutory right and the common right of the owner. In this definition the writer has cleverly made the distinctions between the two as, the right which is granted to the author for his work before the publication will be known as the common law copyright and right which will be granted to the author after the publication of the work of the author will be known as the statutory copyright.

These both rights have the different applications which are further discussed in this dissertation to have a better idea of this concept of the rights.

There is another concept that can be detailed in this dissertation, as the executed and non-executed designs. To get a better idea for these two terms elaboration can be done. So for example in the case of any music composer, the notes of the compose are known to be the executed design because first of all the notes are merely the design and secondly these designs can be performed so they are technically the executed designs similarly the architects design on which the architecture can be made following that design so again they are executed design, now comes the non-executed design like books, novels, though they cannot be executed but they have a dollar value.

Therefore, a wide range of architectural works, including drawings, sketches and models of buildings, as well as the actual building itself, are now afforded protection under the definition of copyright. Copyright protection will be afforded regardless of whether the item is hand drawn or created by software.

2. History of Copyright

The history of the concept of copyright can be scratched from the incidents happened in England (U.K.). In the late 15th century the introduction of the printing press was availed. By the introduction of presses, authorities sought to restrict the publication of books by the printers, by granting the printers a near monopoly. The new advancement came by the introduction of new act by the name of Licensing act of 1662 by which the monopoly was created and established a register for the published books to be administered by the Stationers Company. In the year of 1695 the act of 1662 was lapsed giving relaxation to the government censorship. With the advancement of the time there was introduced a new statute in the parliament by the name of Statute of Anne, aiming mainly on the concerns of English booksellers and their publications. The statute established the principle of authors, ownership of copyright and a fixed term of protection of copyrighted works (fourteen years, and renewable for fourteen more if the author was alive upon expiration).

The statute prevented a monopoly on the part of the booksellers and created a ″public domain″ for literature by limiting terms of copyright and by ensuring that once a work was purchased the copyright owner no longer had control over its use. While the statute did provide for an author’s copyright, the benefit was minimal because in order to be paid for a work an author had to assign it to a bookseller or publisher.

3. Introduction of Copyright in the Light of US advancements

The reason behind the emphasis on the US scenario for the purpose for the history of Copyright is that as US is the most developed nation in the world and had a very good advancement in the field of law, that's the reason this dissertation give more emphasis on the evolution of copyright law from the historical aspects of the US incidents leading to the evolution of Copyright law.[4]

These are some of the incidents in order which lead to the formation of a well rigid law for the copyright,

3.1The Copyright Act of 1790,

An Act for the Encouragement of Learning, by Securing the Copies of Maps, Charts, and Books to the Authors and Proprietors of Such Copies, was modeled on the Statute of Anne (1710). It granted American authors the right to print, re‑print, or publishes their work for a period of fourteen years and to renew for another fourteen. The law was meant to provide an incentive to authors, artists, and scientists to create original works by providing creators with a monopoly. At the same time, the monopoly was limited in order to stimulate creativity and the advancement of ″science and the useful arts″ through wide public access to works in the ″public domain.″

The year of 1831 saw a little advancement in the copyright law, at this point of time there was a little revision made in the act by extending the term of protection of copyright to twenty-eight years with a possibility of a 14 year extension.

---

[4] Association of Research Libraries (ARL), Copyright Timeline: A History of Copyright in United States, http://www.arl.org/focusareas/copyrightip/ 2486copyrighttimeline#.VRvbiJvOfD4

Then in the year of 1834 arose a new incident regarding the copyright issue, the case named, Wheaton vs. Peters derived many new advancement in the copyright law. The brief of the case is as follows:

The case arose from a dispute between the official reporter of U.S. Supreme Court decisions, Richard Peters, and the previous reporter, Henry Wheaton. Peters began publishing ″Condensed Reports″ of cases decided during Wheaton's tenure and Wheaton sued. The case went before the U.S. Supreme Court. Peters argued that Wheaton had failed to properly obtain copyright, while Wheaton argued that authors were entitled to perpetual property rights in their works. Justice McLean delivered the majority decision, stating that ″since the statute of Anne, the literary property of an author in his works can only be asserted under the statute. . . . That an author, at common law, has a property in his manuscript, and may obtain redress against anyone who deprives him of it, or by improperly obtaining a copy endeavors to realize a profit by its publication cannot be doubted; but this is a very different right from that which asserts a perpetual and exclusive property in the future publication of the work, after the author shall have published it to the world.″ The decision struck a decisive blow against the notion of copyright as a perpetual natural right, and the utilitarian view of copyright embodied in the U.S. Constitution prevailed, i.e., ″that patents and copyrights are exclusive rights of limited duration, granted in order to serve the public interest in promoting the creation and dissemination of new works.″[5]

With this first case regarding the copyright issue then came 2 more cases with this issues namely Folsom vs. Marsh (1841) and Stowe Vs. Thomas (1853), which helped in much advancement of the copyright law.

---

[5] ERIC ELDRED, Vs. JOHN D. ASHCROFT, US (1834)

Then the Berne Convention came regarding the enlargement of the topic of Copyright law. The goals of the Berne Convention provided the basis for mutual recognition of copyright between sovereign nations and promoted the development of international norms in copyright protection. European nations established a mutually satisfactory uniform copyright law to replace the need for separate registration in every country.
The treaty has been revised five times since 1886. Of particular note are the revisions in 1908 and 1928. In 1908, the Berlin Act set the duration of copyright at life of the author plus 50 years, expanded the scope of the act to include newer technologies, and prohibited formalities as a prerequisite of copyright protection. In 1928, the Rome Act first recognized the moral rights of authors and artists, giving them the right to object to modifications or to the destruction of a work in a way that might prejudice or decrease the artists′ reputations. The United States became a Berne signatory in 1988.

As the time preceded the advancement of Copyright law also preceded in the same pace, many cases filed followed by the various revisions. Finally the copyright law bagged its identity at the international level by with the TRIPS agreement of 1996.

So this was some of the brief history regarding the Copyright Law. The main focus of this dissertation is on the copyright aspects in the Architectural designs. As the Architectural designs also need copyright protection so for that purpose there was needed a brief history of the Copyright Law and now the brief little history about the Copyright act in the field of Architectural Designs.

The legal doctrines afford limited protection to architectural design:

1. Copyright law,
2. The design patent provisions of the Patent Act, and

1. Copyright Law

There were several acts and legislations as formed by the US constitution as discussed above aiming to secure the right of the writers and the "authors" of the publications, so that their art with the work of creativity can be secured from the imitation done illegally by any other person. The ultimate goal of these provisions was the promotion of the work done by the authors and their creativity remains intact from the imitation.

So these provisions gave them the boost that was needed by any author so that they get encouraged and with their creativity be carried to continue their work of literature that can be of architectural designs.

The Copyright Act of 1976played a very major role in granting the copyright to the authors for the work.

The general provisions of the act are as follows:

The Copyright Act of 19769 protects "original works of authorship fixed in any tangible medium of expression."' The statute divides '"works of authorship" into seven categories, "I including the category of "pictorial, graphic, and sculptural works."' This category includes "two-dimensional and three dimensional works of fine, graphic, and applied art . . . technical drawings, diagrams, and models."' The statute protects such works, however, only "insofar as their form but not their mechanical or utilitarian aspects are concerned."' Thus, the design of a "useful article"' such as a building receives copyright protection "only if, and only to the extent that, such design incorporates pictorial, graphic, or sculptural features that can be identified separately from, and are capable of existing independently of, the utilitarian aspects of the article."'[6]

As per this act, a copyright owner possesses the right to reproduce that copyrighted work, prepare derivative works, distribute copies to public by sale, and to display the copyrighted work in public.

---

[6] Elizabeth A. Brainard, INNOVATION AND IMITATION: ARTISTIC ADVANCE AND THE LEGAL PROTECTION OF ARCHITECTURAL WORKS, Cornell Law Review, 82-84 (1984)

4. Analyzing the Copyright Act of 1976 to Architectural Works:

To analyze the protection given under the Copyright act to the authors, can be distinguished in two varied processes, firstly the infringer of the copyright can reproduce the authors work and giving its own name to it, and secondly the infringer can have open access to the work of author and without reproducing he can build the structure by accessing the work of the author without even reproducing it.

These architectural works falls under a special category the name goes by as "technical drawings", and it is the subject matter of this act because the author of the design has the special right to reproduce the work made by him.

The fact can be more adduce by this case namely Imperial Homes Corp. vs. Lamont, under this case the defendant produced an architectural design and on that design he made a house from that design, the plaintiff arose the issue that house made by the defendant was actually an imitation done of the design made by the plaintiff, plaintiff's profession was to design the dwelling houses professionally.

The district court found that the house made by the defendant was actually by imitating the design made by the plaintiff; however the appellate court expressly placed the right to build from plans beyond the scope of copyright protection.

4.1 Design Patent

As the Copyright act provides the authors work a protection of his work from imitation the constitution also provided the new concept namely the patent legislation.

Now as we know that the purpose of the copyright is to protect the work of the author form any imitation done by any infringer and it gives author the exclusive right to reproduce its work and to provide it for public. On the other the patent legislation gives the builder of any construction, a right that no one can imitates the design build by the constructor, moreover its gives a kind of monopoly to the constructer to build that design by him only but only for a considerate period of time.

