

Moral Rights Provisions of the Author in Iraqi Law

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Abstract

The position of moral copyright occupies the agenda of the contemporary world in the twenty-first century; as these rights play an increasingly important role on the international level, as works of thought and intellectual property, especially the copyright of the author on his work, are now used and enjoyed by the inhabitants of all continents of the world; the problem of the study also arises in how to provide effective legal protection for intellectual property, to stimulate creative activity in humans and release creative energies; Ensuring the protection and care of this creativity must be represented by issuing many national and international legislations, which is known as copyright protection, and from where the importance of researching the provisions of the moral rights of the author in Iraqi law comes, and through the descriptive and analytical research method, the research came out with a set of results, including that the main problem when talking about the legal provisions of these moral rights is to determine who is proven to be the author in general, there is no doubt about the importance of this determination, given the material and moral privileges that accrue to the owner of this status that guarantee him the exercise of the powers granted to him by law, which leads to the protection of the work and its exploitation in the manner he desires, as the matter becomes more precise in the case of multiple authors of a single work - especially if one of them is a legal person, or the author is contracting with others in order to create the work, as the problem of who is the author may be raised in these special cases.

Keywords: provisions, moral rights, law, intellectual property, protection.

1. Introduction

First: an introductory introduction to the research topic The freedom of intellectual creativity and literary, artistic and scientific innovation is one of the freedoms and rights that various legal systems are keen to protect, because it leads to a positive result in enriching human knowledge and supporting the cultural and civilized heritage of society. However, the texts of various national legislations and international conventions on copyright protection have always been keen to provide protection for the rights of authors through the objective rules of these texts, after Protection was limited only to nationals.it is also noted that determining the scope of copyright protection requires us to identify the scope of personal protection and then the scope of objective protection. Moral copyright means all types of copyrights and related rights, patents, registered designs, database rights, copyrights, trademarks, service marks, trade names, domain names, trade secrets rights to non-patented information, credit rights and any other intellectual

or industrial property rights of any kind. Given the importance of moral copyright, the Iraqi legislature adopted Law No. 3 of 1971 on the protection of Iraqi copyright. As for the moral right of the author, the problem of determining the concept of the moral right of the author in jurisprudence and the position of the judiciary is manifested here, and the statement of the position of the comparative country of Iraq on the moral right of the author on his work, and the statement of the recognition of Iraqi law with a statement of the adequacy of the legal rules approved by the comparative laws to regulate and protect those rights, and how Iraqi law regulated the cases of moral right and the similarities and differences in this framework to generalize positive results and remedy the negative effects, and therefore, the problem of the study is determined by the statement of the provisions and effects of the moral right of the author on his work, with clarification in the scope of legal articles the Iraqi law.

The problem of research

The Iraqi legislation dealt with the protection of the rights of the owners of the moral rights of the author in the Iraqi law No. 3 of 1971 on the protection of copyright, but did not refer to the full rights in the event of the sale of this property. However, Commercial Law No. 30 of 1984 referred to such a sale, as moral rights are valuable assets for any business because they represent ideas, innovations and creations that provide a competitive advantage in the market, however, the possession of moral rights is not enough to ensure their protection and benefit from them. The moral rights of the author on his work and the characteristics of the right, represented by its inalienability, impoundability, non-transferability to others and non-obsolescence, and these rights are represented by a series of them, which were guaranteed by the Iraqi legislator, such as copyright, the ratio of the work to it, Withdrawal, modification and Prevention of infringement of the work by others, as for the Iraqi law regarding the moral right, it is not clearly defined in the Iraqi legislation from the Iraqi copyright protection law No. 3 of 1971, as amended, between the law in Article 10, the content and determination of the moral authorities of the work, in Article related to literary and artistic rights, the Iraqi legislator has pointed out the cases of literary right means the right. It also appears from Article 43 of the Iraqi composer's right law that the composer has the right to make any modification he wants to his work even after its publication and transfer to others. As for third parties, they may not make any changes or amendments except in three exceptional cases, "the Iraqi legislator pointed out at the end of Article 10 of the law on the right of the breeder.... Unless the translator omits to indicate the areas of deletion or change, or the translation results in prejudice to the reputation of the author and his cultural or artistic status, " and this problem is based on answering a key question:

What are the provisions of the moral rights of the author in Iraqi law ?

The importance of research

The importance of researching the provisions of the moral rights of the author in Iraqi law lies in the importance and seriousness of the problems associated with the implementation of these provisions and the negative effects resulting from the emergence of these problems, and therefore it becomes necessary to study the provisions of the moral rights of the author in Iraqi law as the best way to eliminate these problems and their negative effects. Despite the abundance of literature on the study of the provisions of the rights of the author in Iraqi law in general, we

have noticed the scarcity of literature on the provisions of the moral rights of the author in Iraqi law, and if such literature exists, it is limited to the study of Legal Regulation at the stage of the sale of those rights without the stage of execution of contracts and delivery of the provisions of the moral rights of the author in Iraqi law sold, so we specialized in studying the provisions of the moral rights of the author in Iraqi law .

Research objectives

The purpose and objective of our research topic marked with the provisions of the moral rights of the author in Iraqi law can be summarized in a few points that can be summarized in the following order:

1. Securing the provisions of the moral rights of the author in Iraqi law and preventing the violation of the moral rights of the author by others, and establishing ownership of the authors and clear control over their moral rights.
2. The regulation of the provisions of the moral rights of the author in Iraqi law can help companies to expand their reach and access new technologies, resources or expertise through cooperation with other parties that have complementary intellectual property.
3. The provisions of the moral rights of the author in Iraqi law are not one size fits all, and they must be designed according to the specific circumstances and goals of each intellectual property owner. therefore, legal professionals and moral rights experts should be consulted to formulate and review the moral rights of the author that protect their interests and maximize their benefits.

The necessity and importance of research

The subject of our research labeled (the provisions of the moral rights of the author in Iraqi law) is one of the important topics that have not received clear legislative attention because the applications of our subject have appeared mainly recently and we have not found anyone to deal with this matter explicitly and clearly, in addition, the importance of our topic lies mainly in the statement of the content of the sale of the provisions of the moral rights of the author in Iraqi law, in order to achieve fairness and not to another aspect concerns the comparison with the provisions contained in the Iraqi law and some Arab laws and this is what we did not find among some of the researchers, so we decided to delve into it and explain its provisions and show its legal, doctrinal and judicial importance to address the problems related to this .

