

A LEGAL ANALYSIS OF COPYRIGHT INFRINGEMENT IN MUSIC OR SONG PUBLIC PERFORMANCES: THE CASE OF COMMERCIAL CONCERTS

(Studi Putusan PN Niaga Jakarta Pusat Nomor 92/Pdt.Sus-HKI/CIPTA/2024/PN NIAGA Jkt.Pst)

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Abstract. *Copyright infringement of music or songs in public performances, such as commercial concerts, constitutes a significant legal issue in Indonesia, particularly regarding the economic rights of creators. The case of Central Jakarta Commercial Court Decision Number 92/Pdt.Sus-HKI/CIPTA/2024 demonstrates the unauthorized use of the plaintiff's song by an artist and concert organizers without permission and without paying royalties. The research questions addressed in this study are: (1) how the royalty payment system regulates the utilization of copyright or related rights in commercial concert performances, and (2) the considerations of the panel of judges in Central Jakarta Commercial Court Decision Number 92/Pdt.Sus-HKI/CIPTA/2024/PN Niaga Jkt. Pst. In the normative juridical analysis, the study examines laws, government regulations, and the national royalty mechanism, including Law No. 28 of 2014 on Copyright, Government Regulation No. 56 of 2021, and the royalty management practices through LMKN. This approach is employed to assess the legal compliance of the parties involved and the consistency of the court's decision with the principles of copyright law. This research aims to analyze the juridical aspects of copyright infringement in the public performance of musical works, specifically commercial concerts, with a focus on the Central Jakarta Commercial Court Decision Number 92/Pdt.Sus-HKI/CIPTA/2024. The study uses a qualitative normative juridical method with a case study approach, reviewing the court's decision, the panel of judges' considerations, and the legal bases applied. The findings indicate that the use of songs in commercial concerts without the creator's permission constitutes a violation of the creator's economic rights under Law No. 28 of 2014 on Copyright, and royalties must be paid in accordance with Government Regulation No. 56 of 2021 and LMKN mechanisms. The panel of judges affirmed that both the performer and the concert organizer share joint legal responsibility, and compensation can be determined proportionally according to the applicable royalty rates. This decision provides legal certainty and establishes an important precedent for copyright protection in Indonesia, while emphasizing the obligation of all parties utilizing copyrighted works for commercial purposes.*

Keywords: Copyright, Royalty, Commercial Concert, Infringement, Legal Liability, Central Jakarta Commercial Court.

1. Introduction

Music is one of the forms of art that holds significant economic and cultural value in modern society. As a product of human intellectual creativity, music receives legal protection under the intellectual property rights regime, particularly copyright. In Indonesia, legal protection for musical works is governed by Law Number 28 of 2014 on Copyright (hereinafter referred to as the 2014 Copyright Law).¹ This law grants exclusive rights to the creator or copyright holder to announce, reproduce, and utilize their work, including in the context of musical performances or commercial concerts.

The music industry in Indonesia has experienced rapid development, not only through the sale of physical or digital recordings but also through live performances or music concerts. Music concerts have become a form of public service with commercial purposes, generating significant economic value.²

The organization of concerts involves various parties, such as promoters, event organizers, venues, artists or musicians, as well as collective management organizations that handle royalties. In this context, the use of musical works in commercial concerts must obtain permission from the creator or copyright holder, and royalties must be paid in accordance with the applicable laws and regulations.

However, in practice, copyright infringements still frequently occur in the organization of commercial concerts. Such violations may include the use of musical works without the creator's or copyright holder's permission, failure to pay the required royalties, or the public announcement and performance of music without a proper licensing mechanism. These infringements not only cause economic losses to creators and copyright holders but also threaten the sustainability of Indonesia's creative music industry.³

The legal issues related to copyright infringement in commercial concerts have become increasingly complex due to the involvement of multiple stakeholders and the applicable licensing mechanisms. In Indonesia, the management of music copyrights for public performances is conducted through collective management organizations that have been authorized by the Minister of Law and Human Rights, as regulated in Articles 87–95 of the 2014 Copyright Law.⁴ Collective management organizations function to collect, manage, and distribute royalties to creators and copyright holders. However, the coordination and implementation of this mechanism still face various challenges in practice.

