

Moral Rights Protection in the United States: Revisiting the Adoption of the Berne Convention

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Under the Japanese copyright system that has specifically protected moral rights for over 100 years, it is now discussed how to promote exploitation of copyrighted works in the modern digital society where everybody can be an author and user. In contrast, the U.S. copyright system had long been reluctant to accept moral rights' protection, but the U.S. finally joined the Berne Convention in 1989, driven by economic reasons. Focusing on the legislative history and discussions at the time when the U.S. adopted the Convention, this article will examine following two issues. First is whether the minimalist approach the Congress took when adopting the Berne Convention's protection of moral rights, i.e. existing laws already provided moral rights protection to the extent necessary to conform with the Berne Convention, can be justified. Second is to what extent the Visual Artists Rights Act of 1990 succeeds in enlarging to achieve the minimum necessary compliance with the Berne Convention. Through the analysis, I concluded both as insufficient, since the U.S. copyright system is strongly founded on economic principle. I also implicate that Japan may need to reconsider the fundamental paradigm with its relatively strong protection of moral rights in this modern digital society.