

## Chapter 8

# The Secret to the Success of K–Pop: The Benefits of Well–Balanced Copyrights

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### **ABSTRACT**

*Today's mantra in many political and business circles is that stringent copyrights are needed for fostering cultural creativity and that piracy is the greatest obstacle toward creativity. If that were true, the success of Korean pop music or K-pop should never have occurred. This chapter seeks to explain this apparent paradox through three steps. First, today's mantra has little basis. Most of the existing world culture has been created without copyrights, and economic analysis stresses that stringent copyrights exacerbate monopolistic behavior that suffocates cultural. Second, this chapter analyzes the competitiveness of the current K-pop scene that has little relationship with stringent copyright regulations. Third, the same approach is utilized in order to demonstrate a fascinating relationship between the competitiveness gaining process and piracy suggesting that piracy actually helped the development and competitiveness of K-pop. The main lesson of this chapter is that only "well-balanced" copyright regulations are friendly to cultural creativity.*

## **INTRODUCTION**

Today's mantra in political circles among most developed countries is that stringent copyrights are needed for cultural creativity. And many existing studies (e.g., Bhattacharjee, Gopal, Lertwachara, & Marsden, 2006; Liebowitz, 2008; Adermon & Liang, 2010; IFPI, 2011; Danaher, Smith, Telang, & Chen, 2012) argue that piracy is one of the key reasons for the decline of music industry revenues. However, these arguments do not match the evolution of the Korean music industry which does not reveal any systematic link between copyrights and a lively music industry.

This chapter argues there are two reasons for the absence of such a link. First is that most of the existing studies do not pay enough attention to the key ambiguity of a copyrights regime from an economic perspective, that it requires a subtle "balance" between its competition and monopoly aspects. The story of Korean popular music, known as K-pop, strongly suggests that "good" copyrights should be "well-balanced," not a stringent regime.<sup>1</sup> Second, many existing studies do not take into account a holistic approach toward the music industry. They focus on on/offline music sales, ignoring new revenue sources and the many facets of piracy in this context. Several scholars however, such as Yamada (2011) and Kim (2012), argue that "loose" copyrights can bring positive results such as innovation and creativity.

This chapter thus focuses on the interactions between copyright-and-piracy related issues and the unexpected rise of Korean cultural products. It adopts economic and business perspectives which have long been considered taboo when analyzing cultural industries, but which would be more appropriate when coupled with real-world realities for our topic than an approach that is too much focused on laws or culture. By comprehensively incorporating the history and economics of copyrights and the technological development in the Korean music industry, it aims to provide policy-makers and business people with implications regarding the importance of considering such perspectives in strategic planning and operations to foster cultural industries.

The chapter consists of three sections. The first section presents a brief description on the history of the copyright regime, and an overview of the economic analysis on copyrights-and-piracy issues. The second section analyzes the competitiveness of the K-pop industry by using an international business framework to evaluate and describe the current status of the Korean music industry. The third section shows the impact of the copyright regime on K-pop's success and analyzes the effect of piracy, an unexpected but induced outcome of copyrights on K-pop through its history. The conclusion provides possible further studies that can be initiated by this chapter and several important implications that can be useful to achieve the real "cultural diversity" through "cultural excellence."

## **BACKGROUND**

In May, 2011, after half a decade of successes in Japan and East Asia, a total of 7,000 seats were sold out in only 15 minutes for the first "SM Town Live in Paris" K-pop concert. An extra concert had to be added in haste the next day after hundreds of K-pop fans from all over Europe rallied to Paris (Korean Culture and Information Service (KOCIS, 2011). In 2012-2013, the viral hit "Gangnam Style" by Psy took the world by storm. It remains a song with the largest number of clicks on YouTube. In October 2015, a concert by the South Korean idol group BigBang held in Los Angeles' Staples Center was reported as one of the top ten concerts in the world in terms of gross ticket sales according to Billboard (YG Family, 2015).

Witnessing this avalanche of successes, L Capital, the private equity arm of the French luxury goods giant LVMH, decided to invest up to US\$80 million in YG Entertainment, Inc., which is one of the leading K-pop companies and manages a stable of top performers, including BigBang and Psy (Reuters, 2014). However, no one in South Korea (hereafter referred to as Korea) expected this phenomenon, and nobody in the world thought that such a success could ever happen. The bumpy itinerary of K-pop's road to success is a rich source of thoughts, especially when one focuses on intellectual property rights, in particular on copyrights since this chapter's focus is on music and piracy issues.

Before 2009, Korea had a very loose copyright regime, and K-pop witnessed many disputes over plagiarism of songs in a domestic market which was very small and not well developed. In addition, until the mid-1990s the Korean government attempted to control the works of singers by "monitoring" the content of the songs. Despite these factors, the Korean music industry demonstrated rapid growth rates of on/offline music sales, even reaching 20 percent by 2008.<sup>2</sup> When the Korean government strengthened its copyright law in 2009, the growth rate dropped to around seven percent, and it was still only 8.4 percent in 2010. That same year, Korea was still considered to be the country with the second largest number of illegal music downloads in the world (*Korea Times*, 2010). However, in 2011, it was said to have the world's toughest anti-piracy law (*The Economist*, 2011). The music sales growth rate reached 37.5 percent in 2011, but declined to 7.7 percent in 2012.

