

MOVEMENT MYTHS: WHAT CAN BE OWNED IF DANCES AREN'T REAL?

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INTRODUCTION

- Dance ontology widely explored (eg. Pakes 2020, 2013, Pouillaude 2017, McFee 1993, 2011, 2018, Davies 2011, Van Camp 2006, 2019, 1998, Conroy 2013, Meskin 1999 amongst others)
- Shared position that dances are real
- I explore the view that a dance is is “not a real thing emerging from the practice of choreographers themselves but a fiction constructed and sustained in retrospect” (Pakes 2020: 155)
- Conroy’s “plea for conceptual clarity” (2019)
- “an act of dancing” (OED in Pakes 2020: 1) or “a repeatable entity [...] that can be multiply performed” (Pakes 2020: 1-2)

THE RENEGADE

- Dance challenges (see Johnson 2021, Bench 2020, Oh in Harling et al 2021, Boffone 2021, Davis 2022).
- The *Renegade* was choreographed by Jalaiah Harmon in 2019 and copied by Charli D'Amelio (see Boffone 2021, Sperling 2022, Johnson 2021, Davis 2022)

FICTIONALISM

- Fictionalism and dance (Pakes 2020), “[a]s far as I am aware, no one to date has explicitly developed a fictionalist ontology of dance works specifically” (2020: 153).
- Fictionalism and music (eg. Kania 2012, 2008, Davies 2011: 44-47, Killin 2018, Caldarola 2020).
- “[t]he distinctive claim is that there are no musical works, ideal or otherwise, but that we have thoughts ‘about them’ nonetheless.” (Kania 2012: 442).
- “Rey’s central claim is that ‘standard linguistic entities’ (SLEs), such as phonemes, words, and sentences, are ‘intentional inexistent’.
- What he means by this is that (i) there are no such things, either outside the mind in the concrete or abstract realms, or inside the mind, but that (ii) there is a quite robust shared system of representations of such things.” (Kania 2008: 439, see also Pakes 2020: 153)
- a “robust shared system of representations of such things” (Kania 2008: 439)

COUNTER-ARGUMENTS

- 1) Application to “multiple works in general” (Davies 2011: 46).
- 2) Application to other abstract entities (Davies 2011: 46)
- 3) Doesn’t align with practices (see Killin 2018: 284, Pakes 2020: 156-7)

REVOLUTIONARY VS HERMENEUTIC FICTIONALISM

- Revolutionary fictionalism requires revision of practices (see Kania 2012:211-212, Pakes 2020: 154 - 155, Killin 2018: 276-277)
- Hermeneutic fictionalism implies people are already speaking fictionally (see Kania 2012:211-212, Pakes 2020: 154 - 155, Killin 2018: 276-277, Caldarola 2020)
- “It seems implausible (to me) that in ordinary musical discourse people are not committed to the existence of musical works as distinct entities, that they are already speaking about them fictionally” (2012, 212. See also Killin 2018: 277).

HERMENEUTIC FICTIONALISM AND DANCE

- Fictionalism “has affinities with positions sometimes adopted (typically implied rather than argued explicitly) in dance and performance studies” (Pakes 2020: 155).
- Harmony Bench and Kate Elswitt refer to notions such as “the work”, “the tour” and “the company” as “organizing fictions” (2022: 37).
- Anastasio Koukoutas describes Nijinsky’s famous ballet, *The Rite of Spring* as “a myth that keeps repeating itself, reinventing itself” (2022).

FICTIONALISM AND OWNERSHIP

- Artists of colour have been marginalised from legal protection via Intellectual Property law (Kraut 2016, Boffone 2021: 76-77, Ravetto-Biagioli 2021: 109, Pakes 2020: 182, Johnson 2021: 1236).
- US Copyright law protects “original works of authorship fixed in any tangible medium of expression” (Johnson 2021: 1242).
- In the UK dances must be performable, original and fixed (Whatley et al 2015: 70-71).
- Fixation has been critiqued for its misalignment with dance ontology (see Ravetto-Biagioli 2020: 106, Biagioli-Ravetto and Ravetto- Biagioli 2021: 3-7, Whatley et al 2015, Blades 2021).
- Problems with the distinction between works and social dances/routines
- Copyright seems to see the work as an abstract type manifest through performance tokens (see Hick 2017, Wilson 2010, Blades 2021)
- copyright “appears compatible with an ontology of choreographic works as structures of action- types indicated by choreographer(s) within a given historico- artistic context” (Pakes 2020: 181)
- “what is protected by copyright is not any physical object, but rather an abstract object that may be *embodied* in physical objects” (Hick 2017: 88).

