

A Legal Analysis of Copyright Holders of Digital Music Works in Cases of Piracy Under Law No. 28 of 2014 on Copyright

Nofida Buulolo¹, Ismayani², Taufika Hidayati³

^{1,2,3}Fakultas Hukum, universitas Pembinaan Masyarakat Indonesia
Email: nofidabuulolo@gmail.com

This study examines the legal protection of digital music copyright holders in the context of piracy under Law Number 28 of 2014 concerning Copyright. The main issues studied are how this legal protection is implemented in the ever-evolving digital landscape and what factors contribute to the prevalence of digital music piracy. The research method used is normative legal analysis with a legislative approach and case studies. Data were collected through a literature review, focusing on primary legal materials such as Law Number 28 of 2014 concerning Copyright, Supreme Court decisions, and jurisprudence related to digital music copyright, as well as secondary legal materials such as books and legal journals. The findings indicate that Law Number 28 of 2014 provides comprehensive legal protection for digital music copyright holders, including exclusive rights to publish and reproduce works, as well as economic and moral rights. The factors causing piracy are multidimensional, encompassing technology, socio-cultural aspects, economics, and weaknesses in law enforcement. This study recommends strengthening digital monitoring mechanisms, increasing legal sanctions, and improving public education to create a fair and sustainable digital music ecosystem.

Keywords Copyright, Digital Music, Piracy

This is an open access article under the [CC BY-NC](#) license



Corresponding Author:

Nofida Buulolo

Fakultas Hukum, universitas Pembinaan Masyarakat Indonesia

nofidabuulolo@gmail.com

1. Introduction

Indonesia is a country governed by the principle of the rule of law, which emphasizes legal certainty, justice, and the public interest. Within this legal system, one aspect that plays a crucial role is the protection of intellectual property rights, including copyright. Intellectual property rights are exclusive rights granted to an individual for works created through their intellectual ability, as regulated by applicable laws and regulations (Keliat & Tanjung, 2022). Copyright itself is a form of legal protection that grants certain rights to creators of works in the fields of art, literature, and science to reproduce, publish, and distribute their works. With the development of digital technology, these works can now be disseminated very quickly via the internet. On the one hand, this provides convenience, but on the other hand, it also increases the risk of copyright infringement, such as digital piracy and the use of works without permission from their owners (Lilik Prihatin et al., 2024).

Pursuant to Article 1(1) of Law No. 28 of 2014, copyright is “the exclusive right of the creator that arises automatically and is declaratory in nature once a work is embodied in a tangible form, subject to the limitations set forth in applicable laws and regulations.” Copyright consists of economic rights and moral rights. Economic rights are the rights to derive economic benefits from the work and related rights products, while moral rights are rights inherent to the creator that cannot be waived under any circumstances (Harjowidigdo, 1994).

The digital music industry in Indonesia faces serious challenges related to piracy and copyright infringement. A concrete example is the case of the song “Rayuan Perempuan Gila” by Nadin Amizah, which has been extensively edited and re-uploaded on TikTok and Instagram in the form of unofficial remixes,

including sped-up, slowed-down, or reverb-enhanced versions. Such actions constitute infringement because they involve the alteration, reproduction, and distribution of copyrighted works without the creator's permission, as stipulated in Article 9(2) of the Copyright Law (Naue et al., 2024)

Based on this background, this study identifies two research questions: (1) How does copyright law protect the copyright holders of digital musical works in the context of piracy? (2) What factors contribute to the occurrence of piracy of digital musical works?

2. Method

This study employs a normative legal research methodology, which is a type of legal research grounded in positive law and utilizing both a legal approach and a case study approach. A qualitative approach is used to gain an in-depth understanding and to explain phenomena within their natural context (Sugiono, 2013). The research focuses on how to protect a creator's digital works by ensuring justice and legal certainty, particularly for holders of musical works against acts of piracy by third parties who intentionally take or claim ownership of a digital work.

Primary data sources in this study include: (1) the 1945 Constitution of the Republic of Indonesia; (2) Law of the Republic of Indonesia No. 28 of 2014 on Copyright; and (3) Government Regulation No. 56 of 2021 on the Management of Royalties for Song and Music Copyright. Secondary data sources include books on intellectual property law, legal journals on digital copyright, previous academic research, and the opinions of legal experts (doctrine).