## **THE KEY QUESTION: IN SEARCH OF "WELL-BALANCED" COPYRIGHTS**

Copyrights are a traditional bone of contention in cultural industries which has been exacerbated by new information technologies.<sup>3</sup> Recently, debates in Europe, where the copyright regulations were born, have been dominated by the question of the decline of cultural creativity and diversity due to the introduction of the aforementioned technologies. The core issue at stake is whether the losses of copyright-based incomes, due to the "conventional" and "unconventional" uses of new technologies,<sup>4</sup> should be compensated or not. Many argue that if they were not, cultural creativity as well as cultural diversity would be weakened.

It is important to put this debate into context. First, contrary to what is generally believed, copyrights are fairly recent regulations and their effective enforcement even more recent. Most classical music and paintings that we appreciate now were produced from the Middle Ages to the late nineteenth century, before copyright regimes appeared, through tough competition and imitation among artists. For example, the second part of "Don Quixote" might have never been published after the success of the first part if there was not the threat of an imitation of his work.<sup>5</sup> Without imitation, Van Gogh could not have achieved his impressive painting style and left the world his precious works.<sup>6</sup> These centuries of abundant creativity and absence of copyrights raise doubts about the existence of a strong and automatic link between cultural creativity and "stringent" copyrights which is today's prevailing mantra.

### **A Brief Historical Overview**

Why did copyrights appear? In order to answer this question, it is useful to examine copyrights from a long-term historical perspective. The United Kingdom (UK) was the first country to introduce them in 1710. The Queen Ann's Copyrights Act regulated the relationship between the authors and their related "industrial entities" (e.g., publishers in the case of a book). The Act granted exclusive rights to authors to prevent publishers to publish, modify, and abuse the works without the authors' consent. It took almost

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a century for France to follow the UK. However, the very different political environment in revolutionary France gave their copyright regulations a distinct nature. French law focuses more on the “moral” link between the author and his/her work than on the economic protection of the authors. It took half a century more for Prussia to be the first German state to adopt copyright regulations in 1837. However, the fragmentation of Germany into 39 independent states allowed Prussian publishers to circumvent easily these regulations, undermining copyrights enforcement in the whole German book market until Germany’s unification in 1870.

Essentially, it was only in the late 1880s that the main European countries were capable of adopting a common approach to the protection of literary and artistic works in the 1886 Bern Convention; hence, to build an international regime capable of ensuring a more effective enforcement of the various national regulations. However, the implementation of the Bern Convention was still very incomplete in terms of provisions and signatories until very recently. For example, the UK introduced many of the Convention’s provisions in its national laws only in 1988, and the United States signed it only in 1989. As a result, it took until 1995 for the Bern Convention to gain some traction at an international level owing to the integration of its key provisions into the Trade-related Intellectual Property Rights (TRIPs) agreement of the World Trade Organization (WTO).

However, the TRIPs agreement has left unsatisfied many industrial entities among cultural sectors—from movies to books—which, since 1995, have been pushing for more stringent copyrights in bilateral trade agreements. In particular, the United States, followed by the European Union (EU), has systematically tried to introduce more stringent disciplines on intellectual property rights, including copyrights, in their post-1995 bilateral trade agreements. The U.S.-Korea Free Trade Agreement for instance, was signed on the assumption that there is a strong link between stringent copyrights and cultural creativity.

## **Economic Interpretation**

From an economic perspective; a copyright regime is usually analyzed as a monopoly granted to an “author”—a writer or a musician for instance—for a limited period of time; “duration” defined as the number of years after the death of the author (Australian Productivity Commission, 1995). As underlined above, this monopolistic privilege was initially conceived as protecting authors above all against predatory publishers, not very much against potential plagiarists as often stressed today—who also contribute to reduce the incentives for cultural creativity.<sup>7</sup> For instance, before suffering from a plagiarist as mentioned above, Cervantes was hurt by several unauthorized publications of Part I by such predatory publishers.

However, sticking to this usual approach misses a key point which changes dramatically the economic assessment on the pro-cultural creativity of copyright regulations. Copyrights may be initially granted to authors, but they are by the same token indirectly “passed through” to the commercial or industrial entities, such as book publishers, music labels, among others, when these entities sign contracts with the authors for disseminating (e.g., producing and distributing, their works). These contracts put authors and industrial entities in the position of being a “joint” monopoly with respect to consumers, such as readers, listeners, and spectators.

These joint monopolies are subjected to two forces of opposite direction. On the one hand, it may be the case that the joint monopolies of authors and industrial entities behave as benevolent monopolies for the sake of culture: as they want to ensure the largest distribution of their works, they are willing to allow low prices for their works—a pricing policy favoring cultural creativity and diversity.<sup>8</sup> On the other hand, the industrial entities which have authors under contract have very limited reasons to follow such

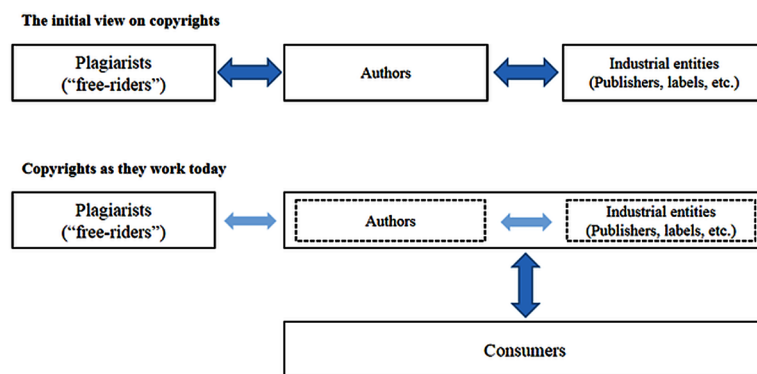
a behavior. They are business entities ready to exploit their potential monopoly power on consumers by charging prices as high as possible—a pricing policy clearly hurting cultural creativity and diversity.

