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Challenges of Moral Rights of Authors in the Face of Digitization: The Right of Paternity as a Model

Khedidja YAHIA BEY *
University of Oran 2, Algeria

Leila BENAOUDA
University of Oran 2, Algeria

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Abstract:

The author's creation of a literary or artistic work by adding his personal touch grants him exclusive financial rights and other rights related to the personality that supersede it, called moral rights, which are rights that cannot be relinquished or disposed of and do not accept prescription.

The author's right to have his work attributed to him, or his right to have his name and title respected, or what legal scholars call the right of authorship, is one of the most important moral rights he enjoys, as it is through it that the rest of the rights are embodied, whether they are material or moral.

The Algerian legislator, following the example of his French counterpart, has established legal provisions to protect the moral rights of the author, especially the right to have his work attributed to him, in order to defend against any violation or infringement of this right through a claim of imitation or through a claim for compensation.

However, the enormous technological development in the field of information and communication and the spread of digitization has made legal protection ineffective, which calls for the search for technical means to protect this right, and this is the path that the Algerian legislator must follow to confront imitation in the digital environment.

Keywords: *Imitation, copyright, authorship, technical means, parental rights, compensation, penalty.*

* Corresponding Author yahiabey.khadidja@univ-oran2.dz; (*Research Laboratory of Investment and sustainable development*).

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Introduction:

The right of paternity occupies a special place among the other rights granted to the author of the creation, as the relationship that connects the author and his work is a parental relationship similar to that which connects the child and his father, making him morally responsible for his creation, so he bears the criticism directed at him while benefiting from the glory and fame that he achieves as a result of the circulation of his creation among the public.[1]

Thus, the legislator established a legal provision in Order No. 03-05 relating to copyright and neighboring rights. The author is recognized as having the right to have his work attributed to him, and through this right he is granted the right to defend against any infringement or violation of it by exercising the right to file a claim of plagiarism and the right to claim compensation.[2]

However, the information revolution and the digital revolution have changed how intellectual creations are utilized. Whereas these creations were once embodied in a tangible, physical form, they have now become digital, existing in the virtual world. This has led to the emergence of new forms of creation: digital works. It is well known that a creator's exercise of their rights is linked to their control over the medium on which the creation appears. However, due to modern technology and the widespread use of the internet, this process has become extremely difficult because of the rapid transfer of digital works. This has created a need to find alternative, more suitable means of protection that complement traditional legal protection. The right to parenthood in a virtual environment, like other rights, is vulnerable to infringement and violation. Therefore, it is necessary to examine the status of this right within this environment and how to address any potential infringements upon it[3].

The importance of this study lies in addressing the exercise of parental rights in relation to digital works, given the primacy of this right over all other material rights, its unique position among other moral rights, and the violations to which digital works are subjected due to their

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[1] F. Pollaud-Dulian, The author's right, Economica, 2nd ed., 2014 ; n°816 ; p 606.

[2] *Copyright and Related Rights*, Ordinance No. 05-03 of July 19, 2005. (*Official Gazette*, No. 44, July 23, 2005).

[3] A. Lucas, *Copyright in the Face of Digital Technologies, audiovisual files*, n° 43, mai-juin 1992, p. 34.[3]

easy accessibility and imitation resulting from increasing technological development.

This study relies on the analytical method, which entails a systematic examination of the legislative texts that govern copyright and neighboring rights, and the descriptive method, which clarifies the concept of the moral right of paternity, its legal nature, and its distinguishing features, while also exploring the mechanisms available for its legal protection. Additionally, the comparative method is utilized, focusing on a comparison between Algerian legislation and French law in this area. The study presents a central and critical problematic is formulated as follows: What are the major challenge legislator face in protecting the moral right of paternity in the digital environment, and can existing legal provisions strike a fair balance between authors' moral rights and the interests of users of digital works?

I. The Concept of Parental Rights over the Author and the Impact of Digitization on it

Attributing a work to its author, or acknowledging their right of authorship, means recognizing their right to claim that the work they created is their own. Making this work available must be accompanied by their name, title, and academic qualifications, clearly displayed on every copy. The basis for recognizing these right stems from its inherent connection to the author as the creator. The author alone has the right to choose the method and content of this attribution, and in turn, third parties or those contracting with them must respect this choice. The author's right to have their work attributed to them applies to all works and all authors, regardless of the nature of their works. This right also extends to authors of joint works, and it is not permissible to omit any of their names. Recognition of this right is not limited to works fixed on physical media (the analog environment) but also extends to those published on the Internet (the digital environment). Accordingly, the concept of authorship rights will be addressed in (Section1) and the impact of digitization on the author's authorship rights to their work will be discussed in (Section 2).

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a) Definition of Parental Rights over the Author

The Algerian legislator did not recognize the right of paternity over a work, and legal scholars have used several terms to refer to this right: "the right to respect for the name," "the right to respect for paternity," "the right to the name."[1]Some define this right as: "The right of parentage is a moral privilege that allows authors and performers to decide under what circumstances they wish to associate their name with their works or performances."[2]"And if the right of fatherhood, according to family law, means the relationship that binds the father to his son and results from the marriage contract, which is proven by the father's acknowledgment of his fatherhood or by any other means[3]The right of authorship over literary and artistic works is based on the paternal or lineage relationship between the creative author and their work, which is generated from their intellectual act of creation.[4]Thus, it becomes clear that this relationship is similar to the paternal relationship that exists between a father and his son according to general rules. However, the difference between them lies in the fact that the right of paternity over the work constitutes an element of the right to respect, serving as one of the pillars of the author's moral right through which he proves his status as a creator.

Thus, the right of paternity over the work is used, according to some.[5]As a counterpart to the right of parenthood in the general provisions of family law, this right should always be linked to the work or performance, in order to demonstrate the obligation to respect the name. Accordingly, any work stands out through the name of its author, which calls for establishing and protecting this relationship, as well as respecting his reputation and honor. These are the same features of the author's moral right that will be elaborated below, and the standard of originality that is based on the author's personal imprint, through creating

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[1]F.Pollaud-Dulian, op.cit; n°816 ; p606.