So according to the design patent, the requirement to obtain a patent for any work would need two basic requirement namely “novelty” and “non-obviousness”. As judicially developed, "the standard of novelty is whether the design appears to the ordinary observer to differ from the prior art and not to be a mere modification of it." This requirement distinguishes design patent protection from that of copyright because copyright requires only originality, but not novelty. Thus, if an author independently creates a work substantially similar to an existing, copyrighted and patented work, the author will be liable for patent, but not copyright, infringement. A "non-obvious" design is one that "would not have been obvious at the time the invention was made to a person having ordinary skill in the art."

4.2Protection of Plans

The very idea behind granting the copyright to an authors and to its artistic work is that it gives the protection to the authors or designers so that no one can imitates there, it has a very economic benefit also. The economic aspect of the protection of the plans is that firstly it gives the author an exclusive right to reproduce the work and to allow it for the public and by this right he will become the sole marketer of his own drawing whereas if the imitation been allowed than the infringer can greatly get benefitted by his work and can sell the design in the market and get the benefits of it without any hard work.

Secondly if the imitation is allowed than after imitating the design, the imitator will sell the design in the market and there will be a kind of uniformity in the design by which there will be monotonous building be formed in the area as the design were all the same so there will be no creativity in the building’s design.

Notwithstanding, there are numerous scholarly creations which are neither monetarily nor cannily finish when rendered singularly as distributed duplicates. Music is not completely misused simply by the printing of notes on paper. It springs into life just when these notes are played. An address may be appreciated when distributed as a book; in any case, to be completely abused, it is essential that it be conveyed before a group of people. Emotional works (and these incorporate films) may be perused and spread as plays and scripts.

Then again, they are of restricted quality unless they are performed. A representation of a pondered bit of figure won't give the genuine way of the work until the representation is executed. By the same token, a modeler's arrangements, drawings, and plans are of minimal handy worth until their data is transformed into a structure. Plainly, something extra must be finished with specific attempts to make them more important to the maker and general society. Area i (a) is concerned singularly with the "duplicate right." It is unequipped for sufficiently ensuring works which are principally proposed to be played, conveyed, performed or executed.

Accordingly, the makers of all these classes of works, with one remarkable special case, are given sure extra selective rights. Therefore, notwithstanding his duplicate right, the writer of copyrighted music appreciates the restrictive right to organize and adjust his music," and to control its open execution for profit88 and its recordation or mechanical generation Engineering plans, drawings, and outlines are no more an end in themselves than is a bit of sheet music. They are basically expected to be executed, to be transformed into structures. The distributed and distributing of duplicates is simply accidental. By and by, under the current copyright law, the modeler does not have the selective right to fabricate the structures encapsulated in his specialized compositions. He is restricted to such security as is managed him by his "duplicate right" in these compositions.

Appropriately, we turn to a dialog of the "duplicate right," what it secures and the methods whereby it is encroached. The copyright security of a work under Area i (a) does not reach out to the words or thoughts utilized. It grasps exclusively the game plan of the words" or the expression of the thoughts. Copyright in a work does not keep others from utilizing the data it contains, from utilizing the frameworks it clarifies or from developing the gadgets it depicts.

To be ensured, a work require just be unique, that is, the result of one's own works. Oddity is no variable. These focuses have been noted beforehand. It is hence possible that the material to which insurance is amplified may parallel or even be indistinguishable with matter long in the general population area.

As Judge Scholarly Hand has commented:

"[the work in question] ... must be esteemed to be unique, if by unique one implies that it was the unconstrained, unsuggested aftereffect of the creator's creative energy. . . . this ... decisively brings up the issue whether it be a resistance to a copyright that the exact work has freely showed up before it and is in people in general area.

Area 7 [now Segment 8] ...gives that "no copyright should subsist in the first content of any work which is in general society space." This is not new law, and means close to that by taking such content you may not get a copyright upon it.... It has no application whatever to a work which is of unique organization, in light of the fact that such a work is not the "first" content of any work in general society space, however a second and just as "unique" content of a work never distributed previously its copyright. The copyright law, not at all like the patent law, has no regulation of expectation. Innovation is the sole test of the legitimacy of a copyright. Anyway the entire work require not be unique.

By and large the creator has made the substance and additionally the type of the piece for which he claims copyright; and, however the estimations and contemplations may not all be unique, neither the entire nor a material necessary piece of the arrangement can be said to have beforehand existed. Famously talking, the work is completely new and unique. In any case the law does not oblige that an individual, to be qualified for copyright, should be the sole inventor of the work for which security is guaranteed.

Work offered by one individual on the generation of another, if no rights are subsequently attacked, will frequently constitute a legitimate case for copyright ... Anybody, by rolling out material improvements, augmentations, adjustments, changes, notes, remarks, and so forth., in the unprotected work of another, may make a substantial case for copyright in another and updated version.

Time and again courts seriously restrict the copyright insurance of a work by "dismembering" it. To start with the subtract from the work (expecting it to be an abstract work) such things as "old plot," "stock characters," "fundamental human feelings"- -the basic spot materials from which all stories are formed. The little remaining parts are then held to be protectable. It is presented that this practice is ill-advised. A learned generation must be seen as a group to focus its protectibility. Clearly, every individual word in an artistic work is in general society space. A complete activity of scholarly dismemberment would accordingly decimate all cases to copyright assurance.

It must be underscored that copyright insurance, does not reach out to words however just to their course of action, nor to thoughts or notions yet singularly to their articulation, advancement or treatment. It is the effect the maker's creative identity has on basic spot material which separates his work which makes it unconventionally his own. It is this nature of "proprietorship" which the copyright ensures. Lines, bends, edges, and squares are a percentage of the "geometric words" utilized by a planner as a part of his specialized works. These expressions of his are plainly in people in general space. Each compositional arrangement, drawing, and configuration is an amalgam of lines, bends, edges, and squares. Subtracting them from a specialized written work would leave the designer with no protectable property. This "syllogism" is neither legitimately nor lawfully redress.

It is the course of action of the lines, bends, edges, and squares which empowers the modeler to express his aesthetic identity. In fact, he is working with individual materials, each of which has been known since time immemorial. On the off chance that the draftsman's courses of action and modes of articulation are unique, are his alone, are not duplicated from the work of others or deliberately appropriated from game plans and modes of declaration in the general population space, then his specialized compositions are qualified for copyright assurance. His specialized compositions may be regular place in origination, undistinguished in configuration, and unoriginal in make-up. His calling and the deadened open may consider his work "predictable," "old cap," "nothing truly new." In any case, this present engineer's works are copyrightable; ". . . the "inventiveness" obliged [by copyright law] alludes to the type of representation and not to curiosity in the topic."

The specialized compositions of a planner are encroached when a generous piece of the protectable material has been replicated. This is the same principle material to all works secured under Area i (a). As demonstrated beforehand, the teaching of "reasonable utilization" allows a restricted or non-significant measure of duplicating. What, then, is a significant replicating?

This is more an issue of value than amount. The test seems, by all accounts, to be: If that divide of a work is taken whereupon its business or aesthetic achievement depends, the taking will be esteemed considerable, paying little heed to the little volume which the misused part bears to the aggregate mass of the work. Along these lines, the replicating of a solitary key musical expression from a mainstream melody was held to be a considerable taking. For an offended party to win in a copyright encroachment suit, he must build that the litigant replicated from his work and that this replicating was not a reasonable utilize and was, hence, an encroachment. One may encroach a patent by the guiltless multiplication of the machine protected; however the law forces no restriction upon the individuals who, without replicating, freely touch base at the exact mix of words or notes which have been copyrighted.

Where the topic of learned creations is by nature comparative, as would be the situation with farm house-style living arrangements containing a set number of rooms, the subsequent arrangements of two separate engineers could contain close similarities.
The legitimate inquiry is whether these likenesses have commonly come about because of a general utilization of normal sources and materials open to both planners, or whether one engineer utilized the work of alternate as a model, replicating from it instead of drawing from the regular sources.

For every situation concerning encroachment by duplicating, the courts search for some confirmation of access, for some evidence that the respondent had contact with, or learning or consciousness of, the offended party's work. Yet access, all things considered, is just a bit of incidental confirmation. Striking likenesses and reiteration of regular blunders are yet two methods for fulfilling the verification of absence of access.

The most evident method for encroaching a copyrighted compositional arrangement, drawing, and configuration is to duplicate straightforwardly from the first work itself. This may be fulfilled by a following, photo or other mode of direct generation.

Without evidence of direct replicating of building plans, drawings or outlines, it is important to demonstrate duplicating by different means. Here the relationship to the demonstrating of encroachment of copyrighted music is especially well-suited. One encroaches a music copyright by replicating down the music he hears being performed- whether the execution is by a "live" ensemble or by a phonograph record." Neither the interpretive version of the symphony, nor the phonograph record itself, is ensured under the copyright law."

5. Copyright Claims in Architectural Works

The definition of the architectural work as per the Architectural Works Copyright Protection Act, 1990, is, an `architectural work' is the design of a building as embodied in any tangible medium of expression, or drawings. The work includes the overall form as well as the arrangement and composition of spaces and elements in the design, but does not include individual standard features.

5.1 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[7]

[7] Circular of US Copyright Office.

5.2 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, cloverleaf's, 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.

5.3 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).

5.4 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).

5.5Additional 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.

5.1.1 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.

5.1.2 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.

5.1.3 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.

