
The Legal Certainty of Legitimate Ownership in Copyright Works of Songs or Music, as well as Associated Rights in Non-Declarative Recording in accordance with the Royalty Management System under Government Regulation No. 56 of 2021 (Case Study on Copyright Legal Services and the LMKN - DJKI of the Ministry of Law and Human Rights of the Republic of Indonesia)

Fransiskus Litoama¹, Purgito²

¹²Universitas Pamulang, Indonesia

Correspondent: dosen01575@unpam.ac.id¹

Received : November 15, 2023

Accepted : Desember 11, 2023

Published : February 28, 2024

Citation : Litoama, F., Purgito. (2023). The Legal Certainty of Legitimate Ownership in Copyright Works of Songs or Music, as well as Associated Rights in Non-Declarative Recording in accordance with the Royalty Management System under Government Regulation No. 56 of 2021 (Case Study on Copyright Legal Services and the LMKN - DJKI of the Ministry of Law and Human Rights of the Republic of Indonesia). Sinergi International Journal of Law, 2(1), 1-13.

ABSTRACT: The non-registration of data on song or music creators and related rights in the Directorate General of Intellectual Property (DJKI) database and the Song and Music Information System (SILM) could lead to legal uncertainty regarding the economic rights of song or music creators and related rights in claiming royalty rights. This research aims to explore the legal consequences of a song or music copyright/related rights that are not registered in the SILM and the dispute resolution patterns as efforts to provide legal protection for unregistered song or music copyrights/related rights in the SILM. The applied method is empirical sociology to assess the effectiveness of legal instruments in accordance with applicable regulations by observing the research objects and the level of their implementation in practice. The results indicate that for works of music or songs not recorded in the SILM, royalty payments are made voluntarily by users with the condition of not creating new records, and dispute resolution patterns involve mediation through the PPNS before proceeding to litigation to seek a win-win solution.

Keywords: Ownership; Copyrighted Work; Legitimate



This is an open access article under the CC-BY 4.0 license

INTRODUCTION

Intellectual Property Rights (IPR), often referred to as IPR, are rights that arise from the human intellect to create something beneficial for human interests (Feng & Jaravel, 2020). On the other hand, copyright is a highly personal right, both for the creator and the copyright holder, in the use or duplication of a created work without violating the limitations set by applicable law. Literally, "copyright" comes from two words, "right," often associated with the authority granted to a specific party for free or restricted use, while "copyright" refers to the result of human thought involving intellect, emotions, knowledge, imagination, and experience (Nagpal, 2017).

The Legal Certainty of Legitimate Ownership in Copyright Works of Songs or Music, as well as Associated Rights in Non-Declarative Recording in accordance with the Royalty Management System under Government Regulation No. 56 of 2021 (Case Study on Copyright Legal Services and the LMKN - DJKI of the Ministry of Law and Human Rights of the Republic of Indonesia)

Litoama & Purgito

Copyright is associated with human intellectual capabilities and is exclusive, granted by the state, encompassing moral rights and economic rights. Moral rights are inherent in the creator of the work for a lifetime, and others are obliged to respect and cannot indiscriminately exploit another person's work as their own. In civil law, legal rights to creative works are inherent in the creator, and they possess perpetual moral rights and economic rights to receive royalties in accordance with Article 1, number 21 of the Copyright Law (Mathur, 2020).

Royalty is compensation for the economic use of a copyrighted work or related rights product granted to the creator or owner of related rights as a material reward or compensation. Copyright owners also have the right to control the circulation of their copyrighted works in society (Singhal et al., 2022). If someone intentionally commercializes another person's copyrighted work without permission, with the intention of seeking personal gain or the gain of others, this action is considered a violation of the law and the legal rights of others.

The issue of copyright infringement is not a new phenomenon in Indonesia, and this unlawful practice has persisted for many years. This situation significantly disadvantages creative individuals in the Indonesian music industry (Supramono, 2010). Counterfeit goods, such as replicated songs and music, are not only widespread in major cities but have also infiltrated rural areas, being sold at very low prices.

The evolution in song and music creation, along with related rights, is an integral part of regulations as one of the protected forms of copyright. However, on the flip side, it cannot be denied that in an ever-evolving era with technological advancements, copyright over songs and music is often commercially exploited, both in analog and digital forms, without the creator's permission. This results in copyright owners of songs and music, as well as related rights, feeling aggrieved because their economic rights in the form of rightful royalty payments are lost (Bagal, 2019).