2. Research methodology

This study adopted the methodology of descriptive and comparative analytical research to study the provisions of the moral rights of the author in Iraqi law in the light and perspective of the policy of civil law and copyright law to benefit in the reality of Iraqi law, through precise criteria and rules closely related to the essence of the subject under consideration. Therefore, taking note of the effects and provisions of moral rights in Iraqi law the provisions of the moral rights of the author in Iraqi law, this chapter should be divided into three discussions:

The first search : The concept of the provisions of the moral rights of the author in Iraqi law

The provisions of the moral rights of the author in Iraqi law in developing countries take advantage of the property rights and technical knowledge controlled and owned by developed countries in all productive areas at the intellectual level to raise and increase economic development, and thus benefit from advanced technology in the development process. The importance of the provisions of the moral rights of the author in Iraqi law has also increased with the increase of modern inventions and innovations and the establishment of industries that obtain the rights of the provisions of the moral rights of the author in Iraqi law in exchange for a contractually specified compensation, and rely mainly on the use of patents, trademarks and technical knowledge. The provisions of the moral rights of the author in Iraqi law guarantees the rights of technological knowledge within the scope of patent protection does not constitute the main element, and that innovations protected by patents are often insufficient for use in the processes of intellectual production, and that such uses require technical information complementary to the patent there is no doubt that the theoretical and practical information held by the parties to the subscription of moral rights is the essence of the provisions of the moral rights of the author in Iraqi law . To understand the concepts of this research, we will present the concept of the provisions of the moral rights of the author in Iraqi law in terms of language and terminology. In order to address the concept of the provisions of the moral rights of the author in Iraqi law more accurately and comprehensively, we must divide this requirement into two branches:

The first requirement: definition of the provisions of the moral rights of the author in the language
The second requirement: the definition of the provisions of the moral rights of the author in Iraqi law by convention.

The first Requirement

Definition of the provisions of the moral rights of the author in the language It is known that the Arabic language is concerned with words, not compound terms, so I will proceed to define the provisions of the moral rights of the author in Iraqi law from the language side by presenting the concept of each word separately, and this will be as follows: The moral rights of the author in the Arabic language have several meanings, including:

- 1.industrial source of the right.
- 2-the right to use and dispose of the thing at all within the scope of the law of literary property.
- 3-a legitimate judgment that is valued in a kind or benefit that requires the one who is credited with benefiting from it to be able to have money compensated for it from where he is (Abdul Hamid, 2008: C3, pp. 21-23).

The moral rights of all categories of property stipulated in the law, including the protection of ideas, copyrights, computer programs, film and radio recordings, trademarks, the date of ownership of a brief statement on the transfer of real estate is said, which includes all the claims that can be filed against it, the ownership of shareholders, the rights that shareholders have as a share in a company, measured by total assets after subtracting the total liabilities from them, and property rights the right to own an asset, and this right grants its owner certain privileges and powers(Abdul Hamid, 2008: C3, P.2123). Through the above linguistic definitions, it can be said

that the moral rights of the author is the right established by law between two parties to create a mental work, which entitles them alone the right to exploit it and to take the necessary measures to ensure the integrity of this right.

The second Requirement

Definition of the Provisions for the Moral Rights of Authors in Convention

Some legal scholars divide moral rights into literary and artistic categories, viewing them as forms of intellectual output that can be expressed verbally, in writing, or orally, reflecting the author's personality regardless of the work's format (Lotfi, 2000: 35). They define moral rights as works characterized by their means of expression and the author's role (Mamoun and Abdul-Sadiq, 2008: 112). Moral rights therefore include literary as well as artwork. However, some legal perspectives challenge this division, noting that many works blend both artistic and literary qualities (Mutair, 2017: 20). In Iraqi law there is still contestation among jurists on formulating an integrated definition of the provisions provided for in the legal concept of moral rights of author/s. These provisions safeguard intellectual work through extending the right to both parties when and through the agreed clauses. These terms ensure that moral rights, along with the associated literary, artistic, and industrial rights, are preserved (al-Aboudi, 2015: 168). If the moral rights of authors in Iraqi law represent the creative capacity of the human mind (al-Sanhouri, 1967: 325, then, means that any product of human mind becomes an object of intellectual property, which ultimately involves all legal claims to human creative work, including scientific and artistic conceptions (Mutair, 2017: 19). Thus, a large number of legislations are insufficient in regard to the provisions for moral rights, and Iraqi legislators have not defined the sale of such rights clearly. The Iraqi protection of copyrights law has confined the assignable moral rights of authors to particular works, programs and data in writing, voice, drawing, photograph or movement. Specifically, Article 2 of the Iraqi Copyright Protection Law No. (3), as amended, covers the following categories: Written works across all genres.

1. Computer programs in source form and computer programs embodied in any product, by the use of any method, are protected as literary works.
2. Performances whose output are in spoken words such as a lecture, lesson, speech, sermon, etc.
3. Art object such as drawings; photography; engravings; sculptures; and the construction of buildings.
4. Gardening contest and drama, Hollywood movies and fashion shows, and music concert, etc.
5. Projects that include moving or performing for the purpose of creating other products.
6. Songs that may or may not include words.
7. The Patent for opinion and design II: Photographic and cinematographic works.
8. Literary works that asks for a broadcast in the radio or for the television.
9. I Ruggeri, cartine e statistiche, e diagrammi Scientifici.
10. Contact of Muslims with other Muslims, participating in public recitations of the Holy Quran.
11. Audio recordings.

12. Collected data.

13. Maps, charts and scientific figures

Further, under Iraqi Patents and Industrial Designs Law No. 65 of 1970 has also afforded the meaning of patent as calling intellectual property irrespective of whether it is individual or collective. Article 1, Paragraph 8 define it as “the certificate showing that the invention has been registered.” As moral rights have a great importance for the creators and there are chances for creators to gain heavy revenues by establishing moral rights, it will be in the favor of the Iraqi legislature to enact the integrated legislation for these rights. Other Arab countries have already passed special legal codes on moral rights, for instance, Law no.82 of 2002, on the moral rights’ sale in literature, art, and other fields based on the purpose of and the classification provided by Article 138(1) of the Intellectual Property Protection Law no.82 of 2002.

The second topic : Provisions Relating to the Personal Scope of the Author's Moral Rights

Provisions on the personal scope of the moral right of the author All comparative laws and international conventions on copyright protection have unanimously extended the scope of their protection to authors in general. However, the international treaties on copyright protection did not include an explicit definition of the protected author, and it seems that the determination of this was left to each member state individually according to its own circumstances. Therefore, in order to study the provisions on the personal scope of the moral right of the Author, This research should be divided into two requirements, as in the first we deal with the provisions on the plurality of authors for one work, while in the second we deal with the provisions on the author's contract.

