Dance Copies: Identity, Law and the Challenges of Artificial Intelligence

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1. Introduction

How can a dance be copied? If I was going to copy a dance from you, I might try my best to embody the movement as closely as possible to the way you performed it, or I might choose to make alterations to the movement. Either way, the movement will appear differently on my body than yours. Live dancing might also be copied by recording it via digital media; this recording can then also be copied. The recording process might involve decisions about how to capture the movement, which angles and shots to use and then whether to edit the file. A dance might also be copied via machine learning. The possibilities of copying in dance abound (see Bench 2020; Kappenberg 2010; Kraut 2016; Laermans 2015; Pouillaude 2017; Ravetto-Biagioli 2021a Rethorst 2001; Schwan 2017; amongst others).

If I had copied the dance from you and performed it myself, we might wonder whether I am in fact performing the same dance that you performed or a different dance altogether. How we decide to settle this quandary might depend on how much the movement has changed between your performance and mine and might also depend on whether my performance includes other features, such as a particular piece of music, costume, location or concept. The nature of body-to-body copying in dance and the resulting questions about

the identity of the copied dance are examined by scholars working in both dance philosophy and copyright (e.g. Aldape Muñoz 2023; Biagioli-Ravetto and Ravetto-Biagioli 2022; Conroy 2013; Davies 2024; McFee 2011; Pakes 2020; Pouillaude 2017; Schwan 2017; Van Camp 2019, 2006). Central to both these contexts are the questions: when are two performances of the same thing? And when does one dance become another?

Dance's capture and circulation through recording technology seems to stabilise the dance so that a particular performance of it can be reproduced exactly via repeated playing of the recording. As Kriss Ravetto-Biagioli points out, a 'great amount of faith has been put in computational media's ability to record, document and archive live events, seemingly bringing them back to life by reanimating them' (Ravetto-Biagioli 2021a: 3). Recordings might seem to stabilise a single performance of a dance, but some digital forms are made specifically to be re-embodied. For example, 'dance challenges' on social media sites such as TikTok are created with the intention that people make their own versions (see Bench 2020; Boffone 2021; Johnson 2021; Griffiths 2023; Harlig et al 2021 amongst others). The widespread circulation of dance online has resulted in the reuse and recontextualization of dances (see Bench 2020; Boffone 2021). Dancers might copy material from online tutorials, music videos and recordings of performances as well as dance challenges. There is a loop created between media and the body as movement moves from live to digital bodies and back again, posing challenges to the association of digital media with stability (Ravetto-Biagioli 2021a).

Furthermore, recent advances in Artificial Intelligence (AI) have led to the creation of models that replicate movement and use it to animate an image, so that the movement appears to be performed by someone other than the original performer. Apps such as Viggle AI and others[2] use deep learning models to learn the movement in a driving video and use it to animate a target image. The launch of these apps is quite recent, but the use of AI tools such as pose estimation to transfer movement from one context to another has been explored for

some time (see Chan et al 2019; Elswit and Uzor 2023; Gafni et al 2021; Martinez et al 2017; Pavis 2020, 2021; Ravetto-Biagioli 2021a; Siarohin et al 2019). Machine learning reproduces the dance in a different way to recording technology and involves imitation estimation and variation rather than precise replication (see Pavis 2020, 2021). This method therefore creates another type of dance copy. Each type of dance copy described here might lead to different responses to the identity questions above and are also likely be treated differently to one another by existing legislation (see Pavis 2020, 2021).

In US copyright law, a dance must qualify as a 'choreographic work' to receive copyright protection (see Johnson 2021: 1243; Kraut 2016: xi; Van Camp 2019: 1). The *Copyright Act* 1975 (US) treats works differently to 'social dances and simple routines', which are not protected, although these distinctions are not clear-cut (Johnson 2021: 1244). In the UK, choreographic works are protected by copyright under the *Copyright, Designs and Patents Act* 1988 (UK) if they are fixed, performable and original (Whatley et al 2015: 70-71).

