

COPYLEFT OR MORAL RIGHTS INVOLVED IN COPYRIGHT?

Problems of copyleft and moral rights involved in copyright are topical because of development of information society. Immorality of plagiarism and other problems are important for all authors creating works of art, science and literature.

Actually the notion of moral rights is French by its origin. “Moral rights differ from copyright. Copyright protects property rights, which entitles authors to publish and economically benefit from their published works” [1]. Since 1793 in France the rights of the author were defined as personal rights on the intellectual production of this author.

Moral rights were internationally recognized since 1886, when the Berne Convention was adopted (it was edited in 1928). This Convention states:

“Independently of the author's economic rights, and even after the transfer of the said rights, the author shall have the right to claim authorship of the work and to object to any distortion, mutilation or other modification of, or other derogatory action in relation to, the said work, which would be prejudicial to his honor or reputation. – Berne Convention for the Protection of Literary and Artistic Works, September 9, 1886, art. 6bis, S. Treaty Doc. No. 27, 99th Cong., 2d Sess. 41 (1986)” [2]. Obviously, moral rights are not strictly connected to morality now.

Different countries have different history of protection of moral rights. Legislative protection of moral rights involved in copyright in United Kingdom began to correspond to the Berne Convention only in 1911. Some philosophical aspects of moral rights in India or Finland were mentioned in [3] and [4].

As to Russia, authorship was not so important for Russian Orthodox Church during the millennium of its existence. E.g., most of orthodox icons didn't mention its author. Masterpieces of unknown icon painters were regarded as a property of God, not as an intellectual property. Well-known Feofan Grek and Andrej Rublev were extremely rare exceptions [4]. Another fact is from Russian philosophy. In 1897 N.F. Fedorov preferred to research author's moral duties, mainly. Fedorov claimed that literature is mission but not a source for income. Fedorov criticized Western (French, mainly) consumerism [5].

Some problems of moral rights in copyright in modern Russia are similar to international ones. E.g., moral rights still are widely disputable because of dubious intention towards copyright as a whole.

Copyright (as a whole) and moral rights in copyright are also open to criticism. “One conceptual difficulty is that they appear to embody Romantic conceptions of authorship, i.e. that the author is a solitary creative genius who imparts his or her personality on the work in isolation from the rest of society. Some critics have argued that moral rights present an unrealistic image of the process of authorship, failing to take into account the collaborative and inter-textual nature of authorship” [6].

American programmer and researcher R.Stallman criticized copyright and defended copyleft. As to copyleft, it is supported by many Russians also. It is

mainly used by them to manifest the moral rights involved in copyright (except some moral rights) rather than economic rights.

Due to Stallman, “copyleft is a general method for making a program (or other work) free, and requiring all modified and extended versions of the program to be free as well” [7]. Copyleft (as a new kind of license for free content) was created by Free Software Foundation (FSF). FSF was established by Stallman in 1985. Now copyleft is available license for scholars also (like Creative Commons license).

The choice between copyleft and moral rights is rather difficult for authors. Anyway copyleft may be an interesting social-cultural innovation for many Russian intellectuals. This problem isn't only Russian. But it's another story.

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