The first Requirement

Provisions on the multiplicity of authors for one work The author is often only one natural person, but there may be multiple authors for one work, such as two or more people co-authoring a work, or a group of people co-authoring it under the guidance of a natural or legal person, and perhaps the importance of studying these types of works is to identify the author of the author's description in them, because this attribute, as well as authors in terms of their effectiveness and impact on the workbook. Therefore, the following question can be asked: Does everyone who contributed to the creation of the work acquire the status of author More specifically: can any contribution-no matter how valuable or insignificant - make its owner an author In fact, our answer to this question requires us to divide this requirement into two sections, in the first we will deal with the quality of the author in common Works, and in the second the quality of the author in collective works.

Section I: the author's attribute in common works Some Arab

legislations on copyright protection have been subjected to the definition of a joint work (as in the Egyptian, Lebanese, Omani, Algerian and Moroccan legislations, in simple terms, which generally revolve around the participation of more than one person in the creation of the contributions included in its composition. But if we consider the French law of moral rights in Article (L - 113-2) of the French intellectual property law, we note that it was more specific to the meaning of the joint work, as it stated that "that work that is made with the contribution of

more than one natural person," the French legislator initially excluded the possibility that the contributor to the creation of the joint work intellectual creativity, which is a necessary quality for a person. The French judiciary has been subjected to the definition of a common work (Mamoun, 1986: 20) in a way that does not differ in content from the legislative definition referred to above. Accordingly, for the creation of a joint work, it is necessary to have creative contributions created by a group of co-authors in the work, and these contributions should be combined side by side to come out in the form of a single work. In addition, it is necessary to have a common idea that dominates the minds of all participants, and this idea should bring together cooperation and consultation between contributors in order to show the work in the best way. Therefore, this mental effort, which does not amount to a high degree of effectiveness and seriousness, does not have the idea of participation, which requires that every foreign author, whether national or national, make a real effort to invent the work and bring it to the public in its final form (al-Jamal, Abdul Rahman, Dr.T: 129). On the other hand, the US Copyright Protection Act of 1976 defined a joint work focusing on the complete integration of authors' contributions as "a work prepared by two or more persons with the intention of placing inseparable merged contributions as a single unit". In this context, it is noted that the assessment of the availability of mental participation or not in the work is a matter that is independent of the judgment of the trial judge concerned with the consideration of the international dispute. Accordingly, a judicial decision was issued by the Paris court on the dispute that occurred between two film production companies regarding the quotation of a story published for the first time in Britain, in connection with which the following question was raised: is the work considered common for both authors who contributed to the creation of the work (story) The Paris court competent to consider the dispute answered this by stating that the work is considered joint (al-Kurdi, 2002, 102). In this context, the Berne Convention, in Article (7) II, has singled out joint works with the provisions of the protection period contained in the convention, stating that "the provisions of the previous article shall also apply in the case where the copyright is jointly owned by the partners in a work of a work, provided that the prescribed period shall be calculated after the death of the author as of the date of death of the last surviving partner". It should be noted that the manifestations of contribution or participation in the creation of joint works are of two types, according to most Arab legislation and French legislation; the first type of joint works merges the work of co-authors from foreigners and Nationals in such a way that the share of each of them cannot be separated from the share of the other. In this type of works, all those who co-authored the work are considered owners of the right to it equally among themselves, unless they agree otherwise in writing, and if any dispute occurs between them, recourse to the national judiciary to adjudicate it. As for the second type of joint works, which is the one in which the role of each Foreign author, whether national or not, can be separated from the role of other participants in the creation of the work, the rule in this regard is that each contributor to the work has the right to exploit the part to which he contributed separately, but on two conditions : the first : there is no agreement to the contrary, and the second : not to harm the exploitation of the work. However, the above is not taken into account if the part contributed by one of the subscribers is essential and the other parts are secondary, then the owner may use the joint work in its entirety as an author without the need for the consent of the rest of his partners, each of whom has only a share in the profit generated by this exploitation (Abdul Majid, d.D: 28), and we can cite as proof of this the legislative applications of national laws regarding

lyrical musical works and works that are performed with movements accompanied by music, such as dances, parades, film works and works intended for radio and television. According to the above, it appears that those who enjoy the description of the author in joint works are people who really contributed to the process of creativity and innovation, so that the product of their kinship is a reason for their enjoyment of literary rights that ensure them the maintenance of due respect for their works as a reflection of the personality of their owners, as well as their enjoyment of financial rights as they are the real creators of the joint work, which resulted in the author's description being given to all of them because this description – as mentioned above – is related to innovation, which can only be imagined from natural persons who really contributed to the creativity of the work, which is achieved in imposing joint works.

Section II: the author's attribute in collective works

The Iraqi legislator defined the collective work in Article (27) of the copyright protection law as "a work that is jointly developed by a group voluntarily and under the guidance of a natural or legal person and the work of its participants is integrated into the general idea directed by this natural or legal person so that it is not possible to separate the work of each of the participants and distinguish it separately....". The text of this article corresponds to the texts of many Arab copyright protection regulations (as in the Egyptian, Jordanian, Syrian, Lebanese, Saudi, Emirati, Kuwaiti, Bahraini, Qatari, Omani, Yemeni, Algerian and Moroccan regulations), but the Iranian law has no provision for such definitions. In this context, the French legislator also defined it in Article (L - 113-2) French intellectual property as that "a work created under the guidance of a natural or legal person publishes the work under his management and in his name, and the personal contributions of its authors contributing to its preparation are integrated into it, so that it is not possible to entitle any of them a distinct right over the entire work". It is also noted that most of the comparative laws came from texts specific to the collective work, the commentators of the law were divided into two teams in interpreting them : the first team – based on the literal interpretation of the texts of the majority of Arab legislation (and American legislation as well) – argued that none of the authors may be the sole financial exploitation of his share independently of the collective work as a whole (Judge, 1958: 158). While another group – following the course of the French legislator in this regard-turned to the possibility of distinguishing between the shares of authors in the collective work, and then each author, whether foreign or national, may independently exploit his share separately from the shares of other contributors, provided that, of course, this does not entail competition for the collective work (elbarawi, 2001, 187). In any case, we are convinced of the first opinion due to the soundness of its logic, which sees in the contributions of authors a single indivisible unit fused into a common Crucible.dictionaries, dictionaries and encyclopedias cannot be divided into intellectual contributions for each contributor, often the personal participation of contributors in creativity is dissolved in the totality of the work and merged into one goal and a specific idea, without it being possible to distinguish different intellectual contributions or identify their owners. Although we agree with some who see the possibility of separate exploitation of intellectual contributions to collective works in one case, the case of journalistic works, with the exception of the general origin (Mr. 2006, 59), a newspaper, for example, consists of several shares or contributions of several contributors that are carried out under the supervision and guidance of the responsible of the press institution, which coordinates, directs and organizes – Or a contract of contracting, where,

