

LEGAL REVIEW OF COPYRIGHT INFRINGEMENT OF MUSIC OR SONGS IN THE FORM OF PUBLIC SERVICE (CONCERT) OF A COMMERCIAL NATURE (STUDY OF THE DECISION OF THE CENTRAL JAKARTA NIAGA DISTRICT COURT NUMBER 92/PDT.SUS-HKI/CIPTA/2024/PN NIAGA JKT.PST)

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Abstract

Copyright infringement of music or songs in the form of public services, such as commercial concerts, is one of the important legal issues in Indonesia, especially related to the economic rights of creators. The case of the Central Jakarta District Court Decision Number 92/Pdt.Sus-HKI/CIPTA/2024 shows the use of songs created by the plaintiff by artists and concert organizers without permission and royalty payments. The formulation of the problem in this study is: (1) How are the regulations of the royalty payment system for the use of copyright benefits or related rights in concert performances commercially, and (2) the consideration of the panel of judges in the Central Jakarta District Court Decision Number 92/Pdt.Sus-HKI/CIPTA/2024/PN NIAGA Jkt.Pst. In normative juridical analysis, the research examines laws, government regulations, and national royalty mechanisms, including Law No. 28 of 2014 concerning Copyright, Government Regulation No. 56 of 2021, as well as royalty management practices through LMKN. This approach is used to assess the legal compliance of the parties involved and the consistency of the court's decision with copyright law principles. This study aims to analyze the juridical aspects of copyright infringement of music or songs in the form of public services in the form of commercial concerts, focusing on the Central Jakarta District Court Decision Number 92/Pdt.Sus-HKI/CIPTA/2024. This study uses a normative juridical qualitative method, with a case study approach, examining the verdict, the deliberations of the panel of judges, and the legal basis used. The results of the study show that the use of songs in commercial concerts without the creator's permission is a violation of the creator's economic rights in accordance with Law Number 28 of 2014 concerning Copyright, and must pay royalties based on Government Regulation Number 56 of 2021 and the LMKN mechanism. The panel of judges emphasized that both singers as performers and concert organizers have joint legal responsibilities, and compensation can be determined proportionally according to the applicable royalty rates. This ruling provides legal certainty and an important precedent for copyright protection in Indonesia, while affirming the obligations of every party that uses copyrighted works for commercial activities.

Keywords: Copyright, royalties, commercial concerts, infringement, legal liability, Central Jakarta Niaga District Court.

Background of the Problem

Music is one of the works of art that has a very high economic and cultural value in the life of modern society. As a result of human intellectual creativity, music receives legal protection through the intellectual property rights regime, especially copyright. In Indonesia, legal protection of music copyrights is regulated in Law Number 28 of 2014 concerning Copyright (hereinafter referred to as UUHC 2014).¹ This law gives the creator or copyright holder the exclusive right to publish, reproduce, and use his or her work, including in the context of a musical performance or commercial concert.

The music industry in Indonesia is experiencing rapid development, not only in the form of physical or digital record sales, but also through live performances or music concerts. Music concerts have become a form of public service that is commercial in nature with 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 institutions that manage royalties. In this context, the use of musical copyrights in commercial concerts must obtain permission from the creator or copyright holder, as well as royalty payments in accordance with the provisions of laws and regulations.

However, in practice, there are still frequent violations of music copyright in the organization of commercial concerts. This infringement can be in the form of using a musical copyright without permission from the creator or copyright holder, not paying the royalties due, or making music announcements and performances without going through a valid licensing mechanism. These violations not only harm creators and copyright holders economically, but also threaten the sustainability of the music creative industry in Indonesia.³

Legal issues related to music copyright infringement in commercial concerts have become increasingly complex with the existence of various stakeholders and licensing mechanisms in place. In Indonesia, the management of music copyright for the purpose of public performances is carried out through a collective management institution that has obtained permission from the Minister of Law and Human Rights as stipulated in Articles 87-95 of the 2014 Law.⁴ Collective management institutions function to attract, collect, and distribute royalties to creators and copyright holders. However, the coordination and implementation of this mechanism still faces various challenges on the ground.

