

Juridical Reviews of Users of Song Copyright Works are Associated with Government Regulation Number 56 of 2021 Regarding the Management of Song or Music Copyright Royalties

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DOI: <https://doi.org/10.52403/ijrr.20220450>

ABSTRACT

Intellectual property rights (IPR) are rights that arise because of the results of someone's intellectual creativity, provided that they must be in real form, creativity, so that they cannot be just ideas or concepts, which do not have certain physical dimensions. one of the areas of intellectual property rights that get protection is the copyright of the Republic of Indonesia Law No. 28 of 2014 (UUHC 2014) article 1 paragraph (1) concerning copyright is the exclusive right of the creator that arises automatically based on declarative principles after the creation is realized in a tangible form without realizing it according to the provisions legislation. Based on law regulation number 56 of 2021 regarding the management of copyright royalties for songs or music that is legalized by the president, it is necessary to explain about the rules for royalty for song copyrights in Indonesia. pay royalties to the maker. This rule is contained in Article 3 PP of song playback royalties. Songwriters can authorize LMK to manage economic rights in the form of collecting and distributing royalties.

Keywords: Intellectual Property Rights (IPR), Music & Copyright

INTRODUCTION

Intellectual property rights (IPR) is a right that arises because of the results of a person's intellectual creativity, with the condition that it must be expressed in real

form, the existence of creativity, so it should not be just an idea or ideas, concepts, certain facts that do not have a physical dimension (Miladiyanto, 2015). According to Budi Susanto in the journal Miladiyanto (2015) one of the areas of IPR that get protection is copyright law No. 28 of 2014 (UUHC 2014) article 1 Paragraph (1) on copyright is the exclusive right of the creator that arises automatically based on declarative principles after a creation is realized in real form without reducing restrictions in accordance with the provisions of legislation.

At this time, many people have lost their jobs due to the spread of the Covid-19 virus disease that resulted in all work being done from home and some companies are reducing the number of employees due to the amount of turnover that is decreasing than it should. Termination of employment rights carried out by some companies has a bad impact on employees who experience termination of employment contracts, namely insufficient economic needs ranging from daily living expenses, children's tuition (for employees who have families, etc.). As for how to solve the problem employees who have talent in music plunge into the world of YouTube to get additional living costs.

The rapid development of the times coupled with orders issued by the government to do all the work from home certainly has its own boredom that requires entertainment to reduce the stress experienced when working from home. The way that can be done to reduce stress when doing work is to use the internet to access YouTube to get Entertainment. Knowing that many people access the internet to find entertainment, many people take the opportunity to plunge into the virtual world to connect their lives by utilizing platforms that generate money for example is covering songs and uploaded to YouTube, TikTok, Instagram and other platforms to increase income in connecting their lives.

In the midst of the rampant use of cyberspace to connect the life of copyright and royalty management is very important in an effort to overcome those who claim that the song is his it is done for protection for people who slip a work with difficulty.

According to Law No. 56 of 2021 Article 1 Paragraph (1) it is said that royalties are rewards for the use of economic rights of a creation or related rights product received by the creator or owner of the related thing. It can be interpreted that a person who is the creator of a musical work has the right to receive a reward if the copyrighted work he published is used by others to benefit. Then in Paragraph (2) it is said that copyright is the exclusive right of the creator that arises automatically based on declarative principles after a creation is realized in real form without prejudice to restrictions in accordance with the provisions of laws and regulations. According to Setyaningrum (2014) exclusive rights are moral rights and economic rights that need to provide legal protection of copyright works so as not to violate in other words the rights owned by the creator that should not be owned by others.

MATERIAL AND METHODS

The research conducted in writing this thesis is using a qualitative descriptive

approach where this type of research is writing or studying problems by explaining or drawing, summarizing various conditions, situations and phenomena that occur in life. This type draws the phenomena that occur into the facts that occur in the field so that the problem or phenomenon that occurs can be overcome.

The sources cited from this study are fully based on the laws listed in Indonesia, namely the Constitution. In addition, the sources cited are from articles in accredited journals.