with this, it can be noted the possibility of separating the contribution of each Foreign author, whether national or national, who contributed to the creation of the journalistic work (al-Barawi, 2001, 188). In view of the foregoing, perhaps it makes sense to ask who is the author of the author's description in collective works Are they the real contributors to authorship - with their creativity - or is it the natural or moral person who plays a positive role in the realization of the work – With the money he has and the supervision he has done In fact, the answer to this question requires us to search in different legal directions, namely the direction opposing the attribution of the status of the author to non-real creators of the collective work, that is, the direction rejecting the attribution of this status to the natural or moral person directing the creation of this work, concluding that the author is generally a foreigner or a national – As already noted, the Anglo-Saxon trend, on the other hand, supported the attribution of the author's status to a natural or moral person, recognizing to him the right of an authentic author who does not differ in content from what is prescribed for real creators, and we will come to detail these two trends sequentially (focusing on the extent to which a moral person can be considered an author)

as follows: 1-the trend opposed to attributing the author's status to non-real creators of the collective work:- It is well known that the majority of national legislation on copyright protection-as in the Arab laws and the French law-enshrines the depth of the link that connects the author, whether foreign or national, with his work that he created, the general trend within these legislations rejects-according to the origin – Attribution of the status of the author to the natural or moral person who directs the creation of the collective work, which is evident when referring to many legal texts regulating copyright, which is consistent with the legal logic required by the realistic trend in determining the status of the author, which is based on linking protection with the criterion of innovation, which necessitates the presence of personal creativity imparted by the author to the work, which cannot be achieved for the moral person – especially – who lacks the simplest manifestations of expression. But despite this clear legislative position, the Iraqi legislator came up with a single exception regarding collective works, as he ruled in Article (27) of the copyright protection law that: "... the natural or legal person who directed and organized the creation of this work is considered an author and has the sole right to exercise copyright". It is also noted in this regard that some Arab legislations for the protection of copyright have followed the approach of the Iraqi legislation in recognizing the author's status as a natural or legal person directed to the collective work, with exceptions, as in the legislation of Jordan, Syria, Saudi Arabia, Kuwait and Algeria. While other legislations tended not to explicitly specify who the author's description applies to, while explicitly recognizing the ownership of copyright by the legal or natural person who directed the creation of the collective work, this is what the Egyptian, Lebanese, Bahraini, Omani, Yemeni and Moroccan legislation followed. As for the UAE, Qatari and Sudanese copyright legislations, they have gone further, as these legislations not only describe the author to the real creators of the collective work, but also grant them the moral rights arising from the work, they did not preempt the person directing only the financial rights. As for the position of the French legislator, it is noteworthy that he did not differ from the position of most of the aforementioned comparative techniques in refusing to attribute the authorship to a non – real creator of all works, including collective works, stating that "the collective work – except to prove the opposite – belongs to the natural or moral person who publishes the work under his name and management".

2-The trend in favor of attributing the author's status to the natural or moral person directing the collective work: Contrary to what we have seen in the first direction, it does not seem that attributing the status of the author to a natural or legal person who is not the true creator of the work is contrary to Anglo-Saxon laws, the latter places most of its attention on the financial rights derived from the exploitation of works, without paying much importance to the personality of the author, whether foreign or national, and this is clearly reflected in the US legislation on copyright protection, which is a natural result of the fact that American law does not consider the work as the product of intellectual creativity as much as the economic values resulting from it. If we take a closer look at the texts of this law, we will find that it establishes a general principle that The employer, even if he is a legal person, automatically acquires the status of the author on the collective work, without the need for an agreement with the employed contributors (also, if we look at the provisions of the US law on accession to the Berne Convention and the application of its provisions, we will find that he has been exposed to the scope of application of audiovisual works by saying "in the case of one or more authors a legal person whose main administrative center is located in a country regulated for the provision of the agreement, or in the case of one or more authors a natural person whose domicile or habitual residence is located in a country regulated for the provision of the agreement" as well as in the case of the British law on the protection of copyright, with reference to Article (154) As mentioned above, when we presented the concept of a person eligible for protection as an author, we did not distinguish between being a natural or moral person. What has been said above, it can be said that the legal texts that the Anglo – Saxon legislation came up with regarding calling the author a natural or moral person without the real creators, although some see them as exceptions to the general rules, but they allowed, according to the prevailing trend in Anglo – Saxon jurisprudence and jurisprudence, to say that they fall within the general origins of these laws, and that there is nothing according to the general principles governing these legislations-to prevent a natural or moral person (not a real innovator) from being considered an author in general, and therefore a sole author in collective works (Abdul-Sadiq, 2003, 48, 49). In addition, the TRIPS convention has explicitly recognized the scope of its protection for authors of member and non-member states of the convention without distinction between natural persons and legal persons, recognizing the author's description of the latter and the possibility of enjoying copyrights, especially for computer works and cinematographic works. Having said that, we hope that the comparative national copyright laws-and the TRPs convention as well-will reconsider these unusual provisions of the collective work. Justice and the normal logic of things stipulate that the author's attribute belongs only to the owners of innovative contributions, no matter how many, it makes no sense to attribute this attribute to others, and the introduction of this would contribute to the preservation of moral rights by preserving the moral entity of each contributor who participated in the creation of the work. It is unacceptable to cede these rights to others, as they are rights related to the personalities of their owners. Accordingly, we propose that the text on the collective work in the Iraqi copyright protection law be amended, namely Article (27), which is similar to the texts of many national laws-to which reference has been made - to become after the amendment in the following form: "... The natural or legal person who directed the creation of the collective work shall enjoy all the financial rights resulting from the exploitation of the work, with the enjoyment of some moral rights that would facilitate such exploitation provided that there is an express agreement to this," and the same applies to Article (3) of the law on the

protection of the rights of authors, works and artists of Iran, which states: "the rights of the creator include the exclusive right to publish, distribute, display and perform the work, and the right to exploit his name and work materially and morally".

