

Potential Crisis and Opportunity in the K-pop Choreography Copyright

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Abstract

This study aims to expose the potential dangers of K-pop through the past and present of K-pop choreography copyrights and to suggest the need to secure digital choreography copyrights for the sustainability of K-pop considering national responsibility. As the content industry quickly sought countermeasures to digital transformation, such as the launch of K-pop platforms and the evolution of OMO (Online Merges with Offline) media commerce in response to changes in the industrial environment due to COVID-19, the annual export of the domestic content industry increased by 6.3% compared to the previous year. Accordingly, our copyright does not require that works be fixed in tangibles, as in Japan and Germany, on the basis of entrusting each country's legislation to determine whether to require fixation on choreographed works. On the other hand, the United States, France and the United Kingdom are demanding that it be fixed. Although choreography is at the center of K-pop and the value and influence of K-pop videos including cover dance through new media are discussed from various perspectives, copyright on choreography that needs to be resolved in business platforms for K-pop scalability. The fact that there is such a big difference in problem perception is an area where we must not lose our vigilance. As the development of today's technology, the method of fixing a choreography looks very easy as an image, but at the same time can be stolen very quickly. Therefore, compared to overseas cases, it is urgent to improve the difference in perception of copyright registration for K-pop choreography and to supplement the system include the NFT.

Keywords: *Metaverse, K-pop, NFT, Choreography copyrights, Dance*

1. INTRODUCTION

Gangnam Style's global success in 2012 was heavily dependent on YouTube. Without the influence of YouTube, Gangnam Style could have not be known to the world so widely and so fast. Not only the famous music video, but reaction videos by various audiences and diverse kinds of parody and remake videos of Gangnam Style also strengthened its popularity. Actually, before Gangnam Style phenomenon, global K-Pop audiences have enjoyed K-Pop through uploading, watching, and making comments on reaction videos and cover dance videos in YouTube[1]. Just as K-pop is expanded through K-pop music video images, prosumers' voluntary aura creation through related video content grows along with the new media image. K-pop Culture is like air, an atmosphere that includes both creators and audiences, interacts with and awakens cultural potential. If you want to discuss the sustainability of K-pop in consideration of national responsibility, through the past and present of K-pop choreography copyright the potential dangers of K-pop should not be overlooked. The flow of popular culture is constantly changing, and the center of popular music, especially the pop market, continues to change centered on the United States, Japan, and Korea.

There are studies on copyright recognition and protection measures for Korean popular music and dance[2],

but it is difficult to find a case of copyright protection of K-pop choreography linked to cultural technology. As K-pop gained worldwide popularity, an idol group in China was criticized for copying the music video of the domestic girl group 'Girlfriend' and the case of 'Ballistic Boys' in Japan through the new media[3]. It can be inferred that K-pop's role of creating dual and hybrid replication and mutation as chaotic energy for both cultures as a connection point between indigenous culture and transplanted culture through the K-pop dance is also the inherent explosive power of K-pop.

2. PRECEDENT STUDIES

In a reality where the reproduction of K-pop choreography is accelerating due to the development of digital technology, it is a reality that cannot be overlooked about the copyright protection of K-pop choreography. There are many materials as well as research support projects of the National Research Foundation of Korea. However, research on K-pop choreography copyright is still insufficient. Recent studies on K-pop choreography and copyright are as follows. Jimi Yoo said that the materialization of a classification system model for K-Pop Girl group dance movements[4]. Hyejin Kim argued that Korea's K-pop content market manpower nurturing system succeeded in establishing a K-pop production system, and that structural reform should succeed through research on the sustainability of K-pop dance through new media[5]. She considered that study established an integrated standard of scope of the choreography protection for new era by collecting and analyzing opinions on requirement and scope of the protection, and suggested development plan for choreography copyright protection. Youngin Cho argued the legal protection of creative works of in-play choreographers are still not independent and not even discussed in depth[6]. In order to improve this, it is understood that first there needs to be a newly organized definition in the fields of choreography, and then the related provision must be edited for the copyright registration of choreography works, which lack clear classification of areas between choreography and dance, to be systematically registered, in order for choreography creators to have legal protection over their works. He confirmed how the mode in which the international circulation of pop culture is mediated without exchange of tangible commodities and he said it amplified with the diffusion of network. But it is hard to consider that study established an integrated standard of scope of the choreography protection for new era by collecting and analyzing opinions on requirement and scope of the protection, and suggested development plan for choreography copyright protection.

