



Implementation of the Supervisory Function of the Ministry of Law and Human Rights of the Republic of Indonesia on the Protection of Copyright of Musical Works Based on Law Number 28 of 2014

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Abstract

This study explores the practical application of the supervisory function vested in the Ministry of Law and Human Rights of the Republic of Indonesia concerning safeguarding copyright for musical works, as delineated by Law Number 28 of 2014. The primary focus lies in assessing the effectiveness of the regulatory framework in place to protect the intellectual property rights of creators in the music industry. The research employs a multidisciplinary approach, incorporating legal analysis, policy evaluation, and case studies to gauge the implementation of Law Number 28 of 2014. It investigates the Ministry's role in overseeing the enforcement of copyright protection measures, addressing challenges faced, and proposing potential improvements to enhance the efficacy of the supervisory function. Key aspects under scrutiny include the Ministry's mechanisms for monitoring copyright infringement, facilitating legal recourse for rights holders, and fostering collaboration between stakeholders in the music industry. Additionally, the study explores the adaptation of supervisory practices to technological advancements, such as digital platforms and online distribution channels, which pose unique challenges to copyright protection. The findings aim to provide insights into the strengths and weaknesses of the current supervisory framework, offering recommendations for legislative adjustments, administrative enhancements, and collaborative initiatives. Ultimately, this research contributes to the ongoing discourse on intellectual property protection in the context of the evolving landscape of the music industry in Indonesia, seeking to fortify the legal infrastructure for the benefit of creators, consumers, and the broader cultural ecosystem.

Keywords: *Intellectual Property Rights; Legislative Adjustments; Anti-Piracy Measures; Copyright Act*

Introduction

In the contemporary landscape of the globalized music industry, protecting intellectual property rights, particularly in musical works, is crucial for fostering creativity, innovation, and fair compensation for creators(1–3). The Republic of Indonesia, recognizing the significance of safeguarding the rights of artists and content creators, promulgated Law Number 28 of 2014, aimed at providing a comprehensive legal framework for protecting copyright in musical works(4). At the forefront of implementing and supervising the enforcement of this legal apparatus is the Ministry of Law and Human Rights(5).

Law Number 28 of 2014 signifies a pivotal step in Indonesia's commitment to aligning its legal infrastructure with international standards for intellectual property protection. Within this legislative context, the Ministry assumes a vital role as the supervisory authority responsible for overseeing the adherence to and implementation of the law(4). This study delves into the nuanced facets of the Ministry's supervisory function concerning the protection of copyright for musical works, aiming to assess the effectiveness of its mechanisms and the challenges faced in translating legal provisions into tangible safeguards for creators.

As we embark on this exploration, it becomes evident that the intersection of law, technology, and the dynamic landscape of the music industry requires a comprehensive understanding(6,7). This study scrutinizes the legal dimensions of the supervisory role and ventures into the practical intricacies of addressing contemporary challenges posed by digital platforms, online distribution channels, and the evolving nature of artistic creation (8,9).

By examining the experiences, successes, and shortcomings in implementing the supervisory function, this research contributes meaningful insights to the ongoing discourse on intellectual property protection in the Indonesian context (10,11). Through a multidisciplinary lens, encompassing legal analysis, policy evaluation, and case studies, this study aims to offer recommendations for enhancing the efficacy of the Ministry's supervisory role, thereby fortifying the foundation for copyright protection in musical works in Indonesia.

Methods

This writing uses a normative approach to provide legal explanations for a phenomenon or event used as the research object. In this case, this type of research is used as a form of library research. Literature or quantitative research in this study is research that explains legal norms. The quantitative nature of this study makes the data used in the form of opinions, concepts, or theories related to the description of the explanation of problems regarding the supervisory function of copyright protection of musical works. The nature of the research used in this study is descriptive or can be said to explain or describe research in a particular phenomenon that is the object of research. In other words, the descriptive approach is research that aims to investigate conditions related to the object of research described earlier.

Result and Discussion

Forms of Copyright Infringement of Music Works or Songs that Often Occur in General

Awareness of copyright protection in the field of songs in Indonesia has not received the attention it should. This condition can be seen in several incidents categorized as copyright infringement. Such is the case between Ahmad Dhani and Once Mekel (Former Vocalist of Dewa 19). This happened because Once sang Ahmad Dhani's songs in the band Dewa 19 in an event that made Once his guest star without

paying royalties to Ahmad Dhani as the work's creator. Based on this, there is a fundamental theory of thought, namely the theory of natural law (the natural right), which states that intellectual property belongs to the creator so that it becomes fair if the creator is given the protection of every right attached to the creator. The purpose of this royalty is to protect economic rights where later, the creator or related rights owner will get paid or receive monetary benefits for the song and music work from those who use the work for commercial rights.