Section II: provisions for works by contract

The author is usually driven by subjective factors to compose without being assigned to do so by a certain person or entity. It may happen that the author, whether a foreigner or a national, is associated with another person or entity under a contract that replaces the creation of a certain work. The contract may take the form of a contract of contracting, and this is the case of works that are created at the request (or special assignment). The contract may take the form of an employment contract, and this is the case of works created by workers. In fact, the research on this topic requires us to review the position of comparative legislation on determining the status of the author on innovative works within a contractual relationship. It is noted the omission of international conventions on copyright protection on the regulation of this type of works, despite the particular problems it raises in practice. Accordingly, we devote this paragraph to determining the status of the author in this type of works according to the view of the National Law, on two items : we will deal with the first works that are created based on a contract of contracting, and the second works that are created based on an employment contract. - We can define this type of contract concluded for the creation of a work as "the contract concluded between the applicant for the preparation of the work and the creative Author, according to which the second party is obliged to create and independently create the work in place of the contract for a fee to which the First party requesting the preparation of the work is obliged ". It should be noted that many Arab legislations specialized in the protection of copyright have not touched upon a legislative regulation of this type of works in particular, except as stipulated in Article (20) of the Algerian copyright protection law that "if a work is created within the framework of a contracting contract, the person who requested its completion shall assume ownership of the copyright within the framework of the purpose for which it was performed, unless there is a contrary condition ". It is clear from this text that the Algerian legislature recognizes the right of the applicant for the preparation of the work-that is, the employer-to own the moral and financial rights resulting from the creative work under a contract without specifying who has the status of the author on the work in question of the contract. Here the following question arises : to whom is the authorship of this type of work established in the Algerian legislation Is it for the creative worker or for the employer To answer this question, we say that the quality of the author is proven here for the true creator of the intellectual product, because the Algerian copyright law is one of the laws that take the realistic-personal-concept in determining the quality of the author, all that is waived are the rights arising from the work under two conditions : the first : that the work was created within the framework of the purpose for which it was done, and the second : that there is no condition to the contrary. It is worth noting here that despite the fact that the Iraqi copyright protection law does not regulate this type of works, some special laws have highlighted the importance of contracting with authors on the basis of a contract, for example, what is stated in Article (4) of the Iraqi House of wisdom law that "the house uses to achieve its goals by appropriate means, including contracting with authors, writers, researchers and translators inside and outside Iraq for the purposes of authorship, research and translation, and assigning Iraqi, Arab and foreign researchers to the copyright and translation rights are owned by third parties

inside and outside Iraq and disposed of". In view of the legislative vacuum of the majority of Arab legislations related to the protection of copyright-including Iraqi law-from stipulating innovative works under a contract, it is inevitable to present the point of view of the commentators of the laws of Arab countries related to the protection of copyright, to determine who the author's status is proven in them. From this it becomes clear that the financial right of the author can be waived in favor of the employer, the latter can be the sole financial exploitation of the work without the need for the author's permission for the duration of their life and for a certain period after their death, and may not be the waiver of the financial right in its entirety, but this waiver is limited to a certain period of ten years or twenty years, for example, and the waiver may be limited to one edition or a certain number of editions. Second: the quality of the author in works that are created based on an employment contract:- initially, an innovative work can be defined according to an employment contract as the work recommended by the employer to another person practicing the profession of authorship in order to put at the service of the first the works created by the second in exchange for a specific wage according to the methods by which the wage is determined in the employment contract (Al-Sanhouri, 2022: 281). It should be noted that the Iraqi copyright protection law did not regulate this type of works until the amendment of this law in 2004, which added a provision between Article (10) and Article (11) stating that "if the work is created for the account of another person, the copyright belongs to the author unless there is an agreement stipulating otherwise," which clearly shows that the Iraqi legislator has explicitly recognized the ownership of the copyright of the creative worker as the author. The Iraqi legislator's approach to this issue is no different from the Jordanian, Kuwaiti, Bahraini and Algerian copyright protection laws, as well as the French moral rights law. While other copyright legislation has tended to explicitly recognize that copyright only proves ownership of the employer and not the creative worker, unless there is an agreement to the contrary, this is the case with the Lebanese and Moroccan legislation. On the other hand, we find that the American copyright protection law has violated the aforementioned legislative rules in regulating works created based on an employment contract, according to the provisions of this law, the employer or any other person who has completed the work on his own account is the author and may exercise the copyright as the owner of these rights. It turns out that the American legislator has considered the employer, contrary to the truth, to be the author and copyright holder of innovative works under an employment contract, and for our part, we consider that this would make the relationship between the author, whether foreign or national, and the employer look like a relationship between the dependent and the dependent (Ibrahim, D.T: 87), which makes the author (foreign and National) owned by the employer, a situation that in fact represents a waste of the freedom of intellectual creativity and a clear diminution of the mental effort exerted by the creative worker in order to create the work, in granting the employer the status of the Author according to the Anglo-Saxon system is contrary to the rules of justice and contrary to common sense for the simple reason that the relationship between the subordinate and the subordinate, which appears on the occasion of the employment contract, most often involves in order to obtain financial compensation for his own interests, the employer often uses A follower as a means of enriching his economic projects with intellectual production-such as a publishing house, a media organization, or a film production company-who appears with his name to ensure the achievement of the profit he wants from the process of publishing and marketing works (Hassan, 1996: 282). Finally, it is necessary to ask: How can we demand the author, whether a

foreigner or a national (wage worker), to create, innovate and get rid of in the process of mental production, while he is not assured of the author's description or of obtaining his moral and financial rights. In the same context, it should be noted that works by contract, whether in the form of a contract of contracting or an employment contract, are governed by the law of the state in which the contractors have their common domicile (i.e., the employer and the author) if they are united by domicile, but if their domicile is different, the applicable law is the law of the state in which the contract was concluded, unless the contractors agree or it becomes clear from the circumstances that another law is intended to be applied, in accordance with the rules on conflict of laws in the field of contractual obligations.