The data collection method used was a literature review, which included primary legal sources such as Law No. 28 of 2014 on Copyright, Supreme Court decisions, and case law related to digital music copyright, as well as secondary legal sources such as relevant books, legal journals, undergraduate theses, master's theses, and doctoral dissertations

The data collection method used is library research, which includes primary legal sources such as Law No. 28 of 2014 on Copyright, Supreme Court decisions, and case law related to digital music copyright, as well as secondary legal sources such as books, legal journals, undergraduate theses, master's theses, and relevant doctoral dissertations

3. Results and Discussion

Legal Protection for Copyright Holders of Digital Musical Works

Law No. 28 of 2014 on Copyright provides comprehensive legal protection for copyright holders of digital musical works. Article 1(1) of the law states that copyright is the exclusive right of the creator that arises automatically based on the declaratory principle once a work is embodied in a tangible form. This means protection is granted without the need for formal registration (Lie and Wathan, 2023).

Legal protection for copyright holders is divided into two main forms:

1. Preventive Legal Protection: measures taken to avoid disputes over music and song copyrights. The government has the authority to monitor the creation and distribution of copyright-infringing content as stipulated in Article 54 of Law No. 28 of 2014 (Wangania, 2020).
2. Repressive Legal Protection: measures taken when a dispute arises, including civil and criminal prosecution. The Copyright Law imposes criminal penalties of imprisonment for up to 10 years and/or a fine of up to Rp4,000,000,000.00 (Article 113 of Law No. 28 of 2014).

The exclusive rights of creators consist of two main components: moral rights and economic rights. Moral rights include the right to choose whether or not to have one's name appear on copies of the work, to modify

the work as deemed appropriate, and to defend one's rights in the event of distortion, mutilation, or modification of the work that undermines its dignity. Economic rights include the right to publish, reproduce, distribute, and receive compensation for the use of the work (Suhayati, 2014).

Indonesia, having ratified the WIPO (World Intellectual Property Organization), has initiated copyright protection on the internet through the integration of technology and law. Enforcement of copyright law is typically carried out through civil proceedings; however, criminal penalties are increasingly being applied, including imprisonment ranging from one month to seven years, as well as fines of at least one million rupiah and up to five billion rupiah (Indirani Wauran, 2016).

Forms of Copyright Infringement of Musical Works

Theoretically, copyright infringement can be divided into two types:

1. **Direct Infringement:** a form of infringement, such as plagiarism, committed directly against a work, for example, the unauthorized reproduction of a music album.
2. **Indirect Infringement:** a form of infringement committed through facilitation that enables copyright infringement, such as providing illegal access via Over-the-Top (OTT) platforms (Hukum et al., 2024).

In practice, there are several common categories of infringement in the digital age: (1) piracy via illegal internet platforms; (2) unauthorized use of copyrighted songs in karaoke venues; (3) piracy of software CDs; (4) software piracy; and (5) unauthorized remixing or modification of songs on social media. Computers' ability to duplicate and print, along with the internet as a medium for disseminating information, has facilitated these copyright infringement practices (Atanasova, 2019).

Factors Contributing to Digital Music Piracy

Digital music piracy is multidimensional. Simatupang (2021) identifies three main factors contributing to the rise in digital copyright infringement:

1. **Ease of Copying:** Digital works are extremely easy to copy or duplicate, and the results are nearly indistinguishable from the original; the process is fast and inexpensive because it can be done virtually.
2. **Ease and Speed of Distribution:** Digital works are distributed virtually via the internet with virtually no time lag between creation and public availability.
3. **Ease of Manipulation:** Digital works can be freely manipulated or modified without compromising the quality of the original work.

In addition to technological factors, there are other factors influencing the prevalence of copyright infringement (Amin and Hukum, 2016):

1. **Economic Factors:** Unfair competition drives people to seek economic gain through the black market; consumers seek cheap entertainment and thus purchase pirated products.
2. **Socio-Cultural Factors:** Low public awareness and understanding of the meaning and function of copyright; a communal culture that prioritizes collective interests over individual interests.
3. **Law Enforcement Factors:** A lack of effective measures to address intellectual property rights (IPR) violations, both in terms of prevention and enforcement; law enforcement officials whose conduct does not always adhere to professional ethical codes.

Legal Vacuum: NFTs and Digital Music Works

Technological advancements have introduced a new challenge in the form of Non-Fungible Tokens (NFTs), which are unique digital assets that can only be owned by a single person. In Indonesia, there are currently no regulations specifically governing NFTs. The lack of legal guidance regarding copyright in the NFT market

poses a significant risk of infringement for Indonesian creators, as NFTs lack a system to verify whether a work is original or not (Ivana and Nugroho, 2022).