The Commercial Court decision of the Central Jakarta District Court, Number 92/Pdt.Sus-HKI/CIPTA/2024/PN Niaga Jkt.Pst, is a significant case that reflects the challenges of copyright protection in the organization of commercial concerts in Indonesia. This decision provides a juridical perspective on how the court interprets and applies copyright law provisions to violations occurring in the context of public services in the form of commercial concerts. Analyzing this case is important to understand the legal aspects involved, including

¹ Undang-Undang tentang Hak Cipta, UU No. 28 Tahun 2014, LN No. 266 Tahun 2014, TLN No. 5599, Pasal 1 angka 1 dan Pasal 8

² Badan Ekonomi Kreatif, *Opus: Creative Economy Outlook 2024* (Jakarta: Badan Ekonomi Kreatif, 2024), hlm. 45-48

³ Eddy Damian, *Hukum Hak Cipta*, Edisi Ketiga (Bandung: PT Alumni, 2014), hlm. 142-145

⁴ Undang-Undang tentang Hak Cipta, UU No. 28 Tahun 2014, Pasal 87-95.

the responsible legal subjects, types of infringement, evidentiary mechanisms, as well as the sanctions and compensations that may be imposed.⁵

The Commercial Court has absolute competence to handle copyright disputes, as stipulated in Article 100 of the 2014 Copyright Law. The existence of this specialized court is intended to provide faster dispute resolution, conducted by judges with specific expertise in the field of intellectual property rights. In the context of music copyright infringement in commercial concerts, the Commercial Court plays a crucial role in providing legal certainty for all parties involved, including creators, copyright holders, and concert organizers.⁶

Several juridical issues arise in cases of music copyright infringement in commercial concerts, including: first, the question of who can be categorized as the infringer, whether it is only the artist performing the song or also includes promoters and event organizers who facilitate the performance. Second, issues regarding the licensing and royalty payment mechanisms through collective management organizations, including whether the concert organizers have fulfilled their legal obligations in obtaining licenses. Third, the evidentiary aspects in copyright disputes, particularly concerning copyright ownership and proof of infringement. Fourth, the determination of fair and proportional compensation for creators or copyright holders who suffer losses.⁷

The case study of Decision Number 92/Pdt.Sus-HKI/CIPTA/2024/PN Niaga Jkt.Pst provides both academic and practical contributions to understanding the application of copyright law in Indonesia, particularly within the context of the creative economy and entertainment industry. A juridical analysis of this decision examines the legal considerations employed by the panel of judges, their compliance with the applicable laws and regulations, and the implications for the enforcement of music copyright law in the future.

This research is particularly relevant considering that the music concert industry in Indonesia continues to grow rapidly, generating economic value reaching trillions of rupiah annually. Effective legal protection of music copyrights in commercial concerts is not only crucial for safeguarding the interests of creators and copyright holders but also for promoting the sustainable and equitable growth of the creative industry. Without consistent law enforcement, potential economic losses and disincentives for creativity could threaten Indonesia's music ecosystem..⁸

Based on the description above, this study aims to comprehensively analyze the juridical aspects of music copyright infringement in commercial concerts, using the case study of the Commercial Court Decision of the Central Jakarta District Court Number 92/Pdt.Sus-HKI/CIPTA/2024/PN Niaga Jkt.Pst. Through this research, it is expected to gain a deeper understanding of the application of copyright law in the context of commercial public services, as well as to provide recommendations for improving the music copyright protection system in Indonesia..

From the problem above, there are questions, namely :

⁵ Putusan Pengadilan Niaga pada Pengadilan Negeri Jakarta Pusat Nomor 92/Pdt.Sus-HKI/CIPTA/2024/PN NIAGA Jkt.Pst

⁶ Undang-Undang tentang Hak Cipta, UU No. 28 Tahun 2014, Pasal 100.

⁷ Saidin, *Aspek Hukum Hak Kekayaan Intelektual* (Jakarta: RajaGrafindo Persada, 2015), hlm. 256-260

⁸ "Industri Konser Musik Indonesia Tumbuh Pesat Pasca Pandemi," *Kompas*, 15 Maret 2025, hlm. 12

1. How is the royalty payment system for the utilization of copyright or related rights regulated in commercial concert performances?
2. What are the legal bases considered by the panel of judges in the Central Jakarta Commercial Court Decision Number 92/Pdt.Sus-HKI/CIPTA/2024/PN Niaga Jkt.Pst?

2. Research Methods

This study is a normative legal research or library research. Normative legal research is conducted by examining library materials or secondary data as the primary basis for analysis, including a review of relevant regulations and literature related to the research problem. The selection of the normative juridical method in this study is based on the characteristics of the issue being analyzed, namely a juridical analysis of music copyright infringement in commercial concerts using a case study of a court decision. This research does not involve empirical field testing; rather, it analyzes legal norms, legal principles, legal doctrines, and court decisions to address the research questions.

