



PROTECTION LAW RIGHT CREATION SONG IN COMMERCIAL PERFORMANCE BY A DISC JOCKEY

Dinar Aryo Seno
Merdeka University, Malang, Indonesia
Sunarjo
Merdeka University, Malang, Indonesia

✉ corresponding email only: dinarrayoseno2003@gmail.com

Abstract

Song copyright is the legal protection of musical works that include lyrics, melodies, and arrangements produced by the creator. In the context of Indonesian law, copyright gives exclusive rights to the creator or right holder to regulate the use, distribution, and reproduction of his work. There are two exclusive rights that arise, namely moral rights and economic rights. Moral rights that include the right to distribute, reproduce, disseminate, and bring for commercial purposes. While Economic Rights are the right to obtain economic interests such as royalties. This writing aims to find out other regulations relating to legal protection for copyright holders when the song is remixed by disk jockeys and used for commercial purposes such as performances. The research method used in this research is a Normative Approach, with a Statue Approach problem approach method, with library data collection techniques and using data analysis methods is Qualitative which analyzes legal language based on data. The results of the study show that legal protection of owners or copyright holders whose songs are used by disk Jockeys in commercial performances have been regulated in Law 28 of 2014 and regarding royalty payments contained in Government Regulation No. 56 of 2021, but has not specifically regulated the song remixed by disk jockeys. Moreover, disk jockeys should pay royalties because it's commercial use of songs has been regulated in Article 9 Paragraph 3 and Article 23 Paragraph 5 of Law Number 28 of 2014 concerning Copyright.

Keywords

Copyrights, Disk Jockey, Legal Protection, Remixes

Introduction

According to the KBBI, a song is a variety of rhythmic sounds (in speaking, singing, reading, etc.) which means a series of tones combined with a harmonious rhythm and complemented by poetry that forms a beautiful harmony. Industry Indonesian music continues to experience rapid development. Various musical genres are emerging and are constantly changing in style, flow, and sound. produced. One of the most popular types of music is pop music. As time goes by, a new music genre has emerged that is popular among young people, namely Electronic Dance Music, abbreviated to EDM. In the steps above, the disc jockey selects the track, meaning the song to be remixed or combined. This means that a disc jockey takes a verse from a musician's song or the copyright owner or holder. This creates two types of rights inherent in a work: copyright and neighboring rights. Both of these rights are part of the exclusive rights inherent in creators, copyright holders, and owners of related rights.¹

The definition of Copyright Holder is written in Article 1 paragraph 4 of Law Number 28 of 2014 concerning Copyright, namely "Copyright Holder is the Creator as the owner of Copyright, the party who legally receives the right from the Creator, or the party other who receive more carryon rights of the party that accept those rights in a way valid".²

Copyright itself is an exclusive right held by the copyright holder or owner to obtain moral rights and economic rights. (economic rights). Moral rights themselves are rights inherent in the creator to include his name and prohibit others from changing his creation, while economic rights are ... is a right that is economically attached to the creator to obtain economic benefits or is usually called royalty.³ The owner or holder of moral rights that exist and are eternally attached has the right to continue to include the name, change the creation, and maintain its integrity. Although it is eternal, moral rights can also be bequeathed as evidenced by a will and given to the recipient of the will after owner or

¹ Fakhri Dwi Priyono, *Perlindungan Hukum Karya Cipta Musik Terhadap Musisi Remix Di Tinjau Dari Undang-Undang No 28 Tahun 2014 Dan Fatwa Dsn-MUI NOMOR: 1/MUNAS VII/MUI/5/2005 Tentang Perlindungan HAK KEKAYAAN INTELEKTUAL (HKI)*, Juli 2023, hlm. 11.

² Rivaldi Rais, *Perlindungan Hukum Terhadap Hak Cipta Lagu Yang Digandakan Tanpa Izin Dihubungkan Dengan Undang-Undang Nomor 28 Tahun 2014 Tentang Hak Cipta*, 2023, hlm. 94.

