

FUNCTIONS OF MORAL RIGHTS IN THE IDENTIFICATION AND PROTECTION OF DIGITAL WORKS

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Abstract

This article examines the legal nature, content, and contemporary functions of moral rights in the digital environment. Particular attention is paid to the role of moral rights in the identification of digital works, ensuring their authenticity and integrity, and preserving the legal and moral connection between the author and the work. The study analyzes the legal risks arising from the ease of copying, editing, modifying, and distributing works through digital technologies and online platforms. It also addresses the issues of unauthorized alterations to works, misattribution of authorship, false indication of the origin of works, and violations of the integrity of creative works. The article substantiates that moral rights serve not only to protect the personal interests of authors but also as an important legal mechanism for ensuring the stability of civil circulation, safeguarding the public's interest in reliable information, and preserving cultural heritage. Furthermore, the role of public authorities, digital archives, and official digital registries in maintaining the authenticity and integrity of works that have entered the public domain is examined. The article concludes by emphasizing the necessity of improving civil law mechanisms governing moral rights in light of the new forms of exploitation of digital works and the challenges posed by the digital environment.

Keywords

moral rights, copyright, digital work, identification of works, authorship, authenticity of works, integrity of works, digital environment, cultural heritage, digital platform, digital registry.

The rapid development of digital technologies has fundamentally transformed the creation, use, and dissemination of intellectual property objects. The widespread application of the Internet, cloud technologies, artificial intelligence, blockchain, digital platforms, and other innovative solutions has made it easier than ever to reproduce, edit, adapt, and distribute works on a global scale. However, these developments have not diminished the legal significance of copyright, particularly moral rights. On the contrary, they have reinforced the role and functions of moral rights within contemporary digital legal relations.

Traditionally, moral rights have been regarded primarily as a legal institution designed to protect the personal interests of authors, encompassing such rights as the right of authorship, the right to be identified as the author, the right to the integrity of the work, and the protection of the author's honor and reputation. Nevertheless, the unlimited reproduction of works in the digital environment, their adaptation across various platforms, and their dissemination through automated algorithms require a reassessment of the content and practical significance of moral rights from a modern perspective.

Today, determining the authorship of a digital work, identifying its authentic version, and verifying whether it has been altered without authorization have become essential prerequisites for the proper functioning of civil circulation. In this context, moral rights should be viewed not merely as a means of safeguarding the author's personal interests, but also as an important civil law mechanism for identifying digital works, ensuring their authenticity and integrity, preserving cultural heritage, and guaranteeing the public's right to reliable information.

In particular, the growing incidence of unauthorized alteration of authorship information, concealed modifications to the content of works, dissemination of multiple versions of the same work, AI-assisted transformation of copyrighted works, and

distribution of works without proper attribution has significantly increased the importance of the protective function of moral rights in the digital environment. These developments demonstrate that moral rights serve not only to safeguard the legitimate interests of authors but also to ensure the stability and legal certainty of civil circulation, strengthen trust within the digital economy, and preserve the cultural and intellectual heritage of society. Consequently, the social functions of moral rights require reconsideration in light of the challenges posed by digital technologies and the emergence of new forms of exploitation of creative works

Accordingly, a scientific and civil law analysis of the functions of moral rights in the identification and protection of digital works is of particular contemporary relevance. This article examines the emerging functions of moral rights in the digital environment, their role in ensuring the authenticity of works, their significance in protecting works that have entered the public domain, and their impact on modern legal relations in the field of intellectual property. The analysis is based on national legislation, comparative foreign experience, and contemporary legal doctrine.

The free circulation of any asset within civil commerce requires that market participants be provided with reliable and comprehensive information regarding its essential characteristics. This requirement is particularly important from the perspective of consumer protection, as an ordinary consumer is often unable to independently verify the authenticity of a product or determine whether it has been falsified or altered. Accordingly, legal regulatory mechanisms must ensure the accuracy, reliability, and trustworthiness of the information made available to participants in civil transactions¹.

If ensuring the authenticity of tangible objects already presents considerable legal and practical challenges within civil commerce, these challenges become even more

¹ Standler R.B. Moral Rights of Authors in the USA. 2012. Available at: <http://www.rbs2.com/moral.pdf> (accessed: 03.09.2016).

pronounced in legal relations involving intellectual property in the digital environment. The authenticity of a digital work depends primarily on the accurate identification of its author and the preservation of the work in the form originally created or approved by that author. In practice, however, an ordinary user is rarely in a position to determine independently whether a digital copy represents the original version of the work, whether its content has been modified without authorization, or whether the version being used corresponds to that endorsed by the author. Moreover, the ease with which digital technologies enable the creation, editing, and dissemination of multiple electronic versions of the same work makes it increasingly difficult to distinguish the authentic version from altered or unauthorized copies. As legal scholars have observed, the possibility of effortlessly modifying digital works has transformed the preservation of their authenticity into one of the most significant contemporary challenges for authors, other right holders, and the copyright system as a whole².