In the USA, there has been a renewed emphasis on dance copyright by some dance artists in recent years. For example, there have been various cases brought against Epic Games for the alleged use of people's dances in their game *Fortnite* (see Boffone 2021; Gover 2023; Pavis 2019; Ravetto-Biagioli 2021b; Waelde 2019 amongst others). In 2020, Black choreographer JaQuel Knight was successful in securing copyright protection for his choreography for Beyoncé's 'Single Ladies' video (Aldape Muñoz 2023: 226, Johnson 2021:1235). He subsequently supported other BIPOC artists with copyright registration through his foundation (Aldape Muñoz 2023: 226, Johnson 2021: 1235-1236). The success of Knight's claim was a significant moment due to the history of BIPOC artists being appropriated from and marginalised from copyright protection (Aldape Muñoz 2023: 229 - 230; Johnson 2021: 1232 - 1236. See Kraut 2016 for an extensive discussion of these issues).

Despite some recent activity in the USA and the possible uses of copyright as a tool for artists to gain greater economic exploitation (Pavis et al 2017), it is not commonly drawn on by dance artists in the

UK or the USA (see Gover 2021: 64; Van Camp 2019: 90; Whatley et al 2015: 70). There are many possible reasons for this, including the expense of legal cases (Van Camp 2019: 10). In this paper, I propose that there are other reasons that copyright is not widely drawn upon, including the centrality of copying and influence within dance practice. First, I draw on interviews conducted during an Arts and Humanities Research Council funded project, *Moving Online: Ontology and Ownership of Internet Dance*, to highlight some of the ways that dance artists articulate the copying, circulation and ownership of dance.[3] Second, I discuss current debates around copyright and AI and consider what it means to 'copy' a dance via machine learning. I show how the notion of the 'copy' in relation dance has multiple connotations. I focus primarily on the UK context, although reference is also made to copyright law in the USA. I focus specifically on two related legal issues: the object of protection in the context of copyright, and performers' rights.

The relationship between the ontology and identity of dance works and copyright has been explored by many scholars (e.g. Aldape Muñoz 2023; Biagioli-Ravetto and Ravetto-Biagioli 2022; Conroy 2013; Hick 2017; Kraut 2016; Pakes 2020; Ravetto-Biagoli 2021b; Van Camp 2006, 2019; Wilson 2010). In analytic philosophical aesthetics, the concept of dance ontology relates to what kind of thing a dance is (Pakes 2020: 9). Related to ontological debates in analytic philosophy are questions about work-identity, or what makes a performance an instance of that dance as opposed to another (see Conroy 2013; Davies 2019; Davies 2024; McFee 1992, 2011, 2018; Pakes 2020; Pouillaude 2017, Van Camp 2006, 2019 amongst others). Copyright law demonstrates a particular ontological position, albeit implicitly. Darren Hudson Hick explains how it is not physical objects that are protected by copyright law but 'an abstract object that may be *embodied* in physical objects' (Hick 2017: 88; see also Wilson 2010). Space prohibits in-depth discussion of these philosophical issues, rather I highlight how some of the interview data raise themes that cross the identity and ownership of dance and demonstrate how these areas intersect.

In some areas of dance practice, there are distinct roles undertaken by choreographers and dancers, with the former creating movement that the latter embodies. However, as is widely recognised, dancers often make significant creative contributions, so these roles are not always clear-cut. Furthermore, many choreographers perform their own dances and people might move between roles depending on which project they are undertaking. The term 'dance artist' is commonly used in dance practice in the UK to reflect the multifaceted nature of the work that people who make and perform dance undertake. In this article, I use the term 'dance artist' when I am referring to artists who work across roles or generally to people within the sector, and dancer and/or choreographer when the distinction between these roles is relevant to the point being made.

