

Abstract

The Paradox of Transaction Costs in AI Short-Form Drama Production: The Erosion of the Doctrinal Foundations of Article 100 of the Korean Copyright Act and the Search for Alternatives

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The special provisions on audiovisual works under the Korean Copyright Act—particularly the presumption of transfer in Article 100—aim to reduce transaction costs by concentrating dispersed rights in the hands of the audiovisual producer. This mechanism functions only upon three factual premises: a division of labor among multiple contributors, a linear and sequential production process, and the leadership of a capital-backed corporate entity. AI short-form dramas, in which one person or a small team completes an audiovisual work at low cost and within a short period using generative AI, dismantle all three premises simultaneously. As a result, the presumption paradoxically raises the very costs it was meant to lower—a phenomenon this article terms “the paradox of transaction costs.” Drawing on government standard-form contracts, the article shows how the hollowing-out of the object of transfer drives up identification, negotiation, and dispute costs. It further argues that none of the joint-work or work-made-for-hire doctrines, the international trend strengthening performers’ rights, or the principle of *in dubio pro auctore* can fill this gap. As remedies, it proposes a functional reinterpretation of the “agreement to cooperate” requirement in the short term and a differentiated statutory delimitation of the provisions’ scope in the long term.

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Keywords

special provisions on audiovisual works, Article 100 of the Copyright Act, presumption of transfer, the paradox of transaction costs, hollowing-out of the object of transfer, AI short-form drama, generative artificial intelligence, copyrightability, work made for hire, allocation of rights