

Date	February 28, 2012	Court	Tokyo District Court, 47th Civil Division
Case number	2008 (Wa) 9300		
– A case in which the court denied copyrightability in the dance arrangements used in the dance scenes of a film titled “Shall We Dance?”			

X designed social dance arrangements used in the dance scenes of a famous film titled “Shall We Dance?” (the “Film”), instructed the actors and actresses about how to perform the dance arrangements, and he/she appeared in the Film as a dancer. X, while asserting that his/her dance arrangements used in the Film (the “Dance Arrangements”) involved creativity and therefore he/she had a copyright for these arrangements, alleged that Y, who had succeeded to the status of the company managing the production committee of the Film, infringed X’s copyright for the Dance Arrangements (the right of reproduction, right of screen presentation, right of public transmission, and right of distribution) by carrying out the secondary use of the arrangements through the sale and rental of the videogram of the Film, the television broadcast of the Film and other forms of use without X’s authorization. Accordingly, X sought against Y tort damages as a principal claim (under Article 709 of the Civil Code) and return of unjust enrichment as an alternative claim (under Article 703 of the same Code).

The biggest point at issue in this case was whether or not the Dance Arrangements could be found to be copyrightable. X argued that a social dance arrangement is creation of a sequence of dance moves by choosing basic steps and combining them, and that the Dance Arrangements designed by X were creative and copyrightable in terms of such choice and combination of basic steps. Against these arguments, Y contended that as basic steps of a social dance have already become generalized and common, a dance arrangement designed by making some variations to such steps or combining them as appropriate does not involve creativity and therefore the Dance Arrangements cannot be found to be copyrightable.

On this point, the court held as follows. A social dance arrangement is creation of a sequence of dance moves by combining basic steps and other existing steps such as Popular Variation (PV) steps and making some variations to them. It is appropriate to construe that, in order to establish copyrightability in a social dance arrangement containing such a combination of the existing steps as its basic structure, the dance arrangement must have outstanding features and originality beyond the level of a mere combination of the existing steps. If the required level of originality of a dance arrangement is lowered and any combination of steps were to be found copyrightable if only it has some features, copyrights would be created for countless dance

arrangements which are only slightly different and only a particular person would be allowed to exclusively use these arrangements. This would lead to an unreasonable consequence that the degree of freedom in arranging dances would be extremely limited. Based on these holdings, the court denied copyrightability in the Dance Arrangements, stating that these arrangements cannot be found to have outstanding features to the extent that they would be recognized as an original social dance arrangement, and dismissed X's claims.

Judgment rendered on February 28, 2012

The original received on the same day court clerk

2008 (Wa) 9300 Case of seeking compensation for damage

Date of conclusion of oral argument October 18, 2011

Judgment

Plaintiff

A

Successor of the litigation to Kadokawa Pictures, Inc.

Defendant

Kadokawa Corporation

Supporting intervener of the Defendant

Altamira Pictures, Inc

Main text

1 All of the plaintiff's claims shall be dismissed.

2 The plaintiff shall bear the court costs.

Facts and reasons

I Claim

The defendant shall pay to the plaintiff 52,762,500 yen and the amount accrued thereon at the rate of 5% per annum for the period from April 19, 2008, to the date of completion of the payment.

II Outline of the case

This is a case in which the plaintiff who claims that he designed social dance arrangements used in the dance scenes of a film titled "Shall We Dance?" alleged that the defendant infringed the plaintiff's copyright for the plaintiff's dance arrangements (the right of reproduction, right of screen presentation, right of public transmission, and right of distribution) by carrying out the secondary use of the arrangements through the sale and rental of the videogram of the film, the television broadcast of the film, and other forms of use by the defendant, and the plaintiff sought against the defendant compensation for damage as a principal claim under Article 709 of the Civil Code and return of unjust enrichment as an alternative claim under Article 703 of the same Code.

1 Basic facts (Other than the facts for which exhibits are presented, no facts are disputed between the parties.)

(1) The plaintiff created dance arrangements and instructed how to perform them in the movie "Shall We Dance?" (hereinafter referred to as the "Film") released in Japan on January 27, 1996 and he also appeared in the Film as a dancer.

Daiei Motion Picture Company set up a production committee together with Nippon Television Network Corporation, Hakuhodo Inc. and Nippon Shuppan Hanbai Inc. to produce the Film and was a lead arranger of the production committee which has the copyright of the Film. Daiei Motion Picture Company was later reorganized into Kadokawa Pictures, Inc., which was taken over by the defendant on January 1, 2011 (hereinafter referred to as the "defendant" before and after the reorganization and the merger of the company).

(2) The defendant outsourced the production of the Film to the defendant's supporting intervener and the representative B of the defendant's supporting intervener (hereinafter referred to as the representative of the "defendant's supporting intervener"), who was a producer of the Film, requested the plaintiff to participate in the production of the Film and the plaintiff participated in the production of the Film.

(3) The plaintiff created the dance arrangements used in the dance scenes of the Film and instructed the actors and actresses how to perform the dance arrangements (Exhibits Ko 20, 25, the plaintiff himself, witness B).

(4) "Dance director/choreographer A" appears in the end credits of the Film.

(5) The defendant released the Film in Japan on January 27, 1996.

Subsequently, around September 1996 the rental of videotapes of the Film started, and around January 1997 the sale of videotapes of the Film started. Also, around December 1996 the sale of laser discs of the Film started.

Further, the Film was aired in March 1997 over the national network of Nippon Television Network Corporation and after that it was repeatedly broadcasted over the air. The Film was made available for the secondary use including flight and bus entertainment and satellite broadcasting such as BS and CS broadcasting and video-on-demand distribution. Even now, such secondary use has been continued.

(6) The defendant has never sought the plaintiff's authorization for the secondary use of the Film and has never paid for the secondary use of the film.

(7) The plaintiff instituted the litigation against the defendant on April 7, 2008.

2 Points at issue

(1) Whether or not the dance arrangements of the Film could be found to be copyrightable and it could be said that the dance arrangements are reproduced in the Film (point at issue 1)

- (2) Whether or not the plaintiff corresponds to a so-called classical author and is entitled to exercise copyright on the secondary use of the Film (point at issue 2)
- (3) Whether or not the plaintiff understood that he was not entitled to receive the secondary use fee of the Film (point at issue 3)
- (4) Whether or not the plaintiff's exercise of the right is extremely unjust (point at issue 4)
- (5) Plaintiff's damage (point at issue 5)

(omitted)

III Determination of the points at issue

1 Point at issue 1 (Whether or not the dance arrangements of the Film could be found to be copyrightable and it could be said that the dance arrangements are reproduced in the Film)

(1) According to the exhibits (Exhibits Ko 2, 4 to 8, 12, 18, 20 to 22, 25, 26, 29, 34 (1 and 2 (including branch numbers)), 37, 40, Hei 1 (1 to 14 (including branch numbers)), 2 (1 to 4), 4, 9 to 18, 24 to 26, 29, 33, 35, 36, and 45 to 47, Witness B, plaintiff himself) and the entire import of the oral argument, the following facts are found.