This analysis delivers a key message. It reveals the intrinsic ambiguity of a copyright regime: it nurtures creativity when it protects the authors against predatory industrial entities, but it harms creativity when it fuels the monopoly behavior of the authors-industrial entities against consumers. In the real world, the balance of bargaining power between authors and industrial entities is such that the joint monopoly they form is very likely to follow a monopolistic behavior—all the more with the existing high concentration among industrial entities which gives a strong bargaining power to publishing houses. And this unbalance is not new. A very interesting and detailed comparison of the British and German publishing markets during the nineteenth century provides evidence supporting this conclusion: the British publishers under Queen Anne’s copyright regime published fewer titles and charged higher prices than their German counterparts who were not subjected to copyright regulations.<sup>9</sup>

Thus, a culture-friendly copyright regime must establish a delicate balance between two opposite forces: creativity and monopoly. If the monopoly component of the country’s copyright regulations is too strong, the creativity component in this country suffocates. Figure 1 illustrates this paradigm shift between the initial view on copyrights and the way they are working today, especially when they are more stringent. As documented below, the K-pop case illustrates a copyright regime often described as too loose by Western countries, but in fact are much more creativity-friendly than that of their Western counterparts.

A key counter-balance to this monopolistic behavior are trade opportunities. If trade between two countries is limited by natural barriers, such as language differences, the higher prices associated to a monopoly do not affect much the industry, but do hurt the consumers’ pocket. However, this situation does not adequately fit with today’s globalized era. Trade opportunities are increasingly prevailing and language barriers have been lowered. Consumers can make their purchases anywhere, especially through the Internet—they are smart enough to compare local prices and Internet-based prices. Of course, it could be the case that the government would increase tax on foreign products, or prohibit the import of certain goods under the pretext to protect certain industries or companies. It remains that consumers will always try to find ways to circumvent these barriers.

*Figure 1. Two economic views on copyrights*



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This analysis has a crucial corollary rarely underlined. Copyright regulations overly friendly to a monopolistic behavior are a primordial factor for fueling piracy; the more stringent copyright regulations, the stronger the incentives for piracy or unconventional use of technology to access goods. This is particularly true today when the globalization process is reshuffling conventional value chains. In particular, markets malfunctioning for various reasons—lack of goods and services or complacent authors eager to enjoy their monopolistic power with respect to consumers—can generate a boom in cultural industries from third countries.

The boom in American pop music all over the world, coupled with severe competition among a number of American singers, in the 1980s has been magnified by the malfunctioning cultural markets in many countries. The current popularity of K-pop among a young generation outside of Korea is fueled by the prevalence of its contents on the Internet which, by being offered for free of charge to its audience, undermines the existing monopolistic behavior in many developing (or not) countries. Indeed, Korea did not have much intention to export K-pop in the early period and never expected its international popularity. In such a global environment, consumers, authors, and even commercial entities are hurt by stringent copyrights.

### **THE THIRD VICTIM OF INTELLECTUAL PROPERTY RIGHTS (IPRs) AND GROWING ALTERNATIVE SOURCES OF REVENUES BEYOND COPYRIGHTS**

Modern hard and software technologies allow a much wider dissemination of works, possibly outside the direct consent of the authors. As a result, they may reduce the income attached to copyrights. However, they may simultaneously offer new sources of revenues to authors (Parc, 2016a). The logic of copyright laws and of the resulting monopolistic behavior has induced authors to focus on the risks of losses and to ignore possible opportunities. Hence, the authors—backed by the industrial entities based on old technologies—are asking for “compensations” of income losses.

In Europe, compensations have assumed the form of the so-called “private copy levies.” Europeans have the right to make copies of works for their own use, but must pay levies as compensation. Levies are imposed on the electronic devices, from USB keys to tablets that are assumed to facilitate the production of these private copies. The levies are collected by private organizations—the so-called “collecting societies”—and redistributed to the authors according to the share of their physical works in the cultural sector at stake.<sup>10</sup> Interestingly, consumers may be represented at the governing boards of these collecting societies, but never in a number high enough to oppose the aggregate number of the representatives of authors and industrial entities. This aggregate number is a clear illustration of the “joint monopoly” generated by the current copyright regimes.

The fact that the private copy levies are imposed on the purchase of some electronic devices raises numerous problems. First, how to assess that the arbitrarily chosen physical devices are effectively used for copying works? There is no reliable information on the number of consumers who, at any point of time, produce copies on their USB keys or smartphones, and no information on the frequency at which these consumers make private copies. Second, how to evaluate the prejudice done to the authors by a private copy? A private copy may be a substitute to a purchase; hence reduce copyright revenues.

