

RESEARCH
ARTICLE

The Legal Framework for the Title of a Work under Algerian Legislation

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Abstract

Under Algerian legislation, Order No. 03-05 of July 19, 2003, the legal framework governing copyright explicitly includes the protection of the title of a work. According to Article 6 of the Order, if a title is deemed original, it is entitled to the same level of legal protection as the work itself. This protection safeguards against unauthorized use by third parties, prohibiting the reproduction or imitation of the title without the consent of the rights holder. Whether in the form of publication or the use of a deceptively similar title, the rights conferred on titles mirror those of creative works, encompassing both moral and economic aspects. Thus, the title of a work—if original—is not merely an accessory to the content but is recognized as an independent object of intellectual property protection within Algerian law.

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Introduction:

The title is considered an essential component of an intellectual work due to its role in distinguishing, identifying, and showcasing the creative nature of the work. Despite its apparent simplicity, the title may, in some cases, embody a part of the author's intellectual innovation, making it worthy of legal protection. Algerian legislation has given particular importance to this aspect as part of its efforts to protect authors' rights and ensure respect for literary and artistic property.

The importance of this protection lies in preventing others from using the same or a similar title in a way that causes confusion or exploits the reputation of the original work, which may constitute an infringement on the author's moral and financial rights. Algeria's legal system is also based on international principles, through the country's accession to the Berne Convention for the Protection of Literary and Artistic Works, which implicitly recognizes the possibility of protecting a title if it is original and linked to a protected work.

Accordingly, the legal framework for the title of a work in Algeria is based on the integration between national protection, as stipulated in domestic legislation, and international protection, as guaranteed by international conventions aiming to safeguard authors' rights and promote a culturally and creatively supportive environment.

The protection of works derived from the author is based on several conditions, foremost among them the protection of the expression of ideas, not the ideas themselves; the requirement of originality; the independence of protection from the value, purpose, or mode of expression of the work; and the absence of any administrative procedures as a

prerequisite. When these conditions are met, the author enjoys legal protection against any infringement of their creativity.

Under Ordinance No. 03-05 dated July 19, 2003, concerning copyright and related rights, the Algerian legislator established a comprehensive legal framework for the protection of works, including their titles and names, provided that they meet the conditions of creativity and originality. From the spirit of the legal texts, it is understood that the title of a work may be protected as part of the intellectual creation especially if it bears originality and is not imitated.

By virtue of Ordinance No. 03-05 dated July 19, 2003, the title of a work benefits from legal protection if it is original, innovative, and genuinely linked to a legally protected work. If this title is used unlawfully by others without the author's or right holder's permission, the law plays a role in deterring such infringement through civil and criminal legal actions, particularly through claims to stop the infringement, demand compensation for damages, and impose penalties on the infringer.

However, the central question arises:

Does the title of a work, which may be considered separable from the work itself, receive the same legal protection and is it subject to the same conditions as the work to which it is attached, under Algerian legislation?

Sub-questions:

- What are the legal conditions for protecting the title of a work under Ordinance 03-05?
- Does the title enjoy the same legal protection as the work itself, according to the Algerian legislator?

To answer this main issue, we will follow the following outline:

First Chapter: The Concept of a Work's Title and the Conditions for Its Legal Protection

- Section One: The Concept of a Work's Title
- Section Two: Conditions for the Legal Protection of the Title

Second Chapter: Legal Protection of the Title under Algerian Legislation

- Section One: Civil Protection of the Title under Algerian Legislation
- Section Two: Criminal Protection of the Title under Algerian Legislation

Conclusion

Chapter One: The Concept of a Work's Title and the Conditions for Its Legal Protection

The title of a work is one of the fundamental elements that distinguish the intellectual creation and contribute to its identification and promotion. Although the title may appear to be merely a superficial label, it can, in some cases, reflect a creative character and represent a part of the author's intellectual identity. In this regard, the Algerian legislator has paid attention to regulating the legal protection of the title within the general framework of copyright protection.

Thus, addressing the concept of a work's title is not limited to its linguistic or functional aspect alone, but also carries a legal dimension that requires defining its scope. In light of the rapid developments in the field of intellectual creativity, the title has gained increasing legal significance—especially with the rise in cases of imitation and plagiarism. This has led many legal systems, including Algerian legislation, to recognize the possibility of protecting a title when certain conditions are met, foremost among them being originality and a genuine connection to a legally protected work.