A Social dance is a concept that includes competitive dance and party dance (dances performed at dance parties). Competitive dance is a sport performed by appropriately and freely combining dance steps (which refers to a combination of two or more footsteps. In the terminology of social dance, the term "step" can be replaced with "figger" or "figure," but hereinafter the term "step" is used based on the arguments of the parties concerned.), and participants compete in the levels of the skills. Competitive dance consists of five modern (also referred to as standard) dances (Waltz, Tango, Slow Foxtrot, Quickstep, and Viennese Waltz) and five Latin dances (Cha Cha Cha, Samba, Rumba, Paso Doble, and Jive). Party dance is a style of dance performed impromptu at parties and is in principle performed by combining basic steps. Blues, Square Rumba, Mambo, Jitterbug, and other styles of dance are included in the party dances.

Social dance contains various steps. The basic steps of the social dance are shown in "The Ballroom Technique" (Exhibit Hei 9), which is a textbook of social dancing and is published by Imperial Society of Teachers of Dancing (hereinafter referred to as "ISTD") and the textbooks (Exhibits Hei 11, 12, etc.) of the respective Latin categories, which are supervised by the Latin American Dance Committee of ISTD (The steps shown in these social dance textbooks (hereinafter simply referred to

as the "text books") are hereinafter referred to as the "basic steps").

Apart from the basic steps, numerous steps have come to be used generally and widely at medal tests, competitions, and demonstrations. Part of these steps are shown in "Popular Variation" (Exhibit Hei 10) written by D who is a former president of ISTD (The steps shown in Popular Variation are hereinafter referred to as "PV steps") and there are many more steps that are not shown in Popular Variation.

In principle, social dance is performed by freely combining existing steps such as the basic steps and PV steps, but in competitive dance, adjustments are generally made to the various elements of the basic steps and it is also general practice that the basic steps of a certain category are used beyond the category. In addition, based on the moves of the other styles of dance, new steps and body moves which are not found in the existing steps are also incorporated.

Choreography of social dance means creating dance having a flow by selecting and combining these existing steps and making appropriate adjustment to them.

B The plaintiff designed the dance arrangements used in the dance scenes of the Film. How to perform these dance arrangements was instructed by the plaintiff himself or by way of other dance instructors. The actors performed these dance arrangements in their respective dance scenes.

C The theme of the Film is amateur social dancing. The images relating to the dance arrangements designed by the plaintiff appear in a scene of a dance room lesson (Annexes marked 15, 16, 21), a scene of a dance party at a dance circle (Annexes marked 18 to 20), a dance scene at a dance hall (Annex marked 17), a scene of amateur dance competition (Annexes marked 5 to 14), a competition scene at Black Pool (Annexes marked 3, 4) and a dance party scene at a dance hall (Annexes marked 1, 2).

(2) Copyrightability of the dance arrangements of social dance

A As described above in (1) A, in principle, social dance is performed by freely combining the existing steps such as the basic steps and PV steps. The existing steps such as the basic steps and PV steps are very short and are generally used and extremely common in social dance. Accordingly, they cannot be found to be copyrightable. In light of the facts that it is also general practice to make adjustment to the various elements of the basic steps and that it can be said that the basic steps are very short and common, as described above, the steps that can be recognized as the basic steps even after the adjustment is made are regarded as falling under the category of the basic steps and being common and cannot be found to be copyrightable. In the choreography of social dance, new steps and body moves that are not found in the existing steps may be incorporated, as described in (1) A, but it can be said that these

new steps and body moves are only short ones which can be combined with the existing steps and constitute part of the entire dance arrangements of social dance. Finding such short body moves copyrightable and granting a specific person its monopoly could excessively restrain human body moves, which should basically be free, and are not proper.

As stated so far, it should be said that the individual steps and body moves that are components of the dance arrangements of social dance cannot be found to be copyrightable.

B As described above in (1) A, choreography of social dance can be defined as combining the existing steps such as the basic steps and PV steps and appropriately making adjustment so as to create dance having a flow. It is appropriate to construe that, in order to establish copyrightability in a social dance arrangement containing such a combination of the existing steps as its basic structure, the dance arrangement must have outstanding features and originality beyond the level of a mere combination of the existing steps. The reason for the foregoing statement is that, to begin with, it is premised that social dance is performed by appropriately and freely combining the existing steps. Given that social dance is widely enjoyed by not only competitors but also general amateurs, if the required level of originality of a dance arrangement is lowered and any combination of steps were to be found copyrightable if only it has some features, copyrights would be created for countless dance arrangements which are only slightly different and only a particular person would be allowed to exclusively use these arrangements. This would lead to an unreasonable consequence that the degree of freedom in arranging dances would be extremely limited. It should be said that this holds true even in the case where in addition to the combination of the existing steps, adjustment is made to the steps and the new steps and body moves that are not found in the existing steps are combined.

C Based on the foregoing, the copyrightability of the dance arrangements is determined below.

(3) Whether or not the dance arrangements marked 1 to 21 or the portions of the dance arrangements marked 1 to 21 found to be reproduced in the Film can be found to be copyrightable

A Dance arrangement marked 1

The dance arrangement marked 1 consists of a sequence of Quickstep [i] Quarter Turn to Right, [ii] Progressive Chasse, [iii] Forward Lock twice, [iv] the first half of Natural Turn, [v] Back Whisk, and next, Jitterbug, [vi]Basic Step, [vii] Change of Place Right to Left, [viii] Change of Place Left to Right, [ix] Change of

Hands, [x] Link, and back to [i] (Incidentally, the "individual description of the dance arrangements" in the annex marked 1 describes "Quarter Turns" with respect to [i] and [ii] above, but the term "Quarter Turns" refer to the same as the combination of "Quarter Turn to Right" and "Progressive Chasse" (Exhibit Ko 37).).

According to the exhibits (Exhibits Ko 6, 22, Hei 4, 9, 14, 45), it is found that each of the Quickstep [i] to [v] consists of the basic steps and their sequence is a common sequence shown in the textbooks and each of Jitterbug [vi] to [x] consists of the basic steps and their sequence is also common.

Further, according to the exhibits (Exhibits Hei 4, 14), it is found that Jitterbug is performed to the pieces of music for Quickstep and those dancing Quickstep often move to Jitterbug.

According to the foregoing, the dance arrangement marked 1 simply combines the common sequence of Quickstep with the common sequence of Jitterbug. Given that combining Quickstep with Jitterbug is also common, it should be said that, even though focus is given to the entire dance arrangement marked 1, it cannot be said that the dance arrangement marked 1 has outstanding features to the extent that it would be recognized as an original social dance arrangement.

Hence, the dance arrangement marked 1 cannot be found to be copyrightable.

Incidentally, the plaintiff contends that the dance arrangement marked 1 expresses the beauty of formation dance. However, the same dance simultaneously performed by a number of pairs falls under the category of ideas and it should be said that, even though the plaintiff designed the dance arrangement marked 1 which cannot be found to be copyrightable, as described above, as the dance arrangement simultaneously performed by a number of pairs, it cannot be said that originality is caused.

