[NL] The Dutch Copyright Act

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The Dutch Copyright Act ('Auteurswet') is the guardian of the cultural heritage in the Netherlands. The Act grants protection to the creators of literary, scientific, artistic and many more types of work.

In 1803, under the so-called 'Book Act' ('Boekenwet'), publishers were protected against the reproduction of their books and music by other publishers. During the period when the Netherlands formed part of the French empire (1810-1813), the subject of protection changed in accordance with French law and copyright became a right of the author. The first Dutch Copyright Act dates back to 1817. Under the 'Auteurswet 1817' it was still the publisher who benefited the most from copyright, as authors assigned their rights to the publisher. In 1881, with the new 'Auteurswet 1881', copyright took shape as a right in favour of the author himself. The 'Auteurswet 1912' (after several amendments) is the Copyright Act in force in the Netherlands today. Upon an amendment on the 13 of March 2008, the title was changed to 'Auteurswet', so as to avoid giving the impression that the Act is not up-to-date. In fact, the Copyright Act has changed along with technological developments and currently uses technology-independent language.

Copyright or 'auteursrecht' is the exclusive right of the author, the "maker" of the work, to reproduce his work and to communicate it to the public. This right comes into existence at the moment of the mere creation of the work, without any formal requirements being necessary, and runs until 70 years after the author's death. Initially the Act was used for books, but at the present time it is applicable to all sorts of creative expressions such as software, art, architecture and even under certain conditions an ordinary conversation. An idea as such is not however protected under Dutch copyright law, but only the expression of the idea in a material form. According to Dutch case law, a copyright-protected work needs to "reflect an original expression and the personal imprint of the author."

The copyright of the author consists of a property right and of moral rights. The property right can be assigned by a written deed. Because the author has a personal bond with his work, the moral rights stay with the original author despite the assignment of the copyright. The moral rights allow the author, inter alia, to oppose a distortion of the work he created. This could be an entire demolition of a building or a change in the height of the pedestal of a public statue.

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So as to encourage the free flow of information, certain limitations are placed on copyright. For example, under certain conditions it is permissible to use a work for educational purposes, for strictly private purposes or in a parody or caricature. Other important limitations are the right to copy news items and the right to quote from a copyright-protected work. The copying of a computer programme in the private sphere however is not allowed. In the chapter of the Copyright Act on limitations, portrait rights are also established. This is the right of the portrayed person to use or oppose to the use of his portrait, even if he/she is not the author of the portrait.

If copyright is violated, the holder of the copyright is provided with several remedies. Among others, the applicant can claim full damages; the surrender of the profits made from the infringement; and the destruction of the products used for the infringement. Some violations, like piracy, are criminal offences under the Copyright Act. Besides these remedies set out in the Copyright Act, a copyright owner can avail of the general remedies that all intellectual property holders have. In urgent cases, so as to avoid irreparable damage, the applicant may ask for summary proceedings. In this way, the judge can condemn the infringer without his/her presence in court being required.

Wet van 23 september 1912, Auteurswet

http://wetten.overheid.nl/BWBR0001886/geldigheidsdatum_28-03-2010

Copyright Act, 23 September 1912

Wet van 13 maart 2008, Stb. 2008, 85. Reparatiewet III Justitie

http://wetten.overheid.nl/BWBR0023650/geldigheidsdatum_28-03-2010

Repair Act, 13 March 2008

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