In more detail, we address in the first section the concept of a work's title, while the second section is dedicated to the conditions for its legal protection, as follows:

Section One: The Concept of a Work's Title

The title of a work represents the first interface through which the public becomes familiar with the content and identity of the work. The title is not a random label but a deliberate choice by the author, often reflecting the substance, purpose, or artistic/literary nature of the work. It may also contain elements of creativity that reveal the author's taste and originality.

Although Algerian legislation, through Ordinance No. 03-05 on copyright and related rights, does not provide an independent definition of a work's title, legal scholarship and court decisions have tended to consider it an integral part of the work—eligible for legal protection if it is distinctive and not copied or derived from another source.

Subsection One: Definition of the Title of a Work

Some jurists define a "work" as any production, regardless of the mode of expression whether in writing, drawing, sound, movement, photography, or any other means provided that it comes into existence¹. Consequently, innovations such as patents, trademarks, and integrated circuits fall outside the scope of protected works, and legal recognition of such rights begins from the date of filing.

As for the definition of the title of a work, it refers to the words selected by the author to distinguish their literary, artistic, or scientific work from others. It serves as the initial point of contact between readers or audiences and the work itself and is generally used to indicate the overall content of the work and associate it with the audience's perception.

The title is usually brief and meaningful, often reflecting part of the content, subject, or general theme of the work. It may also carry a symbolic or creative character. The title holds particular legal importance when it is original and inventive, as it may be considered part of the protected work under copyright laws.

Subsection Two: Types of Protected Works

The protection of works is one of the most significant aspects of intellectual property protection, as it plays a vital role in encouraging literary, artistic, and intellectual creativity and in ensuring that authors and creators retain their rights over their works. Various legal systems and international conventions², including Algerian legislation, have worked to establish a legal framework identifying the types of works that benefit from legal protection whether literary, artistic, scientific, or even digital in order to keep pace with evolving means of expression and publishing formats.

According to Ordinance No. 03-05 dated 19 July 2003 concerning copyright and related rights, the Algerian legislator has adopted an open-ended list of protected works, emphasizing the intellectual and creative originality of the work regardless of its type, value, or mode of expression. These works include, but are not limited to: books, lectures, musical compositions, drawings, cinematic works, digital works, databases, and more.

From this legal framework, it is understood that protection is not granted merely because of a work's physical existence or popularity, but rather, it must be the result of an original intellectual effort by the author, expressed through any perceptible means. The protection also extends to collective, joint, and derivative works, according to specific conditions defined by the law.

Accordingly, understanding the types of protected works is a necessary entry point for understanding the types of work titles that are eligible for legal protection under Algerian law and the boundaries of the author's rights, especially in light of the variety of modern works and the development of their dissemination tools.

In Article 4 of Ordinance No. 03-05, the legislator specifies a list of works protected under copyright. This enumeration is illustrative rather than exhaustive³, meaning that protection applies to any intellectual production that meets the criterion of original creativity, even if it is not explicitly mentioned in the legal list. Legal scholarship classifies protected works according to their nature and form as follows:

1. Literary Works (Written and Oral):

Written works include literary essays, scientific and technical research, novels, stories, and poetry. Oral literary works may take the form of lectures, speeches, and sermons⁴.

2. Musical Works:

By nature, music is an auditory art. This category includes sung or instrumental musical works, whether or not musical instruments are used. It also encompasses dramatic, musical-dramatic, rhythmic, and mime performances. Jurisprudence agrees that musical works consist of three main elements: melody, arrangement, and rhythm⁵.

3. Audiovisual and Cinematic Works:

This broad category includes all works that involve a visual element—provided that the images are moving, whether accompanied by sound or not. Examples include films in general, documentaries, and animated films⁶.

4. Artistic Works:

This category covers fine and applied arts such as painting, oil painting⁷, sculpture, engraving, lithography, and carpet design. It also includes drawings, sketches, architectural models, diagrams, maps, and illustrations related to topography, geography, or science⁸.

5. Digital Works:

These are works produced using modern technological tools and disseminated in the digital environment, such as software, databases, and multimedia works. This category may also include traditional works that have been transferred to a digital medium through digitization.