On the other side, Bo Hyun Baek confirmed that, while the agents regarded transactional and relational contracts similarly, the artists overwhelmingly considered relational contracts more important[7]. In the recent digital media environment, he was not only examining the specificity of each copyright-related issue that occurs in the content industry such as broadcasting, music, advertising, movies, and the Internet, but also comprehensively reviewing them and reviewing changes. Claims that copyright is protected with the advent of digital technology. Hallyu researchers are diverse and numerous. But among them, Dohui Lee studied on the spread of the Korean Wave looked at the Wave has been expanded to the leading social media, Twitter[8]. He said that the first to collect data about the relationship between people having a conversation on social media around the K-Pop. And attempted a scientific approach to understanding the diffusion structure of the K-Pop by performing Social Network Analysis(SNA) through this social influence. Also analyzed the structural features and the diffusion pattern of the form in which K-pop. Next, the sensitivity analysis was performed to determine the polarity of the natural language. Although there have been many studies related to K-pop, methods for securing copyrights for K-pop choreography and international case studies are still lacking. Therefore, this study to present the potential risks and possibilities that may arise from the spread of K-pop dance through new media, focusing on the cases of dance copyrights.

3. CASE STUDIES

3.1 K-pop Choreography Copyright's Usage

K-pop spread abroad growing as an international symbolic icon as to interpret the Graphic symbols of Idols in Modular system and possibility of applied to the symbols in the aspect of the design culture as K-pop

dance has been impacted on the music industry, performance and fashion field, also on the fandom as well.[9] In the case of K-pop, it is common for choreographers to receive a lump-sum payment for the choreography used in a song without a separate copyright contract with their agency. There is no official copyright fee for the choreography yet[10]. For this reason, there is no organization or government department that collects or manages choreography copyright fees. “Yama & Hot Chicks” in Psy’s “Gentleman” music video is the first case where copyright is paid at a choreography site where copyright is not recognized like music[11]. On the other hand, just as Hallyu music contents of girl groups and boy groups dominated the online video market represented by offline and YouTube, various aspects of the choreography writing business that are implemented in line with this are confirmed everywhere. Examples of this are commercial academy facilities that teach popular dances of K-pop, cover dance video channels, and choreography reproductions of game characters. Although the copyright of the choreography has been formalized by winning some lawsuits against copyright infringement and claiming damages, the legal process and interest in the choreography are still insufficient. For this reason, the complacency of K-pop imitation, especially the establishment of an institutional system that is not sensitive to the scalability of K-pop using new media, is a platform system that fosters K-pop next-generation performers despite K-pop being the representative content of Hallyu in the meta-verse era after the post-Covid era. If you want to apply this technology, you may face the risk of having to consume foreign technologies that imply copyright issues, such as NFT(Non-Fungible Token)[12]. And NFT technology is applied to K-pop dance in a contract environment where it is difficult to pay royalties, such as music, there is a possibility that an objective K-pop contract environment will be created.

