

Queensland University of Technology

From the Selected Works of Matthew Rimmer

May, 2003

Damned To Fame: The Moral Rights of the Beckett Estate

Matthew Rimmer, *Australian National University College of Law*

Damned to fame: the moral rights of the Beckett estate

Dr Matthew Rimmer

ALIA copyright &
intellectual property
policy and advisory group

The Company B production of Samuel Beckett's *Waiting for Godot* raises important questions about copyright law, moral rights, and dramatic works.

The playwright's nephew and executor, Edward Beckett, threatened to bring a legal action against the Sydney company for breach of contract on the grounds that unauthorised music appeared in the production. The Company B production denied that the contract made any such express provisions. The director Neil Armfield complained: 'In coming here with its narrow prescriptions, its dead controlling hand, the Beckett estate seems to me to be the enemy of art'.

In the biography *Damned to fame*, James Knowlson documents a number of other proceedings taken by Beckett and his agents to control the productions of his work: 'He was often represented as a tyrannical figure, an arch-controller of his work, ready to unleash fiery thunderbolts onto the head of any bold, innovative director, unwilling to follow his text and stage directions to the last counted dot and precisely timed pause.' However, Knowlson notes that Beckett was inconsistent in his willingness to use legal action: 'It made a tremendous difference if he liked and respected the persons involved or if he had been able to listen to their reasons for wanting to attempt something highly innovative or even slightly different'.

Famously, in 1988, Beckett brought legal action against a Dutch theatre company, which wanted to stage a production of *Waiting for Godot*, with women acting all the roles. His lawyer argued that the integrity of the text was violated because actresses were substituted for the male actors asked for in the text. The judge in the Haarlem court ruled that the integrity of the play had not been violated, because the performance showed fidelity to the dialogue and the stage directions of the play.

By contrast, in 1992, a French court held a stage director was liable for an infringement of Beckett's moral right of integrity because the director had staged *Waiting for Godot* with the two lead roles played by women. In 1998, a United States production of *Waiting for Godot* with a racially mixed cast attracted legal threats amid accusations it had 'injected race into the play'.

In the 2000 New York Fringe Festival, a company made light of this ongoing conflict between the Beckett estate and artistic directors. The work was entitled: *The complete lost works of Samuel Beckett*

as found in an envelope (partially burned) in a dustbin in Paris labelled 'Never to be performed. Never. Ever. EVER! Or I'll Sue! I'LL SUE FROM THE GRAVE!!!'. The plot concerned a fight between three producers and the Beckett estate.

In the wake of such disputes, Beckett and later his estate sought to tighten production contracts to state that no additions, omissions or alterations should be made to the text of the play or the stage directions and that no music, special effects or other supplements should be added without prior consent.

The conflict between the Beckett estate and Company B could also be seen within the framework of moral rights in Australia. In Australia, the Federal Government only recently passed the *Copyright Amendment (Moral Rights) 2000* (Cth). It introduced two new moral rights — the right of attribution to be identified as the author of a work, and the right of attribution to object to derogatory treatment of a work that is prejudicial to the honour and reputation of the author.

However, it would be unlikely that an action by the Beckett estate against productions of his plays would be successful in Australian courts. The moral rights regime in Australia is not as robust as the legislative schemes set up in Continental countries. There will only be an infringement of moral rights if the conduct complained of was unreasonable in all the circumstances. So Neil Armfield and Company B would seem safe from such legal action — given that their acclaimed production could be seen to enhance the reputation of the playwright.

So how long will the Beckett estate be able to control the productions of Samuel Beckett? In Australia, the term of copyright protection for dramatic works is for the life of the author plus fifty years. Given that Samuel Beckett died in 1989, the copyright in his works will expire in 2039 in Australia. However, in Europe and the United States, the term of copyright protection for dramatic works has been extended to the life of the author plus seventy years. The copyright in his works will finish in 2059.

It is a sad fate that Samuel Beckett, the most innovative of playwrights, should have his work preserved in aspic. There needs to be a reform of copyright law to ensure that 'keepers of the flame' do not stifle creative and innovative interpretations of such dramatic works.

Dr Matthew Rimmer, lecturer, Faculty of Law, Australian National University