

Legal Review of the Use of Song Without Consent in Accordance with Law No. 28 of 2014

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ABSTRACT

To produce aesthetically pleasing compositions, musicians employ a variety of instrumental sounds. Copyright refers to the exclusive right of a creator to maintain ownership of their work and to derive economic benefit from it. Under copyright law, the unauthorized use of musical works is strictly prohibited. This study aims to: (1) examine the enforcement of Law No. 28 of 2014 by the Indonesian government in protecting the rights of songwriters; and (2) analyze the implementation of licensing agreements by both producers and users. Employing a normative legal approach, this study emphasizes that the government plays a crucial role in protecting music creators and copyright holders from infringement through legal enforcement. Licensing and registration constitute fundamental components of copyright protection. Moreover, the government is expected to take active measures in raising public awareness about the importance of respecting and protecting intellectual property rights. The primary purpose of licensing agreements is to prevent legal disputes and to deter unauthorized actions by third parties that violate the stipulated terms and conditions.

Keywords:

Copyright. Songs.
Music Platforms

INTRODUCTION

Music is a universal form of art that embodies the creative expression of human emotions, ideas, and cultural values. It integrates various elements such as melody, tempo, harmony, and vocals to convey meaning and evoke responses from listeners. As noted by Uway (2017), music is created by a composer and performed by a vocalist as a medium for expressing insights and emotions.

Etymologically, the term *music* derives from the Greek word *muse*, which refers to the nine goddesses in Greek mythology who preside over the arts and sciences. Over time, the term evolved to encompass the skills and techniques applied by musicians in producing rhythmic and melodic sounds. The Indonesian Dictionary (KBBI) defines music as a combination of rhythmic sound variations, lyrical melodies, and stylistic performances that form a coherent artistic work.

In the context of Indonesian positive law, musical works are categorized as protected intellectual property under copyright law. According to Article 40 paragraph (1) letter d of Law No. 28 of 2014 on Copyright, musical creations, with or without accompanying lyrics, are explicitly protected as artistic works (Siantur, 2021). This legal provision safeguards the moral and economic rights of creators.

Copyright, as a component of intellectual property rights (IPR), plays a pivotal role in recognizing and protecting the products of human creativity. As Rahmanda and Benuf (2021) assert, humans, endowed with the ability to think creatively, produce original works that warrant legal protection. Copyright thus serves as a form of acknowledgment

and reward for intellectual efforts, promoting both cultural development and economic innovation.

However, in the digital age, the protection of copyright faces significant challenges, particularly with the increasing prevalence of unauthorized use of musical works. One common form of infringement is the creation and dissemination of *cover songs*—unauthorized renditions of original works—through digital platforms such as YouTube and social media. This phenomenon often results in cover artists gaining more recognition than the original creators, thereby raising concerns about fairness and attribution.

From a legal perspective, cover songs constitute derivative works that require permission from the original copyright holder, especially when used for commercial purposes. The economic theory of copyright emphasizes that exclusive rights incentivize creators by allowing them to reap financial benefits from their works (Landes & Posner, 2003). Consequently, the unauthorized commercial use of such works, without compensation or acknowledgment, constitutes a breach of the creator's rights and undermines the purpose of copyright protection.

Despite the legal framework, many musicians remain unaware of or intentionally disregard the necessity of obtaining permission, often citing personal or educational motives. Yet, when these activities generate revenue, they legally fall under the domain of copyright exploitation. Such violations not only harm the creators but also erode the broader culture of respecting intellectual property rights. Therefore, it is imperative to conduct a comprehensive legal analysis of the unauthorized use of musical works within the framework of Law No. 28 of 2014, to promote awareness and foster a more ethical creative ecosystem.

METHOD

This study employs a normative juridical approach, also known as doctrinal legal research, which focuses on the analysis of legal norms, principles, and regulations relevant to the issue under examination. As explained by Marzuki (2005), normative legal research is concerned with studying law as a set of norms, rules, and doctrines within the legal system. In this context, the research analyzes legal theories, statutory provisions, and jurisprudence—particularly those embedded in Law No. 28 of 2014 and related laws—to understand the legal implications of unauthorized song usage.