TheOffice 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 draftsperson(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 photo direct positive

4 blue-line copies (diazo or ozalid process)

5.1.4 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 copy right 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 three months 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 fur their 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 requests a return receipt.

6. Who Owns the right to the Copyright in the Architectural Plans

This is a very interesting issue in the process of copyright of design. Now the issue here is who owns the exclusive copyright over the architectural plan. This can be well versed by discussing a very helpful case which had decided and gave the ratio by which it can be easily concluded who will be the real owner of the architectural plans.

In the case of Christopher Phelps and Associate, [8] Homeowner #1 hires an architect for the purpose of making a design for his house. The architect made the design and gave the blueprint to the House owner #1. In the blueprints the architect has inserted in the each page the copyright notice, though the copyright was not registered in the US office. After the construction of the house of House owner #1, Houseowner#2 ask for the permission to make his own house from the design of House owner #1, he agreed and gave the blueprints of the architect to the Houseowner#2 and he made the same replica from that blueprint.

The architect now filed a case against the House owner #1 for infringing the copyright of the architect, as the he was the real owner of the designs and according to the Copyright law he has the exclusive right over his work to reproduce it or to make it public, or to sell it to somebody.

[8] LLC v. Galloway, 492 F.3d 532 (4th Cir. 2007)

Now in this case the Galloway was made to pay $20,000, as compensatory damage to the architect which represented the amount the architect would charge form the second homeowner for his design. However the court refused to made the injunction over the house as the after the damages being paid then he would be lawfully viable to made that house form the design.

The several important points that can be noted form this case are as follows:

1. Firstly it is the architect not the homeowner who has the right over the architectural designs made by the architect, he has the exclusive right over that design.
2. If the design is not registered with the US copyright office, then the architect would be liable to only charge the amount of damage as equal to the price he would charge the second home owner.
3. If the architect has registered his design in the US copyright office than he would be liable to recover a statutory damages, which may be up to $150,000, if willful infringement is found, plus attorney's fees and costs.[9]

[9] Jane Tucker, Architectural Plans – Who Owns the Right to the Copyright in Architectural Plans – The Homeowner or the Architect?, Veneventer Black LLP, Attorneys at Law (8-22-2010), http://www.lexisnexis.com/legalnewsroom/intellectualproperty/b/copyrighttrademarklawblog/archive/2010/08/22/architecturalplansw

7. History of Victorian Architecture

By the word Victorian style in gives an implication on the mind that the design would be of trimmed and doll structures. The Victorian style was the time in the Architecture era at the time of Queen Victoria of England. The royal designs made at that time in the reign of Queen Victorian were bagged by the name of Victorian Style.

The era spawned from the period 1830 to 1910, i.e. during the reign of Queen Victoria. The reason behind the history of Victorian Architecture in this Dissertation is that, firstly before moving to the topic of the imitation of the style of Victorian architecture by China, we should know the brief history of the style of Victorian structure.

By this dissertation it is the motive to make the readers understand the emotion which are attached to the buildings at the time of Queen Victoria. So many years of advancement and the legacy of so many years, this resulted in the formation of the Victorian Style of the architecture.

These styles do not comeeventually into the mindset of the architects of that time but it was a pure legacy which was continued form time immemorial.

Basically the style of the Victorian architecture came from the implications form the styles of the gothic Style of that time.

“Architecture is about evolution, not revolution.”

The style of the Gothic architecture initiated in the late 12th century, which continued for many years and resulted in the evolution of many great styles of the British Architecture.

The Gothic style of architecture mainly depicts the romantics style of architecture, their beautiful furniture’s, designs, etc. Victorian style of architecture had been greatly revived on the Gothic style of the Architecture.

There were the two important eras that came at that time for the revival of the Gothic styles of the Architecture. These were:

1. Gothic Revival (1850-1900)
2. Late Gothic Revival (1900-1940)

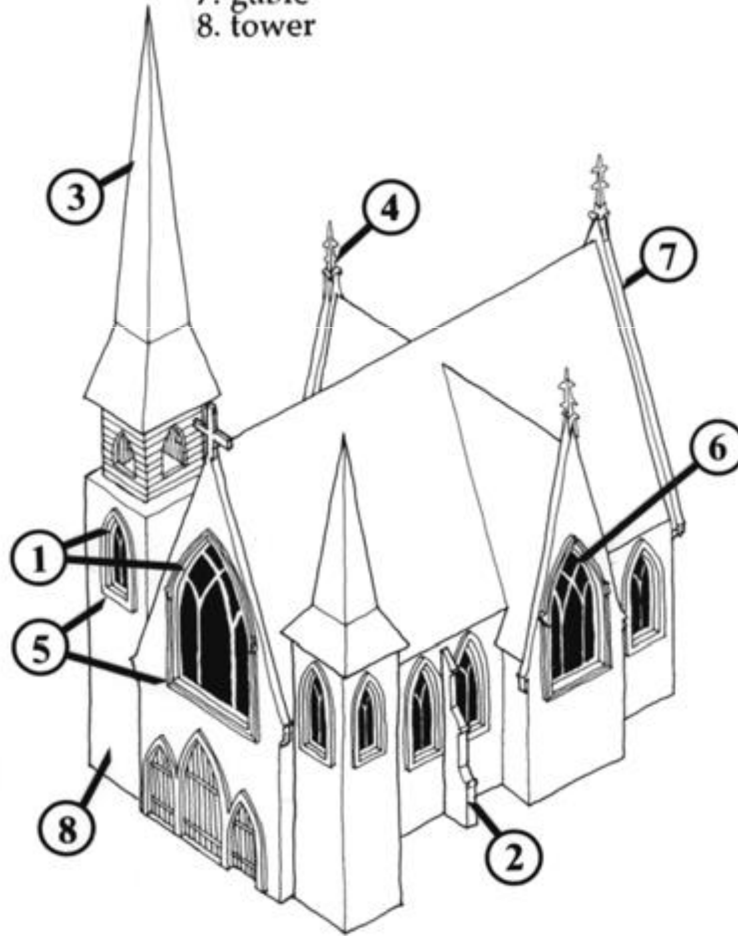
7.1 Gothic Revival:

The Characteristics of the Gothic Style Revival are as follows:

- the style is characterized by the **pointed arch**, which can be in a number of forms, as well as **buttresses**, **spires**, **pinnacles** and carved ornaments
- it often has a complex arrangement of steeply **pitched** roofs highlighted with intricate details
- details such as **moldings**, **tracery** and carved ornament are heavy and sometimes purposely coarse
- **polychromy** is common as are the combination of different materials or varying proportions of details and openings
- Houses are either **symmetrical** with a center**gable** or **asymmetrical** and in the shape of an L.
- heavy **bargeboards** and **corbel tables** are common[10]

[10] Id. Architectural Style Guide

1. pointed arch
2. buttress
3. spire
4. pinnacle
5. moulding
6. tracery
7. gable
8. tower



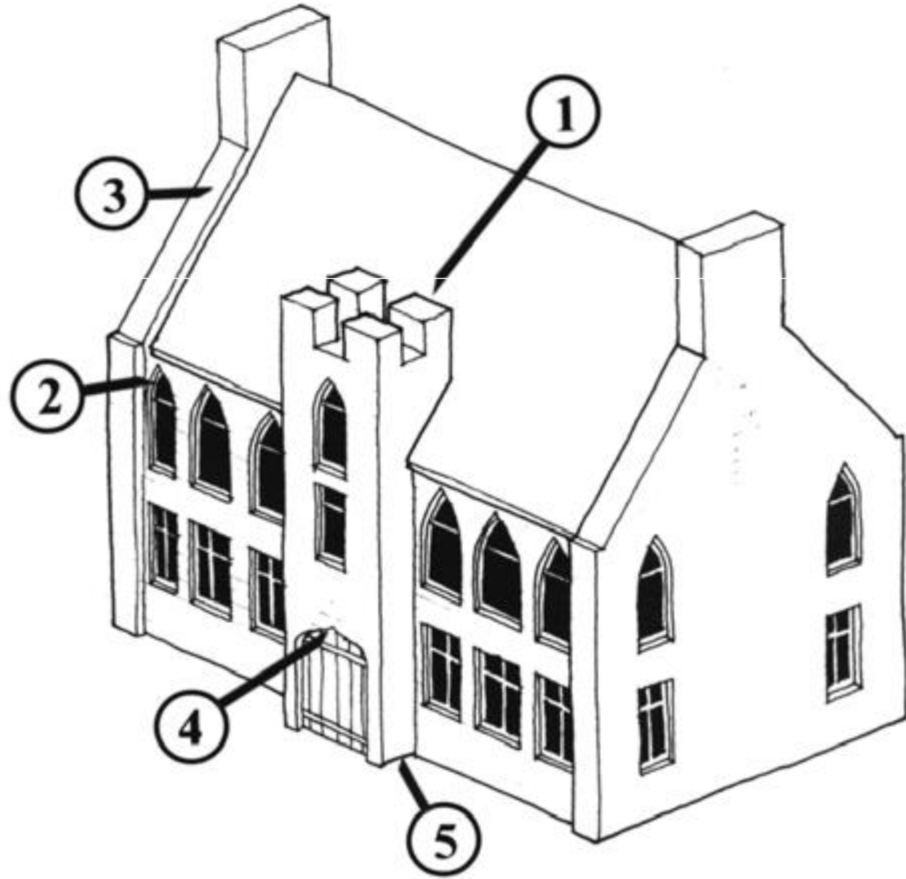
7.2 Late Gothic Revival:

The characteristics of the Late Gothic Revival are as follows:

- the overall effect is usually more subdued and simpler than High Victorian Gothic
- silhouettes are simpler
- in churches there could be increased use of flat surfaces and a greater horizontal tendency of elements
- school and university buildings are long, low **symmetrical masses** with low **crenellated towers** or **bays** extending into courtyards
- generally the quality of building materials and craftsmanship is exceptional and stone is widely used
- **stucco** and **half-timbering** are commonly used on houses
- the **pointed arch** is combined with a variety of other opening shapes[11]

[11] Preserve Manitobas Past, Make History, Architectural Styles,

1. crenellation
2. pointed arch
3. parapet gable
4. Tudor arch
5. tower



12

---

12 Id. Architectural Style Guide

8. Key components on the Victorian Style

Key components on the Victorian Style of the Construction modeling are as per the following:

- **Two to three stories**-Victorian homes are normally extensive and forcing.

