



Legal Review of Publication of Scores on Youtube Without Copyright Owner's Permission

Muhammad Fitriadi

tiadi.muhammad@gmail.com;

University of Southeast Sulawesi, Indonesia

Miftahul Jannah

Miftahuljannah@unimerz.ac.id;

University of Megarezky Makassar, Indonesia

Marlin

marlinadvoikat@gmail.com

University of Southeast Sulawesi, Indonesia

Rusdien Aditya Zull Haq

rusdienaditya@gmail.com.

University of Hasanuddin, Indonesia

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Abstract

The discussion in this research is fundamentally related to the legal review of the publication of sheet music on YouTube without the permission of the copyright owner. Often uploading song scores on Youtube with the intention of wanting to publish and gain personal gain is a new habit that has been practiced by the public lately because of technological developments and easy access to do so, it also causes a weakness in the legal protection given to creators who own works. and is entitled to the copyright. To examine the themes raised in this study, several main issues were formulated, including 1) What are the indicators of song copyright protection under the Copyright Law? 2) What are the legal implications for the actions of someone who publishes sheet music without the author's permission in Youtube? The results of this study are that 1) Indicators in song copyright protection based on the Copyright Law, namely moral rights and economic rights. Moral rights are based on the existence of a creation that must be protected because it is a real form of the results of a person's thoughts, imagination, expertise and abilities, while economic rights are based on the existence of exclusive rights that are automatically owned by a creator to benefit from his creation as long as all of these economic rights are not transferred to others. 2) The legal implications arising from the actions of someone who publishes sheet music without the permission of the creator or the legal copyright holder on Youtube, can be sued for civil damages through a commercial court and can also be prosecuted crimi-

nally in the form of a criminal act of copyright infringement which is a type of criminal complaint.

Keywords: Publication of Scores of Songs, YouTube, Copyright.

Introduction

Intellectual Property Rights (IPR) are regulated by two multilateral institutions, namely WIPO (World Intellectual Property Organization) and TRIPs (Trade Related Intellectual Property Rights). WIPO is under the agency of the United Nations (United Nations) and TRIPs born in the Uruguay Round are accommodated by the WTO (World Trade Organization). The TRIPs Agreement is a unique blend of the basic principles of the General Agreement on Tariffs and Trade (GATT) and the most comprehensive international agreement in the field of IPR. Apart from those two institutions, various international conventions on Intellectual Property Rights (IPR) have existed previously, such as the concept of industrial property, namely the Paris Convention for the Protection of Industrial Property (Paris Convention), and the concept of copyright, namely the Berne Convention for the Protection of Literary and Artistic Works (Sri Mulyani, 2012).

Indonesia became a member and participated in TRIPs officially through the ratification of the WTO Agreement under Law Number 7 of 1994 concerning the Ratification of the Agreement Establishing the World Trade Organization. This ratification was implemented through revisions to intellectual property laws, including Law Number 28 of 2014 concerning Copyright (hereinafter referred to as the Copyright Law). (Achmad Zen Umar Purba, 2005)

Copyright contains exclusive rights, namely moral rights and economic rights (Faghlaifi Naim, 2019). Copyright is private or group ownership of a work in the form of the embodiment of a creator's idea in the fields of art, literature, science that must not be plagiarized or imitated without reward or appreciation. Therefore, legal protection of copyright is given which aims to protect the work of a creator, either individually or in groups from plagiarism.

The development of information technology has transformed civilization and the behavior of global society. Communication has become borderless, and significant social changes have occurred. Information technology is a double-edged sword, as it not only contributes to the improvement of well-being, progress, and human civilization but also serves as an effective means for unlawful actions. (Ahmad M. Ramli, 2004)

The implications of the development of technology and information that are of concern are its influence on the existence of intellectual property rights (IPR). The development of technology has expanded the scope of copyright. Additionally, the widespread use of technology poses a threat to the existence of copyrighted works and inventions created by creators. The broadening definition of copyright includes

digitally transformed works such as books becoming e-books and songs that were once in cassette form now being available as digital files. Intellectual works in the form of videos, documentation, songs, e-books, as well as photos and other copyrighted objects found on the internet, are easily susceptible to infringement, modification, and unauthorized duplication.

Copyrighted works in digital form are indeed very easy to duplicate, and the resulting copies are indistinguishable from the originals. (Habi Kusno, 2016) People can modify duplicated works and distribute them worldwide at almost no cost. However, on one hand, this makes it easy for individuals to infringe on the copyrights of others on a large scale. On the other hand, it becomes extremely difficult for copyright owners to detect such violations, identify them, and subsequently take legal action.

In the music industry, there have been changes in the way copyrighted works are broadcasted through uploading or publishing them via the internet. One of the platforms used for this purpose is YouTube, which allows for streaming songs. For songwriters or copyright holders, this presents a new opportunity to increase popularity and generate income from user visits on YouTube, as the utilization of the YouTube platform holds economic value both for song creators and the general public.