³ Magdariza, *Analisa Yuridis Terhadap Hak Ekonomi Dan Hak Moral Berdasarkan Undang-Undang Hak Cipta Dalam Rangka Liberasi Perdagangan*, 2023, hlm. 1.

holder right creation die. Furthermore right economy (economic rights), economic rights (economic Copyright (or related rights) grants the exclusive right to reproduce a work, including digital reproductions. Through licensing agreements and distribution partnerships, creators ensure that digital replicas are valued, providing an incentive to continue creating music. In addition to the two rights mentioned above, which arise from copyright, there are related rights. Related rights encompass four exclusive rights:

Right moral perpetrator show

Right economy perpetrator show

Right economy producer phonogram

Right economy institution broadcasting

First, the moral rights of the performers, which means that the performers or performers may not replace or change things that cause harm to the creation unless approved by the creator. Second, the economic rights of the performers are exclusive rights so that any broadcast or commercial use without permission from the creator, but on the condition that they pay compensation through the Collective Management Institution (LMK), this has been guaranteed in Article 23 number (5) of Law No. 28 of 2014 concerning Copyright. According to Article 1 number (22) of Law No. 28 of 2014 Regarding Copyright, a Collective Management Institution is an institution in the form of a non-profit legal entity that is authorized by creators, copyright holders and/or owners of related rights to manage their economic rights in the form of collect And distribute royalty. Important for creator or perpetratorperformances to join the National LMK to obtain fair economic rights. Third is the economic rights of phonogram producers, which means that phonogram producers have the exclusive right to carry out, grant permission, or prohibit the duplication, distribution, rental and provision of phonograms without the permission of the phonogram producer. The last is the economic rights of broadcasting institutions, broadcasting institutions have the right to carry out themselves, grant permission or prohibit rebroadcasting, broadcast communication, broadcast fiction, broadcast duplication except with the permission of the broadcasting institution. This shows that the creator or copyright holder is the only party who has the authority to limit and regulate the commercial use of his creation and preserve (including modify) his music.⁴

⁴ Aulia, M. Z., & Idris, I, Hak Cipta Dan Eksploitasi Ciptaan Lagu Daerah Kerinci: Perspektif Pencipta. Masalah-Masalah Hukum, 2020, hlm. 420-431.

In accordance with discussion that is protection law for owner or holder right A song performed by a disc jockey or DJ in a performance where the song has been remixed or remixed by the DJ is required to pay royalties to the owner or copyright holder whose song is used by the DJ in a performance. Song copyright gives the creator or copyright holder control and compensation for the performance of the song on various platforms, including concerts, radio, and digital. Copyright owners or holders should receive royalties or compensation as a form of appreciation for each time their song is played. However, in reality, many disc jockeys in a performance do not provide compensation in the form of royalties as an appreciation for the use of the song for commercial purposes to the owner or copyright holder of the song, even a disc jockey receives a salary or a significant fee for one performance.

Wrong One example concrete case violation of rights creation can seen from practice A DJ using the pseudonym "MELATTI" admitted that "MELATTI" frequently includes songs by various well-known musicians, such as Dewa 19, Jogja Hip-Hop Foundation, Justin Bieber, Tyla, and many more, without permission. These songs are used in a commercial context for performances, where "MELATTI" benefits financially from her performances. Furthermore, "MELATTI" not only ignores the permissions required from copyright holders but also fails to provide proper credit to the songwriters. This action clearly violates the economic rights protected by Article 23 Number (5) Law Number 28 Year 2014, Which state that holder right creation The right to permit or prohibit the use of their work. These violations not only harm songwriters financially but also create injustice in the music industry, where artists who work hard to create their work are not given the recognition they deserve. Practices like these must be strictly enforced to ensure copyright protection and ensure the sustainability of the music industry. From this perspective, dialogue, collaboration, and innovation are needed to find holistic solutions that embrace both ethical and economic interests. Hopefully, the world of copyright Songs can fairly reward songwriters, while ensuring the continuity and progress of the music industry in this digital era.⁵

This is regulated in Law No. 28 of 2014 concerning Copyright. Moral Rights (moral rights) are regulated in articles 5 to 7 Law no. 28 of 2014 concerning Right Copyright. While economic rights (economic rights) chapter 8 up to the article 11 Law no. 28 of 2014 concerning

⁵ Joshua Limanto Handradjasa, Ismail, Dewi Iryani, *Tinjauan Yuridis Terhadap Peran Lembaga Manajemen Kolektif Nasional (LMKN) Dalam Pendistribusian Royalti Untuk Pencipta Pada Pemutaran Lagu Pada Aplikasi Musik Berbasis Streaming Spotify*, 2023, hlm. 97.