- **Wood or stone outside-** The greater part of Victorian styles use wood siding, yet the Second Realm and Romanesque styles quite often have external dividers made of stone.

- **Complicated, awry shape**-Dissimilar to the square shaped Greek restoration style, Victorian homes have wings and straights in numerous bearings.

- **Decorative trim**-Normally called "gingerbread," Victorian homes are generally adorned with intricate wood or metal trim.

- **Textured divider surfaces**-Scalloped shingles, designed workmanship or half-timbering are usually used to spruce up Victorian siding.

- **Steep, multi**-faceted rooftop or Mansard rooftop Victorian homes regularly have steep, forcing rooflines with numerous peaks confronting in diverse bearings. The Second Realm Victorian style has a level finished Mansard rooftop with windows in the side to consider greatest space inside the house.

- **One-story yard**-An extensive, wraparound patio with elaborate axles and sections is basic, particularly in the Ruler Anne style.

- **Towers**- Some top of the line Victorian homes are adorned with a round or octagonal tower with a lofty, pointed rooftop.

- **Vibrant hues** -Before the Victorian period, most houses were painted each of the one shading, typically white or beige. By 1887, splendid earth tones like smoldered sienna and mustard yellow were in vogue.

8.1 Acclaimed Cases

- **Gingerbread House**- This Savannah, Ga., historic point was manufactured by Line Asendorf in 1889. It's viewed as one of the best samples of Steamboat Gothic structural planning

- **Wedding Cake House**- This square block home in Kennebuck, Maine, was initially inherent 1826. In the same way as other homes in the Victorian period, it was secured in wooden Gothic improvement in 1850 to stay aware of structural planning patterns.

- **"Painted Women" in San Francisco**- The expression "painted women" alludes to Victorian houses painted in three or more hues to decorate their building subtle element. It was initially used to depict the brilliant homes in San Francisco in the 1978 book Painted Women: San Francisco's Radiant Victorians.

- **Rosson House**- Inherent 1895, this Phoenix home is an incredible sample of the Ruler Anne style and is currently a gallery. Its point by point trim is frequently alluded to as Eastlake specifying, after furniture planner Charles Eastlake's detailing, after furniture designer Charles Eastlake's elaborate creations.

9. COPYRIGHT PROTECTION OF ARCHITECTURAL PLANS, DRAWINGS, AND DESIGNS

"The final cause of law is the welfare of society. The rule that misses its aim cannot permanently justify its existence . . . Logic and history and custom have their place. We will shape the law to conform to them when we may; but only within bounds. The end which the law serves will dominate them all."[13]

In this article the author has beautifully described the various aspects of the copyright protection of the work of the authors. As we all know that the ultimate aim of any law would be the welfare of the people, without this thought the formation of any law would cease to exist its origin from any maker. Now in this article the writer has phrased that if the ultimate aim of any rule has missed then, certainly it has lost its soul.

There the law recognizes the three types of the rights given in the copyright act namely, “play rights”, “performance rights”, and “execution rights”.

Now there comes a very important topic in the field of the copyright protection which is *le droit moral.* Droit moral is a French term for Moral Rights. It refers to the personal rights a creator has in their work. It protects artistic integrity and prevents other from altering the work of the artists, or taking the artists name off work, without the artist’s permission. Moral rights are retained by an author even if all the other rights granted by the Copyright Act are assigned to another. Moral rights cannot be assigned to anyone else by the author.[14]

[13] Arthur S. Katz, COPYRIGHT PROTECTION OF ARCHITECTURAL PLANS, DRAWINGS, AND DESIGNS, p.224

[14] Legal Dictionary, US Legal.com,

The first English copyright statute (8 Anne, c. I 9) was passed in1709. The Court of King's Bench interpreted this statute in 1769 in *Millar v. Taylor.'*[15]It held that the act was declaratory of the common law, that it was a penal statute which gave an additional remedy to an author in his fight against literary piracy, and that it was not intended to divest the author of his perpetual common law right in his property, whether published or unpublished.

In **1774** the statute was again subjected to scrutiny. The case of *Donaldson v.Becket 1* came before the House of Lords upon an appeal from a decree by theLord Chancellor which had made perpetual the injunction granted in *Millar v.Taylor.* It was the defendant's argument that, "The Statute of Anne was not declaratoryof the common law, but introductive of a new law, to give learned men aproperty they had not before."'

By a count of six to five, the eleven judges hearingthe argument of the case voted to reverse *Millar* ***v.*** *Taylor.* They held that thestatute did take away an author's common law right in his *published* work.

Statutory copyright is a *federal right* created by authority of the United States Constitution.[16] As by the article of the US constitution, it gives the authors the exclusive right to their work which falls under the common law copyright for their unpublished work. As said that the copyright was the federal right so there was no appropriate forum for the particular issues raised by these copyright cases. State courts were the possible opportunity for the remedies of any issues raised in the unpublished work of the author.

---

[15] 4 Burr. **2303, 98** Eng. Rep. **201** (K. B. 1769).

[16] "The Congress shall have power **...** to promote the Progress of Science and useful Arts, by securing for limited Times to Authors and Inventors the exclusive Right to their respective Writings and Discoveries." **U. S.** Const., Art. **1, §8.**

So the confusion was created at that time between the common law copyright and statutory copyright, so the basic differences between the statutory copyright and the common law copyright is as follows:

1. The common law copyright is granted for the unpublished work if the author whereas the statutory copyright was granted to the published work of the author.
2. The moment the author made his work common law copyright can be accorded by him till the work of the author is unpublished, whereas the statutory copyright cannot be availed by the author just by publishing the work but the formalities has to be properly managed by and done by the author to avail the statutory copyright.
3. The common law copyright protection is of perpetual nature, whereas the stutory copyright protection is in terms of years.
4. The common law copyright protection is the matter dealt differently by several states whereas the statutory copyright matter is the matter dealt by the *Federal Government.*

After considering the differences between these two factors, the basic differences can be sorted out as,

The common law copyright is a kind of negative right granted to the author, as it can be availed on for the unpublished work of the author. It gives the writer a privacy of his work so that no one can infringe his work without his permission. So the common law copyright is a *right of secrecy.*[17]

The Statutory Right can be considered as a positive right, because it give the author an exclusive right to publish the work and to provide for the public and to make benefits out the work. It raises the economic value of the work of the author. [18]

---

[17] Donaldson v. Becket, 4 Burr. **2408, 98** Eng. Rep. **257, 2** Bro. P. **C. 129,** 1 Eng. Rep. **837 (1774);** Wheaton v. Peters, 8 Pet. **591 (U. S.** x834). **"S**

[18] Id.

Now the main focus is on the architecture drawing of the author, how they can be subjected to the copyright protection. Architect produces his work same as of the author but except of the words the maximum content of the architects work patterns, designs, etc. so the author is restricted to words only but the architect is not restricted to words but he can express his thoughts and creativity in the form of design, pattern, etc. just as same as the music composer does in his work, he uses notations, symbols in his notes, as the process same used by the architect but, it does not contain notes or notation but the patterns and designs.

The architect uses the term of his work as, "plans, drawings, and designs". Architects, generally use drawings for their work. But it's a technical notations for the architect where if we take the meaning of drawing in general sense the value of the work got decreased, because the meaning of the drawing in general sense does not gather a very deep meaning with respect to the work of author because it can be better explained by this way as in drawing, it can contain graphic representation, pictorial representation, two-dimension diagram, 3-dimension diagram, whereas if we look it from the eyes of the architect it has a very large architectural value because the architect saw those designs in the form of future buildings, the rigid real form, in the real world, how the design going to form, what type of material be used, etc. So it is a very far sighted creativity of architecture in a simple word of drawing.

9.1 Law of Patents

The next important concept to be thrown some light upon is the law of Patents. The architectural plans would subject to law of patent or not it has to be taken into consideration by considering many aspects which in this dissertation will be discussed.

As discussed earlier in this dissertation the two main pre-requisite in the law patents is *Novelty* and *Non-obviousness*. To qualify for any law of patent these two characteristics has to be cleared upon to get the law of patent fully justified.