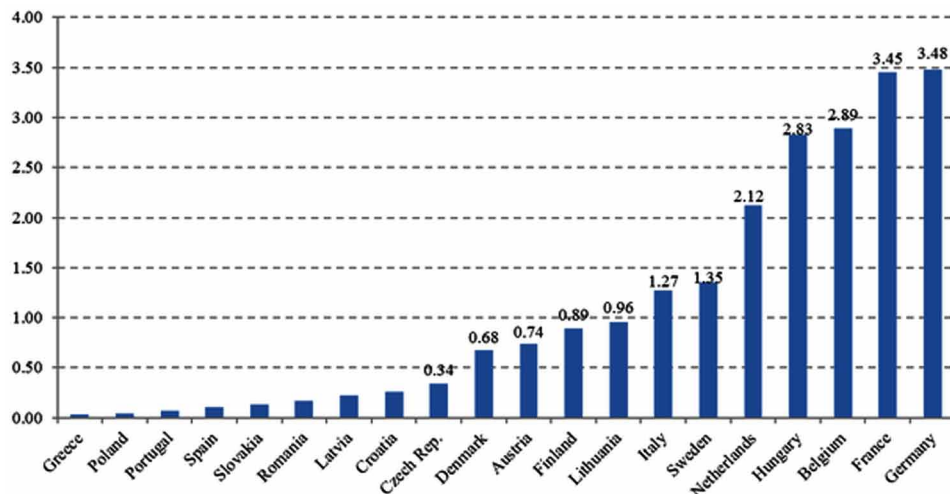
However, it may also be a convenient way to enjoy an already purchased work in another environment, such as listening to a song in the car rather than at home.<sup>11</sup> It may also be a source of additional copyright revenues to the extent that it triggers more purchases of the work: for example, by making friends aware of such a work as shown by many studies. Finally, many cultural activities, from movies to books, are subsidized in Europe (Messerlin, 2015a). In such cases, private copy levies (taxes) transferred to authors are based on copyright revenues which exist—partly or totally—because of subsidies, an awkward situation of double taxation.

The absence of any robust evidence to all these questions has generated arbitrary decisions on the extent to which private copying exists and on the level of levies compensating the alleged prejudices. These arbitrary choices explain the huge differences among the levies imposed by European countries, as shown in Figure 2. As broad economic factors, such as GDP per capita, do not explain these huge differences (for instance, the Dutch GDP per capita is 20 percent higher than the French GDP per capita), the differences of the lobbying power of the cultural industries in various European countries is a good candidate for explaining this situation.

Supporters of private copy levies argue that these levies are necessary to promote creativity because, without them, authors will not make a living in the era of unconventional technologies and their outcomes (i.e., piracy). However, this assertion is highly debatable. First, the vast majority of the authors do not make a living from their works simply because the success goes to a few people. Private copy levies do not change this situation except if the revenues based on them are much more generous than the initial copyright revenues; that is, are much more than the compensation device they are supposed to be.

Addressing this issue for the best of the culture would require hard facts on the distribution of copyrights among the beneficiaries—revealing the very large copyright revenues for a few authors and very small copyright revenues for the rest. In other words, if culture were the main goal, a private copy regime mimicking copyright revenues does not make much sense. As a result, the existing private copy levy regimes in Europe misses largely their official goal—to nurture creativity. They mostly provide rents to the successful performers without supporting those who could become successful with a little bit of help.

Figure 2. Private copy levy per inhabitant (2014, in euro)  
 De Thuiskopie and World Intellectual Property Organization (2016)



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Second, the current debate on copyright revenues ignores alternative sources of income for authors. Alternative revenues are not new. European history provides an abundant list of these alternative sources—from patronage to jobs in adjacent activities. In the music sector, one of the most frequent sources of adjacent jobs is to make a very high, by our current standards, number of events such as live music performances at clubs, music theaters, arenas, and amphitheatres, as well as local and regional music festivals. For example, in the United States, live music concerts generate 50.1% of industry revenue and have been both the most lucrative and fastest-growing events in the industry from 2010 to 2015 (IBISWorld, 2015). As a proportion of industry revenue, this segment has experienced stable increases during the last five years. The increase of on-site performance business is seen not only in the United States but elsewhere as well. In the new era, the survival of the fittest is the single rule, and the music industry is not the exception to this rule.

## **THE INTERNATIONAL COMPETITIVENESS OF K-POP**

The Korean wave is a fairly new phenomenon. Encompassing K-dramas, K-films, and K-pop, it has often been highlighted by international media outlets and scholars. Several prestigious newspapers and leading scholars have attempted to explain the competitiveness of the Korean wave, but most of the existing studies are somewhat biased by overemphasizing just a few factors while missing other important factors (Parc & Moon, 2013). Furthermore, they have often focused on cultural aspects and neglected the importance of business variables. Furthermore, most of them do not take into account loose copyright regimes as one of the success factors for K-pop. In order to facilitate analysis on the effect of loose copyrights, notably piracy, it is important to examine its international competitiveness.

The best approach, so far, for taking a more holistic analysis including the business dimension is to adopt the approach introduced by Michael Porter (1990), and further extended by Moon, Rugman, and Verbeke (1998) who have incorporated international activities. Porter argues that in this era of globalization, the most important “asset” to win in international competition is competitiveness, rather than merely basic factors of production such as labor or capital.

In order to explain the concept of competitiveness, he proposes the diamond model which has four interrelated components which are endogenous parameters:

1. Factor conditions,
2. Demand conditions,
3. Related and supporting industries, and
4. Firm strategy, structure, and rivalry;

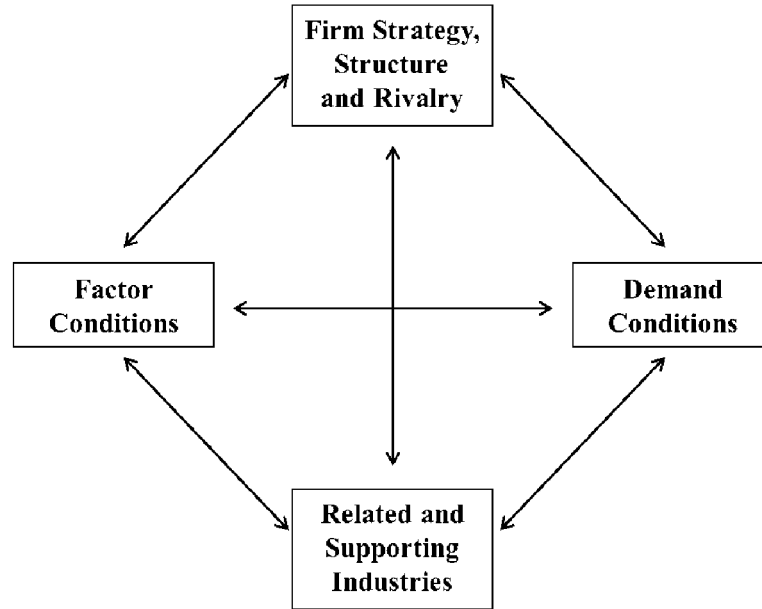
and two exogenous parameters:

