JLSCR
Journal of Law and Social Change Review (JLSCR)
Vol. I, No. I (2025), pp. 139-151
Available online https://jurnal.sshpublikasi.com

THE IMPACT OF INTELLECTUAL PROPERTY RIGHTS VIOLATIONS ON THE MUSIC INDUSTRY: A LEGAL AND ECONOMIC STUDY

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Abstract

This study examines the effectiveness of regulations and law enforcement related to Intellectual Property Rights in the music industry in Indonesia and the economic impacts caused by copyright infringement on creators, producers, and the music ecosystem as a whole. Despite having comprehensive regulations, such as Law Number 28 of 2014 concerning Copyright, its implementation still faces various challenges, including low public awareness, limited resources in law enforcement and rampant piracy and illegal distribution. This study uses a normative legal method with a legislative and conceptual approach, as well as a qualitative analysis of the effectiveness of regulations in protecting the rights of songwriters and ensuring fairness in the distribution of royalties. The results of the study show that despite the government's efforts to protect copyright, violations are still rampant, causing creators and music producers to lose their economic rights and face high financial burdens. The digital music industry is also affected by piracy, with declining platform revenues and weakening trust in legal distribution.

Keywords: *Intellectual Property Rights, Copyright, Music Industry, Legal & Economic Studies*

A. INTRODUCTION

The presence of law in people's lives is in principle to provide trust and protection for several different interests. As in accordance with the objectives of the law which include benefits, justice, and

legal certainty. Talking about creative works, the law also regulates and protects them as regulated in Law No. 28 of 2024 concerning Copyright. Further explanation can be found in Article 40 paragraph (1) letter d, which explains that songs, or musical works, whether using or not using words are something that is protected. For this reason, if a song is used for commercial purposes, both the government and the community have the right to provide economic rights to the creator or copyright holder as an effort to show their gratitude.[1]

In the rapidly developing digital era, copyright infringement is increasingly complex and raises concerns. This violation occurs when an individual or entity uses copyrighted work without obtaining permission from the owner. The forms of violation vary, such as piracy, unauthorized distribution of digital content, to the use of artwork without the consent of the creator. This copyright infringement can occur in commercial performances or on social media platforms with a wide audience. One of the copyright infringement conflicts that occurred was when Ahmad Dhani said that Once was no longer allowed to perform Dewa 19 songs at his concerts, which was because Once often performed Dewa 19 songs without permission at events he held. In addition, there is also a copyright violation that befell Admesh Kamaleng, whose song entitled "Cinta Luar Biasa" was often used without permission on various digital platforms. For that, in this case both Ahmad Dhani and Admesh Kamaleng suffered losses in the form of loss of royalties that should have been their rights. For that, the author is interested and wants to study more deeply the effectiveness of regulations and law enforcement related to Intellectual Property Rights (IPR) in the music industry in Indonesia in overcoming copyright violations and knowing the economic impact of Intellectual Property Rights violations on the music industry, both for creators, producers, and the music ecosystem as a whole.

[1] Fredy Bagus Kurniawan, "Penegakan Hukum Terhadap Pelanggaran Hak Cipta Musik Pada Konser Komersial (Studi Kasus Once Dengan Dewa 19)," *Pagaruyung Law Journal* 8, no. 2 (2025): Hlm:2.

This paper is different from previous studies, with the main focus on the effectiveness of the regulation of Law Number 28 of 2024 concerning Copyright and the economic impacts caused to various parties in the music ecosystem as a whole, with an emphasis on the aspect of utility. Previous studies tend to focus more on the rights of songwriters as copyright holders due to copyright infringement in the music industry, without conducting an in-depth discussion of the economic impacts experienced by producers and the music ecosystem as a whole.

The method used in this study uses a normative legal research type with a statutory and conceptual approach. The source of legal materials used is primary legal materials which include statutes. The data collection method uses a literature study which includes law books, law journals, and laws and regulations. The legal material analysis method used is a qualitative normative analysis, attempting to describe the appropriate form of regulation used in order to determine the effectiveness of the use of laws and regulations in overcoming violations of Intellectual Property Rights in the field of music.

B. RESULTS AND DISCUSSION

1. Effectiveness of Regulation and Legal Protection Efforts Related to IPR in the Music Industry in Indonesia in Overcoming Copyright Infringements

Effectiveness comes from the word effective which means achieving success in achieving the goals that have been set. The effectiveness indicator is interpreted as achieving previously determined goals in accordance with the planning that has been made with in-depth considerations.[2] When talking about law enforcement related to Intellectual Property Rights (IPR) in Indonesia, it still faces several significant challenges. One of the main obstacles is the low public awareness of the importance of IPR protection. Many

[2] Galih Orlando, "Efektivitas Hukum Dan Fungsi Hukum Di Indonesia," *Jurnal Pendidikan Agama Dan Sains* 6, no. 1 (2022): Hlm: 2, https://www.ejurnal.stita.ac.id/index.php/TBQ/article/download/77/70.

individuals and groups do not yet understand the strategic value of IPR in protecting intellectual works and supporting innovation and creativity. In addition, limited resources, both in terms of experts, infrastructure, and financial support, also hamper the effectiveness of law enforcement. Although regulations regarding IPR protection have been comprehensively regulated in law, their implementation in the field often does not go as expected. Lack of supervision, weak coordination between related agencies, and limited capacity of law enforcement officers are often factors that cause the implementation of these regulations to be less than optimal.

