

**Abstract**

## A Study on Digital Replica Rights in the Era of AI

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“If we enter a world where any story, any audio recording, any image, any video can be fake, then nothing has to be real.”

This incisive statement, cited by the U.S. Copyright Office, penetrates the essence of the technological transformation we are witnessing. We have already entered an era where the fundamental markers of human identity are being indiscriminately replicated and reconstructed through technology. The metaphysical question that philosophers have long contemplated—“What is real?”—has now transformed into an existential dilemma that defines our quotidian reality.

Deepfake powered by artificial intelligence, creates astonishingly realistic replicas of existing individuals, thereby compromising the integrity of human identity, substituting the role of performers, and functioning as digital clones that serve as alternative selves in virtual realms. Major nations are accelerating the development of legal frameworks to protect rights holders from personal and proprietary infringements caused by digital replicas. However, South Korea finds itself confronting the technologically more complex issue of digital replicas, particularly after the failed legislation regarding publicity rights concerning the commercial use of personal identity attributes.

This paper aims to meticulously examine the concept of digital replica rights and their legal protection mechanisms through comparative analysis of foreign legislative cases, while exploring implementation approaches suitable for the South Korean legal system. In particular, it reviews how digital replica rights should be incorporated to protect the rights of performers who are most directly

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affected by digital replicas in the cultural and artistic domain, and presents recommendations regarding key considerations for future legislative processes.

### **Keywords**

Digital Replica Rights, Deepfake, Right of Publicity, Copyright, Performer, NO FAKES Act, GDPR, EU AI Act, AI(Artificial Intelligence)