3. The third topic

Procedural provisions for the protection of the moral rights of the author. The first concerns the civil liability of those who infringe on the moral and financial rights of the author, and the second concerns the criminal liability for acts of imitation of intellectual works and punishment of the imitator. It is noted on this division that it introduces procedural means of protection within the civil road (al-Fatlawi, 2000: 279). However, the statement that some have rightly made about procedural means of protection being an independent way of internal protection of authors' rights (almilji, 1996: 46), We agree with him, given the rapid and effective protection of copyright provided by these procedures, that we should not lose sight of the fact that procedural protection, although independent of substantive protection, which makes it a stand – alone way of protecting authors' rights in general, but it is characterized by being ahead of substantive protection so that the latter is considered necessary and next to it (Mahmoud, 2004: 12, 13). It is worth mentioning in the same context what the Iraqi Civil Code stipulates regarding the law applicable to procedural matters, as it states that " the rules of jurisdiction and all procedures are subject to the law of the state in which the proceedings are being held or proceedings are being initiated." it is well known that the rules of procedure contained in the civil proceedings law are regional rules that are not applied outside the territory of the state and the National Court may not follow the provisions of a foreign pleadings law unless there is an international treaty in force in Iraq. This means that the dispute that may arise regarding the procedural means of copyright protection in Iraq, the rules of the Iraqi law of pleadings are applied to it without extending their validity outside the state. It is noteworthy that the national legislation on copyright has addressed the issue of infringement of these rights by following multiple procedures, all of which are aimed at protecting the rights of authors, although they differ in nature and timing of recourse to them : there are preventive measures designed to avoid the occurrence of infringement of the rights of creators of the intellectual product, and there are preventive measures intended to prove the damage caused by the infringement of the rights of these creators and stop it in the future, as well as to confront the assault that has already occurred on the work and limit the damage caused to take the necessary measures to eliminate these damages and preserve the rights of authors. Therefore, and taking note of the procedural provisions for the protection of the moral rights of the author, the study of this research comes in two requirements, as we deal with the first preventive measures while we deal with the second precautionary measures.

3.1 The first Requirement

Preventive measures We will deal with these procedures by talking about the legal deposit procedure for works and then we will complicate the speech about the registration procedure for works, in two sections as follows:- Section I: the procedure for legal deposit of works: It is the most important preventive measure aimed at avoiding the occurrence of copyright infringement, as it is a measure by which the rightholders of the work – from the author, publisher, printer or distributor in certain cases – are obliged to hand over a specific number of copies of published works to one of the official bodies – such as national libraries, for example – determined by the legislation of each country for this purpose (Canaan, 1992: 380). By extrapolating the text of Article (48) of the Iraqi copyright protection law, it reveals to us that it has introduced a legal deposit procedure that is binding on publishers of works exclusively, as it states that "publishers of Works prepared for publication by making copies of them must deposit five copies of the work in the National Library within a month from the date of publication.. ". It is worth mentioning in this regard that the legal deposit of works is a procedure by which the title of the work, the names of its authors, publishers, printers and producers, the edition number and the date of completion, the number of copies offered for sale, as well as a range of other information related to the work being deposited is determined. It is also noted in this regard that the law has singled out works that are published or printed and it is easy to extract copies of them (so that they are an exact copy of the original work) by virtue of filing, and therefore comparison can be made between the copies kept by the depository or any other copies of the report and proof of foreign and national copyright, so books, manuals and other written materials, musical works, audio-visual works, illustrations, atlases, University theses, magazines, newspapers and computer programs can be subject to the filing system, as for statues, paintings and works of architectural art, it is difficult to provide copies of them for filing due to the nature of these classifiers, which requires Its exception from the deposit provision. It should be noted here that the provision of Article (48) - mentioned above-related to legal filing has been repealed from the Iraqi copyright protection law by the amendment of 2004. The above-mentioned provisions regarding the legal deposit of works are also contained in many copyright protection legislations of the Arab countries (namely, the Egyptian, Syrian, Lebanese, Saudi, Emirati, Bahraini, Qatari and Omani legislations). it is mentioned that the Moroccan copyright protection law has, by virtue of this procedure, singled out reproduced works that have an exceptional documentary character, as well as a copy of recordings that have cultural significance and value exclusively. From the foregoing, it is clear to us that the procedure for legal deposit of works is distinguished from other other procedures required by copyright protection laws in that it is not a prerequisite for the protection of the work, that is, failure to deposit the work does not entail a violation of the copyright established for them under national laws.although, in general, failure to deposit the work entails a certain penalty that falls on the publishers or producers, as the case may be, and it always stands at the limit of a financial fine, failure to comply with this procedure does not result in depriving the non-deposited work of the enjoyment of protection. However, the above-mentioned legal provisions regarding filing are disputed in some national laws, including the Jordanian copyright protection law, which considered that non-filing prevented hearing a claim related to copyright protection. The US Copyright Protection Act also went to this, which required that the deposit of copies or audio recordings be made by the copyright owner or by the

owner of financial exploitation rights for the work published within the United States of America within three months from the date of publication, and that two full copies of the best edition and two full recordings of the Best Publication be deposited, as required by US law in the deposit to be done at the Copyright Office or at the library of the US Congress. From the above, it appears to us that the Jordanian and American legislations for the protection of copyright, unlike the Iraqi law and most of the other laws-the above mentioned – What is the case of an author who puts his work in its final form by taking a manifestation of his expression and then limiting himself to depositing his work to the Center designated for that in the country where his work was published or in the country to which he belongs by his nationality, his homeland, where his habitual residence or any other country, the one of the hackers of the moral rights to deposit the same work in the designated deposit Center Is it reasonable to punish the true creator of the work by depriving him of All his rights to see his work exploited without being able to respond to this abuse !! In fact, the above-mentioned considerations, which are directed to the position of both the Jordanian and the American legislators on the deposit, made both of them hasten to amend the relevant texts to allow the statement that the non-deposit does not affect the enjoyment of the rights of authors in these two laws. With the foregoing, this does not negate the fact of the importance of the role that the legal deposit procedure for works plays in the field of international copyright, in addition to the fact that its application contributes to confining literary and artistic production in the country and indicating its various trends and enriching the Public Library (which is the National Library in Iraq) with all that is published on the country of various cultures to we will notice that everyone who begs himself to imitate a work, or He will think a lot before committing this action in the presence of a filing procedure, where through this procedure it is possible to refer to the copies deposited with government agencies to identify the date of publication and all the data related to it. Moreover, although we agree with some thanks to the filing process and its many benefits, which are manifested in proving the return of copyright (sieve, 1963: 132), however, filing in general, whatever its purpose, should not stand in the way of granting creators their rights for the painstaking efforts they have made in the process of intellectual creation, which national legislation seeks to protect, and this is supported in fact by what the Berne Convention stipulates that: "the enjoyment or exercise of these rights is not subject to any formality," national legislation usually includes preventive measures such as filing copies, as the basic rule in this agreement is that protection is not subject to any formalities.