3.2 Unofficial Choreography Copyright Issue

Kyle Hanagami is a representative choreographer of the American pop market. As a bridge between the popular art industry and the digital world, he is creatively and actively working as a choreographer in media, advertisements, live performances and digital platforms. In 2016, a famous K-pop girl group showed off the choreography of a famous foreign singer on a broadcast program, and Kyle, the choreographer, criticized the K-pop girl group and the agency on social media. It seems that he is talking daily with fans who do not use legal terms such as choreography copyright or damages, but only the mansion 'I feel bad' tells everyone who follows Kyle's account that the K-pop singer used Kyle's choreography without permission[13]. The revelation was reported. At that time, K-pop girl groups admitted that they overlooked the copyright, saying that they can be easily viewed on YouTube and that they only thought it would be cool if they performed on the famous choreography broadcast as their extra-talent. This case was left as an event that ended with a public apology and a private agreement between the artist and the agency. The power of new media and influencers, and the difference for insight between Korea and the United States that recognize choreography copyright, raise various issues when considering K-pop dance. In addition, it is an example of the growing influence of 'fandom', which goes beyond a simple cultural phenomenon and moves the industry as a whole, and places importance on the bond of copyright protection of K-pop artists.

3.3 Official Choreography Copyright Issue

The easiest way to claim the copyright of a dance is to register the copyright. As mentioned earlier, a work is protected by copyright at the moment it is created, but cannot be fully protected unless it is registered. A work is protected by copyright the moment it is created, but cannot be fully protected unless it is registered. It is considered a creation that expresses the thoughts and feelings of the manuscript by combining and arranging the overall flow of the song 'Shy Boy' by 'Secret' among of the K-pop dance, the lyrics that go with it, and a series of gestures and gestures. 'It's significant', etc., under the premise that 'Dancer's Choreography' was an independent work, and was reviewed for copyright infringement[14]. However, the basic law on K-pop choreography copyright has not yet been specifically enforced, and precedents are also being applied based on general dance copyrights rather than the specificity of popular culture industry. In this regard, I would like to explain the case of pop dance in law the United States together considering that the US pop market is the global standard as largest in the global market.

In the United States, copyright protects creators and owners of proprietary intellectual property fixed in permanent tangible form, such as written notation, books, videos, sound recordings, or drawings, according to Brenna Davis, a recognized American barrister[15]. In order to receive copyright protection, the choreographer must be original. In the case of the United States, according to the Copyright Act, as soon as an original work such as a choreography is produced in a fixed form, copyright protection begins thereafter.

In this way, the author or his agent can claim the copyright legitimately. And it is much more efficient to register a copyright. Because you can publicly announce that you have copyright and sue in federal court if someone uses the choreography without permission. Choreography that is not made in a fixed form is not subject to copyright protection[16]. In this regard, the United States requires that the choreography be transferred to a tangible medium in order to be recognized for choreography copyright, a copyright mark is placed next to all published versions of the choreography, and the copyright is registered with the U.S. Copyright Office and after registration is completed, log in to eCO and choreograph. Instructions are provided so that you can upload samples. The American choreographer mentioned earlier in the Korean choreography copyright case was able to claim his rights because he publicly digitized and published his choreography according to these standards. In other words, moving to a tangible medium and marking the copyright next to all published choreography versions seems to show a simple and realistic way to reflect K-pop choreographers as a tangible medium through YouTube, but as content uploaded to the US platform YouTube, copyright is being proven, and the rights to use the content are being melted into foreign platforms.

In other words, content published on YouTube is marked with various copyrights, but it is only an ethical guideline for the use of general information centered on music copyrights and information about producers. It's hard that the channels related to choreography-related copyright labeling or choreography copyright revenue structure business on K-Pop's official account is difficult to find. The following are US precedents that can be referenced on the reality of choreography copyright in the popular art sector. As a legal action for dancers and choreographers, it is also a famous case that has been highlighted in the media as an example of copyright registration and infringement, which is the legal basis for artists to protect their work[17]. In 2011, Beyonce released a music video 'Countdown', a music video resembling the early works of Belgian choreographer Anne Teresa de Keersmaecker. In 1983, the budding choreographer Keersmaecker presented a new choreography piece, Rosas danst Rosas, as an entry to the Kai Theater Festival in Brussels, and in 1990 produced an influential piece called Achterland. In 1997, Kiermaecker filmed the world-famous visual arts and later wanted to register Rosas on a larger platform, but she could not fully protect her work because she did not copyright and trademark her work[18].