3. Results and Discussion

1. Legal aspects of the regulation of royalty payment systems for the utilization of copyright or related rights in commercial concert performances

Indonesia is a country renowned for its cultural diversity and richness in the arts and literature, which contribute to national development and the promotion of public welfare, as mandated by the 1945 Constitution of the Republic of Indonesia. The country's cultural and artistic heritage is highly diverse, including music, dance, and various other forms of art and culture, giving Indonesia unique characteristics not found in other countries. When presented in the form of performances, these cultural expressions become an attraction for audiences.⁹ In any performance, there are performers who carry out the activities. It is not only the artistic works and their creators that require protection; performers themselves also need legal protection. This serves as a form of appreciation for the effort and time invested by performers in presenting a performance.¹⁰

The Copyright Law was enacted to protect and guarantee the rights over a created work of art. However, protection is often focused solely on the artistic work itself, without considering that performers are also entitled to certain rights. It is thus evident that the implementation of the Copyright Law has not fully achieved the protection intended by the law. Essentially, copyright constitutes a form of personal ownership over a creation, which is the manifestation of an idea by the creator in the fields of art, literature, and science.¹¹ According to the Copyright Law, copyright is the exclusive right of the creator that arises automatically based on the declarative principle once a creation is realized in a tangible form, without prejudice to limitations in accordance with applicable laws and regulations. The Copyright Law regulates two main aspects: copyright and related rights. Copyright serves to protect the rights of the creator of a work, while related rights function to protect the rights of performers. According to Sal Murgiyanto, a performance is defined as a "spectacle with artistic value" presented as a show before an audience.¹²

⁹ Sekretariat Koalisi Seni, <https://www.pemajuankebudayaan.id/undang-undang> (diakses pada 3 Agustus 2025)

¹⁰ Ni Komang Irma Adi Sukmaningsih, dkk, *Hak Terkait (Neighboring Right) Pelaku Pertunjukan Berdasarkan Undang-undang No. 28 Tahun 2014 Tentang Hak Cipta*, *Journal Yustitia Universitas Pendidikan Ganesha*, Vol. 1, No. 1, 2018

¹¹ Ratna Artha Windari, *Pengantar Hukum Indonesia*, PT. Raja Grafindo Persada, Depok, 2017, hlm. 171

¹² Ni Komang Irma Adi Sukmaningsih, dkk, *Op., Cit*

According to Jazuli, the term performing arts implies presenting something with artistic value, while always striving to attract the audience's attention when observed.¹³ Meanwhile, performers are an integral part of the performing arts. All types of performances naturally require presenters as performers, either directly or indirectly, to deliver the artistic expression of the performance. According to the Copyright Law, a performer is an individual or a group of individuals who, alone or together, present and perform a creation.¹⁴ Performers are entitled to rights known as related rights, also referred to as neighboring rights. Neighboring rights include mechanical rights (the right to reproduce), performing rights (the right to publicly perform), rental rights (the right to rent), and moral rights (the moral rights over a creation and modifications made by others).

In principle, a creator or copyright holder has economic rights to receive compensation or to utilize their work for commercial purposes. The management of economic rights, such as for a musical work, could theoretically be conducted directly by the creator or copyright holder to the user of the work. However, this is practically difficult, as the creator or copyright holder would face significant challenges in monitoring and calculating how many times and by whom the work is used. Administrative complexities further complicate this process.

With the enactment of Law No. 28 of 2014 on Copyright and Government Regulation No. 56 of 2021 concerning the Management of Royalties for Song and/or Music Copyrights, the management of economic rights for creators, copyright holders, or related rights owners is conducted by an organization known as LMKN (Collective Management Organization for Music Copyright).¹⁵ The mechanism for collecting and distributing royalties, particularly in the field of music and songs, was finally established with the enactment of Copyright Law No. 28 of 2014, which regulates the distribution of royalties in the music and song sector through Collective Management Organizations (CMOs) and the National Collective Management Organization (LMKN). This is stipulated in Article 89 of Copyright Law No. 28 of 2014.

Based on the research findings, initially, Arie Sapta Hernawan, the creator of the song "Bilang Saja", discovered that his song was used by Agnes Monica (Agnez Mo) in several commercial concerts without permission and without paying royalties. Feeling that his economic rights had been violated, Arie filed a lawsuit at the Central Jakarta Commercial Court, not only against Agnez Mo as the singer but also against PT Aneka Bintang Gading as the concert organizer. During the trial, the defendants submitted formal exceptions, claiming that the lawsuit did not meet the requirements and that the royalty obligations rested entirely with the event organizer. However, the panel of judges rejected all exceptions and proceeded to examine the main case.