1. Government and
2. Chance.

Porter argues that nations are more likely to succeed in industries or industry segments where the national diamond, formed by the previously mentioned components, is the most favorable (see Figure 3).



Figure 3. Diamond model  
Porter (1990)



According to Porter (1990, p. 71), factor conditions define the nation's position in terms of production factors, such as skilled labor or infrastructure, necessary to compete in a given industry. Demand conditions are the nature of home demand for the industry's product or service. Related and supporting industries are the presence or absence in the nation of supplier industries and related industries that are internationally competitive. Lastly, firm strategy, structure, and rivalry are the conditions in the nation governing how companies are created, organized, and managed, and the nature of domestic rivalry. Each determinant of the diamond and the whole diamond as a system are essential ingredients for achieving international success. In today's global business, however, multinational activities represent much more than just four endogenous variables. In this context, Moon, Rugman, and Verbeke (1998) and Moon and Kim (2010) extended Porter's original diamond model to the generalized double diamond model whereby multinational activity is formally incorporated into the model.

Although Porter's approach is developed to explain national competitiveness, the actual level of his analysis is at the industrial level. However, since its approach is comprehensive and systematic, the model is very useful to explain comprehensively the competitiveness of a nation, a company, or even an individual (Parc, Park, & Moon, 2012). Parc and Moon (2013) applied this model to analyze the competitiveness of Korean films and dramas. The same approach is applied to analyze the competitiveness of K-pop, and the influence of piracy on K-pop in this and next sections, respectively.

### Factor Conditions

Korean idol groups and their K-pop songs absorb the styles of American hip-pop, Japanese pop (J-pop) and Euro techno, and interpret them in their own way (Lee, 2011). K-pop idols sometimes mix their music with traditional Korean rhythms and musical instruments. Thus, K-pop is innovative enough to

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widen the borders of its genre, while finding an excellent equilibrium with the mixture of two different styles, Korean and Western. This is often referred to as “filtered Western culture” (*The New York Times*, 2006). Although many native Koreans do not find K-pop songs to be very “Korean,” international fans tend to find that these songs are very Korean: this is the so-called “perception gap.”

Korean idol groups attract their audience through performances based on audio and visual elements (Messerlin, 2015). Besides the audio dimension which is a basic component for singers, K-pop has a strong visual element based on group-dancing, with distinguishable outfits, such as hair style, costumes, and other items. The “group” is also a key feature of K-pop. *The New York Times* (2012) highlighted this dimension, with the individual members of a group developing their own specialties: dancing, singing, rapping, and singing in English. Each group has its fan club; each member has his/her own fan club as well. Thus, an individual member contributes to different talents within the group’s performances. Through intensive training, an excellent harmonization of audio and visual synergies can be achieved (SERI, 2012). These synergies have made on-site performances such as concerts a very substantial source of revenue for K-pop besides on and offline music sales (BBC, 2011).

### **Demand Conditions**

When it comes to the size of the K-pop market, its foreign component is important—K-pop exports represent fifteen percent of the whole of Korean music sales (Messerlin & Shin, 2016). However, K-pop music and music videos are circulating widely online: as international consumers can easily access them, the “visibility ratio” of the K-pop stars is surprisingly high. Indeed, it is higher than the ratio of American or British stars (Messerlin, 2015). Nevertheless, the size of Korean market should not be overlooked. In 2014, the size of the domestic market was ranked eighth in the world in terms of recorded music sales (RIAJ, 2015). However, it is important to recognize how much the Korean music market has changed by examining a much wider scope of genres and audiences. Right after the liberation of Korea from Japan in 1945, *trot*, the oldest form of Korean pop music, was the major genre and is preferred more among older generations. As foreign music, such as Western and Japanese which consist of various genres, was introduced, younger generations enjoyed it more and began to adopt them. This shows how the influx of foreign influence has improved the size and diversity of the Korean music market.

Korean consumers and even TV programs compare forcefully the singing ability of K-pop stars. For example, the programs called “Hidden Singer” and “*Bokmyeon Gawang*” (The King of Masked Singers) present singers while hiding their faces or set participants to sing someone else’s songs. Sophisticated audience and program viewers evaluate their singing ability, and often famous singers are beaten by unknown performers. Another program called “*Naneun Gasuda*” (I am a singer) shows each participant’s face but often requires them to perform a song from a genre which they are not familiar with. Through these programs, unknown or upcoming singers can achieve fame after their participation. These critical evaluations and feedbacks help to improve the quality of K-pop.

### **Related and Supporting Industries**

Social Network Services (SNS) have become one of the most influential means to disseminate information. Korean entertainment companies strategically utilize SNS as a tool to promote K-pop content, taking advantage of Korea’s world-class internet infrastructure. In fact, SNS has hugely facilitated the promotion of K-pop in other regions (*The New York Times*, 2012), as best illustrated by Psy’s “Gangnam

Style.” Most K-pop singers and idol groups have their own official Facebook pages, YouTube channels, and Twitter where they announce upcoming events, such as the release of new albums as well as upcoming concerts and TV shows. The major Korean entertainment companies have been among the first in the world to launch routinely official YouTube channels for efficient promotion.

