

Copyright Protection of Songwriters in Indonesia

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Abstract

Intellectual property is an object resulting from human intellectual activity, which is expressed in the form of copyrighted works or inventions. The issue of intellectual property for Indonesian songwriters has never been a good thing. This study uses a prescriptive legal method and examines law as a norm with misconceptions about legal protection. Secondary data becomes the main data. The specifications used are descriptive specifications. Copyright owners enjoy legal protection from the moment their work is transformed into a concrete form that complies with the Declarative Principles. Even if a work is protected because it can be clearly identified, the copyright owner must register the work in the Copyright Register for formal verification. There are two ways to resolve copyright disputes: litigation and non-litigation. Settlements outside the court include advice, mediation, negotiation, mediation, and arbitration. On the other hand, there are two pathways in litigation, one of which is the civil route. Violations can be subject to sanctions in the form of imprisonment and fines as stipulated in the copyright law.

Keywords: Copyright, Legal Protection



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INTRODUCTION

Every human being has creative thinking power, this is associated with Intellectual Property Rights (IPR). Intellectual Property (IP) is an object that originates from the results of human intellectual activity which is expressed in copyrighted works or in the form of works that have been found (Indriani: 2018). IPR includes science, technology, work that has moral, practical/economic value. IPR consists of: Copyright; Brand; Geographical Indications; Industrial Design; Patent; Integrated Circuit Layout Design; Confidential Information Including Trade Secretariat And Test Data; New Plant Varieties. Based on the above, one of the IPs is Copyright.

Copyright is the exclusive right of the creator, which automatically increases after creation according to the declarative principle, embodied in a concrete form without any freedom according to regulatory standards. The implementation in Indonesia is far from good. the development of globalization in the field of technology, makes it easier for people to enjoy the work of musicians. Making the work easy to be misused by other parties for personal gain, wrongly, economic rights are harmed. One of the cases of copyright infringement in Indonesia is Ahmad Dhani-Once. Once received a ban on performing songs from the Dewa 19 band, the ban came from the leader of the Dewa 19 band, Ahmad Dhani, in February 2023 (Sekarsari: 2023). At first the incident was because Once sang the Dewa 19 song not at the Dewa 19 event, because Once at that time was doing a solo, before Once sang the EO should have had permission from Ahmad Dhani and also WAMI to pay royalties as well as permission to those who have the rights create. Cases like this can be sued for civil cases, this copyright is also protected by Law no. 28/2014.

The formulation of the problem in this article is what are the basic rules or institutions that govern the rights and protect songwriters in Indonesia? and what is the reality given to copyright violators of song works in Indonesia? Therefore, this journal aims to increase awareness of the Indonesian people regarding the copyright of the creator of a work/song, royalty rights for the creator of the work/song, because in Indonesia itself there are still very few who know and are aware of the existence of copyright for the creator of the song/work, as well for rights holders there are still those who do not know what kind of protection is obtained from owning the copyright of the work/song.

RESEARCH METHODS

Soejono Soekanto said that legal research is a scientific activity based on methods, systems and ideas that aim to study by analyzing one or more general phenomena of a particular law. Then there is a detailed study of legal facts and subsequent problem-solving studies, a detailed study of facts and the legal reality of the questions studied, in this case copyright protection. making songs. This study uses normative legal research, examines each law to find answers to the problems that occur. Johnny Ibrahim said that normative legal research is a scientific research procedure to find facts according to scientific logic from a normative perspective. This writing makes the law as a written norm made and implemented by the authorities. Through this research, secondary data becomes the main data. Data obtained from the collection of laws, books, articles, journals related to the problem under study. The data analysis method used is qualitative analysis technique. Data analysis which is non-statistical and non-mathematical which refers to the legal norms contained in Law no. 28 of 2014.

The specifications used are descriptive specifications, which describe the data obtained and then analyze it to describe the problems under review based on laws and legal theories related to the problems under study, trying to review research results that are in accordance with the topics under study in order to get a clear picture of the rules the law in force in Indonesia regarding copyright protection for songwriters in Indonesia.

RESEARCH RESULTS AND DISCUSSION

Legal Protection for Songwriters in Indonesia

Legal protection, namely protecting a person's right to achieve justice based on preventive/repressive applicable laws (Prakoso: 2016) Intellectual property rights are important because the creation of a work requires a lot of sacrifices, such as energy, time, money and other things. If there is no legal protection for a work it will make it easier for many other parties to imitate/seize the work freely. IPR protection can be said as a tribute to the creator of the work. IPR protection for songwriters in Indonesia Law No 28/2014 concerning Copyright. Indonesian law recognizes that copyright has existed automatically since the creation was completed. In this case, it is better for the creator to register his work to obtain formal recognition of copyright ownership, in article 31 UUHC/2014, the name listed in the General Register of Works is the creator, unless another party can prove otherwise (Jannah: 2018). Article 37 UUHC/2002 emphasizes that the process of registering works in the Public Register of Works is carried out by submitting an application to the Minister of Justice and Human Rights through the Directorate General of Intellectual Property Rights with a letter containing two copies and written in Indonesian. The application must be accompanied by a sample of the work or its replacement and a registration fee. After receiving the complete application, the Directorate General of Intellectual Property Rights will make a decision no later than 9 months from the date of receipt of the complete application (Usman: 2003).

