

Analysis of Dispute Resolution Related to Royalties and Song Copyright (Case Study of Ahmad Dhani's Feud with Once Mekel)

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Abstract

Dewa 19 is a band that was founded in 1986. With the works he has created, Dewa 19 is the best band in Indonesia. But lately there has been controversy because the former vocalist of Dewa 19, namely Once Mekel, performed Dewa 19's song without permission from Ahmad Dhani (as the founder of the band Dewa 19). In addition, it is alleged that Once Mekel never paid royalties for Dewa 19 songs he performed. The controversy is also caused because there are no clear regulations regarding the collection of royalties and the protection of copyrights for musical works and songs. For Royalty payments there is also an institution whose job is to collect payments collectively to someone who performs a registered song. But until now there has been no clear arrangement regarding the payment. This research uses normative research methods to examine problems by looking at statutory provisions, where normative legal research has characteristics as library research by focusing on Law Number 28 of 2014 concerning Copyright.

Keywords: Royalty, Intellectual Property Rights, Copyright Law



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INTRODUCTION

Humans are social beings who have the power to think and live as intellectual beings. In everyday life, humans often communicate with each other and it is not uncommon for them to express their hearts and minds in communication. In expressing this, humans are able to issue works of art that represent them so that these works must receive appreciation and respect. In its development in Indonesia, at this time there is already a Law related to Intellectual Property Rights (hereinafter referred to as IPR), which regulates the protection related to works that have been found with the results of human intellectual abilities. In line with the enactment of the Intellectual Property Rights Law, there is also a Law on Copyrights which is a part of Intellectual Property Rights. Copyright is a form of protection that specifically protects science, art and literature. Simply put, Copyright is a legal protection that protects creations or works that have been made by someone. One of the works that are protected are works of music and songs that were successfully created or discovered by human intellectuals.

Music and songs that have been made or created by someone and have been sung by singers, are able to give pleasure or satisfaction to other people to enjoy their work. This of course will create a very large possibility that the music and songs will be played or sung by the public or other singers. Of course this will have a positive impact on the copyright owner of the song, but behind that there is also a negative impact because the song he owns has the opportunity to be heard commercially by other parties. In short, there will be parties who gain benefits for themselves by listening to music and songs that are copyrighted by other people. Lately, there has been an issue that really caught the attention of the Indonesian people, namely the case of Ahmad Dhani Prasetyo (which will be shortened to ADP) and Once Mekel (which will be shortened to Once). On the issue that was circulating, ADP was angry and furious with Once for not paying the Copyright royalties that should have been paid for performing his Dewa

19 song. However, Once was of the view that he did not take care of the royalty payment because the royalty payment was the obligation of the event organizer of an event. Once also said that previously there had been an agreement with the event organizer regarding royalty payments. So, he felt he could be free to sing Dewa 19 songs. Apart from that, he helped popularize the songs he performed in his solo performances when he was still the vocalist of Dewa 19.

Royalties are fees paid by other people for something produced by a party that has a patent on it. the royalty is not handed over directly to the party that owns the patent, but the royalty is handed over to the institution that regulates the royalty. However, the ADP did not see the report from the institution regarding the royalty payments given by Once himself. Based on the problems above, the author wants to review the Dispute Resolution Analysis Related to Royalty and Song Copyright through the Case Study of the Feud between Ahmad Dhani Prasetyo and Once Mekel according to the Perspective of Civil Law. Problem Formulation: What is the mechanism for paying royalties for copyright songs according to Law Number 28 of 2014 concerning Copyright? How is the settlement of the dispute between Ahmad dhani and Once mekel according to the perspective of civil law?

RESEARCH METHODS

In writing this journal, the author uses normative research methods, this study examines problems by looking at statutory provisions, where normative legal research has characteristics as library research by focusing on Law Number 28 of 2014 concerning Copyright.

RESEARCH RESULTS AND DISCUSSION

Royalty Payment Mechanism for the Copyright of a Song

The development of generations from year to year, makes more and more works/ creations that are continuously created by someone. With the increasing number of these works, a person begins to realize that there will be new rights beyond material and property rights. Acknowledgment of all new discoveries, such as newly discovered works or creations, whether created by individuals or groups, has given rise to what is known as Intellectual Property Rights (IPR).

Music copyright is an absolute tool to support entertainment business activities such as festivals, karaoke, television broadcasts and so on. Parties who use copyrighted music and these parties get commercial benefits, so it is appropriate for the songwriter to ask for permission and be respected for his work. Like someone performing a song at a music concert where that person receives an honorarium for performing a song composed by someone, then someone must pay what is the right of the creator of the song. Unlike the case with someone buying a cassette that is used to listen to songs in their car or personal, this does not need to ask for permission or pay royalties.

Copyright is related to economic rights and moral rights. The owner of the copyright is the sound recording company of the music/work (recording company) with the rights to theoretically recorded works called derivative works and creations of music/works themselves called original works. According to Article 1 paragraph (1) of Law Number 28 of 2014, it states that what is meant by exclusive rights are rights that are solely intended for the holder, so that no other party can take advantage of these rights without the permission of the holder. Violations of a copyright, especially in the form of songs and/or music, are currently increasingly taking place without any legal settlement that creates a deterrent effect on this infringement. Some time ago, there was a case which made the public understand that there

was a regulation stating that commercial activities broadcast music or songs without paying royalties or asking permission from the creator or copyright holder. This case happened to Ahmad Dhani as the Creator and even the Copyright Holder with Once Mekel. The royalty payment is considered that the Author can get compensation commensurate with the value of his contribution so that all costs and labor for producing the work can be recovered.

