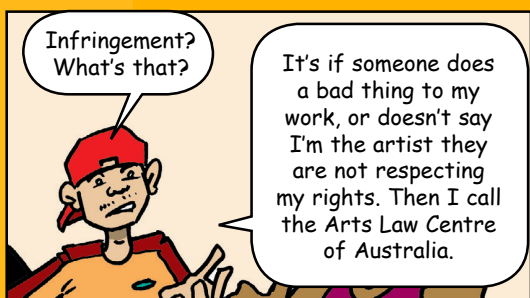
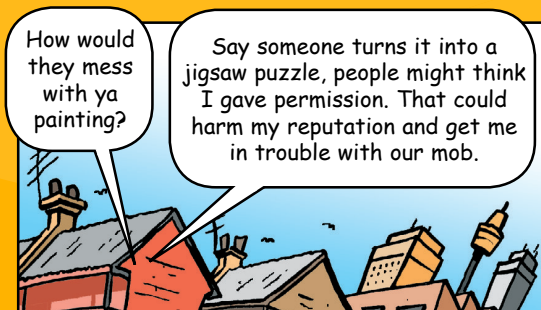


ARTISTS in the BLACK

MORAL RIGHTS



MORAL RIGHTS

- Means that you're recognised as the painter and no-one else can claim to be the painter.
- Means no-one should do anything to your work that harms your reputation.
- Lasts for the life of the creator plus 70 years after their death.
- Not respecting an artist's moral rights could be an infringement.

Call the Arts Law Centre for free legal advice.

MORAL RIGHTS

1. What are Moral Rights?

- Moral rights recognise an artist's ongoing connection with their art work.
- The words "moral rights" have a special meaning under Australian law that is different to the everyday/dictionary meaning.
- There are 3 types of moral rights under Australian law:
 - **A right of attribution** – this means that the artist must be named or acknowledged on their artwork. For example, by including an artist's name on the artwork
 - **A right of integrity** – this means that an artist's artwork must not be used in a way that would harm the artist's honour or reputation
 - **A right against false attribution** – this means that another artist cannot be wrongly named as the creator of your artwork.

2. Who owns moral rights?

- Moral rights belong to an individual artist when they create an artwork.
- Moral rights:
 - are personal to the artist and the artist cannot give them away, sell or transfer them;
 - do not protect communities.

An example: Even if you sell your artwork or are not the copyright owner of your artwork, you keep your moral rights in it. This means that you have some control over your artwork. For instance, if you create an artwork at work, your employer owns the artwork and the copyright in it but you still keep your moral rights in relation to it. If the employer sells the artwork or the copyright in it or both, they receive the payment and you do not. Your name, however, should appear on the artwork and you can stop the purchaser from making changes to your artwork that harm your honour or reputation. Changes like these to your artwork by someone else are only permitted with your consent.

3. How long do my moral rights last?

You keep your moral rights in your artwork for the whole of your life plus for 70 years after you pass away.

4. What can I do if someone misuses my artwork or doesn't properly acknowledge me?

- You can take legal action against a person who does not properly acknowledge that you made an artwork or who changes or uses it in a way that harms your honour or reputation. These kinds of actions are called "infringements" of moral rights. If a court agrees that your moral rights have been infringed, you can get an order from a court that:
 - you get a public apology;
 - you are paid money for the harm caused to you (damages);
 - the person must stop the infringement (an injunction); or
 - an order that any false attribution or derogatory treatment is removed or reversed.

- There is, however, no infringement of your moral rights if :
 - you have signed a paper consenting to the actions that would otherwise infringe your moral rights or have said that you consent to these actions; or
 - the other person's actions are reasonable.

Further Information

About Copyright

If you would like to know more about copyright get a copy of the *Artist in the Black* Copyright Leaflet available from the Arts Law Centre of Australia.

Arts Law Centre of Australia

Tel: (02) 9356 2566 / 1800 221 457

Website: www.artslaw.com.au

Australian Copyright Council

Website: www.copyright.org.au

DISCLAIMER

This publication is intended as a guide to the law only. It is not legal advice and should not be used as a substitute for legal advice. Although all care has been taken in preparing this document, the Arts Law Centre of Australia does not guarantee the accuracy, adequacy or completeness of any information and is not responsible for any errors or damage suffered as a result of it being relied upon. Legal advice should be sought on the specific issues affecting you.

The law as at 1 March 2005. This information applies to people who live in, or are affected by the law as it applies in Australia.

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Comic Writer: Blanch Lake
Comic Artist: Ross Carnsew
Underlying design b Adam Hill, koori8@bigpond.net.au

Streetwize Communications
6/245 Chalmers St
Redfern NSW 2016
www.streetwize.com.au

Arts Law Centre of Australia
The Gunnery 43-51 Cowper Wharf Road Woolloomooloo NSW 2011
t. 02 9356 2566/1800 221 457 f. 02 9358 6475 e. artslaw@artslaw.com.au
ABN 71 002 706 256 . ACN 002 706 256

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