Copyright is an exclusive right consisting of moral rights and economic rights, and is regulated in Law no. 28 of 2014 concerning Copyright. "These rights only belong to the creator/copyright holder, and no one else can use these rights without the consent of the creator or copyright holder." Moral rights are inherent rights of the Author which cannot be removed or deleted without any reason, even though the Copyright or Related Rights have been transferred. Then, economic rights are specific to creators in the profits of their creations. This right is in the form of the right to publish his creation (Usman: 2003). Article 5 paragraph (1) of Law No. 28/2014 concerning Copyright consists of: Having the option to include/not include your name on copies of your work in general; It is not prohibited to use a false name or pseudonym when creating his work; It is permissible to make changes to his work to suit the social order; It is permissible to make changes to the title of his work; Has the right to defend his rights when there are deviations/changes to his work that are detrimental to the creator.

The right used to declare himself as the creator of the music or songs he has created, and demand that his name be placed on his creations is also in accordance with Articles 24, 25, 26, 27, 28, and Article 33 UUHC No 19/2002. In short, moral rights are a reflection of the creator's personality which is eternal. Economic rights are rights to announce or reproduce music or songs that are created or can also give permission in the form of licenses to other parties to publish music or songs. It can be said as a form of appreciation for creators to be enjoyed by the community (Kusno: 2016) Article 9 paragraph (1) economic rights that can be exercised are: Publishing Works; Relying on being rich in all its forms; Translating works; Adapting, arranging or transforming works; Distribution of the work or copies thereof; work performance; Publication of works; Communication works; and Renting Works.

Economic rights talk about licenses, permits in the form of writing received by copyright holders or for creators who have rights related to other parties to exercise economic rights over their creations or related rights products with certain conditions. And royalties are defined as rewards resulting from the use of economic rights a product or work of creation that is received by the right owner or creator. In Article 80 paragraph (3) of Law No. 28/2014 concerning Copyright and for the amount of proceeds adjusted to the contents of the license agreement made, this distribution of proceeds must be in accordance with the element of justice. This right requires permission from the creator in Article 9 paragraph (2) of Law No. 28/2014 concerning Copyright.

Government Regulation (PP) No 56/2021 article 3 says "commercial use of songs/music by anyone in a commercial form pays royalties to creators, copyright holders/related rights holders through LMKN". matters regulated by PP No. 56 of 2021, namely, the general list of creations, music song data centers, LMKN, subject to royalties, licensing agreements, to objects of imposition of proceeds. It stated that various forms of public services had to pay royalties if using songs commercially. This rule is regulated to maximize the ability to manage costs of copyrights and related rights for the use of creative works in the field of songs and music. in the form of collection and distribution of royalties. Article 1 number (22) of Law no. 28/2014 concerning Copyright this body represents the interests of creators and related rights holders, which consist of LMKN creators and related rights holders (LMKN members). By becoming a member of LMKN, you will be given assistance in the process of obtaining results from users of your work. In this system, users of works that take advantage of the economic rights of creation must pay royalties to LMKN. Users are required to enter into an agreement with LMKN which more or less contains an obligation to pay royalties for the copyright and related rights used. if the obligation has been carried out by members of Article 87 of the Copyright Law states, "do not become a violator, commercial exploitation as long as the User fulfills his obligations based on the agreement with the LMKN."

Karya Cipta Indonesia Foundation (YKCI) is a non-profit legal entity in the form of a foundation, an organization that cannot receive results in the sense of making a profit as a PT with articles of association prepared and adapted to Law no. 28 of 2004 concerning foundations. YKCI aims to protect the interests of creators of works from copyright infringement, this foundation facilitates the ability of copyright owners to control the use of their copyrighted works.

What is the Reality Given to Song Work Copyright Violators in Indonesia

Violation is a type of unlawful act but usually the punishment will be lighter than other crimes or unlawful acts. Nowadays, many people perform other people's songs or works without the consent of the songwriters or other creators of the work. This can be detrimental to the creator of the work because the work he makes is displayed by other people without the consent of the creator of the work with the sole aim of gaining the violator's personal gain. If the songwriter feels aggrieved. The songwriter can take this case to court (litigation). In litigation, there are 2 attempts, one of which is a civil effort. KUHPER 1365 states that lawbreakers will receive consequences for all losses caused by the actions of the violator. Then, looking at the Copyright Law 97 paragraph (1) it states that the Commercial Court has the authority to resolve this dispute. In this civil action, focusing on the burden of compensation for the offender who caused damage to the author. However, there are other ways outside the court (non-litigation) that can be done, namely consultation, mediation, negotiation, conciliation and arbitration. The case in Indonesia, such as Ahmad Dhani with Once. Once, as the former vocalist of the band Dewa-19, was banned from singing songs from the band by the band leader, Ahmad Dhani, as the copyright holder for works in the form of songs in the band. In this case Ahmad Dhani refers to the Law on Copyright article 113, the principle of legal preference *lex superior derogate legi inferior* or a higher law overrides a lower law, then the rules used in this matter are the provisions of Article 9 paragraph (2) Jo, Article 113 of the Law Copyright. means that commercial use for a performance may use songs and/or music with the permission of the copyright holder.

CONCLUSION

The state grants exclusive rights to creators. The law protects the moral and economic rights of copyright owners. The creator gets legal protection when his creation is known, heard and seen by others. Copyright registration aims to make it easier for creators to prove their rights formally and to obtain legal certainty about who owns the copyright. Copyright infringement can be resolved in two ways, namely litigation or non-litigation. outside the court (non-litigation), namely negotiation, mediation, negotiation, conciliation, and arbitration. In court (litigation) There are two ways, one of which is civil action. Sanctions for violations are adjusted to the sanctions specified in the Copyright Law.

Suggestion: Outreach to the general public about the existence of copyright protection in Law No. 28 of 2014, to make Indonesian people aware of the existence of copyright. It is time for Indonesian law enforcement officials to have strict sanctions if there are violations that occur.

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