The current situation aligns with the provisions of Article 2, paragraphs (1) and (3) in Government Regulation No. 56 of 2021 concerning the management of copyright royalties for songs and music. This regulation specifies that performances, announcements, and communications of creations, whether in analog or digital form, including activities within the realm of commercially oriented public services for song creators and copyright holders, fall under the obligation to pay royalties. In other words, those required to pay royalties are those who commercially use these works based on licensing agreements, and the royalties are applicable to various types of commercially oriented public services.

If commercial activities conducted by Micro, Small, and Medium-sized Enterprises (UMKM) are not regulated in accordance with the aforementioned government regulations and if the improvement of the registration process for song and music creations as well as related rights by existing Collective Management Organizations (LMK), acting as extensions of song and music creators and related rights holders under the coordination of the National Collective Management Organization (LMKN) as a government-assisting institution, does not proceed smoothly, the government's good intentions to develop the music industry in Indonesia may not receive a positive response and may seem futile. This creates an ironic situation.

To address this issue, it has been agreed to adopt a one-stop approach to royalty collection, and this proposal has been accommodated in Copyright Law No. 28 of 2014, as explained by Sardjono (2009a). This led to the establishment of the National Collective Management Organization

The Legal Certainty of Legitimate Ownership in Copyright Works of Songs or Music, as well as Associated Rights in Non-Declarative Recording in accordance with the Royalty Management System under Government Regulation No. 56 of 2021 (Case Study on Copyright Legal Services and the LMKN - DJKI of the Ministry of Law and Human Rights of the Republic of Indonesia)

Litoama & Purgito

(LMKN) with the aim of simplifying the one-stop institution for collecting royalties from music users, preventing multiple collections by different Collective Management Organizations (LMK), as explained by Aliansyah (2022)(Aliansyah Mohamad Alen, 2021).

The authority to collect royalties from commercially interested music users is regulated by the Decree of the Minister of Law and Human Rights of the Republic of Indonesia No. HKI.2.OT.03.01-02 of 2016 concerning the Approval of Royalty Rates for Users Engaging in Commercial Exploitation of Copyrighted Works and/or Related Rights in Music and Songs (Ministerial Decree on Royalty Rates) issued on May 20, 2016. The collected royalties will be distributed to creators and related rights owners through qualified LMKs. This is intended to facilitate and legitimize the actions of individuals who wish to use a work in performances without having to obtain prior permission from the creator, provided they pay royalty compensation through LMKN.

However, in reality, there are still certain parties who exploit gaps related to registration requirements as a pretext to evade or refuse to pay royalties to song and music creators and related rights holders, both morally and economically. This aligns with the common understanding in the legal world that legal theory does not always align with legal practice. To prevent the misuse of this understanding and considering the current societal reality, the spirit of registering works in the Song and Music Information System (SILM) is no longer voluntary but has become an obligation to ensure the legitimacy of royalty ownership rights for non-declaratively recorded song and music creations/related rights in SILM, coordinated by LMKN as the basis for claiming royalty rights.

METHOD

This study employs a socio-legal empirical research approach, viewing law as a social phenomenon that can be observed empirically (Amiruddin and Asikin, 2004a). Data for this research were collected through secondary sources, involving document analysis based on Law No. 28 of 2014, Government Regulation No. 56 of 2021, and the Minister of Law and Human Rights Decree No. HKI.2.OT.03.01-02 of 2016. Additionally, primary data were obtained through interviews with the Sub-Director of Legal Dispute Resolution and LMKN of the Directorate General of Intellectual Property, Ministry of Law and Human Rights-RI, on June 14, 2023.

The research unveils various issues arising in the implementation and enforcement of the law (Amiruddin and Asikin, 2004b). Furthermore, this research is descriptive in nature, aiming to gather information about the status of a variable or theme, phenomena, or existing conditions. In this context, the research aims to describe the state of phenomena as they exist at the time of the study (Arikunto, 2000).

This research describes two main issues. Firstly, the legal consequences of a song or music copyright and related rights not being registered in the Song and Music Information System (SILM). Secondly, the internal dispute resolution patterns employed by LMKN as a legal

protection effort for a song or music copyright and related rights that are not registered in the Song and Music Information System (SILM).