FICTIONALISM AND OWNERSHIP

- The law protects 'works' as abstract objects (Hick 2017: 88), the identity of dances is established via fixed instances of these 'works' (Van Camp 2006, 2019, see also Hick 2017: 14-15).
- Legal cases are rare in dance (Van Camp 2019: 90, Whatley et al 2015: 70)
- Dances often circulate outside of legal structures (see Bench 2020, Kraut 2016, Singer 1984, Blades 2022, DeFrantz 2012, Ravetto-Biagioli 2021, Biagioli-Ravetto and Ravetto-Biagioli 2021, Burt 2017, Boffone 2021, Van Camp 2019, Whatley et al 2015)

OWNERSHIP STATEMENTS

- Tripartite claim:
 - 1) there is such a thing as this dance,
 - 2) I created it
 - 3) it belongs to me.

“I was happy when I saw my dance all over, but I wanted credit for it”
(Harmon in Lorenz 2020, see also Boffone 2021: 21).

- Internal statements (IS)
- External statements (ES)
- Ontological statements (OS)

Killin (2018: 277-283)

“QUINEAN TRILEMMA”

- 1.) Change the statement through paraphrasing. Eg. ‘I was happy when I saw re-embodiments of my performance (my dance), all over, but I wanted credit for the performance (it)’.
- 2) Stop talking about dances, which would require an unrealistic and unnecessary change in practices.
- 3.) Accept the existence of dances

(Killin 2018: 274)

SUMMARY

- “one can disclaim unwanted ontological commitments to suspicious or dubious entities [...] by putting forward statements in a fictionalistic light” (Killin 2018: 275).
- Harmon’s statement does not commit her to the existence of her dance
- Assertions of ownership depend upon maintaining the fiction of the dance
- Fictional speak can assert ownership

- Bench, H. (2020) *Perpetual Motion: Dance, Digital Cultures, and the Common*. Minneapolis, London: University of Minnesota Press
- Bench, H. and Elswit, K. (2022) 'Visceral Data for Dance Histories: Katherine Dunham's People, Places, and Pieces,' *TDR*, 66(1): 37-61
- Biagioli-Ravetto, M. and Ravetto-Biagioli, K. (2022) 'Riffing off Intellectual Property in Contemporary Dance,' *International Journal of Cultural Property*, 29(2), 1-16
- Blades, H. (2022) 'Ownership, Ontology, and the Contemporary Dance Commons.' *International Journal of Cultural Property*, 29(2), pp.123-140.
- Boffone, T. (2021) *Renegades: Digital Dance Cultures from Dubsmash to TikTok*. New York: Oxford University Press
- Burt, R. (2017) *Ungoverning Dance: Contemporary European Theatre Dance and the Commons*. London, New York: Oxford University Press
- Caldarola, E. (2020) 'Methodology in the Ontology of Artworks: Exploring Hermeneutic Fictionalism' in Falguera, J. L. Martínez-Vidal, C. (eds.), *Abstract Objects*, Synthese Library, Cham: Springer, 319-337
- Conroy, R. (2013) 'The Beat Goes On: Reconsidering Dancework Identity' in Bunker, J., Pakes, A. and Rowell, B. (eds.) *Thinking Through Dance: The Philosophy of Dance Performance and Practice*. Hampshire: Dance Books, pp.102- 126
- Conroy, R. (2019) 'Dances, Danceworks, and Choreographic Works: A Plea for Conceptual Clarity,' *Midwest Studies in Philosophy*, 44: 7-20
- Davies, D. (2011) *Philosophy of the Performing Arts*. Sussex: Wiley-Blackwell
- Davis, C. (2022) "Digital Blackface and the Troubling Intimacies of TikTok Dance Challenges" in Boffone, T (ed.) *TikTok Cultures in the United States*. Oxon: Routledge, 28-38.
- DeFrantz, T. (2012) 'Unchecked Popularity: Neoliberal Circulations of Black Social Dance' in Nielsen, L. and *Neoliberalism and Global Theatres*. Hampshire: Palgrave Macmillan, London , 128-140
- Harlig, A., Abidin, C., Boffone, T., Bowker, K., Eloi, C., Krayenbuhl, P. and Oh, C. (2021) 'Tik Tok and Short-Form Screendance Before and After Covid', *International Journal of Screendance*, 12 (21): 190 – 209
- Hick, D. H. (2017) *Artistic License: The Philosophical Problems of Copyright and Appropriation*. Chicago and London: The University of Chicago Press
- Johnson, A. (2021) 'Copyrighting Tik Tok Dances: Choreography in the Digital Age', *Washington Law Review*, 96 (3): 1225 – 1274
- Kania, A. (2012) 'Platonsim vs. Nominalism in Contemporary Musical Ontology', Uidhir, C. M. (ed.) *Art and Abstract Objects*, Oxford: Oxford University Press
- Kania, A. (2008) 'The Methodology of Musical Ontology: Descriptivism and its Implications', *The British Journal of Aesthetics*, 48(4): 426-444.
- Killin, A. (2018) 'Fictionalism About Musical Works.' *Canadian Journal of Philosophy*, 48(2): 266-291