Copyright. With the existence of a law that regulates Copyright, namely Law No. 28 of 2014, provides a legal umbrella for owners or copyright holders of songs to protect moral rights and economic rights. (their economic rights)

Regarding royalty payments, the institution that handles music royalty collection is LMKN (National Collective Management Institute). Duties of the LMKN Commissioner: Creator and LMKN Right Related is For designing system and procedures Which clear in calculating royalty payments, determining the appropriate method for distributing those royalties, and determining the amount of royalties to be received by creators, copyright holders, and owners of related rights. The terms and conditions for distribution of royalties are set out in Article 14 of the Regulation. Government Republic Indonesia No. 56 Year 2021 About Management Royalty Copyright of Songs and/or Music. 5 Where all royalties are distributed to creators, copyright holders, and/or related rights owners who have become members of LMK based on the use of music or songs in the Song and/or Music Information System (SILM). With this, the disc jockey has good intentions to contact LMKN to support the progress of the music industry in Indonesia, considering the disc jockey takes or adds song from musicians related for the sake of interest his work or interest its economy.

Based on background behind problem the in on, writer will explore further regarding legal protection against the owner of a song played by a disc jockey in a performance and the legal remedies that can be taken by the owner of a song that is commercialized without permission. The purpose and objective of writing this thesis is to understand the application of song copyright in Indonesia in accordance with the Copyright Law. Number 28 of 2014 and legal protection as well as legal remedies for owners or copyright holders of songs regarding the playing of songs by disc jockeys at a show.

Method

In this research, the normative juridical research method is used, legal research. normative is something process study with research ingredients law in order to find rules, principles, or legal doctrines to answer a legal problem.⁶ This means writing this research based on written sources such as legislation, journals, data or research. Normative also produces legal opinions based on legislation combined with the problem being studied, so this research focuses on documents such as

⁶ Soerjono Soekanto dan Sri Mamudji, *Penelitian Hukum Normatif: Suatu Tinjauan Singkat*, Raja Grafindo Persada, Jakarta, 2003, hlm. 14.

previous journals, research, and papers related to the discussion and related legislation, namely Law Number 28 of 2014 concerning Intellectual Property Rights. The legal materials used by the author for research are 2, namely Primary and Secondary. Primary legal materials are legal sources that are binding and directly applicable in the legal system. law. This including Constitution, regulation government, decision court proceedings, and other official documents produced by competent legal authorities. The existence of primary legal materials is crucial because it provides a clear and firm legal basis for law enforcement and the interpretation of various norms. Due to its binding nature, primary legal materials serve as the primary reference in resolving legal disputes and ensuring legal certainty for all parties involved. Secondary legal materials serve to support legal problem-solving and are closely related to primary legal materials. Secondary legal materials are all publications on law that are not is documents official as material law Which give explanation of primary legal materials, such as draft laws, draft regional regulations, research results, works from legal circles that are relevant to the legal problems being studied.⁷

Results And Discussion

1. Protection Law Right Creation Song in Show Commercial by Disk Jockey

Legal protection of copyright is crucial for safeguarding the moral and economic rights of creators, particularly in the music industry. Moral rights encompass recognition of the work, while economic rights encompass financial rewards such as royalties. These royalties are awarded to the copyright owner or holder. The copyright holder is the creator or person or legal entity who legally obtains that right.⁸ Relevant regulations are outlined in Law No. 28 of 2014 concerning Copyright and Government Regulation No. 56 of 2021, which governs royalty management through the National Collective Management Institute (LMKN). However, the use of remixed songs by disc jockeys (DJs) for commercial purposes remains largely unregulated, creating a potential legal loophole. harm creator works. Moreover Constitution Number 28 Year 2014 regarding Copyright or commonly called UUHC 2014 which plays a very important role in development

⁷ Inge Kalista Hikmasari, H. Yuhelson, Bernard Nainggolan, *Perlindungan Hukum Kepada Pencipta Lagu Yang Diumumkan Tanpa Seizin Pencipta*, 2023, hlm. 2947.

⁸ Hulman Panjaitan, Wetmen Sinaga, *Performing Right Hak Cipta Atas Karya Musik Dan Lagu Serta Aspeknya (Edisi Revisi)*, Uki Press, 2017, Hlm.85.

in various fields such as law which must also be cultured in every level of society.⁹

DJs are obligated to seek permission and pay royalties for songs used in commercial events. Although remixes are a form of derivative work, royalties are still required. However, provisions regarding remixes have not been specifically explained in the law, so a regulatory review is needed to address confusion in their application. Furthermore, DJs are also expected to understand their responsibility to respect copyright to support the sustainability of the music industry ecosystem. need take step preventive And repressive. Step preventive includes counseling to DJ, organizer program, And party related so that understand the importance of permission and royalties. Outreach can be conducted in collaboration with LMK to increase awareness and compliance with copyright regulations. In addition, the government needs to develop a monitoring system. based technology For monitor use work creation in a way transparent.