[2]C. BERNAULT and J.-P. CLAVIER, Dictionary of intellectual property law *intellectual*, Ellipses, ed. 2008, p. 138. "Droit to the paternité is a moral prerogative that permits others and interprètes to decide in all these conditions."
wish that his name is associated with the previous one or his post1"

[3]Art. 40 and seq. of Law No. 11-84 of June 9, 1984, containing the Family Code, as amended and supplemented, Official Gazette No. 24, dated June 12, 1984.

[4]N. Baba Hamed, he wrote with respect to his literary and artistic rights: as a comparison, this doctor; compare the affairs, history and political sciences; University of Oran-2- Mohamed bin Ahmed, 2014-2015, P. 24

[5]Ibid

an inseparable relationship between the author and his literary or artistic work.

The author has the right to have their work attributed to them, by having their name mentioned on every literary or artistic work, regardless of the nature or type of medium on which it is displayed, whether traditional or digital, so that the public can become familiar with their intellectual creations. It is not enough to simply mention the name; it must be mentioned clearly and distinctly, avoiding ambiguity and confusion with the names of others.[1].

Protecting the right of authorship is of paramount importance for several reasons. On the one hand, it brings fame and glory to the author. On the other hand, it allows society to benefit from the author's name by knowing who created the work, so that society can praise it if it is good or criticize it if it is not. In this way, it becomes an element in evaluating the author's behavior through constructive criticism.[2]This guidance in selecting roles based on artistic and literary works of value undoubtedly achieves the public benefit for society by elevating public taste to a level that matches these valuable works[3].

Given the importance of this right, the laws relating to copyright and neighboring rights stipulated the right to paternity and clarified its boundaries and regulations. Thus, the Algerian legislator recognized the author’s right to respect for his name and title, or as it is known in legal jurisprudence, the right of parentage or the right of lineage, in Article 23 of Order No. 03-05, mentioned above: “The author of the work has the right to stipulate his family name or pseudonym to be mentioned in its usual form, as well as on the appropriate media of the work. He may also stipulate his family name or pseudonym to be mentioned regarding all transient forms of communication of the work if the customs and ethics of the profession allow it.”

French intellectual property law recognizes the author's right to this in both its positive and negative aspects, that is, to have his name explicitly mentioned or to have his work made available and published without mentioning his name or under a pseudonym. Therefore, the law

[1]P. Tavoreau, enter the intellectual property. The titles of the children's homes, editor Gualino, 2007, p. 126
[2]Ibid
[3]Dalal Baadid, The Legal System of the Right to Lineage in Light of Literary and Artistic Property Law - A Comparative Study, Journal of Rights and Freedoms, Issue 2, Volume 9, 2021, p. 963.

provides: "The author has the right to have his name, title, and work respected..."

This approach by the French legislator is based on the fact that an author sometimes prefers to publish their work under a pseudonym or anonymously. The author may wish to observe the public's reaction to their work—whether positive or negative—before revealing their real identity. This may also be due to professional, political, or family considerations. According to some legal scholars, "If the paternal relationship between a father and his son is established by mentioning the father's name in the in to official documents and certificates, the parental relationship between the author and the work is translated through mentioning the author's name and title on the cover, title page and cover of all copies.[1]The French Court of Cassation confirmed this principle in a decision issued on July 3, 1990: "The authorship belongs to the person who publishes and disseminates the work in his name, and this presumption can only be refuted by counter-evidence." It is clear from the above that the text of Articles 23 of Order No. 05-03 and 121-1 of the French Intellectual Property Code extends to the respect for the author's paternity rights over his work in the digital environment, that is because these two texts fall under the general provisions of copyright.

Jurisprudence and judicial interpretation have not settled on a definitive legal nature for the right of paternity as an intellectual right; numerous theories and opinions exist regarding its nature. Some consider it a right of ownership, but they differ on whether to equate it with the ownership of movable property or real estate (immovable property), since property is inherently divided into movable and immovable.

However, some French legal scholars consider this type of intellectual property right to be of a single nature, namely property rights. The author's and inventor's right is a binding and enforceable property right against all others.[2]Another view holds that this right is an intangible right, neither movable nor immovable property, and therefore it is a special type pertaining to human intellectual production, possessing characteristics different from other rights.[3],

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[1]A. Desbois The turns, Manuel of the artistic and artistic works; 2 ed. ; dalloz;1966; n°33; p.38 ;: "Si the filiation relationship between the files and their son previously existed of l; indication of his name in the official documents; the relationship between l; auteur and son œuvre se traduit par l; indication of the name and the quality of l; auteur on the couverture; the page of the titre; the rliure and the jacket of all examples…"

[2] A. Lucas ; Arbitrage and intellectual property Editor: Lexis Nexis .p.20

[3] Mu'ayyad Zaydan, Intellectual Property Rights, Lectures delivered to students of the Syrian Virtual University, 2020, p.20. https://pedia.svuonline.org › content › IPR532

The theory of intellectual or mental rights also states that the latter enjoy the same qualities and characteristics that distinguish real rights, such as the right of exclusivity and monopoly of the owner of the work over his work, as well as the powers he exercises. Since intellectual rights relate to things that are divided into intangible and tangible, tangible money relates to tangible things and intangible (intangible) money relates to intangible things, such as the rights of the inventor, the artist and the author.[1]

Commercial opinions and theories subsequently emerged, but they too failed to define the nature of intellectual property rights. This is because an author or patent holder cannot be considered a mere merchant trading their ideas to increase their wealth, thus excluding the noble human aspect and creative talent. Therefore, it can be said that intellectual property rights encompass both moral and material rights. Moral rights are represented by the intellectual production and the intellectual creation inherent in the personality of the intellectual producer; while material rights are represented by the material exploitation of the intellectual production and the reaping of its financial benefits.[2]

Thus, it can be concluded from the above that the right of paternity, as a moral right, is considered a personal right because it is closely linked to the personality of the intellectual creator. Mental production is nothing but an extension of the human personality into the external world, and the author's intellectual innovation is a mirror of his personality and a reflection of his human thought, thus prioritizing its moral aspect over its material or financial aspect.[3]Therefore, the nature of

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[1] Abbas Zaboun Al-Aboudi and Mahdi Naeem, The Legal Nature of Intellectual Property Rights, Imam Al-Kadhim Journal of Islamic Sciences, Issue 3, Iraq, 2018, p. 295.