B Dance arrangement marked 2

(A) The dance arrangement marked 2 consists of the following sequence: [i] a variation of side chasse in which while changing sway, the partners switch each other's positions and make a 180-degree turn and skips sideways ("individual description of the dance arrangements" (1) in the annex marked 2), [ii] The man holds the woman and lets the woman's upper body bend backward and puts her left leg around his right leg and he repeats the movement of swinging her upper body sideways several times and raising her upper body held by him (ibid (2) to (6)), [iii] The man and the woman put each other's jaw on the each other's right shoulder and simultaneously raise their left legs and right arms and perform the movement twice as if they were marionettes and next they simultaneously raise their right legs and left arms and perform the

movement in the same posture twice (ibid (7) to (10)), [iv] The man and the woman take a side by side position and move forward four steps and while advancing they put their weight on one leg and put their opposite side leg to the side and extend forward their arms and fingers on the side of the put leg (ibid (11) to (13)), [v] On the fourth step in /4/ described above, the man grabs the woman's left hand with his right hand and while making her turn around, he makes her spin and move to his left and makes her fall down and supports her with his left arm and further the man makes the woman go under his left leg from the direction of his toe and guides her as if to wrap her with his left hand and the woman who went under the man's leg raises her upper body and takes a signature pose and in conjunction with her pose he puts his arms on his right knee and takes a signature pose (ibid (14) to (17)).

(B) a According to the exhibits (Exhibits Hei 4, 14, 37 to 40, 46), [i] is found to be a step obtained by adding adjustment of sway and rotation to Side Chasse which is a basic step.

b According to the exhibits (Exhibits Hei 4, 14, 22, 37 to 40), it is found that of the dance arrangement of [ii] above, the movement in which the man holds the woman and turns the woman's upper body bent backward from side to side is a move used often at competitions by other athletes. In the dance arrangement of [ii] above, this movement is repeated a few times, but also considering that the movement itself is simple, it cannot be said that this arrangement is found to have outstanding features to the extent that it would be recognized as an original dance arrangement.

c Considering that the dance arrangement of [iii] above consists of simple movements of legs and arms and that the length of the dance arrangement is short, it cannot be said that this arrangement is found to have outstanding features to the extent that it would be recognized as an original dance arrangement.

d According to the exhibits (Exhibits Ko 18, Hei 4, 14, 37 to 40), it is found that the dance arrangement of [iv] above is a common movement that is often used by other athletes as well.

e According to the exhibits (Exhibits Hei 4, 14, 37 to 40), it is found that the dance arrangement of [v] above is a common movement that is often used by other athletes as well.

(C) As described in (A) and (B) above, the dance arrangement marked 2 consists of the portions [i] to [v] above. These portions represent a step obtained by simply adding mere arrangement to a basic step ([i] above), and simple movements that cannot be said to have outstanding features ([ii] and [iii] above) and common movements and a combination thereof ([iv] and [v] above). None of them is

recognized as an original dance arrangement. In addition, the dance arrangements [i] to [iii] above and [iv] and [v] above are not continuous dance arrangements and the length of each of them is short. Considering this, it should be said that even though focus is given to the entire dance arrangement marked 2, it cannot be said that this arrangement is found to have outstanding features to the extent that it would be recognized as an original social dance arrangement.

Hence, the dance arrangement marked 2 cannot be found to be copyrightable.

C Dance arrangement marked 3

(A) Of the dance arrangement marked 3, with reference to the portions (1) to (5) and the portions (17) to (34) of the "individual description of the dance arrangements" in the annex marked 3, the images of the Film show only the actors' upper bodies and do not display their lower bodies including their footwork. Therefore, it cannot be said that the above portions of the dance arrangement marked 3 are reproduced in the Film.

Accordingly, the court reviews below whether or not of the dance arrangement marked 3, the dance arrangement of the portions (6) to (16) of the "individual description of the dance arrangements" in the annex marked 3 which are found to be reproduced in the Film can be found to be copyrightable.

(B) The dance arrangement of the portions (6) to (16) consists of a sequence of [i] a repetition of Telespin and [ii] Throwaway Oversway. According to the exhibits (Exhibits Hei 4, 10, 14, 18), it is found that both [i] and [ii] are composed of PV steps and their sequences are common. Therefore, this dance arrangement cannot be recognized as an original dance arrangement.

Hence, the dance arrangement of the portions (6) to (16) cannot be found to be copyrightable.

D Dance arrangement marked 4

The dance arrangement marked 4 consists of a sequence of [i] Scissors, [ii] Side Chasse, [iii] Back Lock and Running Finish, [iv] Natural Turn, [v] Pivot, [vi] Oversway [vii] Back Lock and Running Finish, and [viii] Quick Open Reverse.

According to the exhibits (Exhibits Hei 4, 9, 14, 15, 46), it is found that each of [i] to [viii] is simply a basic step and a somewhat adjusted basic step or an existing common step and the sequences of [iii] and [iv] and those of [vii] and [viii] above are found to be common sequences shown in the textbooks. It should be said that considering this, even though focus is given to the entire dance arrangement marked 4, it cannot be said that this arrangement is found to have outstanding features to the extent that it would be recognized as an original dance arrangement.

Hence, the dance arrangement marked 4 cannot be found to be copyrightable.

E Dance arrangement marked 5

(A) Of the dance arrangement marked 5, with reference to the portions (1) to (13) of the "individual description of the dance arrangements" in the annex marked 5, the images of the Film show only the actors' upper bodies or a part thereof and hardly display most parts of their body movements. Therefore, it cannot be said that the above portions of the dance arrangement marked 5 are reproduced.

Accordingly, the court examines below whether or not of the dance arrangement marked 5, the dance arrangement of the portions (14) to (27) of the "individual description of the dance arrangements" in the annex marked 5 which is found to be reproduced in the Film can be found to be copyrightable.

(B) The dance arrangement of the portions (14) to (27) consist of a sequence of [i] Natural Weave, [ii] Tipple Chasse, [iii] Left Whisk, [iv] Standing Spin, and [v] Lilt.

According to the exhibits (Exhibits Hei 4, 9, 14, 18, 46), it is found that each of [i] to [iii] is a basic step and [iv] is a PV step and [v] is a frequently used existing step and that the sequences of [iii] and [iv] are common sequences. It should be said that considering this, even though focus is given to the entire dance arrangement in the portions (14) to (27), it cannot be said that this arrangement is found to have outstanding features to the extent that it would be recognized as an original social dance arrangement.

Hence, the dance arrangement in the portions (14) to (27) cannot be found to be copyrightable.

F Dance arrangement marked 6

(A) Of the dance arrangement marked 6, with reference to the portions (20) to (85) of the "individual description of the dance arrangements" in the annex marked 6, the images of the Film show only the actors' upper bodies and do not display their lower bodies including their footwork. Therefore, it cannot be said that the above portions of the dance arrangement marked 6 are reproduced in the Film.