In addition to reaping benefits, this can have negative impacts as it creates opportunities for copyright infringement on musical score works, causing creators to be concerned about expressing their ideas and creativity on platforms like YouTube. Violations of musical score copyright can take various forms, such as unauthorized broadcasting, distribution, or duplication by irresponsible individuals.

One notable case is that on Monday, July 29, 2019, based on a court ruling by a nine-member federal jury in Los Angeles, the United States, global pop star Katy Perry was found guilty of copyright infringement. The verdict was issued in response to a lawsuit filed by Marcus Gray and two other writers accusing Perry of plagiarism in her song "Dark Horse" from their song "Joyful Noise".

The chronology of the case begins in July 2019 when Katy Perry was sued by rapper Flame (Marcus Gray) for copyright infringement. Marcus Gray filed a lawsuit against Katy Perry regarding her song titled "Dark Horse," which was released in 2013. It was alleged that the song contained eight musical notes believed to be taken from the musical composition of "Joyful Noise," released in 2009, which had already been widely spread on platforms like YouTube and Spotify.

The legal counsel for Marcus Gray stated that the beat and notes that appear in nearly half of the song "Dark Horse" are substantively similar to the song "Joyful Noise." According to AP News, Katy Perry had previously had the potential to be dismissed from the lawsuit because the main focus of the case was not on the lyrics or recording, but on the notes and beat (musical notation), where Katy Perry served as the singer and lyricist. However, the decision from the jury stated that all six

songwriters and the four companies that released and distributed the song "Dark Horse" were held responsible, and the guilty verdict was also directed towards Katy Perry and Sarah Hudson, who wrote the lyrics, and Juicy J, who contributed to the rap lyrics in the song.

Here is a comparison of the musical notation beats between the song "Dark Horse" and the song "Joyful Noise," which are at the center of the lawsuit:

The image is a screenshot of a social media post from the account 'yopauliemusic', which has 378 followers. The post features two musical comparisons. The first comparison shows the kick drum patterns for 'Dark Horse' and 'Joyful Noise' over a 4-measure period. The 'Dark Horse' pattern consists of a sequence of eighth notes, while the 'Joyful Noise' pattern consists of a sequence of quarter notes. The second comparison shows the melodic themes for both songs. The 'Dark Horse' theme is a sequence of quarter notes, with the final two notes of the first measure highlighted in red to indicate they are 'different notes' compared to the 'Joyful Noise' theme, which is a sequence of quarter notes. Below the musical notation are piano-roll style visualizations for both the kick drums and the themes, with measures 1 through 4 labeled at the top. The kick drum visualization shows red bars for 'Dark Horse' and green bars for 'Joyful Noise'. The theme visualization shows green bars for 'Joyful Noise' and red bars for 'Dark Horse' where the notes differ. A caption at the bottom right of the image reads: 'Illustrated by yopauliemusic.com @yopauliemusic to fight musical legal ignorance'.

The song "Dark Horse" is a hit single from Katy Perry's third album, PRISM. It successfully topped the Billboard Hot 100 chart for four weeks in 2014. The song has also received numerous awards, including a Grammy Award for Katy Perry. It has achieved a Diamond certification from the Recording Industry Association of America (RIAA) and has been viewed over 2.7 billion times on the YouTube platform, generating tens of billions in revenue. As a result of the lawsuit, Katy Perry, along with her collaborators such as Dr. Luke and Max Martin, her duet partner Juicy J, and

her music label Capitol Record, Warner Bros. Music Corporation, Kobalt Publishing, and Kasz Money Inc., have incurred significant losses. According to AP News, Katy Perry and her team have been ordered to pay USD 2.7 million or approximately IDR 38.4 billion to Marcus Gray.

Furthermore, Katy Perry is also required to pay damages amounting to USD 549,000 or approximately IDR 7,800,000,000 to be held accountable to Capitol Records. The breakdown of these losses has been outlined by attorney Marcus Gray, including the earnings generated from the song "Dark Horse" and the expenses incurred in creating and promoting the song. "Dark Horse" generated profits of approximately USD 31 million or equivalent to IDR 441 billion before deducting production costs and taxes.

After being found guilty in 2019, Katy Perry and her team filed an appeal to the Los Angeles court and won the trial. The judge took several factors into consideration, including:

1. A single line of lyrics with the same musical rhythm in a song is considered insufficiently original to guarantee copyright protection.
2. One of the jury judges found that the fact that eight ostinato notes (repeated melodic form) allegedly stolen from the song "Joyful Noise" was not supported by sufficient evidence in the case.
3. One music expert stated that the distinctive element of the eight ostinato notes in the song "Joyful Noise" is not a unique and rare combination of notes.
4. The combination of the eight notes that is the focus of the lawsuit is a relatively common musical rhythm and consists of unprotected notes that happen to be commonly played in a specific music genre, which proves the lack of originality for copyright protection.
5. The elements focused on in the lawsuit are simple components that, if contested regarding their copyright, would harm all songwriters and musicians because basic musical building blocks, notes, and melodies should be available to everyone and free to express.
6. Statements from several witnesses indicate that none of them had previously heard the song "Joyful Noise" before the lawsuit emerged.
7. The plaintiffs were unable to provide evidence to the court's request that Marcus Grey's legal representatives demonstrate the widespread distribution and millions of plays of the song "Joyful Noise" on YouTube.

