

2022 AIPPI World Congress – San Francisco
Adopted Resolution
13 September 2022



Resolution

2022 – Study Question – Copyright

Moral Rights

Background:

- 1) This Resolution concerns moral rights in copyright law. For the purposes of this Resolution, the term “moral rights” is used to encompass all legal rights and concepts used to provide protection to the non-economic rights of authors, regardless of whether they are referred to as “moral rights”. In this Resolution, the term “author” refers to the natural person who created the work, including under circumstances where the legal author is not the creator.
- 2) All types of copyright protected works are within the scope of this Resolution.
- 3) This Resolution is limited to civil (private) law issues of moral rights. Criminal law issues are outside the scope of this Resolution. This Resolution does not address international private law issues.
- 4) 37 Reports were received from AIPPI’s National and Regional Groups and Independent Members providing detailed information and analysis regarding national and regional laws relating to this Resolution. These Reports were reviewed by the Reporter General Team of AIPPI and distilled into a Summary Report (see link below).
- 5) At the AIPPI World Congress in San Francisco in 2022, the subject matter of this Resolution was further discussed within a dedicated Study Committee, and again in a full Plenary Session, following which the present Resolution was adopted by the Executive Committee of AIPPI.

AIPPI resolves that:

- 1) Harmonisation is desirable in relation to moral rights.
- 2) Moral rights should be recognized in copyright law.
- 3) Moral rights should be provided for all types of works.
- 4) a) At least the following categories of moral rights should be recognized:
 - right of attribution, including:
 - the right to be recognized as the author of the work,
 - conversely, the right to publish a work anonymously or under a pseudonym;
 - right of integrity, defined as the right to object to a distortion, mutilation or other modification of the work provided it is prejudicial to the author;
 - right of disclosure, defined as the right to decide whether or not to disclose a work, as well as the conditions of such disclosure, understood as the decision to make the work known to the public for the first time.
- b) Additionally, at least the following moral rights could be recognized:
 - the right to object to contextual modifications prejudicial to the author;
 - the right to object to use in association e.g. with a product, service, cause or institution, prejudicial to the author;
 - right of withdrawal, defined as the prerogative for the author to cease further circulation of his/her work (including by terminating a contract for reasons of changed conviction) subject to compensating the other party/parties affected, if any.
- 5) Moral rights should be subject to exceptions and limitations, including, but not limited to:
 - for specific categories of works, such as
 - software or databases
 - architectural works
 - audio-visual works
 - works of applied art, utilitarian and technical worksin order to limit the scope of protection under certain circumstances;
 - as regards the right of integrity, in case of minor modifications of the work, unless these are prejudicial to the honor or reputation of the author;

- in case of abuse of rights;
 - use for the purposes of criticism, comment, teaching, research, scholarship, parody and news-reporting.
- 6) The owner of the moral rights should be the natural person who is the author.
- 7) Legal entities should not be the owner of moral rights.
- 8) After the death of the author, their heirs or a person designated by testament should be authorised to exercise the moral rights.
- 9) Duration of moral rights should not be less than the duration of economic rights.
- 10) Property rights of the owner of tangible asset integrating a work (e.g., a painting, sculpture, architecture) can be limited by moral rights, subject to a balance of interests.
- 11) It should be possible to contract on moral rights, subject to the following limits:
- it should not be possible to transfer contractually moral rights to third parties;
 - it should not be possible to renounce or waive any moral right entirely.

For instance, the author should be able contractually to:

- authorize certain specific types of exercise of moral rights;
 - authorize certain modifications to their works;
 - authorize modifications, inherent to assigned economic rights, such as adaptation rights;
 - settle *ex post facto* disputes relating to moral rights.
- 12) Infringement of moral rights constitutes copyright infringement.

The condition for an infringement of moral rights should be a breach of the moral rights as defined by statutory law and case law and taking into account a balance of interests.

In the case of the right of integrity, the plaintiff must prove that the modifications are prejudicial to the author.

Link:

- [Summary Report](#)