[2] Muhammad Farouk Al-Basha, Intellectual Property, Dar Afnan, Damascus, Syria, 2014, p. 24.

Intellectual property rights has a dual nature, meaning it consists of financial and moral rights, and these two rights are different from each other. The moral right is represented by the author's ownership of his work or creation, while the material right is represented by the financial exploitation and use of a work by its author. Financial rights differ from moral rights in their purpose, as the former are transferred to the heirs temporarily, while the latter are transferred to them permanently and are not subject to valuation or prescription.

[3] Mohamed Kamel Morsi, Explanation of the New Civil Law, Original Real Rights, Part Two, First Edition, No Publication Date, p. 110.

paternity rights is entirely consistent with the theory of the personal nature of intellectual property rights; it is a special and exceptional nature. This right considers the other intellectual property rights, especially the financial ones.

It is worth noting that the concept of intellectual property has changed since the information technology revolution, transforming the world into a global village that transcends temporal, geographical, and political boundaries. This has given this type of right a new meaning. Works are no longer limited to printed books; information has spread through electronic technologies, particularly the internet, and the digital environment has replaced the traditional paper environment. All of this has imposed specific conditions for recognizing digital works that embody intellectual creativity and necessitates providing them with the necessary protection against piracy and plagiarism.

The question that arises in this regard is whether the author is allowed to give up his name to another, or is he only allowed to delegate it? Given the importance of this question and its potentially serious legal implications, particularly in the field of digital publishing, it is necessary to derive the answer in light of Algerian law and some comparative laws, especially French law.

The author's name and title are among the most important and perpetual moral rights connected to his personality, and therefore he may not assign them to another party. If this occurs, such assignment is absolutely null and void. This is confirmed by the Algerian legislator in Article 21 of Ordinance No. 05-03 mentioned above, which states:The author has moral and material rights over the work he created. The moral rights are inalienable, imprescriptible, and cannot be waived."

What reinforces the view that the right of parentage is not waivable is the text of Article 13 of Order 05-03, mentioned above, which states the following: “Unless proven otherwise, the owner of the copyright is considered to be the natural or legal person who declares the work in his name or makes it lawfully available to the public, or submits a declaration in his name to the National Office for Copyright and Neighboring Rights, provided for in Article 131 of this Order.” If a work is published in the name of its author, the person who lawfully makes it available to the public is considered a representative of the rights holder, unless proven otherwise.

If anonymous work is published without indicating the identity of the person making it available to the public, the exercise of rights is

handled by the National Copyright and Neighboring Rights Office until the identity of the rights owner is identified. The French legislator adopted the same approach, stipulating that: "The title of author belongs to those in whose name the work is published unless there is evidence to the contrary."[1]It also states: “For the author who chooses to conceal, whether by making the work available or broadcasting it under a pseudonym or anonymously. “Without a name, the publisher of the work is considered authorized by the author to exercise the rights stipulated in this law, unless the author appoints another agent or discloses his identity. "[2]. Based on the foregoing, the author has the right to have their name and title mentioned on their work, whether it is on a digital medium or published on the internet. Conversely, the author may also publish their digital work under a pseudonym or remain anonymous. In the latter case, the publisher or any other person acts as the author's representative to defend their moral and financial rights until their identity is revealed, at which point the rights and obligations pass to them, or to their heirs if they have stipulated in their will that their name be revealed[3].

The principle is that the right of paternity is characterized as an eternal right, not temporary or limited to a period of time, and it remains in place throughout the author's life as long as copies of the work are in circulation. It can also be exercised after his death by his heirs as an exception, if there is a will to that effect.[4]

Therefore, the right of paternity is characterized by permanence and eternity; it does not lapse with the death of the author or non-use, as it is not subject to prescription in the sense of acquisition or extinguishment.[5]This is what the legislator stipulated.[6]And what the Arab agreement included for[7]Copyright protection. This privacy stems from the fact that it is a personal right that arises from the creation of the work

[1]Art. L. 113-1 C. fr. propr. intell

[2]Art. L. 113-6 C.fr. propr. intell

[3]It should be noted that most comparative legislations have established provisions regarding exceptions and limitations to the right of authorship, based on the Berne Convention, which exempts those who display or transmit a protected work dealing with current, incidental, or accidental events. However, Ordinance No. 05-03 contains no exceptions concerning the right of authorship or attribution of the work to the author; it is considered an absolute right belonging solely to the author.

[4]- F. Pollaud-Dulian, op. cit.; n°875 ; p. 648.

[5]Ibid

[6]Art. 21 of Ordinance No. 05-03 (prec).

[7]Art. 6(d) of the Arab Convention for the Protection of Copyright: The moral rights mentioned in paragraphs (a-b) are not subject to transfer or prescription.

and remains in effect throughout the author's life and does not lapse after his death.

The fact that the right of paternity is an inherent right of the author's personality requires that it not be subject to seizure. Personal rights in general have no financial value, as creditors cannot seize them to collect their debts. Allowing the seizure of the right of paternity constitutes a blatant attack on his personality and the rights associated with it. Therefore, a kind of balance should be achieved between the author's personality by respecting his moral right to have his work attributed to him and the financial interest of the creditors.

b) Exercising Paternity Rights over the Work and the Impact of Digitization on it

Mentioning the author's name and title is a right, not an obligation, as can be inferred from current provisions concerning literary and artistic property, and is the approach followed in most comparative copyright laws. Therefore, it is a matter of choice that no one can compel, whether the work is published by the author themselves or through a third party, especially the publisher.

On this basis, the author has the right, during his lifetime, to have his work attributed to him. The publisher must place his name and title, if the author expresses his desire to do so, on all copies of the work and related documents. This right extends beyond mentioning his title, academic and intellectual qualifications, and any information that would make him known to the public.[1].