A few years before the copyright infringement case involving renowned singer Katy Perry and Marcus Grey, a similar case occurred in Indonesia involving alleged plagiarism of musical notes. The song in question was "Mari Bercinta" popularized by Aura Kasih, which bore similarities in melody and musical notes to the song "Give It to You" by Eve and Sean Paul. These similarities were found in several bars of the song.

Apart from the mentioned case, from the writer's observation, there have been several instances of copyright infringement regarding the unauthorized publication of song scores on YouTube in Indonesia. However, none of the cases involving song score infringement have been proven in any Indonesian court to date.

Uploading song scores on YouTube with the intention of publishing them and gaining personal benefits is a recent trend among individuals due to technological advancements and easy access to such actions. However, this has created vulnerabilities in the legal protection granted to creators who hold rights to their works. In order to examine the legal protection provided in Indonesia for song scores that have been published on YouTube channels, the author is interested in conducting this research.

Methods

The type of research used is normative legal research, which focuses on the study of legal provisions (in abstracto) and their application to legal events (in concreto). The nature of this research is descriptive, aiming to provide an overview of the applicable legal framework in society concerning social media. The object of this research will be analyzed based on the Copyright Law. The research methodology employed includes the statutory approach, which involves examining all relevant laws and regulations related to the legal issues under investigation. Additionally, the conceptual approach is used. This approach is utilized when there are no specific laws governing the legal issues at hand. Therefore, it becomes necessary to develop a conceptual framework derived from general meanings contained within the existing legislation related to the researched legal issues. In summary, the research methodology involves a combination of the statutory approach, where legal provisions are analyzed, and the conceptual approach, where a framework is constructed based on the general meanings found within the legislation.

Discussion and Result

Song Copyright Protection Indicator

Indicators based on Copyright Law Approach

The development of technology and information today affects the world of art, namely songs, music, sheet music, and movies. Competition and various ways are carried out by interested parties either through reasonable means or through means that are not in accordance with applicable regulations.

IPR is a material right that comes from the work of the brain by reasoning where the work results are in the form of intangible objects. IPR must be protected because making a creator or inventor's work requires energy, cost, time, and thought. Protection of IPR to give an award to someone who has poured his ideas and ideas into a work. (OK. Saidin, 2010)

When using the statutory approach in the Copyright Law, the first indicator in copyright protection is the moral right attached to the owner of the work in order to get recognition and the second economic right as an exclusive right that everyone who wants to use a work according to law is required to obtain permission from the creator or copyright holder. In Article 1 of the Copyright Law, there are two types of rights attached to works, namely copyrights and neighboring rights. Both types of rights are exclusive rights that are economic for creators, copyright holders and related rights owners.

Copyright is the exclusive right of the creator of the work born of his intellectual creativity (human intellect). The creator has exclusive rights to his work because the creator has entertained society through his creation, so the creator has the right to get a commensurate reward. Exclusive rights are meant, that only the copyright holder is free to exercise the copyright, while other persons or parties are prohibited from exercising the copyright without the copyright holder's consent.

According to L.J. Taylor quoted by Damia states that copyright protects an expression of an idea, while ideas that have not been realized have not been protected. Based on this, copyright is given only to works that are real pouring of ideas, not just ideas and ideas. Legal protection is an act done to protect a person's right to achieve justice based on laws that apply preventively or repressively. (Arya Utami, 2019)

Legal protection of copyright is needed because copyright is a right born from creativity or human intellectual intelligence embodied in a real work. If legal protection is not provided, it will facilitate imitation carried out by other parties freely which certainly harms the creators. Legal protection of intellectual property rights, in this case, copyright is an appreciation for someone who has expressed his ideas in a work.

Copyright law protection that adheres to an automatic protection system, the creator gets legal certainty for his work when the work has been in the form of a real copyrighted work. However, it would be better if the creator registers his work because by registering the creator will get formal proof of copyright ownership. The registration letter of the work can be used as evidence in Court if one day a dispute arises against the work.

Copyright protection of song/music works is valid for the lifetime of the creator and 70 years after the creator dies as stipulated in Article 58 of the Copyright Law. Copyright protection is divided into two, namely protection of moral rights and protection of economic rights.

Moral rights are a reflection of the creator's personality, while economic rights are a reflection of the creator's needs that must be taken into account because intellectual property rights can be used by other parties in industry or commerce. A moral right is a right that is inherent in the creator eternally and cannot be eliminated. Moral rights based on Article 5 paragraph (1) of the Copyright Law, consist of:

- a. Keep or not include his name on the copy of his work for general use,
- b. Using false or pseudonymous names,
- c. Changing the work of creation to fit the order in society,
- d. Make changes to the title of the work,
- e. Defend what is rightfully available when there is a deviation, a change to his creation that is detrimental to the creator.