9.1.1 Novelty:

Firstly, Novelty requires that the invention was not known or used by others in the country, or patented or described in a printed publication in this or another country prior to invention by the patent application.[19] To meet the novelty requirement the invention must be new compared to the prior part. The statutory bar applies where the inventors was in public use or on sale in this country, or patented or described in a printed publication in this or another country more than one year prior to the date of the application for a U.S. patent.[20]

9.1.2 Non-obviousness:

Congress added the non-obviousness requirement to the test for patentability with the enactment of the Patents Act of 1952. The test for non-obviousness is whether the subject matter sought to be patented and the prior act are such that subject matter as a whole would have been obvious to a person having ordinary skill in the art time the invention was made.[21]

An unpublished 'naked idea' is not protectable in the eyes of Common Law. That it does not mean that the only idea of a person which is unpublished would be subjected to the protection in common law copyright like for e.g. If a builder have an idea that where the windows and the doors are to be built in a house, etc. so these ideas that would not be subjected to the protection in Common Law, but to be very exact these ideas should be formulated in a very concrete and tangible manner by the architecture.[22]

---

[19] See 35. U.S.C. §102(a)

[20] See 35 U.S.C. § 102(b)

[21] See 35 U.S.C. § 103

[22] "The best value both of reason and justice seems to be, to assign to everything *capable of ownership*, a legal and determinant owner". Mausham, A TREATISE ON THE LAW OF LITERARY PROPERTY. 4 (1828).

As an able English jurist has stated:

"The subject of property is the order of words in the author's composition; not the words themselves, they being analogous to the elements of matter, which are not appropriated unless combined, nor the ideas expressed **by** those words, they existing in the mind alone, which is not capable of appropriation."[23]

9.2 Statutory Copyright Protection

An architectural creation is capable of protection at three stages:

a) as a two dimensional technical writing, that is, as a plan, drawing or design;
b) as a two dimensional artistic representation of the projected structure-or as a three dimensional model of said structure; and
c) As a completed structure. All three stages are protected in most of the countries of the world, including the United Kingdom.[24]

Section i(a), which grants to the copyright proprietor the exclusive right "to print, reprint, publish, copy and vend the copyrighted work," extends its protection to architectural plans, drawings, and designs.[25] Any use of the intellectual production which does not constitute a copying is not an infringement of Section I (a).

[23] Erle, J., in Jefferys v. Boosey, 4 H. L. Cas. 815, **867,** io Eng. Rep. **681, 702** (1854).

[24] See the fine discussion of the architectural provisions of the British statutes and the Berne Convention in COPINGER ON COPYIIGHT 209-215.

[25]17 U. S. C. §I (b) (Supp. 1952).

In 1793, the Chinese Head Qian Since a long time ago dismisses the methodologies of the English emissary, Master McCartney, commenting that China did not need help or obstruction from "outside savages". Keeping in touch with Ruler George III without further ado a while later, he said: "I set no quality on articles odd or quick, and have no utilization for your nation's fabricates."

This refusal to connect with the more extensive world exemplified China's amazing disengagement around then – humorously, for all the parochial talk, exchange in the middle of China and Europe developed at the rate of four every penny a year somewhere around 1720 and 1805 – and the announcement communicated China's eminent feeling of autonomy from common matters.

A hundred years after the fact, commonplace government official Zhang Zhidong supported an alternate reaction to the outside savages. In his book Urging to Learning (Quan xue pian) he set forward the handy proverb: "Chinese learning for substance, Western learning for utilization." as such, China ought to exploit outside information to help propel its material and specialized ability, however it ought to do as such while as yet keeping up a reserved various leveled social, political and social structure of society.

These authentic illustrations have more nuanced and particular elucidations among researchers (without a doubt, I am utilizing them instrumentally) yet they are referred to here just to demonstrate a basic truth in Chinese society. For quite a while, amid which much has changed, China has kept up a fragile offset with the world – a simultaneous engagement and withdrawal technique. It has designed a striking capacity to retain new data and to take the best advances from others keeping in mind the end goal to reinforce the vision of China. This has frequently implied that material headway has had a tendency to be a specialized instead of a social procedure. What's more, in light of the fact that social dependability has long been the essential goal of the Chinese state, any specialized development has expected to be a deliberately controlled and oversaw system.

So China's purported social custom has been kept up disregarding obtaining intensely from pariahs, and really, from multiple points of view, has been commenced on acquiring from untouchables. In human expressions part, for instance, Hong Kong scholastic Dr Cheng Yuk Lin has brought up that "a mind-boggling number of Western thoughts were' acquired' to create craftsmanship training in the first 50% of twentieth century China". Additionally, in the 1950s, modern development methods and urbanization strategies were taken wholesale from the Soviet Union. Also, all the more as of late, in the opening-up time of the 1990s, monetary models have been produced from the Western layout, yet tempered with Chinese qualities.

As a consequence of this mundane chronicled practice of taking from others, a mentality has created to private educated capital that frequently regards it as open property. As being what is indicated, there is not the same admiration for the 'responsibility for' that is normal in the West.

China is sensibly novel in its noteworthy advancement. A general public that, in only 100 years, has endured the different changes of majestic standard, insurgency, internecine brutality, another transformation, social upset, societal regimentation and industrialist extension has therefore turned into a peculiarly individuated society. Its communitarian demands are still all that much in proof at first glance however, really, singular survivalism is consistently a practical reaction to these ideological emotional episodes.

Pretty much as the Chinese state has needed to create unbending social structures to adapt to autarkic inclinations, so the individuals themselves have created methods of insight to manage autarky. All things considered, the name of the Chinese Socialist Gathering, in Chinese, interprets as 'general society property gathering' and the surge of private property proprietorship rights and related enactment that has happened in the most recent decade has brought about a somewhat logical reaction by normal individuals – a fuss for the prompt advantages of a bonus offer of one's home, for instance, instead of a significant festival of monetary self-governance.

Truly, China's circumstance is altogether different to the benefit privatizations of the 1980s in the UK. Really China is inhabited by people inside defensive family units – sharpened through eras of survival – that indicate the front-side of the oft-cited expression from Margaret Thatcher – "there is no such thing as society. There are singular men and ladies, and there are families" – in light of the fact that in China, despite the fact that the state (and its impressive largesse) pervades each part of life, individuals are prevalently incredulous and have needed to look to one another to get on. The better the system, the more probable one is to succeed and the less demanding it is to advance.

China's presence is started on these ascertained ways to deal with life. To succeed out in the open life before, the state started a common society exam-based framework directed at each level of the Chinese regulatory progression – truth be told, the most noteworthy common status beneath the head was regularly the 'fantastic coach' – and if these unbending examinations were gone at a progression of levels, then the understudy was qualified to ascend the royal chain. The majority of these tests – much the same as the Chinese dialect itself – are commenced on remembering, consistency and reiteration. With such establishment stones laid to respect the craft of duplication, it is barely amazing that it has been hardwired into the social framework.

This is strengthened by the conventional expert understudy relationship inside schools and colleges where, very frequently, duplicating is the default position. Understudies at college will routinely duplicate out papers from the web and present them, uncited, in all purity. In their perspective, there is nothing the issue with appropriating the 'right reply' from a regarded master, as opposed to investing time attempting to give their elucidation of the answer that could not be right. Seen through Chinese eyes, replicating is sensible, as well as it is an image of appreciation for power and, imperatively, it is a method for finishing the test.

In reality, the Confucian-esque presence of dutiful devotion (the structural reverence to parental or teacherly power) exacerbates the issue. While such respectful social structures have without a doubt served China well throughout the years, they have made a general public in which duplicating is profoundly established in the way of life and not seen as something negative. In The Effect of Confucianism on Innovativeness, School of William and Mary (Virginia) scholarly Kyung Hee Kim takes note of that inside social orders in which Confucian qualities prevail, "repetition and tedious learning [produces] adapting in a mechanical manner without thought or importance".

This "commonness of repetition learning, remembering and penetrates extraordinarily restrain imagination". Chinese columnist Huang Chongyao takes note of: "The contrast in the middle of American and Chinese dreams is that the Americans have trust, we have targets."

China's social structures, approaches and observations are designed, the extent that this would be possible, so that new thoughts don't raise some static – in any event, that they don't undermine the administration position of the gathering. Obviously, the training business lays the guidelines by unbendingly instructing kids to duplicate, to rehash, and to follow.

School understudies, for instance, take in a great arrangement of creative aptitudes, however following quite a while of study every understudy has just figured out how to draw the same article for a considerable length of time and weeks until they "succeed" in the worthy depiction of the item. They have been taught to draw specific articles – and just these items – in a "right" manner. For them, the point is to 'hit the nail on the head' as opposed to 'have a go'. Subsequently, the framework is intended to strengthen a procedure of connecting with individuals to sharpen visual memory and disgorging: it is yet a short venture to designers duplicating appealing Western tasks.

As Pamela Long says in her book Openness, Mystery, Creation: Specialized Expressions and the Way of life of Learning from Olden times to the Renaissance, "A helpful working meaning of initiation allows a degree of importance between the shafts of power and creativity" – yet the issue is that China does not yet have a full-fledged feeling of innovative or self-governing origin. This is changing however it is still a way off.

As cutting edge China develops in certainty, there is a more emphatic conviction that different nations ought to start to gain from China, instead of the other path around. So on one hand, China keeps on looking around for created Research and development that it can suitable; on the other it needs to guarantee that nobody purloins its own. It is not a fortuitous event that the 'opening up' of China in 1979 was when IP rights were initially perceived in the nation. Clearly, there is no about-facing, however much a few hardliners inside the Chinese state machine might want to.