An author may choose to publish their work anonymously, in which case the work is considered anonymous. However, in this situation, a visible person is required to exercise the author's moral and financial rights; this is usually the contracted publisher or a third party authorized to do so.

In the absence of the author's name or the name of their authorized representative (publisher or assignee), the National Copyright and Neighboring Rights Office assume, by force of law, the task of safeguarding and protecting the author's moral and financial rights, as well as exercising them.[2].

The author also has the right to publish his work under a pseudonym and may simply use a symbol or the first letter of his name to

[1]Adel Rezig and Madoud Soumia, The Limits of the Author's Exercise of Moral Rights in Algerian Legislation, Al-Tanweer Magazine, Issue 6, June 2018, p. 106.
[2]Art.13, last paragraph of Order No. 05-03, (prec).

indicate his identity. The pseudonyms chosen by authors and artists as a cover to hide their real names vary. For example, the Algerian writer who writes under the pseudonym "Assia Djebar" while her real name is Fatima Zahra Imlahin," and in this situation, the author has the right to reveal their name to the public. It goes without saying that this right does not expire with time, because, according to some legal scholars—and they are correct in this—"the desire for anonymity is temporary in nature." Logic and the requirements of justice allow the author, at any stage of their life, or their heirs after their death by virtue of a will, to reveal their name.

It is clear from the above that the author has the right to respect his name and reputation, both positively and negatively, that is, by explicitly mentioning his name on copies of his work mounted on digital media or published on the Internet, or by broadcasting his work without mentioning his name, thus making him anonymous, or by publishing it under a pseudonym[1].

The Algerian legislator did not provide a definition of digital works within the provisions of Law No. 03-05. However, it adopted an approach based on listing the works protected by copyright without limiting them to an exhaustive enumeration. This is evident from Article 3, which provides protection for all literary and artistic works, regardless of their type, form of expression, value, or purpose, from the moment of their creation. This approach reflects a legislative intent to keep pace with technological developments and to avoid restricting legal protection to specific categories of work. Consequently, digital works may be included within the scope of legal protection as a modern form of intellectual creations expressed through digital means. In this regard, French legal scholarship defines a digital work as any intellectual creation that is presented or made available in a digital form, allowing it to be electronically processed and transmitted through communication networks.[2]

A computer software program is considered the soul of the body; without it, a computer is merely a useless piece of metal. Despite past

[1]Because legal logic dictates protecting the author's right of authorship in both its positive and negative aspects, since there are personal justifications and motives that make the author prefer to publish his work under a pseudonym or without a name, for example: knowing the public's reaction towards his work, whether positive or negative, so that he can then decide to reveal his real name.

[2] A. Lucas, *op.cit.*, n° 43, p. 34.

legal debates regarding the legal status of computer software programs, or what is known in French law as "Logiciel," and whether they fall under the protection of industrial and commercial property, the question remains:[1]Or should it fall within the scope of literary and artistic property protection and be considered a literary work, or because it has a special nature that necessitates the application of a special legal system to it?

The Algerian legislator has [2] explicitly stated that a computer software program is considered an original, written literary work, subject to the protection stipulated by copyright and related rights law. Some legal scholars affirm this.[3]The Algerian, and he is right in that, "that the protection of software or computer programs based on the provisions of copyright finds its basis in considering it as a literary work, but it is a literary work of a special nature and in order to subject it to this system it must be considered an innovative intellectual production, as required by law."[4]. Referring to Order No. 03-05 mentioned above, it is noted that there is no legal definition of a computer program. It appears that the legislator chose to leave this task to legal scholars, which is commendable given the tremendous and rapid technological advancements in the digital environment in general, and in the field of software in particular. This rapid pace might render the creation of a legal definition for this type of modern work in a short period of time inadequate and ultimately pointless.

This classifier is defined according to the WIPO Convention[5]. Regarding copyright, it is defined as "a set of instructions that, once transferred onto a readable medium, allow a statement or performance of a function, task, or specific result by an information processing machine"[6]. Some have defined it as: "A set of innovative ideas that take the form of data and instructions directed to a computer in any form that leads to specific results that help the client implement the program."

There are no provisions regarding parental rights for computer programs in Order No. 05-03, mentioned above. By way of comparison,

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[1]Regarding the reasons for excluding Logcial from the patent, see F. Zerawi Saleh, op. cit., Nos. 27-1 and 27-2, pp. 28-35.

[2]Art. 4, paragraph (a) of Order No. 03-05, (prec): "The following shall be considered, in particular, as protected literary or artistic works:.....computer programs...."

[3]F. Zerawi Saleh, The Complete Book on Commercial Law, Intellectual Property Rights, Ibn Khaldoun Publishing and Distribution, Algeria, 2006, No. 390-2, p. 418.

[4]Art. 3 of Order No. 03-05, (prec).

[5]Art. 4 of the WIPO Copyright Convention, (prec).

[6]Rami Ibrahim Hassan Al-Zawahreh, Digital Publishing of Works and its Impact on the Author's Literary and Financial Rights, Dar Wael, 2013, p. 205.

the English legislator excluded it from the category of works that benefit from parental rights[1], Given that this work may be a collaborative effort by teams or groups of individuals, identifying each of them as an author is impractical. Furthermore, these works are commercial in nature, meaning financial gain is primarily derived from initial use rather than subsequent use or transfer. However, logic dictates that credit should be given to all those who contributed intellectually to the program's design, while excluding anyone who did not[2].

However, some legal scholars criticized the English legislator's position because there are prior documents containing the code and structure of the program for each program that was created, but everything that precedes the creation of the computer program cannot be given this description under English law, even though its content is similar to the final program[3].

The Algerian legislator did not stipulate the multimedia work in Order No. 03-05, mentioned above, and there is no doubt that the reason for this is due to the novelty of this type of work, and therefore we do not find a definition of this type of work in this law. However, this does not mean that it does not benefit from the protection provided by the copyright and neighboring rights law, as long as it includes the element of creativity according to the text of Article 3 of Order No. 05-03 mentioned above.