In the examination of the main case, the court assessed that the use of the song by Agnez Mo occurred in paid concerts without permission or payment of royalties to the creator, thereby constituting a violation of the creator's economic rights as regulated under the Copyright Law. The panel of judges emphasized that a concert performance, even if performed live, constitutes a form of public communication of a work that requires authorization and the obligation to pay royalties. The judges also noted that both the singer and the concert organizer benefited from the use of the work, and therefore both bear legal responsibility.

Ultimately, the court partially granted the plaintiff's claim, declaring that Agnez Mo had infringed copyright, and ordered the defendants to pay compensation of IDR 1.5 billion. The court emphasized that the compensation should be calculated proportionally according to the applicable

¹³ *Ibid*

¹⁴ Pasal 1 Angka 6 Undang-Undang No. 28 Tahun 2014 Tentang Hak Cipta

¹⁵ Yosepa Santy Dewi Respati, dkk, *Implementasi Lembaga Manajemen Kolektif Nasional (LMKN) Sebagai Collecting Society Dalam Karya Cipta Lagu (Menurut Undang-Undang No. 28 Tahun 2014 Tentang Hak Cipta)*, *Jurnal Dipenogoro Law Review*, Vol. 5, No. 2, 2016

royalty rates, and the unauthorized use of the song must not occur again. This ruling provides legal certainty that any use of a song in commercial concerts must comply with the national royalty payment system and affirms that both artists and concert organizers can be held jointly accountable under the law.

In conclusion, the Central Jakarta Commercial Court Decision Number 92/Pdt.Sus-HKI/Cipta/2024 confirms that the commercial use of copyrighted songs without permission constitutes copyright infringement, mandates royalty payment, and imposes legal responsibility on both the singer and the concert organizer, thereby providing legal certainty for the protection of the creator's economic rights.

2. The legal basis for the considerations of the panel of judges in the Central Jakarta Commercial Court Decision Number 92/Pdt.Sus-HKI/CIPTA/2024/PN Niaga Jkt.Pst

Considering that the matters addressed by the panel of judges in the exceptions, *mutatis mutandis*, constitute the legal considerations in the main case;

Considering that the plaintiff's claim is essentially that the defendant, as the artist and/or performer (singer), commercially used the song entitled "Bilang Saja" without permission from the plaintiff, the copyright owner of the song, during performances (concerts) on May 25, 2023, at W Superclub Surabaya, May 26, 2023, at The H Club Jakarta, and May 27, 2023, at W Superclub Bandung. Consequently, due to the defendant's actions constituting unlawful acts of copyright infringement, the defendant violated the plaintiff's civil rights and caused material and immaterial losses to the plaintiff.¹⁶ Considering that regarding the main claims of the plaintiff, the defendant denied them by stating that the party who commercially used the plaintiff's creation was the co-defendant and not the defendant, as PT Aneka Bintang Gading (Co-Defendant) acted as the organizer and/or user who exploited the copyright in the form of public commercial performances at W Superclub Surabaya, The H Club Jakarta, and W Superclub Bandung. Therefore, in principle, the plaintiff's lawsuit against the defendant was deemed inappropriate on the grounds that the defendant did not hold a license to perform the plaintiff's creation commercially. To properly obtain royalty rights, the plaintiff should have filed a lawsuit against the co-defendant and inquired whether the co-defendant had obtained a license to commercialize the plaintiff's creation through LMKN.¹⁷

According to the Indonesian Dictionary (Kamus Besar Bahasa Indonesia), authority is defined as the right and power to act; jurisdiction; the power to make decisions, command, and delegate responsibility to others. Accordingly, Article 1, Number 7 of the Ministry of Law and Human Rights Regulation No. 38 of 2018 concerning the Procedures for Application and Issuance of Operational Permits and Evaluation of Collective Management Organizations states that the National Collective Management Organization, hereinafter abbreviated as LMKN, is a non-state-budget government-assisted institution that is granted attribution authority by the Copyright Law to collect, manage, and distribute royalties, as well as manage the economic rights interests of creators and related rights holders in the field of songs and/or music.¹⁸ Thus, LMKN is an institution granted authority by Law No. 28 of 2014 on Copyright to manage the economic rights interests of song and music creators.

