

# Legal Issues on Choreographies: a Comparative Overview

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# THE LEGAL PROTECTION OF CHOREOGRAPHIES

- The legal literature has only recently focused on choreographies
- The question for the lawyer is:  
are choreographies protected by copyright?  
if yes, how and to what extent?

# THE ISSUE OF FIXATION AND THE NOTATIONAL METHOD

- The legal protection of choreographies was slowed down by **difficulties in fixing them in a tangible support**
- Specific nature of these creative works, which live primarily through **performance**
- Since the 16<sup>th</sup> century, dances were fixed by the dancing masters using a **notational method**, based on symbols and figures which indicated the position of the feet and the sequence of the steps
- The **Labanotation method** was used to fix the choreography “*Kiss me, Kate*” by Hania Holm, registered at the US Copyright Office in 1952

# CHOREOGRAPHIES AS INDEPENDENT WORKS

- For a long time, choreographies were not deemed worthy of protection *per se*, but could rather be included in the larger set of “**dramatic compositions**”, protected since the 1831 US Copyright Act
- Par. 102, lett. a) of the 1976 Act, named choreographies and dramatic works separately: «*[w]orks of authorship include the following categories: [...] (3) dramatic works, including any accompanying music; (4) pantomimes and choreographic works*».

# CHOREOGRAPHIES IN THE BERN CONVENTION

- The **Bern Convention** (1886) did not mention choreographies as protected works until the **Berlin revision** (1908)
- The Convention does not specify what is the nature of a choreographic work
- **National legislations:** choreography as an autonomous category (United States, Italy), as a theatrical work (Austria), as a dramatic work (India, United Kingdom)

# WHAT IS A CHOREOGRAPHY FOR THE LAWYER?

- Choreography can be described as a **composition of dance movements and patterns**, usually intended to be accompanied by music
- Choreography has to be **original**, as a new and creative creation
- Choreography is based on raw building blocks (steps and movements), that cannot be *per se* copyrighted
- A combination of steps and movements has to include a *quid pluris* and a *quid novi*, resulting in a homogenous creative work, copyrightable as long as it consists in a new creation never seen before

# THE INTERACTION BETWEEN THE CHOREOGRAPHER AND THE MUSIC COMPOSER

- Choreography may be the result of a dual and integrated intellectual act when the choreographer and the composer of the music cooperate to create it
- The authors enjoy different and separate rights. There are two different cases:
  1. They become equal owners and each of them exercises independently the right to commercially exploit the joint work (**joint authorship**)
  2. Only the choreographer is entitled to exploit the rights, due to the principle of the “most important contribution”, which is, in a choreography, the dance (**composite work**)

# DANCERS AS AUTHORS?

- Dancer is recognized as a co-author of the choreography when he concretely contributes in the intellectual creation, by adding something new to the work
- In any case, the dancer, as a performer, enjoys the so-called “related rights” on his performance: **moral rights** (for example, the right to be named as the performer of the dance) and **economic rights** (e.g. the right to authorize the communication to the public and the fixation of the unfixed performances, or the right to authorize the distribution and the commercial rental of the performances)



**Thank you for your attention**

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