Accordingly, the court examines below whether or not of the dance arrangement marked 6, the arrangement of the portions (1) to (19) of the "individual description of the dance arrangements" in the annex marked 6 which are found to be reproduced in the Film can be found to be copyrightable.

(B) The dance arrangement of the portions (1) to (19) consists of a sequence of [i] Fallaway Reverse and Slip Pivot, [ii] Telespin, and Throwaway Oversway.

According to the exhibits (Exhibits Hei 4, 9, 10, 14, 18), it is found that [i] is a basic step and [ii] and [iii] are PV steps and that the sequences of [ii] and [iii] are common sequences. Therefore, it should be said that the dance arrangement of the

portions (1) to (19) is common as a whole and that it cannot be said that this arrangement is found to have outstanding features to the extent that it would be recognized as an original social dance arrangement.

The plaintiff asserts that the movement performed at the beginning of the dance arrangement as if the actors run into the center of the floor is a movement of surprise that nobody would perform. However, according to the exhibits (Exhibits Hei 4, 14), it is found that advancing toward the center at the beginning of the dance arrangement is a movement ordinarily performed even at competitions. Consequently, the plaintiff's assertion is unjustifiable.

Hence, the dance arrangement of the portions (1) to (19) cannot be found to be copyrightable.

G Dance arrangement marked 7

(A) Of the dance arrangement marked 7, with reference to the portions (1) to (9) of the "individual description of the dance arrangements" in the annex marked 7 the images of the Film show only a portion of the actors, mainly their faces, and hardly display most parts of their body moves. Therefore, it cannot be said that the above portions of the dance arrangement marked 7 are reproduced in the Film.

The court examines below whether or not of the dance arrangement marked 7, the dance arrangement of the portions (10) to (12) of the "individual description of the dance arrangements" in the annex marked 7 which are found to be reproduced in the Film can be found to be copyrightable.

(B) The dance arrangement of the portions (10) to (12) is composed of a PV step, Traveling Contra Check (Exhibit Hei 18) and since this is only an existing common step, this dance arrangement cannot be recognized as an original dance arrangement.

Hence, the dance arrangement of the portions (10) to (12) cannot be found to be copyrightable.

H Dance arrangement marked 8

(A) Of the dance arrangement marked 8, with reference to the portions (1) to (3), the portions (17) to (23), and the portions (43) to (82) of the "individual description of the dance arrangements" in the annex marked 8, the images of the Film focus only on the actors' upper bodies and do not display their lower bodies including their footwork. With reference to the portions (24) to (27), the images of the Film show only the actors' feet and do not display any moves of their upper bodies, and with reference to the portions (28) to (30), in the images of the Film other dancers cut across in front of the actors performing the above dance arrangement and their body movements are not sufficiently shown. Therefore, it cannot be said that of the dance arrangement

marked 8, the above portions are reproduced in the Film.

The court examines below whether or not of the dance arrangement marked 8, the dance arrangement of the portions (4) to (16), (31) to (42), and (83) of the "individual description of the dance arrangements" in the annex marked 8 which are found to be reproduced in the Film can be found to be copyrightable.

(B) Dance arrangement of the portions (4) to (16)

The dance arrangement of the portions (4) to (16) consists of a sequence of [i] Quick Chasse, [ii] Scissors, [iii] Hop, [iv] Side Chasse, [v] Quick Back Lock, and [vi] Running Finish.

According to the exhibits (Exhibits Hei 4, 9, 14, 46), it is found that each of [i] to [vi] is a basic step and an existing common step and slightly adjusted basic or existing steps, and that the sequences of [v] and [vi] are common sequences shown in the textbooks and the sequences of [iii] and [iv] are not new, either. It should be said that considering this, even though focus is given to the entire dance arrangement of the portions (4) to (16), it cannot be said that this arrangement is found to have outstanding features to the extent that it would be recognized as an original social dance arrangement.

Hence, the dance arrangement of the portions (4) to (16) cannot be found to be copyrightable.

(C) Dance arrangement of the portions (31) to (42)

The dance arrangement of the portions (31) to (42) consists of a sequence of [i] variation of Oversway, [ii] Three Swaychange, [iii] Stutter Lock, [iv] Kangaroo Hop, [v] Quick Forward Lock, and [vi] Natural Turn.

According to the exhibits (Exhibits Hei 4, 9, 14, 18, 46), it is found that each of [i] to [vi] is a basic step and a slightly adjusted basic step or a PV step or an existing common step and that the sequences of [v] and [vi] are common sequences shown in the textbooks. It should be said that considering this, even though focus is given to the entire dance arrangement of the portions (31) to (42), it cannot be said that this arrangement is found to have outstanding features to the extent that it would be recognized as an original social dance arrangement.

Hence, the dance arrangement of the portions (31) to (42) cannot be found to be copyrightable.

(D) The dance arrangement of the portion (83) is a signature pose consisting of variation of Oversway, but this is merely a portion of an adjusted basic step (Exhibits Hei 9, 14) and cannot be recognized as an original dance arrangement. Hence it cannot be found to be copyrightable.

I Dance arrangement marked 9

(A) Of the dance arrangement marked 9, with reference to the portions (3) to (7) and (12) to (20) of the "individual description of the dance arrangements" in the annex marked 9, the images of the Film show only the actors' upper bodies and do not display their lower bodies including their footwork. Therefore, it cannot be said that the above portions of the dance arrangement marked 9 are reproduced in the Film.

Accordingly, the court examines below whether or not of the dance arrangement marked 9, the arrangement of the portions (1) and (2) and (8) to (11) of the "individual description of the dance arrangements" in the annex marked 9 which are found to be reproduced in the Film can be found to be copyrightable.

(B) Dance arrangement of the portions (1) and (2)

In the dance arrangement of the portions (1) and (2), the man jumps and changes the direction of his body by 180 degrees and the woman moves around the man and comes in front of the man with her back facing to the man.

According to the exhibits (Exhibits Hei 37 to 40), it is found that of the dance arrangement, starting a performance after jumping and landing is frequently performed in Paso Doble. It should be said that considering that the length of the above dance arrangement is extremely short and the other moves are also simple, it cannot be said that this arrangement cannot be found to have outstanding features to the extent that it would be recognized as an original social dance arrangement.

Therefore, the dance arrangement of the portions (1) and (2) cannot be found to be copyrightable.

(C) Dance arrangement of the portions (8) to (11)

The dance arrangement of the portions (8) to (11) comprises [i] variation of flamenco tap in which the man raises both his hands up and stamps the floor with both his feet as quickly as possible and the woman stamps the floor using her right leg as an axis and putting her left leg forward and finally the man and woman put their left legs quite forward and stamp the floor, [ii] the man and the woman turn around to the right on the spot and [iii] repeat the moves of [i] again.