It is worth noting that these protected works can be either original or derivative. A derivative work is one that requires a pre-existing original work to be created. Such works may not be produced without prior authorization from the original author. It is important to distinguish in these cases between the rights of the original author and those of the creator of the derivative work, who also enjoys protection based on the intellectual effort invested. Examples include translations, adaptations, musical arrangements, editorial revisions, and other original modifications of literary and artistic works.

6. Works Created by Multiple Authors:

A. Joint Works:

The creation of a single work by multiple authors raises issues regarding the ownership of copyright. Here, a distinction is made between joint works and collective works⁹.

The Berne Convention does not define or specify the nature of joint works. Article 7(2) merely states that a joint work is one in which the copyright is held jointly by the collaborators¹⁰.

Thus, determining the nature of the joint work, the number of contributors, their respective contributions, and the share of rights for each participant are all matters not explicitly addressed by the convention.

Some scholars define joint works as those created by two or more persons working together, or at least where each author is aware of the other's contribution, with a shared source of inspiration¹¹.

The Algerian legislator addressed joint works in Article 15 of Ordinance 03-05, stating that a joint work is created when several authors contribute to its creation or execution. The work may only be disclosed under the conditions agreed upon by the rights holders. The rights to the joint work belong to all the authors and are exercised in accordance with the terms agreed upon among them. If no agreement exists, the provisions governing joint ownership apply¹².

B. Collective Works:

A collective work is one created by a group under the direction of a natural or legal person who is responsible for publishing it under their supervision and name, in such a way that the individual contributions cannot be separated or identified independently¹³.

Article 18 provides that a collective work is: "A work created by several authors at the initiative and under the supervision of a natural or legal person, and published in that person's name. Contributions to the collective work do not entitle each contributor to a specific right in the completed work. The rights to the collective work belong to the natural or legal person who initiated, created, and published the work in their name, unless otherwise stipulated"¹⁴.

7. Derivative Works:

Derivative works are new creative productions based on pre-existing original works. The originality of the derivative work lies in its authorship, arrangement, or expression. These works include translations, adaptations, musical arrangements, and compilations of original works¹⁵.

Section Two: Conditions for the Legal Protection of a Work's Title

The title of a work is one of the essential elements that help distinguish a creative work whether literary, artistic, scientific, or audiovisual from others. It represents the first point of contact with the work and plays a central role in attracting public attention and creating a unique identity for the work. Despite the simplicity of the title in form, it may be a subject of innovation and creativity, which necessitates considering the extent to which it can be granted legal protection under literary and artistic property laws.

However, this protection is not granted automatically; it is subject to a set of conditions and criteria defined by the Algerian legislator. For instance, the title must be distinctive or original and should not merely be a common phrase or a generic description. Additionally, the title must not be identical too so similar as to be confused with a previously protected work, as this could harm the rights of the original author or mislead the public.

Hence, it is important to examine the conditions required for protecting a work's title and to distinguish between titles that deserve protection and those that fall outside its scope.

Subsection One: The Requirement of Connection Between the Title and a Legally Protected Work

In the context of intellectual property rights in general—and copyright in particular—the requirement of "a connection between the title and a legally protected work" means that the title must be associated with a work that is already eligible for legal protection, such as a book, film, poem, artistic piece, or any other literary or artistic production. Only then can the title be considered part of the protected work.

Subsection Two: The Requirement of Originality in the Work's Title

Originality in a title refers to its creative character. A title that consists of widely used or generic terms—such as "History of Algeria" or "Theory of Obligation"—does not exhibit creativity. Any author could write on the same topic using the same title, perhaps changing the structure, approach, or formatting. In such cases, the work itself may be legally protected based on its creative content, not on the title. These ordinary titles serve only to identify and distinguish the work from others.

On the other hand, a title that is original and creative qualifies for protection, especially when it is difficult for others to reuse it for another work without causing confusion between the original and subsequent works¹⁶. Examples include the names of newspapers like *Echaab*, *Sawt Al-Ahrar*, *El Khabar*, or magazine titles such as *The Judicial Journal*, *The Algerian Journal of Legal, Economic and Political Sciences*, and similar titles.

If the title lacks originality due to being taken from a work that has fallen into the public domain, most legal systems agree that such titles are still protected—even if this leads to some confusion among the public¹⁷.