It was less than ten years back that China changed the nation's constitution to revere private property rights. These days, the China Day by day daily paper even has an IP channel that gives exhaustive reports on present and future patterns in IP advancement in China. As a major aspect of this professionalized way to deal with patent rights, for example, anybody – from a remote organization or an individual – who adds to a protected creation that is made or finished in China is qualified for the Chinese government designer prize and compensation for ill-use of these property rights. There has been a spate of lawful cases as of late, for example, the litigant in Suzhou who was sentenced to a year in jail and a US$12,000 fine for falsifying Louis Vuitton and Gucci trademarks. However no one is taking an excess of Chinese outline privileged insights…

10. China's Copycat Syndrome

Many of the China's tourists are birding from China to Europe to embrace the beauty of Western architecture and the western world heritage. As the architecture of the western are world known. But China hasmade a way to just turn around the tourists of its country from birding to China to revert back to China only.

China have very great obsession with the western culture, as a result of which, country started making copies of the Western architecture in its own country. They started making replicas of the famous architectures of the whole Europe and even United States of America.

Some of the stats regarding the Chinas copycat Cities and the architecture can be piled as follows:

China has made a beautiful replica of the Alpine Village of Hallsatt, Austria, (a UNESCO World Heritage Site on the picturesque shoe of the Hallstatter Sea) in Buluo, in Southern China. It has also made the replicas if heritage of Roman culture like the Roman-Numeral Clock Tower, and many small western unique. The amazing fact of this replicated city is that, China even got the real mayor of Hallstatt to fly in from Austria to mark the occasion.

Some of the other replicas made by China, like Tudor, Georgian, and Victorian architecture complete with quaint market squares and the signature Red telephone booths. A Bauhaus, "German Town" near Shanghai designed by Albert Speer, son of the Third Reichs Chief architect, boasts bronze statue of Johann Wolfgan Von Goethe and Fried Riech Schiller.

Several Charming Dutch Villages and at least two of the largest Eiffel tower replicas, and an opulent copy of the 17th Century Château de Maisons-Laffitte (constructed using the original blueprints and imported French Chantilly stone.Replica of the White house stands outside Hangzhou, less exacting copies of the US Capitol. The Arc, de Triomphe and Sydney opera house can be found in the village of Huaxi in Jiangsu Province.

It's not that the China's fondness of replicating the western architecture got a full stop by these structure's only but it have some of the other finest structure in its pending list at which the construction has started.

It includes a long term project to create a vast financial center at Yujiapu in the municipality of Tianjin based explicitly on Manhattan. There is another amusing fact about making of these replicas by China, Rockefeller Centre and the Twin Towers to be built by the Chinese arm of Tishman, the contractor for the original World Trade Centre Towers in New York.[26]

The thing to be noted here is that China has still gave no explanation of the making of these replicas in the country. They have no explanation to what they are planning by replicating the same architecture form the Western Cities. It just simply shows the China's copycat syndrome by replicating the cities. It shows the very deep obsession of the China towards Western tastes, which can be easily inferred by these abovementioned facts. Another interesting thing to get info is that China is not only replicating the ideas in the field of architecture but also in the field of entertainment too from Europe and United States of America.

If we go back to the history of the Chinas great emperor then we will get to know that they were also very fond of replicating the building structures of that time too. The First Emperor (Qin Shi Huang) is perhaps most famous for the spectacular terra-cotta warriors he commissioned after he unified China in 221 B.C. But the terracotta army that made him famous was not the only grand building project the emperor and his court undertook. Sima Qian, ancient China's premier historian, recorded a remarkable building program pursued by China's first ruling dynasty, the Qin:

---

[26] Jack Carlson, The People's Republic is building life-size European villages, but not for the reasons you think, China's Copycat Cities, http://www.foreignpolicy.com/articles/2012/11/29/chinas_imperial_plagiarism

Whenever the Qin Shi Huang conquered any of its rivals than he used to order his command to replicate the historical monuments of the conquered empire in his own kingdom, it would commission replicas of its palaces and halls and reconstruct them on the slope north of the capital, facing south over the river. From Yongmen all the way to the Jing and Wei rivers, there were replica palaces, passages, and walled pavilions, all filled with women, bells, and drums that Qin had taken from them.[27]

Building design & IP rights

IP security for structural plans in China most generally depends on copyright and related rights. Security is accessible under the Chinese Copyright Law for "building works", most regularly drawings and models. Works ought to be unique, replicable and tasteful. The utilization of crude materials; components of outlines regular to different structures of open spaces; and building insides are for the most part not secured by copyright law in China.

Exchange mark insurance can be gotten for organization, building or different names. Exchange checks normally demonstrate the wellspring of items and can help manufacture notoriety amongst potential business accomplices and authorizing elements.

Contracts and delicate tenets can likewise be a wellspring of danger, with bidders normally needed to waive rights to works. It is troublesome for most engineering configuration organizations – except for the biggest, all around celebrated brands – to arrange maintenance of rights.

[27] Id. Note 26

10.1 Building design & IP rights

IP security for design outlines in China most generally depends on copyright and related rights. Security is accessible under the Chinese Copyright Law for "design lives up to expectations", most normally drawings and models. Works ought to be unique, replicable and stylish. The utilization of crude materials; components of plans basic to different structures of open spaces; and building insides are for the most part not secured by copyright law in China.

Configuration rights can give insurance to novel and tasteful outside appearances of structures.

Licenses or utility models could be accessible for utilitarian and creative components of structures. So as to fulfill the conditions that licenses and plans are novel (i.e., new), patent, utility model and configuration applications would conceivably need to be made before structures were built or models of the building were distributed/displayed. For general data on licenses, utility models and outlines in China see our IP in China factsheet.

Exchange mark assurance can be gotten for organization, building or different names. Exchange stamps ordinarily demonstrate the wellspring of items and can help manufacture notoriety amongst potential business accomplices and authorizing elements.

10.2 Offering courses of action & contracts

Partaking in offering techniques can present dangers to structural configuration organizations. Reported issues incorporate delicate courses of action being utilized to procure plans to be hence sought after by lower-expense configuration and development organizations.

Contracts and delicate tenets can likewise be a wellspring of danger, with bidders ordinarily needed to waive rights to works. It is troublesome for most design configuration organizations – except for the biggest, comprehensively well-known brands – to arrange maintenance of rights.

Organizations ought to painstakingly consider taking an interest in tenders where dangers may be considered especially high. Due ingenuity on charging elements ought to be embraced to see any past record of lacking honesty obtaining of plans or other poor treatment of originators.

10.3<u>Requirement</u>

Encroachment of rights in structural works commonly takes the manifestation of unapproved proliferation or circulation of drawings, models or outlines. Cases including encroachment of rights in building works have been generally uncommon in Chinese courts, due to some extent to the high specialized information needed to build up an encroaching configuration. Encroachments of building works in China can incorporate generation of drawings and plans in 3-dimensional structure.

There are a few channels for authorizing against encroachments of IP rights in China. Additional data is in our IP in China factsheet. Guidance ought to be looked for from an accomplished China legal advisor before making a move in any particular case, including before issuing quit it letters.

A typical methodology for instances of encroachment of rights in design works is to document a case with the common courts. A real test in upholding rights to engineering works in China is demonstrating responsibility for rights. Copyright in building works is endless supply of the work. Date and name stamps on building drawings or models can be considered confirmation of possession.

Copyright recordal with national or nearby government orgs can likewise be considered. Albeit not a strict prerequisite a copyright recordal declaration can be a helpful – however infrequently sufficient – commitment to demonstrating responsibility for to a work.

Chinese courts have strict procedural necessities for archives submitted to the court. Any proof presented from abroad must be notarized in the nation of source and confirmed by the significant Chinese Embassy or Consulate. Records in outside dialects must be deciphered into Chinese by a sanction interpreter keeping in mind the end goal to be admitted to the court. Itemized documentation to help exhibit responsibility for ought to be kept all through the configuration process. Lawful insight experienced in fulfilling the confirmation prerequisites of Chinese courts ought to be utilized.

In past cases, Chinese courts have likewise intended to strike a harmony between the rights holder and the encroaching party. Low values are typically ascribed to copyright in outlines, particularly in examination to the apparent harm of halting an expansive development venture. An average result is for courts to request an infringer to make adjustments to an outline. Harms recompensed by Chinese courts are infrequently compensatory. Recompenses are normally in view of statutory harms instead of on estimations of real harm to the rights holder or benefits made by the infringer.

10.4 Architecture & copyright controversies

Construction modeling is profoundly woven into the fabric of mankind's history and society, and its impact can't be thought little of. Conceived of the crucial human requirement for safe house, the specialty of planning and developing structures has produced innumerable moving and summoning structures over the globe. From a humble house to notorious works, for example, the old pyramids of Egypt or the Sagrada Familia in Barcelona, Spain, construction modeling impacts our day by day lives and our surroundings.

Winston Churchill once said that "we shape our structures; from there on the shape us." It is no amazement, then, that structural planning has incited, and keeps on inciting, intriguing and frequently warmed civil argument. In this article, Dr. Jorge Ortega, Educator of Common Law at the Universidad Complutense Madrid, Spain, considers a portion of the contentions that have emerged, particularly in connection to the insurance of structural engineering as an inventive work and the privileges of modelers in their manifestations.