RESULT AND DISCUSSION

1. The legal consequences of a song or music copyright and related rights not being registered in the Song and Music Information System (SILM) include:

The role of the State in providing legal protection to the public, especially in the field of intellectual property, is imperative. In the current era, leveraging technological advancements, songs and/or music are often used without the creator's permission for commercial purposes, both in analog and digital forms. This results in creators not receiving the economic rights they rightfully deserve. To date, regulations regarding royalty payments to song and/or music creators have not been fully adhered to by users, especially in terms of appropriately compensating creators and related rights holders. Consequently, their creative works continue to lack significant economic impact for the creators.

Ownership rights to creations that emerge or are born through human intellectual abilities in the field of science and technology are essential. These creations, intangible objects resulting from an individual's intellectual abilities in science and technology, are produced through creativity, imagination, insight, and effort, and possess moral, practical, and economic values (Usman, 2003). Intellectual property rights can be divided into seven categories, one of which is copyright. Copyright is an exclusive right automatically granted to creators after a creation is manifested in tangible form, without diminishing the limitations set by legislation. As part of intellectual property rights, the recognition and legal protection of copyright are necessary for several reasons. According to Robert M. Sherwood, the acknowledgment and legal protection of human intellectual creativity (HaKI) need to be based on the following theories (Zoelva, n.d.):

- (1) Reward Theory: This theory asserts that someone who successfully discovers or creates intellectual work should be recognized and rewarded by providing protection for their work as a form of appreciation for their creative efforts.
- (2) Recovery Theory: This theory argues that inventors or creators who have invested time, cost, and effort in creating their intellectual work should have the opportunity to recover their investment.
- (3) Incentive Theory: This theory states that inventors and creators need incentives to encourage them in developing valuable discoveries and research.
- (4) Risk Theory: This theory declares that Intellectual Property Rights (IPR) are the result of work that carries risks, including the risk that others may have discovered or improved the same method. Hence, legal protection is justified for such risky efforts or activities.

The Legal Certainty of Legitimate Ownership in Copyright Works of Songs or Music, as well as Associated Rights in Non-Declarative Recording in accordance with the Royalty Management System under Government Regulation No. 56 of 2021 (Case Study on Copyright Legal Services and the LMKN - DJKI of the Ministry of Law and Human Rights of the Republic of Indonesia)

Litoama & Purgito

- (5) Economic Growth Stimulus Theory: This theory suggests that protection of IPR is a tool to stimulate economic growth, with the primary goal of creating an effective IPR protection system that supports overall economic development.

There are several reasons underlying the importance of legal protection for copyright. Awareness of the significance of copyright protection has existed for a long time, even during the colonial period in Indonesia under Dutch rule, as outlined in the Auteurs Wet (S.1912.600). When Indonesia gained independence, the government revised regulations on copyright, previously based on Dutch East Indies law, to establish a legal system rooted in the national ideology of Pancasila. This led to the enactment of Law Number 6 of 1982 concerning Copyright (Saidin, 2013).

With the development of international society and the increasing need for copyright protection, the law has undergone various changes, with the most recent amendment being through Law Number 28 of 2014 concerning Copyright. According to the Copyright Law, copyright protection is granted directly or automatically once a creation is made. This direct protection is reflected in the granting of exclusive rights and the application of declarative principles (Afolayan, 2021; Bell & Parchomovsky, 2015).

Exclusive rights are those solely possessed by the creator, preventing any other party from using them without the creator's permission. Meanwhile, the declarative principle is a system that does not require registration (the term used interchangeably with registration in previous copyright laws). In essence, even if the creator does not register their creation, they still enjoy direct protection once the creation is completed. This protection includes the right to control so that no one can exploit their rights without the creator's consent. The government, through the Ministry of Law and Human Rights, also oversees the registration of creations, particularly concerning royalty management through the National Collective Management Organization (LMKN), in accordance with Government Regulation No. 56 of 2021.

The purpose of copyright registration is to facilitate the proof of ownership in case of disputes related to copyright. When a creator registers their work and obtains a registration certificate, that document can serve as initial evidence of ownership of the work. Although the act of registration itself does not provide copyright protection, the registration makes it easier for someone to prove that they are the "holder" of the copyright for that work (da Silva, 2018; Song, 2019) (Sardjono, 2009b).

The implications of this at least encourage creators to register their work, especially as a precautionary measure against potential disputes in the future. Although direct copyright protection should provide a sense of security to creators, the administration of registration can sometimes raise concerns for those who choose not to register.