In France, for example, the report issued by the French Minister of Industry to postal services, communications centers, and foreign trade, in its explanation of the term "communications" dated March 22, 1994, considered that the description of multimedia applies to everything that combines or links several systems for disseminating information, such as text (The report defines multimedia as: "A set of interactive services in the form of digital data for processing and transmitting information in all

[1]Section 79 of English copyright design and patents, www. legislation. gov. uk » ukpga » contents.
[2]N. Baba Hamad, op. cit.,p.36
[3]P. Torremans, the most important issuesin United Kingdom - Uni, the journal of intellectual property, vol 25, n° 1, p p.477-478. « This is an exception for the relative paternities of ordinateur programs that are not suitable. He also said that in the practice, there are available documents that contain the code and the structure of the program, etc., to create the ordinateur program that is created. Tout that the creation of the ordinateur program has been created since this is not the end of the ordinateur program at the time of writing in England, but this content will be semblable to the final ordinateurprogramme. »

its forms, including text, data, sound, and real or virtual still or moving images."[1]"

While some define it as: "The creation of a diverse collection of texts, sounds, images, and data in the form of information on CDs or other electronic media." It is also: "The use of a personal computer to present and integrate text, graphics, sound, and video footage with links and tools that enable the user to navigate, interact, create, and communicate"[2].

Given the unique nature of multimedia works, which are interactive—where sound, image, or a specific shape is added, and all of which are independent works in their existence—they are combined together in an interactive way to produce a new work on the Internet. The question may arise as to who has the right of authorship over this work, due to the mixing or interaction between different literary and artistic works. This poses an obstacle for one of the authors to exercise his right of authorship over his work, since the hybrid work may constitute a work different from the original works that are included in its composition, which may not satisfy one of the authors.[3]In this regard, some legal scholars suggest addressing this issue through contractual mechanisms, citing as an example the multimedia contract model prepared by an association concerned with protecting the rights of theatrical composers and composers.(SACD[4]).

II. Protecting the Rights of Paternity Against the Author in the Face of Artificial Intelligence Technologies

Infringing upon the author's paternity right over his work is an illegal act that places the infringer within the circle of civil liability and obliges him to pay compensation to the author for the damages incurred, in accordance with the text of Article 143 of Order No. 05-03, mentioned

[1]Quoted from Aissani Taha and Abdullah Fawzia, Digital Works Covered by Intellectual Property Laws in International Agreements and Algerian Law. Notebooks of Politics and Law, Volume 13, Issue 2021, 1, p. 141.

[2] Hassan Douhaji, Defining Digital Works in the Legislations of Algeria and Morocco: An Analytical Study of the Laws of the Two Countries, Journal of Judicial Reasoning, Volume 13, Special Issue (Serial No. 25), January 2021, p. 989.

[3] O, HENRARD, Multimedia marketing plan: Automotive investment and investment insurance policies, rapport to the commission on multimedia investment projects, May 26, 2005, p. 39.

[4] Society of Dramatic Authors and Composers (SACD).

above, which states: "The lawsuit for compensation for damages resulting from the unauthorized exploitation of the author's work and payment to the owner of neighboring rights shall be within the jurisdiction of the civil courts."

Infringing upon the author's paternity right over his work is an illegal act that places the infringer within the circle of civil liability and obliges him to pay compensation to the author for the damages incurred, in accordance with the text of Article 143 of Order No. 05-03, mentioned above, which states: "The lawsuit for compensation for damages resulting from the unauthorized exploitation of the author's work and payment to the owner of neighboring rights shall be within the jurisdiction of the civil courts."

a) Legal protection of parental rights to copyright in the face of digitization

Thus, the legislator has granted the author the right to resort to the civil courts to claim compensation for all the damages he has suffered in accordance with the Copyright and Neighboring Rights Law, in addition to benefiting from the provisions of civil liability contained in the Civil Code, the general law, based on the text of Article 124 of the same law. Accordingly, if the elements of civil liability are present, the judge shall order the infringer to perform in kind or to grant compensation to the author.

Civil liability is of two types: contractual liability, which arises from the non-performance of a contract or one of its conditions. Therefore, if a party to a contract with an author breaches their contract, the author has the right to terminate the contract and claim compensation. In this type of liability, the burden of proof lies with the creditor, who must demonstrate that the debtor breached their contractual obligations, making proof relatively straightforward. Tortious liability, on the other hand, is the breach of a legal obligation by an individual, resulting in harm to another. Whether contractual or tortious, liability rests on three elements: fault, harm, and a causal link between them.

Fault is an unlawful act that violates copyright by infringing on the author's right to claim authorship of their work, as stipulated in Article 23 of Order No. 05-03, mentioned above. This act causes harm to the author, as the legislator stated: "Any act, whatever its nature,

committed by a person through fault and causing harm to another, obligates the person who caused it to provide compensation"[1].

The party contracting with the author may fail to fulfill all or some of their contractual obligations or delay doing so, which constitutes a breach of contract. Among the forms of infringement on parental rights, whether by a third party or the publisher in the publishing contract, are the following: impersonating the author and attributing works to them that they did not create[2]. Or the opposite, such as someone attributing a particular work to himself without having contributed to its creation, or quoting large parts of works without mentioning the name of their author and combining them with parts of other works in a way that distorts the original work and harms the reputation of its author.

The impact of digitization on the author's right to his authorship of his work is of great importance, as it is not limited to the numbering of the work, but extends to the issue of interactivity. Others can modify and alter the original work as they wish, which has led some jurists to say: "It is feared that after the end of all these modifications and alterations, the position of the original author will not be able to recognize his child, given that the work will have been completely reclassified (composed) as a result of these modifications and alterations, which raises the question in this context of whether the author's right to attribute his work to him still retains its meaning and content."[3]

Generally speaking, harm is any injury inflicted upon a person in one of their rights or legitimate interests, whether or not that right or interest has material value. It is a natural consequence of failing to fulfill an obligation or delaying its fulfillment.[4]In the field of copyright, specifically the right of paternity of a work, it is the harm that befalls the author's moral right to have the work attributed to him. It is required that this harm be actual or certain to occur in the future, and that it be personal and direct.