Talking about music, as a complete work consisting of melody, lyrics, and arrangement notation. To obtain Copyright protection, a song must be an original expression and not a copy of another work. In addition, the song must be recorded or written, because if it is only spoken without any recording or writing of lyrics, it will not get copyright protection. After the songwriter records or writes his creation, the song is automatically protected by Copyright, even though it has not been officially registered with the Directorate General of Intellectual Property.[3] Meanwhile, if we look at the regulations stated in Law Number 28 of 2014 concerning Copyright, it clearly explains how to provide protection for musical works and their creators.[4]

In efforts to protect copyright, especially in the digital music sector, the Indonesian government has taken steps to provide protection, including:[5]

1. Protection of intellectual property rights, including copyright, is carried out through the signing of free trade agreements with

[3] Agung Basuki Wicaksono, "Perlindungan Hak Cipta Dalam Kasus Penggunaan Lagu SKJ88 Tanpa Izin Oleh O Shop (Studi Kasus Putusan Nomor 991 / Pdt . Sus-HKI / 2022)," *UNES LAW RIVIEW* 6, no. 2 (2023): Hlm: 4-5.

[4] Panri Tulus Harapan Hutagaol and Debora, "Perlindungan Dan Penegakan Hukum Terhadap Eksploitasi Karya Cipta Musik Di Era Digital Dalam Perspektif Hak Kekayaan Intelektual," *Jurnal Prisma Hukum* 8, no. 1 (2024): Hlm: 6.

[5] Lilik Prihatin et al., "Perlindungan Hak Kekayaan Intelektual : Sebuah Esensial Hak Cipta Pada Era Revolusi Industri 4 . 0," *UNES Law Review* 6, no. 4 (2024): Hlm: 4.

other countries. In the agreement, partner countries are committed to strengthening copyright protection for Indonesia.

2. Establishing a National Copyright Agency (BHCN) which has a crucial role in enforcing, supervising, and controlling the implementation of copyright in Indonesia. In addition to being tasked with increasing public understanding and awareness of the importance of copyright, BHCN also contributes to providing guidance and technical support to ensure more optimal copyright protection.

3. Supervision from the Ministry of Law and Human Rights in the use and distribution of prohibited digital music. Furthermore, in an effort to increase public knowledge regarding the permissibility of using digital music, the government has partnered with digital music service providers

Based on Law Number 28 of 2014 also regulates the royalty rights of music composers, where parties who want to use musical works must obtain a license from the composer or copyright owner. A license is a permit that aims to use intellectual property rights that allow the licensee to provide the licensee with various information or technology business functions. Licenses include general licenses issued by copyright management organizations or special licenses negotiated directly between the creator and user of the creation. For this reason, anyone who wants to copy or reproduce a song in any form, such as recordings, CDs, or digital formats, must obtain permission from the author again and generally pay royalties for its use.[6]

Legal protection for copyright in the digital music industry, especially in Indonesia, is regulated in Law Number 28 of 2014 concerning Copyright, which in this case grants exclusive rights to copyright owners to reproduce, distribute, and sell their works. The

[6] Debora Agatha and Christie Panjaitan, "Efektivitas Penggunaan Somasi Terhadap Klaim Royalti Oleh Komposer Lagu Melalui Perspektif Undang-Undang No. 28 Tahun 2014," *INNOVATIVE: Journal Of Social Science Research* 3, no. 28 (2023): Hlm: 6.

main purpose of this protection is so that copyright owners can control the use of their works and gain profits from their users. The law also regulates sanctions for copyright violators, as regulated in Article 113 paragraph (1), which stipulates criminal penalties in the form of imprisonment of up to seven years or a maximum fine of five billion rupiah for violators. In addition, this law also provides administrative sanctions in the form of termination of business activities for business actors who are proven to have violated copyright, which can be enforced by officials appointed by the Minister of Law and Human Rights. Law Number 28 of 2014 regulates the general use rights in digital music that can be utilized without requiring permission from the copyright owner, with the aim of continuing to protect copyright. As an illustration, copyrighted works can be used in the context of education, research, and the public interest. However, such use must still respect copyright and not cause harm to the owner. In its implementation, copyright protection in Indonesia still faces various challenges, especially in the digital era which increasingly facilitates access and distribution of music online. Therefore, if a copyright violation occurs, legal and administrative sanctions that have been regulated in laws and regulations can be imposed to protect copyright and protect the interests of the copyright owner.[7]

