

Inspiration or infringement: Guide to copyright issues and generative AI for design professionals

This document represents a high-level summary of this webinar. You can watch the full webinar recording [here](#).

Copyright

Intellectual property (IP) rights and the protections afforded to “creators” or “authors” under US copyright law are integral to a design professional’s ability to protect both your reputation and livelihood and to ensure that you get appropriately compensated for your services. Here are some things to keep in mind to protect your intellectual property rights:

- (1) Put a copyright notice on all your documents to put parties on notice. Registration with the US Copyright Office is not required but is advised as this can provide you with additional protections and damages awards in the event of infringement.
- (2) Avoid granting the client full ownership rights to your designs. Standard industry documents call for the client to receive a non-exclusive license to use the design professional’s designs and instruments of service (see AIA B101-2017, Article 7). When transferring your rights, make sure you condition it upon your receipt of payment for your services, and make sure it includes the appropriate protections for your firm against unauthorized use or misuse of your documents by the client or others.
- (3) Address how any grant of IP rights is impacted by the early termination of your services. In such cases, standard industry documents call for the design professional to receive a separate licensing fee to compensate the design firm for additional risks involved in a client’s continued use of the design professional’s designs without their involvement (see AIA B101-2017, Section 9.7).
- (4) Have appropriate protocols in place for sharing information with others. Make sure you are protected against unauthorized use or misuse of your documents by other project parties (see AIA C106-2022, Sections 2.1, 2.5, and 2.6).
- (5) Minimize allegations of ethical violations and claims by reaching an agreement ahead of time on how credit will be allocated, and what, if any, professional work product the parties have rights to retain, access, or use.

GenAI

Despite the novelty of GenAI tools, the risks and mitigation strategies needed to minimize the potential exposures are not new. If you treat all work produced by GenAI tools as you would that of a new associate—by identifying the underlying assumptions, verifying their work, and putting it through the appropriate quality control processes—you're more than halfway there. With that in mind, here are some things to keep in mind to help you manage some of the risks associated with the use of GenAI platforms.

- (1) Have a firm policy to provide guidance on which GenAI platforms and tools employees are permitted to use and the parameters of that use. This might include limiting use of specifically prescribed and approved GenAI platforms, and what information is and is not allowed to be used on these platforms.
- (2) Training—don't just regulate, educate. Employees should be properly trained on the use of approved GenAI tools, e.g., how to craft proper and effective prompts; how to properly scrub sensitive or confidential client, project, and firm information; and the dangers of using publicly available, unapproved platforms.
- (3) Disclose any use of GenAI tools or documents to the client up-front and be prepared to address any concerns or reservations clients may have.
- (4) Know your contractual obligations. Identify what restrictions or risks the client contract imposes on you with respect to your use of a GenAI tool on any given project.
- (5) Have a thorough QA/QC process to validate the assumptions, inputs, calculations, and outputs of the firm's designs and documents, and revise them as needed. This remains true for any designs or documents created, in part, using GenAI tools. Proper QA/QC in the context of GenAI tools necessarily requires that these tools only be used to assist in tasks within the firm's field of expertise or for which proper oversight and review can be arranged.