2. Copying, Influence and Fixation

Questions about the identity of a dance are foregrounded in copyright contexts (Pakes 2020: 180; Van Camp 2019). As Julie Van Camp points out, '[t]he identity of works is whatever it is that makes two performances the same work, and it is especially challenging' (Van Camp 2019: 2). Van Camp outlines four features of dance that make identity questions particularly challenging. First, the inevitable variability between performances due to the central role of the body. Second, the lack of universally used notation and the difficulties of learning and using notation. Third, the way that dance practice allows for great variation between performances while still considering them instances of the same work. Fourth, the variability across dance forms of accepted standards of identity. Van Camp's analysis helpfully highlights the centrality of variability in dance practice and the way that what is accepted in terms of variation differs depending on the context and form. Variability is key to this discussion as it is an inevitable part of the process of body to body copying in dance. Even in cases where a dancer or choreographer intends to copy precisely there will be differences (see also Rethorst 2001).

Anna Pakes also discusses the relationship between identity,

ontology and copyright (Pakes 2020: 161-182). Further highlighting dance's variability inherent to its repetition, she articulates how: 'copyright systems and practices present a domain where performance identity (whether in whole or in part) really is in dispute' and that assumptions about an association between repeatability and sameness are tested (180).

One of the requirements of copyright in the UK is that the work is 'fixed' (Whatley et al 2015: 20). Referring to the USA, Van Camp points out that it is the 'fixed' expression of the work that is used to determine whether copyright infringement has occurred (Van Camp 2019: 1). Movement notation offers a possible avenue for 'fixing' a dance. However, as Van Camp points out, while there are notational systems for dance, these are not widely used (2). Dances are now often documented and therefore 'fixed' via recording. However, there is much debate about the relationship between a dance and a fixation of it. For example, philosopher Graham McFee suggests that recordings do not allow for a live dance work to be experienced (McFee 2011: 258). Resonating with McFee's views, Aishani Ghosh, a dance artist who works with Bharatanatyam and contemporary dance, explained how:

> I personally never record my live performances and put them online. I think it loses an essence of… There's something so special about a live performance that unless it's seen live, you just can't capture it, capture the emotion or the feeling or the audience emotion over the camera.

For Ghosh, when a performance is created to be experienced live, the recording cannot capture it. Biagioli-Ravetto and Ravetto-Biagioli also question the role of fixations in dance, suggesting that they 'are essentially external to its creation' (Biagioli-Ravetto and Ravetto-Biagioli 2022: 3). Meanwhile, Whatley et al describe how 'methods might 'fix' the work, [yet] they may not capture the essence of the dance' (Whatley et al 2015: 20).

Another possible tension between practice and copyright law that it does not easily recognise the way that some dances are made and circulate due to the collaborative nature of some pratice and the authorial contributions of performers (Pavis and Wood 2020; Whatley

et al 2015). Ghosh explained how:

> there are some projects that I come in as a dancing body, but I'm credited as a co-collaborator and a dancer … A lot of the material that's generated is … my own material and they've maybe given a task and then we generate material. If they like that material, then they use that material or they compose it in the piece. So, they're not necessarily the choreographer *per se*. I think in roles like that, I feel a lot of ownership over the material, but not necessarily over the piece.

Ghosh draws a distinction between the piece and the material within it. She explains how she might contribute to the piece by developing material, and therefore feel ownership over what she has created, but distinguishes this from the over-arching piece. The distinction between a piece and the material that constitutes it raises questions about the identity of the dance and how this might differ to the movement. As noted by Mathilde Pavis and Karen Wood (2020), collaborative processes in dance challenge the copyright framework. Sarah Whatley, Charlotte Waelde, Abbe Brown and Shawn Harmon argue that there is scope 'for authorial intent by the dancer in the arrangement of the dance through her body sufficient for copyright' (Whatley et al 2015: 72). They describe the authorial contributions of disabled dance artist Caroline Bowditch in her performance of choreography by Joan Clevillé, arguing that Bowditch's unique somatic knowledge and interpretation of choreographic intent should qualify her as an author legally (21-22).

Whatley et al point to a common view in the dance community that 'the choreographer is the author and first owner of copyright in the work' (21). This was reflected in our interview with Nandita Shankardass, a dance artist with a background in classical ballet and contemporary dance. Shankardass explained how:

> The ownership thing is tricky because, at the end of the day, that ballet or piece is either owned by the choreographer or the company that commissioned it. So for the dance artist there's no ownership per se. But what it can give a dance artist is different ways of working and approaching movement that they can take into their own processes of

creating a work themselves.