As an example, if someone, let's say Y, creates something but doesn't register it, and then the creation is officially registered by another party, for instance, X, without Y's knowledge, Y would

The Legal Certainty of Legitimate Ownership in Copyright Works of Songs or Music, as well as Associated Rights in Non-Declarative Recording in accordance with the Royalty Management System under Government Regulation No. 56 of 2021 (Case Study on Copyright Legal Services and the LMKN - DJKI of the Ministry of Law and Human Rights of the Republic of Indonesia)

Litoama & Purgito

have to try to prove that the creation actually belongs to them and not to X. However, proving ownership of a creation is not easy, and if Y is unable to do so for various reasons, X may be considered the rightful owner. In other words, a registration certificate can serve as evidence indicating someone as the creator, even though we know that copyright protection doesn't actually depend on registration.

This can add a layer of complexity to copyright protection, where creators may feel the need to register as a preventive measure, even though copyright is automatically granted by law.

Copyright is a legal system aimed at safeguarding creators so that they can derive economic benefits from their creative works (Sardjono, 2009c). These economic benefits can enhance the well-being of creators, making copyright protection highly significant. However, as mentioned earlier, copyright is automatically granted once a work is created. In other words, copyright registration is not necessary to obtain protection.

On the other hand, registration in the royalty management system becomes an obligation to ensure legal certainty in claiming royalty rights, in line with the purpose of establishing the National Collective Management Organization (LMKN). LMKN was created to facilitate and legitimize the actions of individuals who wish to engage in commercial activities with a work in the form of performances without having to seek permission from the copyright owner, provided they pay compensation royalties through LMKN. The royalty compensation collection carried out by LMKN essentially aims to provide benefits and recognition for the moral and economic value of a work to the creators of songs, music, and registered rights holders in the LMKN royalty management system.

Integrated electronic registration access through the Directorate General of Intellectual Property (DJKI), accessible to the National Collective Management Organization (LMKN), all creators, copyright holders, related rights owners, and commercial users, aims to ensure the legitimate ownership of copyrighted works, as part of the implementation of the establishment of LMKN (Evgrafova et al., 2019). This is also to modernize the royalty management system by improving administrative order in the DJKI database (Ruthes Gonçalves, 2022).

Additionally, there is a Song and/or Music Information System (SILM) used in LMKN management, especially in license management, royalty management for royalty subjects, and including activities such as withdrawal, collection, and distribution. The central data of DJKI and SILM are integrated to facilitate more commercial users in making payments for song and/or music licenses from creators.

If a song and/or music work is not registered in the system coordinated by LMKN, so the data of the creator, copyright holder, and related rights are not recorded in SILM, they cannot claim royalty rights for that song or music. In this case, they only receive legal protection related to ad hoc royalty payments from users, with a commitment to respect the rights of the previous creator without registering it on behalf of the new creator.

If the songwriter, copyright holder, or related rights owner is unknown, LMKN will announce this information through national or electronic media to inform the relevant parties. However, if there is no claim from the concerned party within a period of 2 (two) years, the royalty funds will be kept as reserves by LMKN. Conversely, if the concerned party is identified and claims their rights, the funds will be given to them. To pay royalties, the creator's data is taken from the Song and Music Information System (SILM), where the data comes from the E-Copyright database of DJKI.

Furthermore, the Directorate General of Intellectual Property, Ministry of Law and Human Rights, also makes preventive efforts by periodically collaborating with Collective Management Organizations (LMK) in conducting evaluations. This evaluation serves to provide notes, feedback, and explanations to strengthen oversight functions on copyright infringements, especially related to monetization that changes identities to delay royalty payments, particularly in the context of setting standards and calculating royalties in digitalization. The aim is to maintain legal protection for songwriters and/or music creators and related rights holders by preventing copyright infringement actions.

Moreover, this effort also aims to prevent risks when the creator's data and/or copyrighted works are not registered in the DJKI database. LMK monitors and requests data for songs and/or music to be registered/recorded so that stakeholders as users of copyrighted works can access the system through the E-Copyright page of LMKN (Degli Esposti et al., 2020).

This information is derived from an interview with Agung Damarsasongko, Head of the Legal Services and LMKN-Copyright Directorate General of Intellectual Property, Ministry of Law and Human Rights, on June 14, 2023, at 2:00 PM.

2. The internal dispute resolution process carried out by LMKN serves as a legal protection effort for copyright in songs or music and related rights that are not registered in the Song and Music Information System (SILM).

In the event of a dispute involving copyright issues, resolution can be pursued through various alternative dispute resolution mechanisms stipulated in the Copyright Law (UUHC). One such option is arbitration or court proceedings as per Article 95 (1) of the UUHC.