The normative juridical approach is particularly suitable for examining the protection of copyright and the enforcement of intellectual property rights in Indonesia. It involves an in-depth examination of statutory regulations, including but not limited to Law No. 28 of 2014 on Copyright, and other relevant legal sources such as court decisions, legal commentaries, and academic literature. Through this method, the study aims to evaluate the adequacy of existing legal protections and identify legal gaps or inconsistencies regarding the unauthorized commercial use of musical works.

In addition, the research adopts a descriptive-analytical approach, which aims to systematically describe and analyze the legal issues and empirical realities surrounding copyright infringement through cover songs. This approach helps to provide a comprehensive understanding of the legal framework and its application in real-world scenarios (Soekanto & Mamudji, 2001). The descriptive element serves to explain the structure and substance of the legal rules, while the analytical element examines how those rules operate and are enforced in practice.

RESULTS AND DISCUSSION

1. *The Role of the Government in Protecting Musical Works under Law No. 28 of 2014 on Copyright*

One of the fundamental objectives of legislation is to provide collective legal protection, ensuring legal certainty and fairness within society. Law No. 28 of 2014 on Copyright, particularly Article 40(1)(d), explicitly guarantees copyright protection for musical works, thereby reinforcing the state's obligation to safeguard the moral and economic rights of creators. According to Jamal (2019), legal protection can be categorized into two primary functions: preventive and repressive. Preventive protection aims to deter violations before they occur, whereas repressive protection addresses and resolves disputes that arise after a violation has taken place.

Under this regulatory framework, copyright is recognized as an exclusive right granted to creators. Specifically, the rights related to songs and music include mechanical rights (reproduction and distribution), performance rights (public performance and communication to the public), and synchronization rights (use in audiovisual works such as films and commercials). These rights entitle creators to royalties, which are distributed through the National Collective Management Organization (LMKN) as stipulated in Article 119 of the Copyright Law.

It is important to highlight that attributing the original artist in a cover version of a song is insufficient when the use is commercial in nature. In such cases, explicit permission or licensing from the copyright holder is legally required. Failing to do so constitutes an infringement of both moral rights (Article 21) and economic rights (Article 23(5)). Moral rights refer to the right of the creator to be acknowledged and to preserve the integrity of their work, while economic rights pertain to the right to derive financial benefit from its use.

In practice, digital platforms and social media have become a major arena for copyright infringement. To address this, the Indonesian government, through the Ministry of Communication and Information, has implemented blocking mechanisms. These actions may be based on public complaints or initiated independently by the Ministry. If a site administrator refuses to comply with takedown requests, the government has the authority—under Article 54 of the Copyright Law—to unilaterally block access to infringing content.

This form of administrative enforcement reflects the government's commitment to ensuring compliance with copyright legislation. However, it also raises concerns about balancing enforcement with digital rights and freedom of expression, requiring a careful and proportionate application of blocking mechanisms.

2. *The Licensing Procedure between Creators and Users of Musical Works*

Licensing agreements serve as a legal instrument that permits the use, reproduction, and distribution of copyrighted works under specific conditions. These agreements are essential for regulating commercial use, enabling copyright holders to exercise control over their works while receiving fair compensation. As noted by Rizkita (2018), for a license agreement to be enforceable against third parties, it must be registered with the Directorate General of Intellectual Property (DJKI), which acts as the administrative body responsible for intellectual property rights in Indonesia.

Moreover, Collective Management Organizations (CMOs), such as Karya Cipta Indonesia (KCI), are legally mandated to facilitate the collection and distribution of royalties on behalf of their members. These organizations operate under an official

license granted by the Ministry of Law and Human Rights. Through CMOs, copyright holders can ensure that their works are used lawfully and that compensation is fairly distributed.