Moral rights are those rights that protect the personal interests of the creator. This concept of moral rights comes from the continental legal system, namely France. According to the concept of Continental law, the author's right is divided into an economic right to obtain economic benefits of economic value such as money, and a moral right that concerns the protection of the creator's reputation. In each country generally economic rights in copyright consist of reproduction or reproduction rights, adaptation rights, distribution rights, appearance rights, broadcasting rights, cable program rights and public borrowing rights.

Economic rights are a form of appreciation for the results that have been created by the creator that can be enjoyed by society. The validity period of this economic right is as long as the creator is alive and can be extended 70 years after the creator dies. Based on Article 9 Paragraph (1) of the Copyright Law, copyright holders can do something about their creation, including: publishing, reproducing, translating, adapting, sharing, showing, announcing, communicating and renting.

Anyone who wishes to use the economic rights of a creator or copyright holder for commercial purposes must obtain permission from the copyright holder and must provide royalties or compensation to the copyright holder, as regulated in Article 9 Paragraph (2) and Article 80 Paragraph (3) of the Copyright Law. The act of uploading music, songs, scores, and other copyrighted works on YouTube is known as dissemination. Dissemination includes actions such as reciting, broadcasting, exhibiting, selling, and distributing a creation. Dissemination can be done through any media, including YouTube, allowing the creation to be enjoyed by the general public. Uploading someone else's work without permission from the copyright holder/creator, whether for commercial or non-commercial purposes, is considered a copyright infringement.

One of the properties or principles inherent in material rights is *droit de suite*, the principle of rights following the object. The right to sue will follow the object continuously in the hands of whoever it is. This proves that copyright is a right that can be owned, can be an object of ownership or property rights and therefore the terms of ownership apply, both regarding how it is used and how it is transferred.

The creation of new works or existing works should be supported and protected by the law. The form of this protection is established in legislation by imposing criminal sanctions on individuals who violate copyrights unlawfully.

Criminal penalties for piracy offenses are regulated in Article 72, paragraphs (1) to (9) of Law Number 28 of 2014 concerning Copyright. Copyright aims to protect the rights of creators in terms of distributing, selling, or creating derivatives of their works. The protection granted to creators aims to prevent others from engaging in plagiarism or copying their works without permission.

Data from the Directory of Supreme Court decisions for the last 5 years, namely from 2017-2021, has recorded that 195 cases regarding copyright protection have been resolved as a result of advances in computer technology and technology in the field of electronics and information dissemination technology. Nowadays it is so easy to transfer copyrighted works in other forms, without being noticed by the owner or copyright holder.

Indicators Based on a Conceptual Approach

Indonesia is a country that joined the United Nations (UN) or United Nations Organization (UNO). Within UNO, there are those who oversee fields related to IPR, namely the United Nations Educational, Scientific And Cultural Organization (UNESCO). At UNESCO, the institution in charge of IPR affairs, namely the World Intellectual Property Rights Organization (WIPO). (Kemlu.go.id, 2014)

The WTO, whose formation began with countries in the world that wanted trade in various parts of the world to be carried out transparently and fairly after World War II. In 1947 which was marked by the birth of an agreement and known as the General Agreement on Trade and Tariffs (GATT) whose presence was based on post-war II experience and to anticipate the reality of bitter experiences arising from the world economic depression during World War II around 1930 which encouraged the emergence of accelerated world economic growth.

Various negotiations conducted in various rounds of meetings in various member States and at the time until the 8th round held in September 1986 in Punta Del Este, Uruguay (Uruguay Round) produced various new issues in the field of intellectual property rights, one of which contained TRIPs (The Agreement on Trade Related Aspects Of Intellectual Property Rights) which although not specifically ordered that member states have the same rules with developed countries on intellectual property rights, but the TRIPs agreement implies that at least member states have minimal regulatory standards.

The concept of IPR in the TRIPs agreement, begins with a long struggle and hard work from the creator or inventor who has spent time and energy but also spent a lot of money. In simple terms, the concept of ownership of intellectual property rights can be done in three forms by the owner, namely: (Raditya Adi Nugraha, 2010)

- a. First, the owner can exercise or use the rights he has for commercial and non-commercial purposes.

- b. Second, the owner can give up his right to another party to exercise or exercise that right.
- c. Third, the owner or recipient of the right can prevent others from exercising it if there is no permission from him or prevent others from infringing on the rights he has.

In relation to the TRIPs Agreement in order to make the protection of these rights more effective, a protection system is needed that can be used as a reference and guideline for all countries. The increase in international trade in the field of goods and services has an increasingly pronounced impact on IPR owners in the form of losses faced if their rights are violated.

The application of the TRIPs Agreement in addition to referring to normative standards clearly contained in various related international conventions, is also required for member states to apply the GATT principles, and these three principles are legal principles that can be used as a place again in the event of a dispute in the future, namely: (OK. Saidin, 2010)

- a. First, the principle of national treatment, namely foreign IPR owners must be given the same protection as citizens of the country concerned.
- b. Second, the principle of most favoured nation (MFN) or nondiscrimination between foreign IPR owners and IPR owners from the country concerned or other countries.
- c. Third, the principle of transparency, which is to force member states to be more open in statutory provisions.