One of the problems in the Indonesian people's knowledge about royalty is that it is normal because the Copyright Law is not widely understood. However, that does not mean that the Indonesian people's lack of knowledge about royalties justifies not paying these royalties. These payments must still be paid to the Author or Copyright Holder. In terms of royalties regulated in the Copyright Act, the meaning is only explained in a license agreement. Regarding royalty provisions, it is only made between users (users) and copyright holders through the Collective Management Institution, where the role of the institution is as an intermediary between users (users) and copyright holders to give permission to users (users) but must pay royalties to copyright holders.

The mechanism regarding royalty payments according to Article 87 of the Copyright Act, namely:

1. To obtain the economic rights of every creator, copyright holder, owner of related rights to become a collective management institution in order to be able to collect reasonable compensation from users who make use of copyrights and related rights in the form of commercial public services;
2. Users of copyrights and related rights who make use of the rights referred to in paragraph 1 pay royalties to creators, copyright holders through collective management institutions;
3. The user as referred to in paragraph 1 enters into an agreement with a collective management institution which contains an obligation to pay royalties for the copyright and related rights used;
4. It is not considered as a violation of this law, commercial use of works and/or related rights products by users as long as the user has performed and fulfilled the obligations according to the agreement with the collective management institution.

The method of collecting royalties from the use of copyright is carried out through an organization. The royalty collection organization was created as an initiative of the creators. This is because the creators cannot convert their rights into money, because they cannot follow developments in the use of the work. The royalty collection organization was then formed to handle the rights of the Authors or Copyright Holders and supervise the distribution of the recording copies. So that royalty payments do not go directly to creators or copyright holders, but royalties can be paid to organizations that are determined to receive royalties.

Legal Protection of Music and Song Copyrights

Every musician who creates a piece of music and song certainly expects legal protection for the work he has produced. This legal protection is useful for providing clarity on the relationship between a piece of music and a song and the creator. This protection is of course very important because there are still many violations of copyright in music, especially violations committed by someone by performing music and songs created by other people with the aim of making a profit from the work.

Copyright According to article 1 of Law No. 28 of 2014 concerning Copyright is "the exclusive right of the creator that arises automatically based on the declarative principle after a creation is realized in a tangible form without reducing restrictions in accordance with statutory regulations" in this declarative case, a creator songs must submit an application for

registration of creation to the Minister of Justice and Human Rights through the Directorate General of Intellectual Property Rights. From the results of the registration, the songwriter will have a license for his work. That way, a songwriter can license his music and songs to other people with the aim that the licensee makes a profit by producing, selling or using them for other commercial purposes.

There are two forms of copyright protection, namely protection of economic rights and protection of moral rights. Own economic rights, the right to obtain economic benefits for the creators of music and songs. Then moral rights are rights that are eternally attached to the creator without a certain time limit, but can be transferred by will or other reasons after the creator has died. So that these two things cannot be separated from the creator or inventor of a piece of music and song.

The use of songs for commercial purposes without asking permission will certainly harm the creators of music and songs. Because the creator does not get his economic rights. In addition, it is also considered as not appreciating the work created by someone's hard work. Article 1365 of the Civil Code also regulates unlawful acts "Every unlawful act, which causes harm to another person, obliges the person who because of the mistake of issuing the loss, compensates for the loss". If it is related to the performance of songs commercially without the permission of the copyright owner, of course this is very detrimental and the songwriter can sue someone who violates it.

So we implemented our discussion of the ADP and Once cases. In our view, Once should have asked ADP for permission first and discussed the distribution of royalties or asked ADP for a license to perform his songs. Because the actions that Once has done (not asking for permission and not paying royalties to ADP) are very detrimental to ADP. In addition, once is one of the vocalists who is the hallmark of the band Dewa 19. So this violates the Moral Rights and Economic Rights of ADP if Once performs the song other than the band Dewa 19.

CONCLUSION

Based on the discussion above, the authors draw conclusions regarding the settlement of disputes related to royalties and song copyrights. Commercial use of songs is not considered a Copyright infringement if users fulfill their obligations based on an agreement with the Collective Management Organization (LMK) to pay royalty songs based on Article 87 paragraph (4) of Law Number 28 of 2014 concerning Copyright. Further, Article 89 paragraph (4) of Law Number 28 of 2014 Concerning Copyright stipulates regarding the guidelines in determining the amount of royalties determined by LMK (in this case what is meant by LMKN) and approved by Menkumham. This means that the lack of clarity in terms of determining the amount of royalty can still be resolved. For this reason, it is more appropriate if the determination also involves and discusses with parties who will be the object of the royalty, namely commercial users. This is related to legal protection of copyrights for music and song works that occurred in the case of Ahmad Dhani and Once Mekel. This case began with the existence of rights that were not accepted by Ahmad Dhani as the Creator and Copyright Holder of a song. However, this settlement can be resolved by completing royalty payments or rights that should be received by someone as the creator or copyright holder of a work/music he has created.

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