Article 83(1) of the Copyright Law outlines the formal procedures for registering license agreements. Although this legal provision exists, compliance remains limited, particularly concerning mechanical rights in the music industry. As highlighted by Michelly (2022), a common misconception among audio recording managers is that licensing is unnecessary, which results in a significant number of unregistered licenses and potential royalty losses for creators.

The distribution of royalties is a critical component of copyright protection, functioning as a financial incentive for continued creativity and innovation. Royalty payments are determined based on the usage of musical works over a defined period. Although membership in CMOs like KCI is not mandatory, joining such organizations facilitates the collection process and strengthens the legal position of creators when asserting their rights.

According to Government Regulation No. 56 of 2021 on the Management of Copyright Royalties for Songs and/or Music, the distribution of royalties must be transparent, timely, and in accordance with the actual usage of works. Article 1 of the regulation specifically mandates that CMOs ensure equitable distribution, reinforcing the importance of accountability and efficiency in the royalty management process.

Analytical Insights

The findings above highlight the complex interplay between legal structures, government enforcement, and market mechanisms in protecting musical works in Indonesia. From a doctrinal perspective, the legal framework under Law No. 28 of 2014 and supporting regulations is sufficiently comprehensive. However, practical implementation remains inconsistent, particularly in terms of public awareness, administrative compliance, and technological enforcement.

There is a notable gap between the law on the books and law in action. While statutory protections exist, enforcement often relies on reactive measures such as site blocking, rather than proactive strategies such as public education or platform-based copyright monitoring systems. This discrepancy suggests the need for a more integrated policy approach that combines legal enforcement with digital literacy and stakeholder collaboration.

Furthermore, the limited registration of license agreements undermines the legal certainty of rights holders and inhibits the full functioning of the royalty ecosystem. Without proper documentation, both licensors and licensees face legal ambiguities, weakening the enforceability of their agreements. Strengthening institutional support for license registration—through outreach, simplification of procedures, or incentives—would enhance transparency and rights protection.

In conclusion, the role of the government is not merely regulatory but also facilitative. By promoting legal awareness, supporting CMOs, and enforcing digital copyright laws proportionally, the state can foster a more just and sustainable creative economy. Ultimately, effective copyright governance requires a multi-stakeholder approach, involving not only the government and creators but also digital platforms, users, and civil society actors.

CONCLUSION

The protection of creative works, including musical compositions, constitutes a fundamental aspect of safeguarding intellectual property rights, as explicitly stipulated in Law Number 28 of 2014 concerning Copyright. This legislation reflects the state's commitment to ensuring legal certainty for creators and copyright holders, while simultaneously fostering a conducive environment for the development of the creative industry, particularly in the music sector.

The law emphasizes both preventive and repressive legal approaches in copyright enforcement. Preventive measures are implemented through licensing systems and formal agreements, while repressive measures involve legal sanctions against violations, including the blocking of unauthorized content by the government, through the Ministry of Communication and Information Technology. This dual approach seeks to establish a comprehensive and equitable system of protection.

A crucial component in this legal framework is the procedure for registration and licensing of musical works. Licensing serves not only as official recognition of the creator's exclusive rights but also as a legal instrument in the event of disputes. Registration through the Directorate General of Intellectual Property (DGIP) provides a strong legal basis for copyright holders to assert claims and seek compensation, particularly in accordance with Government Regulation Number 56 of 2021 regarding the management of royalties for copyright and related rights.

The role of collective management organizations, such as the National Collective Management Institution (LMKN) or Karya Cipta Indonesia (KCI), is essential in the collection and distribution of royalties. These institutions provide economic incentives for creators to continue producing original works, while ensuring that any commercial utilization of musical content is conducted lawfully and fairly. Hence, transparency and accountability in royalty management must be prioritized to enhance public trust and professionalize the national music industry.