Repressive measures involve strict law enforcement against copyright infringers. Copyright owners can file civil lawsuits seeking compensation for financial losses or reputational damage caused by the infringement. These lawsuits not only provide compensation to copyright owners but also create a deterrent effect for infringers. All of these measures aim to create fairness in copyright protection. right creation, push culture value riches intellectual, And strengthening a healthy and sustainable music ecosystem in Indonesia.

2. Effort Law Which Can Done Owner Or Holder Right Creation Which Harmed by Disc Jockey's Playback of Songs

Copyright owners have the full right to demand legal protection for the use of songs remixed by disc jockeys (DJs) without permission or royalty payments. This type of violation harms the creator of the work both economically and morally, so legal steps must be taken to uphold justice. Legal action can begin with mediation, a process of peaceful dispute resolution between the copyright owner and the infringer. In mediation, both parties It is hoped that an agreement can be reached without going through a time-consuming and costly court process. If mediation is unsuccessful, the next step is arbitration or a lawsuit in a commercial court. Arbitration allows for a quick dispute resolution, and its decision is final and binding on both parties. Meanwhile, a lawsuit in a commercial court gives the copyright owner the opportunity to seek compensation, stop the infringement, or take

⁹ Andi Baso Ilmar M, Peran Hak Cipta Dalam Pembangunan Dan Kesejahteraan Masyarakat, Juli 2020, hlm. 243.

interim measures, as stipulated in Article 106 of Law Number 28 of 2014 concerning Copyright.

In addition to repressive legal measures, preventive measures are also necessary to prevent future violations. One important preventive measure is legal counseling, which aims to educate those involved in the music industry, including DJ And organizer program, about obligation they For honor right Copyright. This outreach can explain the importance of paying royalties to copyright owners as a form of respect for intellectual property rights. This type of education is expected to raise awareness among music industry players about acting professionally and complying with applicable laws.

Besides That, government Also own role important in ensure protection Copyright enforcement through strict oversight. Collaboration between the Directorate General of Intellectual Property (DJKI) and the Collective Management Institution (LMK) is essential to creating an effective and transparent oversight system. One innovation that can be implemented is the development of a technology-based system that allows for real-time monitoring of song usage, so that any copyright infringement can be immediately detected. This step will further incentivize DJs and event organizers to fulfill their legal obligations, such as paying royalties and obtaining appropriate permits. legal before using the song in commercial performances.

These synergistic preventive and repressive measures share the same goal: to protect the rights of creators while creating a fair and sustainable music ecosystem. With firm law enforcement and adequate education, it is hoped that the public will increasingly respect creativity and intellectual property rights. This allows the music industry to thrive in a professional and respectful environment. This step not only provides fairness for songwriters but also encourages innovation and sustainability in the music industry, creating a stronger ecosystem for all parties involved.

Conclusion

Copyright is an exclusive right vested in the holder or owner of a creative work. These rights are divided into two main types: moral rights and economic rights. Moral rights relate to the creator's right to be recognized for their work, to have their name included or changed appropriately, and to adapt or modify their work without violating applicable norms. Meanwhile, economic rights relate to the financial benefits derived from the use of a creative work, such as the receipt of royalties.

Based on discussion in chapter 3 can concluded that Protection law What can be done by the owner or copyright holder regarding the

song used by the disc jockey in a performance is by referring to Law Number 28 of 2014 concerning copyright, that if someone else's song is used, they must ask for permission or give a reward in the form of royalties. However, because Disc Jockeys in Indonesia do not understand and the Law does not explicitly regulate remixes, the preventive legal effort is by reviewing the law to create a fair atmosphere, secondly by providing legal education to DJs, event organizers, and related parties regarding the importance of respecting copyright.

In addition to legal protection, there are also legal remedies available in the event of a dispute. Copyright owners or holders can seek compensation for the copyright infringement. The first step is mediation with the violating party, in this case the disc jockey (DJ). If mediation fails, arbitration or a lawsuit can be filed with the court, citing the resulting losses. a song used by a disc jockey in a show and does not pay royalties.

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