Supervision Function of the Ministry of Law and Human Rights based on Law Number 28 of 2014 concerning Copyright, Especially in South Sumatra Province

Suppose you look at the track record of implementing Law Number 28 of 2014 concerning Copyright by the Regional Office of the Ministry of Law and Human Rights. In that case, there are no significant problems within the scope of South Sumatra Province. But there is nothing wrong if supervision from the Ministry of Law and Human Rights of South Sumatra Province reflects on problems regarding royalty or copyright violations on music works or songs in other regions. This makes the Ministry of Law and Human Rights better prepared to handle similar cases or problems that could occur. With the establishment and enactment of the Copyright Law in Indonesia, there is new hope for copyright protection for the creator of a work, incredibly a musical or song. Law Number 28 of 2014 concerning Copyright then comes as a complement to the previous laws and regulations. This regulation is a form of effort made by the government to protect music or song copyrights from possible violations.

Therefore, the music industry must be accompanied by supporting facilities to form a conducive climate so that the development of the industry runs well. The underlying thing that enforces copyright protection, especially the copyright of musical works or songs, is the outpouring of one's energy to find or create something new. Thus, the creator must acquire the natural right to control everything in his creation. This sense gives the meaning of justice and justice. The process of complaints of infringement against intellectual property is based on the Joint Regulation of the Minister of Law and Human Rights and the Minister of Communication and Information Number 14 of 2015 and Number 26 of 2015 concerning the Implementation of Content Closure and User Access Rights of Copyright Infringement and Related Rights in Electronic Systems. This regulation is a form of law enforcement against copyright infringement and protects owners of copyrighted works that have been registered. The parties with the authority to enforce copyright infringement are the Ministry of Law and Human Rights and the Ministry of Communication and Information. As mentioned in Article 56 of Law Number 28 of 2018 concerning Copyright, the Minister responsible for the administration of government affairs in the field of telecommunications and informatics has the authority to close content and block user access that has violated copyright in electronic media.

In carrying out law enforcement actions, the Regional Office of the Ministry of Law and Human Rights of South Sumatra Province has reflected the elements of law enforcement that must be considered: a) Legal Certainty, b) legal benefits, and c) justice. With the regulations related to taking action against infringers of copyrighted works, this cinematography has given a sense of fairness to copyright owners. Then, it provides a deterrent effect to someone who has violated someone's copyrighted work.

Conclusion

The Ministry of Law and Human Rights has the authority to supervise so that copyright supervision can be carried out if there is an illegal act. The same will be explained by analyzing the government's supervisory function in maintaining or protecting the copyright of musical works from any existing violations and minimizing it by providing awareness to the public of the importance of moral and economic rights in one's intellectual property rights. It is known that the Regional Office of the Ministry

of Law and Human Rights of South Sumatra Province has been supervised by law enforcement elements, namely: a) Legal certainty, b) Legal Benefits, and c) Justice. This is to protect the creators of music works or songs from any violations, especially in South Sumatra Province, by reflecting on cases in national copyright issues.

Reference

1. Maya Putri Y, Wierma Putri R. Recognizing the Protection of Comunal Intellectual Property Rights Perlindungan Bagi Hak Kekayaan Intelektual Komunal. *De'rechtsstaat*. 2021;7(2).
2. Pathak S, Muralidharan E. A two-staged approach to technology entrepreneurship: Differential effects of intellectual property rights. *Technol Innov Manag Rev*. 2020;10(6).
3. Auriol E, Biancini S, Paillacar R. Intellectual property rights protection and trade: An empirical analysis. *World Dev*. 2023;162.
4. FALLAH SN, MULYATI E. HAK KEKAYAAN INTELEKTUAL DALAM PERSPEKTIF HUKUM JAMINAN. *LITIGASI*. 2020;(20).
5. Maslov V. Implementation of the principle of humanism in criminal law policy. *Vestn St Petersburg Univ Minist Intern Aff Russ*. 2022;2022(4).
6. Birlik GK. The Mediterranean Agreements and their Implementation in Turkey. *J Mod Turkish Hist*. 2021;17(34).
7. Belousov GD. EVOLUTION OF STREAMING SERVICES: METHODS TO FIGHT PIRACY. *Globus*. 2021;7(1(58)).
8. Jayasekara DN, Fredriksson PG. Culture, intellectual property rights, and technology adoption. *Q Rev Econ Financ*. 2021;80.
9. Neves PC, Afonso O, Silva D, Sochirca E. The link between intellectual property rights, innovation, and growth: A meta-analysis. *Econ Model*. 2021;97.
10. Olubiyi IA, Emerole UA, Adetula AF. Contemporary Challenges to Intellectual Property Rights in Developing Countries: Looking Beyond the Laws (Nigeria as a Case Study). *IIC Int Rev Intellect Prop Compet Law*. 2022;53(1).
11. Jabbar KK, Ghazzi F, Fakhfakh A. Property Comparison of Intellectual Property Rights of Image - Based on Encryption Techniques. *TEM J*. 2023;12(1).

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