- Koukoutas, A. (2022) 'Out of Spring: A messy Archive to Reconceptualize the Multiple Narratives Surrounding "The Rite of Spring"', *Medium* [online] (accessed 15.12.2023)
- Kraut, A. (2016) *Choreographing Copyright: Race, Gender, and Intellectual Property Rights in American Dance*. London, New York: Oxford University Press
- Lorenz, T. (2020) 'The Original Renegade: A 14-year-old in Atlanta created one of the biggest dances on the internet. But nobody really knows that,' *The New York Times* [online] 9accessed 15.12.2023)
- McFee, G. (1992) *Understanding Dance*. London: Routledge.
- McFee, G. (2011) *The Philosophical Aesthetics of Dance: Identity, Performance and Understanding*. Hampshire: Dance Books.
- McFee, G. (2018) *Dance and the Philosophy of Action: A Framework for the Aesthetics of Dance*' Hampshire: Dance Books
- Meskin, A. (1999) "Productions, Performances and their Evaluation," in McFee, G. (ed). *Dance, Education and Philosophy*, Oxford: Meyer and Meyer Sport, 45– 62
- Pakes, A. (2013) 'The Plausibility of a Platonist Ontology for Dance' in Bunker, J., Pakes, A. and Rowell, B. (eds.) *Thinking Through Dance: The Philosophy of Dance Performance and Practice*. Hampshire: Dance Books, 84-101
- Pakes, A. (2020) *Choreography Invisible: The Disappearing Work of Dance*. New York: Oxford University Press
- Pouillaude, F. (2017) *Unworking Choreography: The Notion of the Work in Dance*. Translated by Pakes, A. New York: Oxford University Press.
- Ravetto-Biagioli, K. (2021) 'Whose Dance Is It Anyway?: Property, Copyright and the Commons,' *Theory, Culture & Society*, 38(1), pp.101-126.
- Singer, B. (1984) 'In Search of Adequate Protection for Choreographic Works: Legislative and Judicial Alternatives versus the Custom of the Dance Community,' *University of Miami Law Review* 38, no. 2: 287–319.
- Sperling, J. (2022) 'From The Serpentine to The Renegade: Milestones in Dance and Media Technology' in McPherson, E. (ed.) *Milestones in Dance in the USA*. Oxon, New York: Routledge, 235-259.
- Whatley, S., Waelde, C., Brown, A. and Harmon, S. (2015) 'Validation and Virtuosity: Perspectives on Difference and Authorship/Control in Dance,' *Choreographic Practices*, 6(1): 59-83
- Wilson, J. (2010) 'Ontology and the Regulation of Intellectual Property' *The Monist*, 93 (3): 450-463
- Van Camp, J. (1998) 'Ontology of Dance' in Kelly, M. (ed) *Oxford Encyclopaedia of Aesthetics*, Oxford: Oxford University Press, 399–402
- Van Camp, J. (2006) 'A Pragmatic Approach to the Identity of Works of Art,' *The Journal of Speculative Philosophy*, 20(1): 42-55.
- Van Camp, J (2019) 'Identity in Dance: What Happened?' *Midwest Studies in Philosophy*, 44: 81-91
- Yablo, S. (2001) "Go Figure: A Path Through Fictionalism", *Midwest Studies in Philosophy*, 25 (1): 72–102.