After the TRIPs Agreement is ratified and implemented in Indonesia as a developing country, there are certainly some impacts felt. One of them adds to the inevitable burden of domestic costs, when we are about to start to enter the scope of developed countries. However, for the long-term interest of Indonesia this must be done considering that foreign investment containing high technology can only be enjoyed if we protect the rights of capital owners because entrepreneurs and investors will be reluctant to apply their technology in Indonesia if there is no protection of their creations.

Some advantages and disadvantages that are taken into consideration for Indonesia in implementing IPR legal protection, especially regarding copyright, starting from the Ratification of the TRIPs Agreement and then to the Auteurswet period 1912 (1912-1982) which is still very thick with foreign legal concepts that are not in accordance with the noble values adopted by the Indonesian people and are not in accordance with the noble values abstracted in the ideology of Pancasila which is the original paradigmatic value value of Indonesian culture and society.

After 70 years of reference, Auteurswet 1912 was revoked and declared no longer valid and as its replacement was Law Number 6 of 1982 concerning Copyright. Then, as a result of the influence of advances in information technology and computer

technology has changed the cultural behavior and legal behavior of the community which in turn also affects the law enforcement aspects regarding copyright. These changes could not be anticipated by Law Number 6 of 1982 concerning Copyright because the criminal sanctions applied in the law were too low. As a result, there have been several changes, namely Law Number 7 of 1987 concerning Copyright and Law Number 12 of 1997 concerning Copyright.

Five years since the enactment of Law Number 12 of 1997, it finally underwent another change caused by several reasons, one of which was the absence of a decrease in the crime rate regarding copyright piracy due to the light criminal threat given to perpetrators of copyright piracy and aimed at new material content, namely regarding databases and more complex dispute resolution.

After the enactment of Law Number 19 of 2002 concerning Copyright in Indonesia, there have been many changes in the strategic scope and changes in the progress of science and technology (science and technology), transparency, democratization of autonomy, human rights and so on. Amendments to Law Number 19 of 2002 are very important to be carried out, especially because at that time Indonesia had ratified the WIPO Performance And Phonograms Treaty through Presidential Decree Number 74 of 2004, State Gazette of the Republic of Indonesia of 2004 Number 93 on September 10, 2004 where the results of the ratification must be immediately adapted into the Copyright Law to be more perfect and in accordance with the needs of the community and can follow the development of information technology that so fast. (Abdul Gani Abdullah, 2008)

After that, Law Number 28 of 2014 concerning Copyright was issued. The most fundamental change from the previous law is the change of delict, namely from ordinary offense to complaint offense and more emphasis on aspects of economic rights. Some changes and changes to copyright laws because copyright is very important to be protected, where there are two rights in it, namely economic rights and moral rights.

Focusing on the TRIPs Agreement, this agreement has adopted the doctrine of Three-Step-Test or three-step testing as a reference rule to protect copyrighted works from their creators. The doctrine is related to restrictions and exceptions to production from copyright. However, based on Article 26 paragraph (2) and Article 30 of the TRIPs Agreement has been expanded which initially only related to production rights has changed to the exclusive rights of creators. (Nico Sunarko Putra, 2019)

The three test steps related to copyright restrictions and exceptions (TRIPs Art 13) are: first, A literary and artistic work can be allowed to be reproduced under certain conditions or cases, which means that certain cases are in terms of reproducing the copyrighted work is carried out only for activities related to education (research and development) that are non-commercial. Second, as long as the reproduction does not conflict with exploitation or fair use with the intention that in a copyrighted work

there are moral rights that must be respected so that if the use of copyright that has exceeded half of the substantial part of the work will be considered copyright infringement. While third, as long as it does not reasonably harm the interests of the author or creator in this case is an economic right that has an impact on those who want to reproduce a work or work, it is mandatory to ask permission first.

Based on the author's knowledge, specifically regarding copyright protection for the publication of song scores on youtube, legal protection for rights holders of a work in addition to being regulated in the Copyright Law, youtube also provides legal protection for copyright holders of a work be it songs, music, scores and other works. Legal protection for copyright holders provided by Youtube is regulated in Youtube's policy, although the legal protection provided by Youtube to copyright holders is still weak.

Youtube provides a policy whose purpose is to provide protection of the rights owned by the creator, namely when uploading his work of creation, be it a song, song pertitur or others must be uploaded by the copyright holder himself so as not to violate copyright and if other parties who want to upload music or songs must have permission from the creator. In the Youtube community guidelines, especially in security and resource features, copyright has been regulated which states that anything uploaded to Youtube must be homemade or the uploader must have permission to use it. In addition, it is prohibited to upload videos that are not made by the copyright owner such as music, program trailers or videos created by other users without permission.