The Commercial Court's decision at the Central Jakarta District Court Number 92/Pdt.Sus-HKI/CIPTA/2024/PN NIAGA Jkt.Pst is one of the important cases that reflects the problem of music copyright protection in the implementation of commercial concerts in Indonesia. This ruling provides a juridical perspective on how courts interpret and apply the

¹ Law on Copyright, Law No. 28 of 2014, LN No. 266 of 2014, TLN No. 5599, Article 1 number 1 and Article 8

² Creative Economy Agency, *Opus: Creative Economy Outlook 2024* (Jakarta: Creative Economy Agency, 2024), pp. 45-48

³ Eddy Damian, *Copyright Law*, Third Edition (Bandung: PT Alumni, 2014), pp. 142-145

⁴ Law on Copyright, Law No. 28 of 2014, Articles 87-95.

provisions of copyright law to infringements that occur in the context of public services in the form of commercial concerts. Analysis of this decision is important to understand the legal aspects involved, including the legal subjects responsible, the forms of violations, the mechanisms of proof, and the sanctions and damages that can be imposed.⁵

The Commercial Court has absolute competence in handling copyright disputes as stipulated in Article 100 of the 2014 UUHC. The existence of this special court is intended to provide faster dispute resolution and is carried out by judges who have special expertise in the field of intellectual property rights. In the context of music copyright infringement in commercial concerts, the Commercial Court plays an important role in providing legal certainty for the parties, both creators, copyright holders, and concert organizers.⁶

Some of the juridical issues that arise in cases of music copyright infringement at commercial concerts include: first, the question of who can be categorized as a copyright infringer, whether only the artist performs the song, or also includes the promoter and organizer of the event who facilitates the performance. Second, the problem of licensing mechanisms and royalty payments through collective management institutions, including whether concert organizers have fulfilled their legal obligations in obtaining licenses. Third, the evidentiary aspect in copyright disputes, especially related to copyright ownership and evidence of infringement. Fourth, the determination of fair and proportionate compensation for the aggrieved creator or copyright holder.⁷

The case study of Decision Number 92/Pdt.Sus-HKI/CIPTA/2024/PN NIAGA Jkt.Pst makes an academic and practical contribution to understanding the application of copyright law in Indonesia, especially in the context of the creative economy and entertainment industry. The juridical analysis of this decision will examine the legal considerations used by the panel of judges, their conformity with the provisions of applicable laws and regulations, and their implications for the enforcement of music copyright law in the future.

This research is relevant considering that the music concert industry in Indonesia continues to grow rapidly with an economic value that reaches trillions of rupiah every year. Effective legal protection of music copyright in commercial concerts is not only essential to protect the interests of creators and copyright holders, but also to encourage the sustainable and equitable growth of the creative industry. Without consistent law enforcement, potential economic losses and disincentives for creativity will 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 by using a case study of the Commercial Court Decision at the Central Jakarta District Court Number 92/Pdt.Sus-HKI/CIPTA/2024/PN NIAGA Jkt.Pst. Through this study, it is hoped that a deeper understanding of the application of copyright law in the context of commercial public services can be found. and provide recommendations for improving the music copyright protection system in Indonesia.

⁵ Commercial Court Decision at the Central Jakarta District Court Number 92/Pdt.Sus-HKI/CIPTA/2024/PN NIAGA Jkt.Pst

⁶ Law on Copyright, Law No. 28 of 2014, Article 100.

⁷ Saidin, *Legal Aspects of Intellectual Property Rights* (Jakarta: RajaGrafindo Persada, 2015), pp. 256-260

⁸ "Indonesia's Music Concert Industry Grows Rapidly Post-Pandemic," *Kompas*, March 15, 2025, p. 12

Problem Formulation :

1. How do the royalty payment system regulations the use of copyright benefits or related rights in concert performances commercially?
2. What is the legal basis for the panel of judges' consideration in the Central Jakarta District Court Decision Number 92/Pdt.Sus-HKI/CIPTA/2024/PN NIAGA Jkt.Pst?

Research Methods

This research is normative legal research or library law research. Normative legal research is legal research that is carried out by researching literature materials or secondary data as basic materials to be researched by conducting a search of regulations and literature related to the problem being researched.⁹ The selection of normative juridical methods in this study is based on the characteristics of the problem studied, namely the juridical analysis of music copyright infringement in commercial concerts based on the study of court decisions. This research does not conduct empirical testing in the field, but analyzes legal norms, legal principles, legal doctrines, and court decisions to answer research problems.