CHAPTER TWO: LEGAL PROTECTION OF A WORK'S TITLE UNDER ALGERIAN LEGISLATION

The title of a work is considered one of the distinctive elements of an intellectual creation, as it plays a role in differentiating the work from others and associating it with the author or producer. In many cases, it also carries a creative nature that deserves legal protection. The Berne Convention defined the protection period for a work's title—considered among the protected literary and artistic works—as the entire lifetime of the author plus 25 years after their death¹⁸.

The Algerian legislator has recognized the importance of protecting this element not only within the scope of the author's moral rights but also through civil and criminal mechanisms that enable the right holder to defend the title of their work in cases of infringement.

According to Ordinance No. 03-05 dated July 19, 2003, concerning copyright and related rights, as amended and supplemented, the title of a work falls within the elements of the work eligible for protection, provided it possesses

originality or creativity and is effectively associated with a work covered by legal protection. This protection is granted to the author as the original right holder of the work, including its title, as long as the title does not infringe upon the rights of others or involve fraud or imitation.

Article 4 of the Ordinance affirms that the protection of the work includes both form and content, which implies that if the title is distinctive and creative, it can fall within this protective framework—whether against unauthorized use, imitation, or unauthorized commercial exploitation.

Furthermore, Algeria, through its accession to the Berne Convention and other relevant international treaties, ensures equivalent protection for foreign works published on its territory, including titles, in accordance with the principle of national treatment.

Thus, it can be said that Algerian legislation recognizes the legal protection of a work's title when it meets the conditions of creativity and distinctiveness and is associated with an original protected work—supporting authors' rights and safeguarding their creations from any unlawful infringement.

In its desire to extend legal protection to the title in a manner equivalent to the work itself, the legislator has effectively granted the title a powerful legal tool to defend and preserve the author's rights. Therefore, in this chapter, we will address the **civil protection of a work's title under Algerian legislation** in Section One, and **criminal protection of the title** in Section Two.

Section One: Civil Protection of a Work's Title under Algerian Legislation

The Algerian legislator has stipulated certain measures that the holder of the title of a work may take prior to filing a civil liability lawsuit. These measures are referred to as **procedural protection**. In addition to this procedural protection, the right holder may also bring a **civil liability claim** to seek compensation for any harm suffered. Therefore, in this regard, we will address the **pre-litigation procedures**, which constitute procedural protection, in Section One, while Section Two will be devoted to **the civil liability lawsuit**.

The Algerian legislator has granted the author a set of procedures as a preliminary means of ensuring that the infringement on rights does not continue. These procedures include **preventive measures** aimed at stopping the damage, and **precautionary measures** aimed at containing it. Thus, we will examine each type of these measures in a separate subsection: **preventive measures** in Subsection One, and **precautionary measures** in Subsection Two.

Subsection One: Preventive Measures

These are measures intended to **prevent future harm** resulting from the infringement of the author's rights. They consist mainly of providing a **detailed description** of the work to avoid confusion with other works, and **halting the infringement**, which we address as follows:

First: Providing a Detailed Description

This procedure consists of offering a description of the original work, which is often registered and therefore easy to refer to, along with a description of the alleged infringing work. This is done in order to establish the occurrence of infringement and to verify the claims related to the violation, as well as to differentiate the original work from others.

However, upon examining Ordinance No. 03-05 concerning copyright and related rights, we do not find any explicit provision requiring a detailed description of the allegedly infringed work. Rather, Article 145 of the said ordinance assigns this task to judicial police officers and sworn agents of the National Office of Copyright and Related Rights (ONDA), who are entrusted with confirming the infringement through on-site inspections. This means they are expected to visit locations where reports indicate the existence of unlawful copying of any protected work ¹⁹.

Second: Halting the Infringement

Halting the infringement is considered one of the most effective means of preserving the author's rights. This is clearly established in Article 147 of Ordinance No. 03-05 concerning copyright, which states that the president of the competent judicial authority may, upon the request of the right holder or their representative, order the following

measures: the cessation of ongoing production processes aimed at unlawfully reproducing a protected work or performance, and the suspension of the marketing of media that violate the rights of authors and related right holders²⁰.