Then, on the Youtube website it is explained that "fair use (reasonable interest) is a legal doctrine that states that you can reuse copyrighted material in certain situations without requiring permission from the copyright owner". It goes on to the doctrine of reasonable interest that "different countries have different rules about when material without the copyright owner's permission may be used"

Based on the explanation above, copyright is important in the Youtube community, there is help and troubleshooting regarding copyright ranging from how to submit a copyright infringement notification, how to submit a copyright response notification, the basics of copyright strikes, how to retract claims of copyright infringement, and how to dispute Conten ID claims. One of the protections from YouTube is by providing opportunities for copyright owners to file Complaints of copyright infringement through a webform to be sent to copyright infringers. Similarly, the recipient of the copyright strike has the opportunity to answer and respond to the copyright infringement notice.

Legal Implications for the Actions of Someone Who Publishes Song Scores Without the Author's Permission on Youtube

1. Legal Implications Under Copyright Law

In the era of digital music, there are often various problems caused by technological sophistication that causes everyone to access, duplicate and steal a copyrighted work, reduce or add a copyrighted work, change the lyrics, verses, and notes of a song creation (Yusran Usnaini, 2009). Copyright infringement, especially songs in the form of duplication, reproduction of songs by pirating without the permission of the creator, changing song lyrics, changing and imitating the melody and tone in songs that are also without seizing the creator or copyright holder of the song work (Otto Hasibuan, 2008). Based on Article 9 of the Copyright Law that:

1. The creator or copyright holder as referred to in Article 8 has the economic right to do:
 - a. Publication of works;
 - b. The multiplication of creation in all forms;
 - c. Translation of works;
 - d. Adaptation, arrangement, or transformation of the work;
 - e. Distribution of the work or copies thereof;
 - f. Performance of creation;
 - g. Announcement of creation
 - h. Creation communication; and
 - i. Rental of works.
2. Every person who exercises economic rights as referred to in paragraph (1) must obtain permission from the creator or copyright holder;
3. Any person without copyright permission or copyright holder is prohibited from copying and/or using the work commercially

The nature of the establishment of the Copyright Law is to provide legal certainty for creators and copyright holders. Copyright infringement in the field of art is no longer a new thing, the phenomenon of copyright infringement seems to take place without a meaningful legal settlement. (Ghaesany Fadhila, 2018)

The consequence of the definition of copyright as an exclusive right, so that every person or business entity that uses song copyright works and / or for a commercial activity and / or for interests related to commercial activities must first ask permission from the creator and or to the copyright holder. This can be seen in Article 9 paragraph (2) of the Copyright Law which states that everyone who exercises economic rights must obtain permission from the creator or copyright holder. Furthermore, paragraph (3) confirms that the creator or copyright holder is prohibited from copying and/or commercial use of a work. (Hulman Panjaitan, 2015)

The use of a work as a commercial activity on the Youtube platform and uploading a work of art in the form of songs, music, scores or other works without permission from the creator is included as a violation of the creator's economic rights.

Based on Article 54 of the Copyright Law to prevent violations of copyright through internet media, the government is authorized to:

- a. Supervise the creation and dissemination of content,
- b. Cooperation with various parties both from within the country and abroad,
- c. Supervision of the act of recording with any media the work.

Regarding any copyright infringement in the form of no permission mentioned above, the Copyright Law has regulated the protection of creators in the form of civil compensation claims and the state's right to criminal prosecution in accordance with Article 113 of the Copyright Law, as follows:

1. Any person who without rights violates economic rights as referred to in Article 9 paragraph (1) letter (i) for the use of commercial facilities shall be punished with a maximum imprisonment of 1 (One) year and/or a maximum fine of Rp. 100,000,000.- (one hundred million rupiah);
2. Any person who without rights and/or without permission of the creator or copyright holder violates economic rights as referred to in Article 9 paragraph (1) letter c, letter d, letter f and/or letter h for the use of commercial facilities shall be punished with a maximum imprisonment of 3 (three) years and/or a maximum imprisonment fine of 3 (three) years and/or a maximum fine of Rp. 500,000,000.- (five hundred million rupiah).
3. Any person who without rights and/or without permission of the creator or copyright holder violates economic rights as referred to in Article 9 paragraph (1) letter a, letter b, letter e and/or letter g for the use of commercial facilities shall be punished with a maximum imprisonment of 4 (four) years and/or a maximum fine of Rp. 1,000,000,000.- (one billion rupiah);
4. Any person who fulfills the elements as referred to in paragraph (3) committed in the form of piracy, shall be punished with a maximum imprisonment of 10 (ten) years and/or a maximum fine of Rp. 4,000,000,000 (four billion rupiah).

As stipulated in Article 120 of the Copyright Law, if the criminal act of copyright infringement is a complaint offense. The Copyright Law has also provided protection for the exclusive rights of the creator of a work, be it music, songs, scores or other works and the creator or copyright holder can file a claim for compensation through the commercial court. Copyright holders can ask the commercial court to withdraw from circulation and confiscate and store as evidence related to copyright infringement. This includes stopping violations to prevent greater harm.