Results and Discussion

1. Legal aspects, regulations, royalty payment system, use of copyright benefits or related rights in concert performances commercially

Indonesia is one of the countries that is famous for its cultural diversity and richness in the field of arts and literature in supporting the development of the nation and advancing the general welfare as mandated by the Constitution of the Republic of Indonesia in 1945. The culture and richness in the field of art, especially in Indonesia, are very diverse, such as music, dance, and a variety of other cultures and arts that make Indonesia have its own characteristics that other countries do not have, which if displayed in the form of performances, will be an attraction for visitors.¹⁰ In a performance, of course, there are performers who carry out an activity. Not only works of art and their creators need protection. Performance performers also need to be given protection. This is one of the appreciation for the energy and time spent by the performers in performing a performance.¹¹

The Copyright Law was issued to protect and guarantee the rights to a work of art that has been created. However, often the protection is only focused on the artwork created without paying attention to the fact that as a performer he is entitled to certain rights. So it is clear that the implementation of the Copyright Law has not achieved the protection that is the goal of the Copyright Law. Basically, copyright is a type of personal ownership of a work in the form of the embodiment of an idea, creator in the fields of art, literature, and science.¹² Based on the Copyright Law, copyright is the exclusive right of the creator that arises automatically based on declarative principles after a work is realized in a tangible form without reducing restrictions in accordance with the provisions of laws and regulations. The Copyright Law regulates two things, namely, copyright and related rights. Copyright serves to protect the rights of the creator of a work.

⁹ Soerjono Soekanto and Sri Mamudji, *Normative Law Research: A Brief Review* (Jakarta: RajaGrafindo Persada, 2015), pp. 13-14.

¹⁰ Arts Coalition Secretariat, <https://www.pemajuankebudayaan.id/undang-undang> (accessed August 3, 2025)

¹¹ Ni Komang Irma Adi Sukmaningsih, et al, *Neighboring Rights of Performance Actors Based on Law No. 28 of 2014 concerning Copyright*, *Journal of Yustitia Universitas Pendidikan Ganesha*, Vol. 1, No. 1, 2018

¹² Ratna Artha Windari, *Introduction to Indonesian Law*, PT. Raja Grafindo Persada, Depok, 2017, p. 171

Meanwhile, related rights function to protect the rights of performers. According to Sal Murgiyanto, the show is a "spectacle with artistic value" that is presented as a performance in front of an audience.¹³

According to Jazuli, the word performing arts contains the meaning of performing something that has artistic value but always tries to attract attention if it is witnessed.¹⁴ Meanwhile, performers are one part of the aspects of performing arts. All types of performances certainly require the presenter as a performer who is visible directly or indirectly to present the form of performing art.

Based on the Copyright Law, a performer is a person or several people who individually or jointly display and perform a Work.¹⁵ The performers are entitled to rights, namely related rights, this right is called neighboring right. Neighboring right is mechanical right (right to reproduce), performing right (right to announce), rental right (right to rent), and moral right (moral right to creation and changes made by other parties).

In principle, a creator or copyright holder has the economic right to be rewarded or used for commercial purposes. The management of economic rights such as song copyrights can actually be done directly by the creator or copyright holder to the user of the song copyright. But it is certain that it will be difficult for the creator or copyright holder to do. You can imagine the hassle, complexity and complexity that a creator or copyright holder will experience to supervise and count how many and how many times the song is used by users. Not to mention the administrative issue that makes the problem even more confusing. However, with the birth of Law No. 28 of 2014 concerning Copyright and Government Regulation of the Republic of Indonesia No. 56 of 2021 concerning the Management of Song and/or Music Copyright Royalties, the management of the economic rights of the creator or copyright holder or related rights owner is carried out by an institution called LMKN.¹⁶ The mechanism for collecting and distributing Royalties, especially in the field of Music and Songs, was finally answered after the promulgation of the Copyright Law No. 28 of 2014, where the Law regulates the mechanism for distributing Royalties in the field of Music and Songs through the Collective Management Institution (LMK) and the national Collective Management Institution (LMKN). As referred to in the Copyright Law No. 28 of 2014, namely by being in the provisions of article 89.

Based on the results of the research, At first, Arie Sapta Hernawan, the creator of the song "Bilang Saja", found out 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 were violated, Arie then filed a lawsuit with the Central Jakarta Commercial Court, suing not only Agnez Mo as a singer, but also PT Aneka Bintang Gading as the concert organizer. In the litigation, the defendant filed an exception on formal grounds, including claims that the lawsuit was not qualified and that the royalty obligation rested entirely with the event organizer. However, the panel of judges rejected all the exceptions and continued the examination of the main case.