Flamenco tap itself is a basic step (Exhibit Hei 36) and the dance arrangement of [i] is its variation and consists of a simple movement; i.e., moving one's feet quickly on the spot. The movement of stamping the floor by having the last foot step in [i] is a movement that is performed frequently in Paso Doble (Exhibits Hei 37, 38, 40). The dance arrangement of the portions (8) to (11) consists of repeating the movement of [i] after the simple movement; i.e., the man and the woman turning around on the spot ([ii]) after [i]. As explained so far, the dance arrangement of

the portions (8) to (11) consists of the simple movement based on the basic step and the movement performed frequently in Paso Doble. It should be said that considering that the entire length is short, it cannot be said that this arrangement can be found to have outstanding features to the extent that it would be recognized as an original social dance arrangement.

Hence, the dance arrangement of the portions (8) to (11) cannot be found to be copyrightable.

J Dance arrangement marked 10

In the dance arrangement marked 10, the images of the Film show only the actors' upper bodies and do not display their lower bodies including their footwork. Therefore, it cannot be said that the dance arrangements marked 10 are reproduced in the film.

K Dance arrangement marked 11

(A) Of the dance arrangement marked 11, with reference to the portions (1) to (13) and the portions (22) and (23) in the "individual description of the dance arrangements" in the annex marked 11, the images of the Film show only the actors' upper bodies and do not display their lower bodies including their footwork. Therefore, it cannot be said that the above portions of the dance arrangement marked 11 are reproduced in the Film.

Accordingly, the court examines below whether or not of the dance arrangement marked 11, the dance arrangement of the portions (14) to (21) and (24) to (29) in the "individual description of the dance arrangements" in the annex marked 11 which are found to be reproduced in the Film can be found to be copyrightable.

(B) Dance arrangement of the portions (14) to (21)

The dance arrangement of the portions (14) to (21) consists of a sequence of [i] Spanish Line and [ii] cooed peak. It should be said that according to the exhibits (Exhibits Hei 4, 11, 14), each of the [i] and [ii] is found to be a basic step, and therefore, it cannot be said that this arrangement can be found to have outstanding features to the extent that it would be recognized as an original social dance arrangement.

Hence, the dance arrangement of the portions (14) to (21) cannot be found to be copyrightable.

(C) Dance arrangement of the portions (24) to (29)

The dance arrangement of the portions (24) to (29) consists of a sequence of the following movements: [i] The man and the woman put their held right hands up and they hold their left hands underneath [ii] while holding the hands, the man guides the woman behind him and in that state the man puts his held left hand up and [iii]

when the woman is guided behind him, the man bends his right leg and stoops, makes his back parallel to the ground, and the woman takes a signature pose by climbing on to his back facing forward and lifting her right leg.

It should be said that considering that this dance arrangement comprises a sequence of moves from [i] to the signature pose in [iii] and that the length of the entire dance arrangement is extremely short and the movements of the dance arrangement are simple (the man guides the woman behind him and the woman climbs on to his back), it cannot be said that this arrangement can be found to have outstanding features to the extent that it would be recognized as an original social dance arrangement.

Hence, the dance arrangement of the portions (24) to (29) cannot be found to be copyrightable.

L Dance arrangement marked 12

(A) Of the dance arrangement marked 12, with reference to the portions (1) to (3), the portions of the latter half of (24) to (25), and the portions (33) to (46) of the "individual description of the dance arrangements" in the annex marked 12, the images of the Film show only the actors' upper bodies and do not display their lower bodies including their footwork. Therefore, it cannot be said that the above portions of the dance arrangement marked 12 are reproduced in the Film.

Accordingly, the court examines below whether or not of the dance arrangement marked 12, the arrangement of the portions (4) to the first half of (24), the portions (26) to (32), and the portions (47) to (51) of the "individual description of the dance arrangements" in the annex marked 12 which are found to be reproduced in the Film can be found to be copyrightable.

(B) Dance arrangement of the portions of (4) to the first half of (24)

a The dance arrangement of the portions of (4) to the first half of (24) consists of a sequence of the following movements: [i] the man and the woman stand facing each other and the man puts both his arms up and then lowers them and while the woman puts her weight on her left leg, she lifts her right leg and kicks forward and makes chain turns and immediately before the woman comes to the right of the man, the man moves his left leg one step forward ((4) to (9) of the "individual description of the dance arrangements" in the annex marked 12), [ii] variation of Sliding Doors (from the middle of Sliding Doors, the man changes his direction by 90 degrees to the left and walks forward and performs Side Cucaracha and the woman performs Forward Walk, Checked Forward Walk and Backward Walk. Ibid (10) to (17)), [iii] the man turns around once and stoops and the woman performs variation of spot turns and puts

her right leg to the side (ibid, (18), (19)), [iv] the man gets up and the woman performs Forward Walk and the man performs Forward Walk, the woman changes her direction by 90 degrees to face the man, performs variation of Open Basic and in that event, the man joins his left hand with the woman's right hand (ibid (20) to (22)), and [v] they perform Progressive Walks and subsequently the man performs Checked Forward Walk (ibid, (23), the first half of (24)).

b(a) The man's movements in [i] are extremely simple and the woman's movements are also simple and comprise only a combination of kicking and making chain turns (classical ballet turns, Exhibit Hei 4).

(b) According to the exhibits (Exhibits Hei 4, 14, 17, 47), it is found that Sliding Doors and Side Cucaracha are basic steps and the man's performing Side Cucaracha from the middle of Sliding Doors is a common sequence and that adjusted Sliding Doors are often performed. Considering this, it is found that [ii] is also merely an adjusted Sliding Doors and is not a particularly new step.

(c) The man's movements in [iii] are extremely simple and the woman's movements are also simple including only adjusted spot turns (Exhibit Hei 35) which are basic steps.

(d) [iv] is a simple step in which the man and the woman face each other and perform adjusted Open Basic (Exhibit Hei 12) which is a basic step.

(e) According to the exhibits (Exhibits Hei 4, 12, 14), it is found that Progressive Walks in [v] are basic steps and Checked Forward Walk is a fundamental step and performing from Open Basic to Progressive Walks is a common sequence shown in the textbooks, and that performing Checked Forward Walk subsequent to Progressive Walks is also a common sequence. Therefore, it is found that the sequence from Open Basic to which the adjustment in [iv] was made to the dance arrangement in [v] is common.

c As described above, it should be said that considering that the dance arrangements of the portions from (4) to the first half of (24) are made up of the simple movements, the basic steps and the adjusted basic steps and that the sequence from the latter half of [iv] to [v] is also common, it cannot be said that the entirety of this arrangement cannot be found to have outstanding features to the extent that it would be recognized as an original social dance arrangement.

Hence, the dance arrangements of the portions from (4) to the first half of (24) cannot be found to be copyrightable.

(C) Dance arrangement of the portions (26) to (32)

The dance arrangement of the portions (26) to (32) consist of a sequence of [i]

Cuban Rocks, [ii] Fan, [iii] Hockey Stick, [iv] Alemana, and [v] the man turns the woman and the woman lifts her right leg horizontally, subsequently she pivots on her right foot and in that event the man swings both his arms from side to side.