In this context, moral rights should be regarded in the modern information society not merely as a legal institution protecting the personal interests of authors, but also as an important legal mechanism serving broader public interests. This broader function is particularly evident in the continuing protection of the right of authorship and the right to the integrity of a work even after the author's death. Such protection is intended not only to preserve the author's reputation and creative identity but also to ensure the authenticity of cultural and intellectual heritage for the benefit of society as a whole.

A notable illustration of this approach can be found in the decision of the United States Court of Appeals in *Gilliam v. American Broadcasting Companies (ABC)*. In that case, the television network ABC broadcast a version of a 90-minute program created by the comedy group Monty Python after unilaterally removing approximately 27 minutes of its content. These extensive edits fundamentally altered the work's artistic

² Rajan M.T.S. Moral Rights in the Digital Age: New Possibilities for Democratization of Culture, P. 112

integrity and distorted the authors' creative expression. The court concluded that such conduct constituted an unlawful interference with the work and, relying on the provisions of the Lanham Act, held that presenting the substantially altered program as the original work of Monty Python amounted to a false designation of origin and was therefore legally impermissible³. Although this decision reflects the distinctive approach of the United States legal system, where moral rights receive comparatively limited statutory protection, it nevertheless demonstrates an important principle that is equally relevant in the digital environment. The lawful use of a copyrighted work should not only respect the economic interests of the right holder but must also ensure that the public receives accurate and reliable information regarding the true origin, authorship, and authenticity of the work. Consequently, the protection of moral rights performs not only an individual function in safeguarding the author's personal interests but also a broader public function by preserving confidence in the integrity and reliability of information circulating in the digital sphere.

Another fundamental function of moral rights is to prevent the unauthorized alteration, distortion, or other modification of a work without the author's consent. This function extends beyond preserving the author's personal connection with the work and serves to protect the integrity of the creative expression embodied in it. In the digital environment, where works can be edited, transformed, reproduced, and redistributed almost instantaneously, the practical significance of this function has increased considerably. Its legal effect is manifested through several interrelated and relatively independent dimensions, each aimed at preserving the authenticity and integrity of copyrighted works.

First, in the digital environment virtually any copyrighted work can be easily edited, shortened, reformatted, or otherwise modified through technical means. In many

³ *Gilliam v. American Broadcasting Companies (ABC)*, 538 F.2d 14 (2d Cir. 1976).

cases, such alterations are imperceptible to the end user. Nevertheless, unauthorized modifications may adversely affect not only the interests of consumers but also the business reputation of copyright holders and other lawful users who exploit the work in commercial activities. Furthermore, altered or falsified versions of works may compete directly with authorized versions in the marketplace, thereby diminishing their commercial value and undermining the economic interests of right holders. As T. Heide has observed, the unauthorized modification of works on the Internet or within traditional publishing markets may reduce the market share of copyright owners and significantly impair the return on their creative and financial investments⁴.

Second, the rapid development of digital technologies has given rise to entirely new forms of exploiting copyrighted works. For example, digital music can now be segmented into individual components, combined with works created by different authors through remixing and sampling techniques, or transformed into new compositions using digital editing tools. At the same time, artificial intelligence systems and algorithmic recommendation technologies have become widely used to analyze creative content and automatically recommend, adapt, or generate materials tailored to individual users' preferences. While these technological developments significantly expand opportunities for the dissemination and creative reuse of works, they also increase the risk of unauthorized alterations that may distort the original creative expression or weaken the legal and moral connection between the author and the work. Consequently, the right to the integrity of a work acquires particular importance in the digital environment, serving as a safeguard against modifications that undermine the authenticity, originality, and artistic coherence of copyrighted works⁵.

⁴ Хейди Т. Новое толкование права на неприкосновенность произведения в статье 6bis Бернской конвенции // **Бюллетень по авторскому праву**. 1998. № 3. С. 10.

⁵ Хейди Т. Указ. соч. С. 11.

Therefore, in the digital environment, moral rights function as a legal safeguard preserving the inseparable connection between authors and the products of their creative activity. By exercising these rights, authors may require the accurate indication of the title of the work and their name, the preservation of the work's content against distortion, and respect for its moral and artistic integrity. At the same time, ensuring the effective exercise and enforcement of moral rights amid the rapid development of digital technologies requires the continuous improvement of legislation and the creation of legal mechanisms capable of addressing emerging forms of digital use, adaptation, modification, and dissemination of creative works.