In the examination of the main case, the court considered that the use of the song by Agnez Mo occurred in a paid concert and was not accompanied by a permit or royalty payment to the creator, so that there had been a violation of the creator's economic rights as stipulated in the Copyright Law. The panel of judges affirmed that concert performances, even if they are sung live,

¹³ By Komang Irma Adi Sukmaningsih, et al, *Op.. Cit*

¹⁴ *Ibid*

¹⁵ Article 1 Number 6 of Law No. 28 of 2014 concerning Copyright

¹⁶ Yosepa Santy Dewi Respati, et al., *The Implementation of the National Collective Management Institution (LMKN) as a Collecting Society in Song Copyrights (According to Law No. 28 of 2014 concerning Copyright)*, *Jurnal Dipenogoro Law Review*, Vol. 5, No. 2, 2016

are still a form of announcement of works that require permission and royalty payment obligations. The judge also considered that the singer and concert organizer also benefited from the use of the work, so both of them had legal responsibilities.

Finally, the court granted the plaintiff's lawsuit in part, stating that Agnez Mo had infringed copyright, and requiring the defendant to pay damages of Rp 1.5 billion. The court affirmed that the damages were calculated proportionately according to the applicable royalty rates, and that the unauthorized use of the song should not be repeated. This ruling provides legal certainty that any use of songs in commercial concerts must comply with the national royalty payment system, and affirms that artists and performance organizers can be held legally liable jointly.

Therefore, it can be concluded that the Central Jakarta District Court Decision Number 92/Pdt.Sus-HKI/Cipta/2024 affirms that the commercial use of songs without a license violates copyright, requires royalty payments, and creates legal liability for singers and concert organizers, thus providing legal certainty for the protection of the creator's economic rights.

2. The legal basis for the panel of judges' consideration in the Central Jakarta District Court Decision Number 92/Pdt.Sus-HKI/CIPTA/2024/PN NIAGA Jkt.Pst

Considering, that the matters that have been considered by the Panel of Judges in the exception *mutatis mutandis* are legal considerations in the subject matter of this case; Considering, that the Plaintiff's lawsuit basically the Defendant as an Artist and or Performance Actor (Singer) has commercially used the song entitled "Bilang Saja" without permission from the Plaintiff as the owner of the Copyright of the song at a performance (Concert) on May 25, 2023 at W Superclub Surabaya, on May 26, 2023 at The H Club Jakarta, on May 27 at W Superclub Bandung, so that as a result of the Defendant's actions that committed the Unlawful Acts of Copyright Infringement, it has violated the Plaintiff's civil rights and caused material and immaterial losses to the Plaintiff.¹⁷ Considering, that against the main postulate of the Plaintiff's lawsuit, the Defendant refutes it by stating that the party who makes Commercial Use of the Plaintiff's Work is the Co-Defendant and not the Defendant, because PT Aneka Bintang Gading (Co-Defendant) is the organizer and/or user who uses the Copyright in the form of commercial public services for performances at W Superclub Surabaya, The H Club Jakarta, and W Superclub Bandung. So in principle, the Plaintiff is not right to file a quo Lawsuit against the Defendant on the grounds that the Defendant does not have a License to bring the Plaintiff's Work that is used commercially, what the Plaintiff should be able to get his Royalty rights is to file a Lawsuit with the Co-Defendant and ask if the Co-Defendant has obtained a License to commercialize the Plaintiff's Work to LMKN.¹⁸

According to the Great Dictionary of the Indonesian Language, it defines the authority of the right and power to act; authority; the power to make decisions, rule, and delegate responsibility to others. Therefore, Article 1 number 7 of Permenkumham No. 38 of 2018 concerning Procedures for the Application and Issuance of Operational Permits and Evaluation of Collective Management Institutions, says that the National Collective Management Institution, hereinafter abbreviated as LMKN, is a non-state budget government assistance institution that receives attribution authority from the Copyright Law to attract, collect and distribute royalties as well as manage the interests of the economic rights of creators and owners of Related Rights in the field of songs and/or music.¹⁹

¹⁷ Central Jakarta Court (PN) Decision No. 92/Pdt.Sus-HKI/Cipta/2024/PN Niaga Jkt.Pst, p. 65

¹⁸ Sri Nur Hari Susanto, *Op., Cit*

¹⁹ Article 1 Number 7 of Permenkumham No. 38 of 2018 concerning Procedures for Applying for and Issuing Operational Permits and Evaluation of Collective Management Institutions

Thus, LMKN is an institution that has the authority from Law No. 28 of 2014 concerning Copyright to manage the interests of the economic rights of song and music creators.

