

Abstract

## Rethinking the Authorship of Contemporary Art in Copyright Law

- Chance·Indeterminacy Music as a Case Study\* -

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This study focuses on the concept of the ‘author’ in copyright law, particularly in the context of chance and indeterminacy music, where the composer intentionally excludes their authorship from the work. In copyright law, ‘creation’, required to become an author is generally understood as the act of “concretizing a particular idea or emotion into a creative external expression.” Applying this concept to chance and indeterminacy music, it caused the legal problem of denying the work’s copyrightability or destabilizing the traditional status of the author. Re-examining this through the theory of copyright justification, it was pointed out that the legal problem cannot be merged with the justification of the copyright system. Fundamentally, the limitation of the “idea-expression dichotomy” principle, a premise to the concept of the creator, was identified. Raising doubts as to whether it is truly valid for this principle to play a major role in the concept of the creator, this study proposed the application of Balganesesh’s copyrightable causation theory as an alternative, and concluded that a normative judgment criterion must be used to determine whether a work qualifies as “creation” in order for law and art to be harmonized.

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**Keywords**

Authorship, Contemporary Art, Creation, Copyrightable Causation, Balganes, Chance Music, Indeterminacy Music, John Cage, Karlheinz Stockhausen, Earle Brown