In an email exchange about this paper, Shankardass elaborated:

> If dance artists have been heavily involved in creating choreographic material and it is used purely and accounts for the majority of the work, the choreographer can and should also choose to credit and acknowledge the dance artists by stating that the work has been created/ choreographed in collaboration with the dancers performing the work.

The first quote recognises the way that, despite the argument of Whatley et al that dancers might make authorial contributions, ownership is not always attributed to the performers. However, they can take what they learn and experience within the process into their future practice. This process of carrying approaches to movement into new contexts relies on a certain level of flexibility around ownership and points to the way that movement circulates. If dancers were concerned about the potential legal ramifications of copying dances, they would perhaps benefit less from their engagement with other artists' work, as they might feel less able to take what they have learned into their future work.

There are not always clear distinctions between copying, adaptation and influence (Blades 2022: 1240). Even if an artist did embody a dance in the past as a performer and then produce a similar dance in another context, this might be a consequence of the way dance circulates, rather than an attempt to pass off someone else's work as their own. The role of influence was reiterated by Ghosh, who explained how:

> every piece I do or every creation process I'm in. It stays with me. As an artist, and then without realising like three years down the line, I'm like, oh, I actually got inspired by this piece I did five years ago.

These perspectives also demonstrate the way that dance moves between people and contexts. It is not always possible to remember or identify the source of a movement or choreographic idea, as it continues to shape and inform each artist's practice in an artistic context in which dance circulates and influences and re-emerges in new contexts. While individual movements, styles and short sequences are not protected

by copyright, it might seem that claiming ownership of particular sequences of movement would threaten to disrupt these processes.

Another artist, who works in hip hop and chose to remain anonymous explained how:

> our dances are sort of like […] sampled. It's yours, right? Don't get me wrong. It's yours but you've been inspired by someone. Yeah, you know, you've been inspired by someone to probably dance the way you dance. So sometimes, elements of this person's style of dance comes up in your dance, even though they've never done this move before. It looks like you know, they've had a hand in the dance.

This points to the influence of particular styles on an artist's own way of moving. Lauren Scott, a dance artist who also works in hip hop, explained how 'movement theft or stealing someone's move within the hip hop scene. It's called biting' and that 'when you're responding to someone taking that move, developing it, that would be seen as something, something as a skill, like to be praised within that context' (for a discussion of 'biting' in hip hop, see Artpradid 2025; Vernon 2021). Scott goes on to explain how this occurs in battle contexts and that the copying is temporary, rather than becoming part of the artists' movement vocabulary: 'It's a creative device, I guess, a responsive device of taking something and expanding it or whatever, and then throwing it away. The throwing away is important.' Scott's articulations demonstrate a slightly different view to the idea of influence. Instead, the copying in this context is a temporary performative action. Furthermore, the role of adaptation is key to distinguishing between theft and skill. How much adaptation would be required to produce a different structure of movement altogether remains an open question. In this case, the 'throwing away' or non-repeatability of the copied movement is key to the norms of the practice.

Recognising the way that movement often moves fluidly between contexts implies that the boundaries between one piece or dance and a later one are somewhat porous. Dancers' contributions to creating or embodying the dance may well inform their future practices. However, as the biting example demonstrates, the context shapes expectations

about the repetition, copying and re-embodiment of movement (see also Bench 2020; Blades 2022; Boffone 2021; Leach 2022 amongst others). These practices show how copying and influence operate in some areas of dance practice. As well as its prohibitive costs (Van Camp 2019: 10), I suggest that the way dance copying occurs in practice and how movement informs and influences those who engage in it might also be a reason that the law is not commonly drawn on by dance artists (Blades 2022: 136).