11. A little history of the Thames town of China

Thames Town is the English name for a model city constructed in the Songjiang District of China, 25 miles (40 km) southwest of Shanghai. On display: Architecture in classic British themes featuring cobblestone streets, Victorian terraces, and red telephone booths.

There are some of the interesting facts about the Thames town of China. The aim behind discussing the city Thames in this dissertation is that, original Thames city of UK is based on the Victorian architecture of England, so that's the reason to discuss the various factors involved in the construction of this replicated city in China.

It took over three year to be completed from a scratch and consumed about the cost around ¥ 2billion ($330m/£197m/€238m) of amount. The first of the initiative was established by Shanghai Planning Commission in 2001 from a policy to decentralize and shift the population away from the congested City Centre.

It is vital to know that the idea of this replication was of Shanghai's former Communist Party Secretary Hwang Ju, so conclusively it has a very tough stronghold of the political backing behind the replica construction.

For the purpose of the construction there was an International design competition was held in the country to win the design contracts. W.S. Atkin won the bid and Shanghai Songjiang New City Construction was enlisted for the build. Sales and Marketing would be held by Shanghai Henghe Real Estate.

The construction was completed in the year of 2006 and the whole construction has expanded across one square km., basically there were 9 universities to be made in the construction for the students amounting approx. 10,000 including the staff. It was also decided in the construction that it would be supported by high tech factories.[28]

---

[28]*Huai-Chun Hsu, An English Town In China, (May 25th, 2014),http://sometimes-interesting.com/2014/03/25/an-english-town-in-china/*

After the completion of the construction it somehow remain faithful with the original construction but though the imitation was beautiful replica but there remained some the discrepancies in the construction which made some demarcation between the original and the replicated structure. Some of the discrepancies are like; the homes made in the city were much closer as compared to the original city. The replica contains the windows of comparatively of large size than the original as the Chinese people prefer the large windows in their buildings.

Some of the other facts are like the lamp post fastened to the surface of the replicated city were specially imported from England, so to make the city a pure original look.

The real estate company wasted no time effusing praise for the project. Shanghai Henghe's literature boasted:

> "*Culture creates value. Thames Town, a representation of British architectural civilization, has since integrated itself into Songjiang, rejuvenating this ancient land with its modernity and vitality*."

Paul Rice, principal architect on the WS Atkins contract, admitted

> *"…we are aware of the Disneyland implications. This could become a joke if built in the wrong way. But this is a working community, not a theme park. Compared to some other Chinese towns, it will be a pleasant place to live*."[29]

[29] Id. Note 28

12. The International IP Architecture: Multilateral, Regional and Bilateral Rules

The structural engineering of the worldwide IPR administration has ended up progressively complex, and incorporates an assorted qualities of multilateral assentions, universal associations, local traditions and two-sided game plans.

12.1 Multilateral bargains

A large portion of these understandings are managed by WIPO, and are of three sorts:

.

Standard setting bargains, which characterize concurred fundamental measures of insurance. These incorporate

- The Paris Convention, the Berne Convention and the Rome Convention. Imperative non-WIPO settlements of this kind incorporate the International Convention for the Protection of New Varieties of Plants (UPOV) and TRIPS.

- Global insurance framework settlements, which encourage recording or enlisting of IPRs in more than one nation. These incorporate the Patent Cooperation Treaty (PCT), and the Madrid Agreement Concerning the International Registration of Marks.

- Classification settlements, which compose data concerning creations, trademarks and modern outlines into listed, reasonable structures for simplicity of recovery. One sample is the Strasbourg Agreement Concerning the International Patent Classification.

12.2Global STANDARD SETTING: WIPO AND WTO

There are a few global foundations included in standard setting for protected innovation.

WIPO is the important universal establishment in charge of arranging the arrangement of IP Treaties and their organization. With the consideration of TRIPS in the Uruguay Round, protected innovation has additionally gone under the aegis of the WTO, the successor to GATT, and some would contend that WIPO's impact has in this manner reduced. An extraordinary Council for TRIPS was made inside the WTO structure to oversee the TRIPS Agreement.

The secretariats of both WIPO and WTO serve associations which are represented by individuals.

National governments focus strategy and choose the result of arrangements. As a general rule, as in any administration where administration has a scattered structure, the secretariat and its initiative play a more prominent or lesser part in characterizing the essential issues, and deciding the scope of conceivable arrangements. WIPO and the WTO likewise react to a scope of outside impacts, outside the formal structure of administration, including from part expresses, some of which have more prominent impact than others, and outer weight gatherings including industry, industry affiliations and NGOs.

Governments and others see that the WTO is especially imperative as an establishment for making exchange rules which are tying. This is a result of the sweeping statement of its extension and the way that it has the ability to force authorizes that may essentially influence national strategy. This is the reason the created nations picked GATT/WTO, as opposed to WIPO, as the proper instrument for the globalization of IP security through TRIPS. It is likewise why, for case, so much consideration was centered on the Doha Declaration on TRIPS and Public Health by industry, governments and NGOs.

The significance of the WTO in the setting of IP tenet making is less because of its specific capability in universal standard setting for IP (in spite of the fact that it has a top notch licensed innovation division), but since its system for debate settlement is a powerful apparatus, which individuals can use to implement the TRIPS commitments of their exchanging accomplices, supported by the risk of exchange assents. To date, there have been 24 instances of question settlement cases concerning TRIPS in the WTO, the larger part having been brought by the US and the EU.2

Conversely, WIPO has a more noteworthy profundity of aptitude in the field of licensed innovation. Yet it is an altogether different sort of association for two reasons. In the first place, around 90% of its financing comes not from part governments (as in WTO or other UN organizations) yet from the private area by method for charges paid by patent candidates under the PCT - viably from the group of patentees. Besides WIPO is, by its establishing sanction, singularly concerned with the advancement of IPRs.

Its destinations and capacities do exclude an advancement objective.

As may be normal from WIPO's elucidation of its central goal, the association is a firm backer of stronger IP assurance in creating nations. To be sure, the examinations in WIPO's different distributed arrangement archives give careful consideration to the conceivable unfavorable outcomes of such assurance.

IP rights are, in the principle, introduced as unequivocally advantageous. For example, a production on WIPO's site entitled "Protected innovation – Power Tool for Economic Growth" expresses those thoughts that:

"… licenses are not important to creating countries or that they are incongruent with the monetary targets of the creating countries - are poisonous myths. The motivation behind why these ideas are malevolent is on account of they give the feeling that it is conceivable to just pick {out} of the global patent framework, yet still attain to financial advancement. This is a lapse as licenses are a key segment of monetary methodology, paying little heed to whether the nation is produced or during the time spent financial improvement."

12.3 The World Intellectual Property Organization (WIPO)

WIPO started life in 1893 as BIRPI (the French acronym for the United International Bureaux for the Protection of Industrial Property). This was a body built essentially to direct administration the Paris and Berne Conventions on mechanical property and copyright. It was just rebuilt and reconstituted as an UN organization as of late as 1974.

WIPO's goals, as set out in the Convention creating it, are to "advance the security of licensed innovation all through the world". In the light of that goal, its first capacity is to "advance the improvement of measures intended to encourage the effective security of protected innovation all through the world and to fit national enactment in this field."

It is "persuaded of the need to guarantee that creating nations… are completely incorporated into the universal licensed innovation framework." It accepts that "harmonization of national approaches on the foundation of protected innovation rights ought to be looked for, with the point of security at the worldwide level." This is the viewpoint in which it deals with its participation and specialized help exercises with creating nations.

Today, the principle capacities of WIPO are to serve as a discussion for arrangement of universal IP settlements; to control such arrangements and work the frameworks of worldwide assurance, for example, the Patent Cooperation Treaty (PCT) and the Madrid framework; and to give specialized support and preparing to create nations and nations experiencing significant change.

The PCT means to disentangle and decrease the expense of getting global patent security. By documenting one global patent application under the PCT, a candidate can all the while look for security for an innovation in more than one hundred nations. Late PCT applications are distributed in the PCT Gazette to encourage free to specialized data.

WIPONET is a worldwide computerized data system, giving system foundation and administrations to enhanced data trade, to empower the combination of IP data assets, courses of action and frameworks of the overall IP groups, especially the IP workplaces of part States. WIPONET will likewise give an entrance to other WIPO-gave frameworks, for example, the Intellectual Property Digital Libraries (IPDLs), and inevitably to on-line recording under the PCT.

The Internet Corporation for Assigned Names and Numbers (ICANN) oversees a framework for determining space name question including trademarks, and an arrangement of best practices for area name enrollment powers, intended to evade such clashes.

The WIPO Worldwide Academy is an establishment which gives instructing, preparing, counseling, and exploration benefits in protected innovation.

13. Copycat Syndrome at an International Level

Structural planning is characterized as the "specialty of outlining and building structures". It is both a practical and a masterful try. This clarifies why building design has incited such a great amount of discussion through the ages. While structural engineering gives an outline to the configuration of structures for human residence, these structures are far beyond just utilitarian or practical. Structural planning conceptualizes space and guarantees that a structure is both tenable and in congruity with the encompassing environment. Now and again these structures are bona fide centerpieces, giving motivation and presenting a feeling of prosperity. They have the ability to shape our lives and change our observations. Structural planning, notwithstanding, has not generally been perceived as deserving of insurance under copyright law. The accompanying exchange shows that, in numerous locales, this remaining parts a prickly issue.

