

Copyright and Moral Rights

Moral rights were introduced into Australian copyright law in 2000. The moral rights provisions are contained in Part IX of the Copyright Act.

Moral rights are independent of the author's economic rights and continue to exist even after transfer of the economic rights.

The moral rights now enacted into Australian law are:

- The right of an author or artist to be identified with his or her works – known as the **right of attribution**; and
- The right to object to alteration or other derogatory treatment of the work that would be prejudicial to the author or artist's honour or reputation – known as the **right of integrity**.

Moral rights apply to all works, except films, existing on 21 December 2000 and which are still protected by copyright, and to all works including films created after that date.

Under the right of attribution, the creator's right to recognition as creator of a work consists of four sub-rights:

- to be known as the creator of a work;
- to prevent others from claiming to be the creator of a work;
- to prevent the false attribution of works to the creator;
- to prevent attribution to the creator of unauthorized altered versions of a work.

The right of integrity is the creator's right to object to derogatory treatment of a work, and covers both:

- changes made to the work itself (i.e. distortion, mutilation or other modification of the work); and
- the manner in which the work is presented.

It is possible to consent to subsequent uses of copyright material which may offend against the moral rights, but the owner of the work may not have the right to alter a work against the wishes of the creator. This could have implications for the use of material written by academics in 'electronic courseware' and other products where material is used and altered.

The moral rights provisions are also subject to "reasonableness" exceptions. In determining whether it was "reasonable" (and thus not actionable) to infringe an authors' moral rights, the courts will take into account factors which include the nature of the work the purpose for which it was used, industry practice and whether the work was created by an employee or under a contract of service. Generally, industry practice will provide a guide to what is acceptable use that will not infringe the moral rights in copyright material, but there is little guidance available

from case law yet and the guidelines developed by universities for use and subsequent use of academic creative endeavours may help determine what is reasonable.

The remedies for a breach of an author's moral rights include:

- injunction;
- damages;
- an order that the defendant make a public apology for the infringement; and
- an order that the false attribution or derogatory treatment of the work be reversed.

For further information, consult the University Copyright Officer, copyright.officer@acu.edu.au.

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