Regarding the derivative regulations of Law 28/2014 concerning Copyright, namely Article 3 paragraph (1) of Government Regulation (PP) No. 56 of 2021, "Everyone can make Commercial Use of songs and/or music in the form of commercial public services by paying Royalties to the Creator, Copyright Holder, and/or owner of Related Rights through LMKN". Furthermore, Article 1 Number 16 GR 56/2021, states that the meaning of the word "person" is not only addressed to the subject of individuals, but also includes legal entities as well. It can be concluded that LMKN as well as in terms of collecting royalties from legal entities commonly called corporations in business law, such as CV, PT (limited liability company) as organizers of music concerts and other events.²⁰

Based on the above description, referring to evidence P-4 (proof of the plaintiff's membership, namely Ari Bisa in LMK/KCI), the panel of judges should have completely rejected the plaintiff's lawsuit against the defendant.²¹ The reason is, according to the LMKN commissioner, that Law 28/2014 fully contains a blanket licensing system (a comprehensive system), not a direct licensing system.²² This means that any person or legal entity can use a copyright and/or related rights commercially without permission or obtain a license from the creator as long as they pay royalties after the event is over. According to Artidjo Alkostar, the independence of judges is inherent in the ideology or value system adopted in implementing punishment.²³ The value system intended to decide court cases refers to justice (ethical), truth (logical), aesthetic (harmony), such as being intended for justice seekers and stakeholders. Furthermore, Artidjo Alkostar said that the basic principle of a court is the freedom of the judge to investigate a case without outside influence, which is the essence of the law uphold.

Furthermore, Article 5 paragraph (1) of Law No. 48 of 2009 concerning Judicial Power, "Judges and constitutional judges are obliged to explore, follow, and understand the legal values and sense of justice that live in society". Thus, the independence of the panel of judges is maintained and not in a hurry to decide cases in trial, be it criminal, civil, and constitutional law cases.

Conclusion

1. A music concert organizer or concert promoter is an individual or organization that organizes and supervises all aspects of a concert. They are responsible for ensuring legal compliance i.e. permission in the use of songs and royalty payments. Music concerts are performances that are commercial in nature and are regulated to protect the economic rights of songwriters. This economic right includes the right to announce, reproduce, and perform musical works. Concert promoters are required to obtain permission to use songs in accordance with the Copyright Law. If there is no permission, it is forbidden to use or reproduce the work commercially. PP 56/2021 requires royalty payments to creators through LMKN for commercial use of songs.

²⁰ Marulam J. Hutauruk, *License and Royalty of Songs/Music in Public Places*, Yayasan Pustaka Obor Indonesia, Jakarta, 2022, p. 8

²¹ Central Jakarta Court (PN) Decision No. 92/Pdt.Sus-HKI/Cipta/2024/PN Niaga Jkt.Pst, p. 31

²² Alexander Vito Edward Kukuh and Adrian Gilang Khrisnanda, *LMKN's Response to Direct License Encouraged by Musicians* (<https://kumparan.com/tanggapan-lmkn-soal-direct-license-yang-didorong-oleh-musisi>)

²³ Artidjo Alkostar, *The Responsive Needs of Criminal Procedure Law Treatment and the Basis for Consideration of Scanning and Judicial Immunity*, Rakernas Paper, Jakarta, 2011, p. 9

2. As concert organizers, promoters are required to report the track list and make royalty payments through LMKN. The royalty rate is determined by the Ministerial Decree and is calculated based on the percentage of ticket sales. However, the current payment practice has problems in the form of delays and avoidance from promoters that harm the songwriters and weaken legal protection. The Ministry of Creative Economy proposed an upfront royalty payment scheme and digitalization to increase the transparency of royalty management, with the integration of proof of payment as a condition for crowd permits. Violation of this obligation may result in administrative, criminal, and civil sanctions. Therefore, it is important for concert organizers to understand that royalty payments are a respect for the creator's intellectual property rights and support the music industry in Indonesia

Suggestions :

1. For the Government of Indonesia
This research shows that it is necessary to conduct a serious study of laws and regulations so that it is related to the National Collective Management Institution (LMKN) and the Collective Management Institution (LMK) related to the collection and distribution of royalties to creators specifically in the field of music and song.
2. For Other Researchers
This research can be used as a reference for future research. It is undeniable that there are still shortcomings in this study that must be corrected by further research. The lack of depth of this research that the researcher conducted can be used as a reference for future researchers to deepen this research.

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