More importantly, Korean companies have embraced digitization of the music industry much more proactively than Western or Japanese firms. New recording formats such as “digital music (or albums)” or “digital single albums,” instead of tapes and CDs, or complete albums, were developed and prevailed much earlier in Korea than in any other country in the world. The “value chain” between producers and consumers has been shortened and simplified thanks to a well-developed Internet infrastructure: from digital production to direct “music streaming.” This quicker turnover of the music industry has pushed companies to focus on a few highly specialized sectors in the industry, leading to the “verticalization” of companies. As these entertainment companies have beefed up, they have poured more effort and investment into fostering new idol groups and would-be singers by utilizing accumulated revenues—an approach characteristic of “chaebolization” (Parc, 2015). All these processes and evolutions in the market have made K-pop more competitive and have pushed the Korean companies to expand abroad more aggressively.

## **Business Context<sup>12</sup>**

The Korean government and domestic companies have made the best use of globalization whether deliberately or not. Since the 1960s, the Korean government has tried to crack down on piracy. However, these efforts were not very effective. The late 1980s became a turning point for copyrights. The government was willing to seek better access to foreign markets and Western countries, notably the United States, asked Korea to undergo reform across a range of regulations, copyrights being one of them (Kim, 2012). The Korean government wanted to avoid trade disputes and used these multilateral trade negotiations as an opportunity to abate piracy through multilateral trade negotiations from 1986 to 1995. In the late 1990s, the government also made another big shift toward Japanese culture (Pager, 2011; Parc, 2014).

This open-door approach to Japanese culture, the second largest in the world, contributed to abate the piracy of Japanese cultural contents. These evolutions were painful for the Korean music industry due to severe competition caused by the influx of foreign cultural products and companies in the short-term. However, in the long-term, they were beneficial toward further development of creativity and diversity of Korean cultural contents by differentiating them from their foreign counterparts.

In this context, since the late 1990s, Korean companies have engaged in cooperation with foreign music producers and musicians in order to enhance the musicality of K-pop (KOCIS, 2011; Parc, 2015). When new genres of music such as rap were introduced to Korea in the late 1990s, the Korean entertainment companies began to hire Korean-Americans who could speak and sing rap songs in English. As K-pop became more popular in a larger number of countries, they contracted other foreign singers from elsewhere, such as Japan, China, Thailand, and the United States to aim for a specific target market for better performance (Parc, 2015). For example, since 2011 SM Entertainment, one of the largest Korean entertainment companies, has more than 50 percent of its sales in foreign markets, particularly in Japan (KDB Daewoo Securities, 2012).

## **THE EFFECT OF PIRACY ON K-POP**

The competitiveness of K-pop can be comprehensively analyzed by using the Porterian approach. As previously mentioned, the evolution of K-pop does not meet the results of existing studies which argue that piracy is one of the main causes behind the decline of the music industry by inducing a lack of creativity and by hampering revenue. Thus, it is important to analyze how piracy or loose IPRs have affected the development of the Korean music industry. The effect of piracy on the Korean music industry is analyzed by again utilizing Porterian approach to ensure a systematic and holistic perspective and facilitate better comparison and understanding of the piracy effect with the same analytical framework.

### **Factor Conditions**

In order to understand the effects of piracy, it is necessary to understand the background of Korea from the 1960s to the 1980s; the government controlled public opinion and the media. In particular, the authorities restricted songs that carried too much Japanese style rhythms, decadent lyrics, or ones that criticized society and the government. In this context, many foreign songs imported through the official route could not be released in Korea. The pirated LPs and tapes, which copied the original albums without any censorship, were much closer to the original albums released abroad (Kim, 2012). In particular, pirated American pop songs were very popular from the late 1960s to the early 1970s among young generations. These pirated songs enriched the variety of music in the earlier period, and Korea experienced the first pop innovation and many of top ten Korean albums were produced during this same period (Shin, Lee, & Choi, 2005).

More importantly, these pirated albums contributed to the creativity of K-pop which is mostly dominated by a single genre, trot. This is because the pirated albums were cheaper, and young generations such as students could afford to buy them. Many K-pop singers, such as Cho Ha-Moon, in this particular period testified that they did not listen to trot songs, but bought cheap pirated albums to listen to and copy the new style of songs from overseas (Kim, 2012).<sup>13</sup> Prior to their decision to buy pirated albums, this new generation listened to several representative songs of foreign singers on radio which can be considered to have a similar function to “streaming” in our time. Also, many Koreans decided to buy official albums after they listened to songs on the street where the pirated albums were sold and played.<sup>14</sup> Paradoxically, the more diffused pirated albums helped the sales of original albums (Kim, 2012). Unlike what is believed in general, piracy helped with the take-off of K-pop.

### **Demand Conditions**

Further exploring the background of Korea from the 1960s to the 1980s helps to understand the evolution of the Korean music industry; Koreans could not afford to spend money to enjoy their leisure. During this period, the public preferred cheap albums that had new and trendy music. In other words, purchasing albums of new music was more important than enjoying good (sound) quality albums. The pirated albums of western music were particularly popular among students who are price-sensitive since the price is more reasonable for them; the prices of pirated albums were on average one third of the prices of the officially released albums in Korea (Kim, 2012). Furthermore, the pirated albums were released in the market much earlier than the officially released ones because the pirated ones did not take a procedure of preliminary review undertaken by the government. Due to cheap prices of the pirated albums that

carry different genres of music, the domestic market size had been expanded by incorporating young consumers and new genres of music. This process continued until the late 1990s when digital devices assumed the role of the pirated albums.