According to the exhibits (Exhibits Hei 4, 12, 17), it is found that each of [i] to [iv] is a basic step and its sequence is a common sequence shown in the textbooks. In addition, it should be said that considering that [v] represents the dance arrangement consisting of the extremely simple movements, it cannot be said that the dance arrangement of the portions (26) to (32) can be found to have outstanding features to the extent that it would be recognized as an original social dance arrangement.

Hence, the dance arrangements of the portions (26) to (32) cannot be found to be copyrightable.

(D) Dance arrangement of the portions (47) to (51)

The dance arrangement of the portions (47) to (51) consists of a sequence of [i] Fan Position, [ii] Hockey Stick, and [iii] New York. According to the exhibits (Exhibits Hei 4, 12), it is found that each of [i] to [iii] is a basic step and each of the sequences is a common sequence shown in the textbooks. Accordingly, this dance arrangement cannot be recognized as an original dance arrangement.

Hence, the dance arrangement of the portions (47) to (51) cannot be found to be copyrightable.

M Dance arrangement marked 13

(A) Of the dance arrangement marked 13, with reference to the portions (1) to (5) and the portions (18) to (24) of the "individual description of the dance arrangements" in the annex marked 13, the images of the Film show only the actors' upper bodies and a part thereof and do not display their lower bodies including their footwork. Therefore, it cannot be said that the above portions of the dance arrangement marked 13 are reproduced in the Film.

Accordingly, the court examines below whether or not of the dance arrangement marked 13, the arrangement of the portions (6) to (17) and the portions (25) to (27) of the "individual description of the dance arrangements" in the annex marked 13 which are found to be reproduced in the Film can be found to be copyrightable.

(B) Dance arrangement of the portions (6) to (17)

The dance arrangement of the portions (6) to (17) consists of a sequence of the following dance moves: [i] The man returns the woman who is bridging to an upright posture, and the man and the woman face each other and hold each other, [ii]

Opening Out, [iii] Fan Position from quick steps, [iv] Hockey Stick, and [v] New York.

According to the exhibits (Exhibits Hei 4, 12, 14), it is found that [ii] to [v] are either basic steps or the basic steps to which some adjustment was made and their sequences are common sequences shown in the textbooks. In addition, it should be said that considering that [i] is also a simple movement in which the woman gets up from the bridge, even though the dance arrangement of the portions (6) to (17) is viewed as a whole, it cannot be said that this arrangement can be found to have outstanding features to the extent that it would be recognized as an original social dance arrangement.

Hence, the dance arrangement of the portions of (6) to (17) cannot be found to be copyrightable.

(C) Dance arrangement of the portions of (25) to (27)

In the dance arrangement of the portions of (25) to (27), the man holds the woman and moves backward at a quick pace while dragging her backward and subsequently after he stops, the woman bridges and gets up. Since the dance arrangement of the portions (25) to (27) simply consists of very short and simple movements, it cannot be recognized as an original dance arrangement.

Hence, the dance arrangement of the portions (25) to (27) cannot be found to be copyrightable.

N Dance arrangement marked 14

(A) Of the dance arrangement marked 14, with respect to the portions (7) and (8) of the "individual description of the dance arrangement" in the annex marked 14, the images of the Film show the actors who perform the above dance arrangement only behind the other actors and most of the parts are not shown. With respect to the portion of (12) *ibid*, they show only a part of the movements of the male actors. Therefore, it cannot be said that the above portions of the dance arrangement marked 14 are reproduced in the Film.

Moreover, the dance arrangement marked 14 is not reproduced as a series of dance moves in the images of the Film but is divided into several portions by other images inserted in the middle.

The court examines below whether or not of the dance arrangement marked 14, the portions (1) to (6), (9) to (11), (13) and (14), (15) to (19), and (20) of the "individual description of the dance arrangement" in the annex marked 14 which are found to be reproduced as a series of dance moves in the Film can be found to be copyrightable.

(B) Dance arrangement of the portions (1) to (6)

The dance arrangement of the portions (1) to (6) consists of the following sequence: [i] variation of Closed Hip Twist, [ii] The man lets the woman bridge and rotates the woman from his left to right in that posture and sets her on her legs, [iii] Closed Hip Twist, [iv] Hockey Stick, [v] Alemana, and [vi] variation of Rope Spin.

According to the exhibits (Exhibits Hei 4, 12, 14), it is found that each of [i], [iii] to [vi] is either a basic step or an adjusted basic step and [ii] is also a frequently used movement and the sequences of [iii] to [vi] are common sequences shown in the textbooks. It should be said that considering this, it cannot be said that the dance arrangement of the portions (1) to (6) can be found to have outstanding features to the extent that it would be recognized as an original social dance arrangement.

Hence, the dance arrangement of the portions (1) to (6) cannot be found to be copyrightable.

(C) Dance arrangement of the portions (9) to (11)

The dance arrangement of the portions (9) to (11) consists of a sequence of [i] Hockey Stick, [ii] Alemana and [iii] Opening Out. According to the exhibits (Exhibits Hei 4, 12, 14), it is found that each of [i] to [iii] is a basic step and its sequence is a common sequence shown in the textbooks. Consequently, this dance arrangement cannot be recognized as an original dance arrangement.

Hence, the dance arrangement of the portions (9) to (11) cannot be found to be copyrightable.

(D) Dance arrangement of the portions (13) and (14)

The dance arrangement of the portions (13) and (14) consists of variation of Three Threes. Three Threes is a basic step (Exhibits Hei 4, 12, 17), and this dance arrangement consists of Three Threes to which only a simple adjustment was made. Consequently, this dance arrangement cannot be recognized as an original dance arrangement.

Hence, the dance arrangement of the portions (13) and (14) cannot be found to be copyrightable.

(E) Dance arrangement of the portions (15) to (19)

The dance arrangement of the portions (15) to (19) consists of the following sequence: [i] variation of Rope Spin, [ii] The woman stands on her left leg and lifts her right leg backward and puts her left hand up and the man supports the woman with his left hand, [iii] The woman kicks her right leg to the left side, [iv] The woman moves in front of the man while making turns, [v] The woman stands on her right leg and takes a pose of putting her right hand up and the man grabs the woman's left hand

to turn her face toward the man.

[i] is a variation of a basic step (Exhibits Hei 4, 12) and the dance arrangement of [ii] to [v] is also a series of short dance arrangement comprising a combination of simple moves. Consequently, it should be said that even though the dance arrangement of the portions (15) to (19) is viewed as a whole, considering that its length of the dance arrangement of the portions (15) to (19) is short, it cannot be said that these arrangements can be found to have outstanding features to the extent that they would be recognized as an original social dance arrangement.

Hence, the dance arrangement of the portions (15) to (19) cannot be found to be copyrightable.

(F) Dance arrangement of the portion (20)

In the dance arrangement of the portion (20), the woman holds the man's right hand with her right hand and the man rotates the right hand above the woman's head, and this is only a very simple movement. Consequently, this dance arrangement cannot be recognized as an original dance arrangement, and thus cannot be found to be copyrightable.