The UUHC also provides the possibility of resolving copyright disputes, particularly those related to songs, through other alternative dispute resolution methods, including consultation, negotiation, mediation, conciliation, or expert assessment. All these avenues aim to find a fair solution for all parties involved in the dispute.

The transparent, high-quality, and targeted management and distribution of royalties play a crucial role in protecting the economic rights of creators, copyright holders, and related rights owners in songs and/or music. This mechanism should leverage available information and communication technology to ensure legal certainty in this matter.

LMKN, as the sole institution authorized by law and representing the interests of creators and related rights owners, is responsible for collecting, aggregating, and distributing royalties from those who commercially use these works. It is essential for LMKN to receive support to carry out its responsibilities effectively.

Resistance or unwillingness from users to pay royalties can be significantly reduced when the law, as the regulator, demonstrates strength and firmness through clear and strict regulations. A song is a part of artistic work protected by copyright law, as it contains specific ideas or benefits, in accordance with Law Number 28 of 2014 (Wiradirja et al., 2021). When a song is used for commercial purposes, creators, copyright holders, and related rights owners have the right to receive economic benefits in the form of royalties as recognition for the use of their work.

If data regarding creators, creations, and copyright holders are not registered in the SILM (Song or Music Information System) application connected to LMKN, the royalty rights for songs used or commercially reissued without permission from the relevant rights owner will be temporarily withheld by the LMK. Subsequently, LMKN will announce this in national or electronic media for stakeholders to be informed. However, if no claim is made by the concerned party within 2 (two) years, the royalty funds will be kept as reserve funds by LMKN.

These royalties will be channeled through Collective Management Institutions and then distributed to creators, copyright holders, and related rights owners. If any party feels aggrieved or has complaints about the mechanisms and procedures implemented by LMKN, they will still receive maximum legal protection. The approach used will prioritize consultation and transparency in royalty management. Additionally, personal efforts will be made to convey the importance of registration in the SILM application to avoid economic losses.

3. The pattern of resolving copyright disputes through non-litigation, known as Alternative Dispute Resolution (ADR)

The pattern for resolving copyright disputes through non-litigation, commonly referred to as Alternative Dispute Resolution (ADR), encompasses various methods designed to settle conflicts without resorting to court proceedings. Several ADR techniques are commonly employed in the context of copyright disputes, providing alternative avenues for resolution without going through formal court trials. Here are some prevalent ADR methods applicable in this domain:

- (1) **Arbitration:** Arbitration, as defined in Article 1(1) of the Alternative Dispute Resolution (ADR) Law, refers to a method of resolving civil disputes outside the regular courts. This method is based on a written arbitration agreement entered into by the parties involved in the dispute. The use of arbitration aims to anticipate potential or ongoing disputes and avoid the lengthy court proceedings.
- (2) **Mediation:** The resolution of copyright disputes, as per Article 1(1) of Supreme Court Regulation No. 1 of 2016 on Mediation Procedures in Courts (PERMA 1/2016), involves

The Legal Certainty of Legitimate Ownership in Copyright Works of Songs or Music, as well as Associated Rights in Non-Declarative Recording in accordance with the Royalty Management System under Government Regulation No. 56 of 2021 (Case Study on Copyright Legal Services and the LMKN - DJKI of the Ministry of Law and Human Rights of the Republic of Indonesia)

Litoama & Purgito

mediation. Mediation is a dispute resolution method involving negotiation processes between disputing parties with the assistance of a mediator. The objective of mediation is to reach an agreement between the conflicting parties.

- (3) Consultation: Resolving copyright disputes through consultation entails a personal interaction between one party, referred to as the client, and another party acting as the consultant. In this consultation, the consultant provides legal opinions to the client with the aim of helping them meet their needs and requirements. The consultant's role in dispute resolution is limited to providing legal opinions as requested by the client.
- (4) Negotiation: Resolving copyright disputes through negotiation is a method of problem-solving through direct discussions or deliberations between the parties involved in the dispute. The outcome of these negotiations must be accepted by all conflicting parties.
- (5) Conciliation: Resolving copyright disputes through conciliation is fundamentally similar to mediation, involving a neutral third party referred to as a conciliator. The conciliator aims to assist the parties in dispute resolution efforts. (Source: DJKN Kemenkeu, "Penyelesaian Sengketa Hak Cipta," accessed on May 15, 2023, at 19:24 WIB.)

