

INSIGHT: K-Pop to Parasite—Navigating South Korean Business Culture

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South Korea's presence in U.S. pop culture is exploding—the boyband BTS and the Academy Award-winning movie *Parasite* are just two examples. Timothy B. Yoo, of Bird Marella, says the differences between South Korean and the U.S. business cultures can be tricky and gives tips on how to navigate them.

The staple of South Korea's economy—the world's twelfth largest—has long been popular consumer exports such as Hyundai cars, LG TVs, and Samsung smartphones. More recently, however, its most well-known export has not been a consumer electronics article, but rather, its popular culture. In a short time, Korea has become a dominant supplier of global media and entertainment content.

For example, beginning with the viral hit *Gangnam Style*, "K-pop" was one of the notable pop-culture trends of the last decade in the U.S., with everyone from Hollywood starlet Emma Stone to WWE star John Cena and late-night host Conan O'Brien professing their fandom for the genre's smoothly produced, synthesized beats. Its lodestone act, the seven-member boyband *BTS*, has now topped the U.S. Billboard charts four times in less than two years, the fastest to do so since the Beatles.

On the small screen, various Korean soap opera series, most usually featuring fanciful story arcs and byzantine love triangles, have become mainstays of the Top 10 on Netflix—including most recently the widely popular romantic drama series *Crash Landing on You*.

And Korea's pop-culture influence has not been limited to music and television: In February, the Korean-produced, Bong Joon-ho-directed feature film *Parasite*, a black comedy about class inequality in Korean society, famously won the Academy Award for Best Picture, the first foreign-language film to earn that accolade. In short, Korean popular culture has rapidly become mainstream popular culture worldwide.

Legal Issues Expand Too

As Korea's pop-cultural reach has broadened, so too have the attendant legal issues facing Korean content creators doing business globally. For one, it naturally means entering into more contracts with overseas companies, particularly distribution agreements, since Korean companies often do not have a direct distribution channel in a particular foreign territory.

For example, while CJ Entertainment—the company that produced *Parasite*—happens to own the largest theater chain in Korea, CGV Cinemas, it owns far fewer theaters in the U.S. and other countries, which means it must partner with local companies to distribute its content in those territories.

Beyond distribution, Korean content providers are likely to see an increased opportunity to license their successful “formats” to overseas counterparts. For instance, Fox’s eclectic hit *Masked Singer* is a port of a popular show of the same name broadcast by Korean network JTBC.

Given the disparate business cultures that can be involved, negotiating such agreements can be a novel experience itself. For instance, in Korea, it is less common to have protracted back-and-forth “negotiations” around a contract; rather, the side perceived to have more bargaining power, *i.e.*, the *gahp* or “A” side, typically dictates the terms and it is up to the *euhl* or “B” side to accept those terms or not. Pushing back can be viewed as a lack of decorum.

Accordingly, it is not always intuitive that all terms of an agreement, including the material ones, are typically subject to negotiation—and, in fact, expected to be—in a territory such as the U.S.

Adding to the complexity, in Korea, the *gahp* side is usually the side who is paying money under the agreement. This has the potential of turning the licensor-licensee dynamic on its head, since the licensor, as the controller of the contents, ostensibly should have more bargaining power but the licensee is the side who pays money for the right to access those contents. Korean content providers should realize in those situations that they often have more negotiating leverage than they might otherwise think.

Another not-always-intuitive point is the dispute resolution provisions in those agreements. After all, an agreement is only worth as much as the non-breaching side’s ability to enforce its terms against the breaching side. Korean companies tend to favor arbitration provisions, partly because the prevailing thought is that arbitration is faster and less costly than litigation (which may not always be the case).

But sometimes, the ability to seek immediate injunctive relief (not always available in an arbitration context) is critical, especially when dealing with cutting edge media content, where the specter of delays and spoliation can cause serious issues.

As an example, *Parasite* producer CJ Entertainment first forayed into Hollywood in 2013 with Bong Joon-ho’s critically praised *Snowpiercer*, a post-apocalyptic class warfare allegory aboard a train, featuring Chris Evans of *Captain America* fame, Tilda Swinton, Ed Harris, and other notables. It partnered with the Weinstein Company to release the picture theatrically in the U.S.

But after a heated dispute between Harvey Weinstein and Bong over the final cut of the film threatened the U.S. release—Weinstein reportedly felt it would not play well to Western audiences—*Snowpiercer* went virtually straight to Video-on-Demand after a limited theatrical run. In that instance, an ability to seek injunctive relief from the U.S. courts might have affected the outcome as well as the film’s profile in the U.S.