3.2 Section II: the procedure for registration of works :

This is another preventive measure by which the right holders to works are intended to register all the data related to their works in a special register prepared in advance for this purpose. It is worth mentioning here that the Iraqi legislation for the protection of copyright did not provide for this kind of preventive measures, while it was stipulated in the Ottoman copyright law, which was in force in Iraq before the issuance of the current law-as already noted-where Article (20) of it states that "every author, if he wants to secure his copyright, must submit three printed copies of his book to the Ministry of knowledge in the capital and to the Directorate of knowledge in others in order to register and register. In application of this, the Federal Court of Cassation in Iraq refused to ratify the decision of the Baghdad Criminal Court - currently the Criminal Court-which is the decision of the Federal Court of Cassation in Iraq in the strike No. 342 / t / 1951 in 29 / 7 / 1951 the judge sentenced an imitator to one month in prison for entering into Iraq with

an imitated workbook, since this workbook was not registered with the Ministry of knowledge at the time().As for the occasion of this judicial decision, it boils down to the fact that the Baghdad Criminal Court ruled to imprison a person who had introduced into Iraq the Khaldoon reading traditionally printed in Egypt, whose author Sati had donated the exclusive copyright to the Iraqi Ministry of knowledge at the time by virtue of her book dated 10/1/1947. The registration of works is a procedure in force in some Arab legislations related to the protection of copyright, including what is included in the Syrian copyright protection law stipulating that "the ministry updates a special directorate whose task is to register copyright and follow up the protection of these rights.. "This is also the position of the Yemeni law for intellectual property rights, which stipulates that"every creative work to be registered must be submitted to the competent authority with a request that includes a copy of that work and documents proving the ownership of this work", as stipulated by the Sudanese copyright protection law, which stipulates that"applications for registration of works submitted to the Registrar's office are optional, and this will be proof of the origin of the work or its authorship if a dispute arises and legal action is taken on it". From the foregoing, we conclude that the registration procedure adopted by the aforementioned national legislation does not differ in content from the legal deposit procedure for works, and if the means differ, both of them are considered a tool to prove the rights of authors to their works in the event of abuse. This is supported by the decision of the Sudanese Supreme Court, "he said... Protection in the 1996 law is not by registration, but by registration to prove ownership, which is a presumption capable of proving the opposite...". Many Anglo-Saxon legislations have also adopted this system(Mamoun and Abdul-Sadiq, 2008: 288) foremost among them is the US legislation on copyright protection until 1989-the date of entry into force of the Berne Convention for the United States of America, which joined in 1988-which established mandatory conditions for the protection of works, namely by registering them with the copyright protection office and obtaining a copyright Mark bearing the letter (C) - which is the abbreviation of the word copyright-accompanied by the name of the copyright owner with specifying the year of first publication, however, since 1989, the procedural requirements in American law have become optional conditions although this law is still urged on them, since it facilitates the issue of proof in the facts of imitation that can occur on works.

3.3 The second Requirement

Provisional measures After the attack on the workbook occurs, preventive measures appear - or temporary, as some call them- (Muslim, 1977: 252), which is intended to avoid aggravating the damages that may be inflicted on the authors during the consideration of their lawsuit filed before the national judiciary, especially since the dispute between them and the aggressor is likely to take a long period of time. In order to avoid the adverse effects that may result from the continuation of the aggressors in the assault on copyright, the Iraqi legislation and other comparative legislations on copyright protection have taken to provide for provisional measures exclusively, because they are temporary measures that can only be determined by a text, they organize an urgent case to be decided before the final judgment.possible we mention among these measures : the Prohibition of publication of counterfeit works and stop circulation of these works, seizure of these works, confiscation of imported copies of illegal works, and other other measures. With regard to national legislation in this regard, the Terps convention has also been addressed.Article 50 of the convention provides for provisions on the competence of the judicial

authorities of member states to take immediate and effective interim measures to prevent an infringement of any of the moral rights and to preserve the relevant evidence related to the infringement of these rights. Accordingly, we will indicate the content of the provisional measures taken by the Iraqi copyright protection law and compare them with what other positive laws have taken, while investigating the position of the TRPs Convention on each of them as follows: Section I: the procedure for stopping the attack on the work: This procedure is mentioned in Article (46), paragraph (1) of the amended Iraqi copyright protection law, which states that "the court may decide : 1-demand the aggressor to stop his activities contrary to the law...."And so it is stated in other comparative legislation. A foreign or national author may consider that the appropriate measure to preserve his rights protected by law is to work to temporarily stop the encroachment of others on them so that he can later resort to the national judiciary to claim substantive protection. It is noted on ways to stop the infringement they vary according to the methods of communication to the public, the nature of the source to be made to stop the infringement case we cease publication, which means cessation of reproduction and distribution of images of their status in the trading, if the source of the book possible to claim the cessation of its publication, but if the movie or show was possible to stop the show, and if the source tape, it was possible to stop its manufacture and production, procedure is temporary here depends on the nature of the source in terms of both the cessation of publication or supply or industry (Shawarby, and 1997: 280). For our part, we believe that this procedure falls within the duties of a judge, who must carefully consider the request to stop the assault and the extent of its seriousness and based on reasonable factual reasons, because stopping the publication of the work, its presentation or its manufacture entails serious consequences that lead to harm to the interests of the defendant, as the procedure to stop the author or other legitimate stakeholders may be injured as a result of the hostility to the work.

3.4 Section two: booking signing procedure:

Seizure in the general sense means (sorting out a certain money from the debtor's funds and placing it under the hands of the judiciary, for safekeeping and making it immune from the actions of the debtor that are likely to harm the creditor) (Omar, 2001, 753). The signing of the seizure of the work is a procedure regulated by the Iraqi copyright protection law in Article (11) of it, which states that "it is not permissible to seize copyright, and copies of the work that has been published may be seized", it seems to us from the text of this article that the moral aspect of copyright in general is not subject to seizure, this right is one of the inherent rights of the human personality or by others (Akasha, 1999: 287). However, it should be noted here that the text of Article (11) above, which regulates the provisions of seizure of the work, has been suspended under the amendment to the copyright protection law in 2004. In addition to the foregoing, we recall what was stated in the text of Article (46) before its amendment of the above law, which referred to the possibility of booking the original work, its copies, photographs and materials used in its publication, however, the new amendment to the Iraqi legislation did not mention the booking procedure within the temporary or provisional procedures that the owner of the right to the work can claim. It seems to us that the Iraqi legislator wanted to leave the regulation of the provisions of seizure to the general rules contained in the law of civil proceedings related to the seizure system to the extent that it does not contradict the special nature of the copyrights to be protected, it is not understood from the suspension of Article(11)