O Dance arrangement marked 15

The dance arrangement marked 15 consists of a sequence of [i] Quarter Turns, [ii] Forward Lock, [iii] Natural Spin Turn, [iv] Forward Lock, and [v] Natural Spin Turn. According to the exhibits (Exhibits Hei 4, 9, 14), it is found that each of [i] to [v] is a basic step and its sequence is also basic and common. Therefore, this dance arrangement cannot be recognized as an original dance arrangement.

Hence, the dance arrangement marked 15 cannot be found to be copyrightable.

P Dance arrangement marked 16

The dance arrangement marked 16 consists of a sequence of [i] Natural Spin Turn, [ii] Reverse Turn, Steps 4 to 6, [iii] Reverse Turn, [iv] Whisk, and [v] Chasse. According to the exhibits (Exhibits Hei 4, 9, 14), it is found that each of [i] to [v] is a basic step and its sequence is also basic and common. Therefore, this dance arrangement cannot be recognized as an original dance arrangement.

Hence, the dance arrangement marked 16 cannot be found to be copyrightable.

Q Dance arrangement marked 17

Of the dance arrangement marked 17, with reference to the portions (1) to (28) of the "individual description of the dance arrangements" in the annex marked 17, the images of the Film show only the actors' upper bodies and a part thereof and do not display their lower bodies including their footwork. Therefore, it cannot be said that the above portions of the dance arrangement marked 17 are reproduced in the Film.

It is found that only the portion of (29) *ibid* (dance arrangement in which when the woman turns her face to the man, the man crouches) is reproduced in the images of the Film, but the dance arrangement of the above portion merely comprises simple movements and thus this arrangement cannot be recognized as an original dance arrangement and cannot be found to be copyrightable.

R Dance arrangement marked 18

The dance arrangement marked 18 consists of a sequence of [i] Progressive Walks, [ii] Natural Top, [iii] Closed Hip Twist, [iv] Hockey Stick, [v] Alemana, [vi] Rope Spin, [vii] Opening Out (Right and Left), [viii] The man and woman face each other and come closer together and they turn their upper bodies to the left and finally only the woman makes a half turn, [ix] Aida, [x] The man and the woman change their directions by 90 degrees to face each other, [xi] Fencing, [xii] Under Arm Turn, and [x iii] adjusted Three Threes (The man puts his face and entire body outward from the right side of the woman).

According to the exhibits (Exhibits Hei 4, 12, 14, 17, 35), it is found that each of [i] to [vii], [ix], [xi], [xii] is a basic step and the sequence of [i] to [vii] and the sequence of [xi] and [xii] are common sequences shown in the textbooks and that [x iii] is a basic step to which only some adjustment was made. As described so far, more than half of the dance arrangement marked 18 has extremely common sequences consisting of combinations of basic steps shown in the textbooks ([i] to [vii] and [xi] and [xii]), and in addition, the other elements are also basic steps ([ix]), adjusted basic steps ([x iii]), and a fundamental step ([x]). It is not disputed that this is a fundamental step.). Further, it should be said that considering that [viii] is merely an extremely simple movement, even though the dance arrangement marked 18 is viewed as a whole, it cannot be said that the dance arrangement marked 18 can be found to have outstanding features to the extent that it would be recognized as an original dance arrangement.

Hence, the dance arrangement marked 18 cannot be found to be copyrightable.

S Dance arrangement marked 19

The dance arrangement marked 19 consists of Kiki Walks and this is a basic step (Exhibits Hei 4, 12, 14). Accordingly, this dance arrangement cannot be recognized as an original dance arrangement.

Incidentally, the plaintiff asserts that he choreographed the changes in the directions of faces, but it should be said that even though such minute adjustment is made to the basic steps, this dance arrangement cannot be recognized as an original dance arrangement.

Hence, the dance arrangement marked 19 cannot be found to be copyrightable.

T Dance arrangement marked 20

The dance arrangement marked 20 consists of the following sequence: [i] The man walks forward so as to follow the woman, [ii] The woman looks back and the man crouches, [iii] The man stands up and moves one step forward and grabs the woman's right hand with his left hand and steps forward with his right foot and the woman steps backward with her left foot, [iv] From Checked Forward Walk, the man draws the woman near him to his right and makes the woman face him, [v] Cuban Rocks, [vi] Open Hip Twist, Step 4 to 6, [vii] Hockey Stick, [viii] New York, [ix] Spot Turn, [x] Checked Forward Walk, [xi] The man draws the woman near him and takes a posture to lead her to Alemana, and [xii] Alemana.

According to the exhibits (Exhibit Hei 4, 12, 14, 17, 35), it is found that each of [v] to [ix] and [xii] is a basic step and the Checked Forward Walk in [iv] and [x] is a fundamental step and further that the sequences of [vi] to [ix] are common sequences shown in the textbooks as well. [i] to [iv] represent an extremely simple series of movements and [xi] is also a fundamental step (not disputed).

As described so far, most of the dance arrangement marked 20 is made up of the basic steps and fundamental steps and uses a number of common sequences of basic steps shown in the textbooks as well. Moreover, the dance arrangement of [i] to [iv] consists of extremely simple movements. It should be said that even though focus is given to the entire dance arrangement marked 20, considering the foregoing, it cannot be said that the dance arrangement marked 20 can be found to have outstanding features to the extent that it would be recognized as an original social dance arrangement.

Hence, the dance arrangement marked 20 cannot be found to be copyrightable.

U Dance arrangement marked 21

The dance arrangement marked 21 is intended to practice mambo steps and consists of the following sequence: The man and woman face each other. [i] The man and woman repeat Basic twice. [ii] The man performs the first half of Half Turn and the woman performs the first half of Basic. [iii] The man performs the latter half of Half Turn, and the woman performs the first half of Half Turn. [iv] The man performs the first half of Basic and the woman performs the latter half of Half Turn. [v] The man and the woman perform the latter half of Basic. [vi] The man performs Full Turn and the woman performs the first half of Basic. [vii] The man performs the latter half of Basic, and the woman performs Full Turn. [viii] The man and the woman perform Basic. [ix] The man performs the first half of New York,

and the woman performs the first half of Basic. [x] The man performs the latter half of New York and the woman performs the first half of New York. [xi] The man performs the first half of Basic and the woman performs the latter half of New York. [xii] The man and the woman perform the latter half of Basic.

According to the exhibits (Exhibits Ko 22, Hei 14), it is found that each of the above steps is a fundamental step of Mambo and the dance arrangement marked 21 simply consists of a combination of these steps. Accordingly, it should be said that this dance arrangement cannot be said to have outstanding features to the extent that it would be recognized as an original social dance arrangement.

Hence, the dance arrangement marked 21 cannot be found to be copyrightable. V As described above, the dance arrangements marked 1, 2, 4, 15, 16, and 18 to 21 cannot be found to be copyrightable, and of the dance arrangements marked 3, 5 to 9, 11 to 14, and 17, the dance arrangements of the portions found to be reproduced in the Film cannot be found to be copyrightable. The dance arrangement marked 10 cannot be said to be reproduced in the Film.