Every regulation and legal provision set by the government is basically a consequence of the rules governing the relationship between society and all its actions. Society and government that adhere to Pancasila and the 1945 Constitution have an obligation to maintain peace in social interactions based on the principles of independence, eternal peace, and social justice. This provision clearly shows the recognition of ownership rights that must be protected in community life. Ownership of these rights is expected to create a more dynamic social order in the future. Therefore, comprehensive protection is needed to raise public awareness in respecting individual rights. One form of such recognition and protection can be

[7] Gde Arya Surya Dharma and Kadek Julia Mahadewi, "Perlindungan Hak Cipta Dalam Industri Musik Digital Di Indonesia : Studi Normatif Terhadap Perlindungan Hak Cipta Penggunaan Musik Digital," *Jurnal Kewarganegaraan* 7, no. 1 (2023): Hlm: 5.

realized through copyright for a person's innovative and creative work. In relation to copyright, the theory of natural law states that copyright remains attached as long as the creator is still alive. However, in its application, this theory has changed with the extension of the copyright protection period for several years after the creator dies. In order for the regulation to be clearer, strict provisions are needed regarding the copyright period, especially in the articles that regulate it. Thus, there will be more serious steps in the process of transferring copyright from one party to another.

In Indonesia, provisions regarding copyright are regulated in Copyright Law Number 19 of 2002, specifically in Articles 33 and 34. Article 33 states that copyright is valid without a time limit, while Article 34 explains that copyright protection lasts as long as the creator is still alive and remains valid for 50 years after his death. In addition, Article 29 paragraph (2) states that if copyright is owned by two or more people, then protection remains valid as long as the last deceased creator is still alive and continues for 50 years after that. This copyright protection was later updated in Copyright Law Number 28 of 2014. Article 58 paragraph (2) states that if a creation is owned by more than one person, then copyright remains valid as long as the last creator is still alive and is extended for 70 years after his death, starting from January 1 of the following year.[8]

Speaking of copyright, copyright holders who are not creators only have some exclusive rights, namely economic rights. Meanwhile, creators still have full control over their work as natural rights. Therefore, every work published must be known by its creator. According to Article 4 of the Copyright Law, copyright is a special right that includes moral rights and economic rights. This special right gives exclusive authority to the creator or recipient of the rights to announce, reproduce, or grant permission for his creation, while still paying attention to the restrictions stipulated in the laws and regulations. The existence of this copyright aims to provide legal

[8] Adinda Putri Herdiana, "Hak Kekayaan Intelektual: Perlindungan Hukum Terhadap Hak Cipta Karya Musik," *Jurnal Kajian Ilmiah Multidisipliner* 8, no. 6 (2024): Hlm: 4, https://doi.org/10.30652/jih.v7i2.5703.

protection for works that have been manifested in a distinctive way, so that they can be seen, heard, or read.[9]

2. The Economic Impact of Intellectual Property Rights Violations on the Music Industry, Both for Creators, Producers, and the Music Ecosystem as a Whole

A creator has the right to the work he produces, including the authority to monitor its circulation in society. If someone intentionally reproduces and commercializes a work of creation without permission from the creator for personal gain or for the benefit of others, then this action is a violation of the law. This is detrimental to the creator, both in terms of morals because his name is used without permission, and in terms of material because he does not get any profit from his work. The background to this violation is generally related to the economic aspect, where the work that is reproduced without permission is then sold, providing benefits to the party who reproduces it, while the original creator suffers a loss.[10]

In relation to Copyright, the existence of copyright infringement by singing songs or music without permission and the absence of royalty payments for copyright holders results in the creator and/or copyright holder losing their economic rights and moral rights. One example is that with the existence of copyright infringement, the creator loses royalties as a form of appreciation that has economic benefits from the work he created. Royalties arise with copyright, copyright is a private right and is a civil right that is inherent in the creator. Article 1 paragraph (1) of Government Regulation Number 56 of 2011 concerning Management of Copyright Royalties for Songs and/or Music regulates that royalties are payments made to the

[9] Nova Valentino and Elfrida Ratnawati, "Tuntutan Pemegang Hak Cipta Atas Pelanggaran Hak Cipta Lagu/Musik Melalui Platform Youtube," *Unes Law Review* 5, no. 4 (2023): Hlm: 5-6, https://doi.org/10.31933/unesrev.v5i4.

