

INTELLECTUAL PROPERTY CODE

has been disclosed.

The author's rights shall vest in such person.

Article L113-6

The authors of pseudonymous and anonymous works shall enjoy in such works the rights afforded by Article L111-1.

They shall be represented in the exercise of those rights by the original editor or publisher, until such time as they reveal their true identity and prove their authorship.

The declaration referred to in the preceding paragraph may be made by will; however, any rights previously acquired by other persons shall be maintained.

The provisions in the second and third paragraphs above shall not apply if the pseudonym adopted by the author leaves no doubt as to his true identity.

Article L113-7

Authorship of an audiovisual work shall belong to the natural person or persons who have carried out the intellectual creation of the work.

Unless proved otherwise, the following are presumed to be the joint authors of an audiovisual work made in collaboration:

- 1°.the author of the script;
- 2°.the author of the adaptation;
- 3°.the author of the dialogue;
- 4°.the author of the musical compositions, with or without words, specially composed for the work;
- 5°.the director.

If an audiovisual work is adapted from a preexisting work or script which is still protected, the authors of the original work shall be assimilated to the authors of the new work.

Article L113-8

Authorship of a radio work shall belong to the natural person or persons who carried out the intellectual creation of the work.

The provisions of the final paragraph of Article L113-7 and those of Article L121-6 shall apply to radio works.

Article L113-9

(Act No. 94-361 of 10 May 1994 art. 2 Official Journal of 11 May 1994)

Unless otherwise provided by statutory provision or stipulation, the economic rights in the software and its documentation created by one or more employees in the execution of their duties or following the instructions given by their employer shall be the property of the employer and he exclusively shall be entitled to exercise them.

Any dispute concerning the application of this Article shall be submitted to the first instance court of the registered place of business of the employer.

The first paragraph of this Article shall also apply to servants of the State, of local authorities and of public establishments of an administrative nature.

TITLE II

Authors' Rights

Articles L121-1 to
L123-12

CHAPTER I

Moral Right

Articles L121-1 to
L121-9

Article L121-1

An author shall enjoy the right to respect for his name, his authorship and his work.

This right shall attach to his person.

It shall be perpetual, inalienable and imprescriptible. It may be transmitted mortis causa to the heirs of the author.

Exercise may be conferred on another person under the provisions of a will.

Article L121-2

The author alone shall have the right to divulge his work. He shall determine the method of disclosure and shall fix the conditions thereof, subject to Article L132-24.

After his death, the right to disclose his posthumous works shall be exercised during their lifetime by the executor or executors designated by the author. If there are none, or after their death, and unless the author has willed otherwise, this right shall be exercised in the following order: by the descendants, by the spouse against whom there exists no final judgment of separation and who has not remarried, by the heirs other than descendants, who inherit all or part of the estate and by the universal legatees or donees of the totality of the future assets.

This right may be exercised even after expiry of the exclusive right of exploitation set out in Article L123-1.

Article L121-3

In the event of manifest abuse in the exercise or non-exercise of the right of disclosure by the deceased author's representatives referred to in Article L121-2, the first instance court may order any appropriate measure. The same shall

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apply in the event of a dispute between such representatives, if there is no known successor in title, no heir or no spouse entitled to inherit.

Such matters may be referred to the courts by the Minister responsible for culture.

Article L121-4

Notwithstanding assignment of his right of exploitation, the author shall enjoy a right to reconsider or of withdrawal, even after publication of his work, with respect to the assignee. However, he may only exercise that right on the condition that he indemnify the assignee beforehand for any prejudice the reconsideration or withdrawal may cause him. If the author decides to have his work published after having exercised his right to reconsider or of withdrawal, he shall be required to offer his rights of exploitation in the first instance to the assignee he originally chose and under the conditions originally determined.

Article L121-5

An audiovisual work shall be deemed completed when the final version has been established by common accord between the director or, possibly, the joint authors, on the one hand, and the producer, on the other.

Destruction of the master copy of such version shall be prohibited.

Any change made to that version by adding, deleting or modifying any element thereof shall require the agreement of the persons referred to in the first paragraph above.

Any transfer of an audiovisual work to another kind of medium with a view to a different mode of exploitation shall require prior consultation with the director.

The authors' own rights, as defined in Article L121-1, may be exercised by those authors only in respect of the completed audiovisual work.

Article L121-6

If one of the authors refuses to complete his contribution to an audiovisual work or is unable to complete such contribution due to circumstances beyond his control, he shall not be entitled to oppose use of that part of his contribution already in existence for the purpose of completing the work. He shall be deemed the author of such contribution and shall enjoy the rights deriving therefrom.

Article L121-7

(Act No. 94-361 of 10 May 1994 art. 2 Official Journal of 11 May 1994)

Except for any stipulation more favorable to the author, such author may not:

1°.oppose modification of the software by the assignee of the rights referred to in item 2 of Article L122-6 where such modification does not prejudice either his honor or his reputation;

2°.exercise his right to reconsider or of withdrawal.

Article L121-8

The author alone shall have the right to make a collection of his articles and speeches and to publish them or to authorize their publication in such form.

With regard to all works published in such way in a newspaper or periodical, the author shall maintain his right, unless otherwise stipulated, to have them reproduced or to exploit them in any form whatsoever, on condition that such reproduction or exploitation is not such as to compete with the newspaper or periodical concerned.

Article L121-9

Whatever the marriage arrangements and on pain of nullity of any clause to the contrary contained in a marriage contract, the right to disclose a work, to lay down the conditions for exploiting it and for defending its integrity shall remain vested in the spouse who is the author or in the spouse to whom such rights have been transmitted. This right may not be brought in dowry nor acquired as community property nor subsequently acquired as community property.

The monetary proceeds resulting from the exploitation of a work of the mind or from the total or partial assignment of the right of exploitation shall be subject to the general rules of law applicable to marriage arrangements only if acquired during the marriage; the same shall apply to savings made on such account.

The provisions laid down in the preceding paragraph shall not apply if the marriage was contracted prior to March 12, 1958.

The legislative provisions relating to the contributions of the spouses to the cost of the household shall apply to the monetary proceeds referred to in the second paragraph of this Article.

CHAPTER II

Patrimonial Rights

Articles L122-1 to

L122-12

Article L122-1

The right of exploitation belonging to the author shall comprise the right of performance and the right of reproduction.

Article L122-2

Performance shall consist in the communication of the work to the public by any process whatsoever, particularly:

1°.public recitation, lyrical performance, dramatic performance, public presentation, public projection and transmission in a public place of a telediffused work;

2°.telediffusion.