Furthermore, the government bears the responsibility of promoting widespread awareness regarding the importance of copyright protection. Legal education through public campaigns, copyright-conscious music festivals, and the integration of intellectual property topics into formal education curricula represent strategic measures that should be strengthened. These efforts aim to foster a legal culture that respects intellectual property rights, thereby reducing potential infringements and enhancing public appreciation of original creative works.

In conclusion, legal protection for musical works is not only intended to guarantee the economic and moral rights of creators but also plays a pivotal role in establishing a healthy, productive, and sustainable creative ecosystem. Effective legal implementation, institutional support, and active public participation are key to realizing an ideal copyright protection system in Indonesia.

Acknowledgment

The suggestion put forward by the author in response to the research results that have been conducted is that a request to record a license agreement can be submitted by the licensee, licensor, or agent, but generally the licensee makes the request. Currently, DJKI does not have a copyright agreement for copyrighted songs. This is because many individuals and organizations, especially those engaged in audio production, have not committed to making a license agreement, perhaps because they think that such an agreement is not required by law in this country. Sound recording

producers will only record a license agreement if the song created by the songwriter is successful in the market or there is evidence that another party outside the agreement intends to carry out illegal actions that are contrary to the consequences of the song. Upon request to make a license agreement, DJKI will pay attention to the verses that indicate whether the existing rights are protected, whether it is detrimental to national economic interests, hinders technological progress, or is contrary to legal rules, moral values, and ethical norms.

Reference

- Adawiyah, R., Isnainul, O. K., Prasetyo, M. A., Manurung, J., Halim, E., Adea, T., & Sitepu, P. B. S. (2022). *Analysis of decision No. 61/Pid.Sus Anak/2021/Pn Mdn on the case of a child as a violator of the crime of abuse*. Journal Equity of Law and Governance, 4(1). <https://www.ejournal.warmadewa.ac.id/index.php/elg>
- Adawiyah, R., Prasetyo, M. A., Ayu, H., Sitanggang, D., Novianty, J., Timoteus, N., & Andreas, M. (2023). *Analisis yuridis tentang pembuktian kebenaran dasar terhadap penguasaan tanah*. Jurnal Darma Agung, 31(3), 103. <https://doi.org/10.46930/ojsuda.v31i3.3349>
- Adawiyah, R., Prasetyo, M. A., Br, J., Tobing, L., Rina, M., Parhusip, E., & Sagala, N. (n.d.). *Kedudukan anak angkat dalam mewarisi harta warisan orang tua angkatnya (Studi kasus putusan nomor 197/PDT/2018/PT MDN)*. Jurnal Darma Agung, 31(4), 947–956. <https://doi.org/10.46930/ojsuda.v31i4.3564>
- Adawiyah, R., Prasetyo, M. A., Sirait, R. E., Ginting, F. P. R. B., & Tarigan, G. B. S. Y. (2022). *The economic life of a small community during the Covid-19 pandemic in the Simalingkar A area of North Sumatra*. Priviet Social Sciences Journal, 2(3). <https://doi.org/10.55942/pssj.v2i3.180>
- Ali, Z. (2009). *Metode penelitian hukum* (M. A. Ali, Ed.). Sinar Grafika.
- Ardiansyah, M. D., Rahayu, K., & Asmarduin, I. (2021). *Pengaturan pemberian royalti atas hak cipta aransemen lagu di Indonesia dan Amerika Serikat*. Penerbit NEM.
- Badru Jaman, U., Putri, G. R., & Anzani, T. A. (n.d.). *Urgensi perlindungan hukum terhadap hak cipta karya digital*. <http://www.rajaebookgratis.com>
- Dimiyati, A. (n.d.). *Tinjauan yuridis terhadap perlindungan hak cipta dalam penggunaan karya cipta musik dan lagu karaoke*. <https://www.dgip.go.id/hak-cipta>
- Fitriyani, E., Pakpahan, H., Leonard, T., Ramadhana, W., & Rizki, (n.d.). *Buku legal corporate*.
- Hikmasari, I. K., Yuhelson, H., & Nainggolan, B. (2023). *Perlindungan hukum kepada pencipta lagu yang diumumkan tanpa seizin pencipta*. <https://jmi.rivierapublishing.id/index.php/rp>
- Jaman, B., Putri, G. R., & Anzani, T. A. (n.d.). *Urgensi perlindungan hukum terhadap hak cipta karya digital*. <http://www.rajaebookgratis.com>
- Juriadi, A. R., & Heriawanto, B. K. (2021). *Perlindungan hukum terhadap pemegang hak terkait hak cipta atas peng-cover-an lagu di Facebook (Menurut Undang-Undang No. 28 Tahun 2014 tentang Hak Cipta)*. Jurnal Ilmiah Ilmu Hukum, 27. <https://m.detik.com/inet/>
- Mauludin, N. A. (2020). *Perlindungan hukum terhadap karya cipta lagu atau musik daerah menurut Undang-Undang Nomor 28 Tahun 2014 tentang Hak Cipta*. Journal Kompilasi Hukum, 5(2), 337–344. <https://doi.org/10.29303/jkh.v5i2.59>
- Michelly, C., Lelomali, S. I., & Irianto, P. (2019). *Perjanjian lisensi di bidang karya musik*.