13.1 The legacy of the Pharaohs

One issue that keeps on fuelling extreme level headed discussion is whether it is legitimately conceivable to duplicate an engineering work found on an open site without the planner's authorization. Numerous national laws take into consideration the multiplication of such "freely arranged" lives up to expectations in the setting of restrictions to one side of propagation which is one of the selective rights creators appreciate under copyright law.

A late discussion including one of humankind's most antiquated compositional edifices and masterful wonders, the pyramids of Egypt, demonstrates that now and again this limit can prompt political muddlings and can be exceptionally hard to apply. In 2008, Zahi Hawass, Secretary General of Egypt's Incomparable Chamber of Relics (SCA), presented a defense for building a copyright law that would permit claims for harms against creators of propagations of the pyramids, the Sphinx and all other old landmarks.

This would mean, by and by, that Egyptian and remote craftsmen could just profit monetarily from their drawings or representations of Egyptian and pharaonic landmarks if the generations were not correct. In any case how might an accurate generation be recognized?

Would the Luxor Inn in Las Vegas, U.S., be viewed as a definite multiplication? The inn's site page depicts it as "the main building fit as a fiddle of a pyramid on the planet". In the setting of the proposed new law, this drove a few pundits to case that the American lodging complex ought to impart an extent of its benefits to the Egyptian city of Luxor, the site of the incredible Valley of the Lords. At the point when columnists asked Mr. Hawass about this, he answered that, as he would like to think, it was not a "precise duplicate of the pharaonic landmarks, regardless of its shape", focusing on that its inside was fundamentally not the same as that of the pyramids. This would propose that an indistinguishable multiplication of a structure's outside is allowed the length of within is distinctive, and the other way around. Given the affectability of the inquiry and its potential aftermath the law is yet to be embraced.

While the thought of paying to replicate pharaonic works may appear to be unpalatable to numerous, different managers of historic point structures have embraced a changed methodology. For instance, while there are no confinements from sightseers wishing to photo the Auditorio de Tenerife in Spain, the holders have plainly set out the terms of utilization of the building's picture for business administrators.

In 2003, the picture of the Auditorio was enlisted as a trademark, and its utilization "whether photographic or delineated, of all or any part, and the utilization of the logo or any component that characterizes the same, is controlled inside the enactment in force1 which covers the utilization and delight in any enrolled trademark"2. The Auditorio charges business administrators for utilizing its outer space for film and photography and obliges that the last item be cleared with the pertinent bureau of the Auditorio before distribution. A store is likewise needed to ensure legitimate utilization of the pictures.

13.2 Contending rights – striking a parity

Under certain national copyright laws, the ethical privileges of inventors are not restricted in time; they are never-ending. This can make challenges for the individuals who own structures and hence look to revamp or adjust them. Colombia is one of the couple of nations on the planet to have a made copyright law that tries to adjust the ethical privileges of draftsmen and the privileges of building managers. Article 43 of Law 23 of 1982 on Copyright basically expresses that if the holder of an engineering work wishes to alter it, the designer of that work has no lawful grounds on which to stop this. It does, be that as it may, include that the modeler "may forbid his name from being connected with the adjusted work".

A few reporters accepted that this was illegal and moved to have the article canceled. The Sacred Court of Colombia, notwithstanding, did not concur and, in its judgment3 of November 4, 2010, decided that Article 43 was actually protected in that it "doesn't break the ordinary abuse" of a draftsman's rights in his work, and that "the harm created is supported" and in accordance with established investments.

This practice is exceptional in Europe where the privilege to the honesty of a work incorporates securing it against any unapproved material alteration or against harm to the creator's notoriety. European laws administering the security of engineering works don't support building holders. On the other hand, under particular conditions, for instance, when wellbeing and security issues emerge, a building holder may be approved to alter a building. In these occurrences, most national laws accord modelers the privilege to pick not to show up as the creator of the adjusted the work.

13.3 The privilege to the honesty of a work

The United States Copyright Act offers an intriguing point of reference. It gives an itemized framework to determining clashes that emerge when the modeler's advantage, as far as keeping up the respectability of a work, slam into those of the building manager who wishes to restore or adjust the building, not to keep up its material structure however to help its financial esteem or enhance its appearance.

Article 113 of the Copyright Demonstration recognizes "a work of visual craftsmanship [that] has been joined in or made piece of a building in such a path, to the point that expelling the work from the building" will bring about "annihilation, twisting, mutilation or other adjustment to the work", and those which can be expelled from structures without considerably adjusting the first plan.

On the off chance that a craftsman (or a planner) concurs in keeping in touch with one of their works being introduced in a building, recognizing that it might be liable to "annihilation, contortion, mutilation, or other alteration, by reason of its evacuation," the building manager can continue with its evacuation without the craftsman's approval and is under no commitment to illuminate the craftsman about the work being completed.

Nonetheless, where a building holder wishes to uproot a work of visual craftsmanship that is a piece of the building and that can be evacuated without its being crushed, misshaped, disfigured, and so forth., the manager must make a "steady, decent confidence endeavor" to illuminate the craftsman, who then has the chance to gather the work at the craftsman's own particular cost inside 90 days.

13.4Fantastic encroachment of good rights

An exemplary instance of the encroachment of a planner's ethical rights emerged in Australia in connection to Sydney's historic point Musical show House. In 1959, Danish designer Jørn Utzon won a worldwide rivalry to outline a performing expressions complex. After different postpones in the building's development, a group of Australian draftsmen assumed control over the task and adjusted the interior format of the building. In this manner, they extensively restricted its unique design as a multipurpose corridor.

Around then, designers in Australia did not have good rights in their compositional works, so Mr. Utzon was not able to challenge the new outline in the courts. Just in 2000, with the endorsement of the Copyright Alteration (Good Rights) Act, did designers obtain the privilege to be distinguished as the creator of a work, or the privilege to be counseled regarding any progressions wanted to structures they had outlined.

13.5 Motivation or copyright infringement?

The test of drawing a line in the middle of motivation and copyright infringement is another wellspring of pressure among designers. In April 2010, simply a couple of hours before the opening of World Expo 2010 in Shanghai, a warmed open deliberation erupted about the inventiveness of the Crown of the East, the name of the Chinese Structure. Different Chinese draftsmen jumped to the resistance of this 60-meter high altered pyramid which overwhelmed the Expo site. Others guaranteed that it bore a checked likeness to the structure of the Japanese Structure at Expo 1992 in Seville, Spain, composed by Japanese designer Tadao Ando. Still others contrasted it with the Canadian Structure at Expo 1967 in Montreal, Canada. [30]

[30] See www.auditoriodetenerife.com/localizaciones/procedures/procedimiento_ing.pdf

Planner Tony Mackay acknowledged the limitations of recreating a different culture in a foreign land, but admits "*it has this almost dreamlike quality of something European*."

A release from the SPC seemed oblivious to the quirks:

> "*Visitors will soon be unable to tell where Europe ends and China begins*."[31]

[31]*Huai-Chun Hsu, An English Town In China, (May 25th, 2014),http://sometimes-interesting.com/2014/03/25/an-english-town-in-china/*

14.Conclusion

By this dissertation is it clear that China has an obsession of copying sort of everything from the western culture though it could be the architecture and the enjoyment related programmes, and the culture of copying by China is not a very new thing it's been from many years. The architecture evolved from so many time periods as previously said, Architecture is no about revolution but evolution, and if anybody just replicate that evolution, then it's just the infringement of the moral rights of the original architectures.

In this dissertation fundamental methodology is adopted for this research. As the topic deals with the philosophical aspects particularly deals with the facts. So there are facts but only philosophical aspects can be dealt.

As by the thought of Arthur Katz, which is cited in this dissertation, according to him the architecture plans are subjected to the law of patents, as in his article he discussed the novelty and non-obviousness issues. So as per his opinion it can be concluded that the architectural plans have also the moral right as in the copyright act and it cannot be infringed by anyone.

15.BIBLIOGRAPHY

BOOKS/ARTICLES

1. RUTKOWSKI, T. Carriers Unaware of IP Ownership Threats and Opportunities, 2005.
2. *Huai-Chun Hsu, An English Town In China, (May 25th, 2014),*http://sometimes-interesting.com/2014/03/25/an-english-town-in-china/
3. Jack Carlson, the People's Republic is building life-size European villages, but not for the reasons you think, China's Copycat Cities, http://www.foreignpolicy.com/articles/2012/11/29/chinas_imperial_plagiarism
4. Circular of US Copyright Office.
5. CARDOZO, THE NATURE OF THE JUDICIAL Process 66 (1921).
6. EATON S. DRONE, A TREATISE ON THE LAW OF PROPERTY IN INTELLECTUAL PRODUCTION GREAT BRITAIN AND THE UNITED STATEs, (1879)
7. Arthur S. Katz, COPYRIGHT PROTECTION OF ARCHITECTURAL PLANS, DRAWINGS, AND DESIGNS, p.224
8. *Michael Bampton, Partne,* **Architects and Intellectual Property: Protecting Your Building Plans and Designs, Henry Davis York Lawyers, p.1-p.4**
9. Association of Research Libraries (ARL), Copyright Timeline: A History of Copyright in United States, http://www.arl.org/focusareas/copyrightip/2486copyrighttimeline#.VRvbiJvOfD4