The Copyright Law has provided protection for private music copyright holders through the establishment of commercial courts as authorized institutions other than arbitration and alternative dispute resolution to decide disputes or copyright infringement and determine the period for resolving cases. The principle of speedy trial and legal certainty can be realized immediately, considering the stipulation of the time limit for resolving and deciding the claim for compensation for

90 (ninety) days from the time the lawsuit is registered and can be extended for a maximum of 30 (thirty) days with the approval of the Supreme Court. Against the decision of the commercial court, only cassation legal remedies are available which within 90 (ninety) days after the application for cassation is received, the Supreme Court must give a decision on the cassation application.

Based on the above, it can be concluded that copyright is an immaterial property right and is a material right in the terminology of the Copyright Law because it contains indicators of moral rights and economic rights. When viewed in the perspective of criminal law, property rights that have economic value are property and if the property is "disturbed", then the person who interferes is included in the category of legal subjects who commit crimes or violations of property. Copyright Law places crimes against copyright as crimes against property or crimes against property.

Copyright protection as material rights that are immaterial or in the sense that they contain economic value (economic rights), then copyright is property rights for its creators or license rights for those who get licenses or rental rights for those who get rental rights (rental rights). In the Copyright Law, there is already a legal instrument for technological control facilities which is a new media in copyright law instruments related to aspects of registration and recording and copyright security and is used as a protection of works or protector of related rights regulated in Article 52 and Article 53 of the Copyright Law. Technological control of copyrighted works or products is a means related to technology-based data storage that requires copyright owners to comply with licensing rules and production requirements to be determined by agencies that have the authority to record works to be registered. If the means of technological control are associated with the creation of song scores uploaded to YouTube, it means that the tool provides many benefits for the owner of the work to make it easier to monitor copyright infringement.

In accordance with the judge's decision regarding the score of the song in the case of Katy Perry who was sued by Marcus Grey, several legal implications due to the decision caused Katy Perry and her team to pay USD 2,700,000 or around Rp.38,400,000,000.00 on Marcus Grey's side. In addition, Katy Perry also has to pay losses of USD 549,000 or equivalent to Rp.7,800,000,000 which must be accounted for by Capitol Records. The capitulation of these losses has been spelled out by attorney Marcus Gray for the income that has been earned from the song "Dark Horse" including the costs that have been incurred to create and promote the song. The song "Dark Horse" provides profits reaching USD 31 million or equivalent to Rp.441 billion before the expenditure of production costs and taxes.

Based on the explanation above, the legal implication for anyone who violates copyright is civil damages that can be sued in commercial court and copyright violators can be reported for criminal acts of copyright infringement. In the Copyright

Law, the entire series of criminal acts is categorized as a complaint offense which causes there is no longer the authority of the investigator to conduct an investigation without a complaint from the creator or from the party who receives the right from the creator.

Copyright disputes are disputes over property (economic rights) that cause illegal acts and cause losses to the creator or recipient of the creator. The compensation in question is something that shows at an event, where there is a person who suffers losses on the one hand and on the other hand there are people who are charged with the obligation to compensate for the losses suffered by others because of their actions. Claims for compensation for copyright crimes arise because of unlawful acts and to file a claim for compensation must first be fulfilled elements of unlawful acts, namely:

1. There are people who make mistakes
2. The mistake causes others to suffer losses

If these two elements have been met, then the event can be submitted to the Court in the form of a claim for compensation as stipulated in Article 56 of the Copyright Law. Similar to the actions or actions of someone who publishes a song score on Youtube without the permission of the creator, as a copyright owner can file a claim for compensation along with criminal charges. Procedurally, copyright owners can file a claim for compensation after a criminal verdict stating that the person concerned has made a mistake to maintain synchronization or harmony of judges' decisions in criminal cases and civil cases.

The lawsuit letter regarding the request for compensation for copyright infringement is addressed to the chairman of the Commercial Court while regarding law enforcement of criminal acts, there are two institutions that can conduct investigations, namely, officials of the National Police of the Republic of Indonesia and certain Civil Servant officials within the ministry who carry out government affairs in the field of law who are given special authority as investigators.

2. Legal Implications Based on a Conceptual Approach

The TRIPS Agreement came into effect in 1995, with a transitional period provided for developing countries, requiring them to implement the agreement no later than four years after that, or by the year 2000. Least developed countries were given until early 2006 to comply. The inclusion of intellectual property rights (IPR) protection within the framework of the General Agreement on Tariffs and Trade (GATT) in the global trading system owes much to the role played by the United States, which proposed the "Proposal for Negotiations on Trade-Related Aspects of Intellectual Property Rights." Additionally, the European Community put forward the "Proposal of Guidelines and Objectives." India was one of the countries most vehemently opposed to the idea of incorporating IPR protection. However, after

debates between developing and developed countries, the winners were those with a vested interest in protecting their works, namely the developed countries.

The TRIPS Agreement is the result achieved and has also adopted two major international conventions in the field of industrial property and copyright, namely the Paris Convention for the Protection of Industrial Property and the Berne Convention for the Protection of Literary and Artistic Works. The consequences of the victory of developed countries in the GATT Uruguay Round negotiations related to IPR are what brought the entry of western countries' concepts of property and ownership into law in developing countries including Indonesia.

