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INTELLECTUAL PROPERTY ALERT

New Puerto Rico Moral Rights Act

On March 9, 2012, Senate Bill No. 2263 became Act. 55 of 2012, known as “The Moral Rights Act of Puerto Rico”. This Act, which went into effect immediately after it was signed into law, supersedes the Puerto Rico Intellectual Property Act of 1988.

The main objectives of Act. 55 are: 1) to clarify when moral rights are involved; 2) to minimize conflicts with the U.S. Copyright Act; and 3) to adapt the moral rights protections to the realities of the digital era in order to promote the economic, educational, cultural and creative developments of the Island.

Among the salient aspects of the Act are the following:

- Moral rights are the exclusive rights of an author over his work that exist by virtue of the personal relationship between the author and his/her work. They arise at the very moment that the author fixes the original work in a tangible means of expression. They include the following rights: 1) attribution – recognition as the author; 2) withdrawal – relinquish the authorship; 3) integrity; and 4) access.
- The moral rights will last the lifetime of the author plus seventy (70) years after his/her death or until the work enters the public domain, whichever occurs first.
- The author of any work produced as an employee or as an independent contractor (work-for-hire) cannot claim moral rights over that work unless the parties consent in writing.
- Moral rights are not transferable and cannot be waived. However, the right to integrity can be waived, in whole or in part, by the author in writing. Said waiver can be signed using an electronic signature.
- The author cannot claim violation of the moral rights when the work is used for critique, parody, commentary, newscasts, educational or investigative purposes.
- When there is a moral rights violation, the author is entitled to injunctive relief to vindicate his/her rights and to monetary compensation.
- If the work is registered in Puerto Rico and the unauthorized use was for commercial purposes, the author can request statutory damages ranging between \$750 and \$20,000 per violation.
- The statute of limitations is three (3) years from the date the author learned of the infringement of his/her moral rights.

If you have any questions or comments, or wish additional information regarding these matters, please contact any of the following attorneys:

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