This refers to the relationship between the act of infringement and the violation of paternity l rights by the contracted publisher or a third party, and the harm suffered by the author/creator of the work. If the

[1]Art. 124 amended by Order No. 75-58 of September 26, 1975, containing the Civil Code Issue 78J.R.J.J.A., the historian in September 30, 1975.

[2]According to one school of thought in jurisprudence, this image is not considered an infringement on the author's right to have his work attributed to him, but rather this infringement is directed against the reputation of the author and not against his right of fatherhood over the work.

[3] Rami Ibrahim Hassan Al-Zawahreh, op. cit., p. 400.

[4]V. Toulet, civil law, obligations, paradigm editions, 2006., p. 324

author cannot prove this relationship, they are not entitled to compensation for the harm suffered. Consequently, the causal relationship is negated if the harm is due to an external cause such as force majeure, the fault of a third party, or the fault of the injured party themselves. In the event of any of these circumstances, the author cannot file a civil liability claim[1].

Compensation takes two forms: in-kind performance, which is the restoration of the situation to what it was before, and performance by way of consideration, which is done with monetary compensation. Specific performance means restoring the situation to what it was before the infringement. This type of performance, ordered by the courts, is preferable to performance in kind or compensation because it eliminates the harm suffered by the author instead of simply giving them money. If a publisher publishes a work without mentioning the author's name, the author has the right to resort to the court and compel the publisher to include their name on the work, along with monetary compensation if warranted[2].

Compensation is considered a penalty for civil liability, and the legislator has established it as a sanction for the party responsible to restore the balance disrupted by their actions and the harm caused to the injured party, such as the author or their heirs. Enforcement in consideration is based on financial compensation, which is generally a monetary sum. Compensation is determined as a last resort when restoring the situation to its previous state is impossible. Article 144 of the aforementioned Order No. 05-03 refers the matter of assessing compensation to general law, stipulating the following: "Compensation shall be assessed according to the provisions of the Civil Code, taking into account any gains resulting from the infringement of these rights."[3].

Article 151, paragraph 1, of Order No. 05-03, mentioned above, stipulates the following: "Anyone who commits the following acts shall be considered to have committed the offense of imitation: - Unlawful disclosure of a work or damage to the integrity of a work or performance

[1]Art; 127 of the Civil Code: "If a person proves that the damage arose from a cause beyond their control, such as a sudden accident, force majeure, or a fault committed by the injured party or a third party, they shall not be obligated to compensate for this damage, unless there is a legal provision or agreement to the contrary."
[2]For more details, refer to ArtS 164 to 175 BC.
[3]Jamal Haroun, Civil Protection of the Author's Moral Rights in Jordanian Legislation: A Comparative Study, Dar Al-Thaqafa for Publishing and Distribution, Beirut, Lebanon, 2006, pp. 127 and 128.

by a performer or musician." A close examination of this legal text reveals that the legislator did not explicitly classify the infringement of parental rights or the attribution of a work to its author as a punishable offense of imitation. While the Penal Code stipulates...[1]. That: "There is no crime, no punishment, and no security measures without a law," does this mean that infringing on the right of paternity, which is one of the most important components of the author's moral right, does not enjoy criminal protection, and that the perpetrator is not subject to the penalties stipulated in Article 154 of Order No. 05-03, mentioned above?

By way of comparison, the generality of the text of Article 335-3 of the French Intellectual Property Code[2]This has led to differing legal opinions in France, with some supporting and others opposing the criminal punishment of those who violate parental rights.

Thus, the difficulty of proving harm in cases of infringement of parental rights before criminal courts has led some legal scholars to place the burden of proof solely on the author, as the only one harmed by such infringement or violation. Meanwhile, another school of thought maintains that it is impossible for the author to prove the harm suffered. Consequently, some French legal scholars have argued that infringement of parental rights does not constitute imitation, and therefore the author is not entitled to criminal protection in this situation. However, the majority of legal scholars in France maintain that the violation of moral rights, particularly the right to parental rights, constitutes imitation, for which the offender is subject to criminal penalties.

Perhaps the latter opinion is correct, because it is agreed upon in jurisprudence and legal scholarship that moral rights supersede the author's financial rights. If the latter enjoys criminal protection based on explicit legal texts and scholarly consensus, then moral rights should certainly enjoy such protection. Furthermore, the right of authorship embodies the right to disclosure, the violation of which is explicitly criminalized. An author always has the right to disclose their work by placing their name or a pseudonym on it. Based on this, it is advisable to

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[1]Art. 1 of Order No. 66-156 dated June 8, 1966, containing the amended and supplemented Penal Code, Official Gazette of the People, No. 49, dated June 11, 1966.

[2]Art. L.335-3 C.fr. proper. intlle."*It is intended to contain a lot of reproduction, reproduction or diffusion, because of what this is like, because of the danger of violating the roots of the author, so that they are definable and reliable..laloi. It is also a mistake to prevent violations of the software's detection in the article.L. 122-6. This includes a full screen recording or part of a cinema screen or audiovisual camera in the cinema screen room.»*

apply criminal penalties in cases of infringement upon the right of authorship of a work[1].

Infringement of a copyright holder's right to have their work attributed to them, when any of the aforementioned forms are present, subjects the infringer to criminal penalties pursuant to Article 153 of Order No. 05-03, mentioned above. Therefore, the author or their rights holders must file a complaint with the territorially competent criminal court in accordance with the rules stipulated in the Code of Criminal Procedure.[2]As previously mentioned, the Algerian legislator, in Ordinance No. 05-03, established specific provisions for the protection of copyright against any infringement, whether by a contracting party or a third party. Consequently, once the criminal court finds the offender guilty, it imposes a primary penalty. Thus, anyone who infringes upon the author's moral rights, particularly parental rights, is punished with imprisonment from six (6) months to three (3) years and a fine of five hundred thousand to one million Algerian dinars, regardless of whether the publication occurs in Algeria or abroad.[3].The same penalty also applies in the case of complicity in infringing upon the rights of parenthood, whether through action or by providing the means to achieve this.[4], For example, assisting the perpetrator in copying or transporting counterfeit copies, or purchasing the raw materials and equipment necessary to commit the crime. If the offender repeats the same acts, the legally prescribed penalty will be doubled[5].