The role of the new generation is still the same regardless of nationality or time. Most K-pop singers and people in the related sectors, who grew up in a particular environment where piracy was prevailing, have not insisted on copyrights over their songs. In this regard, K-pop contents are more available on the Internet for free of charge. The student group, that is price-sensitive, can easily access or be exposed to K-pop songs online. Therefore, a huge international fandom, a potential consumer group, has been created; this young fandom will have tangible purchasing power in the nearer future. Through high exposure to K-pop, many foreign idol groups and singers have also copied K-pop style, like older K-pop singers did with Western style.<sup>15</sup> Is the “copycatism” beneficial to the creativity of a country? The Korean experience would provide the best answer.

## **Related and Supporting Industries**

It is often said that the music industry is in decline because of piracy. However, through special circumstances it can be interpreted differently. For example, during the 1960s and 1970s, the ones who produced the pirated albums were actually those who were engaged in producing music albums (Kim, 2012). This contradiction had been exercised by many record labels in Korea in order to overcome financial difficulties; in the underdeveloped music market of the 1960s-1980s, selling pirated albums was more profitable than selling the originals, and piracy has been used by many record labels in Korea to overcome financial difficulties.

Some would argue this is clear evidence that piracy hinders the revenues of album sales, but this point has several major flaws. First, pirated albums and original albums were often different due to government authorization; in other words, they were similar products, but not the same. Second, the consumers were different; income earners usually bought the originals while students bought the pirated albums. Thus, the market size eventually increased by incorporating the student group. Third, in the 1980s dubbed as “my car period,” Koreans began to purchase their own cars equipped with stereo systems. The number of cars in Korea passed the one million mark in 1985 and many drivers wanted to listen to fast and rhythmical music. To meet these needs, companies collected popular songs from all the best singers and released medley albums which were only for car users. Last but not least, Korean companies earned revenue by selling pirated albums and had invested in manufacturing new albums and looking for new singers at the same time. Therefore, it can be interpreted that piracy contributed to the relative development of the Korean music industry as Kim (2012) argues.

## **Business Context**

In the mid-1980s, the Korean government utilized its trade negotiations as an opportunity to abate piracy as mentioned before. The government tightened regulations against piracy from 1987. In 1989, foreign record labels could release their albums directly in the Korean market, and as a counter act, the government allowed the entrance of *chaebols* or Korean conglomerates in the music labeling market. When Korea opened up its music market, foreign record labels encroached significantly upon the Korean market for a short period of time. However, this victory did not last long. Very soon the long-term decline of Western pop music emerged in Korea; foreign records failed to dominate or to take a significant por-

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tion of the Korean market and many *chaebols* such as Samsung withdrew their investment in the music industry (Kim, 2012). This particularity can be found in the Korean film industry when Korea opened up its market allowing foreign studios to distribute directly in Korea (Parc, 2016b).

There are several reasons to explain the failure of foreign record labels in Korea, all of them being related to tightened copyrights. First, during the trade negotiation period, the United States, and the major Western pop music distributor, gave the impression that they were arrogant and harsh in dealing with Korea (Kim, 2012). Second, from the 1960s to 1980s, K-pop and its industry enhanced its competitiveness through imitating Western styles at first, then forming their own unique style. Third, the pirated albums of Korean singers were more prevalent than pirated albums of foreign artists. This is reminiscent of the interesting relation that more diffused pirated albums could help the sales of the original album. The strict copyrights over foreign albums actually deteriorated their presence—an unintended consequence that is however well predicted by the economic and business analysis of the first section.

## **CONCLUSION**

Korea has been plagued by widespread piracy and it only adopted acceptable, by OECD standards, copyright regulations since 2009 when the success of K-pop was already underway. This is not acceptable with the current stance on the importance of copyrights for cultural creativity. It raises the question to reconsider today's mantra in copyrights according to which stringent copyright regulations are required in order to foster cultural creativity and that piracy is the greatest obstacle toward creativity. If that were true, K-pop's success should never have occurred. How then to explain the success in such circumstances?

First, the intrinsic nature of copyright regulations is ambiguous. On one hand, they favor creativity by protecting the revenues of authors against the predatory behavior of plagiarists and industrial entities that disseminate the authors' works, such as publishing companies. On the other hand, they establish a monopoly (i.e., exclusive rights) for a duration that can last a long time and is perpetuated jointly by industrial entities and authors.

European history and economic and business analysis converge to strongly suggest that stringent copyright regulations tilt the delicate balance between creativity and monopoly toward behavior that favors higher prices and more limited production of cultural goods and services. These are all forces that will ultimately hurt cultural creativity. Only “well-balanced” copyright regulations that are careful in reining the pro-monopolistic forces promote further creativity and the revenues of authors. A correct analysis of copyright regulations should thus be comprehensive in order to consider all these elements underlying the fundamental ambiguity of copyright regulations.

Second, in order to analyze the relationship between K-pop competitiveness and the effect of piracy on its growth, the Porterian approach is applied. It shows that the competitiveness of the current K-pop wave does have little relationship to tight copyright regulations. Lastly, we find that piracy actually helped the development and competitiveness of K-pop and its industry, unlike what has been believed. In short, the success of K-pop — in the absence of copyright regulations until 2006 and a “balanced” copyright law since then — appears largely in line with the history of European culture without stringent copyright until the mid-1900s.