Subsection Two: Precautionary Measures

According to Article 149 of the ordinance, the legislator obliges the beneficiary of precautionary measures to file a lawsuit before the competent judicial authority within thirty (30) days from the date of the precautionary seizure²¹.

In the absence of such a lawsuit, the president of the competent judicial authority may, upon the request of the affected party, lift the seizure or revoke the other precautionary measures.

Precautionary measures aim to address actual violations by quantifying the damages inflicted upon the work and taking the necessary steps to eliminate those damages and preserve the author's rights. Their purpose is to swiftly halt the infringement until the court rules on the dispute.

Precautionary measures include:

First: Seizure

Seizure refers to the right of the author to obtain an order to stop the dissemination of the infringed work and place it under judicial custody. The goal is to prevent further infringement on the protected work and to prohibit the infringer from distributing or reproducing the unauthorized copies²².

According to Articles 145 and 146 of Ordinance 03-05, precautionary measures are carried out by judicial police officers or sworn agents of the National Office of Copyright and Related Rights. Their task is to document the violation of copyright and related rights. They are also authorized to provisionally seize infringing copies of the work or performance. These copies must be placed under the custody of the ONDA. Furthermore, a report must be submitted to the president of the competent judicial authority proving that the infringing copies have been seized, signed and dated legally.

Conditions for precautionary seizure include:

- **Submitting a request by the right holder**, as stated in **Article 147** of Ordinance 03-05: "The president of the competent judicial authority may order... upon the request of the right holder or their representative." Thus, the individuals entitled to request seizure include the right holder or their successors, such as heirs or legatees.
- **Submitting the request to the competent judicial authority.**
- **Granting the affected party the right to contest** the seizure before the president of the competent judicial authority.

Seizure covers the following items:

A. Seizure of copies of the work or the counterfeit product:

This refers to the counterfeit item regardless of its type or mode of expression. Seizure applies not only to the original item but also to any copies or reproductions.

B. Seizure of materials used for reproduction:

These include any tools or equipment used for unauthorized reproduction or dissemination of the work, which may vary depending on the nature of the infringed work, such as printing, drawing, or recording devices.

Subsection Two: Civil Lawsuit

The right holder may request compensation²³. Article 143 of Ordinance No. 03-05 states: "Civil lawsuits for compensation resulting from unauthorized use of the author's work or performance shall fall under the jurisdiction of the civil courts."

It is understood from this article that issues related to copyright and related rights are, as a general rule, under civil court jurisdiction.

If a harmful act or legal action results in damage, the right holder may claim compensation²⁴, in accordance with Article 124 of the Civil Code, which stipulates: “Any act, whatever its nature, that causes harm to another shall obligate the person responsible for the act to compensate the damage”²⁵.

Section Two: Criminal Protection of a Work’s Title under Algerian Legislation

The Algerian legislator did not limit protection of authors' rights to civil measures only. Criminal (penal) protection has also been established to deter violations and offenses against these rights. This is because civil remedies alone may not be sufficient to deter infringers—some may deliberately violate moral rights, relying on the mildness of the penalties and the fact that they might only have to pay minor compensation compared to the high intellectual value of the work.

Subsection One: Counterfeiting Offense

The law adopts a broad concept of counterfeiting or forgery, defining it as any act that violates the exclusive rights protected by the Copyright and Related Rights Ordinance.

Article 151 of Ordinance 03-05 stipulates that a person is guilty of counterfeiting if they commit any of the following acts:

- Unauthorized disclosure of a work or alteration of its integrity, or unauthorized use of a performance by an artist or musician.
- Reproduction of a work or performance by any method in the form of **counterfeit copies**.
- **Importation or exportation** of counterfeit copies of a work or performance.
- **Renting or distributing** counterfeit copies of a work.²⁶

This is further confirmed in Article 152 of Ordinance 03-05.

Subsection Two: Applicable Penalties

There are two types of penalties: principal penalties and complementary penalties, detailed as follows:

First – Principal Penalties:

The Algerian legislator provides that anyone guilty of counterfeiting a work, as outlined in Articles 153 and 154, shall be punished with imprisonment from 6 months to 3 years and a fine ranging from 500,000 to 1,000,000 Algerian Dinars, whether the act of dissemination occurred within Algeria or abroad.