The expanded possibilities for modifying works in the digital environment have also increased the likelihood of intentional and unintentional alterations affecting their content. When such modifications are repeatedly reproduced and disseminated over time, the original meaning, artistic integrity, and historical value of a work may gradually be eroded, ultimately causing significant harm to society's cultural heritage. This risk is particularly acute in relation to works whose term of copyright protection has expired and which have entered the public domain. Because such works may be freely used by any person, there is often no identifiable right holder with a direct legal or economic interest in continuously monitoring their use, preventing their distortion, or preserving their authentic form. Consequently, the protection of the authenticity and integrity of public domain works increasingly serves not only private interests but also broader public interests, requiring appropriate legal mechanisms to safeguard the cultural and historical value of these works for present and future generations⁶.

At the same time, the public domain performs a wide range of functions that are essential for social, scientific, and cultural development. It provides the foundation for the creation of new intellectual and creative works, promotes innovation by enabling the

⁶ Rajan M.T.S. Op. cit. P. 3.

lawful reuse of existing knowledge and cultural resources, and expands public access to information and cultural heritage at little or no cost. In addition, the public domain plays a vital role in supporting education, facilitating the dissemination of scientific knowledge in healthcare and public safety, strengthening democratic processes through unrestricted access to information, and fostering the preservation and development of values shared by society as a whole. For these reasons, maintaining the authenticity and integrity of works that have entered the public domain should be regarded not only as an issue of cultural policy but also as an important objective of intellectual property law in the digital age⁷.

From this perspective, public authorities have an especially important role to play in safeguarding the authenticity and integrity of works that have entered the public domain. Competent state institutions should be empowered to identify and respond to instances in which such works are used in a misleading manner or are altered in ways that distort their original content. At the same time, it would be appropriate to establish official information resources, digital archives, and authoritative digital registries capable of preserving and providing access to authentic versions of public domain works. Such mechanisms would enable users to compare literary texts, audiovisual productions, musical recordings, and other creative works in their possession with officially verified versions, thereby facilitating the verification of their authenticity and integrity.

Even where the author or copyright holder cannot be identified, any modification of a work should be subject to clearly defined legal safeguards. In particular, the grounds, scope, and conditions of any alteration should be reviewed or authorized by a competent public authority or another specialized institution entrusted with the

⁷ Samuelson P. *Challenges in Mapping the Public Domain* // *The Public Domain of Information* / P. Hugenholtz, L. Guibault (eds.). The Hague, 2006. P. 22.

preservation of cultural heritage. Otherwise, the unrestricted availability of public domain works could be misconstrued as permitting their arbitrary alteration or distortion. The absence of adequate legal regulation in this area has resulted in many public domain works remaining effectively unprotected against unauthorized modification within the digital environment.

Accordingly, in the contemporary information society, characterized by the global digital exploitation of creative works, the functions of moral rights extend far beyond the protection of the individual interests of authors. One of their principal functions is to ensure the proper identification of intellectual creations introduced into civil commerce. Such identification encompasses more than establishing formal attributes, such as the title of a work, the identity of its author, or the date of its creation. It also requires legal guarantees that the work made available to the public is authentic, accurate in content, and free from unauthorized alterations.

In an environment where digital technologies permit works to be edited, fragmented, rearranged, remixed, or combined with other creative materials almost instantaneously, ensuring their authenticity becomes indispensable for maintaining legal certainty and confidence in civil transactions. This objective is equally relevant to unique artistic creations, such as paintings and sculptures, as well as to literary, musical, audiovisual, photographic, and other categories of copyrighted works.

At the same time, the legal regulation of moral rights directly influences the operation of other branches of intellectual property law and is itself shaped by their development. Moral rights function within an integrated legal framework that also encompasses copyright, the transfer and licensing of exclusive rights, consumer protection, competition law, information security, and the regulation of digital platforms. For this reason, the effectiveness of moral rights cannot be evaluated in

isolation but should instead be assessed within the broader context of a coherent and systematic legal framework governing intellectual property in the digital age.

Nevertheless, contemporary legal scholarship has yet to develop a comprehensive understanding of the evolving social and economic functions of copyright in the information society. In particular, no consistent theoretical approach has emerged regarding the changing role of moral rights within the copyright system, their contribution to civil commerce and digital identification, their significance in ensuring the authenticity of creative works, or their function in protecting broader public interests. This theoretical gap demonstrates the need to reconsider the legal nature and functions of moral rights in light of the distinctive characteristics of modern digital legal relations.

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