The success of K-pop has benefited from two positive forces: globalization through new technologies and well-balanced copyright. Both have ensured an ever widening range of goods and services that can meet the demands of consumers. If a desirable cultural good is not available locally, an acceptable

substitute can often be found elsewhere. Furthermore, its success strongly suggests that “well-balanced” copyright regulations are a strategic instrument in such a world. For instance, compared to the Japanese entertainment industry which operates under stringent copyright protection and which provides limited free access to on-line entertainment contents, Korean entertainment companies have actively utilized SNS to widely disseminate K-pop contents through the internet. International consumers can easily access for free K-pop music videos from legal official sources. What Korean entertainment companies target is not the revenues from on/offline sales but the market of “touring” and goods attracted by K-pop stars’ popularity. This is purely a new vision for enhancing creativity.

Success is never guaranteed forever. Copyright regulations have increasingly been tightened in Korea, inducing many commercial entities to become rent-seekers in order to maximize their profits without exploring new markets. And, instead of acknowledging the activities that add value to products, the new trend is to focus on the “fair” allocation of revenues. Confused with copyright issues, this argument advocates the increase of music prices in Korea, justifying indirectly monopolistic behavior. However, there are many dynamic features in the Korean music industry. In order to achieve a further take-off of K-pop, business entities, authors, and the government should take wise decisions leading to positive-sum games. Rome was not built in one day, neither cultural diversity nor creativity for the whole world.

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## **KEY TERMS AND DEFINITIONS**

**Competitiveness:** The ability of a firm, industry, or country to compete in a given market, in relation to the ability and performance of other firms, industries, or countries in the same market.

**Copyrights:** A legal right created by the law of a country that grants the creator of an original work exclusive rights for its use and distribution.

**Diamond Model:** A framework with a holistic approach developed by Michael Porter (1990) to measure competitiveness.

**Generalized Double Diamond Model:** An extended framework of Porter's diamond model which formally incorporates multinational activity into the model. This newer framework allows us to operationalize the competitiveness paradigm, whereas Porter's original approach is somewhat harder to operationalize.

**Intellectual Property Rights:** Intellectual property rights refers to the general term for the assignment of property rights through patents, copyrights and trademarks. These property rights allow the holder to exercise a monopoly on the use of the item for a specified period.

**Levy:** Amount of money, such as a tax, that you have to pay to a government or organization.

## **ENDNOTES**

- <sup>1</sup> In this article, K-pop means Korean popular music which includes a wide range of modern Korean popular songs, from trot to contemporary music.
- <sup>2</sup> The numbers can be different from other literature; however, the growth rates are based on author's calculations with data obtained from the Ministry of Culture, Sports and Tourism and the Korea Creative Content Agency.
- <sup>3</sup> There is a large amount of literature on the rise of copyrights. Baldwin (2014: 535) provides one of the most thoughtful and recent surveys of this complex topic.
- <sup>4</sup> In this paper, instead of "'legal' and 'illegal' uses of new technologies," terms such as "conventional" and "unconventional" are used in order to keep a litmus-less position.
- <sup>5</sup> In 1605, Cervantes published Part I of 'Don Quixote' which was very successful. Enjoying this success, he became very slow to write Part II. He might have never written it without the publication of a book written by Alonso Fernandez de Avellaneda and presented as the sequel of Cervantes'

Part I. In short, the absence of copyrights forced Cervantes to go back to work. Eventually, he published Part II in 1615, delivering a priceless treasure to the Spanish and world literature.

6 Among his 870 pieces of paintings, most of them are imitations of Eugène Delacroix, Rembrandt, Gustave Doré, Ando Hiroshige, or Jean-François Millet. Only a few works made him distinguished such as “Starry Night over the Rhone,” which is inspired by “Starry Night” by Jean-François Millet (*The Telegraph*, 2009).

7 This initial focus makes sense: industrial entities are in a much better position to harm authors than potential plagiarists.

8 The question of whether authors have a benevolent behavior in the real world would be an interesting one to investigate but it goes beyond the scope of this chapter.

9 According to Hoffner, from 1810 to 1850, the German production of new printed publications has been on average five times larger than that of the U.K.; one of key sources of this difference is the copyrights regime in printed production—Germany without the copyright but the U.K. with it. See <http://www.slideshare.net/nskinsella/hoffner-vortrag-eng10min>.

10 Parts of the levies can also be distributed as “cultural subsidies.”

11 There is no substitution since the initial physical work (for instance, CD albums) has been bought with no condition on where, for instance at home, the car, or elsewhere, it could be played.

12 Since 1998, Porter has used “context for strategy and rivalry” instead of “firm strategy, structure and rivalry” for firm strategy, structure, and rivalry. See Porter (1998), Porter (2000), and Porter & Stern (2001). In this study, “context for strategy and rivalry” is referred to as “business context” by adopting Parc & Moon (2013).

13 Kim (2012) offers rich data of those days collected from Korean government’s official documents in Korean. For the sake of readability, this article only cites Kim (2012) instead of individual articles. See Kim (2012) for further information.

14 Since many singers realized the dissemination of albums (or songs) helped popularity of their songs and their albums, these singers even actively engaged in the distribution of their own pirated albums. See Kim (2012).

15 Under the title, “Plagiarism of Kpop,” YouTube has many video clips that show many foreign singers and idol groups copying K-pop. See the link: [https://www.youtube.com/results?search\\_query=Plagiarism+of+Kpop](https://www.youtube.com/results?search_query=Plagiarism+of+Kpop).