- <http://jurnal.untagsmg.ac.id/index.php/NLR>
- Nurwati, N. (2024). *Hak cipta karya musik dan lagu*. Penerbit KBM Indonesia.
- Panjaitan, H. (2019). *Undang-Undang Nomor 28 Tahun 2014 tentang Hak Cipta dan perlindungan hukum bagi pencipta karya cipta musik dan lagu* (Vol. 5). Hulman Panjaitan.
- Pendidikan Pancasila dan Kewarganegaraan–Universitas Banten Jaya, Aulawi, A., & Basri, A. (2022). *Kesadaran hukum pekerja musik Kota Serang terhadap hak cipta musik ditinjau dari Undang-Undang No. 28 Tahun 2014 tentang Hak Cipta*, 5(1). <https://www.dgip.go.id/pengenalan-hak-cipta>
- Permana, D. O., Masri, E., & Tobing, C. I. (2021). *Implementasi royalti terhadap pencipta lagu berdasarkan Undang-Undang Nomor 28 Tahun 2014 tentang Hak Cipta*. Krtha Bhayangkara, 15(2), 319–332. <https://doi.org/10.31599/krtha.v15i2.793>
- “Pengertian musik, unsur, dan jenis-jenisnya.” (2023, April 3). https://kumparan.com/pengertian-dan-istilah/208dCb0Y9wg?utm_source=Desktop&utm_medium=copy-to-clipboard&shareID=MokC8gM55kTc
- Prasetyo, M. A. (n.d.). *Peranan hukum investasi dalam meningkatkan penanaman modal di Indonesia*.
- Prasetyo, M. A., Adawiyah, R., Mahulae, R. N., & Nainggolan, M. (2024). *Analisis yuridis putusan nomor 811 K/Pdt.Sus-HKI/2021 tentang sengketa merek yang memiliki persamaan pada pokoknya*. Unram Law Review, 8(1). <https://doi.org/10.29303/ulrev.v8i1.321>
- Prasetyo, M. A., Ry, A. A., Munthe, S. V., & Hutapea, G. J. (2023). *Pertanggungjawaban terhadap pelaku yang menjalankan bisnis prostitusi (Studi Putusan Mahkamah Agung Nomor 94 K/PID.SUS/2020)*. SIBATIK Journal, 3(1). <https://doi.org/10.54443/sibatik.v3i1.1786>
- Prasetyo, M. A., & Perdananto, A. (n.d.). *Sistem pendukung keputusan penentuan siswa berprestasi pada Sekolah Menengah Kejuruan Negeri 02 Kota Tangerang Selatan berbasis web menggunakan metode Simple Additive*. OKTAL: Jurnal Ilmu Komputer dan Science.