The method of data collection conducted in this study is by means of literature research derived from the Constitution, as well as articles that have been accredited on the law in Indonesia. The literature study referred to in this paper is a source that can overcome the problems that occur in the field as well as what things must be done by the community so as not to experience problems that occur about music royalty.

RESULTS AND DISCUSSION

A. Government Regulation Number 56 Regarding Royalties Government Regulation Number 56 Of 2021

Based on Government Regulation Law Number 56 of 2021 on the management of song or music copyright royalties, which is authorized by the president, it is necessary to clarify the rules for song Copyright Royalty in Indonesia then in the play song royalty PP it is explained that everyone can use songs or music commercially when paying royalties to the creator. This rule is contained in Article 3 PP royalties play songs. Song writers can give power to LMK to manage economic rights in the form of collecting and distributing royalty.

1. Recording Of Songs Or Music

To record music or songs in the government's song and music data center there are things that need to be done so that his work is valid in the music and Song data center in Indonesia.

The steps described above must be fulfilled by the creator in order to protect the

rights and obligations obtained by the creator. If the steps mentioned above are not done by the creator, the rights that should be owned by the creator will not be fulfilled because the creation that has been created by him is not listed in the song and Music Center. For a creator of musical works and songs should pay attention to these things in order to get legal protection against his creation because the resulting creation will be recorded in a data center managed directly by the Directorate General.

According to Heryanto, division of legal services of IPR, Ministry of Law and human rights of Yogyakarta, explained that basically anyone, either an individual or a legal entity, duplicates or publishes without the permission of the songwriter, it is an offense. So that the parameter is the publication or circulation of music and songs that are commercialized and can be enjoyed by many people.

When it comes to songs that are distributed on the internet, the biggest question is whether there is a contract agreement between the copyright holder and the provider that provides the song, or an agreement between the provider and The Collective Management Agency? That's what hams knew first.

If, for example, from the creator or copyright holder there has not been an agreement with the provider, then the act by the provider is a copyright violation. Because it has fulfilled the element of duplicating, distributing, or disseminating songs to the public to be enjoyed without permission to the copyright holder.

So it can be said that the site of illegal song providers in addition to providing and distributing songs freely without the permission of the copyright holder, there is also an announcement of 1 songs provided for download the download does not include information on the rights management of the copyright holder. Because in fact for illegal sites that provide songs for free download do not include information about the song such as song title, artist name, creator name, record label

Name, year of release of the song in the album and also the album cover of the artist against each song, but most of the illegal sites only mencamtumkan song title and artist name only.

2. World Music Provider Sites Songs

From the sites above, after the researchers did a check on the internet it turns out that some of the sites mentioned above are still in operation, in general these sites perform services with the method of providing songs which means these sites are very active in the process of downloading songs. Of the many sites of illegal music and song providers, researchers tried to take one of them, among others, as follows:

a. Warehouse song.corn

Gudanglagu.com is a song Provider site that is quite popular in the community. Gudanglagu in the website page display clearly in writing offers free download Indonesian songs, western songs, dangdut songs and regional songs. On the website page there is a link about the guide to download songs and video clips. On the website page there is also a collection of songs from reliable singers. Users simply click on the name of the singer band will then appear a list of songs that can be downloaded for free. But in the web page gudanglagu.com there is no inclusion of the name of the creator, there is only the title of the song and the name of the singer or band of the song. There is also no list of label names that have produced the songs provided in the web page gudanglagu.com

b. Corner Music.com

Use men download's song on the music-corner website is almost the same as gudanglagu.com, that is, by clicking on the download link of the song that has been provided and then immediately will appear the name of the singer hand and the title of the song, the download server that appears can be different, not just one as it is found on the website gudanglagu.com

On the music-corner website there is a more complete band profile than the website gudanglagu.com, starting from the

history of the band and single form of the album, but although there is a song title and singer handnya still no name of the creator of the song. On the page of the music-comer website there is a list of a number of lap-song collections with various categories. The user can select the desired music category.

c. MusiklegaL com

Legal Music offers a method of payment in downloading music that users want, which can be through payment via sms and purchase vouchers. With the payment method via sms pernbayaran done by cutting mobile phone credit. As for the purchase of vouchers can be found in retail stores. The way to download the desired song is quite easy just by creating an account accompanied by a password on the legal music website, or login with a Facebook account, then you can download the legal music player on the device that users like: Laptop computer, BlackBerry, Android or iPhone.