3. Dance, AI and the Copy

The notion of the 'copy' is at the heart of copyright law. As the perspectives above demonstrate, copying occurs in different ways in dance practice. Some of the ontological issues posed by replicating dances via digital media have been discussed in dance philosophy (see Blades 2015; Davies 2019; McFee 2011: 256-259; Pakes 2020: 221 - 240; Pouillaude 2017: 238 - 244 amongst others). However, recent advances in machine learning have developed new kinds of dance copies. As Elena Cooper points out:

> [P]rior to AI technology, the circumstances in which a performance could be copied, without direct taking from a recording itself, were more limited and confined to human imitation […] By contrast, AI technology today opens a future in which a performance, or aspects of a performance, can be recreated through technology, without direct copying from the recording (Cooper 2023: 445).

While digital recording technologies might seemingly 'fix' the dance, '[c]omputational media, which not only records and archives but also calculates, analyses and models dance, further complicates its ontological status' (Ravetto-Biagioli 2021a: 4).

The app created by Viggle AI uses machine learning to learn movement from a driving video and use it to animate a target image (see Pavis 2020: 8-9 re machine learning and movement). The result is that the person in the image appears to perform the movement from the video. The outcomes produced by Viggle AI are watermarked, so can be identified as AI generated. Chris Rowlands explains that '[t]

he tool is built on JST-1, a 3D model designed to analzye and render realistic character movements based on real-world physics' (Rowlands 2025). Writing about image animation, Aliaksandr Siarohin, Stéphane Lathuilière, Sergey Tulyakov, Elisa Ricci and Nicu Sebe, explain how initial approaches required the model to have 'strong priors' on the target object; however, more recent deep generative models are able to animate objects without prior encounters (Siarohin et al 2019: 1). Siarohin et al describe Monkey-Net as the 'the first object-agnostic deep model for image animation' (1-2). They explain how:

> Monkey-Net encodes motion information via keypoints learned in a self-supervised fashion. At test time, the source image is animated according to the corresponding keypoint trajectories estimated in the driving video (2).

They propose an alternative, 'first order motion model', which combines self-learned keypoints, affine transformations and an 'occlusion aware' generator, 'which adopts an occlusion mask automatically estimated to indicate object parts that are not visible in the source image and that should be inferred from the context' (2). The role of estimation and inference in the process of the model learning and reconstructing the movement from the source or driving video highlights Ravetto-Biagioli's suggestion that, like dance, digital media also resists stability, yet it can 'replicate and generate figures and spaces' (Ravetto-Biagioli 2021a: 4).

Digital processes can reproduce dance movements, but this does not mean that the dance is necessarily fixed or stable. As Matilde Pavis points out:

> AI systems used to generate Deepfakes, or 'Deepfake models', process existing performances by detecting and breaking down the input data into extremely fine data points to learn from and generate a new synthetic performance. The synthetic performance, or Deepfake, is able to imitate the input data without technically copying it, thanks to the deep learning performed by the AI systems (Pavis 2021: 977).

Both Pavis (2021) and Cooper (2023) point to the way that machine learning does not copy the driving content. The process undertaken

by machine learning is more akin to embodied copying than digital recording, as the model makes estimations, transformations and inferences about the movement to recreate it in a new context. There are inevitable variations between the source material and the movement that animates the image, pointing to a continuation of the variability of movement as it replicates via AI.

Highlighting the similarities between embodied and AI copying is not intended to imply they are similar in value or that AI can replace human performers. Describing an early project that used pose estimation techniques to transfer movement from a video to an image, Ravetto-Biagioli describes how 'there is no actual transference of embodied knowledge from person to person' (Ravetto-Biagioli 2021a: 11). While a deep learning model might learn movement, it cannot create the same kind of embodied knowledge that a person gains through the process of copying with their body.

Viggle AI has taken steps to mitigate some of the legal and ethical issues posed by image animation. The company advises that users are not permitted to 'upload any User Content which is defamatory, or misappropriates, infringes, or otherwise violates any rights of any third party (including any moral rights, intellectual property rights or rights of personality, image, publicity or privacy)' (Viggle AI 2025). The Viggle AI site include extensive terms of use that make clear the legal parameters expected of users. However, adhering to them requires an understanding of when content is covered by the relevant rights. As discussed previously in the case of copyright, not all dances are covered, and it is not always clear whether a dance would be covered. For example, short sequences of the kind that the Viggle AI tool lends itself to may not meet the criteria needed for the choreography to be covered by copyright, although the recording might be.[4] Moreover, it is not only the ownership of the dance itself that is at stake, but a dancer's performance of it via their performers' rights (Cooper 2023; Pavis 2020, 2021).