[10] Inge Kalista Hikmasari, "Perlindungan Hukum Kepada Pencipta Lagu Yang Diumumkan Tanpa Seizin Pencipta," *Jurnal Multidisiplin Indonesia* 2, no. 9 (2023): Hlm: 9, https://doi.org/10.58344/jmi.v2i9.573.

creator of a creation or the owner of rights related to the creation used commercially.[11]

Royalty not only acts as financial compensation for creators or owners of related rights (Copyright Holders), but also as a form of respect and appreciation for their work. In general, royalty can be interpreted as a payment given to songwriters or copyright holders every time their work is used or distributed. The provision of royalties to songwriters or copyright holders is a form of recognition of their creativity and contribution in producing the work. This reflects the appreciation of the music industry and other users for the quality and popularity of the song.[12]

Music producers in this case need to be considered because producers have economic rights that can give them the authority to complete and manage their work, including exclusive rights to use the work commercially. In the music industry, the economic rights received by producers include royalties from distribution, licensing, and exclusive use of the work they produce. Because the music production process often requires intensive thought and effort, formal work training in this field is difficult to do. And for that, the existence of economic rights given to producers remains a major factor in supporting the sustainability of the music industry and giving appreciation for their creativity.[13]

IPR infringement in the music industry has a significant economic impact on music producers, especially in terms of loss of income from royalties and distribution rights due to piracy or illegal use of their works. This not only reduces profitability, but also

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[11] Afifah Husnun et al., "Mekanisme Pengelolaan Hak Royalti Musik Oleh LMK & LMKN Ditinjau Dari Peraturan Pemerintah No 56 Tahun 2021 Tentang Pengelolaan Royalti Hak Cipta Lagu Dan/Atau Musik," *Padjadjaran Law Review* 9, no. 1 (2021): Hlm: 3, https://www.kompas.com/tren/read/2021/04/09/1150.

[12] Fhauzan Remon Raihana, Mangaratua Samosir, Bambang, "Analisis Yuridis Keberadaan Royalti Dalam Hak Cipta (Studi Ciptaan Lagu)," *Journal Of Social Science Research* 3, no. 5 (2023): Hlm: 7.

[13] B Purba et al., "Perlindungan Hukum Terhadap Hak Kekayaan Intelektual Dan Hak Cipta Musik," *Innovative: Journal Of Social Science Research* 3, no. 2 (2023): Hlm: 12, http://j-innovative.org/index.php/Innovative/article/view/1687.

discourages investment in new music production due to uncertainty of profits. In addition, music producers often have to spend large amounts of money to take legal action to protect their copyrights, which can burden their financial condition and hinder productivity.

In addition, the economic impact of IPR violations in the music industry also affects distributors and digital music platforms such as Spotify, Apple Music, Joox, and YouTube Musik, especially in relation to distribution systems involving music aggregators such as Tunecore, DistroKid, and CD Baby. These platforms have limited access to music distribution, where only major labels can upload songs directly, while independent musicians must use aggregator intermediaries to distribute their work. IPR violations result in economic losses for digital platforms because many users have more access to music illegally, so that revenue from premium subscriptions and advertising decreases. In addition, fraudulent distribution practices have emerged, where unauthorized parties upload pirated music through aggregators to obtain royalties illegally, so that platforms must allocate large resources in violation detection systems such as fingerprinting technology and Content ID. Due to high piracy, the trust of musicians and record labels in digital distribution is decreasing and can ultimately hinder the growth of the music ecosystem as a whole.[14]

C. CONCLUSION

The effectiveness of law enforcement related to Intellectual Property Rights in the digital music industry in Indonesia still faces various challenges, even though it has comprehensive regulations, such as Law Number 28 of 2014 concerning Copyright. One of the main obstacles is the low public awareness of the importance of IPR protection, limited resources in law enforcement, and the still rampant copyright violations, especially in the form of piracy and illegal distribution. The government has made various protection efforts, including through international cooperation, the

[14] Sri Lestari Poernomo Dillah Nanda Tullah, Hasbuddin Khalid, "Perlindungan Hak Cipta Dalam Industri Musik Digital Di Indonesia Dalam Perspektif Hukum Perdata," *Journal of Lex Philosophy (JLP)* 5, no. 2 (2024): Hlm: 12-13.

establishment of the National Copyright Agency (BHCN), and supervision by the Ministry of Law and Human Rights of digital music distribution. In addition, the regulation also regulates royalty rights for creators which require users of musical works to obtain a license before reproducing or distributing music commercially.

Meanwhile, in terms of Intellectual Property Rights violations in the music industry have a significant impact on various parties, including songwriters, music producers, distributors, and digital music platforms. This violation occurs when a work is reproduced, commercialized, or used without the permission of the creator, resulting in economic and moral losses for copyright holders, lost or reduced due to piracy and illegal distribution. In addition, music producers also experience a major financial impact due to the loss of economic rights and face high legal costs to protect their copyrights.

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