



MORAL RIGHTS

Moral Rights legislation relates to the personal (non-economic) rights held by the author of a work. These rights cannot be sold or transferred as can copyright, although in some cases a creator can give consent for their rights not to be observed.

Moral rights are retained by a creator or author even when the Copyright Act allows copyright in their work to be automatically vested with an employer.

The Rights

The Right of Attribution: this ensures that the author of a work has the right to be named as the author of that work. An author may forgo the right of attribution. Otherwise, failure to correctly attribute a work is an infringement of the author's moral rights.

The Right not to be Falsely Attributed: an author has the right not to have another person named as the author of their work; an author also has the right not to have their name attached to an altered version of their work without the alteration being acknowledged.

The Right of Integrity: this ensures that a work cannot be treated in a derogatory way. It cannot be altered or changed in any way that will impugn the author's honour or reputation.

Moral Rights last for the same period as copyright protection, i.e. life plus 70 years, except for films, where the rights last only for the life of the creator.

Moral Rights apply to:

Literary Works: this includes written material - such as conference papers; journal articles; novels and non-fiction books; plays; screenplays; poetry and song lyrics; computer programmes; and compilations - such as anthologies, directories, and databases.

Dramatic Works: including plays; choreography; screenplays; and mime.

Musical Works: this relates to the actual musical composition - lyrics are literary works.

Artistic Works: such as sketches; plans; maps; paintings; photographs; three dimensional works such as pottery, statuary and architectural works; craft work; and murals.

Cinematograph Films: the visual images and sounds in a film or video

How far back do Moral Rights apply?

Moral Rights apply to all works, except films, (and works to the extent that they are included in films) existing on December 21, 2000 and which are still protected by copyright, and to all works including films (and works included in films) created after that date. Films created before that date are not covered by these rights.

INFRINGEMENT OF MORAL RIGHTS

What can a creator do if their moral rights are infringed?

If a creator made a successful claim for infringement of moral rights, the remedies a court may grant include:

- financial compensation
- an injunction (a court order) to stop a particular activity
- a declaration of infringement
- an order for a public apology from the infringer
- an order to reverse any false attribution or derogatory treatment

Are there any exceptions?

A person would not infringe the moral rights of a creator if:

- their action was "reasonable"
- they had the consent of the creator in writing, allowing their omission or action
- a special exemption applied

What is "reasonable"?

The following factors have to be considered to determine whether an action is reasonable:

- the nature of the work
- the purpose for which it is used
- relevant industry practice
- whether the work was created by an employee or under a contract of service
- opinions of multiple authors (if any) about the action

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