Moral Rights in the Digital Era

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Moral Rights

- No legal definition but it is a right to **protect the reputation** of the creator of a copyright protected work.
- Art 6bis Berne Convention requires members to confer on authors the right to claim authorship.
Types of Moral Rights

- Paternity Right
- False Attribution Right
- Integrity Right
- Privacy Right

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Paternity Right

- The right to be identified as author or director: section 80
- Only granted to limited number of works.

Paternity Right

- Infringement:
  1. Nature of identification
  2. Circumstances where attribution is required
  3. Exceptions
Paternity Right
False Attribution Right

- The right not to have work falsely attributed: section 87
- It is where the work is falsely represented as being a copy made by the author of the artistic work: section 87(2)
False Attribution Right

Source: www.abcgallery.com

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Integrity Right

- The right to object to a derogatory treatment of work – **section 83**
- Treatment amounts to distortion, mutilation or any other modification of the work or is otherwise prejudicial to the honour or reputation of the author/director (**section 83(2)(b)**).
Headline: Wall Street’s ”Bull’ sculptor threatens to sue over ‘Girl’ statue: Artist Arturo di Modica dismisses ‘Fearless Girl’ as an ‘advertising trick’
Headline: Anish Kapoor criticizes 'intolerant, divisive' NRA after video used sculpture: British artist objects to unauthorized imagery of Cloud Gate in provocative video, but says he will not pursue legal action

Privacy Right

- The right of privacy to certain photographs and films – section 88
- The © owner in the photograph is the photographer.
- The right only applies to persons who have commissioned the taking of a photograph or the making of a film for private & domestic purposes – section 88 (1)
Street Photography

Source: https://lightwater.wordpress.com/2017/02/21/photo-of-the-week-no-24-the-kiss-by-the-hotel-de-ville-by-robert-doisneau/

Source: https://krystiandata.wordpress.com/2010/05/24/philip-lorca-dicorcia/
Duration of Moral Rights

- Same as copyright: 50 years except for false attribution which is for 20 years after a person’s death.

Source: www.disney.com
Moral Rights: The Digital Era

- Lara Jade Coton was awarded $130,000 in damages after a self-portrait of her was used as the cover art and the disc art for a pornographic DVD.

Source: https://www.pixsy.com/10-cases-that-show-how-complicated-copyright-law-really-is/
Moral Rights: The Digital Era

- Sampling will infringe the moral rights of the composer of both the original work and any pre-existing work in which the sample appears.
- Manipulating images with the view for entertainment may not amount to infringement.

By Rodney Pike

Source:

Source:
https://www.discogs.com/Anthill-Mob-Burnin/release/149302
Parody: Moral Rights Infringement?

Source: http://tvtropes.org/pmwiki/pmwiki.php/Film/ScaryMovie?from=Film.ScaryMovie4
Thank you for your attention

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