To buy songs from iTunes users must have an official account from the Apple application, so it is easier to have a mobile product from Apple such as the iPhone. iTunes in its operation has contained a very complete and clear terms and conditions for the sake of security and legal action.

iTunes also displays the price of the songs of each singer / band available. In addition, in the feature featuring albums from singer hand, there is also a music label company.

3. Comparative Analysis Of Music Provider Sites

From the site Musiklegal.com as well as iTunes, researchers say both have similarities in providing MP3 songs, which are as follows:

1. there is a registration in the use of the services offered, then create an account where there is a user id or Password used to select and buy songs.

2. there is a collection of various types of songs and music and accompanied by the name of the singer/band.
3. there are options in the song payment method to be selected, can use the phone credit or through other payments such as through the bank.
4. there is a provision to provide e-mail alerts for users, such ha1 for identifying the identity of the users.

Things are different when looking at the site gudanglagu.com dan music-corner.com, where both there are no terms and conditions regarding identity and payment method. In addition, there is no information about the songs displayed, and most only include the title of the song, and the artist only.

Basic similarities of the website gudanglagu.com dan music-corner.com with legal websites such as musiklegal.com and iTunes both carry out announcement activities on Mp3 songs through internet media. It's just a website gudanglagu.com and music-corner does not offer a payment method for distributing songs or music on its website.

Most different among the four sites is the iTunes website which displays a collection of downloadable songs with the price on each song. Then in the case of the inclusion of the name of the copyright holder, both the legal music website and the iTunes Store have the name of the copyright holder.

4. Opinion of songwriters against the phenomenon of file Sharing MP3 songs

As the creator of the song he felt theft, because obviously public piracy song spread throughout the community it can get money that is not small and the songs are not made for free (no cost), especially without the permission and approval of the label and the creator of the song. But Eross stated that the very loss in ha1 file sharing is actually the label or producer, because according to his experience, the recording process is all financed by the producer while

the creator and artist did not cost a penny, so after the song has entered the kitchen and ready to be sold to the public, the record producer who broadcast, spread the song for business purposes, can be on CD, distributed in iTunes, on the radio, and on the site on the official web of the record company where the song is processed. So it is natural when the label is a big loss because there is no label publishing rights in the song and making a profit with the song as well.

For now hal is more concrete musicians do is create their own songs and perform themselves, and that can still be relied on by musicians is "performing" (show), therefore now many record companies implement business strategy "artist management", so that the label directly ask for profits to artists who perform by means of revenue sharing depending on the agreement of both parties, but it is used for artists or music bands in the present.

This strategy is Felt by Eross as a songwriter and artist, including reasonable, because currently jualanla gusudah is difficult and selling a performance that can be relied upon to gain profits. And besides, the label has come out a lot during production so it wants to return capital.

In, according to researchers, the phenomenon of downloading songs through "j2e sharing" on the internet is very impactful for the economic income of creators and copyright holders of songs, because it is difficult to sell songs or music outside performing.

The situation is aggravated by the increasing number of sites that serve free download songs and music through file sharing. People are now easier to get the desired song or umusik without charging a fee.

So the most realistic hal for songwriters is to create their own songs and perform their own, because the right to perform until now is still felt to be beneficial to obtain financial income.

Explanation of the watermark technique does require a long explanation where the explanation is more towards the technical, so on this occasion it is not possible to be explained in detail because it is more into the area of technical tatarant. However, the disclosure of this water making technique can at least reveal that copyright infringement can be technologically overcome, so it is hoped that this technique can be used and applied within the framework of copyright law enforcement, especially in this hal MP3.