The TRIPS Agreement is not specifically about the protection of intellectual property rights. The TRIPS Agreement is part of the WTO Agreement signed by its member countries which obliges all members to make rules regarding intellectual property rights in their respective countries. Therefore, the legal implications of IPR protection for the actions of someone who publishes song scores without the author's permission on Youtube, the TRIPS Agreement does not protect intellectual property rights internationally.

In the international scope, each field of intellectual property rights has its own international conventions as they develop over time namely in the field of copyright, some international conventions that apply to the signatory countries are:

1. Beijing Treaty on Audiovisual Performances
2. Berne Convention for the Protection of Literary and Artistic Works
3. Brussels Convention Relating to the Distribution of Program-Carrying Signals Transmitted by Satellite
4. Geneva Convention for the Protection of Producers of Phonograms Against Unauthorized Duplication of Their Phonograms
5. Marrakesh Treaty to Facilitate Access to Published Works for Persons Who Are Blind, Visually Impaired, or Otherwise Print Disabled
6. Rome Convention for the Protection of Performers, Producers of Phonograms and Broadcasting Organizations
7. WIPO Copyright Treaty (WCT)
8. WIPO Performances and Phonograms Treaty (WPPT)

Any country that has signed the aforementioned treaty shall abide by the agreed international rules. The rules contained in the international convention are general rules only. For the application of agreed general rules, it is left entirely to the state that will enforce and regulate them in their national law.

According to the definition of Djumhana, IPR is a right derived from the results of creative activities, human thinking abilities expressed to the general public in various forms that are useful in supporting human life because they have economic value.

If noted, on the Youtube website there is an explanation "Fair use" is a legal doctrine that states that you can reuse copyrighted material in certain situations without requiring permission from the copyright owner". From this explanation, several doctrines of "reasonable interest" emerge that "different countries have different rules about when material without the copyright owner's permission may be used".

In the Youtube feature there are several explanations about the rules of use, one of which is the meaning of the word "fair use of copyright / Fair Use), which has a different meaning or meaning when defined and it is not clear to what extent the limits of this so as not to misunderstand or ambiguous in giving meaning.

Such as the findings of cases in Indonesia regarding copyright infringement of song scores uploaded to the Youtube application, namely, the similarity of lyrics and numerical notes from the song "Mari bercinta" from Aura Kasih with the song "Give it to you" from Eve ft Sean Paul and in the plagiarism case that occurred between the D'Masiv Band with the title "this love kills me" which has similar notes on some bars of the song "I don't love you" from My Chemical Romance.

Based on the author's research on cases of copyright infringement regarding song scores uploaded on the YouTube platform, there are several legal implications. One of them is the lack of clear limitations and definitions regarding the explanation provided by YouTube regarding the "fair use" and "reasonable purposes" for anyone uploading songs, song lyrics, song scores, or music video clips on the YouTube application.

The ambiguity of the boundaries and meaning of "reasonable use and interests," coupled with a lack of knowledge and a desire to avoid disputes by some individuals involved in copyright infringement cases, has led many YouTubers to choose to comply when their uploaded works on the YouTube platform are requested to be removed due to reports or complaints from creators who feel their work has been copied, misused, or plagiarized by YouTubers.

YouTube's role is primarily limited to providing guidelines for original creators to report or file complaints in cases of copyright infringement of their works. It is crucial for YouTube to provide legal certainty by clearly defining and explaining the concept of "fair use" in its terms and conditions.

Due to the unclear and cumbersome provisions, it is indeed necessary for YouTube to be more responsive and improve its system. The legal implications arising from someone publishing a song score without the creator's permission on YouTube, based on a conceptual approach and its connection to the TRIPs Agreement and the Copyright Law, should be resolved and regulated in accordance with the applicable national laws in Indonesia.

Conclusion

Indicators in the protection of song copyrights based on the Copyright Law include moral rights and economic rights. Moral rights are based on the recognition that a creation should be protected as a tangible form of someone's intellectual, imaginative, skill, and creative abilities. Economic rights, on the other hand, are based on the exclusive rights automatically granted to a creator to derive economic benefits from their work, as long as those economic rights are not transferred to others. The legal implications arising from someone publishing a song score without the permission of the creator or the rightful copyright holder on YouTube can lead to civil claims for damages through commercial court proceedings.

Additionally, it can also be subject to criminal charges, as copyright infringement is a type of criminal offense that requires a formal complaint. There is a need to amend the Copyright Law by adding regulations related to the definition of song scores and the elements that constitute a copyright infringement of song scores to ensure legal protection. Furthermore, there is a need for widespread education by the Directorate General of Intellectual Property (DGIP) to the public, especially to millennial teenagers, to promote better and wiser social media practices regarding the use of song scores, which are part of copyright. The implementation of strict sanctions is necessary when someone publishes a song score without the creator's permission on YouTube. Additionally, YouTube should have rules in place before video publication to address copyright concerns.

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