

图书在版编目(CIP)数据

法国知识产权法典:法律部分/黄晖译. - 北京:商务印
书馆, 1999

ISBN 7-100-02823-X

I. 法… II. 黄… III. 知识产权-法典-法国
IV. D956.53

中国版本图书馆 CIP 数据核字(98)第 03984 号

FǎGUÓ ZHÍSHÍ CHǎNQUÁN FǎDIǎN

(FǎLǚ BÙFEN)

法国知识产权法典

(法律部分)

黄 晖 译

郑成思 审校

商 务 印 书 馆 出 版
(北京王府井大街 36 号 邮政编码 100710)

新华书店总店北京发行所发行

中国科学院印刷厂印刷

ISBN 7-100-02823-X / D·257

1999 年 7 月第 1 版	开本 889×1194 1 / 32
1999 年 7 月北京第 1 次印刷	字数 382 千
印数 3 000 册	印张 19 1/8

定价: 32.50 元

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Part One

Literary and Artistic Property

BOOK I COPYRIGHT

Title I Subject of Copyright

CHAPTER I NATURE OF COPYRIGHT

Art. L. 111 - 1

The author of a work of the mind shall enjoy in that work, by the mere fact of its creation, an exclusive incorporeal property right which shall be enforceable against all persons.

This right shall include attributes of an intellectual and moral nature as well as attributes of an economic nature, as determined by Books I and III of this Code.

The existence or conclusion of a contract for hire or of service by the author of a work of the mind shall in no way derogate from the enjoyment of the right afforded by the first paragraph above.

Art. L. 111 - 2

A work shall be deemed to have been created, irrespective of any public disclosure, by the mere fact of realization of the author's concept, even if incomplete.

Art. L. 111 - 3

The incorporeal property right set out in Article L. 111 - 1 shall be independent of any property right in the physical object.

Acquisition of such object shall not vest in the acquirer of

the object any of the rights afforded by this Code, except in those cases referred to in the provisions of the second and third paragraphs of Article L. 123 - 4. These rights shall subsist in the person of the author or of his successors in title who, nevertheless, may not require the proprietor of the physical object to make such object available to them for the exercise of those rights. However, in the event of manifest abuse by the proprietor preventing exercise of the right of disclosure, the first instance court (tribunal de grande instance) may take any appropriate measure, in accordance with the provisions of Article L. 121 - 3.

Art. L. 111 - 4

Subject to the international conventions to which France is party, in the event that it is ascertained, after consultation with the Minister for Foreign Affairs, that a State does not afford to works disclosed for the first time in France, in any form whatsoever, protection that is adequate and effective, works disclosed for the first time on the territory of such State shall not enjoy the copyright protection afforded by French legislation.

However, neither the integrity nor the authorship of such works may be impaired.

In the cases referred to in the first paragraph above, the royalties shall be paid to general interest bodies designated by decree.

Art. L. 111 - 5

Subject to the international conventions, foreigners shall enjoy in France the rights afforded to authors of software by this Code on condition that the law of the State of which they are nationals or on the territory of which they have their place of residence, their registered offices or an effective establish-

ment affords its protection to software created by French nationals and by persons having in France their place of residence or an effective establishment.

CHAPTER II PROTECTED WORKS

Art. L. 112 - 1

The provisions of this Code shall protect the rights of authors in all works of the mind, whatever their kind, form of expression, merit or purpose.

Art. L. 112 - 2

The following, in particular, shall be considered works of the mind within the meaning of this Code:

1. books, pamphlets and other literary, artistic and scientific writings;
2. lectures, addresses, sermons, pleadings and other works of such nature;
3. dramatic or dramatico-musical works;
4. choreographic works, circus acts and feats and dumb-show works, the acting form of which is set down in writing or in other manner;
5. musical compositions with or without words;
6. cinematographic works and other works consisting of sequences of moving images, with or without sound, together referred to as audiovisual works;
7. works of drawing, painting, architecture, sculpture, engraving and lithography;
8. graphical and typographical works;
9. photographic works and works produced by techniques analogous to photography;
10. works of applied art;

11. illustrations, geographical maps;
12. plans, sketches and three-dimensional works relative to geography, topography, architecture and science;
13. software, including the preparatory design material;
14. creations of the seasonal industries of dress and articles of fashion. Industries which, by reason of the demands of fashion, frequently renew the form of their products, particularly the making of dresses, furs, underwear, embroidery, fashion, shoes, gloves, leather goods, the manufacture of fabrics of striking novelty or of special use in high fashion dressmaking, the products of manufacturers of articles of fashion and of footwear and the manufacture of fabrics for upholstery shall be deemed to be seasonal industries.

Art. L. 112 - 3

The authors of translations, adaptations, transformations or arrangements of works of the mind shall enjoy the protection afforded by this Code, without prejudice to the rights of the author of the original work. The same shall apply to the authors of anthologies or collections of miscellaneous works or data which, by reason of the selection or arrangement of their contents, constitute creations of the mind.

Art. L. 112 - 4

The title of a work of the mind shall be protected in the same way as the work itself where it is original in character.

Such title may not be used, even if the work is no longer protected under Articles L. 123 - 1 to L. 123 - 3, to distinguish a work of the same kind if such use is liable to create confusion.

CHAPTER III OWNERS OF COPYRIGHT

Art. L. 113 – 1

Authorship shall belong, unless proved otherwise, to the person or persons under whose name the work has been disclosed.

Art. L. 113 – 2

“Work of collaboration” shall mean a work in the creation of which more than one natural person has participated.

“Composite work” shall mean a new work in which a preexisting work is incorporated without the collaboration of the author of the latter work.

“Collective work” shall mean a work created at the initiative of a natural or legal person who edits it, publishes it and discloses it under his direction and name and in which the personal contributions of the various authors who participated in its production are merged in the overall work for which they were conceived, without it being possible to attribute to each author a separate right in the work as created.

Art. L. 113 – 3

A work of collaboration shall be the joint property of its authors.

The joint authors shall exercise their rights by common accord.

In the event of failure to agree, the civil courts shall decide.

Where the contribution of each of the joint authors is of a different kind, each may, unless otherwise agreed, separately exploit his own personal contribution without, however, prejudicing the exploitation of the common work.

Art. L. 113 - 4

A composite work shall be the property of the author who has produced it, subject to the rights of the author of the preexisting work.

Art. L. 113 - 5

A collective work shall be the property, unless proved otherwise, of the natural or legal person under whose name it has been disclosed.

The author's rights shall vest in such person.

Art. L. 113 - 6

The authors of pseudonymous and anonymous works shall enjoy in such works the rights afforded by Article L. 111 - 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.

Art. L. 113 - 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 .

Art. L. 113 – 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 L. 113 – 7 and those of Article L. 121 – 6 shall apply to radio works .

Art. L. 113 – 9

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

CHAPTER I MORAL RIGHTS

Art. L. 121 - 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.

Art. L. 121 - 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 L. 132 - 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 L. 123 - 1.

Art. L. 121 - 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 L. 121 - 2, the first instance court may order any appropriate measure. The same shall 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.

Art. L. 121 - 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.

Art. L. 121 - 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