However, in practice, according to Agung Damarsasongko, who serves as the Head of Subdirector of Legal Services and Dispute Resolution - Copyright - Directorate General of Intellectual Property - Ministry of Law and Human Rights of the Republic of Indonesia, before the parties are directed to arbitration institutions, as stipulated in Article 95 of the Copyright Law, if there is a complaint letter from the aggrieved party, the issue is initially responded to internally through the Intellectual Property Rights Investigation and Dispute Resolution Section with mediation efforts to find a solution that benefits all parties. If mediation fails, the parties will be directed to file a civil lawsuit in the Commercial Court. In the case of criminal elements, the jurisdiction lies with the District Court. (Interview with Agung Damarsasongko, Head of Subdirector of Legal Services and Dispute Resolution - Copyright - Directorate General of Intellectual Property - Ministry of Law and Human Rights of the Republic of Indonesia, Date: June 14, 2023, Time: 14:00 WIB.b)

Based on the provisions of Article 120 of the Copyright Law, criminal acts under the Copyright Law are prosecutable upon complaint. Although Government Regulation No. 56 of 2021 has been implemented, in reality, it has not been fully accommodated properly and has not received a positive response from users of copyrighted works, especially regarding royalty withdrawal mechanisms, standard setting, payment amounts, and distribution carried out by LMKN. This is due to a lack of education and socialization to raise legal awareness among the public, including song or music creators, related rights holders, and users of copyrighted works.

Regulations regarding royalty withdrawal for the use of music on digital platforms, such as YouTube, are not clearly defined in the regulation. Therefore, it is expected that the implementation of royalty withdrawal will be applied in accordance with the rules stipulated in the

Government Regulation. The LMKN website explains that LMKN is always ready to make adjustments and implement the system gradually to support the implementation of royalty withdrawal activities.

In the same spirit, the Director of Copyright and Industrial Design, Anggoro Dasananto, requested the National Collective Management Institution (LMKN) and the LMKN Supervisory Board to discuss a royalty collection system and rates for songs and music that are more beneficial to creators and related rights owners. LMKN also asked the LMKN Supervisory Board to discuss broader classifications of royalty withdrawal objects, so that no business area is involved commercially but avoids paying fees to the owners of songs/music simply because they are not mentioned in the royalty regulations. (Interview with Agung Damarsasongko, Head of Subdirector of Legal Services and Dispute Resolution - Copyright - Directorate General of Intellectual Property - Ministry of Law and Human Rights of the Republic of Indonesia, Date: June 14, 2023, Time: 14:00 WIB.c)

4. Pattern of Dispute Resolution through Litigation (Judicial Process)

(1) Civil Lawsuit:

According to Article 97 paragraph 1 of the Copyright Law, if a creation has been registered with the Directorate General of Intellectual Property (DJKI) and another party claims conflicting copyright, the party feeling ownership of the copyright can file a lawsuit in the Commercial Court to cancel the copyright registration. This is one of the copyright dispute resolution methods involving a legal process in court.

The Commercial Court will be the competent authority to resolve such disputes, and the court's decision will determine whether the copyright registration will be canceled or upheld. This can help settle disputes between conflicting parties regarding copyright ownership legally.

(2) Criminal Charges:

Article 120 of the Copyright Law (UUHC) states that copyright infringement is a prosecutable offense upon complaint. This means copyright infringement can only be prosecuted if there is a request or complaint filed by the party whose copyright is violated. Complaints of copyright infringement are submitted to the Chairperson of the Commercial Court. In this case, the party feeling their copyright is violated must take legal steps to prosecute the infringement.

Other related articles in the UUHC, such as Articles 112 to 119, regulate sanctions, including imprisonment and fines, that can be imposed on copyright infringement perpetrators if proven guilty. These sanctions can be applied after going through the appropriate legal process. With these provisions, the UUHC aims to provide legal protection to copyright holders and creators to safeguard their rights from infringement.

(3) Temporary Court Decision

You are correct; the regulation regarding Temporary Court Decisions in copyright disputes is governed by Article 44 paragraph 1 of the TRIPs Agreement and Articles 106 to 109 of the Copyright Law (UUHC) in Indonesia. A Temporary Court Decision is a legal step taken by the Commercial Court to prevent greater losses or protect the rights of copyright holders and related rights.

In the application for a Temporary Court Decision, the applicant must meet the requirements stipulated in the UUHC, such as attaching evidence of ownership of related rights or copyright, providing initial indications of the infringement, explaining the documents and items sought or secured for evidentiary purposes, and so on. Additionally, the applicant must pay a guarantee proportionate to the value of the items subject to the temporary decision.

