

## Specific Design Elements for Trump Palace and Royale Developments “Trump” Alleged Copyright Infringement Claim Brought by Architect’s Similar Conceptual Building Designs

The Eleventh Circuit Court of Appeals has affirmed a Florida federal district court ruling that the design of the Trump Palace and the Trump Royale buildings near Miami do not infringe an independent architect’s copyrighted designs. The decision illustrates the limitations of copyright protection for broad design concepts in architectural works and that courts will only protect specific elements of expression.

In Oravec v. Sunny Isles Luxury Ventures, L.C., the plaintiff-architect Paul Oravec developed architectural designs featuring “the use of alternating concave and convex segments and elevator cores protruding through the building’s roofline.” Oravec first copyrighted the design in 1996 and further copyrighted improvements on the design in the years that followed. Contemporaneous with obtaining these copyrights, Oravec mailed his design to approximately 120 developers in South Florida as part of marketing his idea. However, also during that same time period, an architectural development firm, Sunny Isles Luxury Ventures, L.C., was designing the structures that would become the Trump Palace and Trump Royale. On seeing plans and models of these Trump buildings, Oravec retained counsel and began registering his remaining uncopyrighted works. Oravec subsequently sued Sunny Isles for infringing his copyrights in his prior designs.

The Eleventh Circuit affirmed the federal district court for the Southern District of Florida’s grant of summary judgment in favor of Sunny Isles, rejecting Oravec’s infringement claims because the designs for the Trump buildings and Paul Oravec’s designs were similar in “concept only” and had “numerous significant differences in the expression” of key distinctive features. Oravec had identified 10 elements as demonstrating infringement, but the court held that these similarities were “similar only at the broadest level of generality” Thus, the court ruled that, despite the many surface commonalities between the Oravec’s work and that of the defendants, “at the level of protected expression, the differences between the designs are so significant that no reasonable, properly instructed jury could find [the competing designs] were substantially similar.” The Eleventh Circuit further noted that “to conclude otherwise would require a finding that Oravec owns a copyright in the concept of a convex/concave formula or in that if using three external elevator towers that extend above the roof of a building. Such a conclusion would extend the protections of copyright law well beyond their proper scope.”

Further, the court rejected Oravec’s efforts to leverage the “effective registration doctrine” to assert that his prior, unregistered plans should give him the benefit of a date prior to his filing for a copyright in 2004. The parties had conceded that the plans for the Trump Palace and Trump Royale were complete before he obtained the 2004 copyright. The court rejected Oravec’s assertion of the effective registration doctrine on several grounds, including Oravec’s failure to identify that these unregistered works were the forerunners of the works in which he received the 2004 copyright.

The Eleventh Circuit's unanimous opinion was authored by Judge Charles R. Wilson and joined by Judges Gerald B. Tjoflat and Stanley Marcus.

**For information, please contact:**

**Eric P. Schroeder** 404.572.6894 [eschroeder@pogolaw.com](mailto:eschroeder@pogolaw.com)  
**John C. Bush** 404.572.6798 [jbush@pogolaw.com](mailto:jbush@pogolaw.com)

Atlanta ■ Washington ■ Dallas ■ Charlotte

One Atlantic Center  
Fourteenth Floor  
1201 West Peachtree Street, NE  
Atlanta GA 30309  
Tel: 404.572.6600  
Fax: 404.572.6999

Third Floor  
901 New York Avenue, NW  
Washington DC 20001  
Tel: 202.347.0066  
Fax: 202.624.7222

JP Morgan Chase Tower  
2200 Ross Avenue, Suite 3300  
Dallas TX 75201  
Tel: 214.721.8000  
Fax: 214.721.8100

401 North Tryon Street  
Tenth Floor  
Charlotte NC 28202  
Tel: 704.998.5480  
Fax: 704.998.5481

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