The plaintiff asserts that the collaboration between the dance arrangements and the music used in the Film is also the basis for the copyrightability of the dance arrangements. However, whether or not the dance arrangements can harmonize with the music does not serve as the immediate basis for the determination of the copyrightability of the dance arrangements. Consequently, the plaintiff's assertion above does not affect the determination of the copyrightability of the dance arrangements.

Hence, each of the plaintiff's assertions based on the copyright of the dance arrangements marked 1 to 21 (copyright of the respectively marked dance arrangements) is groundless.

(4) Whether or not the combination of the dance arrangements claimed by the plaintiff can be found to be copyrightable

A Combination of the simultaneously performed dance scenes claimed by the plaintiff

(A) The plaintiff asserts that the combination of the dance arrangements marked 18 to 20 is copyrightable.

None of the dance arrangements marked 18 to 20 can be found to be copyrightable, as described above in (3). These dance arrangements cannot be found to express the respective impressions of the dance arrangements claimed by the plaintiff and it is also difficult for the combination of these uncopyrightable dance arrangements to give the dance arrangements outstanding features to the extent that

they would be recognized as an original dance arrangement.

Hence, it is unjustifiable for the plaintiff to assert that the combination of the dance arrangements marked 18 to 20 is copyrightable.

(B) The plaintiff asserts that the combination of the dance arrangements marked 12 to 14 is copyrightable.

When it comes to the dance arrangements marked 12 to 14, they are only partially reproduced in the Film and none of the portions that are found to be reproduced can be found to be copyrightable, as described above in (3). Of the dance arrangements marked 12 to 14, the portions found to be reproduced cannot be found to express the respective impressions of the dance arrangements claimed by the plaintiff and it is also difficult for the combination of portions of these uncopyrightable dance arrangements to give the dance arrangements outstanding features to the extent that they would be recognized as an original dance arrangement.

Hence, it is unjustifiable for the plaintiff to assert that the combination of the dance arrangements marked 12 to 14 is copyrightable.

Incidentally, regarding the creativity of the dance arrangements marked 12 and 13, the plaintiff asserts that the scene in which the pair of Maccho and Marika slipped Aoki's wig was realized simply because the plaintiff calculated their moves in advance and choreographed. However, the above moves that slipping the wig was Movie Director C's idea (Exhibit Hei 53) and of the dance arrangements marked 12 and 13, which serve as the means of expressing the idea, none of the individual portions found to be reproduced in the Film can be found to be copyrightable and none of the combinations of the portions found to be reproduced can be found to be copyrightable, as described above. It is clear that even though the simple movement of slipping the wig is added, the movement does not make the combination copyrightable.

(C) The plaintiff asserts that the combination of the dance arrangements marked 9 to 11 is copyrightable.

The dance arrangement marked 10 cannot be found to be reproduced in the images of the Film. The dance arrangements marked 9 and 11 can be found to be only partially reproduced in the Film and none of the portions that are found to be reproduced can be found to be copyrightable, as described above in (3). Of the dance arrangements marked 9 and 11, the portions found to be reproduced cannot be found to express the respective impressions of the dance arrangements claimed by the plaintiff and it is also difficult for the combination of portions of these uncopyrightable dance arrangements to give the dance arrangements outstanding features to the extent that they would be recognized as an original dance arrangement.

Hence, it is unjustifiable for the plaintiff to assert that the combination of the dance arrangements marked 9 to 11 is copyrightable.

B Combination of dances that indicate the chronological changes in the characters and are claimed by the plaintiff

(A) Combination of Sugiyama's dances

The plaintiff asserts that the combination of the dance arrangements marked 16, 15, 6, 8, and 1 is copyrightable.

None of the dance arrangements marked 1, 15, and 16 can be found to be copyrightable and the dance arrangements marked 6 and 8 are only partially reproduced in the Film, and none of the portions that are found to be reproduced can be found to be copyrightable, as described above in (3). Neither the dance arrangements marked 1, 15, and 16 nor the portions of the dance arrangements marked 6 and 8 which are found to be reproduced can be found to express the respective impressions of the dance arrangements claimed by the plaintiff. It is also difficult for the uncopyrightable dance arrangements and the combination and placement of portions of the uncopyrightable dance arrangements to give the dance arrangements outstanding features to the extent that they would be recognized as an original dance arrangement.

Hence, it is unjustifiable for the plaintiff to assert that the combination and placement of the dance arrangements marked 16, 15, 6, 8, and 1 are copyrightable.

(B) Combination of Aoki's dances

The plaintiff asserts that the combination of the dance arrangements marked 20, 17, 12, and 9 is copyrightable.

The dance arrangement marked 20 cannot be found to be copyrightable and the dance arrangements marked 9, 12, and 17 are only partially reproduced in the Film and none of the portions that are found to be reproduced can be found to be copyrightable, as described above in (3). Neither the dance arrangement marked 20 nor the portions of the dance arrangements marked 9, 12, and 17 which are found to be reproduced can be found to express the respective impressions of the dance arrangements claimed by the plaintiff. It is also difficult for the uncopyrightable dance arrangements and the combination and placement of portions of the uncopyrightable dance arrangements to give the dance arrangements outstanding features to the extent that they would be recognized as an original dance arrangement.

Hence, it is unjustifiable for the plaintiff to assert that the combination and placement of the dance arrangements marked 20, 17, 19, and 9.

(C) Combination of Tanaka's dances

The plaintiff asserts that the combination of the dance arrangements marked 18,

14 and 11 is copyrightable.

The dance arrangement marked 18 cannot be found to be copyrightable and the dance arrangements marked 11 and 14 are only partially reproduced in the Film and none of the portions that are found to be reproduced can be found to be copyrightable, as described above in (3). Neither the dance arrangement marked 18 nor the portions of the dance arrangements marked 11 and 14 which are found to be reproduced can be found to express the respective impressions of the dance arrangements claimed by the plaintiff. It is also difficult for the uncopyrightable dance arrangements and the combination and placement of portions of the uncopyrightable dance arrangements to make the dance arrangements have outstanding features to the extent that they would be recognized as an original dance arrangement.

Hence, it is unjustifiable for the plaintiff to assert that the combination and placement of the dance arrangements marked 18, 14, and 11.

C As described above, each of the plaintiff's assertions on the copyrightability of the combination of the dance arrangements is groundless.

2 Needless to determine the other matters, according to the statement made above in 1, each of the plaintiff's claims is groundless.

IV Conclusion

Hence, each of the plaintiff's claims is groundless and shall be dismissed. The judgment is made as described in the main text.

Tokyo District Court, 47th Civil Division

Presiding judge	ABE Masayuki
Judge	YAMAKADO Masaru
Judge	OGAWA Takatoshi

("Assertion on the dance arrangements by the parties" in the annex is omitted.)