The purpose of this temporary decision is to secure evidence and prevent actions that could harm copyright holders or related rights. The Commercial Court will consider the application and may issue a temporary decision in accordance with applicable law. (<https://www.djkn.kemenkeu.go.id/kpknl-manado/>, "Copyright Dispute Resolution," accessed on May 15, 2023, at 19:24 WIB.b)

CONCLUSION

Creators and their creations, such as songs or music, as well as related rights not registered in the SILM system, will receive royalty payments informally. This implies that royalty payments will be flexibly agreed upon between users and rights owners, with the condition that the rights of the original creator must be respected, even without re-registration under the name of a new creator. Regarding dispute resolution, there are two approaches that can be employed. First, non-litigation resolution through PPNS is used to achieve a solution that benefits all parties before entering the litigation process. However, during this process, it is crucial to emphasize the importance of fair and transparent royalty payments.

Recommendations: Songwriters, musicians, or related rights holders should actively record their works, either through electronic processes or by visiting the Regional Office of the Ministry of Law and Human Rights to officially register their creations. This is crucial because registration is the primary basis for claiming royalty rights. Additionally, DJKI and LMKN should regularly conduct awareness campaigns and disseminate information through media platforms such as the internet and YouTube, especially to content creators. They need to understand the importance of obtaining permission from LMKN before using others' copyrighted works in their content to avoid potential legal claims from aggrieved parties.

The Legal Certainty of Legitimate Ownership in Copyright Works of Songs or Music, as well as Associated Rights in Non-Declarative Recording in accordance with the Royalty Management System under Government Regulation No. 56 of 2021 (Case Study on Copyright Legal Services and the LMKN - DJKI of the Ministry of Law and Human Rights of the Republic of Indonesia)

Litoama & Purgito

REFERENCE

- Afolayan, O. T. (2021). Piracy and the Nigerian Copyright Law: A Re-Appraisal. *Library Philosophy and Practice*, 2021, 1–12. <https://www.scopus.com/inward/record.uri?eid=2-s2.0-85112805480&partnerID=40&md5=23776a06fcd518b3267aac656913623d>
- Aliansyah Mohamad Alen, “Tinjauan Normatif Kedudukan Lembaga Manajemen Kolektif Nasional (LMKN) Sebagai State Auxiliary Organ Berdasarkan Peraturan Pemerintah No. (2021). 56 Tahun 2021 tentang Pengelolaan Royalty Hak Cipta lagu dan /atau musik. In *Jurnal Hukum Dialogia Iuridica, Universitas Indonesia* (p. 13).
- Amiruddin & Asikin, Zainal, Pengantar Metode Penelitian Hukum, Jakarta, PT Rajagrafindo Persada, 2004.
- Arikunto, Suharsini, Manajemen Penelitian, Jakarta, PT Rineka Cipta, 1993.
- Bagal, Y. (2019). Contributory copyright infringement in music industry: Technological implications. *Journal of Intellectual Property Rights*, 24(1–2), 28–34. <https://www.scopus.com/inward/record.uri?eid=2-s2.0-85071885241&partnerID=40&md5=8a0a48e36be4a6e9cb36db904bad20e2>
- Bell, A., & Parchomovsky, G. (2015). Copyright trust. *Cornell Law Review*, 100(5), 1015–1068. <https://www.scopus.com/inward/record.uri?eid=2-s2.0-84944104697&partnerID=40&md5=a1bc447a5cb79ef8cce7939547232f7b>
- da Silva, J. A. T. (2018). The issue of comment ownership and Copyright at PubPeer. *Journal of Educational Media and Library Sciences*, 55(2), 1–14. <https://www.scopus.com/inward/record.uri?eid=2-s2.0-85052302718&partnerID=40&md5=4ac7577eb24b863580c8c86e7be9f079>
- Damayanti, Indah, Ni Putu Utami , Indrawati, A.A Sri , dan A.A Sagung Wiratni Darmadi, “Karya Cipta Elektronik BOOK (E-BOOK): Studi Normatif Perlindungan Hak Ekonomi Pencipta”, *Jurnal Ilmiah Ilmu Hukum Kertha Semaya*, 3.3 (2018): The Copyright Law No. 28 of 2014.
- Degli Esposti, M., Lagioia, F., & Sartor, G. (2020). The Use of Copyrighted Works by AI Systems: Art Works in the Data Mill. *European Journal of Risk Regulation*, 11(1), 51–69. <https://doi.org/10.1017/err.2019.56>
- Evgrafova, I. V, Marchenko, A. V, & Travin, A. V. (2019). Protection of homeowners in Russia from unlawful encroachment on their rights and legitimate interests. *Journal of Advanced Research in Law and Economics*, 10(1), 155–164. [https://doi.org/10.14505/jarle.v10.1\(39\).16](https://doi.org/10.14505/jarle.v10.1(39).16)
- Feng, J., & Jaravel, X. (2020). Crafting intellectual property rights: Implications for patent assertion entities, litigation, and innovation. *American Economic Journal: Applied Economics*, 12(1), 140–181. <https://doi.org/10.1257/app.20180361>
- Fishmen, Stephen, “The Copyright Handbook: How to Protect and Use Written Works”, dalam Eddy Damian, *Hukum Hak Cipta Menurut Beberapa Konvensi Internasional, Undang-Undang Hak Cipta dan Perlindungannya terhadap Buku serta Perjanjian Penerbitannya*, Bandung, PT. Alumni, 2002.
- Gatot Supramono, *Hak Cipta dan Aspek-Aspek Hukumnya*, Jakarta, PT. Rineka Cipta, 2010.
- Government Regulation No. 56 of 2021 concerning the Management of Royalties for Copyrights of Songs and/or Music.