The judge may also order the temporary closure of the publishing establishment exploited by the counterfeiter or his partners for a period not exceeding six (06) months, or order its permanent closure when necessary.[6].He may also order the confiscation of sums equal to the amount of revenue or revenue installments resulting from the unlawful exploitation of the protected work, or the confiscation or destruction of equipment specifically created to carry out the unlawful activity and any counterfeit copies.[7]

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[1]Hania Sharif, The Legal System of the Publishing Contract, PhD Thesis, Specialization in Private Law, Faculty of Law and Political Science, University of Algiers Ben Aknoun Ben Youssef Ben Khedda, 2008-2009, pp. 179 and 246.
[2]Art.160 of Order No. 05-03(Prec).
[3]Art. 153 of Order No. 05-03(prec).
[4]Art. 154 of Order No. 05-03(prec).
[5]Art. 156, paragraph 1 of Order No. 05-03(prec).
[6]Art. 156, paragraph 2 of Order No. 05-03(prec).
[7]Art. 157 of Order No. 05-03.(prec).

The judge may also order that the confiscated material be returned to the author or rights holder as compensation for any damage incurred.[1]And to order the publication of the conviction in whole or in part in newspapers or its posting in places he specifies[2].

b) Technical Protection of the Right of Paternity over the Work in the Face of Artificial Intelligence Technologies

Although the WIPO Copyright Convention[3]. It recognized the legitimacy of resorting to technological measures and obliged member states to enact legal texts guaranteeing their protection. However, it did not provide a definition of these measures. This contrasts with the European Directive, which considered...[4]Technical measures are defined as: "Any technology, device, or installation which, in its normal operation, aims to prevent or limit unauthorized acts by the author or holder of related rights that are committed against copyrighted works or other protected content." The French legislature, in adopting this European directive, did not deviate from the definition of technical measures provided therein, defining them similarly.[5]It is defined as: "All copyright and related rights technologies." Some consider it[6]. The technical measures are intended to provide protection against any

[1]Art. 159 of Order No. 05-03(prec).
[2]Art. 158 of Order No. 05-03(prec).
[3]Presidential Decree No. 13-123 of April 3, 2013, ratifying the World Intellectual Property Organization (WIPO) Copyright Treaty, adopted in Geneva on December 20, 1996, Official GazetteIssue No. 27, datedMay 22, 2013.
4 Art.6-3 of the European Directive: «To the purposes of the directive, on entend by "measures technic", all technology, dispositif or composant that, in the normal staff of his son function, is destined to empêcher or a limiter, if that concerns the covers or other protected objects, the acts no-automated by the title of the driver or by reading the driver by the loi, or by entering the generis prior to the third chapter of Directive 96/9/CE».
[5]Art. L.331-5 C.fr. propr. intell, "...Only based on better technology at the top of the world's leading technology, available, composant that, in the normal frame of his son's function, accomplit the function presented by this country. These advanced technologies are effective when using a website on the Internet and are controlled by the titulative data on the application code.
[6]Rami Ibrahim Hassan Al-Zawahreh, op;cit;, p. 531, defines technological protection measures as: "Technical measures aimed at providing protection against any unauthorized access to information, and limiting or preventing the copying of protected works."

unauthorized access to information or to limit or prevent the copying of protected works.

Practical experience has proven that law alone cannot provide effective protection for copyrighted content in the digital environment, as digital media are the most vulnerable to frequent copying.[1]Therefore, it became necessary to consider finding technological mechanisms to counter such a situation, as some see it, to respond to the machine.[2]"It will only be possible with a machine." Consequently, the protection of digital literary works is now achieved by the rights holders themselves using various technical means, such as "anti-copying mechanisms for digital audio and audiovisual CDs, encryption of copyrighted content placed on radio or the digital network, or complex technical measures such as a digital rights management system that ensures the distribution and broadcasting of this content online or electronically"[3].

This is how technical protection securely provides essential safeguards for intellectual property existing in the digital environment. It is a protection directed against copying or any other unauthorized use by the rights holders.[4]Therefore, thanks to technology, they have been able to extend their control over their literary works or artistic performances by preventing others from copying them, or even just accessing them, or at least limiting the number of copies that can be made and controlling the quality of the copied copy[5].

Most national legislation concerning the protection of copyright and related rights, particularly French legislation, does not include[6]The legal framework established the legitimacy of technical protection measures, which includes an exclusive list that precisely defines the types

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[1] T. Verbiest, M. de Bellefroid et A. Sokolowska,.), The exception rate for the private copy in French,p.2,www.droit-technologie.org

[2]Ch. Clark. The answer to the machine is in the machine: in the future of copyright in a digital environment, Kluwer, 1996, pp. 139-145.

[3]S. Dusollier, The new Belgian provisions regarding the technological protection, of copyrighted works and media, 2005, p.533.

[4]Ibid

[5]Rami Ibrahim Hassan Al-Zawahreh, op.cit.,p. 531.

[6]Art. L.331-5 C.fr. propr. intell. :«…*These techniques have proven to be effective when using a video on the Internet and are controlled by the manuals of the great results in the application with the access code, with the procedure for protecting the cryptography, the brouillage or all the way through the transformation. The protection object or the mechanism to control the copy that comes into the protection object. Unprotocol, unformat, encryption method, brouillage or transformation does not consist of a mesure technique from the present article*».

of these measures, merely mentions some examples such as encryption, access tokens, and jamming. This is logical given the difficulty of enumerating them all due to increasing technological development. Practical reality demonstrates the daily invention of new mechanisms not mentioned in the aforementioned legal texts, such as electronic or digital rights management systems. In any case, technical protection methods are divided, according to some legal scholars, into two types: technological methods that grant rights holders control over their intellectual works, preventing others from accessing them (the first type); and the second type, which allows the author or holder of a related right to control the uses of their literary work or artistic performance in the hands of the user, thus limiting its copying, distribution, or publication.

