

University of Hamburg

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Are they pirates or pioneers?

Ashley H. Song, Ms.



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Are they pirates or pioneers?

The South Korean entertainment business lives off in the stable gang fortress and is protected by the business law which has been clumsily dressed like the US or European business law. Their business behaviors and desire for money look like uncontrollable cancer cells popping out of every parts of the 'Korean body' in void of healthy business nature and artists' mindset. The entertainers don't recognize that they are accumulating their wealth in the mentality like the corruptive church leader who considers the offerings from the lower class is the things that the lower people intrinsically have to pay for them and otherwise is their own harm or shame. The blinded consumers do not recognize that they are eating the decayed-empty lemons which were thrown away in the Western countries, exclusively cooked by the trafficker, and delivered by the his trained kids instead of Michael Jacksons in the Broadway. The targeted consumers of the licensed dramatico-musicals are the 20s and 30s females except during the commercial holidays in Korea. They follow the Japanese sentiment with longing the Caucasian "Westerns." Based on this sentiment, the 'license¹ musicals' which have been bilaterally purchased from the West are popularly consumed by the Korean frogs². The paper calls this the **"self-confined cripples' money party based on their domestic-nexus and the informational deceptions through the web."** The Korean licensee who has fueled the staggering production in the US transforms to the businessmen, caster, and producer in Korea³. The intellectual property jurisdictions in the primary market tell that the Korean licensees are the natural selectors to stay in the international black market because they are incompetent or inattentive to be in the white market as a legal entity. Back in Korea, the licensed dramatico-musical transforms to the adaptation to suffice the appetite of the targeted Korean consumers for the commercial success. The black, white, fat, slim, young, or old performers who have born to dance and sing and survived in the perfect-competitive casting market in the US transform to the uniformly trimmed Korean entertainers who have wandered singing, moved their agency, and gotten the lucky chances by taking advantages of the nexus that their agency possesses, or directly by the production company as their agency is subsidiary. Once success on the dramatico-musical, it earns the pure profit, even excluding the money party for the whole involvers, about one million dollars.

The paper carefully supposes the producers have been transformed from the gangs, still have connections with them and business-behavioralism as gangs; but wear the Con

¹ Publicly misled, defined by the Korean cartel-industry; the term is confused with the 'license' in the intellectual property law in the Western jurisdiction. The license is attained by the private dealing with the Western productions because the Performing Rights Society (PRS) in the United States (US) does not deal the dramatico-musical as a subject matter of license.

² 'Frogs' is from the Korean proverb: 'the frogs cannot leave their small pond.' It means that they are self-confined and satisfied to live in the pond-sized area and lack of the wider perception, driven by the pond-sized authorities who are also frogs.

³ Korean Cash Takes Broadway Bows, New York Times, Dec. 31, 2013 <http://www.nytimes.com/2014/01/01/theater/korean-cash-takes-broadway-bows.html?module=Search&mabReward=relbias%3Ar%2C%7B%22%22%3A%22R1%3A14%22%7D&r=0>

fucian entrepreneurship after their success. The entertainment CEOs rely their business on the connections with the broadcasting media, theaters, and the relevant magazines to self-flatter, to cast their performers to their fixed friends who hold the fixed kinds of vacancy. To stage their product, they lobby for the investment from the Korean conglomerates; often they are coupled with the several fixed firms which are assumed to establish the kinship with the industry. Informational control in the Daum or Naver⁴ is a startling area in their nexus. Pushed by the industry, in a timely-manner, they vomit news about the top-level celebrities' dating rumors to cool-down the public's rationality when anything breaking down their industrial dignity has been disclosed. Also, a part of the entertainment-engagers are assumed to be the rich "Gae-dok-gyo," the Korean Christian community members, which have also been transformed from the originals, watering their business each other and sharing the common degradation towards others. Above all, the mega-sized nexus for the entertainment industry sustains the hidden oligopoly of the five Limited Liability Companies (LL.C.s) for the licensed musical market in Korea. Their legal form is the same as the entertainment LL.C.s in the US, but their behavioralism is tremendously different from them. Each LL.C. has their style of selection; one favors the wild-Broadway, another favors the European nobility, and the other favors the European knights' fights. All of them are based on the Western old novels, which possess copyrights including the serial rights and volume rights (in the news articles or magazines), film rights, dramatization rights (play, opera, musical, ballet), and are electronically distributed⁵, or broadcasted in the TV. After having faded away in the primary market, some are sold internationally, or even financed by the Korean production and re-staged in the Broadway. Back in Korea, these smart and rich Korean producers with license can stage it forever and whenever, raising their fame. Korean licensed musicals do not have the limited terms of usage or expiration, which is impossible 'license' in the Intellectual Property (IP) law. The human resources, such as the music director who comes from the US, is advertised like a noble-knowledge by the industry. It is not clear if he is a proprietor of the trademarks on his name or on his songs; which is deviant to the Broadway's culture of numerous trademark registrations to the US office. Invited by one of the Korean productions, he is treated like a king.