Regarding the implementing regulations of Law No. 28/2014 on Copyright, namely Article 3 paragraph (1) of Government Regulation (GR) No. 56 of 2021, it states: "Any person may

¹⁶ Putusan Pengadilan (PN) Jakarta Pusat No. 92/Pdt.Sus-HKI/Cipta/2024/PN Niaga Jkt.Pst, hlm. 65

¹⁷ Sri Nur Hari Susanto, *Op., Cit*

¹⁸ Pasal 1 Angka 7 Permenkumham No. 38 Tahun 2018 Tentang Tata Cara Permohonan Dan Penerbitan Izin Operasional Serta Evaluasi Lembaga Manajemen Kolektif

commercially use songs and/or music in the form of public services that are commercial in nature by paying royalties to the creator, copyright holder, and/or related rights owner through LMKN.” Furthermore, Article 1 Number 16 of GR 56/2021 specifies that the term “person” is not limited to individual subjects only, but also includes legal entities. It can be concluded that LMKN also collects royalties from legal entities, commonly referred to as corporations in business law, such as CVs (limited partnerships), PTs (limited liability companies), as organizers of music concerts or other events¹⁹

Based on the description above, referring to Evidence P-4 (the plaintiff’s membership proof, namely Ari Bisa, in LMK/KCI), the panel of judges should have entirely dismissed the plaintiff’s lawsuit against the defendant.²⁰ According to the LMKN commissioner, Law No. 28/2014 fully implements a blanket licensing system, not a direct licensing system.²¹ This means that any individual or legal entity may commercially use a copyright and/or related rights without obtaining prior permission or a license from the creator, provided that royalties are paid after the event. According to Artidjo Alkostar, the independence of judges is inherent in the ideology or value system they adhere to when applying criminal or legal sanctions.²² The value system referred to in adjudicating court cases is based on justice (ethical), truth (logical), and aesthetics (harmony), intended for justice seekers and stakeholders. Furthermore, Artidjo Alkostar states that the basic principle of a court is the judge’s freedom to investigate a case without external influence, which is essential for upholding the law.

Moreover, Article 5, paragraph (1) of Law No. 48 of 2009 on Judicial Power stipulates that: “Judges and constitutional judges are obliged to explore, follow, and understand the legal values and sense of justice prevailing in society.” Accordingly, the independence of the panel of judges is maintained, allowing them to deliberate cases without haste, whether in criminal, civil, or administrative law proceedings.

4. Conclusion

Music concert organizers or promoters are individuals or organizations responsible for managing and overseeing all aspects of a concert. They are accountable for ensuring legal compliance, including obtaining permissions for the use of songs and paying royalties. A music concert is a commercial performance regulated to protect the economic rights of song creators. These economic rights include the rights to publicly perform, reproduce, and present musical works. Concert promoters are required to obtain authorization to use songs in accordance with the Copyright Law. Without such permission, it is prohibited to commercially use or reproduce the works. Government Regulation No. 56 of 2021 mandates the payment of royalties to the creators through LMKN for commercial use of songs.

As concert organizers, promoters are required to report the list of songs and make royalty payments through LMKN. Royalty rates are determined by a Ministerial Decree and calculated based on a percentage of ticket sales. However, current practices face issues such as delays and avoidance by promoters, which harm song creators and weaken legal protection. The Ministry of Creative Economy has proposed an advance payment scheme

¹⁹ Marulam J. Hutaaruk, *Lisensi dan Royalti Lagu/Musik di Tempat Publik*, Yayasan Pustaka Obor Indonesia, Jakarta, 2022, hlm. 8

²⁰ Putusan Pengadilan (PN) Jakarta Pusat No. 92/Pdt.Sus-HKI/Cipta/2024/PN Niaga Jkt.Pst, hlm. 31

²¹ Alexander Vito Edward Kukuh dan Adrian Gilang Khrisnanda, *Tanggapan LMKN Soal Direct Licence yang di Dorong Musisi* (<https://kumparan.com/tanggapan-lmkn-soal-direct-license-yang-didorong-oleh-musisi>)

²² Artidjo Alkostar, *Kebutuhan Responsif Perlakuan Hukum Acara Pidana dan Dasar Pertimbangan Pemindaan serta Judicial Immunity*, Makalah Rakernas, Jakarta, 2011, hlm. 9

and digitalization to improve transparency in royalty management, integrating proof of payment as a requirement for obtaining event permits. Violations of these obligations may result in administrative, criminal, and civil sanctions. Therefore, it is crucial for concert organizers to understand that paying royalties is both a respect for the intellectual property rights of creators and a support for the music industry in Indonesia.

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