MORAL RIGHTS

SHEDDING LIGHT ON THE PERSONAL ELEMENT OF COPYRIGHT

NEW FROM THE COPINGER AUTHOR TEAM
Gillian Davies and Kevin Garnett QC

• Provides a much needed explanation of the origins and international development of these fascinating rights which in the UK have for long stood in the shadow of their sibling, the ‘economic’ copyright
• Presents a complete examination of moral rights in the UK, how the law can be used to protect them and what the pitfalls are
• Gives you an international understanding with detailed analysis of the laws in 18 key jurisdictions and a table summarising moral rights in 162 countries

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The presence of moral rights in UK law means that even if your client has given away their copyright, it doesn’t mean they have completely relinquished their integrity. Used intelligently, moral rights can protect your clients’ reputation from being damaged by wrongful use of their works, long after they’ve handed over their economic rights.

PRESENTS A COMPLETE ANALYSIS OF THIS UNTAPPED AREA
Members of the renowned Copinger author team along with a distinguished panel of contributors tackle the area of moral rights in this insightful and practical new book. It examines the complete international history of moral rights, taking you through its initial conception in France and Germany. It then discusses the subsequent take up in further jurisdictions, the Berne Convention and how these concepts have been implemented in the UK.

DISCUSSES UK LAW IN PARTICULAR DETAIL
It provides a detailed examination of moral rights in the UK, covering especially the four statutory moral rights of authors and performers. It offers a practical examination of the many hidden traps, using numerous examples including the key cases Confetti Records Ltd v Warner Music UK Ltd, Sawkins v Hyperion Records Ltd, Pasterfield v Denham and Clark v Associated Newspapers Ltd. It also makes reference to laws and practice in other countries, enabling you to easily make comparisons. Also considered are other areas of law which also cover moral rights, such as passing off, defamation and contract law.

PROVIDES YOU WITH AN INTERNATIONAL UNDERSTANDING
Moral Rights considers the law in countries outside the UK, to the vast differences in how countries have incorporated moral rights into their legislative framework. Nineteen of the key jurisdictions are examined, each by a local expert, giving you an insider’s perspective of the legal framework. Each of these experts discuss how moral rights are protected by the law in their jurisdiction, examining the history, legislation, cases, remedies and penalties for infringement.

YOUR COMPLETE REFERENCE ON MORAL RIGHTS AND THE LAW
• Examines moral rights law in the UK in detail and contrasts it to key EU and international jurisdictions
• Considers the UK paternity and integrity rights, the right against false attribution and the so-called “right to privacy”
• Offers a practical and comparative approach to an area about which little has been written
• Discusses the historical treatment of moral rights
• Looks at how moral rights have developed internationally, and examines their treatment in international and regional conventions and treaties
• Compares moral rights in more established civil law jurisdictions with those in less developed common law jurisdictions
• Examines moral rights in 19 of the key European and international jurisdictions, with each jurisdiction being covered by a local copyright expert
• Covers each jurisdiction systematically and comprehensively
• Discusses the significant case law from civil law jurisdictions
• Presents discussion of the potential consequences if moral rights were harmonised under EU law
• Reproduces the important conventions, statutes and regulations for easy cross-referencing
PART I: THE NATURE AND ORIGINS OF MORAL RIGHTS

Introduction
Origins of the theory of moral rights
The international development of moral rights in civil law countries
• The monistic theory of copyright
• The dualist theory of copyright
The international development of moral rights in common law countries
Moral rights in international instruments
• The Berne Convention
• The WIPO Copyright Treaty 1996
• The WIPO Performances and Phonograms Treaty 1996
• The TRIPS Agreement 1994
Moral rights in regional conventions
• Council of Europe Treaties
• EC policy on moral rights

PART II: MORAL RIGHTS IN THE UNITED KINGDOM

Introduction
• The four rights protected as moral rights by statute
• The requirement of a copyright work
• The requirement of a qualifying performance
• Protection by other causes of action
The concept of a copyright work
• Classification of protected works
• The requirement of fixation
• The requirement of originality
• Qualifying conditions
• Foreign works
• Works denied protection
The concept of authorship in relation to a copyright work
• The concept of a performer
• What is a performance?
• Who is the performer?
• Qualifying performances
The paternity right
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• The right to be identified as performer
The integrity right
• The right of an author or director to object to derogatory treatment
• The performers’ right to object to derogatory treatment
False attribution of authorship
Right to privacy in respect of photographs and films
Duration of moral rights
Transmission of moral rights
Remedies for infringement of moral rights
Transitional provisions
Protection of moral rights by other causes of action
• Contract
• Passing off
• Defamation

PART III: TREATMENT OF MORAL RIGHTS IN OTHER JURISDICTIONS

EUROPE
• Belgium
• France
• Germany
• Greece
• Italy
• The Netherlands
• The Nordic Countries - Denmark, Finland, Norway and Sweden
• Portugal
• Russian Federation
• Spain
• Switzerland

OTHER COUNTRIES/REGIONS
• Australia
• Canada
• China (and Hong Kong)
• Israel
• Japan
• Latin America (Argentina, Brazil, Mexico)
• United States of America
• Rest of World (tabled)

PART IV: GENERAL CONSIDERATIONS

• Territoriality, jurisdiction and applicable law issues in international moral rights disputes
• Moral Rights in 2010: An assessment

Appendices
Bibliography
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EXPERT AUTHORS

Gillian Davies is a barrister at Hogarth Chambers and was formerly chairman of a Technical Board of Appeals and member of the Enlarged Board at the European Patent Office. She is a specialist in international intellectual property law with a particular emphasis on the international conventions governing patent law and copyright. She is co-author of Copinger & Skone James on Copyright.

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The authors have also assembled a first-rank team of contributors who have produced a highly detailed and informative analysis of moral rights laws in the following jurisdictions: Australia (Elizabeth Adeney) Belgium (Paul Torremans and Joris Deene), Canada (Kristin Lingren), China (Guan Hong Tang), Israel (Cadi Oron), Japan (Kristin Lingren), France (Maria Mercedes Frabboni), Germany (Adolf Dietz), Greece (Irinis Stamatoudi), Italy (Maria Mercedes Frabboni), Latin America (Miguel Angel Emery, João Carlos Muller, Alfredo Rangel), The Netherlands (Willem Grosheide), The Nordic Countries (Johan Axhamn), Portugal (Patricia Akester), Russia (Irina Savelieva), Spain (Carmenchu Buganza), Switzerland (Jacques de Werra) and the United States of America (Kristin Lingren).

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