In the chapter 1, the paper shows the laws regarding the copyrights in the licensors' countries; the UK, or the US. As the Korean producers travel around the world to get the piece, it includes the supra-national level jurisdiction, such as Berne Convention, Rome Regulation, Brussel Regulation. It forestalls the legitimacy of merchandizing the licensed musicals in terms of the intellectual property rights and anti-trust competition in order to know how much this Koreanized-monster is close to the legitimate market, or far from it. From the chapter 2, the paper focuses the dramatic-musical business in the US and in Korea and excludes the individual application of the UK Copyright law, and Berne Convention, Rome Convention 2,

⁴ Two popularly visited internet portals; to advertise something in their banner, it costs about thirty thousand (USD) an hour from 3 to 4 pm at the highest in Dec 2014.

⁵ WILLIAM CORNISH, ET. AL., INTELLECTUAL PROPERTY; PATENT, COPYRIGHT, TRADEMARKS, AND ALLIED RIGHTS 525 (8TH ED. 2013)

and Brussel 1 Regulation.

In the chapter 2, the paper discusses the copyrightability of the dramatico-musical under the Copyright Act of 1976. The American Society of Composers, Authors and Publishers (ASCAP), Broadcast Music, Inc. (BMI), and Society of European Stage Authors and Composers (SESAC), Inc. are under the Performance Rights Organization (PRO); and give licenses on behalf of the copyright proprietors⁶. They license only single piece of music and exclude the dramatico-musical as a subject matter of licensing⁷. Thus, the licensees of the dramatico-musicals either go to the Music Theater International (MTI)⁸, or the private dealer; but no licensees keep fiduciary duty obliged by the MTI. The 'grand license' encompasses all the catalogued works on the piece-scenes, songs, dances, the extensive explanation on the characters, reading materials, and videos- even the novice production can purchase, learn, and stage it. The paper checks how much scope of the grand license can be used to the Korean buyer in a culture sense between the developed and developing nations; either in the white market or black market, or some in between. Also, it checks the legal cases born by the 'grand license;' what are the 'unauthorized use' or 'fair use of license' perceived by the US courts. It checks how much the grand license which includes the bundle of tangible and intangible rights is risky to protect both the buyer's performers and the seller's performers and deceives the audiences.

In the chapter 3, it models their hierarchical structure of nexus of contracts in the dramatico-musical industry; and models games in each stage. The producers, who have purchased their license from the West, are in position to sell their own license to the Korean consumers who are on their side. For the staging of three months, the performers who have contracted with the agency get the dump of money per stage by them based on the *ad hoc* contract with the parental production and the production gets the direct investments from the multiple conglomerates. The paper models what kind of games they can play with the behind-interests connecting them like a web hierarchy. One dealing to get the Western license is monopsony internationally, and the other dealing to sell their own license domestically is the multiple-layered oligopsonies. The paper sympathizes this market - nothing healthy -with game theory. The casting game will be played, assuming that the actors' guarantees are discriminated depending on the ticket sales, and the multiple-cast-members are arbitrarily circulated for more profit.

In the chapter 4, it sees the market-strategy to raise the ticket sale, which maximizes the profit for the oligopolistic firms; and if the market falls under the unfair competition in the anti-trust law in the US. As the multiple conglomerates invest to the piece; it is easy to see tying the ticket with the conglomerate's hotel booking benefits or discount benefits when paying with the conglomerate's subsidiary credit card especially after the pick-point of booming. The Korean market size is about 300 million (USD) in 2013 available for the five LL.C.'s market power. The paper excludes the economet

⁶17 U.S.C.A. § 101. Definitions (2010)

⁷ DRAMATIC OR NONDRAMATIC PERFORMANCE / DRAMATIC (OR "GRAND") RIGHTS, <http://www.ascap.com/licensing/termsdefined.aspx> (last visited Jan. 3, 2014)

⁸Music Theater International, <http://www.mtishows.com/>

ic measure for the market power but discusses the characteristics of the oligarchic competition and where the profit comes from the imperfect competition based on their tacit or explicit collusion and interdependency. It applies the Cournot's duopoly to the industry.

In the chapter 5, the paper characterizes the Korean production CEOs under the umbrella of the Confucian entrepreneurism. Their gang-connection impacts and functions to their actual business from the top-to-the-bottom in their nexus; which forms the unique Koreanized corporate behavioralism. The ethics of the Korean entertainment industry is the gang-oriented, money-heaven, and lobby-gets-everything. Based on this nature, the paper checks the bootstrapping; parent-subsidiary problem and in-group bias within their family firms when casting their actors in order not to give their profits to their competitors and train their insiders. As the interdependency counts them, they compete but also exchange their actors from here to there. The paper shows the hierarchy of the production: the job-provider, and the agency: the dignity-maker, and the performers: the hierarchical workers who discriminate themselves according to their guarantees are the severely closed shop where the numerous *ad hoc* contractual bargainings available only for themselves. The paper checks this competitive but coexisting oligopoly lowers their value as corporations and checks their business abroad, with the self-termed 'creative musicals.' It is far away from the international standard of the investment, bestowed by the International Centre for Settlement of Investment Disputes (ICSID) Article 25. The paper argues how the wrongful-minded importation bears the awkward adaptation but a huge room for the commercialization beyond the scope of the foreseeability of the transferring copyrights. Moreover, they stretch to the hollow investments to the primary market in the name of the creative musical. They consider the 'creative' being 'not paying the royalty to the seller' but put everything they have found profitable from the licensed musicals, such as casting the music director whose music was dominantly included in their licensed pieces and invited by them.

Keywords: Copyright, License, game theory, anti-trust, oligopolistic competition, entrepreneurism in Korea