The Legal Certainty of Legitimate Ownership in Copyright Works of Songs or Music, as well as Associated Rights in Non-Declarative Recording in accordance with the Royalty Management System under Government Regulation No. 56 of 2021 (Case Study on Copyright Legal Services and the LMKN - DJKI of the Ministry of Law and Human Rights of the Republic of Indonesia)

Litoama & Purgito

Mathur, A. (2020). A reflection upon the digital copyright laws in India. *Journal of Intellectual Property Rights*, 25(1–2), 5–14. <https://www.scopus.com/inward/record.uri?eid=2-s2.0-85087167997&partnerID=40&md5=503588f712dd3f5cf9ce7f55ffe5c59a>

Minister of Law and Human Rights of the Republic of Indonesia Decree No. HKI.2.OT.03.01-02 of 2016 concerning the Approval of Royalty Rates for Users Engaging in Commercial Exploitation of Creations and/or Related Rights in Music and Songs.

Nagpal, M. (2017). Copyright protection through digital rights management in India: A non-essential imposition. *Journal of Intellectual Property Rights*, 22(4), 224–237. <https://www.scopus.com/inward/record.uri?eid=2-s2.0-85033228423&partnerID=40&md5=d89cdf4263b749603b3af1e932309b7>

Ruthes Gonçalves, L. (2022). Preserving the right of access to copyrighted works based on data regulation. *Journal of World Intellectual Property*, 25(3), 714–731. <https://doi.org/10.1111/jwip.12253>

Saidin, O.K., *Aspek Hukum Hak Kekayaan Intelektual (Intellectual Property Rights)*, Jakarta, Raja Grafindo Persada, 2013.

Sardjono, Agus, “Mengupas Kedudukan LMKN Dalam PP No. 56 Tahun 2021 Tentang Royalty Musik,” Malakah Dalam Webinar Tentang LMKN, Indonesia Center For Legislative Drafting (ICLD), Universitas Indonesia, Tanggal, 13-08-2021.

Singhal, S., Agrawal, A., & Sakthivel, M. (2022). Commercializing Copyright – A Taxing Event for the Copyright Owner? *Journal of Intellectual Property Rights*, 27(4), 290–300. <https://doi.org/10.56042/jipr.v27i4.65607>

Song, H. (2019). Copyright ownership and fair dealing of AI-created works. *Jusletter IT*. <https://www.scopus.com/inward/record.uri?eid=2-s2.0-85073055246&partnerID=40&md5=befad08bd2335c17d59462fdfaeb224d>

Usman, Rachmadi, *Hukum Hak Atas Kekayaan Intelektual: Perlindungan dan Dimensi Hukumnya di Indonesia*, Bandung, Alumni, 2003.

Wiradirja, I. R., Pranadita, N., Ras, H., Haspada, H. R. D., & Anwar, A. R. H. (2021). Legal Problematics in the Execution of Copyrights as Fiduciary Collateral in the Indonesian Law. *International Journal of Cyber Criminology*, 15(1), 133–142. <https://doi.org/10.5281/zenodo.4766538>

Zoelva, H. (n.d.). Globalisasi Dan Politik Hukum HaKI. *Law Review*, 9(3).