4. Conclusion

Based on the results of the research and discussion, two main conclusions can be drawn: First, legal protection for holders of digital music copyrights is comprehensively regulated under Law No. 28 of 2014 on Copyright, which covers the exclusive rights of creators including moral rights and economic rights preventive and repressive protection mechanisms, as well as strict criminal penalties. Although the legal framework is in place, the effectiveness of law enforcement against digital music piracy still needs to be strengthened through stricter monitoring mechanisms, the use of Digital Rights Management (DRM) technology, and cooperation between the government, law enforcement agencies, and the music industry. Second, the factors causing digital music piracy are multidimensional, encompassing economic aspects (the perceived high cost of legal music), technological aspects (the ease of digital access and distribution), socio-cultural aspects (low public awareness of copyright and a communal culture), and weak law enforcement. These factors interact and reinforce one another, creating a cycle of piracy that is difficult to break without a comprehensive and multisectoral approach. The following recommendations can be made: (1) establish a special agency or body tasked with overseeing and enforcing copyright in the digital realm; (2) strengthen law enforcement by implementing stricter penalties and more effective oversight mechanisms; (3) increasing public education on the importance of respecting copyright; and (4) immediately drafting specific regulations governing copyright protection within the NFT and digital asset ecosystem.

5. Reference

- Amin, Z., & Hukum, F. (2016). Bidang Industri Kreatif di Negara Kesatuan Republik Indonesia. Harjowidigdo, Rooseno. 1994. *Mengenal Hak Cipta Indonesia*.
- Hukum, Jurnal Ilmu, Ranti Fauza Mayana, Tisni Santika, and Zahra Cintana. 2024. "Perlindungan Hak Cipta Digital Sebagai Bentuk Digital Copy Right Protection as a Form of Intellectual Property Development i Implementation" 8 (April): 269–90.
- Indriani Wauran, Wicaksono, 2016. Hak kekayaan intelektual sebagai benda :penelusuran dasar perlindungan HKI di Indonesia.
- Ivana, Gabriella, and Andriyanto Adhi Nugroho. 2022. "Akibat Kekosongan Hukum Terhadap Non-Fungible Token Sebagai Pelanggaran Hak Kekayaan Intelektual Teknologi Informasi . 1 Perkembangan Zaman Yang Semakin Canggih Menghadirkan Baru Yang Saat Ini Dikenal Sebagai NFT Atau Non Fungible Token . Dilansir Dari." Jurnal USM Law Review 5 (2): 709.
- Keliat, Venia Utami, and Ahmad Feri Tanjung. 2022. "Aspek Perlindungan Hukum Hak Kekayaan Intelektual (Hki) : Fungsi Sentra Ki Alam Pengembangan Hki Di Perguruan Tinggi." Ilmu Hukum Prima (IHP) 5 (2): 118–23. <https://doi.org/10.34012/jihp.v5i2.2924>.
- Lie, Gunardi, and Bilqis Alifia Wathan. 2023. "Pelanggaran Hak Cipta Pembajakan Buku Berdasarkan Undang-Undang Nomor 28 Tahun 2014." INNOVATIVE: Journal Of Social Science Research Vol. 3 (6): 4.
- Lilik Prihatin, Maria Yosepin Endah Listyowati, and Thomas Ichfan Hidayat. 2024. "Perlindungan Hak Kekayaan Intelektual: Sebuah Esensial Hak Cipta Pada Era Revolusi Industri 4.0." Unes Law Review 6 (4): 11321–29. <https://doi.org/10.31933/unesrev.v6i4>.
- Naue, et al. (2024). Perlindungan Hak Cipta Dalam Konteks Platform Digital dan Media Sosial
- Simatupang, Khwarizmi Maulana. 2021. "Tinjauan Yuridis Perlindungan Hak Cipta Dalam Ranah Digital." Jurnal Ilmiah Kebijakan Hukum 15 (1): 67. <https://doi.org/10.30641/kebijakan.2021.v15.67-80>.

- Suhayati, Monika. 2014. "*Perlindungan Hukum Terhadap Hak Ekonomi Pemilik Hak Terkait Dalam Undang-Undang Nomor 28 Tahun 2014 Tentang Hak Cipta.*" *Negara Hukum* 5 (2): 207–21. www.hukumonline.com/berita/baca/lt517fd780019e8/.
- Sugiono. 2013. *Metode Penelitian Kuantitatif, Kualitatif, Dan R&D.*
- Wangania, Nikita Thessalonica Virginia. 2020. "*Tindak Pidana Atas Pembajakan Film Menurut Undang-Undang Nomor 28 Tahun 2014 Tentang Hak Cipta.*" *Journal GEEJ7* (2): 1–21.