The legislator also punishes those who assist in the infringement by their actions or through the tools in their possession, as well as those who refuse to pay the remuneration due under the rights granted to the author or any other right holder in violation of the legally recognized rights²⁷.

Second – Complementary Penalties:

Provided in **Article 157**, they include:

- **Confiscation** of sums equivalent to revenues or advances derived from the unauthorized exploitation of a protected work or performance.
- Confiscation of **all equipment** specifically designed for illegal exploitation, and **all counterfeit copies**.
- In case of repeat offenses (**Article 156**), penalties may be **doubled**.
- **Temporary closure** of the infringer’s establishment or company for up to **six months**, or **permanent closure** if necessary²⁸.

According to Article 158 of the same ordinance, the court may order the publication of the conviction ruling in full or in part in newspapers chosen by the court and its posting in specified locations, including on the door of the convicted

person's residence or any hall or venue they own, at the convicted party's expense, provided such cost does not exceed the imposed fine ²⁹.

CONCLUSION:

In conclusion, legal protection of works is not complete unless the laws are adapted to be more appropriate, stricter, better organized, and more precise. This is emphasized in Article 06 of Ordinance 03-05, which ensures the continuity of creativity and innovation by granting the title of the work the same legal protection as the work itself, provided that the title is original.

Findings:

- All titles of protected works are covered by protection under Algerian legislation.
- The title of a joint work enjoys the same protection granted to the joint work itself under Ordinance 03-05.
- There is no explicit definition of the work's title in Algerian legislation. Despite the increasing importance of the title, Ordinance No. 03-05 on copyright and related rights does not include a specific article defining the title or clarifying its independent protection framework, resulting in a legal gap in this field.
- The title of a work is subject to the general conditions for protecting works. From the spirit of the legal texts, it is inferred that the title is protected if it is original, creative, non-misleading, and connected to a legally protected work meaning it is not independently protected unless it has a creative character.
- The principle of derivative protection is applied to titles, where the title of a work is not granted legal protection on its own unless it accompanies a work that meets the legal protection criteria—indicating the dependent nature of such protection in Algerian legislation.
- Possibility of invoking civil protection in case of infringement: the law grants the author the right to resort to civil courts in cases of unauthorized use of the title, through a claim to stop the infringement or to claim compensation for moral or commercial damage resulting from imitation or similarity.
- Reliance on general legal principles and judicial interpretation to address legislative gaps: due to the absence of detailed legal provisions, general principles of civil law and jurisprudence are relied upon to interpret the nature and scope of protection for the title.
- Influence of national legal systems by international conventions: Algerian legislation abides by the Berne Convention for the Protection of Literary and Artistic Works, which provides protection for creative elements such as titles under certain conditions strengthening the legitimacy of protecting titles even in the absence of precise national regulations.

Recommendations:

- The Algerian legislator should give special attention to the titles of digital works.
- Introduce a clear legal article within Ordinance 03-05 that defines the title of a work and outlines the conditions for its protection (originality, association with the work, absence of ambiguity), to overcome current uncertainty.
- Expand the list of protected works to include innovative titles as independent entities.
- Extend protection to creative titles even if they are not associated with an actual work, especially in digital and media fields.
- Include clear civil penalties for violations of work titles, such as compensation for moral or commercial damage resulting from imitation or misleading use.
- Encourage the judiciary to adopt advanced criteria to distinguish protected titles by differentiating creative titles from generic or descriptive ones, and apply legal reasoning to protect authors from unlawful exploitation.

- Adopt the principle of “misleading similarity,” meaning protection should not be limited to exact copying but should also cover titles that may falsely imply a connection between works.
- Enable the registration of a work’s title in a national database managed by the National Office for Copyright and Related Rights (ONDA), to establish priority and facilitate protection in case of disputes.
- Enhance legal awareness among authors by organizing workshops and training sessions on how to protect titles and assert their rights in case of infringement especially in the digital and media sectors.
- Coordinate with international organizations (e.g., WIPO) to benefit from international recommendations and best practice guides in protecting literary and artistic titles.

These suggestions aim to make the legal protection of work titles in Algeria clearer and more effective, achieving a balance between protecting creativity and freedom of expression, while contributing to an environment that encourages innovation and respects authors’ rights.

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Conflict of Interest

The author declares that there is no conflict of interest related to the publication of this article.

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Footnoots

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