Both performers' rights and copyright are intellectual property rights. However, while performers' rights are at times referred to

as part of copyright, there are important differences that have been foregrounded by the recent developments in AI (Cooper 2023: 444). As Pavis points out (in the quote above), the role of performers' rights is complicated by the way that AI does not produce a copy, in legal terms, but an interpretation of the movement. She explains how this distinction is critical to the potential application of performers' right because, in the UK, '[t]he [Copyright, Designs and Patents] Act does not grant protection against unauthorized *reproductions* of a performance. Instead, the Act controls the *recording* of a performance, and the copy of that recording' (Pavis 2020: 2).

Performers' rights allow performers to consent to a performance being recorded and to control the use of that recording (Pavis 2020: 11). Pavis argues that performers' rights need to be reformed so that reproductions of performances are covered as well as copies (28). The distinction between a copy and a reproduction in Pavis's analysis is key to understanding the role – and required reform – of performers' rights. In dance practice, copying commonly involves variability, so the term 'copy' does not seem to only denote exact replication via recording within dance practice. Machine learning then can be said to produce a kind of dance copy, but the role of variability means it does not constitute a copy in the terms outlined in performers' rights legislation. While performers' rights might be a useful remedy for artists in the context of deepfakes (Pavis 2020, 2021),[5] they require some reform for artists to be suitably supported (Cooper 2023; Pavis 2020, 2021). Furthermore, a non-expert might not know when performers' rights do or do not apply in order to to adhere to the Viggle AI terms of use regarding intellectual property.

4. Concluding Comments

There are many possible reasons that copyright is not often asserted within the dance sector. I suggest that the centrality of copying and influence to dance practice and the implication of copyright with controlling copying might mean it does not resonate with some dance artists. Many of the ways that dances are (re)embodied within

different contexts and might inform future work are unlikely to be in contradiction with copyright law. However, singular authorship the emphasis on the choreographer as the author of the work might seem at odds with some areas of dance practice, including those that are highly collaborative and/or involve authorial input by the performers (Pavis and Wood 2020; Whatley et al 2015).

The nature of the dance copy, whether it is developed from a live encounter, recording or by machine learning, and whether it results in the same dance is key to whether artists can claim legal protection via copyright or performers' rights. This situation demonstrates how questions about the identity of a dance overlap with legal ones and that dance artists wishing to assert their rights in the context of AI require information and support (Luo et al 2025). AI brings new challenges for dance ownership. The type of copy generated by machine learning perhaps seems more akin to the human embodiment of movement than digital recording does, as it involves estimation and adaptation rather than exact replication. This produces a new type of dance copy that circumvents embodiment and raises a multitude of legal, ethical and artistic questions that require further exploration.

Endnotes

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2 Similar apps that animate images in different ways include Diffuse, AI Sway Dance and PixVerse AI Video Generator. While not all dance focused specifically, at the time of writing, searching 'image animation' in the Apple App Store returns over 150 results.

3 During *Moving Online*, we interviewed 17 artists across 15 interviews. Each of the interviewees were based in the UK and worked with dance in different ways. The interviews were conducted by Vipavinee Artpradid and me. They primarily took place over Microsoft Teams. They were semi-structured and lasted approximately one hour. One was a group interview, and one respondent answered questions via email. In this paper, I am not generalising from the data set, but instead drawing on the specific perspectives quoted.

4 Boffone (2021: 76) seems pessimistic about the possibilities of social media dances being protected through the law due to the issues with the definition identified above. On the other hand, Johnson proposes that 'it is likely that at least some of the dance routines created by TikTok users would qualify for copyright protection' (Johnson 2021: 1261).

5 The relationship between dance and deepfakes is being explored by Teoma Naccarato and me through collaborative research. See also Ravetto-Biagioli 2021a.

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