B. Cooperation Between The Indonesian Police, The Ministry Of Law And Human Rights Of The Republic Of Indonesia, Internet Service Provider Companies And Internet Cafe Entrepreneurs

In overcoming the phenomenon of music downloads in illegal song providers, the government in this hal Ministry of Law & Human Rights hams in collaboration with a number of parties, namely the police, Internet Service Provider companies, and entrepreneurs Internet stalls (Cafe). The form of cooperation that can be done is the creation of a memorandum of understanding or also called MOU (Memorandum of understanding).

The form of the MoU is an understanding between the government, the Indonesian police, Internet Service Provider companies, and internet cafe entrepreneurs to jointly share information findings about illegal music provider sites on the internet. It is hoped that the MoU will create a supply chain of information about musikilegal sites, so that the task of the government and the police can be helped to conduct an investigation or investigation. For the sake of blocking the site, the government can also easily if there is an MoU with the company Lnternet Service Provider, because of this Lnternet Service Provider Internet network can be distributed to the number of internet cafes or other places.

C. Inspection Action Between The Indonesian Police With The Indonesian Law And Human Rights Management

Inspection can be interpreted as a joint examination of regulations, duties, etc. While sudden inspection can be interpreted as an examination carried out suddenly without notice. The importance of supervision about the existence of illegal music provider sites certainly can not be separated from the role of the police as law enforcement, and in addition the government in this hal Directorate General of IPR Ministry of Law and human rights also has the authority to conduct direct supervision.

Although there is a memorandum of understanding between internet cafes and the police and the government as mentioned above, inspections also need to be carried out because routine inspections can monitor directly about operations in Internet cafes related to illegal music provider sites, and in addition inspections are also useful in reviewing the licensing of internet cafes.

Under the conditions described above, it is appropriate for internet cafe entrepreneurs to also seek supervision of internet users who are connected through the internet network provided by the internet cafe manager. Supervision conducted is cafe visitors or people who want to enjoy internet facilities connected in a network of internet cafes or cafes are encouraged to see the identity card as one of the requirements to enjoy the internet services provided.

By submitting an Identity Card, Marnpu Cafe entrepreneurs participate in monitoring if there is copyright infringement by internet users, and it is expected that internet cafe managers can provide information to the police as well as legal and human rights regulations.

CONCLUSIONS

Then regarding the steps that can be maintained dalam legal protection of mp3 song copyright holders through File Sharing on the Internet there are 2 (two) steps, namely preventive measures and repressive measures. Preventive measures are as follows:

1. Protection through technological means.

2. Coordinate with the company's internet Service Provider (ISP).
3. Cooperation between the Indonesian police, the Ministry of Law & Human Rights, Internet Service Provider companies, and internet cafe entrepreneurs.
4. Direct inspection action between the Indonesian police and the Ministry of Law & Human Rights.
5. Blocking of illegal music provider sites by the Ministry of communication and information of the Republic of Indonesia.
6. The use of ID cards for internet cafe visitors.
7. Then repressive measures using criminal measures and civil action, and settlement of disputes outside the court.

RECOMMENDATIONS

The Ministry of communications and information RI should coordinate with the entire internet service Provider company in the Republic of Indonesia to block all illegal sites that provide songs for free download.

The Ministry of Law and HAM RI together with RI police are trying to carry out maximum copyright law enforcement, especially illegal songs on the Internet by coordinating with the relevant agencies. In addition to the RI police, the Ministry of Law and HAM RI also coordinate with the Ministry of communications and information RI to socialize on the use of technological means to protect the content of digital songs by means of Digital Right Management and audio Watermarking by song providers sites on the internet to prevent over mp3 songs through File Sharing.

Then the president of the Republic of Indonesia is expected to establish government regulations on the use of technological means through Digital Rights Management and Watermarking on digital songs on the internet.

Acknowledgement: None

Conflict of Interest: None

Source of Funding: None

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How to cite this article: Atika Sunarto, Bohal Sijabat. Juridical reviews of users of song copyright works are associated with government regulation number 56 of 2021 regarding the management of song or music copyright royalties. *International Journal of Research and Review*. 2022; 9(4): 405-411. DOI: <https://doi.org/10.52403/ijrr.20220450>