and the amendment of Article (46) of the legalization of copyright protection that the Iraqi legislator intended to ignore the seizure procedure and not to take it, indicating that he retained the text of Article (47) - also amended-on the inadmissibility of seizure of works of architectural art (Al-miliji, 2000: 84), which we understand with the concept of violation that the Iraqi legislature has authorized the seizure in general, except for this type of works. If this is the case in the Iraqi legislation, it is noted that most copyright legislations in the Arab countries are keen to specify the provisions on the conditions and procedures for the seizure of counterfeit works, and these provisions also specify the works that are subject to seizure as well as specifying the works that may not be seized, in addition to indicating how to complain about this procedure. The national judiciary in Egypt has been able to recognize the rights of authors in the framework of international private relations to request the seizure of the revenue resulting from the public performance of their works, which were shown without their prior permission, the appeals chamber of the Cairo Court of First Instance ruled in favor of the provisional measures issued by the order of the complainant, where it said: "as it shows from all of the above that the complainants therefore, the sanctions and procedures provided for in Article 43 of Law No. 354 of 1954 shall be imposed". As for France, under the law on the protection of moral rights, its legislators intended to regulate the seizure procedure, which has come to be called the in-kind seizure of copies of a counterfeit work during its entry into France, in order to reconcile two things : firstly, to provide a quick and effective reservation system in order to avoid the possibility of smuggling and disposal of counterfeit works, and secondly, to prevent other competitors from continuing to infringe on the rights of foreign and national authors (meligi, 2000: 69). From the foregoing, we find that the provisional seizure procedure provided for in many national legislations on copyright protection - without there being a corresponding provision in the TRIPS Agreement - is of great benefit in practice, as it aims to stop the publication of counterfeit works, prevent their circulation among the consumer public and prevent the aggressor from acting in violation of the provisions of the law in copying the work in question, as well as its importance appears when the authors obtain a judgment to compensate for the damage suffered, as in that case they have enforcement over the copies and materials reserved for sale and receive the amount of compensation sentenced from them.

3.5 Section III: confiscation procedure Confiscation means

the transfer of ownership of the work to the state without compensation (al-Fatlawi, 2000: 32). in fact, the Iraqi copyright protection law has provided for this procedure in Article (46), paragraph (1), as amended, in which it is stated that "the court may decide.. P. Confiscation of the copies in question and any materials and tools used in the investigation of the infringement C-confiscation of the proceeds of the infringement". From the above text, it is clear that the materials covered by the confiscation are copies of the original work, whatever the means of reproduction, whether printing, photocopying or recording, as long as they have been obtained in violation of the provisions of the law, and the confiscation also includes the materials used in the republication of the work, which means everything that the aggressor can use to republish or continue to copies of illegal works, as for musical instruments (for example) may be used In playing other music pieces that are not abused, as is the case with printing presses, photocopying machines, copying and others. The confiscation procedure also includes the proceeds from the work that violates the provisions of the law, and perhaps the purpose of this confiscation is to

prevent the aggressor from continuing his assault, as it is known that the availability of money at the latter may prompt him to continue his assault on the work illegally. It should be noted that other comparative laws and international conventions have omitted the regulation of the confiscation procedure as a temporary measure, but have touched upon its regulation because it is a criminal sanction.

4. Conclusion

After researching the provisions of the moral rights of the author in Iraqi law, the researcher agreed to come up with a set of results and recommendations, we mention them as follows:

First: the results

1. Determining the scope of protection in terms of persons is a preliminary and fundamental issue that needs to be examined before considering the scope of protection in terms of the subject, it is not possible to recognize the right of a person claiming to be an author unless, of course, it turns out that this description applies to him, which requires us to identify the persons to whom the description of the author applies, and make it a matter prior to every right that a person can claim to be an author.

2. The main problem when talking about the legal provisions of these moral rights is to determine who proves the status of the author in general, there is no doubt how important this determination is, given the consequences of the owner of this status of material and literary privileges that ensure the exercise of the powers legally vested in him, which leads to the protection of the work and special conditions.

3. There are many difficulties and problems that arise in the conditions of international exploitation of works between different countries in their legal systems. on the one hand, we find that Latin legal systems such as France and most Arab countries emphasize the extent of the author's role in the mental innovation of the work, and on the other hand, we find that Anglo-Saxon legal systems such as the United States of America, which focus on the objective side of copyright represented by the mental product (work) more than attention to the personal side of this right.

4. The Iraqi legislator explicitly recognized the ownership of the copyright of the innovative worker as the author in the case of innovative works under an employment contract . While other legislation has tended to explicitly recognize that the moral ownership of copyright is assigned to the employer and not to the creative worker, unless there is an agreement to the contrary.

5. We see agreement with the opinion that the moral right of the author is a personal right, as this opinion is based on a set of reasons: the first is that the place of copyright is based on the intellectual, literary or artistic product in addition to the material aspect, which is an abstract result of the author's exercise of his personal right.

6. In addition to the fact that its application contributes to limiting the intellectual production in the country and indicating its various trends and providing the public library with various intellectual creations located on the territory of the state, we noted that legal deposit has an

important preventive role in helping to avoid the occurrence of assault on the work as it is the best way to prove the rights of authors in the scope of international private relations.

7. The procedure for stopping the assault on the work falls within the duties of the National judge, who must be careful when requesting a halt to the assault and the seriousness of this request and based on reasonable grounds, because of the serious consequences of this procedure that lead to harm the interests of the defendant, as the procedure for stopping publication in case of Second.

5. Recommendations

1-the need for the Iranian and Iraqi legislators to allocate an introductory section to begin with the texts regulating the protection of copyright, so that through this section defines what is meant by the legal terms that the texts are exposed to, especially the term (author, work, innovation) . The existence of such an introductory section would help persons who are familiar with the provisions of the law to understand its content and realize its purpose without ambiguity or ambiguity .

2-we recommend to the Iraqi legislator the need to amend the text of the collective work, which is the text of Article (27) of the copyright protection law to become after the amendment in the following form: ((....The natural or legal person who directed the creation of the collective work shall enjoy all the financial rights resulting from the exploitation of the work, with the enjoyment of certain moral rights that would facilitate such exploitation, provided that there is an express agreement to this.

3-in view of the absence of the Iraqi and Iranian legislations on copyright protection of a provision for innovative works under a contract, we recommend that legislators regulate the provisions of this issue taking into account the author's interest in attributing the author's description to them and preserving their literary rights .

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