Notation is a more refined and detailed way to capture the specifics of a choreography than a video. Often, the choreographer can direct someone to write the notation or write it himself, but this fixation method can be expensive and time consuming. Therefore, in order for a choreographer to fully exercise the copyright for his/her own choreography, it is important to formalize the notation through registration of the work. In determining whether a choreographed work has been infringed, the court will consider whether the infringing copy is substantially similar to the original, so if there is a photo whose copyright claim violates the choreography, works from other media may infringe each other. Even if the original choreographed work cannot be fully reproduced from the infringing copy, it may be judged as an infringement case if it is qualitatively important to the work to be implemented. As such, it can be confirmed that the United States has protected the works of choreographers according to the Copyright Act of 1976[19].

In the case of Korea, there are precedents in the copyright area where the current copyright law, which linked universal content, was applied to choreography. Hard to find according to the Korea Copyright Protection Agency, if a work of performing arts or performing arts is deemed to have been created on the premise that it will be performed directly or indirectly to an audience, then among the types exemplified Article 1, Paragraph 4 of the Copyright Act, musical works, theater works, and images all works may be included. Among these, choreography containing gestures and models of movements as a means of expressing the body is included in the dance works referred to in the theater, dance, pantomime, and other theatrical works referred to base on. On the other hand, according to Paragraphs 1 and 2 of Article 2 of the Rome Convention, it is left to the legislation of each country whether or not to require fixation of choreographed works. Accordingly, our copyright does not require that works be fixed in tangibles, as in Japan and Germany, on the basis of entrusting

each country's legislation to determine whether to require fixation on choreographed works[20]. On the other hand, the United States, France and the United Kingdom are demanding that it be fixed[21]. However, with the development of today's technology, the fixing method of choreography seems to be very easy as the image, but at the same time it can be stolen very quickly. The difference in perception of choreography works can also be compared with the number of registered choreography works. The difference in perception of choreography works can also be compared with the number of registered choreography works. In 2013, 42 choreography works were registered 153 works with choreography as keyword are identified in the Korea copyright registration system. On the other hand, as of the same date, there were a total of 249,400 works with Choreography as the keyword in the US copyright registration system. Currently, music video revenue goes only to some artists and music copyright holders, but if the choreography becomes NFT, if a fan uploads an idol's choreography cover video, the profits can be distributed to the choreography copyright holders[21]. In addition, NFT can play a big role in preventing illegal copying of digital content and protecting copyrights. Digital content that can be reproduced indefinitely is impossible to distinguish between originals and duplicates[22]. However, since the creation history and data are recorded from the moment NFT is applied and distributed and stored in tens of thousands to hundreds of thousands, copyright infringement of content can be greatly reduced. However, there are many issues that need to be addressed. In the process of issuing an NFT that is said to protect copyright, it may rather infringe copyright.

4. CONCLUSION

Hallyu was aimed at the global pop market, and K-pop is at the center of global pop culture. Although choreography is at the center of K-pop and the value and influence of K-pop videos including cover dance through new media are discussed from various perspectives, copyright on choreography that needs to be resolved in business platforms for K-pop scalability The fact that there is such a big difference in problem perception is an area where we must not lose our vigilance. As the content industry quickly sought countermeasures to digital transformation, such as the launch of K-pop platforms and the evolution of OMO (Online Merges with Offline) media commerce in response to changes in the industrial environment due to COVID-19, the annual export of the domestic content industry increased by 6.3% compared to the previous year. It has a record of 10.83 billion dollars[23]. Therefore, it is no longer possible to delay the structural improvement of K-pop dance copyright protection and improvement of awareness at an industrial scale that has successfully exported. This is why it is urgent to raise awareness and prepare a system for copyright registration for K-pop choreography in consideration of the dance copyright case in consideration of the potential risks and possibilities that may arise when the K-pop dance presented above is spread.

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