The Algerian legislator did not recognize encryption but rather sufficed with the law concerning electronic signatures.[1]By defining the private encryption key[2]and the public encryption key[3]This is in contrast to its French counterpart, which included a specific provision in the law relating to communications. According to it, encryption is defined as "a set of techniques that work to convert clear information or signals into information or signals invisible to the eye or work to achieve the opposite process thanks to special means for that purpose."[4].

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[1] Law No. 15-04 of February 1, 2015, establishes the general rules relating to signature and authentication. Electronic, official gazette., Issue No. 6, dated February 10, 2015.

[2]Art.02- Paragraph 8 of Law No. 15-04, (prec): "Private encryption key: It is a series of numbers that is exclusively held by the signatory and is used to create the electronic signature. This key is linked to a public encryption key."

[3]Art.09 of Law No. 15-04,(prec): "Public encryption key: is a series of numbers made available to the public in order to enable them to verify the electronic signature, and is included in the electronic authentication certificate."

[4]Art. 28-I- of the Loi No. 90- 1170 on December 29 1990, on the telecommunications network, JORF 30 December 1990, p. 16439: «On the end of the cryptographic prestations of all prestations that can transform the information conventions or the information clairs or intelligible signs for the tiers, or to realize the inverse operation, protect the contents, materials or logic This will be effective.

There are two types of encryption: symmetric and asymmetric. In symmetric encryption, the sender and receiver of the message rely on the same key; the first key is used to encrypt the message, and the second key is used to decrypt it and restore it to its original form., Asymmetric encryption is a system that uses two keys, one for encrypting the message and the other for decrypting it. This latter type of encryption is considered more secure and effective than symmetric encryption, which has been the subject of some legal scholarship. Because it doesn't exist in practice. Therefore, it was necessary to resort to a public-private (asymmetric) encryption system. The private key is a personal key known only to the user and kept secret, while the public key is

Encryption has many applications, but the most important of these is digital signatures. In addition to the digital container or envelope, this latter application places the workbook in a digital envelope containing information specific to this.

The author and its terms of use (paying the reward, using the password)[1]A digital signature, on the other hand, authenticates and identifies the message.[2].

The electronic watermark is considered a numbering plate for the work. It is a mark placed on intellectual works published on the Internet and can take two forms: an external label and a metal wick.[3]((le filigrane). Therefore, a watermark is information that allows for the identification of the work and its author and specifies the terms and conditions of use of that work. It includes a number or symbol that represents all or part of this information. So that any changes made by the user or any unauthorized exploitation will be detected, and the tattoo cannot be erased, and it will be found even after the work has been corrupted, damaged or torn, and it can be found in every part of the work.

Electronic rights management systems are another effective technical method for protecting copyright and related rights. They encompass all technologies that allow for the management of rights on the internet, enabling license agreements that include the online use of work and the control of its use.[4].

This system has many functions, including: determining whether the work was accessed legally, whether it was copied, and whether the use of the work was within the bounds of the law. This falls under the

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distributed and communicated to other users who wish to receive the encrypted message from them.

[1]V. Isabelle, and G. Jean-Brice, Details of exceptions to the device and measures of face protection techniques for harmonization (Directive "Droit device" on May 22, 2001), Memory of DEA Informatique and Droit, Faculté de Droit, University Montpellier 1, 2002-2003, p. 31 "The digital encryption or digital container is a cryptography application by the end and it is 'inserted' in a digital encryption that contains information about the villages and the conditions of use of cell-ci, etc."

[2]*Ibid.*

[3]Ph. Nguyen, S. Daudry, The audiovisual data watermarking.the digital notebooks2003/3, pp.135-165.http://www.cairn. info/ Numbers cahiers- 2003, 3, p-135-htm.

[4]V. Isabelle and G. Jean-Brice, op.cit., p.31: «The electronic device outlets are all Technologies that ensure the delivery of land on land, allow the conclusion of licenses for on-line use and control the use of off-line devices.

legal prohibition punishable under the pretext of counterfeiting.[1]- A statement of the number of copies that may be made and an identification of the rights holders.[2]- Monitoring requests for access to the digital work so that access to it is controlled or denied.

These two systems can facilitate the management of copyright and the collection of due royalties for the use of the work. They also allow the author to enforce their right to paternity, that is, to attribute the work to its owner by recording the author's data on the medium on which the work is embodied, which is indestructible[3].

Conclusion:

This study emphasizes the importance of exercising paternity rights in the digital landscape. This importance arises from the precedence of this right over material rights, its unique position among moral rights, and the susceptibility of digital works to infringement due to rapid technological changes that facilitate unauthorized access and reproduction. In this light, the research explores the most pressing challenges faced by paternity rights, which are a fundamental moral right, in today's digitized world.

To address these challenges, legislators need to close the existing gaps in legislation concerning the criminal protection of moral rights. Clearly defining the right to claim authorship is crucial for removing ambiguity and strengthening legal protections, especially within criminal law.

The legislator must fill the legal gap concerning the criminal protection of moral rights and explicitly stipulate the right to claim paternity, in order to remove ambiguity and strengthen the legal protection related to this right, especially in its criminal aspect.

Given the impact of modern technologies and the virtual world on moral rights, including the right to parenthood, the legislator must

[1]F. Pollaud-Dullian, *op.cit*., p. 795: "...combined information with many possible protection technologies can be used by "digital right management", as it may contain the number of data from the proprietary intelligence (on the safe side to allow it to be reproduced or communicated). "It's worth part of the contract, including copies that can be released, which are the original titles, etc.) ».

[2]*Ibid.*

[3] Halima Ben Driss, Technological measures to protect the work and their impact on the right to a private copy and the extent of this impact on the copy installed on blockchain technology, World Policy Journal, Volume 6, Issue 1, 2022, p. 970.

keep pace with this development and create special legal provisions to protect moral rights in the digital environment.

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